



Young Workers Legal Service
Annual Report 2009 / 2010



Young Workers Legal Service

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What the Service does

The Young Workers' Legal Service (YWLS) provides workers under the age of 30 with free, confidential advice about work-related matters.

The YWLS is staffed by volunteer advisors – in their final or penultimate year of law – under the guidance and supervision of trained Industrial Officers.

The YWLS deals with a range of employment law issues, including:

- Unfair dismissal.
- Underpayment of wages.
- Equal opportunity and discrimination.
- Bullying and harassment.
- Apprenticeships and traineeships.
- Workplace dispute resolution.
- Sexual harassment.

The YWLS provides young workers with:

- Legal advice.
- Assistance developing strategies to deal with the grievance or dispute at work.
- Assistance lodging applications with relevant legal bodies.
- Information on legal rights and responsibilities.
- Information on wages, entitlements and conditions pursuant to an Award, Workplace Agreement or the minimum standard.

SA Unions Secretary Report by Janet Giles



The Young Workers Legal Service continues to go from strength to strength. Over the last 12 months, as well as providing continual support for many young workers, the Service maintained its role in developing emerging lawyers and their understanding and practice in industrial relations. The volunteers are the heart and soul of the service and over the last 7 years we have seen them go on to work on behalf of workers in unions, law firms and community organisations.

The Service is once again blessed with excellent leadership this year.

Our philosophy that the Service must be youth led never disappoints as this is reflected by the skill, organisation and passion of our coordinators and industrial officers over the years.

Nadine Levy as Coordinator and Anne Purdy as Industrial Officer have built an extremely effective team of volunteers in a positive and fun way. We enjoy Tuesdays when our office is filled with the laughter and energy of youth.

Nadine and Anne have gone further this year by providing public leadership in the thinking about sexual harassment both at the “Our Work, Our Lives” Conference in Darwin and also by receiving an Augusta Zadow Scholarship which will enable the experience of the Young Workers Legal Service to assist in changes to policy and practice with the aim to improve the situation for young women in small business.

SA Unions is proud to have the Young Workers Legal Service as part of our organisation and I thank the Service for another year of defending the rights of some of our most vulnerable workers and for providing a positive union experience to young people.

Message from the Coordinator by Nadine Levy



It has been my great privilege to coordinate the YWLS over the past year. The YWLS has grown in new and exciting ways and continues to provide a much-needed service to young workers in South Australia. Largely thanks to the hard work of the YWLS volunteer advisors, the Service has been in a position this year to offer legal assistance to all the young workers who met our selection criteria.

This year's statistics show that the demand for the Service is increasing significantly. Since the introduction of the new *Fair Work Act* in July 2009 we have seen a greater awareness of workers' rights in our community. This has meant that workers have more readily sought our assistance, endeavouring to understand and enforce their legal rights. We have worked hard over the year to promote the Service and created solid connections with a large number of schools and community organisations.

Over the last year a significant achievement of the YWLS has been the development of the YWLS' Outreach Programme, which officially started operating in July 2010. The Programme aims to assist young workers from the northern and southern areas of South Australia and involves a school

visitation programme and a weekly roving drop-in service. To date, we have met with a number of VET Coordinators, teachers and youth workers and developed a plan based on their input and advice. An Outreach Steering Committee has also been convened, which brings together volunteers, SA Unions' staff and a representative from the University of Adelaide's Law School.

We are very excited about the future opportunities this programme will bring; in particular we are looking forward to providing South Australian young workers further accessibility to our services and resources.

Another focus for the YWLS this year has been the analysis of our data and case notes to develop reports on young workers' experiences at work. This year we offered findings on the experiences of international students at work and on young women workers' experiences of sexual harassment. In doing so, we were able to highlight issues relevant to young workers to both policy makers and the broader community.

The YWLS remains a Service run by young people for young people. The work and dedication of the YWLS volunteers is nothing short of inspiring. Most volunteers study full-time and work, but still manage to find the time and energy to volunteer at the Service at least one day a week. Always eager to assist young workers in whatever way possible, their compassion and commitment to the interests of young workers in our community is commendable. I offer my sincere appreciation to all the volunteers who have worked at the YWLS over the last year.

I am very proud of the work the YWLS has done for young workers in our community and have no doubt that the Service will continue to expand and thrive in the years to come.

Young Workers Legal Service Activities

In its first six years of operation, the Young Workers' Legal Service proved itself to be an incredibly successful and much needed service within the SA community. Now, in its seventh year, the YWLS continues to thrive. Dedicated and dynamic, the YWLS has worked throughout the last 12 months to consolidate and build upon its successes. The service has expanded in new and exciting ways, and also continued to develop its existing programmes so that in 2010, the YWLS stands stronger than ever.

During the past year, the YWLS has maintained a successful legal service that has assisted over 505 young people. As well, it has run a number of education programmes and acted as a public voice for young workers in South Australia. As always, the YWLS Volunteer Programme was one of the service's main achievements. The YWLS team now includes 15 new, dedicated and energetic volunteers. Volunteers have worked on providing young workers with legal advice and assistance, as well as delivering school talks, presenting segments on community radio, and coordinating and implementing our new Northern and Southern Outreach Programmes.

The YWLS has continued educating young people in the community this year. In doing so the YWLS seeks to prevent the incidence of workplace problems and improve the position of young people in the workforce.

By promoting awareness about workplace safety, for example, the YWLS hopes to address the fact that young people are more likely to be injured at work than their older colleagues. Examples of how the YWLS has worked in the past year to educate young workers include:

- The YWLS volunteers presented a monthly segment on the Radio Adelaide radio show "Your Rights at Night". The YWLS also featured on Coast FM's show Youth FM. Topics covered included general rights at work, unfair dismissal laws, pre-employment disclosure, how to find out what to get paid, discrimination and sexual harassment.
- The YWLS volunteers worked with various state agencies on the New Workers' School Talks Program. They visited a number of schools in South Australia and delivered school talks and information to a number of students. All in all, the New Workers' team visited 32 schools in South Australia, with over 2300 students participating in the programme.
- The YWLS volunteers staffed an SA Unions' stall at the Royal Adelaide Show in September 2009, providing information about rights at work to the general public.
- The YWLS volunteers were involved in delivering the sessions for the Fair Work Education and Information Program (FWEIP). This involved delivering public talks about the transition from *Workchoice* to the *Fair Work Act 2009* to various schools, community centres and workplaces.
- The YWLS published the Guide to Employment and Income in South Australia, which formed part of the YACSA Handbook for Youth Workers. This Guide was subsequently uploaded on the YWLS website and was accessed by teachers, government departments and the general public.
- The YWLS visited a number of schools and TAFE colleges, educating students and teachers on rights at work.
- The YWLS ran a stall at Adelaide University's Equal Pay Day, a day aimed at educating the university population on pay inequity in our community.
- The YWLS appeared on women's rights community television show "Life on Venus", presenting a segment on sexual harassment in the workplace.

The YWLS is well positioned to evaluate the efficacy of workplace laws as they relate to young people and to voice young workers' concerns.

Over the past year the YWLS has responded to various government inquiries and been involved in a number of community projects:

- The YWLS provided submissions to the Federal and State Inquiries into the quality of life for international students inviting policy-makers to address the difficulties international students encounter in employment situations. In particular, the YWLS highlighted how bullying, harassment and unsafe work environments can jeopardize international students' health, welfare and safety and called for further education and advocacy services for international students employed in Australia. In November 2009 a Senate Committee Report was released and recommended, *inter alia*, that the Department of Immigration and Citizenship (DIAC) undertake a review of the appropriateness of the 20 hour limit on working hours for international students and of whether there is scope for DIAC to exercise its discretion on compassionate grounds where international students breach their visa conditions in relation to work. The Report also recommended that all international students receive information packs, including information about their rights at work and who to contact for assistance.
- In 2009 the YWLS participated in the South Australian Youthconnect policy Survey and Forum. The Youthconnect policy proposed to integrate and coordinate youth services operating in South Australia so as to maximize on existing resources and to avoid the duplication of services. The YWLS welcomed this proposal and sought to create sustainable relationships with existing service providers in SA.
- The YWLS assisted the ACTU in its research into independent contractors, providing the ACTU with a range of anecdotes and case studies about sham contracting arrangements.
- In December 2009 the YWLS helped organise the Future of Young Workers Inquiry Forum in conjunction with the University of South Australia and the Youth Affairs Council of South Australia (YACSA). At this forum policy-makers, activists and others from the youth sector came together to develop future priorities and set a research agenda for young workers in this state. The forum resulted in a report written by Associate Professor Verna Bluett and Dr Catherine Earls from UniSA. The outcomes of this Forum included a host of recommendations, including fighting for the abolition of youth wages, education for the workplace, mandatory training for employers, the coordination of resources and lowering the voting age to 16.
- The YWLS was a Project Group Member of the *Young Workers and Alcohol and Drug-related OHSW Risk* project, conducted by the National Centre for Education on Training and Addiction, Flinders University.
- In July 2009 the findings of last year's annual report were the feature of two articles in *The Advertiser*: "Young Workers Made to Suffer", 2 July 2009, and "Pay Win for Short Changed Teens", 13 July 2009.



“We think there’s urgent need for child labour laws to be introduced in SA

JANET GILES

Young workers made to suffer

EMPLOYERS are cheating young workers out of more than \$100,000 a year in wages as they cash in on their inexperience and willingness to work.

But the actual amount owed is even higher, as unions say most young workers do not know their rights, how to seek help or are unwilling to speak out in case they lose their jobs.

The Young Workers’ Legal Service, run by SA Unions, has recovered \$680,128 in unpaid wages, entitlements and compensation for workplace breaches and unfair dismissals in its six-year history.

It has also found an increase in the past year in the number of young workers who are being sacked unfairly, from 148 workers in 2007-08 to 160 workers in 2008-09.

SA Unions says it is the tip of the iceberg, as the service only runs one day a week and most young workers do not know their rights.

Secretary Janet Giles said it was important the State Government passed its draft child labour laws bill this year to improve how young workers are treated.

“They get their first job and think that means their employer will treat them like their parents treat them and often that’s not the case,” she said.

“Also we’ve found there’s very little information given to young people before they go to work, in their education, about what their rights are.

“We think there’s an urgent need for child labour laws to be introduced in South Australia,

CAREERONE EDITOR

CARA JENKIN



as we think they could be the most excluded people out there because they don’t know what their rights are.”

South Australia is the only state which does not have child labour laws in force.

The Young Workers’ Legal Service received 531 inquiries last year, up from 436 the previous year, of which 160 workers believed they had been sacked illegally.

Complaints made through the service included:

Sexual harassment, such as one young woman told to wear more revealing clothing to work and who was subjected to “hubba hubba” remarks from co-workers;

Bullying, which was also on the rise, with workers dreading to go into work each day; and Discrimination for taking leave or pregnancy.

Only one-fifth, or 105, inquiries had a legal case, as many companies were protected by the Federal Government’s WorkChoices program allowing employees to be dismissed without an explanation.

A quarter of workers helped through the service were unfairly dismissed and 28 per cent had been underpaid.

Half the workers who sought help through the service were working full-time.

Business warned of obligations

Pay win for short changed teens

GREG KELTON
STATE EDITOR

TEENAGE girls working for a clothing retailer have been reimbursed \$10,000 because an investigation found they were being underpaid.

Fair Work Ombudsman executive director Michael Campbell said the girls were former and current employees of an all-female clothing retailer. One worker was owed \$2031. SA Unions said underpayment of wages was the biggest issue young workers’ faced.

Mr Campbell said the employer, whom he would not name, had been targeted for audit after his agency’s Adelaide officer received complaints from several workers.

Inspectors discovered the company was using the wrong pay scale and calculated it owed 20 of its young female workforce \$10,000 dating back to March, 2006.

Mr Campbell said no further action was taken against the clothing retailer because the underpayments were deemed to be inadvertent.

He said the employer had co-operated fully with his office and voluntarily resolved the problem when it was pointed out.

Mr Campbell said the case highlighted the importance of all employers, no matter how big or small, understanding their workplace obligations.

He urged any employer who has reservations with their

compliance with workplace laws to seek assistance. “Similarly, this case also emphasises the value of young people concerned about whether or not they are receiving their full entitlements contacting us for information,” he said.

Mr Campbell said his office took every complaint seriously and could investigate matters confidentially.

The Fair Work Ombudsman’s role is to promote “harmonious, productive and co-operative workplaces”.

His office also monitors compliance with awards and investigates breaches

“Young workers are really vulnerable

of national workplace laws.

SA unions secretary Janet Giles said yesterday underpayment of young workers was the most common complaint fielded by her organisation.

She said SA Unions’ young workers’ legal service had managed to recover more than \$500,000 in underpaid wages over the past five years.

“Young workers are really vulnerable because they don’t understand what their rights should be,” Ms Giles said.

“Underpayment occurs across the board but young people are concentrated in the hospitality and retail industries.”

Volunteers

As always, the Service's achievements and success can be attributed to its dedicated volunteer team. Over the last year, we have been fortunate enough to work with a group of committed, energetic and passionate volunteer law students. This year's volunteers were recruited through The University of Adelaide, Flinders University and the University of South Australia. The volunteers have been involved in the provision of legal advice and education, as well as the more strategic aspects of the YWLS. They have also been integral to the vision-building and developing aims for the Service.

We offer our gratitude to the volunteers who worked at the YWLS during this year, namely:

- Jessie O'Neill
- Paris Dean
- Andrew Cromb
- Michael Opacic
- Michael Di Matteo
- Jess Greatwich
- Susan Mi
- Elizabeth Woods
- Aleksandra Golat
- Rebecca Zanol
- Emma Riggs
- Hayley Boswell
- Rhiannon Davis
- Tom West
- Joe Rafalowicz
- Diana Liankov
- Peter Russell
- Audrey Sam
- Liness Chikankheni
- Dylan Underwood
- Rebecca Schulz
- Dakota Ha

YWLS volunteers gain a number of benefits from their participation in the service. Primary amongst these is the opportunity for self-development. Throughout the past year, the YWLS has run an ongoing training programme for volunteers. The programme has included training from notable individuals such as:

- Linda Matthews, EOC Commissioner
- Erin Brooks, CPSU Organiser
- Emma Thornton, Lieschke and Weatherill Lawyers
- Stephen Dolphin, Lieschke and Weatherill Lawyers
- Marie Boland, SafeWork SA
- Luke Heffner, Retired Unionist
- Alan Fairley and Max Adlam, Australian Services Union
- Jess Greatwich, Solicitor and Former Volunteer

YWLS Governance

The YWLS Management Committee has remained a constant source of support to those at the YWLS. It has ensured the YWLS moves in the direction of its strategic objectives and maintains its reputation as a professional and reputable legal service in SA. We thank the following individuals for serving on the Management Committee this year:

- Katharine Couzner
- Olivia Guarna
- Matthew Windsor
- Anne Purdy
- Xavier Bell
- Greg Stevens
- Angas Story
- Joe Szakacs
- Emma Riggs
- Rebecca Zanol
- Ada Lester
- Carole Strong

Summary

During the past year the YWLS has continued its track record of providing much-needed legal advice and assistance to young people. In addition, it has worked hard to be a voice for young workers in the South Australian community and to prevent the incidence of workplace disputes and problems by seeking to educate young people about their rights and responsibilities at work. The YWLS looks forward to continuing its important role in South Australia in the coming year.

Advice and Advocacy

Over the last 12 months (1 July 2009 – 30 June 2010) the YWLS has provided representation and specialised advice to 138 young workers under the age of 30. This figure has increased by 28% from the previous year.

The YWLS has represented clients in Fair Work Australia, the SA Industrial Relations Commission and Court, the SA Equal Opportunity Commission, and the Australian Human Rights Commission.

Client Gender

Of those persons serviced by the YWLS, males and females were represented almost equally. Percentages of males and females serviced by the YWLS almost exactly matched figures for 1 July 2008 – 30 June 2009.

	Number of Clients	Percentage
Male	72	52%
Female	66	48%

Gender and Employment Issue Percentage

Underpayment of wages and unfair dismissal were the most common issues brought to the service by males and females alike. Females differed from males in that they were far more likely to bring claims of discrimination and sexual harassment, reflecting the previous year's trend. By assisting women to make such claims, the YWLS continues to work toward gender equality in the workplace.

	Female	Male
Sexual harassment	12%	0%
Discrimination / Equal Opportunity	17%	6.7%
General rights information	4.8%	1.1%
Other	4.8%	2.3%
Redundancy	2.4%	5.6%
Traineeship / Apprenticeship	7.2%	9%
Underpayment	28.9%	41.6%
Unfair dismissal	20.5%	27%
Unlawful termination	1.2%	2.3%
Bullying	1.2%	1.1%
Workers' compensation	0%	1.1%
Workplace dispute resolution	0%	2%
TOTAL	100%	100%

Client Age

As in previous years, the largest age group amongst YWLS clients was 22 – 26 year olds. Only 4 of 138 clients were under the age of 18, indicating that efforts by the YWLS this year to reach out to high school students, as part of its Outreach Programme, were well warranted.

	Number	Percentage
< 18	4	3%
18 – 21	48	35%
22 – 26	57	42%
27 – 30	28	20%
TOTAL	137	100%

Client Age and Employment Status

As we might expect, those clients in the 18 – 21 year old age group were the most likely to be in casual employment in both percentage and numerical terms. Clients in the 27 – 30 year old age group were the most likely to be employed on a full-time basis.

	<18	18 – 21	22 – 26	27 – 30
Apprentice / Trainee	25%	15%	12%	4%
Casual	25%	38%	21%	21%
Full-time	0%	29%	47%	61%
Part-time	25%	4%	9%	0%
Contractor / Labour hire	0%	4%	0%	0%
Unemployed	25%	10%	11%	14%
TOTAL	100%	100%	100%	100%



Client Employment Issues

By far the most frequent issue brought to the YWLS was underpayment of wages. Underpayment of wages was also the most likely issue to arise as a secondary problem, accompanying other issues such as unfair dismissal. The next most frequent issue brought to the YWLS was unfair dismissal. Discrimination, trainee and apprentice disputes, and sexual harassment issues were also common.

Issue	Percentage
Underpayment	35.5%
Unfair dismissal / Redundancy	26.8%
Discrimination / Equal Opportunity	13.4%
Trainee / apprentice issue	8.1%
Sexual harassment	5.6%
General rights info	2.9%
Contract advice	1.2%
Bullying	1.2%
Workplace dispute resolution	1.2%
Workers' compensation	0.6%
Other	3.5%
TOTAL	100%

Client Employment Status

Like the previous year, just under half of YWLS clients were full-time workers. Around a quarter were employed casually. Whereas younger workers are more likely to be employed casually than older ones, these statistics reveal that full-time workers also frequently rely on the services of the YWLS.

Arrangement	Percentage
Full-time	42%
Casual	27%
Unemployed	13%
Apprentice / trainee	11%
Part-time	6%
Contractor / labour hire	1%
TOTAL	100%

Client Industry

The industries most frequently represented by YWLS clients this year were hospitality, retail, and administration. This reflects past figures. Following behind these industries were building and construction, and labouring.

Industry	Number	Percentage
Hospitality	22	15.9%
Retail	18	13%
Administration	16	11.6%
Labouring	9	6.5%
Building / construction	8	5.8%
Information technology	6	4.3%
Automotive	5	3.6%
Sales / marketing	5	3.6%
Electrical / plumbing	4	2.9%
Finance / legal	4	2.9%
Hairdressing / beauty	4	2.9%
Warehousing / storage	4	2.9%
Console operator	3	2.2%
Education	3	2.2%
Engineering	3	2.2%
Fast food	3	2.2%
Health services	3	2.2%
Arts / media	2	1.5%
Baking	2	1.5%
Cleaning	2	1.5%
Community sector	2	1.5%
Manufacturing	2	1.5%
Transport	2	1.5%
Food processing	1	0.7%
Real estate	1	0.7%
Security	1	0.7%
Other	3	2%
TOTAL	138	100%

Supporters of the Young Workers Legal Service

In the 2009 – 2010 year, the YWLS recovered \$134,912.03 in unpaid wages and compensation for its clients. Other clients achieved non-financial outcomes such as apologies, conversions of dismissals to resignations, and the implementation of new workplace policies.

During the past year the YWLS also fielded a vast number of enquiries from young people about their rights at work. In the last 12 months the service has responded to 367 such enquiries, received mostly by telephone. The YWLS offers an accessible place for young people to gain general information about their industrial rights and responsibilities, to assist them to resolve their workplace problems independently. Enquiries received by the service span a broad range of workplace issues including payment, dismissal, disciplinary proceedings, bullying and harassment, discrimination, and traineeships and apprenticeships.

The above information shows that demand for the services offered by the YWLS is increasing. As well, the YWLS assists a broad range of young people working in a variety of industries. Casual workers are seen to be particularly vulnerable, bolstering arguments for the provision of services, like the YWLS, which targets young people who are more likely to be casually employed. As well, our work this year shows that underpayment of wages is a widespread problem amongst young workers in South Australia. By pursuing underpayment of wages claims, the YWLS has improved compliance with state and federal industrial laws designed to protect workers from exploitation.



Volunteer Report by Emma Riggs

The YWLS provides law students with the rare opportunity to work in a legal environment and play an active part in running client files and providing legal advice. The Service gives students a holistic opportunity to develop skills and experience employment law and wider workplace issues.

The Service

The Service is run by our amazing Industrial Officers, Nadine Levy and Anne Purdy. Both have been past volunteers of the Service and have provided commitment and made long standing contributions not only to the Service, but to employment law and the Union Movement. Nadine and Anne are both generous with their experience and knowledge, and volunteers are able to develop their legal skills and professional selves under their guidance and supervision.

The volunteers are generally final year law students and flourish in the team environment. YWLS is volunteer run, and all students share a common passion for social justice and pro bono legal work.

Each team member volunteers under their own initiative, and this is clearly shown in how productive and supportive the office environment is. This type of environment allows volunteers to establish long-term personal and professional relationships with like-minded individuals.

Volunteers are given an enormous responsibility that we take very seriously. Each volunteer manages numerous files from start to finish. We interview clients, manage their files, provide written and oral advice and provide young workers with options to enable them to make an informed decision on how they would like to pursue their case. Volunteers learn that we are not there to tell a client what we think they should do, rather we are there to assist and empower them to enforce their rights when these have been curtailed. This is a fundamental concept for the volunteers, one which we will carry through our careers.

Personal Development

The Service aims to continually train students in employment law developments and provides them regular training sessions and speakers from a variety of fields to enforce this. The Service is also involved in issues for the wider community and students have the opportunity to attend rallies, talks, functions and employment law events.

The YWLS office is within the SA Unions building, and when intricate issues arise in some cases, the in-house staff donates their time on a Tuesday to discuss the issue with students. This not only assists them with the case, but also broadens and deepens their knowledge in employment law and workplace rights.

Further Opportunities

Volunteers may not get paid, but are treated to a wealth of on-going development and the opportunity to be involved in additional activities. We partake in cross-union day where every volunteer spends a day with a Union representative at a participating Union office. We are provided with information regarding job opportunities within the Union Movement and employment law offices who value our exposure and experience at the YWLS. Two volunteers are also offered places on the Management Committee and take on the role of being involved in the decision making and strategic planning of the Service for the long-term. This position allows the volunteers to represent the team and develop organisational management skills dealing with finances, marketing and strategic development. They are joined on the Management Committee by Union representatives, practising practitioners and a retired Commissioner who all give valuable insight into running an organisation.

Students involved with the YWLS develop a strong loyalty to the Service and the principles it stands for. Being a part of a free legal service offering access to justice for young workers is not only self-satisfying but further develops students into lawyers who will practice these principles throughout their career.

Whilst the Service offers students an opportunity to develop legal skills, YWLS volunteers are driven by their belief in fighting for young workers' rights and ensuring equality for all in the workplace.



Case Studies

Each year, the YWLS collects the stories of young workers. The stories presented here are based on the experiences of the clients we represented in the 09/10 year. Most of the issues facing these clients were in some way resolved through the legal system with the help of the YWLS. Most of these clients received monetary compensation and a small minority received non-monetary outcomes, such as an apology or a statement of service. By and large, once matters were resolved clients reported being happy with the outcome and in a position to put their bad experiences behind them and move on in their lives.

Equal Opportunity and Discrimination

Alfonse* worked as a receptionist for an insurance broking company for just under 6 months on a full-time basis. His duties included general administrative tasks, as well as general cleaning and running errands. He arrived to work early each day and always sought permission from his boss if he needed to leave early. At 18, Alfonse was the youngest in the office. Alfonse spoke to his boss' wife about some personal problems he had been having and she encouraged him to see a doctor and take some

prescribed anti-depressants. After 3 months of working at the company, an incident occurred where Alfonse had his finger caught in a car door when the boss' brother gave him a lift to the bus stop after work. As a result, Alfonse took a small number of sick days off work. He always provided his boss with doctors' certificates. Late one Friday afternoon, the boss and his wife said they wanted a 'word' with him. They told him that he was smart and hardworking, but that his employment would be terminated, as he did not 'fit in' and he had taken too many sick days. Alfonse was not paid out his annual leave in full. The boss claimed he had been 'over-paid for sick days'.

Kerry* was working full time in an administration and sales support role. She became pregnant after six months of work, and informed her boss of this soon after. Shortly after this Kerry became quite sick due to complications arising out of her pregnancy, and needed to take a week off work. Her absence was supported by a medical certificate. Despite this her boss gave her a written warning for 'unacceptable absences' when she returned to work. Kerry later took another week of sick leave, again supported by medical certificates. When she returned to work her boss told her she must either resign or be fired. Kerry refused to resign, so her boss terminated her employment.

Frieda* worked as a panel beater for a crash repair business. She was employed on a full time basis and had been there for about 7 months. On her way to work one day Frieda was involved in an accident where she was hit by a car whilst on her motor bike. Frieda rang her work straight away. As it was just down the road from work another employee was first on the scene after receiving the telephone call from

Freida. The accident was serious and Frieda was taken to hospital. She broke ribs and was told to take 3 weeks off work. Two days later her boss rang and told her that her employment was terminated but did not say why. Frieda had never had any warnings or performance issues.

Paul*, 17 years old, started working for an auto electrician on the understanding that he would be an auto-mechanic apprentice. Paul was paid apprenticeship rates. A contract of training was signed 3 months into Paul's employment. Paul's father made some enquiries to the RTO regarding this. The RTO then contacted Paul's boss and explained that the contract should be back-dated or failing this Paul should be back paid for the difference between what he was paid and the full adult rate of pay. Later that same day, Paul was asked to come to a meeting and was terminated on the spot. The boss cited his father's involvement as the reason for dismissal.

Ella*, who was 20 years old, worked as a secretary in an engineering company. Shortly after she was employed another male engineer joined the workplace. The new employee began lingering around her desk, leaving her presents and sending e-mails of an inappropriate nature. Ella reported the incidents to management and told the individual that she did not appreciate the attention; however, no steps were taken by management in order to cease the behaviour. Over the next six months Ella continued to receive suggestive e-mails and the individual admitted to stalking her. Management continued to do nothing in relation to the matter. The situation peaked when Ella was left alone in a room with the male employee who locked the door to the office and made physical sexual advances towards her. Eventually, after a year of harassment the male employee was asked to leave the workplace. Ella was diagnosed with post traumatic stress from the ordeal.

Hayley* was employed at a tourism company for over a year. Her female employer made ongoing critical remarks and sent her text messages about her appearance, frequently asking her to put on more makeup. Her boss told her she looked more beautiful when she wore full makeup and, when Hayley wore makeup, her boss asked her to put even more on. None of the other girls at work were subjected to similar comments. Following a discussion about Hayley wearing more makeup, Hayley became very upset and overwhelmed and left her workplace. She felt too stressed to return to her place of work.

Herminie* was working at a juice bar as a casual employee. She was not given lunch breaks, regardless of how long her shift was. During one shift her supervisor said she could take a ten minute break to get herself some lunch as there were no customers in the store. The Store owner found out and as a result withheld an hour from her pay. Herminie used the juice bar's internal complaint system to complain about this deduction; however, little action was taken. The store owner then started to harass Herminie by intruding on her personal space and asking questions such as "do you have anything you might want to tell me about?" Ultimately, Herminie stopped receiving shifts and was deleted off the online system for employees.

Unfair Dismissal

Simon* was working at an IT firm in a customer service role. During a quiet time at work, Simon took a photo of a work colleague on his iPhone and uploaded it to Facebook (via his iPhone). His team leader, who was on Facebook at the time, saw the photo and told him to take it down. Simon did as he was asked. He then went to lunch. When Simon returned, he was called into a meeting with three of his work superiors and was told that as he had breached company policy, his employment would be terminated. The policy they were referring to stated that employees were not to use Facebook on company computers. Simon argued that he had not breached the policy as he had used his mobile phone to post the photo. He also argued that given his long-standing commitment to the company, dismissal was a disproportionate response to using his iPhone at work. However, his boss was unwilling to take these points into account and Simon was dismissed.

Chris* was working in a supermarket as a shelf filler and cashier. He was employed as a casual, working approximately 23 hours per week and had been there for almost ten years. His hours were systematic and set by a weekly roster. Chris had a few days off because he was feeling unwell and upon his return found out that he was not rostered for any more shifts. The store manager claimed that it was a down turn in business; however, Chris thought this was unlikely to be the real reason. Chris had never been consulted about any potential redundancies and the business seemed to be thriving.

Alek* worked at a hotel on a casual basis for just over a year. She was employed as a waiter, but sometimes worked in the bar to cover other workers' shifts and occasionally supervised the restaurant. She worked between 25-40 hours a week. Alek was a hard worker and enjoyed her work at the hotel. She never received any warnings or negative feedback on her work performance. One day, one of the kitchen staff members asked Alek to help prepare desserts. The hotel was understaffed and the kitchen staff were new and inexperienced. Alek finished her tasks in the restaurant and informed her co-workers she would be helping out in the kitchen, but to come and find her if things got busy. Soon after, Alek's shift manager walked in the kitchen and asked her, 'What the hell are you doing?' and told her to get back to the restaurant. The following day, Alek went to work, as usual. After a couple of hours, she was called into a meeting with her manager. He questioned her about helping out her co-workers in the kitchen on the previous shift and Alek tried to explain why she had done so. Her manager then dismissed her and walked her off the property. Alek was not paid in lieu of a notice period, nor was she paid for the remainder of her shift.

Underpayment of Wages and Entitlements

Steven* was employed by an electrical company as an electrical tester. His role involved travelling throughout the state to test electrical equipment in both rural and regional areas on a regular basis. He was employed as a full-time employee. Steven often worked 6 days per week and including travel time, his hours of work often extended to more than 11 hours per day. Steven was not paid a travel allowance, nor was he paid for the hours he spent travelling.

Andrea* was working in an administrative role for just over a year. After completing a Certificate II in administration, Andrea's employer requested that Andrea undertake a Certificate III. Andrea believed that she was undertaking the Certificate III and did not question the fact that she was being paid a training wage. However, after several months of receiving the training wage, Andrea discovered that she was never officially signed onto a training contract and was therefore being significantly underpaid for her work.

Rupert*, 20 years old, responded to a newspaper advertisement offering opportunities to earn \$600-800 a week as a courier. He went to the company's offices and signed up, where he was given a list of equipment he had to have to start work including a ute, ropes and other equipment for securing loads to be purchased at his expense, costing thousands of dollars. He went out and purchased these items and brought it back to his employer to be examined and ticked off against a list. His employer placed their logo on his ute and gave him a uniform. He was then given a couple of documents to sign, which he did on the spot. He did not retain a copy of any of them. After about a month of work as a courier he had not been paid any money at all. He asked when he would be paid and was told "you have to work here for around 3 months before you start earning any money". He quit within weeks because he didn't have enough money to buy petrol for his work ute. He asked for a copy of the contract but the request was repeatedly denied. He received no money for any of his labour. The company later advised that the documents he had signed were an independent contractors' agreement, which included a joining fee of almost a thousand dollars and a bond for the two way radio. The company then claimed that Rupert owed them money in the way \$600 pursuant to these contracts.

Contract of Training Disputes

Sally* was working as a trainee baker at a bakery. She was six months from completing her traineeship when her employer unilaterally terminated her employment. Her employer stated that she had been terminated due to unsatisfactory work performance and an inability to work unsupervised.

Terry* began working for a major wholesale and distribution company as a casual employee. After several months he became full time, and shortly thereafter was offered the opportunity to undertake a traineeship with the company. After he had worked with the company for approximately 18 months, it became clear the company did not want to keep him on, despite their obligations under the Contract of Training. He was routinely encouraged to resign, and his branch manager harassed him daily, saying things like "no-one around here likes you, why don't you just resign". Terry had never received any warnings and performance issues were never raised. Eventually, Terry's contract of training was unilaterally terminated by his employer several weeks before Christmas.

Client Testimonial

Workplace Grievances and Disputes

Simone* has worked in a large call-centre for 5 years. Last year she was approached by HR and told that she had been over-paid \$11,000. The reason for this overpayment, HR told her, was a mistake made by the company. They had paid her according to a commission structure that she had been offered but allegedly never accepted. No particulars or calculations were provided to Simone. Simone agreed to pay \$100 a week, while she obtained legal advice. Simone then withdrew this authority and explained that she was waiting for the YWLS to obtain records and provide her with advice. The YWLS sent the company a letter requesting particulars and HR responded by threatening to take Simone to the debt collectors. Simone became so overwhelmed by this threat she had to take stress leave.

* All names have been changed to protect clients' anonymity



I had worked for the store for about two years when I received a phone call from my superannuation company asking if I was still working there. They had not received any superannuation contributions.

As I was working permanent part time hours I was sure I should be receiving payments to my super. This made me look into other areas of my employment as I was already suspicious I was not receiving the correct hourly rate or getting all my entitlements. I spoke with the Fair Work Ombudsman and my superannuation company and they both confirmed my suspicions. When I brought this up with my boss he told me I was wrong on all counts. I was not satisfied with my boss's response so I was forced to make a complaint to the Fair Work Ombudsman.

My boss then told me that because I had made a complaint in writing he had no other option but to cut my hours and "flick me over" to casual. Then after working as casual for one week my boss notified me he could no longer afford to employ me. I knew this was untrue as my friend was the one asked to fill my position.

While I was going through all this drama a friend of mine told me to get in contact with the Young Workers Legal Service. Doing so, I feel I have been able to make the best out of a bad situation. The great team the YWLS was very friendly and very helpful. I would never hesitate to recommend them to a friend. Thank you!

