



FairWork
Commission

The Challenge of Change

LAFFER lecture – June 2013

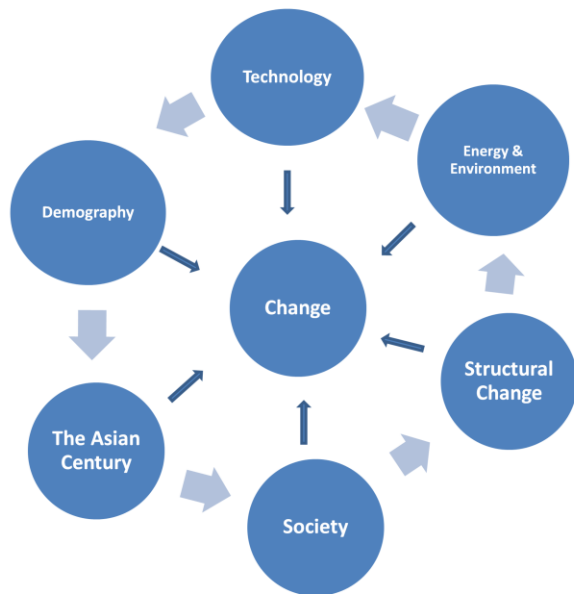


Chart 1: Proportion of the population aged 65 and over

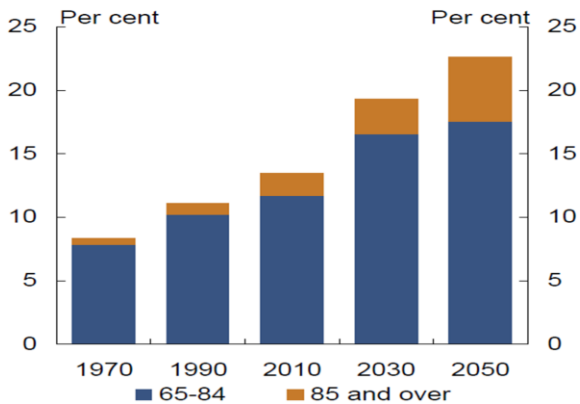


Chart 2: Effect of the ageing population on the participation rate

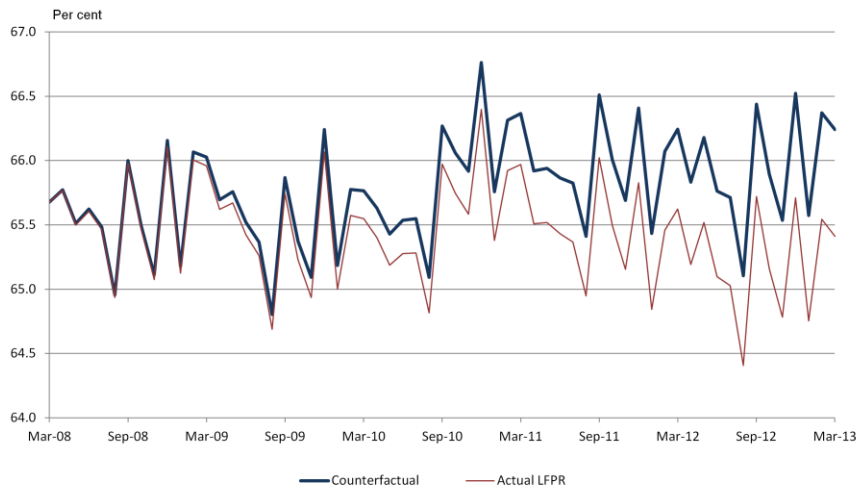
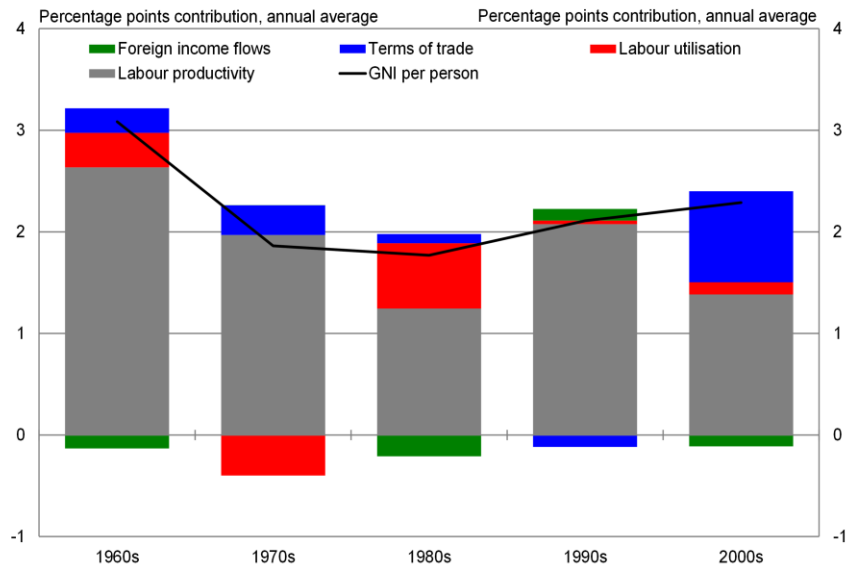
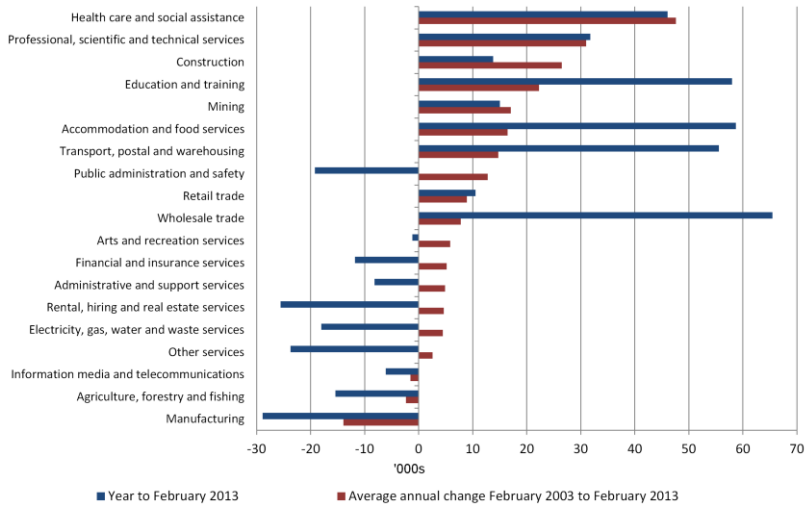


Chart 3: Contributions to growth in average incomes



Source: Treasury calculations based on ABS Catalogue Numbers 5206.0, 6202.0 and unpublished ABS data.

Chart 4: Change in employment by industry – February 2003 – February 2013 (“000s)



Over the 10 years to February 2013, employment grew highest in Health care and social assistance (47 600); Professional, scientific and technical services (31 000); and Construction (26 500).

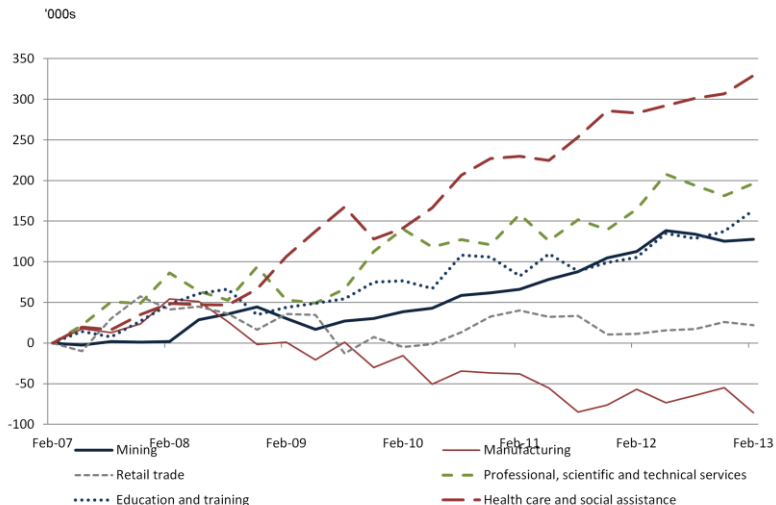
Employment growth was lowest in Manufacturing (–14 000); Agriculture, forestry and fishing (–2 400); and Information media and telecommunications (–1 500).

Over the year to February 2013, employment grew highest in Wholesale trade (65 500); Accommodation and food services (58 700); Education and training (58 000); and Transport, postal and warehousing (55 500).

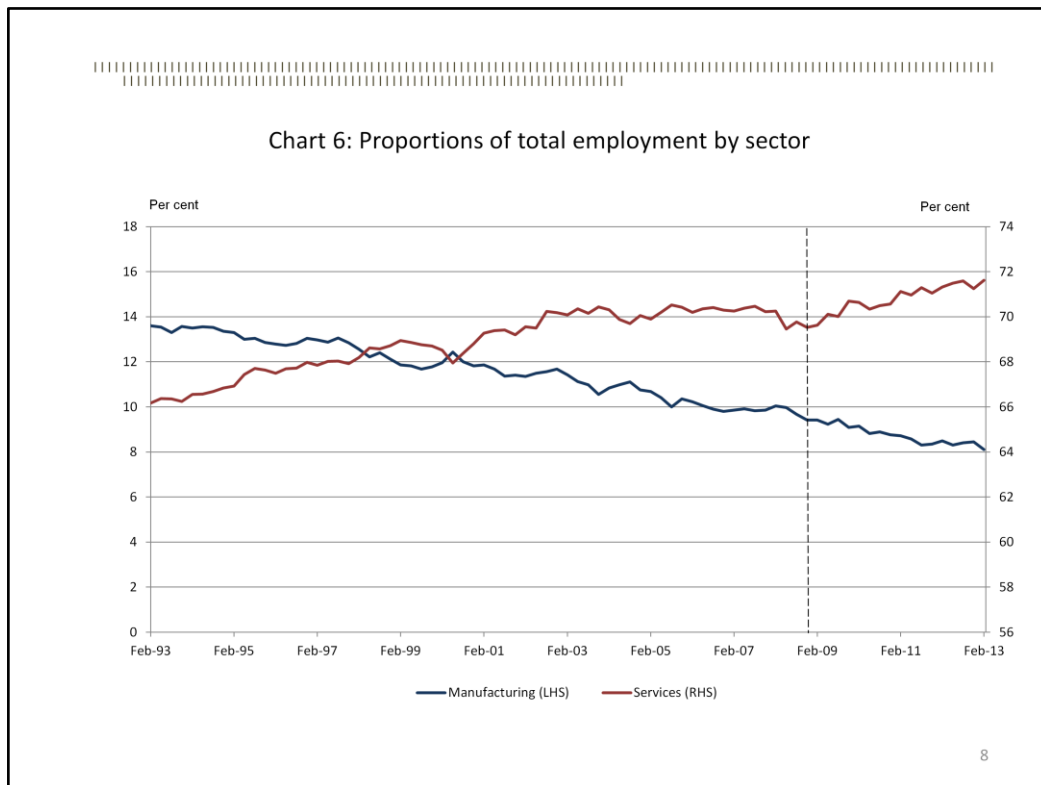
Employment growth was lowest in Manufacturing (–28 900); Rental, hiring and real estate services (–25 000) and Other services (–23 700).

seasonally adjusted data

Chart 5: Employment growth for selected industries—Cumulative growth since February 2007



Since February 2007 (to February 2013), employment increased by 329 200 in Health care and social assistance; 196 500 in Professional, scientific and technical services; 163 300 in Education and training; 127 800 in Mining; and 21 800 in Retail trade. Over the same period, employment in Manufacturing has fallen by 85 800. seasonally adjusted data.



- the proportion of Manufacturing of total employment was 13.6 per cent in the February quarter 1993, 11.4 per cent in the February quarter 2003, and 8.1 per cent in the February quarter 2013.

- the proportion of Services of total employment was 66.2 per cent in the February quarter 1993, 70.1 per cent in the February quarter 2003, and 71.6 per cent in the February quarter 2013.

- Service industries are: Wholesale trade; Retail trade; Accommodation and food services; Information median and telecommunications; Financial and insurance services; Rental, hiring and real estate services; Professional, scientific and technical services; Administrative and support services; Public administration and safety; Education and training; Health care and social assistance; Arts and recreation services; and Other services.

- seasonally adjusted data

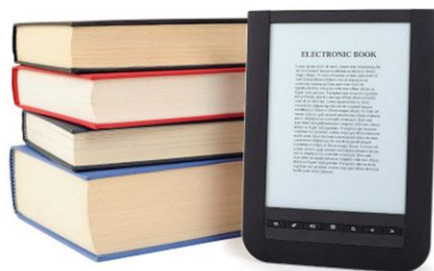
- Source: ABS, *Labour Force, Australia, Detailed, Quarterly, Feb 2013*, Catalogue No. 6291.0.55.003.

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"The union and state opposition also fear a shortage of mental health beds at Monash Medical Centre is linked to at least three sexual assaults against nurses that occurred just days before the hospital was stretched to breaking point, causing management to create a virtual, pop-up ward for eight mentally ill patients."

THE AGE FRIDAY, APRIL 26, 2002
2 NEWS

Assaults Spate of patient attacks

Fix safety or we'll strike, warn nurses

Julia Madew
Health Editor

Nurses are threatening to take industrial action at Victoria's largest health service in Melbourne's south-east if management does not improve security arrangements in coming weeks.

The nurses union is concerned about a series of assaults against nurses at Dandenong Hospital, Monash Medical Centre in Clayton and the Royal Children's Hospital in recent months. Nurses have reported being sexually assaulted by patients, punched in the face and threatened with knives. One nurse suffered nerve damage to her neck after having her hair ripped out, while another had to have plastic surgery after part of her breast was bitten off.

While the Royal Children's Hospital is reviewing its security arrangements after four assaults this year, assistant secretary of the Victorian branch of the Australian Nursing Federation Paul Gilbert said nurses were angry that Monash Health did not have a "code grey" policy for managing aggressive patients and visitors.

Mr Gilbert said nurses at Dandenong Hospital planned to meet on Tuesday to discuss security arrangements because some felt unsafe. Staff at the hospital were also dismayed by a management decision to discipline a nurse for tackling an aggressive visitor in

the ground in the emergency department on March 28. The union is contesting the matter at the Fair Work Commission.

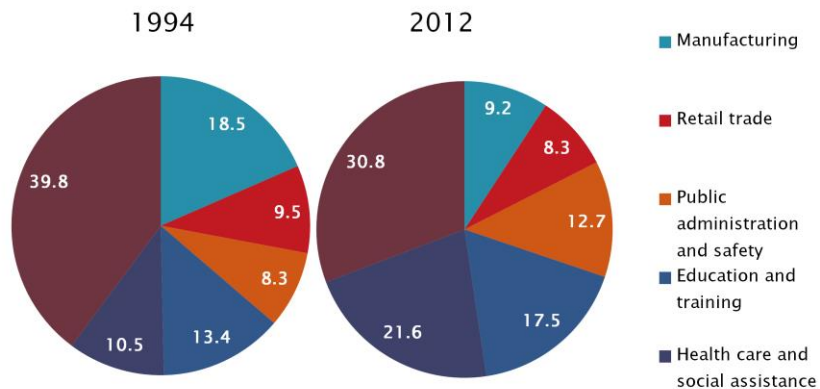
Mr Gilbert said if nurses felt there was an imminent risk to their health and safety, they could lawfully take action to remove themselves from harm's way. He said Dandenong Hospital had temporarily worked on a code grey policy with the nurses union about a year ago but withdrew from the process for unknown reasons. "They [Monash Health] are breaching their obligation to provide a safe workplace."

The union and state opposition also fear a shortage of mental health beds at Monash Medical Centre is linked to at least three sexual assaults against nurses that occurred just days before the hospital was stretched to breaking point, causing management to create a virtual, pop-up ward for eight mentally ill patients.

A spokeswoman for Monash Health said management had not received any official complaints about sexual assaults in April when there was a period of high demand for mental health services. She also said a working party had been formed to implement a code grey policy at Dandenong Hospital.

The executive director of nursing at the Royal Children's Hospital, Bernadette Treanor, said management was reviewing staff safety.

Chart 7: Union membership by top five industries, as a proportion of total union membership, 1994 and 2012



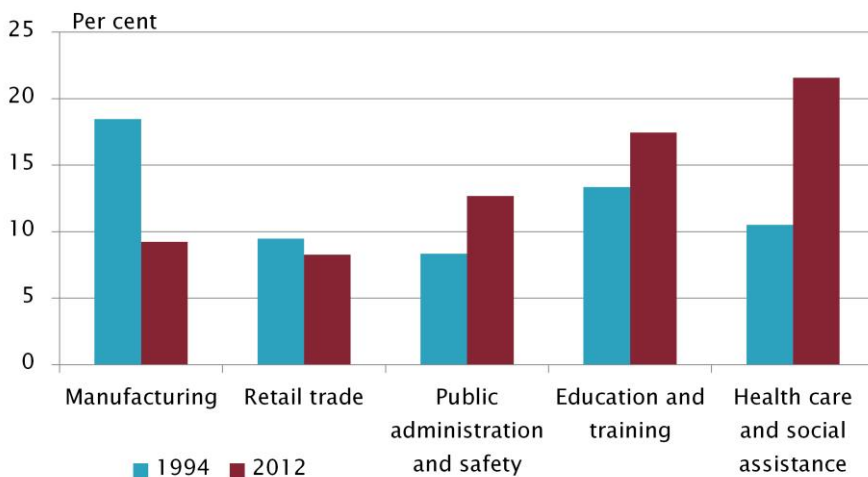
Union density has been declining since 1980.

In the 8 years between 1994 and 2012, union density fell from 35.0 per cent to about 18 per cent, with **public sector** union density dropping from 62 to 43 per cent and **private sector** union density falling from 26.0 to 13.0 per cent.

Union density has also become more concentrated, as illustrated in the chart above. This chart shows the concentration of trade union members by the top five industries with the largest proportion of union members, as a proportion of all employees who are trade union members in 1994 and 2012.

The top five industries accounted for a higher proportion of trade union membership in 2012 (69.2 per cent) compared with 1994 (60.2 per cent).

Chart 8: Union membership by top 5 industries, as a proportion of total union membership, 1994 and 2012

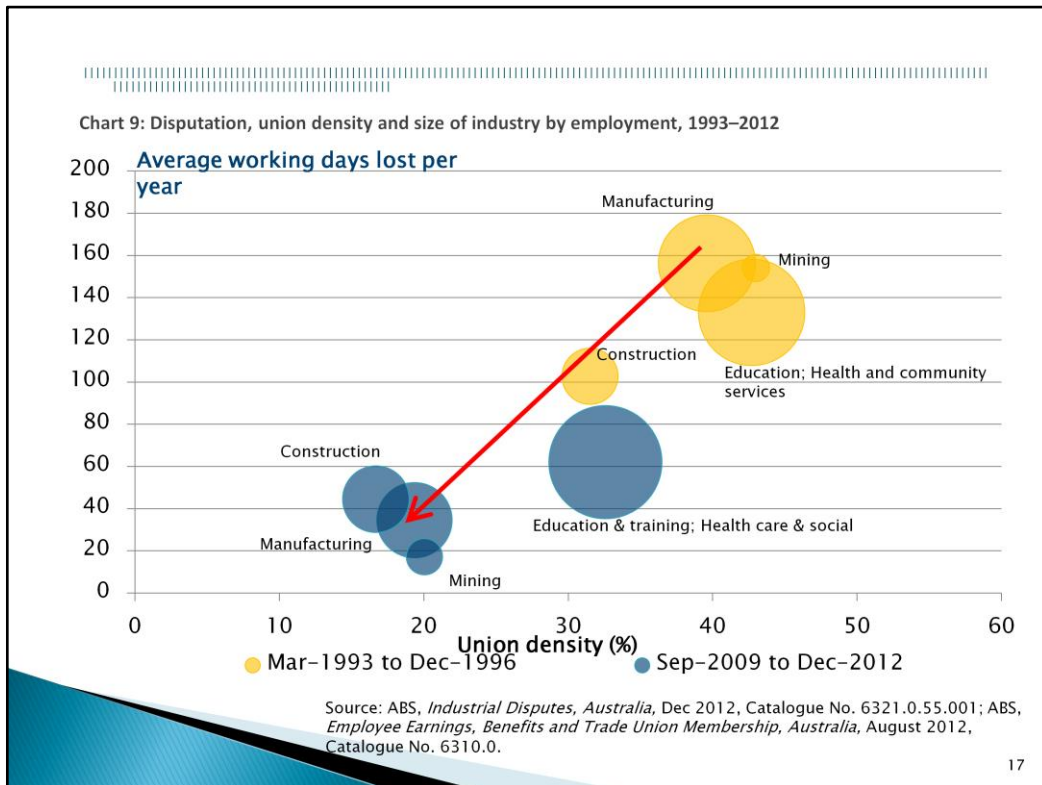


There has also been a shift between these five sectors.

This chart shows trade union members by the top five industries with the largest proportion of union members, as a proportion of all employees who are trade union members in 1994 and 2012.

The proportion of trade union members in Manufacturing declined the most relative to all other industries. In 1994, 18.5 per cent of all trade union members were employed in Manufacturing, by 2012 this proportion had declined to about 9 per cent. The proportion of trade union members employed in Retail trade also declined while the health care and social assistance sector experienced the largest increase. In 1994, 10.5 per cent of all trade union members were employed in Health and community services by 2012 this had more than doubled to 21.6 per cent.

The proportion of trade union members employed in Public administration and in Education increased between 1994 and 2012.

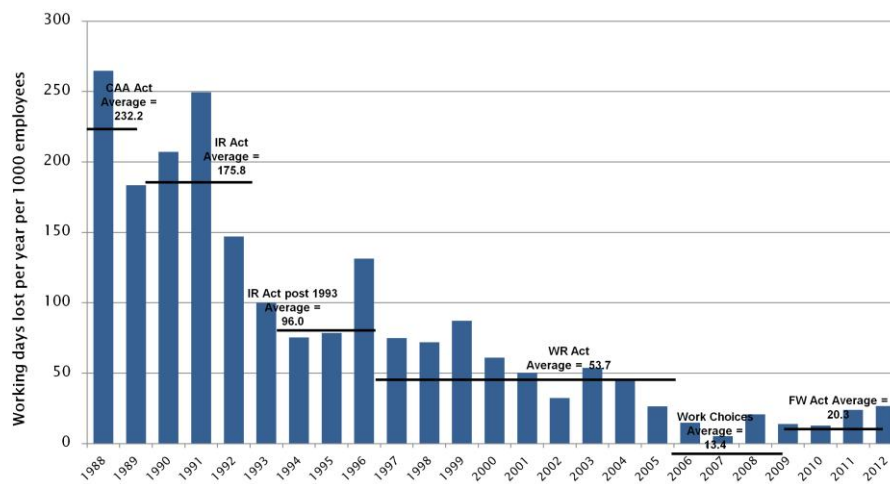


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In this chart we can see a fall in both union density and industrial disputation in the four industries with the highest number of average working days lost per annum.

The size of the bubbles reflect the size of the industry by employment. The chart shows that employment in Manufacturing has declined over time, and union density and average working days lost per year within the industry has also decreased. In contrast, employment in Construction has increased (as noted by the larger bubble) although union density and average working days lost per year within this industry has decreased.

Chart 10: Working days lost per 1000 employees, 1988–2012



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As noted at the bottom of the chart, this chart is based on Chart 4.16 of the Fair Work Act Review Panel's final report into the operation of the *Fair Work Act*. This chart presents updated figures based on the most recent Australian Bureau of Statistics data, which includes working days lost per 1000 employees in the December quarter 2012.

This chart shows the total number of working days lost per 1000 employees each calendar year between 1988 and 2012.

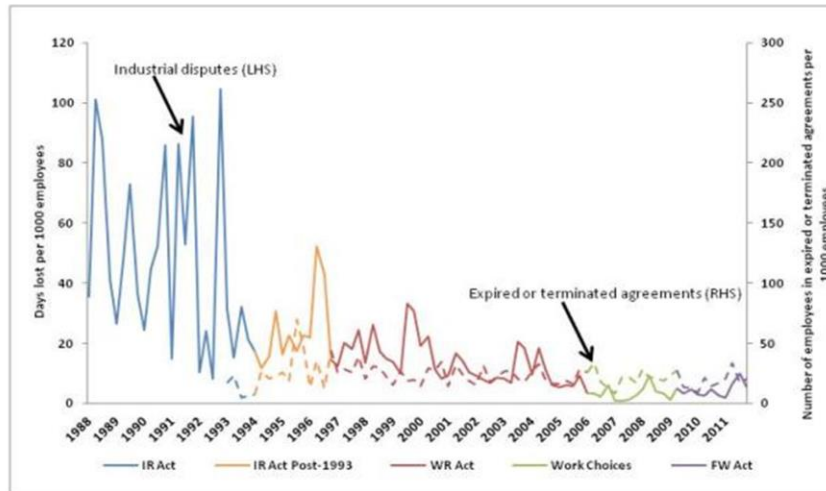
The **total** number of working days lost per thousand employees fell from around 265 in 1988 (represented by the height of the first blue column) to 27 in 2012 (represented by the final blue column in the chart). You can also see that the **average** number of working days lost has steadily declined over successive industrial relations regimes.

The average working days lost per thousand employees under the *Fair Work Act* is slightly higher than the average in the Work Choices era (20.3 compared to 13.4). However, the difference is not out of line with recent experience. The Fair Work Act Review Panel's report, referring to Chart 4.16 (noted at p.76) that the 'significant' increase in working days lost in 2011 could be attributed to agreement renegotiations, some of which would relate to agreements outside of the national system. The Panel stated:

"Taking into account that the number of agreements being renegotiated in 2011 (8,335) was significantly higher than in 2010 (5,133), the 2011 dispute level is not out of line with recent experience. Of days lost in 2011, one-third were in the education and health category and are likely to have been largely due to teacher and hospital disputes in NSW and hospital disputes in Victoria. The NSW teacher and hospital disputes were not under the FW Act."

There is some indication that the number of working days lost in 2012 were again driven by matters not under the *Fair Work Act*, although the protracted dispute between the CFMEU and Grocon in August/September 2012 may have played a significant role too. Education and health accounted for 46 per cent of total working days lost, followed by construction which represented 23 per cent of total working days lost. **The proportion of total working days lost accounted for by health and education in 2012 was well-above its 15-year average of 26.6 per cent. If health and education had remained at its 15-year average, total working days lost per 1000 employees in 2012 would have been 19.7, below the 2011 figure of 23.9.**

Chart 11: Industrial disputes and employees in expired/terminated agreements



Source: Chart 4.17 at p. 77 of *Towards more productive and equitable workplaces: An evaluation of the Fair Work legislation*, report prepared by the Fair Work Act Review Panel, DEEWR, 2012. Using ABS, *Industrial disputes, Australia* (Cat. No. 6321.0.55.001), Spreadsheet Table 3B; Workplace Agreements Database, and ABS, *Labour force, Australia* (Cat No. 6202.0), Spreadsheet 1.

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This chart is based on Chart 4.17 of the Fair Work Act Review Panel's final report into the operation of the *Fair Work Act*. The Fair Work Act Review Panel (the Review Panel) argued that there may be a relationship between disputes and the expiry of agreements. Based on the data in this chart, the Review Panel concluded:

“[T]he level of disputation is related to the expiry and renewal of collective agreements and may be elevated when a large number of agreements come up for renewal within the same period.”

The consequences of change



- ▶ Nature of our work
 - wage fixation
 - individualisation vs. collective disputes
 - engagement

Chart 12: Growth in C14 and C10 relative to AWOTE, AWE and WPI, cumulative percentage change

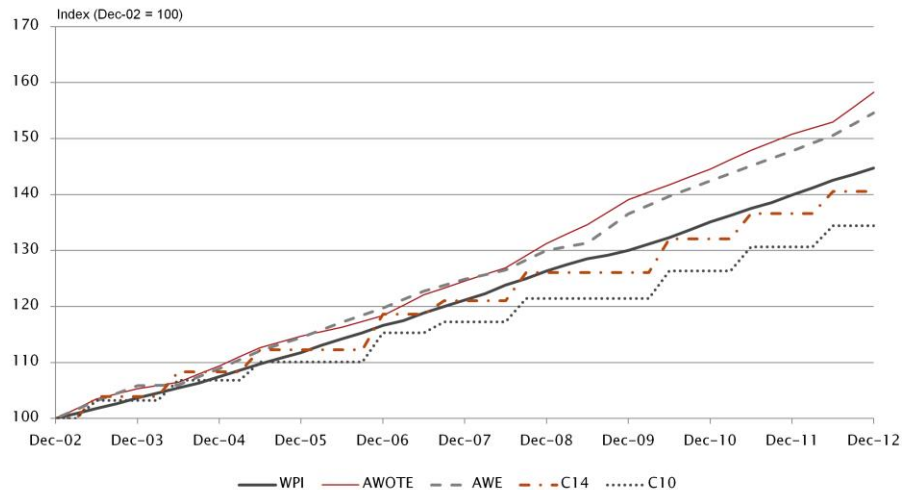


Chart 13: Real weekly total earnings (full-time adult non-managerial employees) by percentile—2002–2012

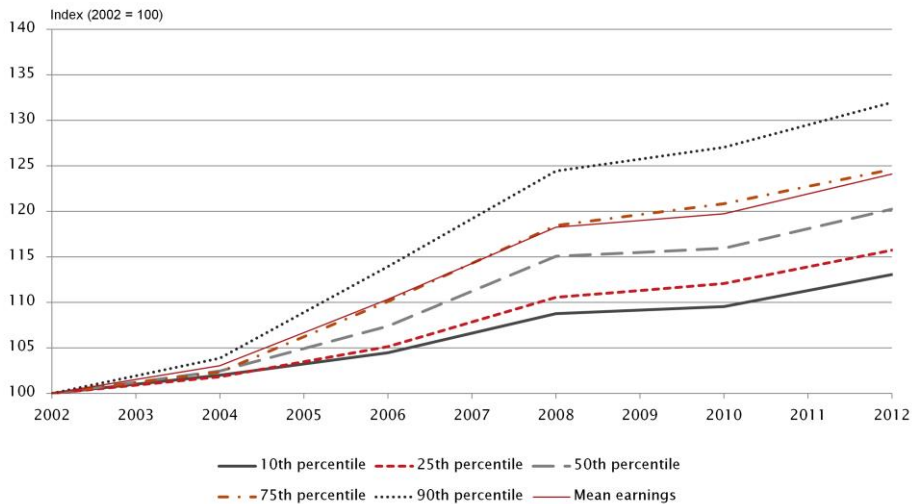
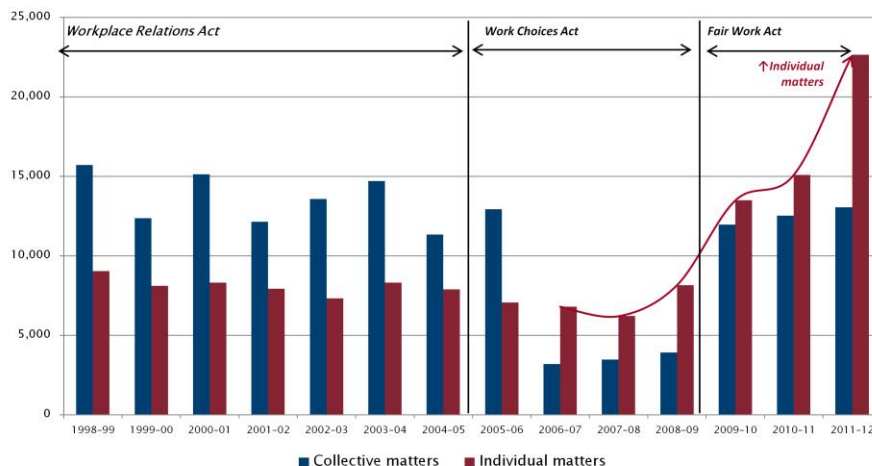


Chart 14: Matters dealt with by the national industrial relations institution, 1998–99 to 2011–12



This chart shows the nature of matters dealt with by the Commission in the fourteen years between 1998–99 and 2011–12. In 1998–99, about two thirds of the applications lodged with the Commission were collective in nature, the remaining third were applications lodged by individuals. By 2011–12, these proportions have been reversed and the Commission’s work largely consisted of individual matters. 63 per cent of applications were lodged by individuals and 37 per cent related to collective matters.

Dimensions of Change



SHIFT IN THE NATURE OF THE COMMISSION'S WORK

Legislative Factors

- unfair dismissals
- general protections
- non union collective agreements
- right to request
- individual flexibility arrangements



FAIR WORK
AUSTRALIA



FUTURE DIRECTIONS

for AUSTRALIA'S NATIONAL
WORKPLACE RELATIONS TRIBUNAL

OUR PLAN FOR
THE YEAR AHEAD



Future Directions

for Australia's National Workplace Relations Tribunal



- Promoting fairness and improving access
- Efficiency and innovation
- Accountability
- Productivity and Engagement



FUTURE DIRECTIONS

PROGRESS REPORT AND ENGAGEMENT STRATEGY

MARCH 2013



FUTURE DIRECTIONS

BREAKING DOWN BARRIERS TO JUSTICE

MAY 2013



Have you been dismissed?

Check if you're eligible to lodge an application for **unfair dismissal**

Checklists for applicants

The following checklist applies if you are the applicant (employee) in an unfair dismissal matter:

- [Interactive applicant's merits checklist](#)
- [Printable applicant's merits checklist](#)

The following checklist applies if you are the applicant (employee) in an unfair dismissal matter where the respondent (the employer) has objected to your unfair dismissal application raised an objection, you do not need to use this checklist:

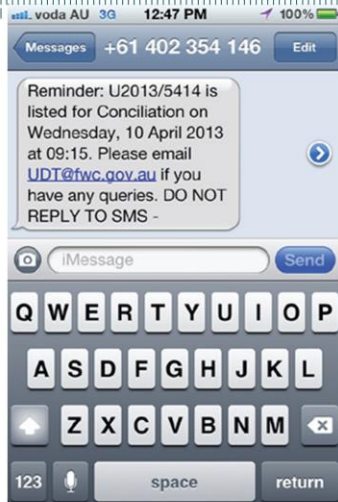
- [Interactive applicant's objections checklist](#)
- [Printable applicant's objections checklist](#)

Checklists for respondents

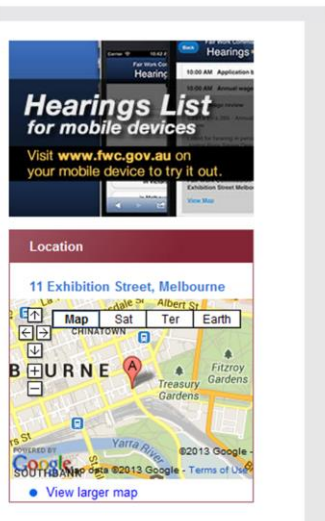
The following checklist applies if you are the respondent (the employer) in an unfair dismissal matter:

- [Interactive respondent's merits checklist](#)
- [Printable respondent's merits checklist](#)

The following checklist applies if you have objected to the unfair dismissal application, you do not need to use this checklist:



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RECENT INITIATIVES

- ▶ PRO BONO LEGAL SCHEME
- ▶ UNFAIR DISMISSAL BENCHBOOK
- ▶ APPEALS PRACTICE NOTE
- ▶ FAIR HEARING PRACTICE NOTE

ENGAGEMENT STRATEGY

➤ PUBLIC ENGAGEMENT

- FACT SHEETS
- VIRTUAL TOUR
- INFORMATION SESSIONS
- FEEDBACK

➤ STAKEHOLDER ENGAGEMENT

➤ RESEARCH COMMUNITY ENGAGEMENT

➤ WORKPLACE ENGAGEMENT

PRODUCTIVITY AND ENGAGING WITH INDUSTRY

- ✓ Capacity to search the content of collective agreements launched December 2012. The new tool responds to the Fair Work Act Review Panel's suggestion that best practice productivity enhancing provisions in agreements be more readily identifiable and made more widely known to employers and unions.
- ✓ In terms of workplace engagements, a Commission-sponsored conference was held in October 2012 with key industry stakeholders including ACCI, the ACTU and the AiG.
- ✓ The Fair Work Commission signed an MOU with the Fair Work Ombudsman and Fair Work Building and Construction in October 2012, formalising their commitment to work together on the issue of productivity in Australian workplaces.

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