



Research Report 7/2013

Minimum wages and their role in the process and incentives to bargain

John Buchanan, Tanya Bretherton, Betty Frino, Michelle Jakubauskas, Johanna Schutz, Garima Verma, Serena Yu

Workplace Research Centre, University of Sydney Business School

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The contents of this paper are the responsibility of the author and the research has been conducted without the involvement of members of the Fair Work Commission.

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Diana Lloyd, Manager, Media and Communications

GPO Box 1994

Melbourne VIC 3001

Phone: 03 8661 7680

Email: Diana.Lloyd@fwc.gov.au

All research undertaken by or commissioned by the Fair Work Commission for the Annual Wage Review 2013–2014 has been agreed by the Research Group. The Research Group comprises a Chair from the Workplace and Economic Research Section, Tribunal Services Branch of the Fair Work Commission, and representatives nominated by:

- Australian Chamber of Commerce and Industry (ACCI);
- Australian Industry Group (Ai Group);
- Australian Council of Social Service (ACOSS);
- Australian Council of Trade Unions (ACTU);
- Australian Government; and
- state and territory governments.

This paper is the work of John Buchanan, Tanya Bretherton, Betty Frino, Michelle Jakubauskas, Johanna Schutz, Garima Verma and Serena Yu of the Workplace Research Centre, University of Sydney, Business School.

A draft of this paper was workshopped with the Research Group prior to finalisation. The authors would also like to thank the Research Group for its comments.

The contents of this research paper remain the responsibility of the authors.

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¹ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

Serena Yu. Serena, together with Garima Verma, made major contributions to the presentation of the findings concerning relativities. Extensive assistance with drafting and improving the analytical coherence in the quantitative study of agreements was provided by Damian Oliver.

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Professor John Buchanan
Director
Workplace Research Centre
University of Sydney Business School

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List of Abbreviations and Glossary

AAWI	Average Annualised Wage Increase
ABN	Australian Business Number
ABS	Australian Bureau of Statistics
AFPC	Australian Fair Pay Commission
AIRC	Australian Industrial Relations Commission
AMA	Australian Medical Association
ANZSIC	Australian and New Zealand Standard Industrial Classification
ANZSCO	Australian and New Zealand Standard Classification of Occupations
ANF	Australian Nursing Federation
APNA	Australian Practice Nurses Association
association	Any reference to 'association' between variables in this report means 'prima facie association'. As is standard in social science it is not assumed that associations are necessarily indicative of causal relations.
Award-reliant employee	An employee paid at exactly the level specified in the relevant award
Award-reliant organisation	An organisation that employs at least one award-reliant employee
AWOTE	Average Weekly Ordinary Time Earnings
AWR	Annual wage review conducted by the Fair Work Commission. In earlier legislative regimes, decisions adjusting award rates of pay have gone by different names, often reflecting the different nature of the wages policy regime of which they were a part. Prior to 1967 they were referred to as 'Basic Wage' and 'Margins Cases'. From then until 1993 they were known as 'National Wage Cases' of the Australian Conciliation and Arbitration Commission. From 1993 to 2006 they were called 'Safety Net Adjustments' of the Australian Industrial Relations Commission. From 2006 to 2010 they were called 'wage setting decisions' of the Australian Fair Pay Commission.
BOOT	Better Off Overall Test
C10	This is the entry level classification for a trades qualified employees in the <i>Manufacturing and Associated Industries and Occupations Award 2010</i> (MA000010). It, and its processor (the metal fitter and machinist classification), has been the benchmark classification for setting award relativities in Australia for nearly a century.
CPI	Consumer Price Index
DEEWR	Department of Education, Employment and Workplace Relations

EEH	Employee Earnings and Hours
F&LH	Farm and Livestock Hand
FWA	Fair Work Australia
FWC	Fair Work Commission
Fair Work Act	<i>Fair Work Act 2009</i> (Cth)
Fast Food Industry Award	<i>Fast Food Industry Award 2010</i> (MA000003)
Retail Industry Award	<i>General Retail Industry Award 2010</i> (MA000004)
HR	human resources
Health Award	<i>Health Professionals and Support Services Award 2010</i> (MA000027)
HSUA	Health Services Union of Australia
KPI	key performance indicator
Manufacturing Award	<i>Manufacturing and Associated Industries and Occupations Award 2010</i> (MA000010)
Minimum wage increases	In this report this primarily refers to annual wage review (AWR) decisions of the Fair Work Commission.
MOU	Memorandum of Understanding
MRF	material recycling facilities
NMW	national minimum wage
NES	National Employment Standards
NSW	New South Wales
Nurses Award	<i>Nurses Award 2010</i> (MA000034)
OECD	Organisation for Economic Co-operation and Development
Panel	Expert Panel of the Fair Work Commission, formerly Minimum Wage Panel of the Fair Work Commission, formerly Minimum Wage Panel of Fair Work Australia
Pastoral Award	<i>Pastoral Award 2010</i> (MA000035)
TOIL	time off in lieu
TWU	Transport Workers' Union of Australia
Waste Management Award	<i>Waste Management Award 2010</i> (MA000043)
WAD	Department of Employment's Workplace Agreements Database

wages

Any reference to wages in this report is to nominal wages

WRC

Workplace Research Centre

Executive Summary

The questions examined

This project was undertaken to answer two questions.

- How do minimum wage increases impact on over-award and agreement rates of pay?
- How do minimum wage increases impact on the incentive to bargain?

For this project the minimum wage increases of interest are annual wage review (AWR) decisions made by the Expert Panel (Panel) of the Fair Work Commission (FWC)² (previously known as Fair Work Australia (FWA)). The Panel undertakes an AWR each financial year and may set or vary minimum wages.

The questions were answered on the basis of new knowledge generated by four research methods:

- a large scale survey of award reliance in organisations³ which collected information on wage-setting arrangements across the labour market (and collected especially detailed information from those organisations with at least one employee paid exactly according to the award, hereafter referred to as 'award-reliant employees');
- a quantitative analysis of enterprise agreements;
- a qualitative analysis of a selection of enterprise agreements (which included a comparison of wage relativities contained in awards and agreements); and
- qualitative workplace level case studies.

The key findings

Wage-setting arrangements within organisations and across the labour market

This research report includes an analysis of data collected from the Award Reliance Survey. Although the Award reliance research report⁴ provides a comprehensive review of findings drawn from the survey, this report presents findings from the survey arising from questions about the different types of wage-setting arrangements used by organisations, such as enterprise agreements and individual wage-setting arrangements. It also presents findings on whether organisations that pay at least one employee exact award rates of pay were likely to pass on minimum wage increases to employees not covered by award rates of pay.

A study of 11 569 organisations was undertaken in 2012–13 to investigate the incidence and nature of wage-setting using awards.⁵ The population of interest was defined as non-public sector organisations covered by the national workplace relations system.

² From 1 January 2013, the *Fair Work Amendment Act 2012* (Cth) amended the *Fair Work Act 2009* (Cth) to change the name of Fair Work Australia to the Fair Work Commission and, from 1 July 2013, to replace the Minimum Wage Panel with an Expert Panel constituted for the purpose of annual wage reviews. In this report, a reference to the Panel is a reference to the Minimum Wage Panel or Expert Panel of Fair Work Australia or the Fair Work Commission as appropriate.

³ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

⁴ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. This project was undertaken by the Workplace Research Centre in collaboration with fieldwork company ORC International on behalf of the Fair Work Commission.

⁵ Wright S and Buchanan J (2013), *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

- The majority (89.1 per cent) of organisations had less than 20 employees and accounted for just over two in five (41.4 per cent) employees. A similar proportion of employees (39.1 per cent) was employed by the 1.8 per cent of organisations with 100 or more employees.
- Organisations commonly used a number of pay arrangements for their employees. The most prevalent was individual arrangements (reported by 65 per cent of organisations), followed by awards (52 per cent) and enterprise agreements (7 per cent). Of those using awards, half (or 25 per cent of all organisations) had at least one employee paid at exactly the award rate (i.e. hereafter referred to as ‘award-reliant’ organisations). The incidence of different pay-setting arrangements was closely related to organisation size: for example, enterprise agreements were reported to be used by 42 per cent of organisations with 100 or more employees.⁶

Detailed information on the incidence and operation of different wage-setting arrangements were collected from award-reliant organisations.

- Organisations with 100 or more employees were more likely to be award-reliant (44 per cent). By comparison, only 18 per cent of micro organisations (less than five employees) were award-reliant.
- Within award-reliant organisations, on average 51 per cent of employees were award-reliant, 11 per cent were covered by an enterprise agreement and 38 per cent were on other wage-setting arrangements.
- There were two primary reasons for some employees being paid exact award rates: awards were regarded as providing a good indicator of the ‘going rate’; and were considered to be affordable.
- The primary reasons for using enterprise agreements were: award terms and conditions were considered to be unsuitable or inflexible for the organisation; and to meet compliance obligations with clients.
- The primary reasons for using other wage-setting arrangements were: to reward higher performance or higher duties; and award wages were not considered to be competitive for attracting and retaining employees.
- Amongst employees in award-reliant organisations paid over-award rates, about 30 per cent received the 2011–12 AWR increase even though they were not ‘award-reliant’.⁷

Further details are provided in Section 1.3 of this report.

Wage-setting arrangements and average weekly rates of pay

The most commonly used data on wage levels and methods of pay setting are produced by the Australian Bureau of Statistics (ABS) in its Survey of Employee Earnings and Hours (EEH).⁸ EEH average weekly total earnings data indicate that the earnings of employees on awards are around half that of employees on collective agreements and individual arrangements. These findings, however, must be treated with caution for the following reasons:

- Total earnings data combines full-time and part-time employees.

⁶ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, Table 3.2.7.

⁷ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, Table 3.3.3.

⁸ ABS, *Employee Earnings and Hours, Australia, May 2010*, Catalogue. No. 6306.0.

- Disaggregation of these data by industry⁹ reveals major differences, with award-reliant workers in Accommodation and food services earning more than those on agreements. This probably stems from those on agreements working shorter hours.
- Disaggregation of the data by occupation¹⁰ found similar diversity. Controlling for hours and more specific occupational definitions (i.e. examining registered nurses and secondary school teachers and not just professionals) revealed a completely different picture to that provided by the more summary indicators (i.e. there was virtually no difference in pay for registered nurses as between the methods of pay, and those on collective agreements had the lowest pay rate amongst secondary teachers).

These findings highlight the importance of using the most detailed information possible for generating robust insights into the nature of wages and how they change. Conventions commonly used for producing summary statistical information often generate results that reflect the level of aggregation as opposed to capturing insights into the relations between the variables of interest.

Further details of this analysis are provided in Sections 1.2.2 and 1.2.3.

Average annual wage increases in awards and enterprise agreements

The best publicly available information on movements in over-award wage rates is contained in the Department of Employment's Workplace Agreements Database (WAD).¹¹ This collects information, including wage movements, on all federally registered enterprise agreements and at the time of analysis it contained 11 066 agreements. Sections 1.2.3 and 1.5 provide detailed analysis of these data.

- On the basis of the measure most commonly used to analyse these enterprise agreements—the all industry Average Annualised Wage Increase (AAWI)—there was no association between AWR increases and wage increases in enterprise agreements in the period since 2010, either across all industries or at the one-digit level of the Australian and New Zealand Standard Industrial Classification (ANZSIC).

Analysis based on the raw (i.e. unit record) data contained in the WAD was undertaken on all enterprise agreements registered between January 2010 and June 2011. This was to ascertain what impact, if any, the 2009–10 AWR had on wage increases contained in these agreements. This analysis revealed that just under one-quarter (24.4 per cent) of enterprise agreements reference wage clauses related to AWR increases or processes. The five industries with a high proportion of agreements linking AAWIs with clauses referring to AWR increases were: Agriculture, forestry and fishing (70.6 per cent), Accommodation and food services (68.3 per cent), Retail trade (66.7 per cent), Rental, hiring and real estate services (66.3 per cent) and Arts and recreation services (65.7 per cent).

When wage increases were awarded in an enterprise agreement's first year of operation, the following results were found:

- In 10 industries, the quantum of the wage increase awarded in the enterprise agreement's first year of operation was significantly higher in enterprise agreements registered in the first six months following the 2009–10 AWR decision. In a further five industries the quantum fell in the

⁹ 1-digit level of ABS, *Australian and New Zealand Standard Industrial Classification 2006*, Catalogue No. 1292.0.

¹⁰ 1-digit level of ABS, *Australian and New Zealand Standard Industrial Classification 2006*, Catalogue No. 1292.0.

¹¹ Formerly known as the Department of Education, Employment and Workplace Relations (DEEWR).

period immediately after the decision, but rose in enterprise agreements registered 7–12 months after the 2009–10 decision was announced. In only one industry (Electricity, gas, water and waste) did the wage increase awarded in the enterprise agreement's first year of operation decrease in both periods following the 2009–10 decision.

- Furthermore, for all industries the data found little association between the minimum wage increase awarded in the 2009–10 AWR decision and the level of wage increase awarded in the outer years of each enterprise agreement.

The WAD data were grouped by the scale of the AAWI recorded in each enterprise agreement. The classification of AAWIs into the following three groups enabled comparisons to be made with AAWIs and the minimum wage increase awarded in the 2009–10 AWR decision:

- enterprise agreements with AAWI less than 4.1 per cent (i.e. less than or equal to the increase to the C10 rate in the *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010) (Manufacturing Award)¹²);
- enterprise agreements with AAWI between 4.1–4.8 per cent (i.e. above the increase awarded to the C10 rate and below or equal to the national minimum wage (NMW) increase); and
- enterprise agreements with AAWI greater than 4.8 per cent (i.e. above the increase awarded to the NMW).

The analysis examined whether the AWR increase was more likely to be associated with enterprise agreements that granted lower levels of AAWIs. For example, a positive association between the AWR increase and enterprise agreements may be exhibited if there was a decline in the proportion of enterprise agreements with AAWI less than 4.1 per cent after the 2009–10 AWR decision was announced. The data showed that:

- the proportion of enterprise agreements with AAWI of less than 4.1 per cent decreased in 14 of the ANZSIC 19 industries for enterprise agreements registered in the first six months after the 2009–10 AWR decision. In six of these industries, the proportion of enterprise agreements with AAWI of less than 4.1 per cent also decreased in the period 7–12 months after the decision;
- the proportion of enterprise agreements with AAWI less than 4.1 per cent over the 12 months following the 2009–10 AWR decision increased in Construction and Health care and social assistance. Only in the latter industry was the increase in the proportion of enterprise agreements with low AAWI significant, rising from 38.8 to 59.4 per cent, over the 12 months following the decision; and
- prima facie positive associations were particularly strong in sectors which previously had a very high proportion of enterprise agreements with AAWI of less than 4.1 per cent, such as Agriculture, forestry and fishing; Retail trade; and Accommodation and food services.

In short, the quantitative analysis of enterprise agreements found that there may be a positive association between wage increases in enterprise agreements and AWR increases. This was particularly the case for industries with higher proportions of enterprise agreements with AAWIs of less than 4.1 per cent and a large number of employees with wages set solely with reference to awards. These industries include Agriculture, forestry and fishing; Retail trade; Accommodation and

¹² The C10 and its earlier incarnations have been the reference point for consideration of wage relativities in Australia for decades, and are a proxy for a qualified tradesperson. In using this classification in this way it is important to emphasise that this is not regarding it as a privileged or 'typical' job.

food services; and Arts and recreation. Approximately two-thirds of enterprise agreements from these industries included provisions making direct reference to minimum wage processes or outcomes. These were also industries that had experienced a large decrease in the proportion of enterprise agreements with AAWI of less than 4.1 per cent following the 2009–10 AWR.

Qualitative analysis of agreements

A selection of 97 enterprise agreements from five industries was qualitatively analysed to identify any possible connections between the wage increases identified within them and the increases provided by the AWR, taking into account the impact of other provisions contained in the agreements. The key findings were as follows:

- References to AWR processes varied dramatically between sectors, as well as within sectors. In particular, the analysis identified the importance of distinguishing between agreements that are ‘award-reliant’ (i.e. pay no or little more than the award), ‘slightly above award’ (i.e. pay a modest amount more than the award) and ‘over-award’ (i.e. pay a substantial amount more than the award).¹³
- Wage increases specified in agreements are not necessarily ‘going rates’. A significant minority of agreements contain the lowest increase in earnings that can be granted to an employee. Further increases in wages in many enterprise agreements were contingent on either performance or management discretion. AWR decisions rarely influenced these contingent elements of pay. They did, however, appear to fundamentally shape the base from which they were assessed.
- Analysis of non-wage issues in agreements revealed that most agreements granting wage increases did not just simply ‘pass on’ the increase to employees without variations to other employment conditions. Decisions to include wage increases in agreements appeared to be associated with a wide range of other matters, but were most commonly connected to provisions regulating hours of work and education/training. The AWR increase appeared to set the framework for thinking about the quantum of increase for above-award employees, however, the wage increases were ultimately achieved by bargaining around hours, penalty rates and other employment conditions rather than stemming directly from the AWR decision.
- Classification arrangements in the agreements were directly comparable to those in awards in approximately half of the agreements examined. Comparability (for the purposes of research and analysis) was not possible for about one-quarter of agreements, and some comparability was possible in the remaining quarter. This section highlights, however, that caution should be exercised in accepting at face value the level of ‘incomparable’ agreements. The problem of opaqueness is an important issue for assessing the impact of the AWR. Opaque classifications have the potential to result in the under-classification of employees relative to the applicable modern award, offsetting the potential impact of the AWR minimum wage increases.

Analysis of relativities

This analysis (detailed in Sections 2.2.2 and 2.3.2) was undertaken to assess the nature of wage increases in enterprise agreements for those on high and low award classifications. As a result of AWR increases being defined in flat dollar amounts, award relativities have been compressed over

¹³ Differing industry job classification structures meant that the boundaries between these categories varied for each industry. Additionally, given the extreme variability in the way specific classifications and actual pay rates were reported in agreements within an industry, comparisons of pay relativities contained in awards and agreements were conducted in a piecemeal fashion with extensive cross checking. Full details are provided in Appendix 5.

the last 20 years. In the Manufacturing Award,¹⁴ for example, the relativity between the lowest classification (C14, which is equivalent to the NMW) and the benchmark C10 rate rose from 78 to 85 per cent. In the highest classification (C2(b) - advanced diploma engineer) the award wage premium relative to the C10 rate fell from 60 to 35 per cent. Analysis of the relativities in the agreements examined revealed the following:

- External relativities (i.e. differences in pay for exemplar or reference classifications common across employers) were dispersed among all industries considered. For example, the weekly wage for a Class 1 Food and Beverage Worker ranged from \$560 to \$806 in the agreements analysed.
- Internal relativities within agreements were very similar to those in their related awards. This was the case despite there being no requirement for it, and many enterprises were paying significantly over the award. The commonality in relativities was particularly strong in agreements that were paying close to award rates and in jobs paying less than median earnings.
- The close resemblance between the internal relativities in agreements and those in awards suggests that agreement making has not resulted in employees in higher classifications overcoming the compression of relativities that has occurred in awards. This has most likely arisen as a result of successive AWR decisions being paid as dollar amounts and/or being absorbed into over-award payments.
- While the decline in award wage rate relativities for higher classification employees should have objectively given such employees a greater incentive to bargain, the analysis suggests it has not had this impact. Either such employees have not been induced to make agreements offsetting these falls, or if they have been induced employees have not been successful in changing wage outcomes.

Findings from the workplace case studies

AWR increase impacts on over-award rates of pay

Interviews were conducted at 20 case study sites with varying wage arrangements (award-reliant (i.e. paying the exact award rate), informal over-award (i.e. above-award payments) and formal over awards (i.e. enterprise agreements)) (detailed in Section 2.4). These interviews found that for most employers who paid over-award payments to their employees, AWR increases were not perceived to be an influential factor in the determination of over-award wage payments at the workplace level. Only one employer (across the 20 case study sites) directly factored AWR increases into decision making processes surrounding over-award payments. Few case study workplaces reported incorporating AWR increases into key aspects of wage negotiations (for informal over-award or enterprise agreement negotiations) including in: initial contract negotiations with staff; subsequent adjustments to these contracts on renewal or revision; and performance management discussions with employees paid over-award wages.

Employers (at workplaces with over-award payments) in the case study sites identified a range of other factors, beyond AWR increases, as critical in shaping the frequency and magnitude of over-award payments. For example, across the independent grocery retail sites studied, the setting of over-award payments was informed primarily by competitor wage movements and the need to link over-

¹⁴ *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010).

award payments closely with individual performance reviews. Employers in the Private General Medical Practices sites reported using over-award payments to attract and retain high quality labour (which were set in line with competitor employers which were largely above minimum levels). For the Private General Medical Practice employers interviewed, the minimum wage increases were perceived to be of limited relevance because they sat well below the threshold of their wage arrangements.

AWR impacts on bargaining

Across the 20 case study workplaces, employer and employee interviewees generally reported that AWR increases neither discouraged nor encouraged enterprise bargaining at the workplace level. The majority of interviewees presented a rationale for this position, and while this rationale varied depending on sectoral setting, recurring themes were present across the study. In retail workplaces for example, bargaining over hours and rosters represented the issue for which both employers and employees were most motivated to bargain. In child care, both owners/managers and employee interviewees stated that minimum wage increases did not deter bargaining. In this sector, both managers and employee interviewees stated that bargaining was motivated around the tight cost margins within which most centres were required to operate. Moreover, most child care employees interviewed saw little point in bargaining over wages because the returns were likely to be so slim.

Factors shaping the incentive to bargain: employer and employee perspectives

Given interviewee reports of the relatively limited impact of AWR decisions on both over-award rates of pay and the bargaining process, attention was devoted to analysing what interviewees reported were the key factors in shaping both. Employers and employees reported different factors as influential. To give order to the analysis, these incentives were ranked from high order to low order incentives based on the sentiments expressed by participants. For employers, the 'first order' incentives to bargain all dealt with the preservation of commercial viability for the business including: local labour market and product market concerns; workplace level restructuring; performance management; and policy directives (either macro or micro) which employers identified as having more immediate impacts for pricing or cost structures. For employees, 'first order' incentives to bargain emerged from a mix of personal and work factors and included: workplace level restructuring; perceptions of value to their employer; a desire to achieve a better fit between work and home life; and perceptions about 'receptiveness' to bargaining at the workplace level (i.e. workplace culture). On the basis of this material this part of the study concluded that the impact of the AWR decisions on the incentive to bargain was a third order factor.

Other issues concerning the bargaining process

In terms of bargaining process, cost imperatives were identified by all employers as playing a critical role in the choice of over-award arrangements (i.e. formal or informal, collective or individual) that were used. The act of bargaining was defined by all of the employers interviewed in 'cost effectiveness' terms and evaluated in terms of functional efficiencies.

Across the majority of workplaces studied, processes of bargaining were not well defined or systemised. The enterprise agreement workplaces appeared to have some formal systems in place to administer and coordinate negotiations between employer and employees. However, even within these workplaces, interviewees reported that they viewed the bargaining processes as 'complex'. During the course of the analysis it became clear that employers focused on the 'functional' role of bargaining in terms of helping achieve desirable commercial ends. None interviewed reported that bargaining had any value in broader labour management strategies such as nurturing employee engagement or promoting collaborative processes to workplace change. For this reason, purposeful

consideration of how the 'act' or 'process' of bargaining might be improved or altered was reported to be of limited or no concern for the employer participants overall.

Answers to the project's research questions

This study has used an array of data sources to generate new knowledge about the core research questions concerning the impact of AWR decisions on wage outcomes and the incentive to bargain. As part of this process, the research also made some findings on the impacts of minimum wages themselves on over-award and agreement rates of pay as well as on the incentives to bargain.

The impact of minimum wage increases on over-award and agreement rates of pay

The data considered in this study, while providing limited evidence of a general relationship between AWR increases and over-award or agreement wage outcomes, did indicate that a more limited positive association may exist in some instances.

The Award Reliance Survey found that, in award-reliant organisations, close to a third of employees on over-award rates of pay (either through an informal arrangement or enterprise agreement) received the most recent AWR decision wage increase. This suggests that in organisations required to pass on the minimum wage increase to one or more award-reliant employees, there may be a flow-on effect to over-award wage outcomes of non-award-reliant employees in some circumstances.

Analysis of summary data commonly reported from the WAD (i.e. AAWI by industry) provided no evidence of minimum wage increases impacting on enterprise agreement wage outcomes. This report, however, conducted analysis of the level of AAWI in agreements grouped in different ways. First, the quantum of the first wage increase granted in an agreement was compared to the AWR increase of 2009–10. Second, AAWIs in agreements were grouped on whether they were higher, lower or roughly the same as that contained in the AWR of 2009–10. Consideration of these data uncovered some prima facie positive associations at the industry level:

- in 10 of 19 industries, the average first year wage increase recorded in enterprise agreements registered in the six month period after the 2009–10 AWR decision was higher than in the six months before it; and
- in 14 of 19 industries, the proportion of enterprise agreements in the lowest (sub 4.1 per cent) AAWI grouping that were registered in the six month period after the 2009–10 AWR decision decreased compared to the six months before it.

Industries with high levels of award reliance, such as Retail trade and Accommodation and food services, exhibited both these prima facie positive associations and were also identified as industries in which a high proportion of enterprise agreements directly referred to minimum wage processes or outcomes.

These findings suggest that, in the period of study, there was some association between AWR increases and enterprise agreement wage outcomes in some industries. Questions remain, however, about the extent and nature of any association, particularly given the qualitative case study findings which showed a number of diverse factors underpinning the setting of employee wage rates by employers and the relatively low priority that some employers placed on AWR increases as part of their consideration of wage adjustments for over-award employees.

The impact of minimum wage increases on incentives to bargain

The study did not reveal a positive or negative relationship between AWR increases and the incentive to bargain, instead pointing to a complex mix of factors that may contribute to employee and employer decision-making about whether to not to bargain.

The qualitative workplace case study research identified that AWR increases, for the workplaces studied, were largely not influential in decisions about whether to bargain for the employers and employees concerned. As part of this research, it was generally observed that AWR increases for over-award employees were assessed as a third order factor in generating incentives or disincentives to bargain, behind more influential factors including cost, restructuring and job changes.

Conclusion

The workplace case studies, qualitative relativities analysis and Award Reliance Survey each suggest that there may be a link between minimum wages (and their associated instruments) themselves and over-award wage outcomes, but the extent of this link remains unclear and may require further investigation.

The qualitative relativities in selected award and enterprise agreements revealed that internal relativities within most of the agreements studied were very similar to those in their related awards. This included similarities in higher classification compression.

The Award Reliance Survey found that the market position of award rates may be a reason for award-reliant organisations to adopt over-award wage-setting arrangements (among award-reliant organisations without an enterprise agreement). Just under half (48 per cent) reported the need for more competitive wages as a reason for making over-award payments. However, the survey also found that the reasons for making over award arrangements differed for the type of instrument pursued. That is, for organisations using individual and informal over-award arrangements, the main reason for adopting over-award rates were for 'rewarding' employees (39 per cent), however the main reason for organisations perusing an enterprise agreement chiefly related to inflexibilities in award conditions (23 per cent). This may suggest that further consideration of the effect of AWR increases (or minimum wage impacts) on bargaining may need to consider the divergence of wage arrangements that exist in the workforce.

The direct impact of AWR decisions was perceived to be limited at the work sites studied. However, analyses of enterprise agreements revealed some prima facie associations with AWR decisions. Further, the workplace cases in general, and the relativities analysis in particular, revealed that minimum wages themselves (awards) can shape the wage determination process and wage outcomes. All of these findings are consistent with and help to better understand findings from the related 2012–13 study of award reliance.¹⁵ If the AWR increases examined are conceived as being part of an ongoing evolution of the award system, then their impact could be seen to be significant, primarily because such increases are an integral part of a labour standards regime that conditions workplace behaviour and shapes wage outcomes. This appears to be especially the case in those parts of the labour market paying below median wages.

¹⁵ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

Research Questions, Terminology and Methods

The Expert Panel (Panel) of the Fair Work Commission (FWC) (previously known as Fair Work Australia (FWA)) undertakes an annual wage review (AWR) each financial year and may set or vary minimum wages.¹⁶ Minimum wages include the national minimum wage (NMW), modern award minimum wages and minimum wages in some transitional instruments. In the Panel's 2010–11 research program, the Panel outlined that it sought the following research to be undertaken:

Minimum rates of pay and over-award/agreement rates of pay

Research into the relationship between minimum rates of pay and over-award/agreement rates of pay. This research will seek to inform an understanding of:

- how minimum wage increases impact on over-award and agreement rates of pay; and
- how minimum wage increases impact on the incentive to bargain.

The research could include an:

- analysis of the Employee Earnings and Hours (EEH) survey data;
- analysis of the Workplace Agreements Database (WAD); and
- case studies to gain a better understanding of the bargaining process, in particular to facilitate an understanding of the relationship between minimum wage adjustments and the incentive to bargain for both employers and employees.¹⁷

The WRC was subsequently commissioned by the FWC to undertake this work using four methods of research, these being:

- a large scale survey of award reliance in organisations which collected information on wage-setting arrangements across the labour market (and collected especially detailed information from those organisations with at least one employee paid exactly according to the award, hereafter referred to as 'award-reliant employees');
- a quantitative analysis of enterprise agreements;
- a qualitative analysis of a selection of enterprise agreements; and
- qualitative workplace level case studies.

This research was to address the two core questions:

- How do minimum wage increases impact on over-award and agreement rates of pay?
- How do minimum wage increases impact on the incentive to bargain?

The questions concerned how decisions of the Panel are connected with wage outcomes and the processes used to set pay at the enterprise and workplace level. That is, how formal processes (i.e., AWR decisions) impact on work-related earnings and their determination for those in an employment

¹⁶ From 1 January 2013, the *Fair Work Amendment Act 2012* (Cth) amended the *Fair Work Act 2009* (Cth) to change the name of Fair Work Australia to the Fair Work Commission and, from 1 July 2013, to replace the Minimum Wage Panel with an Expert Panel constituted for the purpose of annual wage reviews. In this report, a reference to the Panel is a reference to the Minimum Wage Panel or Expert Panel of Fair Work Australia or the Fair Work Commission as appropriate.

¹⁷ *Annual Wage Review 2010–11* statement, [2010] FWA 7546 (1 October 2010).

relationship. These research questions are concerned with whether, and how, decisions of the Panel impact on substantive practice at the enterprise and workplace level. Addressing the questions requires that due consideration be given to understanding both the formal and substantive domains. The following sections explore each question separately, describing the context from which they emerge and defining the concepts implicit in the questions. This is followed by a description of the research methodologies used to conduct this project.

Research questions

Annual wage review decisions and wage outcomes

The first research question is concerned with wage outcomes—the impact of AWR decisions on wage increases, especially for employees covered by award classifications earning above the relevant award rate of pay. The primary objects of concern are over-award rates of pay. These can be formal (as set out in a registered enterprise agreement) or informal (e.g. operating on the basis of common law contracts that may be documented or take the form of tacit arrangements embedded in custom and practice). Evidence examined to understand the impact of AWR increases is drawn from two sources: enterprise agreements in the national system and workplace case studies. Details of the methodologies used to analyse these data are provided in the section below on Research design.

Annual wage review decisions and bargaining behaviours

The second question is concerned with processes associated with setting pay—especially the impact of AWR decisions on employers' and employees' interest in, and approaches to, bargaining. These are matters of interest because of two key objectives for modern awards which are stated in s.134(1)(b) of the *Fair Work Act 2009* (Cth) (Fair Work Act):

(1) FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

...

b) the need to encourage collective bargaining

The Panel must consider these objectives when conducting annual wage reviews (s.134(2) of the Fair Work Act). The difference in the significance of these objectives for employers and employees was noted by the Panel in its *Annual Wage Review 2009–10* decision:

...the gap between award minimum wages and bargained wages is likely to increase the incentive for employees to bargain. On the other hand a large gap may be a disincentive for employers to bargain...¹⁸

To help answer the two questions of interest, this project generates new knowledge to understand how the differences between award and actual rates of pay shape and are shaped by bargaining and enterprise agreement making between employers, employees and their representatives.

Terminology

The Panel's decisions are centrally concerned with setting minimum standards for work-related earnings for parties to the employment relationship (i.e. employers and employees). It operates in the

¹⁸ [2010] FWAFB 4000, para. 302.

context of the national workplace relations system in place since the commencement of the Fair Work Act in 2009.¹⁹ Within this system, wages and standards are set at a number of levels.

- The remit of central wage-setting bodies is determined primarily by the federal parliament through specific legislation. Parliament also legislates directly on the content of 10 National Employment Standards (NES).
- The NMW is set by the Panel of the FWC. The Panel also considers and adjusts minimum wage rates in awards as part of the AWR. The minimum rates apply to workplaces within the national system of employment, while state commissions (other than in Victoria) set minimum wages for other workplaces such as state public sectors.
- Employment standards, including wage rates, are also set by the parties to the employment relationship at the enterprise or workplace level. This can occur on either an individual or collective basis or a combination of the two. Provided that publicly defined minimum standards are honoured, the parties to an employment relationship can have varying standards—both formally and informally. The Fair Work Act regulates these arrangements through provisions concerning the settlement and enforcement of formal enterprise agreements.²⁰

In conducting empirical research, especially gathering information on experiences that prevail at the workplace level, it is important to appreciate that the terminology of labour law does not necessarily neatly align with workplace arrangements. This is especially the case when considering the relationship between awards, registered enterprise agreements and informal over-award arrangements. Table 1 provides guidance on how formal labour law categories align with arrangements and terminology commonly used at the workplace level. Appendix 1 provides more detailed information about how workplace practices align with legislative categories.

¹⁹ *Fair Work Act 2009* (Cth) s.2.

²⁰ As a technical matter, it is important to note that some employment arrangements have been transitioning from state awards and agreements to national instruments. Some of these transitional arrangements include wages and conditions below nationally defined standards. When the term 'below award' is used in this report it refers to situations such as these.

Table 1: Categories for classifying arrangements that define wage entitlements—how legislative categories align with workplace practice

Classification: legislation	Sub-classifications: wage-setting practice aligned with legislative practice	Classification: workplace practice	
Award applies (Fair Work Act, s.47)	(a) Award-reliant	Award-reliant - award only applies	
	(b) Over-award (informal arrangements)	Award and over-award	
	(c) Over-award (common law contract)		
Award covered (Fair Work Act, s.48)	(d) Over-award (covered by enterprise agreement)	Formal arrangements (i.e. enterprise agreements)	Informal arrangements
	(e) Over-award (high income employee with guarantee of earnings)		
Award/agreement free (Fair Work Act, s.12)	(f) Not covered by an award or enterprise agreement. National minimum wage applies (s.294). (g) May be subject to payments above the national minimum wage (informal or common law contracts)	Totally award/enterprise agreement free	

Note: For the purpose of this study, an employee was described as having ‘award-based’ pay-setting arrangements if they fall within cells (a), (b), (c) and/or (e).

Source: Workplace Research Centre.

In the course of collecting data for the workplace case studies, there was a need to appreciate that terms with a precise legal meaning or assumed relationship did not necessarily have the same meaning at the workplace level. Three categorical conventions required particular sensitivity to ensure the reality of workplace practice was accurately understood:

- the formal distinction between awards and agreements;
- the relationship between bargaining and agreement making; and
- the assumption that AWRs (the formal means of increases to minimum wages) have an impact at the workplace level.

Awards and agreements: formally mutually exclusive categories, in reality often intimately connected

Under the Fair Work Act, modern awards and enterprise agreements are separate legal instruments. This results in the formal distinctions noted in the above table: 'award applies', 'award covered' and 'award/agreement free'.

It is important to appreciate, however, that legal and administrative convention do not necessarily mean that awards and enterprise agreements are unconnected. All enterprise agreements have to pass the 'Better Off Overall Test' (or BOOT),²¹ and in this formal sense there is an indirect but relevant connection between modern awards and enterprise agreements. The researchers were open to interviewees noting that the connection was often also substantive. Some enterprise agreements are best understood as building upon (and often incorporating) significant features of awards. Indeed, as shown through the agreement analysis contained in Section 2.3, award standards and categories pervade many enterprise agreements. When analysing the formal realm of wages policy, the categories outlined in Table 1 have been followed. In reporting our empirical findings we note, however, that these formal distinctions often do not capture the close connection and often extensive overlap between awards and enterprise agreements. The categories we use for capturing the diversity of workplace practice are presented in the far right column of Table 1.

Bargaining and agreement making: not necessarily the same thing²²

In undertaking research for this project, the research team was careful not to assume that 'bargaining' and 'agreement making' (i.e. making an enterprise agreement) are inter-changeable terms. The essence of bargaining involves substantive participation by all parties in arriving at a set of arrangements that are broadly and, ideally positively, accepted. Or, using the definition from FWC's website, bargaining could be described as 'the process by which one or more employers and employees negotiate the terms and conditions which make up an agreement'.²³ While this definition refers to bargaining in relation to making an enterprise agreement, for the purpose of this research, the researchers have adopted a similar definition as it relates to the negotiation of any over-award arrangement, whether it results in an informal over-award arrangement or an enterprise agreement.

Agreement making involves the formal process of changing enforceable rights at work by complying with legally specified requirements. These rights and the processes required for their variation are specified in the Fair Work Act, the NES and modern awards. Often bargaining coincides with the formal agreement making process. That is, agreement making formalises a relationship of substantive bargaining. However, in conducting the research we have not assumed that this is necessarily the case, and have been sensitive to all possible situations. While close links between the substance of bargaining and form of agreement making are recognised as one possibility, we have also been sensitive to understanding other relationships between the substantive and formal domains in wage setting.

²¹ *Fair Work Act 2009* (Cth), s.186(2)(d).

²² Drawn from Fair Work Commission (2013), *Bargaining & workplace determinations* (background reference and information materials). Available at <http://www.fwc.gov.au/index.cfm?pagename=agreementsdeterminations>

²³ Fair Work Commission (2013), *Bargaining & workplace determinations*, accessed 2 April 2013 from <http://www.fwc.gov.au/index.cfm?pagename=agreementsdeterminations>.

Formal wages policy decisions need not necessarily have any impact on substantive outcomes

The question of how minimum wage adjustments impact on the incentive to bargain takes for granted the existence of such a relationship. Once again, we do not assume that this is necessarily the case. Evidence of the impacts, if any, of adjustments in minimum wages on incentives to bargain is explored through workplace case studies (see Section 2.4).

Overall, our approach to undertaking the research has involved making as few assumptions as possible about relationships between categories and the connections between awards and agreements, bargaining and agreement making. Instead, we have relied as extensively as possible on original evidence to understand how the AWR decisions affect wage outcomes at the workplace level and the processes of their determination.

Research design

The primary object of research interest: annual wage review minimum wage increases and their effects

The questions guiding this project pose the issues of interest in very general terms. These are 'minimum wage increases' and their impact on:

- 'over-award and agreement rates of pay'; and
- 'the incentive to bargain'.

The primary audience of interest to this project is the Panel of the FWC and those interested in, and who contribute to, its deliberations. This context meant that this project has focused on understanding the impact of AWR decisions of the Panel. As a result, the new knowledge generated by the project has concerned developments in wage setting, wage outcomes and the processes of wage determination since the Panel's first decision in 2010.

Table 2 presents wage increases from 2005–13 using various wage measures. The table reveals that the last three decisions of the Panel granted minimum wage increases in percentage terms. This is in contrast to its predecessor organisations—the Australian Industrial Relations Commission (AIRC) and the Australian Fair Pay Commission (AFPC)—which had granted most increases in 'flat dollar' terms. In 2009, the AFPC did not increase minimum wages (in the wake of the uncertainty surrounding the global financial crisis).

The first decision of the Panel (operative from 1 July 2010) granted a wage increase in dollar terms. As listed in Table 2, the unusual situation of a zero increase immediately before this provides a relatively tidy reference point to help identify associations concerning the impact of AWR increases on wage outcomes and bargaining preferences and processes. As Table 2 shows, the Panel's first decision was a flat \$26 for all award rates: the equivalent of 4.8 per cent increase in the NMW (equivalent to the *Manufacturing and Associated Industries and Occupations Award 2010* (Manufacturing Award) C14 classification); a 4.0 per cent increase for the Manufacturing Award C10 classification rate,²⁴ and a 2.2 per cent increase for award-reliant workers on Average Weekly

²⁴ The Manufacturing Award C10 classification and its earlier incarnations have been the reference point for consideration of wage relativities in Australia for decades, and are a proxy for a qualified tradesperson. In using this classification in this way it is important to emphasise that this is not regarding it a privileged or 'typical' job. For comparative purposes, the national minimum wage is also aligned to the C14 classification in the Manufacturing Award.

Ordinary Time Earnings (AWOTE). As a flat dollar increase, the decision had varied effects on those lower and higher award classification structures.

The final three columns of Table 2 list the different research techniques that have been used as part of an integrated research strategy to understand the connections (if any), between AWR increases, enterprise agreement wage outcomes and the bargaining processes associated with wage determination. These techniques reflect quantitative and qualitative methods of analysis.

Table 2: Wages policy context for this project: signals from tribunals, enterprise agreements and wage/price Indicators and time periods that were associated with different elements of data collection and analysis

Year/date	Summary of change signals coming from tribunals						Summary of other indicators				Time period when data were examined			
	Federal/National minimum wage (NMW)		Tribunal increase as % of C10		Tribunal increase as % of AWOTE ^a		AAWI in enterprise agreements (federal) ^b	CPI ^c	C10 ^d	AWE ^e	AWOTE ^a	WPI ^f	Statistics	Case study field work
	Wage increase granted fixed \$ or %	\$ p/w	%	%	%	%	%	%	\$	\$	\$	%	Quantitative	Qualitative/ Sectoral
2005*	\$	17	3.6	3.0	1.8	4.3	2.4	578.2	1 048.7	995.4	4.0			
2006*	\$	27.36 /22.04	5.6	4.7	2.7	4.6	3	605.6	1 075.3	1 027.4	4.2			
2007**	\$	10.26 /5.30	2.0	1.7	1.0	4.5	2.4	615.9	1 126.0	1 078.6	4.0			
2008**	\$	21.66	4.1	3.5	2.0	4.2	4.2	637.6	1 173.4	1 121.4	4.2			
2009**	-	0	0	0	0	4.1	2.5	637.6	1 237.0	1 189.7	3.8	Agreements		
2010***	\$	26.0	4.8	4.0	2.2	4	2.9	663.6	1 302.2	1 252	3.1	Period 1 1/1/10 – 30/6/10		
1/7/10 – 31/12/10												Period 2 1/7/10 – 31/12/10	1/7/10 – 30/6/11	
2011***	%	19.4	3.4	3.4		4.1	3.3	686.2	1 359.9	1 306.6	3.8	Period 3 1/1/11- 30/06/2011		
1/7/11 – 31/12/11														
2012***	%	17.1	2.9	2.9		3.7	1.6	706.1	1 415.1	1 351.2	3.7	Organisations Dec 2012	1/4/12 30/8/12	
2013 ^g	%	15.80	2.6	2.6		3.3	2.5	724.5	1 485.0	1 420.9	3.2	March 2013		

Notes: *As determined by the Australian Industrial Relations Commission **As determined by the Australian Fair Pay Commission ***As determined by the Fair Work Commission
a) AWOTE = Average Weekly Ordinary Time Earnings, adults May quarter; b) AAWI = Average Annualised Wage Increase, June quarter; c) CPI = Consumer Price Index; d) C10 = the level 10 classification rate in the *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010) e) AWE = Average Weekly Earnings, full-time adults, May quarter; f) WPI = Wage Price Index, yearly change calculated at June g) Figures for 2013 taken from Fair Work Commission *Annual Wage Review Decision 2012 – 2013* [2013] FWCFB 4000 / (C2013/1), June 2013. Data from the decision refer to the following time periods: annual wage review % increase issued on Commission's own authority for 2013–14 financial year, AAWI in enterprise agreements is for Dec Quarter 2013 (note Public sector: 3.3%, Private sector: 3.4%), CPI refers to year ended March 2013, WPI is the year ended March 2013. Also note productivity measures year to Dec 2012 (Dec 2011 in brackets): GDP per hour: 2.9% (1.4%), Gross VA per hour market sector: 2.4% (2.2%), GDP per capita: 1.2% (1.4%).

Sources: *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010), as at 1 July 2012; ABS, *Average Weekly Earnings, Australia, May 2013*, Catalogue No. 6302.0; ABS, *Consumer Price Index, Australia, December 2012*, Catalogue No. 6401.0; ABS, *Wage Price Index, Australia, December 2012*, Catalogue No. 6345.0; Australian Manufacturing Workers Union (undated), *Wage rate history—Metal, Engineering and Associated Industries Award*, provided by the AMWU, September 2012; Department of Employment (2012). *Historical table: All wage agreements, by ANZSIC division, lodged in the quarter: March Quarter 1991 - December Quarter 2012*. Accessed 4 April 2013 from <<http://deewr.gov.au/workplace-agreement-reports>>, Commonwealth of Australia; WorkplaceInfo (2012), *History of national increases*, Accessed 2 April 2013, from <<http://www.workplaceinfo.com.au/payroll/wages-and-salaries/history-of-national-increases>>, NSW Business Chamber.

The remainder of this section provides details of how the different elements of the research design contributed to generating new knowledge and analysis of how the Panel's decisions impact on bargaining incentives and wage levels.

Key complexities to be overcome and the strategy for doing so

Understanding how policy impacts on practice is difficult in any sphere of social activity. It is especially complex in the domain of wages policy. This complexity arises from several sources. The key ones are as follows.

- **The multi-dimensional nature of the prime variable of interest: wages.**

In the realm of labour market analysis, the topic of wages is arguably one of the most difficult to study. Wages can be measured in many ways: nominal, real and relative. They cannot be properly understood without reference to hours of work, changes in price levels, productivity and forms of employment. Given the interest in 'minimum wage' increases in Australia, there are not just one or two 'minimum wage' standards, but hundreds. For many jobs there is not one fixed 'wage' but rather a range of elements: base pay; allowances; performance-related pay; and classificatory progression.

- **The wide variety of processes, agents and formalities involved in setting wages.**

As noted earlier, there is not necessarily a connection between bargaining and agreement making. In addition bargaining can be individual and collective, on and off site, and consultative or joint determinative in nature.

- **Wage outcomes and the process of their determination do not occur in a vacuum.**

Wages are profoundly shaped by context. A raft of government agencies are involved, as well as unions and employer associations. Most powerful of all are the forces of the product markets being serviced, the occupational profile used by the workplace to serve it and the scale of operations. These matters are captured by the importance of industry, occupation and workplace. It is vital to give adequate consideration to these contextual matters to grasp the key forces shaping wage outcomes and processes.

- **The importance of clearly defining the 'level of aggregation' that is of interest.**

Like many social phenomena, the nature of the question of interest can differ depending on the level of aggregation at which it is considered. This is partly related to context—matters such as industry, size, occupation and region can all be defined at different levels of aggregation. Analysis is helped here by the existence of well established frameworks for aggregation (e.g., Australian Bureau of Statistics (ABS) classification systems for industries and occupations). With wages, however, there is another dimension: should we study 'averages' like average weekly or hourly earnings? And if so, averaged by what? Much complexity in wages research is avoided by working with highly aggregated accounts of wages. A key theme of Part 1, however, is that convenient conventions can make analysis easier, but at the expense of obscuring important associations and regularities between work-related earnings and other variables.

There is no simple or standard way of generating new knowledge to help answer the questions of interest. Given these complexities, the research team for this project developed a research strategy that involved two distinct elements—qualitative and quantitative research techniques—and within both techniques a variety of methods to collect different types of data were used, together with multiple analytical approaches. At the heart of this design has been a commitment to using quantitative data as a source of insights concerning the incidence of the phenomena of interest, and qualitative methods to obtain insights into the mechanisms shaping the outcomes identified. To ensure that the

qualitative information was as robust as possible, sectors and sites selected for detailed scrutiny were systematically chosen using the statistical and key informant information.

The core components of research design

The core elements of the research design are summarised in Table 3 and detailed thereafter.

Table 3: Elements of research design for the incentives to bargain project

	Method of data collection	Population & unit of analysis	Sample						Reference time period	Primary rationale for inclusion
Quantitative research phase	Survey of organisations	Non-public sector national system covered employers	Drawn from business units on the Dun & Bradstreet database. n = 11 569						December 2012–March 2013	Ascertain incidence of different methods of pay setting across workplaces
	Descriptive statistics on Federal enterprise agreements	All national system agreements	Full count, not a sample N = 25 000						2010–13	Identify associations between AAWI and AWR
			Full count, not a sample N = 11 066						January 2010–June 2011	Examine nature of enterprise agreement wage movements in most precise detail possible (statistically)
Qualitative research phase			Systematic selection of sectors to explore contrasting industries							
			Predominantly Agreement	Predominantly award-reliant		Predominantly individual arrangements				
	Discursive and content analysis of agreements	All national system agreements	Supermarket & Grocery Stores n = 25	Cafes, Restaurants & takeaway food (Fast food) n=23	Cattle based farming n=8	Waste collection services n= 19	Medical services n= 22		July 2010–June 2011	Examine the nature of wage increase in detail and understand their links to conditions
	Relativities analysis (where classifications matched)	All national system agreements	Supermarket & Grocery Stores n = 25	Cafes, Restaurants & takeaway food (Fast food) n=18	Cattle based farming n=4	Domestic Waste Management n= 12	Medical services n=17		July 2010–June 2011	Assess how wages have changed for different categories of workers and how this compares with award relativities
Workplace case studies	All national system workplaces	Independent Grocery Retail n=3	Franchise Fast Food Services n=4	Dairy Cattle farming n=3	Domestic Waste Collection n=3	Private General Medical Practices n=3	Long Day child-care centres n=4	First half of 2012	Examine impact of context and local nature of management-employee interactions as shaped by (or not) min wage increases	

The key elements of the research design can be summarised as follows:

(a) Quantitative research phase

The core quantitative component of this study was based on three distinct sources of statistical data: a large scale survey of employers; analysis of time series information on AAWI in all enterprise agreements registered federally between 2010 and 2012; and close scrutiny of the wage information contained in such agreements in the six months before, and the 12 months after the 2009–10 AWR decision. The reasons for use of these sources and their primary contribution to the analysis are described below.

- *Survey of employers*—a survey was undertaken in 2012–13 to investigate the incidence and nature of wage-setting using awards.²⁵ Using a Computer-Assisted Telephone Interviewing (CATI) system and online data collection tool, the survey collected data from 11 569 randomly selected organisations in the non-public sector.²⁶ The survey was undertaken to generate robust information on: (a) how many businesses actually used over-award pay arrangements; and (b) why they used them.
- *Analysis of the wage movements contained in all enterprise agreements registered federally between 2010 and 2012*—this was conducted in two stages.

The first stage considered the AAWI in all agreements registered between 1 January 2010 and 31 December 2012. This was used to assess whether there was any pattern in AAWI that could potentially be associated with AWR decisions.

The second stage involved an exhaustive analysis of the actual wage increases contained in agreements considered in a more disaggregated way. For example, instead of considering AAWI per year, wage increases as actually recorded (i.e. not 'averaged') were examined and agreements within industries were grouped on the basis of the size of the AAWI's, i.e. whether the increase was lower, higher or roughly the same as that granted by the AWR in percentage terms. Data from 7631 agreements registered between January 2010 and July 2011 were used for this part of the study.

These contrasting approaches to quantitative analysis of agreements allowed for the exploration of patterns at different levels of aggregation. Consequently, if no strong patterns were evident on the basis of the usual summary data used for wages analysis, consideration of the more disaggregated information allowed for the identification of patterns for different segments of the labour market—especially between segments paying either very high or very low wage rates (or rates of pay increase).

(b) Qualitative research phase

Scrutiny of time series statistics allowed for an assessment of associations between AWR decisions and wage increases in registered enterprise agreements. Where associations were found, questions remained as to their nature and significance. How strong was the association? What was the direction of causality? And how did AWR decisions actually shape wage outcomes and bargaining practices? Answers to questions of this nature required different—that is qualitative—information.

²⁵ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

²⁶ The population of interest to this study was defined as non-public sector organisations operating in the national workplace relations system. This covered over 95 per cent of all organisations and over 90 per cent of employees in Australia at the time of the study.

The core of the qualitative source material involved close reading of 97 strategically selected agreements from five contrasting sectors, and 20 workplace case studies from six strategically selected sub-sectors. Reasons underlying the selection of industries, agreements and sites for these analyses are explained below.

Reasons for using different sources of qualitative information: agreements and workplaces

- *Qualitative analysis of agreements*—agreements are a rich source of information about the nature of enforceable rights at work. For this part of the project they were treated as discursive artefacts amenable to representing ensembles of rights, obligations and specification of pay rates (and how such rates change). Whereas the quantitative analysis of agreements used consistently coded summary information on a limited number of key data items (primarily wage increase information and duration of agreement information), the qualitative analysis considered all aspects of the agreements examined.

The qualitative agreement analysis was conducted in two stages. The first involved examining all clauses, and especially those specifying wage increases and any changes in conditions associated with a wage increase (see Section 2.3.1). This type of analysis is not common, but is not unprecedented.

The second stage (detailed in Section 2.3.2) was more novel. This involved careful consideration of the job classifications contained in agreements and comparison with classifications in awards. This analysis allowed for a close assessment of how relative pay structures in agreements aligned with those in awards. While relativities are reported as ratios, this aspect of the analysis is reported in the qualitative findings section because the samples were ‘strategically’ and not randomly selected. Moreover, relativities analysis requires careful matching of job categories contained in awards and agreements, involving detailed comparisons, and often qualified judgement calls as to whether classifications were comparable. For this reason, the findings are best regarded as reflecting qualitative techniques more than quantitative techniques.

- *Workplace case studies*—as rich as enterprise agreements are as a source of qualitative insight, they are nonetheless formalised texts. The best information on social practice is rarely written, let alone formalised in enforceable legal documents. For this reason, the research team also conducted case studies of everyday practices associated with over-award rates of pay and how these are set. At each case study site, both managerial and non-managerial staff were interviewed to obtain as balanced a view as possible of workplace customs and practices. This stage of the research was especially important to obtain insights from the people involved regarding what they believed was the impact of minimum wages. While the case studies also gathered other information, these opinions provide an important complement to statistical and qualitative analysis of agreements to understand the complexity of the connections between AWR decisions and their impact on over-award rates and the incentive to bargain.

Reasons for selecting particular industries, agreements and sites

While the limits of quantitative data are commonly recognised, these limits are often tolerated because of the often perceived ‘arbitrary’ nature of data collected from qualitative sources. In using qualitative sources, the research team went to considerable lengths to ensure that agreements selected for analysis and sites selected for study were strategically selected. Deliberate selection based on transparent and agreed criteria can ensure that, while the material cannot be regarded as

'representative' in a statistical sense, it can be regarded as valid for generating insights by ensuring the 'dimensions of diversity' are systematically explored. It is possible to reach stronger conclusions if attention has been devoted to examining texts and sites that—while prima facie, are very different—may, after closer scrutiny, reveal commonalities. If the commonalities outweigh the outward differences, this points to broader factors operating within the object of interest. At the very least, if attention has been devoted to examining texts and sites that are as diverse as possible—and if the investigation reveals such sites share many commonalities—this can help to shed light on key factors shaping the phenomena of interest.²⁷

A matter of particular concern was ensuring that the impact of the AWR was not just confined to understanding developments in industries that are predominately regulated by agreements or predominately governed by awards. Great care was taken to ensure a diverse range of industries were studied in terms of their wage-setting practices and, once selected, great care was taken to select specific sub-sectors and workplaces which would allow for sensible comparisons to be made. For example, in studying developments in Retail trade, workplaces of similar size and market sector were examined. The workplaces primarily differed as to whether they had enterprise agreements, informal over-award arrangements or primarily depended on award rates for determining pay. By ensuring comparison with sites that were 'like for like' we could identify the factors underlying different wage outcomes and processes prevailing.

The three stage process for selection of industries, agreements and sites for qualitative research is summarised below.

In *Stage One* all industries (at 2-digit ANZSIC level) were sorted into one of three categories on the basis of the predominant form of the industrial instrument governing wages for employees (predominantly defined in terms of employee coverage). The categories were:

- predominantly enterprise agreement;
- predominantly award-reliant; and
- predominantly individual arrangement (i.e. informal over-award).

Attention was devoted to ensuring that at least one industry at the 2-digit level from each of these three distinct sectors was included in this project.

In *Stage Two*, the sub-industries that were the focus for investigating approximately 20 agreements per industry were identified on the basis of defined selection criteria, and subjected to close qualitative examination of their content. This was necessary to enable meaningful comparisons between agreements governing broadly comparable work, and resulted in the inclusion of five sub-industries at

²⁷ Further details on this aspect of research design are provided in 'Incentives to Bargain Project: Summary Scoping Paper (key issues, questions and categories informing the project)' prepared by the WRC for Fair Work Australia December 2011 pages 5-8. A useful account of the strategic selection of contrasting cases in research projects with multiple cases or 'crucial' or 'critical cases' in projects involving just one case is provided in Robert K Yin, *Case Study Research Design and Methods*, Sage, Los Angeles, 2009 pp. 46–64, especially at 59–62. See also Clyde Mitchell, 'Case and Situation Analysis', *Sociological Review*, No 31, 1983. The classic use of 'matched' cases to identify how wider social, political and economic structures impact on workplace practice is provided in M Maurice, F Sellier and JJ Silvestre, *The Social Foundations of Industrial Power*, MIT Press, Cambridge Massachusetts, [first published 1982], 1986 and M Maurice, F Sellier and JJ Silvestre, 'The Search for a Societal Effect in the Production of Company Hierarchy: A Comparison of France and Germany', in Paul Osterman (ed) *Internal Labor Markets*, MIT Press, Cambridge Massachusetts, 1984 pp. 231–270. A helpful formulation of the rationale for such 'replication' in selection is provided by Yin, *Case Study Research*, pp. 5–58.

the ANZSIC 3-digit level. For example, rather than only considering the ANZSIC 1-digit category of Food retailing we considered a level 3 subdivision: Supermarket and grocery stores.

In *Stage Three*, sub-sectors within the Stage Two industries were identified (e.g. not just supermarkets and grocery stores, but independent grocers). Within each of these sub-sectors, work sites were selected to ensure that wherever possible a mix of workplaces based on industrial arrangements informed the study. Controlling for sub-sector and scale of operation ensured that 'like for like' comparisons could be made with the experiences of workplaces where wages were governed by award, enterprise agreements or unregistered/informal over-award arrangements.

Table 4 summarises the industries selected for the different elements of the qualitative part of the project. Grey shading indicates links between the divisions and subdivision identified in each column of a row.

Table 4: Industries, sub-industries and sub-sectors included in this project

Industries used in the aggregate analysis of agreements (1-digit ANZSIC)	Sample of industries used to identify three sectors of the economy based on predominant instrument for regulating wages (2-digit ANZSIC)	Definition of industries used for conducting the qualitative agreements analysis (3-digit ANZSIC)	Definition of industries for selecting sites for workplace case studies (more disaggregated than 3-digit ANZSIC)
<p>Information, media and telecommunications</p> <p>Retail trade (G)</p> <p>Accommodation and food services (H)</p> <p>Arts and recreation services Wholesale trade Financial and insurance services</p> <p>Agriculture, forestry and fishing (A)</p> <p>Manufacturing Mining Public administration and safety</p> <p>Electricity, gas, water and waste (D)</p> <p>Health care and social assistance (Q)</p> <p>Transport, postal and warehousing Professional, scientific and technical services Administrative and support services Rental, hiring and real estate services Education and training Construction</p>	<p>Predominantly enterprise agreement</p> <p>1. Food retailing (41)</p> <p>Predominantly award-reliant</p> <p>2. Food and beverage services (45)</p> <p>3. Agriculture (01)</p> <p>Predominantly individual (over-award)</p> <p>4. Waste collection, treatment and disposal services (29)</p> <p>5. Medical and other health care services (85)</p> <p>6. Social assistance services (87)</p>	<p>1. Supermarket and grocery stores (411)</p> <p>2. Cafes, restaurants and takeaway food services (451) (Fast Food)</p> <p>3. Cattle based farming (016 & 0142-4) (Dairy and Beef Cattle Farming)</p> <p>4. Waste collection services (291) (Domestic Waste Management)</p> <p>5. Medical services (851)</p> <p>6. Child care services (871)</p>	<p>1. Independent grocery retail (part of 411)</p> <p>2. Franchise fast food services (part of 4511 and 4512)</p> <p>3. Dairy cattle farming (016)</p> <p>4. Domestic waste collection (parts of 2911 and 292)</p> <p>5. Private general medical practices (part of 8511)</p> <p>6. Child care services (long day care) (part of 871)</p>

Notes: shading highlights the sectors that were ultimately included in the qualitative research of the study.

Note on how to read this table

Column 1 lists all industries at the ANZSIC 1-digit level. The industries are listed in an order derived from Table 1.16, which ranks them by prevalence of enterprise agreements with AAWI less than 4.1 per cent in the first half of 2010. Construction had the lowest proportion of such agreements, Information, media and telecommunications the highest.

Column 2 clusters industries selected for study on the basis of predominant form of wage determination. An industry was allocated to one of the three wage-setting sectors on the basis of employee coverage for the different methods of pay setting at the 2-digit industry level reported in ABS, *Employee Earnings and Hours, Australia, May 2010*, Catalogue No. 6306.0. These industries were used for identifying particular sub-industries for the qualitative analysis of agreements (column 3) and site selection for the workplace case studies (column 4).

Taking the first row of 'shaded' industries, it can be read as follows. In the study of prima facie associations between AWR and AAWI in federal enterprise agreements (detailed in Section 1.5), developments in Retail trade could be compared with those in other industries defined at the 1-digit level. In conducting qualitative analysis, attention was devoted to ensuring that sectors with different predominant modes of pay-setting were included. Food retailing was identified as an industry in which enterprise agreements predominated. For the qualitative agreements analysis (see Section 2.3), supermarkets and grocery stores were examined. Three workplace case studies were undertaken in the independent grocery retail sector to ensure a like for like comparison (see Section 2.3). Note that shading in columns 3 and 4 highlights the sectors that were ultimately included in the qualitative research of the study.

Practicalities: how new knowledge was generated from analysis of enterprise agreements and workplace case studies

Quantitative analysis of enterprise agreements

Approved enterprise agreements are publicly available documents and provide a formal and comprehensive record²⁸ of the pay and conditions in place at individual workplaces and/or at the enterprise level.²⁹ The Department of Employment maintains a database that records the incidence of key provisions contained in approved enterprise agreements. The WRC was given access to the unit records of the WAD for the purposes of this project. This enabled the research team to examine how wage issues were handled in enterprise agreements and the degree to which AWR increases are directly linked to enterprise agreements. This was ascertained by reference to those parts of the coding frame that report on 'conditional wage increases' especially references to 'provides for minimum wage'.

The enterprise agreement analysis also assesses the degree to which AWR increases are indirectly linked to enterprise agreements. This was conducted by examining how AAWI are dispersed. Traditionally analysis has focused on averages in AAWI alone and compared these across industries. For this analysis AAWIs are also grouped on the basis of different quantum of wage increase. Particular attention was devoted to changes in the proportion of enterprise agreements granting AAWI less than the increase in minimum wages—both before and after the 2009–10 AWR decision. Further details on the precise data items used and the methods adopted to conduct this analysis are provided in Section 1.5, dealing with the aggregate analysis of enterprise agreements.

²⁸ While enterprise agreements formally document the wages and conditions at a workplace, it should be noted that there are occasions where enterprise agreements do not capture all aspects of an employment arrangement. This might include informal negotiations or arrangements between the employer and employee negotiated post-agreement (e.g. a discretionary paid day off, or the payment of a discretionary bonus). In addition, enterprise agreements may not reflect the experience of work for an employee, particularly issues of work intensification, or changing expectations that the employers may have of the employee, as market conditions and the operating environment of a workplace changes over the course of an agreement.

²⁹ It must be noted that the site and occupational coverage associated with individual enterprise agreements can vary greatly. An enterprise agreement, for example, may only cover one occupational group at a workplace, or may cover many different types of employees across multiple sites of an enterprise. The database developed for the purposes of this research permits the analysis to control for issues of comparability, and ensures that comparable categories (e.g. comparison of similar occupational groups) are used to drive the analysis.

Qualitative analysis of enterprise agreements (including relativities analysis)

The main source of new knowledge in this project has come from the qualitative analysis of enterprise agreements selected from the WAD (see Section 2.3). This analysis assessed wage increases in the context of other clauses in enterprise agreements. While the aggregate analysis identified trends and larger shifts in wage increases within enterprise agreements, the qualitative agreement analysis examined the rationale for and context surrounding negotiated wage increases, and the nature of any links to AWR increases.

The qualitative analysis of enterprise agreements was based on a selective and strategic sample of 97 enterprise agreements in five industry sub sectors. The selection of enterprise agreements was made after consulting knowledgeable experts in employer associations and unions. There was a high degree of consensus amongst these experts as to what type of enterprise agreements to include in the analysis, given the commitment to capture the nature of diversity in the sectors studied.

Each clause was read closely and understood in relation to the wider framework of the enterprise agreement and all of its conditions and entitlements. This method is important to the analysis because it yields rich contextual information.

This qualitative analysis of enterprise agreements considered the order of magnitude associated with wage increases and, further to this, whether more dramatic shifts in enforceable employment conditions could be linked or associated with wage increases significantly greater than those close to the minimum rate.

This stage also involved an examination, where possible, of the internal wage relativities within each enterprise agreement. This looked at each enterprise agreement's classification structure and how the wage rates associated with these aligned relative to rates in the relevant award. This analysis compared the relativity of wages equivalent to the Manufacturing Award C10 rate (a proxy for a qualified tradesperson) with wages of those employed in higher and lower classification levels. Each enterprise agreement's relativity ratio was compared to the relativities held in the equivalent award. Not all enterprise agreements were included in this stage of the analysis as not all enterprise agreements provided information on classification structures and/or wage rates that were comparable with the relevant award. At times, key industry stakeholders were also sought for guidance on how classifications in enterprise agreements aligned with classifications in awards.

Workplace case studies

In conducting this phase of the project, the research team devoted special attention to the core element of bargaining. As noted earlier, bargaining is:

...the process by which one or more employers and employees negotiate the terms and conditions which makes an agreement.³⁰

This definition highlights the need to consider a broad range of issues associated with bargaining, including that bargaining is not solely related to legislated agreement making (such as enterprise agreements) and can include informal processes (such as over-award arrangements).

The first key issue is context: employers and employees are diverse, therefore great care must be exercised to ensure that this diversity is captured in the examples selected for close attention. The

³⁰ Fair Work Commission (2013), *Bargaining & workplace determinations*. Accessed 2 April 2013, from <http://www.fwc.gov.au/index.cfm?pagename=agreementsdeterminations>.

second issue is process: understanding negotiations requires an understanding of both the structural location of the parties, as well as how the parties define what is possible (i.e., what is negotiable), how they frame what they want to achieve in the short and longer term and how they interact with other relevant parties with whom agreement of some kind can be reached.

In early scoping work for this project, extensive attention was devoted to clarifying how best to handle the issue of context. This was important because it provided the key criteria for the case study data collection. This work primarily concerned the need to take into account the highly diverse structural settings in which bargaining occurs. As a result of extensive deliberation, it was settled that case study selection would occur on the following bases.

- **Predominant mode of wage setting**

It was decided to distinguish between industries by the extent to which differing industrial arrangements prevailed (enterprise agreement, award-reliant or individual arrangement i.e., effectively informal over-award). This was important to ensure that, in making workplace selections, workplaces from very different 'predominant bargaining' domains contributed to the analysis. Industries were initially sorted for this purpose on the basis of unpublished, 2-digit industry classifications, using the EEH's approach to defining payment method.³¹

- **Precise industry and scale of operation**

Within industries so classified, conscious effort was devoted to controlling for precise product/service produced and scale of operation (i.e. specific industry sub-sectors and business/workplace size).

- **Selecting workplaces/businesses within these context with different industrial instruments**

Once classified on these bases, we selected and compared workplaces/organisations where different industrial instruments operated. This approach to research design ensured that when examining particular experiences, we were comparing 'like with like'. Table 5 summarises the final mix of industries, industry sub-sectors and sites included in the study.

³¹ ABS, *Employee Earnings and Hours, Australia, May 2010*, Catalogue No. 6306.0.

Table 5: Case study matrix—descriptive characteristics

ANZSIC Subdivision	Sub-sector for workplace case studies	Award	Informal over-award	Formal over-award
Predominantly Agreement				
Food retailing (41)	Independent grocery retail (part of 411)	Regional Owner operated Medium-sized business		Outer-metropolitan Owner operated Medium-sized business Inner-metropolitan Owner operated Medium-sized business
Predominantly Individual (over-award) arrangements				
Waste collection, treatment and disposal services (29)	Domestic waste collection (parts of 2911 & 292)	Regional Owner operated Medium-sized business		Inner-metropolitan Owner/manager operated Medium-sized business NSW Inner-metropolitan Corporate owned Large-sized business
Medical and other health care services (85)	Private general medical practices (part of 8511)	Outer-metropolitan Owner operated Small-sized business	Inner-metropolitan medical practice Silent owner, financial manager present Small-sized business	Inner-metropolitan Owner operated Medium-sized business
Predominantly Award-reliant				
Agriculture (01)	Dairy cattle farming (016)	Regional Corporate owned Small-sized business	Regional Family owned Small-sized business	Regional Corporate owned Small-sized business
Food and beverage services (45)	Franchise fast food services (part of 4511 & 4512)	Inner-metropolitan Corporate owned Small-sized business	Outer-metropolitan Franchisee owned Small-sized business	Inner-metropolitan Corporate owned Small-sized business Inner-metropolitan Franchisee owned Small-sized business
Social assistance services (87)	Child care services (long day care) (part of 871)	Regional Owner/manager operated Small-sized business Outer-metropolitan Owner operated Small-sized business	Inner-metropolitan Owner operated, with parent management committee Medium-sized business	Regional child care centre Owner/manager operated Small-sized business

This selection strategy ensured that the broadest range of experiences informed the data collected for this project. The use of qualitative research methods allowed for the gathering of broader data on workplace level policies and cultures—especially the wage policy strategies of employers and employees. This could be termed as the more ‘subjective’ aspect of the bargaining process, i.e. ‘the process by which one or more employers and employees negotiate the terms and conditions which makes an agreement’.³² That wage policy strategies are in this sense ‘subjective’ does not make them any less relevant. Parties at workplace and organisational level have choices in their response to economic and legal structures, and the use of case studies to understand how these choices are framed and enacted added new insights to answering the questions of interest. Moreover, the

³² Fair Work Commission (2013), *Bargaining & workplace determinations*. Accessed 2 April 2013, from <http://www.fwc.gov.au/index.cfm?pagename=agreementsdeterminations>.

approach to exploring the organisational strategies recognised that these were not necessarily always formal strategies, but could be implicit in employer and employee practice. As will be seen in Section 2.4, wage policies are often embedded in broader notions of 'how things are done around here' as opposed to being part of written business plans or models.

1 Part 1—Quantitative analysis

1.1 Introduction

The Panel of the FWC conducted four annual wage reviews (AWRs), resulting in minimum wage increases in 2010, 2011, 2012 and 2013.³³ The essential features of these are summarised above in Table 1. The Panel's first decision awarded a flat increase of \$26.00 per week for all full-time employees on award rates of pay. This was the equivalent of 4.8 per cent for the C14 classification in the *Manufacturing and Associated Industries and Occupations Award 2010*, the reference point for the national minimum wage. The increase was equivalent to a 4.1 per cent increase for the benchmark C10 classification of this same award. In the subsequent three years the AWR resulted in NMW increases of 3.4, 2.9 and 2.6 per cent.

The quantitative analysis examines what impact, if any, these decisions had on:

- over-award and agreement rates of pay; and
- the incentives of the parties at workplace level to bargain.

Section 1.3 presents an analysis of firm level data collected from the Award Reliance Survey³⁴ to examine the different types of wage-setting arrangements used by the sample of national system covered non-public sector organisations that participated in the survey. This is important for ascertaining the incidence of organisations that—while they may or may not have employees with pay rates directly determined by awards—may potentially be indirectly affected by minimum wage adjustments.

Section 1.4 examines how pay for employees varies on the basis of different types of pay arrangements by drawing on the most commonly used source of Australian information on wages levels and modes of pay determination: the ABS EEH Survey.³⁵ This source provides basic insights, however the widely used aggregate version of these data suffer limitations for the purposes of this study. This section highlights the importance of looking beyond the usual levels of disaggregation relied upon for reporting wage findings to generate new knowledge to help answer the research questions of interest.

As a result, Section 1.5 explores a dataset that provides summary information on all federally registered enterprise agreements—the Department of Employment's³⁶ Workplace Agreements Database (WAD). Because this is a full count of the population of agreements, limitations arising from sample design and size can be avoided. The analysis initially ascertained whether there were any associations between movements in wage increases contained in these enterprise agreements and the AWR decisions of 2010–2013. The preliminary finding was that at best only a weak association appeared to exist on the basis of the most commonly used indicator of wage movements (i.e. the

³³ From 1 July 2013, by operation of the *Fair Work Amendment Act 2012* (Cth), the Minimum Wage Panel was replaced by an Expert Panel constituted for the purpose of annual wage reviews.

³⁴ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. This project was undertaken by WRC in collaboration with fieldwork company ORC International on behalf of the Fair Work Commission.

³⁵ ABS, *Employee Earnings and Hours, Australia, May 2010*, Catalogue No. 6306.0.

³⁶ Formerly known as the Department of Education, Employment and Workplace Relations (DEEWR).

Average Annualised Wage Increase) in the WAD. To ascertain if these weaknesses in association were artefacts of AAWI as an indicator, we explored the situation concerning wage movements in enterprise agreements six months before and 12 months immediately following the Panel's 2010 decision. There were considerable benefits in detailed analysis of how wage increases were actually specified in enterprise agreements. In particular, it enabled exploration of dispersions in wage increases at industry level, and in so doing found evidence of positive associations between minimum wage decisions and wage increases contained in registered enterprise agreements. The extent to which the associations identified in this section can be understood as arising from the Panel's decision are explored more systematically using qualitative analytical techniques in Part 2 of this report.

1.2 Key findings

1.2.1 Wage-setting arrangements within organisations and across the labour market

A study of 11 569 non-public sector organisations was undertaken in 2012–13 to quantitatively investigate award reliance across and within Australian organisations, and to identify the mix or 'categories' of award-reliant employees and their location on award classification scales.³⁷

The study had two main objectives. The first was to identify award reliance across non-public sector organisations covered by the national system and their employees, and the second was to identify award reliance across award-reliant organisations only. Award-reliant organisations were defined as organisations paying at least one employee exactly the award rate.

The Award Reliance Survey collected information from a computer-assisted telephone interview (CATI) and an online survey with employers. Data were collected on the three most common methods of wage-setting arrangements (enterprise agreements, awards and individual arrangements).

The Award Reliance Survey collected information from a total of 11 569 non-public sector organisations covered by the national system. It found that 25 per cent of organisations have at least one employee paid the exact award rate of pay (i.e. so-called award-reliant organisations). Using these data, the analysis found that:

- Wage-setting arrangements were closely related to organisation size. Enterprise agreements were reported to be used by just under half (47 per cent) of organisation with 100 or more employees.
- Detailed information was collected on the 25 per cent of organisations in the sample that were award-reliant (i.e. defined as organisations that reported to have paid at least one of their employees the exact award rate of pay).
- Award-reliant organisations were large- (100 or more employees, 44 per cent) and medium-sized organisations (20 to 99 employees, 44 per cent), compared with micro organisations (one to four employees, 18 per cent).
- Within award-reliant organisations, on average 51 per cent of employees were reliant on award rates of pay, 11 per cent were covered by an enterprise agreement and 38 per cent were on other wage-setting arrangements.

³⁷ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. This project was undertaken by WRC in collaboration with fieldwork company ORC International on behalf of the Fair Work Commission.

- Within award-reliant organisations, 30 per cent of employees on over-award arrangements (who were not award-reliant) received the AWR 2011–12 minimum wage adjustment of 2.9 per cent.³⁸
- Within micro award-reliant organisations (fewer than five employees) only one in six (15 per cent) employees on over-award arrangements received the minimum wage increase. In large award-reliant organisations (100 or more employees) nearly half (46 per cent) of employees on over-award arrangements received the minimum wage increase.

The survey also collected data on the usage of different types of wage-setting arrangements. The following points highlight the most common reasons cited for using each type of wage-setting arrangement among award-reliant organisations:

- award rates of pay were regarded as providing appropriate and fair remuneration and were considered to be affordable;
- enterprise agreements were used because award terms and conditions were not considered to be suitable or flexible enough for the organisation and also because of a requirement from a client or funding body;
- other wage-setting arrangements were used to reward higher performance or higher duties; and
- because applicable award wages were not considered to be competitive for attracting and retaining employees.

1.2.2 Wage-setting arrangements and average weekly rates of pay

ABS EEH data on average weekly total earnings indicate that those on awards earn around half of what is earned by those on collective agreements and individual arrangements.³⁹ These findings, however, must be treated with caution for the following reasons:

- total earnings data combines full-time and part-time employees; and
- disaggregations by industry and occupation reveal often significant deviations from the aggregated average.

These findings highlighted the importance of using the most detailed information possible for generating robust insights into the nature of wages and how they change. Conventions commonly used for producing summary information often generate results that reflect the level of aggregation as opposed to capturing insights into the relations between the variables of interest.

1.2.3 Average annual wage increases in awards and enterprise agreements

The best publicly available information on movements in formal over-award wage rates (registered federal enterprise agreements) is contained in the Department of Employment's⁴⁰ WAD. This collects information, including wage movements, on all federally registered enterprise agreements.

- On the basis of the measure most commonly used to analyse these enterprise agreements (i.e. the all industry AAWI) there was no association between AWR increases and increases in

³⁸ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, Table 3.3.3

³⁹ ABS, *Employee Earnings and Hours, Australia, May 2010*, Catalogue No. 6306.0.

⁴⁰ Formerly known as the Department of Education, Employment and Workplace Relations (DEEWR).

enterprise agreements in the period since 2010, either across all industries or at the 1-digit ANZSIC level.

Examining in more detail how and when enterprise agreements provided for wage increases revealed that just under one-quarter (24.4 per cent) of enterprise agreements referenced wage clauses related to minimum wage increases or processes. In five industries, a high proportion of enterprise agreements containing such provisions also had a high proportion of enterprise agreements with low AAWIs: Agriculture, forestry and fishing (70.6 per cent), Accommodation and food services (68.3 per cent), Retail trade (66.7 per cent), Rental, hiring and real estate services (66.3 per cent) and Arts and recreation services (65.7 per cent).

When wage increases were awarded in the enterprise agreement's first year of operation, the following results were found.

- In 10 industries, the quantum of the wage increase awarded in the enterprise agreement's first year of operation was significantly higher among enterprise agreements registered in the first six months following the 2009–10 decision. In a further five industries the quantum fell among enterprise agreements registered 7–12 months after the 2009–10 AWR decision was announced. In only one industry (Electricity, gas, water and waste) did the wage increase awarded in enterprise agreements' first year of operation fall in both periods following the 2009–10 AWR decision.

Furthermore, for all industries the data found little association between the minimum wage increase awarded in the 2009–10 AWR decision and the level of wage increase awarded in the outer years of each enterprise agreement.

The data were grouped by industry, as well as the scale of the AAWI recorded in each enterprise agreement. The classification of AAWIs into the following three groups enabled comparisons to be made with AAWIs and the minimum wage increase awarded in the 2009–10 AWR decision:

- enterprise agreements with AAWI less than 4.1 per cent (i.e. less than or equal to the increase to the C10 rate);
- enterprise agreements with AAWI between 4.1–4.8 per cent (i.e. above the increase awarded to the C10 rate and below or equal to the NMW increase); and
- enterprise agreements with AAWI greater than 4.8 per cent (i.e. above the increase awarded to the NMW).

The data analysis examined whether the AWR increase was more likely to be linked to enterprise agreements that granted lower levels of AAWIs. For example, a positive association between the AWR increase and enterprise agreements may be exhibited if there was a decline in the proportion of enterprise agreements with AAWI less than 4.1 per cent after the 2009–10 AWR decision was announced. The data showed that:

- the proportion of enterprise agreements with AAWI of less than 4.1 per cent decreased in 14 industries for enterprise agreements registered in the first six months after the 2009–10 AWR decision. In six of these industries, the proportion of enterprise agreements with AAWI of less than 4.1 per cent also decreased in the period 7–12 months after the decision;
- the proportion of enterprise agreements with AAWI less than 4.1 per cent over the 12 months following the 2009–10 AWR increased in Construction and in Health care and social assistance. Only in the latter industry was the increase in the proportion of enterprise agreements with low

AAWI significant, rising from 38.8 to 59.4 per cent, over the 12 months following the decision; and

- positive associations were particularly strong in sectors which previously had a very high proportion of enterprise agreements with AAWI of less than 4.1 per cent, such as, Agriculture, forestry and fishing, Retail trade, and Accommodation and food services.

The quantitative analysis of enterprise agreements found that there may be a positive association between wage increases in enterprise agreements and AWR increases. This was particularly the case for industries with higher proportions of enterprise agreements with AAWIs of less than 4.1 per cent and a large number of employees with wages set solely with reference to awards. These industries include Agriculture forestry and fishing, Retail trade, Accommodation and food services, and Arts and recreation. Approximately two-thirds of enterprise agreements from these industries included provisions making direct reference to minimum wage processes or outcomes. These were also industries that had experienced a large decrease in the proportion of enterprise agreements with AAWI less than 4.1 per cent following the 2009–10 AWR decision.

1.3 Wage-setting arrangements within organisations and across the labour market

This assessment of what associations, if any, exist between AWR decisions and movements in over-award wages begins with an account of wage-setting arrangements at the organisational level. This information on the operational context in which AWR decisions operate helps situate the more specific findings considered in the rest of this report.

In 2012–13 a large scale survey of employers was undertaken to investigate the incidence and nature of organisations that set wages at exactly the award rate of pay, and characteristics of their employees.⁴¹ An employee whose pay was set in this way was described as ‘award-reliant’. Any organisation with at least one such employee was defined as an ‘award-reliant organisation’. To generate a robust sample of award-reliant organisations, 11 569 non-public sector organisations were surveyed. Basic information on all wage-setting arrangements within surveyed firms was collected to create a robust sample of the prime sub-population of interest, i.e. award-reliant organisations. This screening information was used to generate data on the incidence of different wage-setting arrangements across the labour market and within organisations. As noted above, it provides important contextual information on the day-to-day organisational settings within which AWR decisions operate.

Information was collected from a computer-assisted telephone interview (CATI) and an online survey with employers. Although the following section provides information on the sample design and selection process, for a more comprehensive review see Section 2 of the Award reliance research report.⁴²

⁴¹ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

⁴² Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, pp. 4–10.

1.3.1 Population of interest: national system covered non-public sector organisations

This project is concerned with the incentive to bargain among organisations that are non-public sector in nature and operate in the national workplace relations system.

The sample design and screening questions for the CATI questionnaire were designed to recruit organisations that came under the national workplace relations system.⁴³ Employees were deemed to be under federal or state workplace relations jurisdictions for wage-setting purposes based on the legal status of their employer. Under the Fair Work Act, the majority of employers and employees in Australia come under the national workplace relations system, and include the following groups.

- constitutional corporations (including financial or trading corporations—generally Pty Ltd or Ltd);
- the Commonwealth and Commonwealth authorities;
- employers who employ flight crews, maritime employees or waterside workers;
- all employers in the Australian Capital Territory (ACT), Northern Territory (NT) and Victoria; and
- private sector employers in New South Wales (NSW), Queensland, South Australia and Tasmania.

The following groups of employers (and consequently their employees) are generally not covered by the national workplace relations system.

- state governments;
- Australian corporations whose main activity is not trading or financial; and
- sole traders and partnerships in Western Australia.⁴⁴

The Award Reliance Survey collected information from a total of 11 569 organisations operating in the non-public sector who were covered by the national system. Of these, one-quarter of organisations reported that they paid at least one of their employees the exact award rate of pay and were categorised as an award-reliant organisation.

Table 1.1 provides details of the proportions of organisations and employees by size of the organisation for the total sample of employers.

⁴³ The population of interest was defined as non-public sector organisations operating in the national workplace relations system. Estimates of the population were based on a weighted sample of 11 569 organisations. As the population of interest for this study focuses on non-public sector organisations, the sample design contains some differences to the ABS's sample design in capturing national system employers. For further information, including a comparison with ABS EEH estimates, see Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

⁴⁴ ABS, *Australian Labour Market Statistics, Australia*, July 2011, Catalogue No. 6105.0, Feature article: Trends in Employee methods of setting pay and jurisdictional coverage, Canberra.

Table 1.1: Incidence of organisations and employees covered by the non-public sector national workplace relations system by organisation size, percentages by column

Organisation size	Percentage	
	Organisations	Employees
Micro	62	16
Small	28	26
Medium	9	20
Large	2	40
All organisations	100	100

Source: Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. Dataset: CATI datasets A&B. Question/s: CATI Q8 & Q15. Column 2: Derived from Table 3.3. Base = all organisations. Weights by organisations (Weight A). Column 3: Derived from Table 4.2. Dataset: Base = all employees. Weights by employees (Employee weight A).

1.3.2 The incidence of different wage-setting arrangements across all organisations

The survey gathered information on the extent to which organisations made use of the following wage-setting arrangements;

- award-based (i.e. both for workers paid exactly at the award rate (award-reliant) or whose pay was derived from the award but also received some level of over-award payment);
- enterprise agreement (i.e. registered or unregistered); and
- individual wage-setting arrangements (e.g. common law contracts).

Table 1.2 shows that the most common wage-setting arrangement for employees was awards (40 per cent of employees) and individual arrangements (38 per cent). Across organisations, individual arrangements and award-based arrangements were the most common (65 and 52 per cent respectively). The small proportion of enterprise agreements reported by only 7 per cent of organisations, reflects the predominance of small organisations in the sample. In particular, just under half (47 per cent) of organisations with 100 or more employees reported using enterprise agreements.

Table 1.2: Incidence of organisations and employees by wage-setting arrangements, percentages by cell

Pay-setting arrangement	Percentage by pay-setting arrangement	
	Organisations	Employees
Award-based* (Award-reliant)**	52 (25)	40 (19)
Enterprise agreement	7	22
Individual arrangements***	65	38

Note: Multiple responses were possible for organisations, as they could use more than one pay-setting arrangement. *Award-based included award-reliant and other pay-setting arrangements where an award is used in some way to guide pay-setting decisions. **Award-reliant was restricted to organisations with at least one employee who was paid exactly the award rate. ***Individually-based pay-setting arrangements was comprised of the balance of employees who were not covered by registered enterprise agreements, unregistered enterprise agreement or awards.

Source: Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. Dataset: CATI datasets A & B. Questions: CATI Q14. Column 2 derived from Tables 3.1 & 3.2. Base = all organisations, percentages by cell, weights by organisations (Weight A). Base = all organisations, percentages by cell, weights by organisations (Weight A). Column 3 derived from Table 4.2. Base = all employees, percentages by cell, weights by organisations (Employee weight A).

1.3.3 The diversity of wage-setting arrangements within award-reliant organisations

Data on the different proportions of employees covered by different wage-setting arrangements within organisations are scarce. One of the Award Reliance Survey’s key findings was that not all employees within organisations are covered by the same instrument or indeed industrial arrangement. The Award Reliance Survey provides insights about this matter among award-reliant organisations.

Data reported in the first column of Table 1.3 show that 25 per cent of all organisations were award-reliant, with variation across organisations of different sizes. Award-reliant organisations were least common among micro organisations with 1 to 4 employees (18 per cent of micro organisations being award-reliant), but among medium-sized organisations (20 to 99 employees) and large organisations (100 or more employees) more than two in five (44 per cent) had at least one employee whose pay was determined at exactly the award rate.⁴⁵

Table 1.3: Incidence of award reliance and pay-setting arrangements among award-reliant organisations, by size of organisation

Organisation size	Percentage of award-reliant organisations*	Percentage of award-reliant workforce by pay-setting arrangement			Total
		Award-reliant**	Enterprise agreement	Other***	
Micro	18	72	1	27	100
Small	32	60	1	39	100
Medium	44	54	5	41	100
Large	44	40	22	38	100
All	25	51	11	38	100

Note: *Award-reliant was restricted to organisations with at least one employee who was paid exactly the award rate. **Award-reliant employees was restricted to employees paid exactly the rate specified in the award. ***Other pay-setting arrangements include ‘over-award’ arrangements and individual arrangements.

Source: Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. Dataset: CATI datasets A&B. Question/s: CATI Q8 & Q15. Column 2 is derived from Table 3.4. Base = all organisations, cell percentages. Weights by organisations (Weight A). Column 3 is derived from Table 4.12. Base = employees in award-reliant organisations, percentages by row, weights by employees (Employee weight A).

The remaining columns in Table 1.3 report on the average proportion of employees within award-reliant organisations covered by different wage-setting arrangements. Just over half (51 per cent) of employees were dependent on award rates of pay. The proportion varied, however, by organisation size. Among micro organisations with fewer than five employees the proportion was 72 per cent and among organisations with 100 or more employees the proportion was 40 per cent.

⁴⁵ It is important to appreciate that this finding refers to the incidence of organisations with at least one employee paid at exactly the award rate. As the table also shows a smaller proportion of employees in medium and large organisations are reliant on awards in this way. Amongst the population of employees the largest proportion of award reliant employees are located in small and micro organisations.

1.3.4 The use of different types of wage-setting arrangements in award-reliant organisations

To help understand why organisations used different types of wage-setting arrangements, those which were award-reliant were asked three open-ended questions to elicit:

- why the organisation set pay rates for employees at exactly the applicable rate specified in an award;
- circumstances in which the organisation would change the wage-setting arrangement of an award-reliant employee to an above-award rate of pay; and
- why organisations would choose to set pay rates under an enterprise agreement or other wage-setting arrangement.

Table 1.4 summarises the reasons why award-reliant organisations paid some employees exactly the award rate. The survey found that the most common reason for using award rates was because employers regarded awards as a useful reference point for ascertaining ‘the going rate of pay’ that was either appropriate or fair (27 per cent) or that it was an efficient way to set wages in light of uncertainty as to what to pay (15 per cent). The other major reasons concerned economic or legal necessity. Just over one-fifth (21 per cent) reported it was all they could afford and just under one-fifth (18 per cent) did not want to pay any more.

Table 1.4: Reasons for award reliance, percentages by row

Reason for paying award rate	Percentage of organisations
<i>‘Going rate’ type reasons</i>	
Award rates appropriate/fair remuneration	27
<i>Ease/simplicity/unsure how much to pay above the award</i>	
Common practice in industry/sector	12
Equity/fairness/transparency of wage-setting arrangements across the workforce	10
Advice from employer association	3
<i>Economic or legal necessities</i>	
Affordability	21
Do not want to pay more	18
Legal requirement	7
Client funding requirement/direction	5
<i>Other</i>	
Probationary/new recruits	5
Prefer to provide non-wage benefits	3

Source: Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. Dataset: CATI datasets A & B. Table derived from Figure 3.1. Base = Award-reliant organisations. Award Reliance CATI Survey Question 17B, cell percentages, weights by organisations (Weight A).

Details on how organisations would change the wage-setting arrangement of an award-reliant employee to an above-award rate of pay are provided in Table 1.5. There were two general types of

bases: to reward performance and to reward employees when they took on additional duties or acquired further skills/qualifications. The single most common reason—cited by 43 per cent of award-reliant employers—was ‘reward for performance, achievement or effort’.

Table 1.5: Reason for progression off award rates of pay, all industries, percentages by row

Reason for progression off award rates of pay	Percentage of organisations
<i>Performance related</i>	
To reward performance/achievement/effort in performing their role	43
To retain good employees/reward loyalty	16
Growth/profit/market conditions	9
<i>Additional duties/qualifications</i>	
If additional responsibilities taken on/higher duties	20
If/when new or additional skills are acquired	15
If/when they change roles in the organisation	7
If/when additional qualifications are gained	9
After completion of apprenticeship/traineeship	6

Note: Multiple responses possible so rows do not add to 100 per cent. Responses of Historical reasons, No particular reason, Don't know, Refused and Other excluded as 1 per cent or less.

Source: Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. Dataset: CATI datasets A & B. Questions: CATI Q15 & Q20. Derived from Figure 3.4. Base = Award-reliant organisations, cell percentages, weights by organisations (Weight A).

Respondents were also asked to identify why their organisation used different wage-setting arrangements. Those with enterprise agreements were asked why they used such instruments and those relying on arrangements other than awards or enterprise agreements were asked why they did so. The results are reported in Table 1.6.

The key feature of this table concerns the very different reasons reported by organisations for the use of enterprise agreements compared to ‘other wage-setting arrangements’. The most significant reason cited by organisations using other wage-setting arrangements (i.e. those using individual and informal over-award arrangements) concerned varying rates of pay, either in response to a desire for ‘rewarding’ employees (40 per cent), for higher duties/skills/responsibilities (25 per cent) or because award rates were uncompetitive (39 per cent). The most common reasons cited by organisations for having an enterprise agreement were to overcome inflexibilities in award conditions (26 per cent) or in response to a requirement from a client or funding body (21 per cent). These data indicate that among award-reliant organisations, enterprise agreements are used more often than not to address non-wage related matters such as conditions or compliance requirements demanded by clients. Organisations interested in varying wages—either to give recognition to individuals or to position themselves more ‘up market’—appear to do so by means of other wage-setting arrangements (individual or informal over-award based arrangements).

Table 1.6: Reasons for over-award payment among award-reliant organisations, by other pay-setting arrangements or enterprise agreements

Reasons for over-award payment	Percentage of award-reliant organisations	
	Other pay-setting arrangements (%)	Enterprise agreements (%)
<i>Performance and higher duties related</i>		
Want to reward employees with higher wage than award rates	40	5
Skills/responsibilities/role	25	-
<i>Market position of award rate inadequate</i>		
Applicable award wages are not competitive for attracting and retaining workers in our industry/sector	39	14
Applicable award wages are not competitive for attracting and retaining workers in our local area	14	6
Award terms and conditions not suitable or flexible enough for organisation	10	26
Common industry practice/standard	-	8
<i>Other (mainly institutional) reasons</i>		
Client/funding body requirement	<1	21
Head office/franchisor requirement	<1	4
Union negotiated agreements	-	10
For payroll and/or rostering convenience	1	13
Equity/fairness/transparency of wage-setting arrangements	-	4
Historical reasons (i.e. it's been done this way for a while)	3	9
Prefer to negotiate directly with our employees	8	7
Some employees/jobs performed are not covered by an award ('award-free')	10	5

Note: Multiple responses possible so columns do not add to 100 per cent. Responses for Other, Don't know and No particular reason excluded.

Source: Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. Dataset: CATI datasets A & B cross-tabulated with detailed award wages dataset C. Questions: CATI Q15, Q18 (Column 2) & Q19 (Column 3). Base = award-reliant organisations who pay some employees at 'above-award', cell percentages, weights by organisations (Weight C).

1.3.5 The impact of minimum wage adjustments on ‘non award-reliant’ employees working in award-reliant organisations

The Award Reliance Survey also examined how movements in award rates of pay impacted on workers paid above an award rate of pay (over-award arrangements).⁴⁶ Award-reliant organisations were asked whether they passed on the AWR 2011–12 decision to increase minimum weekly wages by 2.9 per cent to any of their employees on over-award arrangements.

Table 1.7 shows that among award-reliant organisations, around 30 per cent of their employees that were covered by over-award arrangements received the minimum wage increase.⁴⁷ The table also indicates that within micro award-reliant organisations (fewer than five employees) only one in six (15 per cent) employees on over-award arrangements received the minimum wages increase. In large award-reliant organisations (100 or more employees) nearly half (46 per cent) of employees on over-award arrangements received the minimum wage increase.

Table 1.7: Incidence of annual minimum wage adjustments being passed on to over-award employees in award-reliant organisations by size of organisation, percentages by row

Organisational size	Percentage of award-reliant organisations with employees on ‘over-award’ arrangements receiving minimum wage adjustment			Total
	None	Up to half of over-award employees	More than half of over-award employees	
Micro	85	1	14	100
Small	63	8	29	100
Medium	56	11	33	100
Large	54	17	29	100
All organisations	70	6	24	100

Note: Responses of Don’t know/Refused were excluded.

Source: Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne. Dataset: CATI datasets A & B. Questions: CATI Q8, Q15 & Q21. Derived from Table 3.24. Base = Award-reliant organisations with ‘over-award’ employees. Source: CATI Question 21, percentages by cell, weights by organisations (Weight A).

1.3.6 Summary

When considering how AWR increases impact on the incentive to bargain, findings from the Award Reliance Survey⁴⁸ provide vital context. In particular, these highlight the importance of noting the intricate situation within, as well as between, organisations. The population of interest is not neatly divided into those organisations that only rely on awards, those on enterprise agreements and those that use other wage-setting arrangements. Among those that are formally ‘non award-reliant’, around

⁴⁶ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

⁴⁷ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, Table 3.3.3.

⁴⁸ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

one-third (36 per cent) use awards as a basis for pay,⁴⁹ even though they may have no employees paid at exactly the award rate.

Moreover, just under half (49 per cent) of employees working in award-reliant organisations were covered by an over-award arrangement (enterprise agreement or other wage-setting arrangement) (see Table 1.3). On average about 30 per cent of these employees received the minimum wage adjustment.⁵⁰

The analysis of reasons for having award and over-award arrangements highlighted the importance of distinguishing why different wage instruments were used. For example, the most common reasons cited by organisations for having an enterprise agreement were to overcome inflexibilities in award conditions or in response to meeting other institutional requirements. While the most significant reason cited by organisations using other wage-setting arrangements (i.e. those using individual and informal over-award arrangements) concerned varying rates of pay, either in response to a desire of 'rewarding' employees (39 per cent), for higher duties/skills (28 per cent) or because award rates were uncompetitive (35 per cent).

This section has summarised the pay-setting arrangements that prevail within non-public sector, national system organisations. This provides the context for understanding the connections, if any, between AWR increases and the incentive to bargain at the organisation level. It is now useful to consider the other context: where different wage-setting arrangements sit within the labour market in terms of pay rates. It is to this issue that we now turn.

1.4 Average weekly rates of pay associated with different methods of setting wages 2010–12⁵¹

This section reports on average wages earned and, to the limited extent possible, how these have changed between 2010 and 2012 for employees covered by different wage-setting arrangements. It does this by comparing the earnings of those covered by enterprise agreements and over-award arrangements with those on awards.

The ABS EEH Survey is conducted biennially on a sample of employees selected from a sample of employers, and contains data on the characteristics of employers and employees.⁵² Importantly, it is the only current employer survey that contains data on the method of setting pay and earnings.

Table 1.8 shows the average weekly total cash earnings by method of setting pay between May 2010 and May 2012. This is the crudest measure of wage-related earnings as it does not control for hours worked. The table shows that on the basis of this general indicator of wage based earnings, award employees on average earn considerably less than those on collective agreements and individual arrangements. The extent of this difference can be summarised by noting what those on awards earn as a proportion of those on either collective agreements or individual arrangements. The data on this are presented in the last three columns of the table. On the basis of this indicator, the difference in

⁴⁹ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, Table 3.2.1.

⁵⁰ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, Table 3.3.3.

⁵¹ The data and initial commentary on this sub-section were prepared by the Fair Work Commission.

⁵² ABS, *Employee Earnings and Hours, Australia, May 2010*, Catalogue. No. 6306.0.

earnings for those on awards has fallen between 2010 and 2012 compared to those on some form of over-award arrangement. For example, in 2010, those on awards earned 49.5 per cent of what those on collective agreements received. By 2012 this had increased to 55.1 per cent. The same improvement occurred when compared with those on individual arrangements. Award employees' earnings increased from 45.4 per cent to 49.6 per cent of the earnings of employees on individual arrangements. This is due primarily to the large increase (10.4 per cent) in earnings for those on awards over the period. This is much greater than the increase for those on collective agreements (4.7 per cent) and individual arrangements (5.6 per cent).

Table 1.8: Average weekly total cash earnings by method of setting pay, May 2010 and May 2012

	2010	2012	2010 Award only as a % of...	2012 Award only as a % of...	Annualised percentage change
	\$	\$	%	%	%
Award only	520.00	633.80			10.4
Collective agreement	1050.60	1150.80	49.5	55.1	4.7
Individual arrangement	1146.10	1277.20	45.4	49.6	5.6

Source: ABS, *Employee Earnings and Hours, Australia, various years*, Catalogue No. 6306.0.

Table 1.9 reports on average weekly total cash earnings by method of setting pay across industries in May 2012. It shows that the difference in earnings between employees covered by awards and employees covered by either a collective agreement or an individual arrangement was the largest in Finance and insurance services; Rental, hiring and real estate services; and Professional, scientific and technical services.

In contrast, the difference in earnings between employees covered by an award and employees covered by either a collective agreement or an individual arrangement was the smallest in Accommodation and food services; Transport, postal and warehousing; Health care and social assistance; and Public administration and safety. For Retail trade, the gap in earnings was very small between employees covered by awards and employees covered by collective agreements, but relatively large between employees covered by awards and employees covered by individual arrangements.

Further, the difference in earnings between those on awards compared to those on collective agreements in Accommodation and food services shows that those on awards—using this indicator—were earning more than those on collective agreements. This outcome may be due to a greater proportion of part-time workers covered by collective agreements than awards. The findings for the Accommodation and food services industry highlight the care that should be exercised when using this indicator to compare earnings of those covered by different methods of pay-setting. The same need for caution is also required when differences in occupational earnings are considered.

Table 1.9: Average weekly total cash earnings by method of setting pay by industry (1-digit ANZSIC), May 2012

	Award only	Collective agreement	Individual arrangement	Award only as a % of collective agreement	Award only as a % of individual arrangement
	\$	\$	\$	%	%
Mining	1423.70	2222.30	2532.50	64.1	56.2
Manufacturing	613.80	1304.10	1294.00	47.1	47.4
Electricity, gas, water and waste services	917.70	1749.90	1860.10	52.4	49.3
Construction	831.90	2114.50	1334.10	39.3	62.4
Wholesale trade	687.40	1114.50	1351.20	61.7	50.9
Retail trade	475.80	490.50	972.40	97.0	48.9
Accommodation and food services	475.00	398.30	736.20	119.3	64.5
Transport, postal and warehousing	930.80	1362.80	1224.80	68.3	76.0
Information media and telecommunications	678.50	1280.50	1609.20	53.0	42.2
Finance and insurance services	569.70	1379.60	1570.70	41.3	36.3
Rental, hiring and real estate services	533.70	1147.30	1136.50	46.5	47.0
Professional, scientific and technical services	609.10	1534.40	1520.80	39.7	40.1
Administrative and support services	595.30	1225.20	1267.10	48.6	47.0
Public administration and safety	1148.90	1351.50	1648.20	85.0	69.7
Education and training	784.70	1154.30	803.80	68.0	97.6
Health care and social assistance	888.70	1057.70	1065.10	84.0	83.4
Arts and recreation services	401.50	731.30	962.70	54.9	41.7
Other services	595.60	967.60	954.70	61.6	62.4
All industries	633.80	1150.80	1277.20	55.1	49.6

Note: Excluding the All industries row, **bold** text represents the top five figures for each measure, while *italicised* text represents the bottom five figures for each measure.

Source: ABS, *Employee Earnings and Hours, Australia, May 2012*, Catalogue No. 6306.0.

Table 1.10 shows the average weekly total cash earnings by method of setting pay across occupations in May 2012. By occupation, the difference in earnings between employees covered by awards and employees covered by collective agreements was large for most occupations except for Sales workers (86.9 per cent) and Professionals (83.4 per cent). The difference appears to be particularly large for Technicians and trades workers (45.2 per cent).

In contrast, the difference in earnings by occupation between employees covered by awards and employees covered by individual arrangements was smaller than the gap for collective agreements in most occupations. The difference was large for Sales workers (45.0 per cent), Managers (53.7 per cent) and Technicians and trades workers (55.4 per cent). It was particularly small for Community and personal service workers (92.4 per cent).

Table 1.10: Average weekly total cash earnings by method of setting pay by occupation (1-digit ANZSCO), May 2012

	Award only	Collective agreement	Individual arrangement	Award only as a % of collective agreement	Award only as a % of individual arrangement
	\$	\$	\$	%	%
Managers	1115.30	1984.90	2078.50	56.2	53.7
Professionals	1157.80	1387.70	1515.30	83.4	76.4
Technicians and trades workers	700.30	1547.70	1265.00	45.2	55.4
Community and personal service workers	541.60	837.20	586.30	64.7	92.4
Clerical and administrative workers	706.50	1065.40	964.30	66.3	73.3
Sales workers	422.10	485.80	937.10	86.9	45.0
Machinery operators and drivers	862.30	1508.00	1157.30	57.2	74.5
Labourers	492.40	945.90	790.10	52.1	62.3
All occupations	633.80	1150.80	1277.20	55.1	49.6

Source: ABS, *Employee Earnings and Hours, Australia, May 2012*, Catalogue No. 6306.0.

These differences only concern total weekly cash earnings for occupations considered at the highest level of generality or disaggregation. The problem of not controlling for hours was highlighted in the industry analysis by reflecting on the situation in Accommodation and food services. These problems are just as relevant to statistics reported on an occupational basis. For example, detailed consideration of one of the largest professional groups, registered nurses, highlights that when skill level and hours are controlled for, not only does the scale of apparent differences between earnings and mode of wage-setting change, the relative earnings of workers under the different modes of wage-setting also change.

This more disaggregated material from the EEH for nurses is reported in Table 1.11. This is more precise than aggregate occupational figures on two counts. First, it reports on the situation for full-time workers only and their ordinary time (not total) weekly earnings. Second, it reports on an occupation at a much more precise level, ensuring people with roughly common skills and qualifications are compared. These controls suggest a very different association between methods of wage-setting and earnings. Amongst Registered Nurses, there is little difference between those on awards and collective agreements. More importantly, those on awards are, on average (and using these categories), paid more than those on individual arrangements. These numbers highlight the importance of paying close attention to the level of aggregation and how it can affect findings. Among nurses, this could be due to a higher proportion of junior nurses or those in lower paid sectors (such as general medical practices and aged care) that have their pay set by individual arrangements. Similarly, the patterns for secondary school teachers show that secondary school teachers on awards are the best paid.

Table 1.11: Average weekly ordinary time earnings for full-time Registered Nurses and Secondary School Teachers, May 2012

	Award only	Collective agreement	Individual arrangement	Award only as a % of collective agreement	Award only as a % of individual arrangement
	\$	\$	\$	%	%
Registered nurses	1,581.30	1,607.60	1,408.4	98.4	112.3
Secondary school teachers	2,199.50	1,594.90	1,643.50	137.9	133.8

Source: ABS, *Employee Earnings and Hours, Australia, May 2012*, (Catalogue No. 6306D009_201205).

Problems of aggregation in ABS earnings data highlight the importance of examining the nature of earnings in as much detail as possible. Such material is, however, difficult to obtain and once obtained, difficult to analyse. One of the few readily available detailed sources of information on movements in over-award earnings are registered enterprise agreements. As noted earlier, extensive data on these (in the national workplace relations system) is maintained by the federal Department of Employment in its WAD. Because this source is a full count of enterprise agreements, extensive work can be done with time series and highly disaggregated categories of analysis, free of the problem of sample size issues.

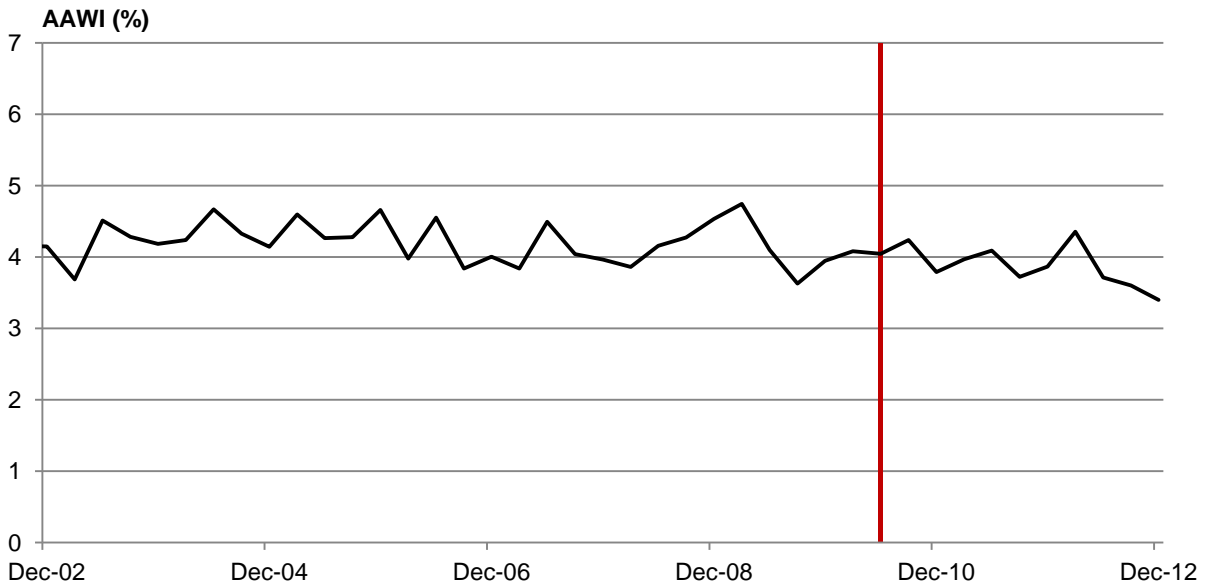
The next sub-section presents an analysis of wage movements using AAWI in registered enterprise agreements from the WAD. This analysis covers trends over the last decade and especially the years 2010–13. The WAD represents a full count of federal enterprise agreements, rather than a sample. It can present highly disaggregated categories of wage movements without sample size issues.

1.5 Average annual wage increases in awards and enterprise agreements 2010–12

The most comprehensive information on over-award rates of pay is provided in national system approved enterprise agreements. The Department of Employment maintains summaries of nearly all of these documents in its WAD, which collects information, including wage movements, on all federally registered enterprise agreements. At the time of analysis it contained 11 066 agreements. These data can be used to generate statistics about various aspects of approved enterprise agreements.

The most commonly cited data concern the AAWI for enterprise agreements approved in each quarter. The standard way of reporting this is for all industries, and Figure 1.1 shows how this indicator moved in the years immediately before and after the 2009–10 AWR decision. The figure shows that in recent times the AAWI peaked at 4.7 per cent in early 2009 and has, by and large, been falling ever since. In the key period of concern, i.e. between the shift from a zero wage minimum wage increase in mid-2009 and the first AWR decision in mid-2010, the all industry AAWI increased modestly from 4.0 to 4.1 per cent. This indicator suggests that if the AWR increase had any impact at all on enterprise agreements, it was marginal.

Figure 1.1: AAWI (per cent), all industries, 2002–12



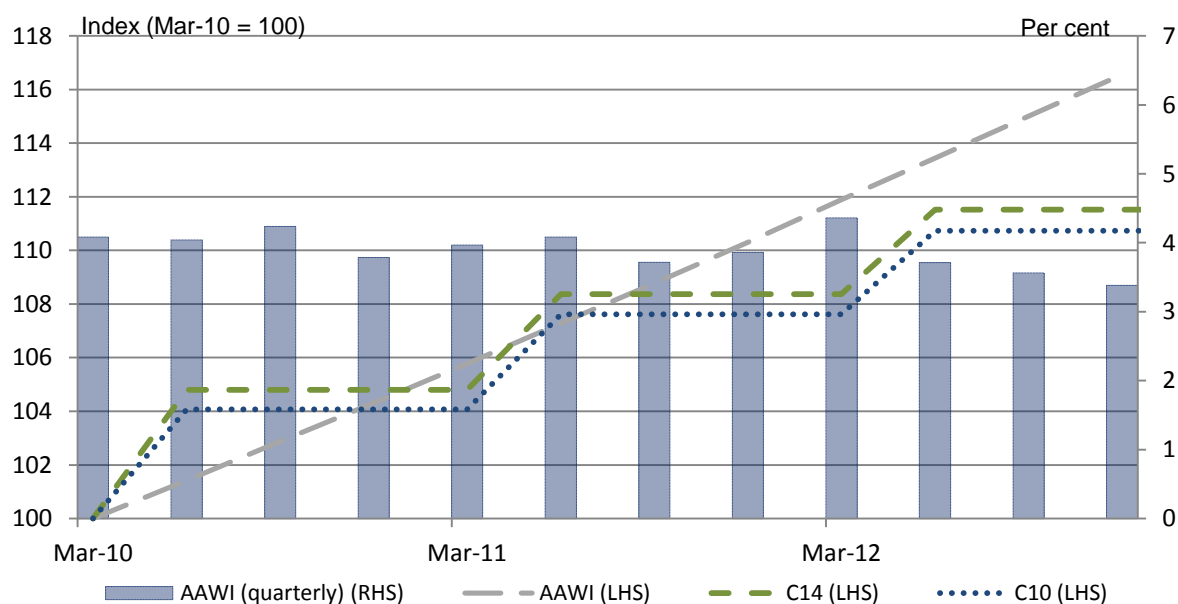
Note: the red vertical line represents the date of the 2009–10 AWR decision.

Source: WRC analysis using Department of Employment (2013), *Historical Table: all wage agreements, by ANZSIC division*. Available from <http://deewr.gov.au/workplace-agreement-reports>.

Figure 1.2 provides more detail on developments since the Panel commenced conducting AWRs. It shows the wage movements between March 2010 and March 2013 for federal enterprise agreements lodged in each quarter and wage outcomes for the C14 and C10 classifications. Over this period, the C14 and C10 rates increased by 11.5 and 10.7 per cent respectively. The chart highlights that wage outcomes for enterprise agreements were greater than for increases in the C14 and C10 classifications between March 2010 and March 2013. This is the case even if the 2.6 per cent increase arising from the 2012–13 AWR decision⁵³ is applied to the C14 and C10 rates and compared with wage outcomes for enterprise agreements up to the March quarter 2013. The chart also shows, however, that AAWIs for enterprise agreements lodged in recent quarters have declined, evident from the March quarter 2012 onward.

⁵³ [2013] FWCFB 4000.

Figure 1.2: Wage movements for federal enterprise agreements lodged in quarter, March 2010–December 2012



Note: The AAWI index is constructed by taking the AAWIs for lodged in a quarter and transforming them to a quarterly increase.

Source: Department of Employment, *Trends in Federal Enterprise Bargaining*, December quarter 2012, <http://deewr.gov.au/trends-federal-enterprise-bargaining>; *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010).

As noted in the analysis of EEH data in Section 1.3, it is difficult to identify clear trends on the basis of highly aggregated information. As a result, Table 1.12 presents more detailed information on AAWI by industry in federal enterprise agreements lodged in 2010, 2011 and 2012. In 2010, AAWIs in enterprise agreements by industry were generally below the C14 classification increase (4.8 per cent), except for Construction (5.1 per cent). Construction (5.1 per cent), Education and training (4.7 per cent), Electricity, gas, water and waste services (4.5 per cent) and Mining (4.3 per cent) were the only industries that experienced AAWIs higher than the increase to the C10 classification (4.1 per cent).

In 2011, the vast majority of industries experienced AAWIs above the increase given to awards (3.4 per cent), except for Information media and telecommunications (3.3 per cent) and Accommodation and food services (3.4 per cent). Construction (5.2 per cent) and Education and training (4.8 per cent) experienced strong increases relative to other industries.

In 2012, AAWIs by industry were all above the increase given to awards (2.9 per cent), particularly in Construction (5.6 per cent), Mining (5.0 per cent) and Other services (5.0 per cent).

The lack of any clear pattern is confirmed when longer term trends and quarterly information on AAWI by industry are also considered. Data of this nature are summarised in Figure 1.3. It reveals a more complex pattern of variation in AAWI when decomposed by industry. This can be summarised as follows:

- in eight industries there appears to be no movement in AAWI associated with the decision;
- in five industries there was an overall increase;
- in four industries there was an overall decline; and

- one industry (Rental, hiring and real estate services) experienced significant volatility in the period following the decisions of the minimum wages panel.

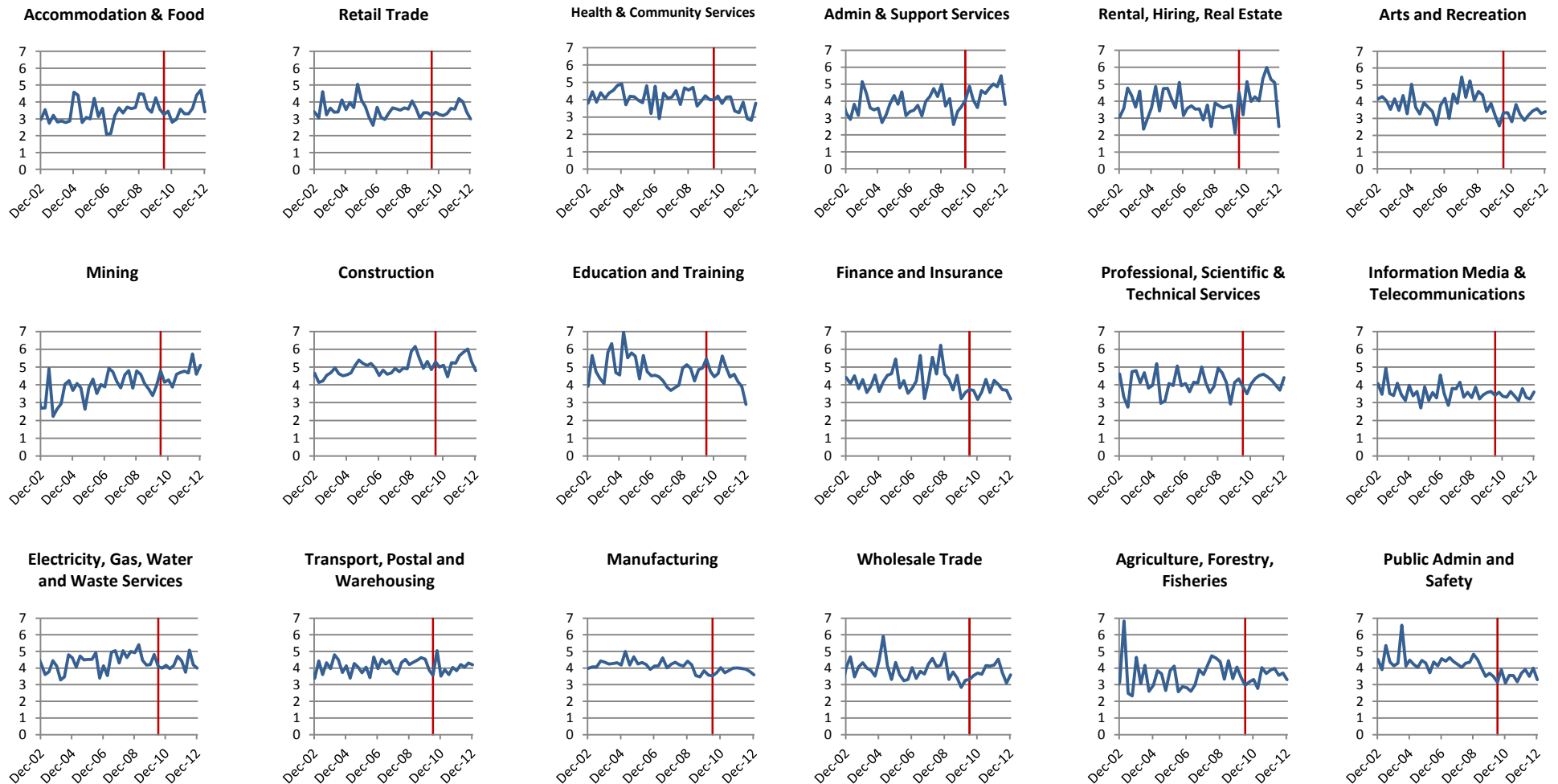
Table 1.12: Wage movements for federal eEnterprise agreements lodged by industry, 2010–12

	2010			2011			2012		
	AAWI	C14	C10	AAWI	C14	C10	AAWI	C14	C10
	%	%	%	%	%	%	%	%	%
Agriculture, forestry and fishing	3.2	4.8	4.1	3.7	3.4	3.4	3.7	2.9	2.9
Mining	4.3	4.8	4.1	4.5	3.4	3.4	5.0	2.9	2.9
Manufacturing	3.7	4.8	4.1	3.9	3.4	3.4	3.8	2.9	2.9
Electricity, gas, water and waste services	4.5	4.8	4.1	4.3	3.4	3.4	4.1	2.9	2.9
Construction	5.1	4.8	4.1	5.2	3.4	3.4	5.6	2.9	2.9
Wholesale trade	3.5	4.8	4.1	3.7	3.4	3.4	3.9	2.9	2.9
Retail trade	3.2	4.8	4.1	3.6	3.4	3.4	3.2	2.9	2.9
Accommodation and food services	3.2	4.8	4.1	3.4	3.4	3.4	4.3	2.9	2.9
Transport, postal and warehousing	3.9	4.8	4.1	3.8	3.4	3.4	4.1	2.9	2.9
Information media and telecommunications	3.4	4.8	4.1	3.3	3.4	3.4	3.6	2.9	2.9
Finance and insurance services	3.5	4.8	4.1	3.9	3.4	3.4	3.4	2.9	2.9
Rental, hiring and real estate services	3.7	4.8	4.1	4.3	3.4	3.4	4.3	2.9	2.9
Professional, scientific and technical services	4.0	4.8	4.1	4.4	3.4	3.4	4.1	2.9	2.9
Administrative and support services	4.1	4.8	4.1	4.3	3.4	3.4	4.5	2.9	2.9
Public administration and safety	3.3	4.8	4.1	3.6	3.4	3.4	3.6	2.9	2.9
Education and training	4.7	4.8	4.1	4.8	3.4	3.4	3.5	2.9	2.9
Health care and social assistance	4.0	4.8	4.1	3.6	3.4	3.4	3.2	2.9	2.9
Arts and recreation services	3.1	4.8	4.1	3.5	3.4	3.4	3.4	2.9	2.9
Other services	3.7	4.8	4.1	4.0	3.4	3.4	5.0	2.9	2.9
All industries	4.0	4.8	4.1	3.9	3.4	3.4	3.7	2.9	2.9

Note: AAWIs for each year were calculated by taking the weighted average of the AAWIs (by employees) across the four quarters of each year.

Source: Department of Employment, *Trends in Federal Enterprise Bargaining*, December quarter 2012, <http://deewr.gov.au/trends-federal-enterprise-bargaining>; *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010).

Figure 1.3: AAWI (per cent) by industry, 2002–12



Note: 1) AAWIs for each year were calculated by taking the weighted average of the AAWIs (by employees) across the four quarters of each year. 2) The red vertical line represents the date of the 2009–10 AWR decision.

Source: Department of Employment, *Trends in Federal Enterprise Bargaining*, December quarter 2012, <http://deewr.gov.au/trends-federal-enterprise-bargaining>; *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010)..

No consistent pattern is discernible in Table 1.12. It reveals significant variability in wage increases contained in enterprise agreements during the period of interest. In this context it is important to note the problem of aggregation discussed earlier. The lack of patterns pointing to a more consistent association between increases in the minimum wage and movements in enterprise agreement pay could be due to the way AAWIs are generated and reported.

The AAWI is created by taking all relevant information on wage movements noted in an enterprise agreement, including details on its nominal duration, and using this to generate an average to determine how, over the life of the enterprise agreement, wage rates will increase each year. This is not the only way of using information on wage increases contained in the WAD.

The following sections report on new information generated using WAD unit records (that is, the raw data gathered by the Department of Employment on each and every enterprise agreement). Three additional ways of reporting wage increases contained in enterprise agreements were examined by reworking the raw data. The first used data on whether enterprise agreements made an explicit reference to AWR increases. In some instances such references noted that the enterprise agreement will ensure that AWR increases are paid to all employees covered by the enterprise agreement. In others, the reference was less specific. No matter how precise the connection, such clauses provide important insights into how enterprise agreements link to AWR increases.

Another avenue through which information in the WAD contributed new knowledge was by reconfiguring the quantum of wage increases in enterprise agreements by taking into account when the increases were scheduled to be paid, and then analysing these increases in the context of the preceding AWR decision. As noted in the section on Research design outlined earlier in the report, the 2009–10 AWR decision awarded a flat \$26.00 per week increase, which can be represented in percentage terms as a proportion of two widely recognised benchmark wage rates: the C14 and C10 classification in the Manufacturing Award. This represented a 4.8 per cent weekly wage increase in the former and a 4.1 per cent weekly wage increase in the latter.

The third way of using the WAD data is to examine how the proportion of enterprise agreements that granted a 'low wage increase' in an industry changed over time. Such enterprise agreements are defined as ones which include wage rises that are, in percentage terms, less than those awarded by the corresponding AWR decision. This provides further new insights into the association between increases in minimum wages and enterprise agreements.

1.6 The nature of wage increases in enterprise agreements registered between January 2010 and June 2011

1.6.1 Incidence of provisions dealing with wage movements in approved enterprise agreements

Before reporting on what the reconfigured WAD data reveals, it is relevant to provide an overview of how wage increases are provided for in approved enterprise agreements. Table 1.13 provides the key details of the 11 066 enterprise agreements summarised in the WAD during the 18 month period of interest. Just over two-thirds (69 per cent) had information on an average annualised wage increase. A further 16.7 per cent, while not having an AAWI, did make reference to FWC increases. This meant that over 85 per cent of enterprise agreements had some information relevant to this wage analysis.

Table 1.13: Incidence of wage clauses in approved national system enterprise agreements, January 2010–June 2011

	Number of agreements	Per cent of total agreements (%)
Total with AAWI or reference to minimum wage increases	9484 ^a	85.7
Contain information on AAWI	7631	69.0
<i>Reference minimum wage increases</i> ^b	894	7.6
<i>Do not reference minimum wage increases</i>	6787	61.3
No AAWI but reference to minimum wage increases ^b	1855	16.7
No AAWI or reference to minimum wage increases	1580	14.3
Total agreements in database ^c	11 066	100.0

Notes:

- a) Of these, 6928 separated details about wage increases in the first year of operation from increases occurring in later years.
- b) Any 'reference to FWC increases' includes references to 'conditional wage increases' and includes 'provides for minimum wage' and reference to considering wage increase after decisions about increases in award rates or minimum rates are announced. Further details about such clauses are provided in the section on qualitative agreements analysis in Section 2.3.
- c) This refers to the total number of enterprise agreements coded and included in the WAD maintained.

Source: WRC analysis using the Workplace Agreements Database (Department of Employment 2011, unpublished data).

1.6.2 Provisions linking enterprise agreement with minimum wage movements

The most substantive information of relevance to the first research question is the proportion of all enterprise agreements making some reference to FWC increases. Of the enterprise agreements approved in the period of interest, 24.4 per cent had such a clause. While this is only an indicative data item it does establish that just under one in four enterprise agreements may be linked in one way or another to AWR decisions.

Table 1.14 reports on an analysis on the incidence of enterprise agreements, FWC linkage clauses, and their variation by industry.

Table 1.14: Approved national system enterprise agreements that refer to FWC minimum wage outcomes and/or processes, sector and industry, January 2010-June 2011

Sector/industry	Some link to FWC wage movements (%)
N=11 066	
All enterprise agreements	24.4
Sector	
Private	24.9
Public	11.7
Industry	
Agriculture, forestry and fishing	70.6
Accommodation and food services	68.3
Retail trade	66.7
Rental, hiring and real estate services	66.3
Arts and recreation services	65.7
Health care and social assistance	36.5
Other services	34.8
Administrative and support services	30.8
Financial and insurance services	28.4
Professional, scientific and technical services	23.8
Education and training	20.6
Transport, postal and warehousing	18.7
Public administration and safety	16.6
Wholesale trade	16.5
Information, media and telecommunications	15.7
Manufacturing	15.0
Mining	9.1
Construction	8.9
Electricity, gas, water and waste services	7.5

Note: 1) Industries correspond to ANZSIC level 1 categories. 2) These calculations use all approved national system enterprise agreements registered between January 2010 and June 2011 that allow for estimating an average annual wage increase.

3) Any 'reference to FWC increases' includes references to 'conditional wage increases', including 'providing the minimum wage' and considering wage increases after minimum wage or award rate decisions. Further details about such clauses are provided in the qualitative enterprise agreements analysis (Section 2.3).

The incidence of clauses in enterprise agreements with some link to the AWR varied from a low of 7.5 per cent in Electricity, gas, water and waste, to a high of 70.6 per cent in Agriculture, forestry and fishing. In five industries, a majority of enterprise agreements had such clauses: Agriculture, forestry and fishing (70.6 per cent), Accommodation and food services (68.3 per cent), Retail trade (66.7 per cent), Rental, hiring and real estate services (66.3 per cent), and Arts and recreation services (65.7 per cent).

Source: WRC analysis using the Workplace Agreements Database (Department of Employment, 2011, unpublished data).

1.6.3 Associations between the minimum wage increase of the 2009–10 AWR and wage increases contained in enterprise agreements

This section examines whether there was any association between adjustments made to minimum wages and wage increases contained in enterprise agreements. Section 1.5 noted the limited insights

possible from the WAD using the conventional AAWI measure of wage increases. By reconfiguring the data to take into account when the enterprise agreement was made, it was possible to explore connections between the AWR decision and the quantum of wage increases in enterprise agreements by comparing wage movements in enterprise agreements using the three following time periods:

- 1 January–30 June 2010 (i.e. the six months prior to the 2009–10 AWR Decision taking effect) (period 1);
- 1 July–31 December 2010 (i.e. the first six months after the AWR decision took effect) (period 2); and
- 1 January–30 June 2011 (i.e. 7–12 months after the AWR decision took effect) (period 3).

The six month groupings reflect the expected lagged effect of the 2009–10 AWR decision on minimum wage rates and wage increases in enterprise agreements. It also allowed for comparison between rates in enterprise agreements approved in the first half of 2010, when there had been no AWR increase, and the first half of 2011 when enterprise agreements were approved between 7 and 12 months after the 2009–10 AWR decision took effect.

In the following sections, different measures of wage movements in enterprise agreements were used. The first method generated a new measure of wage increases by separately reporting wage movements in enterprise agreements for the first year of operation, from movements that applied in the outer years of operation. The second method reported the dispersion within industries of wage increases included in enterprise agreements—especially the proportion of them which include AAWIs below 4.1 per cent.⁵⁴

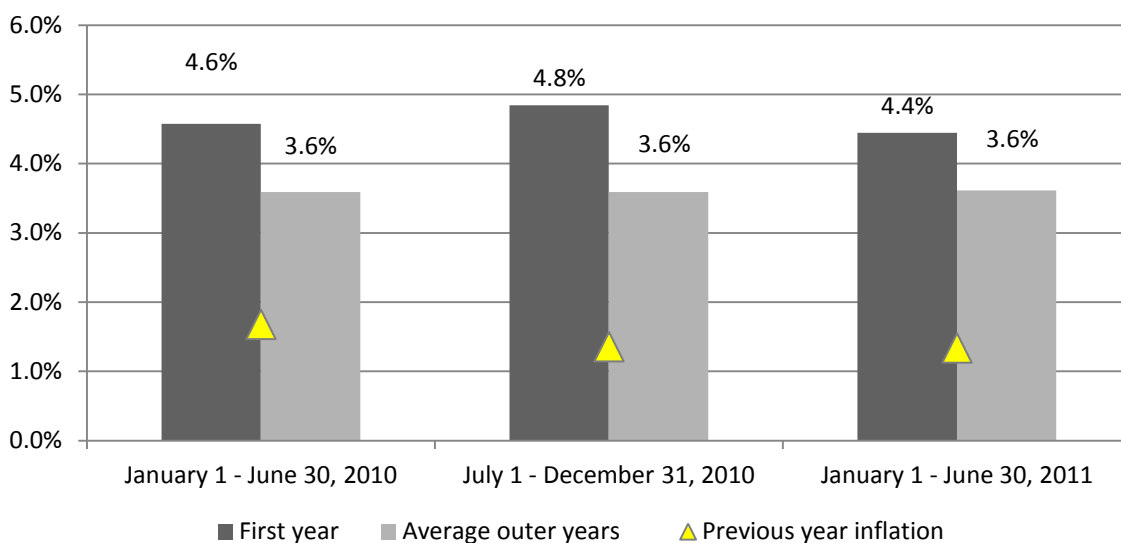
1.6.4 Comparison of first year increase with outer year increases in enterprise agreements

Data in the WAD were used to compare actual wage increases occurring in the first year of an enterprise agreement's term with those occurring in outer years. Across the sample of 7631 enterprise agreements that contained an AAWI, a further 6928 included wage increases in outer years.

Figure 1.4 reports the key findings of wage increases defined in this way. It reveals that, when considered in aggregate, between January 2010 and June 2010, first year wage increases in enterprise agreements were slightly higher than those in outer years. Among enterprise agreements approved between January and June 2010, the first year increase was 4.6 per cent, compared to an annualised figure of 3.6 per cent in outer years. In the two periods following the AWR increase that took effect in July 2010 (July–December 2010 and January–June 2011), the AAWIs for the first year were 4.8 per cent and 4.4 per cent respectively and for outer years it was 3.6 per cent for both periods. The enterprise agreements approved between January 2011 and June 2011 (and more likely to factor in the 2009–10 AWR decision) provided a smaller first year increase (4.4 per cent) than for the period that immediately followed the implementation of the 2009–10 AWR decision.⁵⁵

⁵⁴ Details on the derivation of these benchmark rates are provided in Section 1.3 above.

⁵⁵ It should be noted that the assumption here is that for enterprise agreements approved between these dates, consideration of wage increases would have been made prior to the decision taking effect. It is also possible, however, that the announcement of the decision itself—one month before the date of effect—could also have an influence.

Figure 1.4: Wage increases by approval date^{a b}

Notes: a) The population of enterprise agreements for each period: January 2010–June 2010, July 2010–December 2010, and January 2011–June 2011 are 2340, 2870, and 2421, respectively; b) The inflation figures represent six-month seasonally adjusted figures, lagged by six months.

Source: WRC analysis using Workplace Agreements Database (Department of Employment, 2011, unpublished data).

Table 1.15 provides a breakdown of average first and outer year wage increases for enterprise agreements by industry, to examine whether this trend was uniform across industries. Unlike the aggregate statistics presented above, these numbers suggest that, in some industries, the 2009–10 AWR decision may have been associated with a wage increase in enterprise agreements in their first year of operation. The analysis found that in 10 industries the quantum of the first increase in enterprise agreements was higher in the period after the AWR decision was announced. While the quantum was lower in enterprise agreements approved in the subsequent period (January–June 2011), it was usually still higher than the quantum that prevailed before the AWR decision. In five industries, the first year quantum fell in the period immediately after the decision, but rose in the subsequent period. In only one industry (Electricity, gas, water and waste) were the first year increases lower after the 2009–10 AWR decision.

The situation for the average wage movements of enterprise agreements in outer years was very different. There appears to have been little association between the 2009–10 AWR decision and the quantum of wage increases in the outer years of each enterprise agreement. The data show that in 10 of the industries, these quantum were virtually unchanged (plus or minus 0.1 per cent). In the case of another seven industries, there were only modest differences in outer year increases in enterprise agreements between the three periods.

The reconfiguring of the WAD information to generate a new measure of increases in wages in enterprise agreements suggests that the 2009–10 AWR increase may have had an impact on wage increases in enterprise agreements—at least in the first year of enterprise agreements—and that this effect was likely to be greater in some sectors than others.

Table 1.15: Breakdown of average first and outer year wage increases by industry

Direction of average first year wage increase in enterprise agreement, by industry	Wage increase (per cent)					
	Period one: 1 January–30 June 2010 (benchmark)		Period two: 1 July 1–31 December 2010		Period three: 1 January–30 June 2011	
	Avg first year	Avg outer years	Avg first year	Avg outer years	Avg first year	Avg outer years
Rises after 1 July 2010, then falls						
Transport, postal and warehousing	4.1	3.3	6.7	3.6	5.8	3.5
Professional, scientific and technical services	4.6	3.9	6.2	3.8	5.8	3.8
Administrative and support services	5.3	2.7	5.7	3.9	5.5	3.3
Rental, hiring and real estate services	4.0	3.6	4.9	3.8	4.7	3.8
Arts and recreation services	3.6	2.7	4.5	3.0	3.9	2.8
Manufacturing	4.0	3.3	4.3	3.3	4.2	3.3
Wholesale trade	3.6	3.3	4.2	3.2	4.1	3.3
Agriculture, forestry and fishing	3.4	2.7	4.2	3.6	3.9	3.2
Financial and insurance services	3.5	3.6	4.0	3.2	3.9	3.3
Information media and telecommunications	3.0	2.8	3.4	2.8	3.2	2.8
No change						
Construction	5.3	4.1	5.3	4.0	5.3	4.1
Education and training	4.6	3.4	4.6	3.7	4.6	3.6
Stable or falls after 1 July 2010, then rises						
Mining	6.0	3.5	4.9	3.4	5.3	3.5
Health care and social assistance	4.2	3.2	3.9	3.2	4.1	3.2
Public administration and safety	4.2	3.5	3.9	3.6	4.0	3.6
Accommodation and food services	3.8	2.6	3.6	2.8	3.7	2.7
Retail trade	4.0	3.1	3.4	2.8	3.7	2.9
Stable or falls after 1 July 2010						
Electricity, gas, water and waste services	4.4	3.6	4.3	3.5	4.3	3.6
All enterprise agreements	4.6	3.6	4.8	3.6	4.4	3.6

Note: These data are ranked in descending order by the average first year increase in Period two (column 3).

Source: WRC analysis using Workplace Agreements Database (Department of Employment, 2011, unpublished data). Industries correspond to ANZSIC 1-digit categories.

1.6.5 Changes in the proportion of enterprise agreements with AAWI below minimum wage increases

While the above analysis found variation in enterprise agreement wage increases between industries, there was—as the analysis in this section shows—also a lack of uniformity within industries. It may be possible, for example, that the 2009–10 AWR increase had a greater impact on enterprise agreements that paid at the lower levels of AAWIs. If this were so, there should have been a change between periods in the dispersion of AAWIs within industries. To assess if there were any changes of this nature, the WAD unit records were grouped around three categories based on the abovementioned range of the 2009–10 AWR decision:

- enterprise agreements with AAWI less than 4.1 per cent (i.e. less than or equal to the AWR decision expressed as a percentage of the C10 rate);
- enterprise agreements with AAWI greater than 4.8 per cent (i.e. above the AWR decision expressed as a percentage of the NMW); and
- enterprise agreements with AAWI between 4.1–4.8 per cent (i.e. above the AWR decision expressed as a percentage of the C10 rate, and less than or equal to the AWR expressed as a percentage of the NMW).

The distribution of enterprise agreements containing AAWIs within these three bands is summarised for each industry in Tables 1.16 and 1.17. Table 1.16 takes the abovementioned AAWI categories and reports them by industry in the following three time periods:

- period 1: January–June 2010 (i.e. the six months prior to the 2009–10 AWR Decision taking effect);
- period 2: July–December 2010 (i.e. the first six months after the AWR decision took effect); and
- period 3: January–June 2011 (i.e. 7–12 months after the AWR decision took effect).

To help with interpretation, the industries have been sorted on the basis of enterprise agreements with high, medium and low AAWI in the period immediately following the AWR decision (i.e. 1 July—31 December 2010). These are defined as follows:

- high AAWI—sectors in which more than half of the enterprise agreements paid, in percentage terms, above the AWR decision range (i.e. above 4.8 per cent);
- low AAWI—sectors in which more than half of the enterprise agreements paid wage increases that, in percentage terms, were less than or equal to the AWR decision range (i.e. below 4.1 per cent); and
- medium AAWI—(remaining) sectors in which most enterprise agreements paid between the first two categories.

Table 1.16 reveals that a majority (42.2 per cent) of all enterprise agreements had AAWIs less than the smallest increase awarded in the 2009–10 AWR decision (i.e. below 4.1 per cent). Only four of the 20 industries had more than half their enterprise agreements pay an increase greater than 4.8 per cent. Of the rest, the majority (11) had enterprise agreements that contained increases which, in percentage terms, were less than the increase awarded in the AWR decision for workers in the C10 classification (i.e. were below 4.1 per cent).

Table 1.16: Wage Movements in approved national system enterprise agreements, sector and industry, January 2010–June 2011

Average annual wage increase (AAWI):	Per cent (%) of enterprise agreements								
	1 January–30 June 2010			1 July–31 December 2010			1 January 2011–30 June 2011		
	<4.1%	4.1–4.8%	>4.8%	<4.1%	4.1–4.8%	>4.8%	<4.1%	4.1–4.8%	>4.8%
	N=2340			N=2853			N=2438		
All enterprise agreements	42.2	23.5	34.3	42.2	22.6	35.2	43.6	25.2	31.3
Sector									
Private	41.4	23.7	35.0	42.2	21.5	36.3	43.3	24.7	31.9
Public	58.0	21.4	20.5	41.4	41.4	17.2	49.5	34.7	15.8
Scale of wage increases in agreements registered in period 2 (1 July–31 December 2010)									
High AAWI: More than 50% of enterprise agreements pay above 4.8%									
Construction	15.5	17.1	67.4	19.7	14.6	65.7	22.0	19.1	58.8
Education and training	28.6	32.1	39.3	24.2	23.5	52.3	21.1	24.1	54.9
Rental, hiring and real estate services	33.3	33.3	33.3	25.0	25.0	50.0	50.0	14.7	35.3
Administrative and support services	35.5	11.3	53.2	25.8	19.4	54.8	35.8	18.9	45.3
Medium AAWI (remaining sectors): Most below 4.8%, fewer than half below 4.1%									
Professional, scientific and technical services	42.1	31.6	26.3	39.1	21.7	39.1	37.3	20.9	41.8
Transport, postal and warehousing	63.3	21.7	15.0	44.3	22.2	33.5	57.6	24.1	18.4
Health care and social assistance	38.3	47.0	14.7	47.7	38.7	13.6	59.4	29.2	11.4
Other Services	64.1	15.4	20.5	49.1	30.2	20.8	62.7	18.7	18.7
Low AAWI: More than 50% of enterprise agreements pay below 4.1%									
Electricity, gas, water and waste services	53.3	28.3	18.3	50.8	31.1	18.0	37.7	44.3	18.0
Public administration and safety	62.1	27.6	10.3	51.6	37.1	11.3	53.4	33.0	13.6
Mining	29.0	35.5	35.5	53.4	20.7	25.9	32.1	37.0	30.9
Manufacturing	67.4	23.7	8.9	60.1	25.7	14.2	53.2	31.9	14.9
Agriculture, forestry and fishing	85.7	14.3	0.0	60.9	26.1	13.0	53.1	40.6	6.3
Financial and insurance services	62.5	37.5	0.0	60.9	30.4	8.7	67.9	25.0	7.1
Wholesale trade	83.9	12.9	3.2	62.9	27.0	10.1	60.0	24.7	15.3
Arts and recreation services	84.6	11.5	3.8	73.3	13.3	13.3	84.0	12.0	4.0
Accommodation and food services	94.3	0.0	5.7	87.5	10.4	2.1	80.5	9.8	9.8
Retail trade	73.1	23.1	3.8	89.3	10.7	0.0	78.9	10.5	10.5
Information media and telecommunications	81.5	14.8	3.7	89.7	10.3	0.0	85.7	14.3	0.0

Note: The table includes all approved national system enterprise agreements registered between January 2010 and June 2011 that allow for estimation of an AAWI. The figures in the table represent, for each time period (period 1: January–June 2010, period 2: July–December 2010 and period 3: January–June 2011), the percentage of enterprise agreements that fell into each AAWI category (<4.1%, 4-4.8% and >4.8%).

Source: WRC analysis using Workplace Agreements Database (Department of Employment, 2011, unpublished data). Industries correspond to ANZSIC 1-digit categories.

Table 1.17 groups industries on the basis of what proportion had enterprise agreements with AAWIs below 4.1 per cent in the three time periods of interest. The information is further broken down to show whether industries were in the low, high or medium AAWI categories based on enterprise agreements registered in period two, i.e. the second half of 2010. An association between the minimum wage increase and enterprise agreements may be exhibited if there was a decline in the proportion of enterprise agreements with AAWI less than 4.1 per cent after the 2009–10 AWR decision.

In most industries (14 out of 19) the proportion of enterprise agreements with AAWI below 4.1 per cent fell in the period immediately following the decision (i.e. the proportion of enterprise agreements with AAWI below 4.1 per cent had either 'decreased' or 'decreased then increased'). In the subsequent six months, in half these industries the proportion of enterprise agreements with low AAWIs continued to fall, and of those in which it rose there was no consistent pattern.

Of the five industries in which the movement was initially in the opposite direction (an increasing proportion of enterprise agreements paying less than 4.1 per cent), three industries had a decrease in the subsequent period (the proportion of enterprise agreements with AAWIs below 4.1 per cent had increased then decreased). In only two industries—Construction and Health and social assistance—the proportion of enterprise agreements with low AAWIs actually increased in both periods after the decision. The change in Construction was relatively modest—from 15.5 to 22.0 per cent of enterprise agreements between periods one and three. The shift in Health and social assistance was, however, more significant: from 38.8 to 59.4 per cent of enterprise agreements between these periods.

Overall, the analysis finds that for seven industries the proportion of enterprise agreements with AAWIs below 4.1 per cent decreased in both periods after the AWR decision. In all but two of the remaining industries (i.e. Construction and Health and social assistance), the proportion of enterprise agreements with AAWIs below 4.1 per cent fell during at least one of the other periods (periods represented by categories 'decreased then increased', or 'increased then decreased'), and in some industries reverted back to a similar proportion of enterprise agreements with AAWIs below 4.1 per cent that existed prior to the AWR decision. The data show that the fall in the proportion of enterprise agreements with AAWIs below 4.1 per cent was particularly common in the low AAWI grouping.

Table 1.17 Change in proportion of agreements where the average annual wage increase (AAWI) was less than 4 per cent, Industry, 1 January–30 June 2010, 1 July–31 December 2010 and 1 January–30 June 2011 (i.e. periods 1, 2 and 3 surrounding the annual wage review decision of June 2010)

Industries where, over the time periods proportion of enterprise agreements with AAWI <4.1%	Industries where in July–December 2010 more than 50% of enterprise agreements had:					
	Low AAWI (<4.1%)		High AAWI (>4.8%) i.e. high AAWI enterprise agreement sector		Medium AAWI (remaining sectors) (most <4.8% but less than half <4.1%)	
Parentheses show (the % of enterprise agreements under 4.1% in period 1/2/3)						
...decreased	Accommodation and food services	(94.3/87.5/80.5)	Education	(28.6/24.2/21.1)	Professional, scientific and technical services	(42.1/39.1/37.3)
	Agriculture, forestry and fishing	(85.7/60.9/53.1)				
	Wholesale trade	(83.9/62.9/60.0)				
	Manufacturing	(67.4/60.1/53.1)				
	Electricity, gas, water and waste services	(53.3/50.8/37.7)				
...decreased then increased	Arts and recreation services	(84.6/73.3/84.0)	Rental	(33.3/25.0/50.0)	Transport	(63.3/44.3/57.6)
	Financial and insurance services	(62.5/60.9/67.9)	Administration	(35.5/25.8/35.8)	Other services	(64.1/49.1/62.7)
	Public administration	(62.1/51.6/53.4)				
...increased then decreased	Information, media and telecommunications	(81.5/89.7/85.9)				
	Retail trade	(73.1/89.3/78.9)				
	Mining	(29.0/53.4/32.1)				
...increased			Construction	(15.5/19.7/22.0)	Health care and social assistance	(38.8/47.7/59.4)

Source: Workplace Agreements Database (Department of Employment, 2011, unpublished data) as reported in Table 1.16.

Note: All national system approved enterprise agreements registered between January 2010 and June 2011 with information that allows for estimating an average annual wage increase (AAWI). Figures in brackets refer to the percentage of agreements in the industry which contain AAWI increases of less than 4 per cent.

Note on how to read this table: Take the first row. In seven industries there was a decrease in the proportion of agreements with low average annual wage increases (i.e. AAWI less than 4.1 per cent). Five of these industries were in the low AAWI sector (i.e. more than half their agreements had AAWIs of less than 4 per cent in the period immediately after the AWR decision of 2010. These were Accommodation and food services, Agriculture, Wholesale trade, Manufacturing and Electricity, gas, water and waste services etc. One was from the high AAWI sector (i.e. Education) and one from the medium AAWI sector (i.e., Professional, technical and scientific industry). The change in the proportion of agreements with an AAWI of less than 4 per cent in Accommodation and food services in the three time periods was from 94.3 per cent of this industry's agreements approved in January–June 2010, 87.5 per cent for agreements approved in the six months after the decision and 80.5 per cent in the six months after that.

1.7 Conclusions

Using WAD data, an analysis of disaggregated measures of wage movements in enterprise agreements revealed that there may be a positive association between wage increases in enterprise agreements and minimum wage increases. In particular, this association was stronger in sectors with lower levels of AAWI contained in their enterprise agreements.

2 Part 2 - Qualitative analysis

2.1 Introduction

The quantitative analysis generated new knowledge about the incidence of different wage increases and the arrangements associated with their determination (especially the prevalence of award-reliant employees, informal over-award arrangements and enterprise agreements at the workplace level). Analysis of enterprise agreements also provided important insights into the association between enterprise agreement increases and AWR increases. Important as these insights are, they are based on a very limited number of data items generated from a large number of organisations and registered enterprise agreements. Any comprehensive answer to questions concerning the impact of AWR increases on over-award and agreement rates of pay requires:

- consideration of the nature of wage increases more broadly defined than summary data extracted from enterprise agreements; and
- consideration of the broad range of variables shaping wage movements.

This can only be achieved by the use of qualitative analytical techniques.

The sources of information used for the qualitative analysis were the same as for Part 1 of this project: organisations and enterprise agreements. They were, however, processed differently to generate different, complementary knowledge.

Section 2.3.1 reports on what an analysis of a selection of enterprise agreements considered as whole documents (and not just as a source of summary information on wages movements) reveals about the precise nature of wage increases in enterprise agreements. They provide a rich source of new material on how minimum wages are recorded as shaping agreement outcomes and how this impact is often nested in enterprise level settlements (or packages) that link wage movements to changes in employment conditions.

As outlined earlier, in Australia there is not just one 'minimum wage' but rather a range of minimum wages linked to specific award wage classifications. Over the last two decades these wage levels have, in percentage terms, been adjusted at different rates as a result of minimum wage increases being expressed in flat dollar terms (see Section on Research design). Exploration of wage relativities in enterprise agreements and analysis of how these compare with relativities in awards provides an additional source of insight into the connections between movements in minimum wages and enterprise agreement rates of pay for jobs at different points in the wage distribution. The findings on this matter are reported in Section 2.3.2.

In Section 2.4 the analysis returns to the organisation, or precisely the workplace, as the unit of analysis. However, unlike the survey of organisations reported in Part 1 (which examined only a limited number of data items), the 20 workplace case studies explored:

- the broader operational context of workplaces; and
- how the processes of bargaining and the processes of management and employee interactions shaped and were shaped by minimum wage increases.

Section 2.4 also provides further insights (following on from Section 2.3.2 which only dealt with registered enterprise agreements) on the above mentioned points in the context of three types of workplace, i.e. those where the largest proportion of employees were:

- paid the exact rate of pay as provided in the relevant award (i.e. 'award-reliant' as defined for this project);

- covered by informal over-award arrangements; and
- covered by registered enterprise agreements.

This method allowed interviewees at the workplace level to report, in their own words, about what actually happens day-to-day, especially concerning what wage arrangements actually prevail and how processes for adjusting them operate within these three differing types of prevailing wage-setting arrangements. These interviews provided rich information to help answer questions concerning the relative significance of AWR increases as a factor impacting on both wage outcomes and the incentive to bargain.

2.2 Key findings

2.2.1 Analysis of agreements considered as whole documents

Close scrutiny of the content and connections between provisions in five more specifically defined industries was undertaken to examine the nature of the link between increases in minimum wages and wage increases in enterprise agreements (see Section 2.3.1 and Appendix 5). The key findings from this analysis are described below.

- In industries with lower levels of AAWIs (and typically lower average levels of pay), major differences between the modern awards and enterprise agreements exist in hours of work entitlements (especially in Supermarket and Grocery Stores, Fast Food, and Dairy and Beef Cattle Farming).
 - In particular, many enterprise agreements offered premium rates of pay applying to all time periods that ‘rolled in’ overtime and penalty rates. Such provisions changed effective wage rates. Wage increases in these enterprise agreements, to satisfy the BOOT, essentially offset changes in hours of work entitlements and were not simply ‘passing on’ the AWR increases leaving all other award entitlements unchanged.
 - The quantum of the increase did appear, however, to be linked to the AWR norm.
- In the other sectors the enterprise agreements appear to be more concerned with:
 - the labour market positioning of the firm (in the case of Medical Practices) and;
 - boosting productivity in substantive and price terms (in the case of Domestic Waste Management enterprise agreements).
- To the extent that other matters were included in enterprise agreements, their nature varied between industries even when the subject matter was the same. Provisions dealing with education and training provide a good example.
 - Clauses on this topic in enterprise agreements covering nurses in medical practices were linked to programs of continuing professional education.
 - In the Supermarket and Grocery Store and Fast Food agreements, particular attention was devoted to employees on reduced rates of pay on account of them having the status of trainees.

2.2.2 Analysis of relativities

This was undertaken to assess the nature of wage increases in enterprise agreements for different classifications. As a result of AWR increases being defined in flat dollar amounts (see Section on Research design), award relativities have been compressed over the last 20 years. In the Manufacturing Award for example, the relativity between the C10 rate and the lowest classification

(C14 and equivalent to the NMW), rose from 78 to 85 per cent. In the highest classification (C2(b) advanced diploma engineer), the award wage premium relative to the C10 fell from 60 to 35 per cent. Analysis of the relativities in enterprise agreements examined revealed the following:

- External relativities (i.e., differences in pay for exemplar or reference classifications common across employers) were dispersed among all industries considered. For example, the weekly wage for a Class 1 Food and Beverage Worker ranged from \$560 to \$803.
- Internal relativities within agreements were very similar to those in awards. This was the case despite there being no requirement that this be the case and that many enterprises were paying significantly over the award. The commonality in relativities was particularly strong in agreements that were paying close to award rates and in jobs paying less than median earnings.
- It appears that wage rates for employees in higher award classifications have fallen even if they are covered by enterprise agreements. While greater falls in award wage rates for such higher classification employees would create more incentives to bargain, this does not appear to have occurred. Either they have not been induced to make wage agreements offsetting these falls, or employees have not been successful in bargaining for higher wage outcomes.

2.2.3 Workplace case studies

Fieldwork was conducted at 20 strategically selected work sites. This found that AWR increases were perceived as having had virtually no direct impact on wage outcomes or the process of wage determination. In particular, according to interviewees at workplace level, the AWR:

- had no direct impact on informal over-award rates of pay in the case study sites;
- had a direct impact on some agreement rates of pay in some workplaces in some industries examined—these were workplaces generally paid very close to award rates; and
- had no direct impact on the incentive to bargain—either positively or negatively—in any of the workplaces examined.

The case studies generated extensive material that shed new light on what shapes the incentive to bargain amongst employers and employees. The factors framing the incentive to bargain were categorised as being either first, second or third order considerations. The qualitative case study research established that the impact of AWR increases on the incentive to bargain was a third order factor.

The case study evidence also revealed that, to understand the impact of AWR increases on bargaining and wages outcomes, due consideration must also be given to three fundamental facts.

- Both employers and employees at enterprise level are poorly informed about, and not experienced in, bargaining.
- Bargaining is more commonly informal than formal in nature.
- There are considerable transaction costs associated with bargaining. Unless bargaining helps achieve a desirable commercial end, employers will have little interest in it.

2.3 Qualitative agreement analysis

In this section, the analysis considered enterprise agreements as a whole, to explore the possible relationships between AWR wage increases and other employment conditions.

An employee's take-home pay is defined by a number of provisions—including wage rates, classifications, hours of work, leave and provisions relating to education and training—operating in conjunction with one another. It is important to consider how an enterprise agreement operates as a whole in order to fully assess the impact, if any, of AWR increases on agreement rates of pay.

Examination of all elements of an enterprise agreement helped answer the following questions:

- How exactly are wage increases specified?

Understanding the detail here could clarify any association between AWR increases and wage increases reported in enterprise agreements.

- What else is contained in enterprise agreements regarding why wage increases have been granted?

Even if enterprise agreements appeared to follow AWR wage increases, this could have been an incidental or second order factor determining enterprise agreement wage outcomes. It could be that wage increases in enterprise agreements are better understood as part of a package of trade-offs and productivity enhancing measures.

- How readily can minimum wage increases be applied at the workplace?

As Australia has a range of minimum wages that may be applicable (based on classification, industry and/or occupation), understanding the applicable minimum wage standard requires an appreciation of the job classification of relevance and the enterprise agreement associated with it. The operation of the BOOT and regulatory role of the Fair Work Act in relation to enterprise agreements means that AWR increases do not have to be flowed on to enterprise agreement rates. Rather, enterprise agreements can use any adjustment mechanism (if at all), as long as the rate paid for the job is still above the minimum award rate required for a job of that nature. If job categories in awards and enterprise agreements are comparable, decisions concerning the impact of minimum wage increases can be easily determined and the impact on enterprise agreement rates assessed. If they are not comparable, however, it is more difficult to ascertain the impact of such decisions given the adjustment mechanism issue outlined above.

These are important questions, but difficult to answer. New knowledge relevant to answering them was created by a qualitative analysis of 97 enterprise agreements in the five case study sectors (further outlined in Section 2.2.1 and 2.2.2). Details of how the sectors were selected are provided in the Section on Research design. Table 4 in the executive summary provides information about the sectors and how they relate to ANZSIC categories.

A full account of the qualitative enterprise agreements analysis for each industry is provided in Appendix 5. The characteristics of the enterprise agreements are described using standard indicators of the type noted in Table 2.1 below. On the basis of these common indicators, the enterprise agreements analysed had the following distinct characteristics:

- over half of the enterprise agreements covered fewer than 20 employees and over three-quarters covered fewer than 50 employees;
- more than two-thirds of the enterprise agreements were first generation agreements; and
- the majority of enterprise agreements (over two-thirds) reported no union association.

Table 2.1: Employment coverage, generational status and union status of strategic sample of enterprise agreements used in the qualitative analysis

Indicator	Sector					Total
	Supermarket and Grocery Stores	Fast Food ^a	Dairy and Beef Cattle Farming	Domestic Waste Management	Medical Services	
Number of employees						
100+	3	3	0	2	2	10
50–99	3	6	0	1	2	12
20–49	7	4	2	4	8	25
<20	12	9	6	12	10	49
Generation of agreement						
First	19	16	7	7	19	68
Later	6	7	1	12	3	29
Union Status						
Union	4	7	0	13	10	34
Non-union	21	16	8	6	12	63
Total	25	23	8	19	22	97

Note: a) these data were not identified for one enterprise agreement.

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

It is important to remember that these enterprise agreements were not selected as a 'representative' sample, chiefly due to the irregularity of enterprise agreements as a unit of analysis. This does not mean that the details in enterprise agreements cannot be analysed. Close qualitative analysis of the enterprise agreements does shed new light on the dimensions of diversity in the way that enterprise agreement wages are defined and adjusted. The findings below reveal considerable diversity amongst the enterprise agreements analysed on many variables, and commonality on variables across very different types of agreements. The qualitative analysis of enterprise agreements is presented in two sections. Section 2.3.1 considers the analysed enterprise agreements as whole documents and uncovers in more detail how wage increases are defined and what they are associated with in terms of allied changes in conditions of employment. Section 2.3.2 goes beyond considering wage increases in these instruments 'in general' and examines the question of wage rates for different categories of employees covered by exploring how wage relativities varied between and within enterprise agreements in the industries studied.

2.3.1 How wage movements and allied changes in conditions are outlined in enterprise agreements

When the enterprise agreements were considered as whole documents, three themes emerged in analysing how AWR increases may be linked to wage increases in enterprise agreements.

The first concerned how wage increases were specified in the enterprise agreements analysed. What emerged was that the specification of such increases varied widely. In particular, reference to the AWR process (if any), varied dramatically between the sectors analysed and also within sectors.

For this reason, it was considered important to categorise the enterprise agreements analysed based on the extent of the gap between wages in the enterprise agreement and the wages in the applicable modern award. The categories adopted were:

- ‘award-reliant’ enterprise agreements (i.e. they paid no or little more than the award);
- ‘slightly above the award’ enterprise agreements (i.e. they paid a modest amount more than the award); and
- ‘over-award’ enterprise agreements (i.e. they paid a substantial amount more than the award).⁵⁶

The second key finding was that wage increases specified in the enterprise agreements analysed were not necessarily ‘going rates’. A significant minority of enterprise agreements analysed contained the lowest possible wage (or wage increase) that could be granted to an employee. Further increases in wages were then contingent on either performance or management discretion. While it is not known whether, or exactly how, AWR decisions influence these contingent elements of pay, from the enterprise agreements analysed they did appear to shape the base from which such movements were made.

The third finding concerns the wider, non-wage contents of the enterprise agreements analysed. Amongst most of the 97 enterprise agreements studied, wage increases were not simply ‘passing on’ the AWR without significant changes to other employment conditions. On the contrary, wage increases were associated with a number of other matters, the most common being changes to provisions regulating hours of work and education and training.

2.3.1.1 Wage increases and the incorporation of the annual wage review in the enterprise agreements analysed

When considered as outcomes from particular sectors, the enterprise agreements analysed on first impressions appear to differ in ways that would be expected. Those from Supermarket and Grocery Stores (detailed in Appendix A5.1) and Fast Food (detailed in Appendix A5.2), for example, reflect the concern in the private services sector with hours of work, those from Dairy and Beef Cattle Farming (detailed in Appendix A5.3) emphasise the variability and seasonality of labour demand, and the enterprise agreements from Domestic Waste Management (detailed in Appendix A5.4) retain many allowance and shift work arrangements typical of blue collar workforces. But the issue of sector is not so much important for what the enterprise agreements considered have in common, but for how within sectors there are distinct patterns—and often enterprise agreements in sub-sectors from different industries have more in common than with enterprise agreements in the larger ‘common’ industry of which they are a part. For example, enterprise agreements in certain sub-sectors of Supermarket and Grocery Stores and Fast Food have more in common with each other than enterprise agreements made by enterprises in their ‘home’ or ‘broader’ industry group within the retail and hospitality sectors.

Some patterns were discernible in how wage increases were specified in enterprise agreements and how they were linked to the AWR decision. The key finding was that not only was there diversity between sectors but there was also significant diversity within these enterprise agreements. For example, in Supermarket and Grocery Stores, the average annual wage increase in the enterprise agreements examined was between 3 and 3.5 per cent. The analysis of this sector notes the importance of distinguishing between high-, medium- and low-tier supermarket and grocery retailers. These categories are defined as:

- high-tier—large retailers;

⁵⁶ Differing industry classification structures meant that the boundaries between these categories varied for each industry. Additionally, given the extreme variability in the way specific classifications and actual pay rates were reported in agreements within an industry, comparisons of pay relativities contained in awards and agreements were conducted in a piecemeal fashion with extensive cross checking. Full details are provided in Appendix 5.

- medium-tier—independent grocers; and
- low-tier—very small (i.e. stores with fewer than 50 employees)

Among the high-tier and over half of the middle-tier supermarket and grocery retailers, wage increases were expressed in percentage terms. Among the two largest employers, the enterprise agreements analysed delivered 8.5 per cent over five instalments and 10.2 per cent over six instalments respectively. Among most (18 out of 19) low-tier supermarket and grocery retailers, increases were specified in the following terms:

The ordinary weekly rates of pay in this agreement shall increase in accordance with the determination of Fair Work Australia. [*Shelmic Pty Ltd (The Retailers Association) Single Enterprise Agreement 2009*]

A similar situation prevailed among the analysed enterprise agreements from the Fast Food sector. The organisation of this industry in terms of business structure was different to Supermarket and Grocery Stores. While there were some large employers (in the form of large scale franchise operations), their enterprise agreements did not pay the highest rates in their sector, unlike the rate paid for high-tier firms in Supermarket and Grocery Stores. The analysis of the Fast Food sector identified the importance of distinguishing between enterprise agreements on the basis of their proximity to award standards.

As outlined above, enterprise agreements subject to this analysis were characterised as falling into one of three categories: award-reliant, slightly above the award and over-award.

Seven of the eight award-reliant enterprise agreements examined contained wage increase clauses similar to the following:

Rates of pay will be reviewed annually and will increase by the percentage increase awarded to the Federal Minimum Wage by Fair Work Australia ('Federal Minimum Wage Increase') its successor or any other body empowered to make such a determination under Legislation. [*The Loaded Aces Pty Ltd Employees Enterprise Agreement 2009*]

...the hourly rates of pay as set out in clause 3.2.1 will increase over the nominal period of the Agreement by any decisions of Fair Work Australia arising out of any National Wage Case Decision [*Tosfri Pty Ltd t/a Gloria Jeans (Greenhills) Workplace Agreement 2011*]

Amongst enterprises with 'slightly above the award' enterprise agreements that were analysed, wage increases were expressed in percentage terms, but at levels very close to or slightly above the AWR increase. For example, the *Tasty Trucks Production Enterprise Agreement 2010* increased wages by 3 per cent annually, while the *Pizza Hut - SDA National Employee Relations Agreement 2010* provided flat dollar amounts above the award rate. At workplaces that paid wages well above the award, three of the enterprise agreements analysed referenced the AWR process and three specified increases in terms of between 2.5 and 3 per cent per annum—again a quantum in line with the AWR process given the level of over-award payment at these enterprises.

Approved enterprise agreements in the Dairy and Beef Cattle Farming sector were scarce. Only eight were approved in the period under review. Again, the quantum of wage increases were essentially those of the AWR, referred to directly as such in three of the enterprise agreements or in the range of 2.5–4 per cent per annum in the others. Given the modest level of over-award payment at these sites, this represented an increase at the lower end, or just below the AWR expressed in percentage terms.

Only one of the Domestic Waste Management enterprise agreements made a direct reference to AWR increases. Instead, most enterprise agreements analysed in this sector specified wage

increases in the range of 2–4 per cent per annum, with a number of enterprise agreements including increases as high as 5 per cent. The outlier in this sector was one enterprise agreement that covered workers in the North Queensland city of Mackay settled by Veolia and the Transport Workers Union. In a region affected by labour supply pressure from the resources sector, this enterprise agreement specified an increase of 9.46 per cent in the first year and 4.5 per cent per annum in the subsequent two years.

The situation concerning enterprise agreements in Medical Services appears to have been influenced by norms emanating from a number of sources in addition to the AWR decision. Three of the 22 enterprise agreements examined explicitly referred to the AWR decision. Several others were shaped by a state-based nurses' private hospitals award which had recently included a 3.5 per cent increase. A number of enterprise agreements in NSW explicitly referred to an official Memorandum of Understanding (MOU) between the Australian Medical Association (AMA) and the NSW Nurses and Midwives Association concerning nurses in general and specialised medical practices (so-called practice nurses). The quantum of increase in the MOU relevant to these enterprise agreements was 3.8 per cent. While wage increases in many of the enterprise agreements in this sector were in the range of 3.75–4.4 per cent per annum, those covering the eight enterprise agreements that were examined from Divisions of General Practice granted increases of only 3 per cent.

2.3.1.2 Provisions for discretionary and contingent pay

The formally specified wage increases noted above were, in some enterprise agreements, explicitly noted as being only the minimum wage increase provided. In all case study industries, other than Supermarket and Grocery Stores, a number of enterprise agreements provided for the possibility of further pay increases—subject to certain conditions being met or management discretion. Generally, discretionary and contingency pay would be awarded on an individual basis.⁵⁷ In Fast Food, for example, a particular 'slightly above the award' enterprise agreement—*Hollyberry Group Pty Ltd Enterprise Agreement 2010*—included a clause specifying that though minimum rates had been set, higher rates could be provided to employees:

This Agreement provides for minimum legal entitlements only and shall not restrict the Employer and Employees from agreeing to higher rates of pay, or additional benefits via a separate common law employment contract.

The *Grill'd Darlinghurst Enterprise Agreement 2010*, paying rates 30 per cent higher than award minima for a level 1 employee, specified that:

Grill'd may also in its absolute discretion, increase your Wage Rate after taking into account relevant factors, including your performance and prevailing market conditions both generally and relating to the operational requirements of the business.

Two of the enterprise agreements in Dairy and Beef Cattle Farming had similar provisions—so similar that they suggest potential patterns. Both made explicit reference to paying individuals at higher rates than the minimum contained in the agreement. The main difference was that one enterprise agreement linked changes in the minimum enterprise agreement rates directly to AWR increases:

6.2. The Employer's pay system is designed to encourage and reward high standards of work performance. In order to reward, encourage and retain employees with a strong record of service and performance, the

⁵⁷ It is important to note that in Australia award rates have usually only specified the minimum rates to be paid. Except in the case of so called 'paid rates' awards employers have always been free to pay above award rates. This convention of being able to pay the rate specified in the formal instrument appears also to operate with respect to agreement rates of pay.

Employer, at its discretion, may decide to pay an individual Employee at a higher rate than that which is prescribed in Schedule A of this Agreement. Such action by the Employer is intended to emphasise to each Employee that individual merit will be recognised and rewarded.

The minimum rates of pay for each hour worked are set out within this Schedule, and will be adjusted in line with changes to the Australian Fair Pay and Conditions Standard, or its successive legislative standard, as made from time to time. [*Macquarie Agricultural Services Dairy Division Enterprise Agreement 2010*]

The other agreement provided for percentage increases to the enterprise agreement minimum rates over the life of the enterprise agreement:

6.2 ... The ordinary hourly rates of pay include a 2.5% increase in the first year as shown above and 2.5% Increases per year over the remainder of the Agreement.

...

6.4 The pay system is designed to encourage and reward high standards of work performance. In order to reward, encourage and retain employees with a strong record of service and performance the Company, at its discretion, may decide to pay an individual employee at a higher rate than that which is prescribed at Sub-clause 6.2. Such action by the Company is intended to emphasise to each employee that individual merit will be recognised and rewarded. [*ICM Dairy Agreement 2009-2012*].

The situation in Domestic Waste Management concerning provisions of this nature was more formalised, and sometimes collective in nature. Six of the 19 enterprise agreements from this sector provided for additional payment for employees contingent on agreement Key Performance Indicator (KPI) targets being achieved. An example was the *Thiess Services Pty Ltd, Waste Management, NSW Landfills, Enterprise Agreement 2009-2012*, which contained clauses that provided for bonuses of \$100 per month if the collective group of employees achieved targets in areas of safety and performance. If targets were met consecutively over a six month period, then the amount of bonus increased. A clause in the *Transpacific Cleanaway Peakhurst (Municipal) Depot Drivers Enterprise Agreement 2010* contained bonuses for KPI achievements in punctuality, cab cleanliness, accident damage, missed services and complaints. The enterprise agreement stated that:

The bonus will be calculated quarterly ... and will be accumulated and paid in December each year. The payment shall be based on the performance as measured in the preceding four quarters.

Provisions of a similar but slightly different nature again existed in the Medical Services sector. In a small number of enterprise agreements, staff performance and appraisals were used as the benchmarks amongst other economic factors to determine wage increases (for example, the Prime Health Group). In one case (*Central Coast Division of General Practice Enterprise Agreement 2009*), discretionary bonus payments were also given.

2.3.1.3 Changes in conditions contained in the approved enterprise agreements

Across the five sectors studied, there were a number of patterns in the enterprise agreement provisions both between and within sectors. Issues of working time were prominent in Supermarket and Grocery Stores, Fast Food and Dairy and Beef Cattle Farming, and to a lesser extent, Medical Services. The only other issue with the potential for any major impact on earnings were provisions dealing with training and education. These were significant in all three private services sectors: Supermarket and Grocery Stores, Fast Food and Medical Services.

2.3.1.3.1 Hours of work provisions

In Supermarket and Grocery Stores (detailed in Appendix A5.1), differences from the *General Retail Industry Award 2010* (MA000004) (Retail Industry Award) were common in a wide range of matters associated with working time rights, obligations and entitlements.⁵⁸ For example, penalties for Sunday work were frequently reduced (e.g. from 200 per cent compared in the modern award to 150 per cent).⁵⁹ In larger enterprises, Saturday was treated like a standard weekday, the span of 'standard' hours was often defined to range over 19 and not 14 hours per day, and averaging of hours for the purposes of managing peaks in demand without having to pay overtime were common. It was apparent that the degree of change varied by industry tier.

High-tier retailers in this sector displayed a more comprehensive approach to linking changes in wages, hours of work, and other conditions of employment in their enterprise agreements. They typically built on previous enterprise agreements with unions involved in negotiations. Wage rates were prescribed above the award standard while still following the structure of the Retail Industry Award. Alongside wage rates that were higher than the relevant award, these enterprise agreements contained reduced penalty rates and higher thresholds for qualifying for overtime payments. There were also generally more detailed provisions regarding the management and rostering of hours, especially around caps on hours of work for part-time and casual employees.

Enterprise agreements from mid-tier Supermarket and Grocery Retailers took a more strategic approach to agreement making, as they used the opportunity to craft workplace arrangements suited to their particular needs. This was especially in relation to hours of work and working arrangements. Enterprise agreements in this category also showed signs of a more tailored approach to the classification structure. These enterprise agreements also tended to pay higher wages premiums (though not as high as the high-tier retailers), which appear to have been offset against savings gained through initiatives designed to deliver flexible hours of work and overtime arrangements.

The low-tier enterprise agreements displayed a simple approach to agreement making. They were overwhelmingly first generation enterprise agreements with evidence of pattern agreement making driven by an employer association. They mostly mirrored the award, with simple rules for rostering and tended to provide the lowest standards and wage rates possible under the law. There was no evidence of innovation or initiatives targeted to mould rates or conditions to workplace requirements.⁶⁰ The starkest deviation from the Retail Industry Award was in the classification structure, with most enterprise agreements referring to three classifications of sales workers instead of eight.⁶¹

Segmentation and clustering of conditions of a similar nature, but with different detailed content, were also evident in the Fast Food sector. The group of enterprise agreements providing well above award rates had 'rolled in' virtually all of the hours loadings specified in the *Fast Food Industry Award 2010* (MA000003) (Fast Food Industry Award). Absent from these agreements were Saturday and Sunday pay loadings. Only three of the seven enterprise agreements falling into this segment—*The Herdsman and Blah Blah Bar Staff Multi Enterprise Agreement 2010*, *CSSB Pty Ltd & CSSBH Pty Ltd - Enterprise Agreement 2010-2014*, and *Oporto (Franchising) Pty Limited - Enterprise Agreement*

⁵⁸ Note that only two of the analysed enterprise agreements referred to this modern award, while 15 referred to the state parent award. See Appendix 5.1.

⁵⁹ *General Retail Industry Award 2010* (MA000004), cl. 28.4(c).

⁶⁰ Further details are provided in the detailed qualitative analysis of agreements from Supermarket and Grocery Retailing in Appendix A5.1.

⁶¹ *General Retail Industry Award 2010* (MA000004), Schedule B.

2010-2014—specified night hours. However, in two of these enterprise agreements it was expected that employees would not work these hours and no night rate was provided. Only one of these enterprise agreements provided the Fast Food Industry Award public holiday loading of 250 per cent.⁶²

A greater number of enterprise agreements with wage rates sitting just above (i.e. 'slightly above the award') the Fast Food Industry Award provided Saturday, Sunday, evening and public holiday penalty rates. Two of the seven enterprise agreements in this segment did not provide Sunday rates, while the rest varied between 110 and 200 per cent. The *Tasty Trucks Production Enterprise Agreement 2010* paid a public holiday rate of 250 per cent, and a further four enterprise agreements paid 200 per cent. The *Mad Mex Fresh Mexican Grill Pty Ltd Enterprise Agreement* paid 130 per cent, while *The Hollyberry Group Pty Ltd Enterprise Agreement 2010* made no mention of pay loadings. The final group of enterprise agreements analysed, those categorised as 'award-reliant', generally provided penalties reflecting the Fast Food Industry Award or a fraction more. Details of the slight variations on this standard are provided in the full case study report in Appendix 5.

Enterprise agreements from the Dairy and Beef Cattle sector also contained numerous provisions and changing working time provisions in the *Pastoral Award 2010* (MA000035) (Pastoral Award). The most typical approach to this was imposing a longer cap on the hours worked before overtime applies (for example, after 45 hours worked per week, or 95 or 100 hours worked in a fortnight). Of the enterprise agreements analysed, two did not pay overtime at all and simply provided time-off in lieu (TOIL), and only after the extended cap on hours worked were met. In four enterprise agreements, cost savings were made by averaging hours between 12 and 52 weeks, rather than the four week period set in the Pastoral Award.⁶³ An issue particular to farming enterprise agreements was the change from traditional 'engagement by the hour' to that of 'a half day' or 'full day'. The half day was generally divided between work performed up until midday, and work performed from midday onwards.⁶⁴ This distinctive method of organising work to meet business demands was cited in the Lawn Hill Enterprise Agreement. The clauses were as follows:

As far as practicable work will be tailored to the needs of the Company's enterprise and the requirements of the livestock in accordance with industry practice. Within this general constraint, employees will be rostered to perform their duties in such a way that they have access to meaningful periods of leisure.

The basic unit of employed time shall be by the day (or half day) rather than the hour. The calculations of fair reward for Employees under this Agreement have been made on this basis. An Employee shall be paid according to the number of days (or half days) that they are required to, and actually do, work and not in accordance with the hours worked.

⁶² *Fast Food Industry Award 2010* (MA000003), cl. 30.3. Removing penalties from wages by 'rolling' the penalties into the pay rates is evidenced among the group of 'above award' enterprise agreements. Rolling in rates was provided as one of the main reasons for agreement making by the employer from the fast food formal over-award arrangement case study workplace (see Section 2.4.1.3). A union representative in this sector also identified the creation of wage premiums to remove penalty rates as an incentive for some employers to create formal over-award arrangements.

⁶³ *Pastoral Award 2010* (MA000035), cl. 30.2 and 35.5.

⁶⁴ One key stakeholder reported that this form of daily engagement had been the industry norm for several years. Provisions of this nature are regarded as acceptable in this sector because tribunals are reported to believe such work arrangements are necessary for farm viability. According to key industry informants, some agreements provide annual leave as high as 6–7 weeks as recognition for provisions of this nature.

Starting and finishing times of individuals or work groups shall be determined by reference to their particular work area and workloads on an operational basis. Times will vary with the particular work program and time during the year.

The average hours per week of an Employee, averaged over a 12 month period, shall not exceed 38 hours, plus reasonable additional hours. Where it is necessary for the purpose of calculating maximum permissible working hours to take into account leave taken, the number of hours of work nominally represented by a day or half day of leave is to be taken as the minimum number of working hours that a day or half day may comprise, namely five hours or two hours respectively.

Enterprise agreements covering nurses and support staff at Medical Practices contained working time entitlements that were modestly different from the *Nurses Award 2010* (MA000034) (Nurses Award).⁶⁵ Of the 22 enterprise agreements examined, five designated standard days as spanning from either Monday–Saturday or Monday–Sunday and only three provided the award minimum five weeks’ annual leave for nurses.⁶⁶ The remaining enterprise agreements differed from the award standard, by only providing for four weeks annual leave. It appears these were settled just prior to the introduction of the Nurses Award.

There were no major differences in working time entitlements in enterprise agreements made in the Domestic Waste Management sector.

2.3.1.3.2 Education and training provisions

A significant minority of enterprise agreements in three sectors had provisions dealing with education and training. In Supermarket and Grocery Stores one key difference in classification structures across both the high-tier and mid-tier supermarket enterprise agreements was the new entry point for shop assistants. Many enterprise agreements included an ‘induction’ retail employee/shop assistant, as distinct from someone employed as a trainee and undertaking an Australian apprenticeship. This rate was at a lower pay scale than the entry level award rate (about 5 per cent below the level 1 rate).⁶⁷ New workers were employed at this level for the first 3–4 months and then shifted to the entry level. Training or trial period as well as trainee classifications and lower associated rates of pay were also a feature of several Fast Food agreements. Training periods in the *KFC National Enterprise Agreement 2010* were specified as lasting for up to six months and ‘trainee employees other than delivery drivers shall be paid at 90 per cent of the appropriate weekly rate’. The *Pizza Hut - SDA National Employee Relations Agreement 2010* included an introductory grade customer service assistant classification that was paid 92 per cent of the customer service grade 3 (equivalent to the Fast Food Industry Award Level 1).⁶⁸

This ‘... is an entry level position and will comprise persons who have less than 6 months service with the employer.’

The provisions for education and training in the Medical Practices enterprise agreements were different to this. A little over half of the enterprise agreements included a provision for training, study or professional development leave. While a majority of enterprise agreements offered paid time away from work to attend a course, the *Haematology & Oncology Clinics of Australasia Pty Ltd* and *QNU*

⁶⁵ see *Nurses Award 2010* (MA000034), cl. 22.

⁶⁶ *Nurses Award 2010* (MA000034), cl. 31.1.

⁶⁷ *General Retail Industry Award 2010* (MA000004), cl.17.

⁶⁸ *Fast Food Industry Award 2010* (MA000003), cl.17.

Nursing Enterprise Agreement allocated a fixed sum of \$1500.00 per annum for work-related training/accreditation. These provisions appear to reflect the practice of continuing professional development that is integral to the health sector at large, at least for professional occupations. Support for continuing professional development is underpinned by the MOU between the Australian Medical Association (NSW Branch) and the NSW Nurses Association. It stipulates:

16.1 Each permanent full time employee is entitled to three paid professional development days in recognition of Continuing Professional Development registration requirements. Permanent part time employees receive this entitlement on a pro rata basis.

16.2 Once approved by the employer as relevant/appropriate, all reasonable expenses including the course fee and registration is fully paid and considered paid time under this Agreement.

16.3 In addition, both full and part time employees will be entitled to one day paid leave to attend NSWNA Annual Conference Professional Day for professional matters relating to nursing. Proof of registration to the conference will be provided to the employer upon request and expenses of attending the conference are not claimable from the employer.

2.3.2 How job classifications and wage relativities are handled in awards and enterprise agreements

In countries such as the USA, the UK and New Zealand, there are a limited number of 'minimum rates'—an absolute floor on the wages system below which no wage can fall. Rates above this minimum are for the parties to employment contracts and the market to determine. Australia's minimum wage system is different. Award rates of pay specify minimum wages and conditions for defined job categories. These standards are contained in instruments (i.e. modern awards) that are structured around industry, and in some cases, occupational categories. Within these instruments, particular classifications are specified. Specific minimum rates of pay are attached to each classification.

A question guiding this project has been: what impact have AWR increases had on over-award and agreement rates of pay? Given the nature of Australia's minimum wage regime, a key question becomes: how are classification structures defined in the enterprise agreements examined? And: how are wage levels in enterprise agreements compared to those contained in awards? If wage levels in enterprise agreements closely resemble those in awards, this may provide some evidence to suggest that AWR decisions have an impact on enterprise agreement making. However, if there is no resemblance, this would suggest that AWR increases have little or no impact on enterprise agreement making.

The analysis in this section proceeds as follows. First, drawing on the enterprise agreements that were subject to qualitative analysis, consideration was given to ascertaining how comparable classification structures in the enterprise agreements were with those in their reference awards. This established that there was enough comparability to enable an analysis of relativities in awards and enterprise agreements. Attention was then devoted to understanding how pay relativities in awards have evolved in recent decades. This analysis focused on pay relativities based on the C10 (or entry level trades) rate in the Manufacturing Award—this the commonly used reference point for pay relativities analysis in Australia.⁶⁹ Analysis of trends in relative pay levels in this benchmark award

⁶⁹ The C10 and its earlier incarnations have been the reference point for consideration of wage relativities in Australia for decades. In using this classification in this way it is important to emphasise that this is not regarding it a privileged or 'typical' job. This is a discussion of 'relativities'—not absolutes. Any consideration of relativities needs a numeraire or reference point. If the C10 was not used, another point could be substituted. The relativities between the classifications of interest

reveals that relativities have, as a result of successive AWR decisions, become compressed over the last two decades. Findings from the analysis of pay relativities in enterprise agreements in each of the five sectors are presented. Two types of relative pay structures are analysed.

The first is a consideration of differences in enterprise agreements based on a representative classification in each sector. For example, in the Supermarket and Grocery Stores sector, different rates of pay for an entry level sales assistant (i.e. a level 1 employee in the *General Retail Industry Award 2010* (MA000004)), as specified in the 26 enterprise agreements, are reported. By contrast, in Domestic Waste Management the pay rates for a garbage truck driver (i.e. a level 3 worker in the *Waste Management Award 2010* (MA000043) (Waste Management Award)) were compared across 12 enterprise agreements, where job categories in the enterprise agreements were comparable to those in the award.⁷⁰ This provides insights into how enterprises are positioning themselves in the labour market—lower or upper reaches or somewhere in between—as determined by reference to payments made for people classified as doing the same work.

The second refers to relative pay levels within agreements. This is reported in terms of how closely they correspond to, or deviate from, the relative pay structures contained in the relevant awards. Based on 77 enterprise agreements in the five case study sectors, the findings suggest that AWR increases do not appear to impact on external relativities (i.e. where employers position themselves in the labour market in wage terms), but they do appear to have had significant impact on the structure of internal relativities, especially in those sectors paying less than half, and especially less than two-thirds of median earnings.

2.3.2.1 Correspondence between award and enterprise agreement job classification

This section examines how classification structures are defined in enterprise agreements. For the purpose of analysis, classifications were categorised using the following four categories:

- the complete adoption (mirroring) of the modern award classification structure;
- the adoption of most parts of the modern award classification structure (with differences evident in one to three levels);
- occasional alignment to the modern award classification structure with signs of tailoring; and
- the adoption of a tailored (or non-linear) classification structure that does not reflect the modern award.

The findings from the research on this matter are summarised in Table 2.2, which notes the number of enterprise agreements falling into each of the above categories. The table shows that the classification structure in 16 enterprise agreements mirrored exactly that of the relevant award. In another 31 enterprise agreements there were only minor differences between these and classifications in the relevant modern award. Twenty-four agreements had classification structures that had recast job categories so comprehensively it was not possible to align rates in enterprise agreements with those in the modern award. In between these 'incomparable' enterprise agreements and those making minor modifications, were enterprise agreements where some alignment was possible. This was often the case if the enterprise agreement reflected an old state award that had been superseded by the formation of the national system and its new modern awards. Fifteen

reported would not change, just the numerical value of the relativity (for example, one classification could be double the value of another, irrespective of the relativity value itself).

⁷⁰ Details of the classifications used as reference points for the analysis of external relativities in the five sectors studied are provided in Appendix 5.

enterprise agreements, from small scale Supermarkets and Grocery Stores in Queensland categorised as 'award-reliant', provide a good example of this.

Table 2.2: Degree to which classification structures in approved enterprise agreements analysed aligned with those in modern awards.

	Complete adoption	Adoption of most parts	Occasional alignment	Extensive recasting preventing meaningful comparison
Supermarket and Grocery Retail	1	1	9 [15]	
Fast Food	3	15		7
Dairy and Beef Cattle Farming	2	2		4
Domestic Waste Management	6	6		6+1
Medical Practices	4	7	6	5
Total	16	31	30	23

Source: WRC analysis using Workplace Agreements Database (Department of Employment 2011, unpublished data). Details about how statistics in each of these cells were generated are provided in Appendix 5. The material in that Appendix also reports on the pay rates attached to each classification in an enterprise agreement and how they compare with each corresponding classification in the awards where such comparisons can be made.

2.3.2.2 Relativities in awards and agreements

This section reports and compares the relativities in awards and enterprise agreements from different sectors. First, consideration is given to movements in relative pay levels in awards, followed by an analysis of pay relativities in enterprise agreements.

2.3.2.2.1 Relativities in awards

Pay relativities within awards have evolved through different wage-setting regimes. Following award restructuring in the late 1980s, a 14 level classification structure was introduced to the *Metal and Associated Industries Award 1984* (M0039) to replace over 340 separate classifications.⁷¹ Rates set for the basic trades rate in this award (the C10 classifications) were formally set as the reference point for what were deemed to be comparable classifications in other awards.⁷² An analysis of pay relativities within the Manufacturing Award (and predecessor awards) is therefore instructive of what has happened across the award system.

Table 2.3 summarises how pay relativities have changed over the last two decades in this benchmark award. The impact of AWRs (and their earlier equivalents) is clear. Relative to the C10 rate, award rates have increased in the lower paid classifications. The entry level C14 rate (which is also now associated with the NMW) has risen from 78 to 85 per cent of the benchmark C10 rate. At the other

⁷¹ Full details of this process and the nature of the classification reforms are provided in J Buchanan, *Beyond Fragmented Flexibility? The restructuring of labour management in the Australian metal industry since the mid 1980s* (Ph D Dissertation, The University of Sydney Faculty of Economics and Business, November 2000), pp. 171–196.

⁷² T McDonald and M Rimmer, 'Award restructuring and wages policy', *Growth* 37, September 1989, pp.111–131.

end of the spectrum, award rates of pay have fallen in relative terms. At the beginning of the period a C2(b) advanced diploma qualified engineering job had an award rate 60 per cent higher than an entry level tradesperson. By the beginning of this decade the award premium was 35 per cent. This change in award relativities was primarily the result of a large number of AWR (and equivalent) decisions which awarded increases in award rates of pay on a flat dollar as opposed to percentage basis.

Table 2.3: Changes in award relativities, C14–C2(b) in the Manufacturing Award, 1990–2010

Award category	Classification rates as a proportion of the C10 rate (relativities)		
	1993	2005	2010 ^a
14	78	84	85
13	82	87	88
12	87	91	92
11	92	94	95
10	100	100	100
9	105	104	103
8	110	107	106
7	115	110	109
6	125	118	115
5	130	121	117
4	135	125	120
3	145	132	127
2 (a)	150	136	128
2 (b)	160	142	135

Note: a) These are transitional award rates as at 30 June. Relativities very closely align to relativities in the award at 1 July 2010.

Source: *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010), as at 30 June 2010; Australian Industrial Relations Commission (1998), *Safety Net Review—Wages—April 1997 decision*, Print P1997, 22 April 1998 in Healy, J. 2010, *The Wages Safety Net of the Australian Industrial Relations Commission, 1993-2005*, unpublished Ph.D. thesis, Flinders University, Adelaide.

Figure 2.1 summarises the award relativities for the key modern awards relevant to the five case study sectors covered in this report. A number of points stand out from this figure.

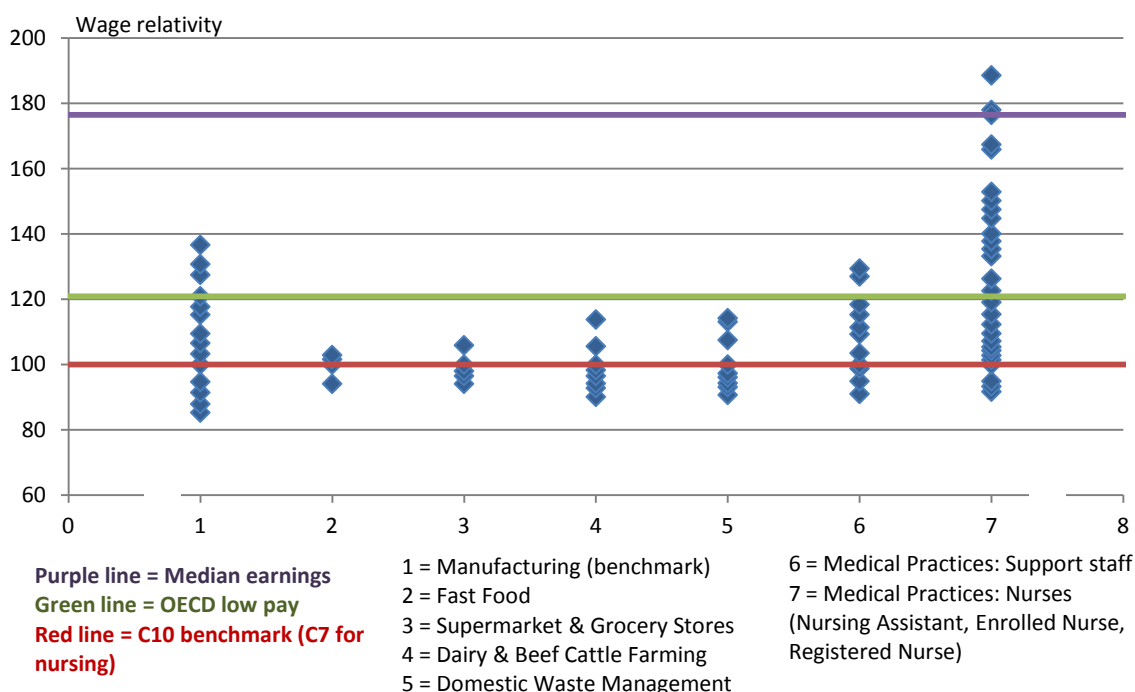
- Other than the advanced nursing classifications, all award rates are below median earnings. Most of these award rates sit at around two-thirds of median earnings (AWOTE basis)—the Organisation for Economic Co-operation and Development's (OECD's) definition of 'low pay'.⁷³ When interpreting the relativities examined below, it is important to appreciate the level of award rates of pay relative to these benchmarks.
- Other than the classification structures in the Nurses Award and the *Health Professionals and Support Services Award 2010* (MA000027) (Health Award), the classifications in the other sectors span a far smaller range of classifications than those in the Manufacturing Award. The

⁷³ See Organisation for Economic Cooperation and Development (1996), *Employment Outlook, Chapter 3: Earnings Inequality, Low-paid Employment and Earnings Mobility*. Available from <http://www.oecd.org/els/oecdemploymentoutlook-downloadableeditions1989-2011.htm>.

classification structure in the Fast Food Industry Award (Figure 2.1 category 2) is the most compressed, with only four effective classifications. These align closely with or fall between the C11 and C9 classifications in the Manufacturing Award. The classifications within the other non-medical practice awards align closely with or fall between the C12 and C6 classifications in the Manufacturing Award.

In the Medical Practices field, different awards cover support staff and nurses. The classifications for support staff range from the equivalent of the Manufacturing Award C12 to C2 classification—nearly the full range of the Manufacturing Award. The Nursing Award starts at a classification equivalent to the Manufacturing Award C11 (for assistants in nursing) and extends to categories that pay in excess of median earnings. These are essentially postgraduate degree-qualified nurses, often in senior management positions for which there is no equivalent classification in the Manufacturing Award. Due to the higher wages in nursing, the Manufacturing C7 rate was used as a benchmark for this sector rather than the C10 rate used for other industries.

Figure 2.1: Award relativities for each classification level, as at 30 June 2010



Note: 1) Award versions at 30 June 2010 were used for wage benchmarks in this report, including the case study analysis detailed in Appendix 5. These are transitional rates, however the relativities are unlikely to vary substantially between 30 June 2010 and 1 July 2010 versions of awards. 2) Relativities are calculated for the classification level aligning with the Manufacturing C10 rate, except for category 7 (Medical Practices: Nurses) which uses a benchmark aligned with the C7 rate. 3) OECD low pay is defined as two-thirds of median weekly total cash earnings at May 2010. 4) Further information about the award classifications and relativities are provided in Appendix 6.

Source: (Awards): *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010) as at 30 June 2010; *Fast Food Industry Award 2010* (MA000003) as at 30 June 2010; *General Retail Industry Award 2010* (MA000004) as at 30 June 2010; *Pastoral Award 2010* (MA000035), as at 30 June 2010; *Waste Management Award 2010* (MA000043) as at 30 June 2010; *Health Professionals and Support Services Award 2010* (MA000027) as at 30 June 2010; *Nurses Award 2010* (MA000034) as at June 2010.

Source: (Benchmarks): WRC analysis using ABS, *Employee Earnings and Hours, Australia, May 2010 - Weekly total cash earnings, Distribution, Catalogue No. 6306.0, Table 1* and OECD (1996) *Employment Outlook, Chapter 3: Earnings Inequality, Low-paid Employment and Earnings Mobility*, accessed 3 April 2013, from <http://www.oecd.org/els/oecdemploymentoutlook-downloadableeditions1989-2011.htm>.

2.3.2.2.2 Relativities in enterprise agreements

Details of the pay rates in the approved enterprise agreements from the case study sectors are provided in Section 2.3.1 and Appendix 5. The complexities associated with gathering and interpreting this material were reported. What follows is a summary of the findings common across the industries, which reports two findings.

The first concerns what are termed 'external relativities'—how rates in enterprise agreements compare between enterprises and to the award. This sub-section is based on comparisons of pay rates for an exemplar classification in each industry (e.g. a grade 3 worker in Domestic Waste Services or garbage truck driver). This analysis revealed that there was considerable variability in agreement rates for people classified as doing the same type of work amongst the agreements examined. That is, there were significant deviations in rates in enterprise agreements for the same job ranging from the following categories: 'identical to'; 'slightly above' or 'clearly exceeding' the award rate.

Second, when the internal relativities (i.e. those within enterprise agreements) were examined, there was much commonality between the relativities within the agreements. So while enterprises may have differed as to how they located themselves in the labour market—revealed in the level which they paid above-award rates—there was not much difference in internal relativities among enterprise agreements from the same sector and the relativity in the relevant award. This situation prevailed in four of the five sectors examined. It did not, however, prevail in nursing, especially for senior Registered Nurses.

2.3.2.2.2.1 External agreement relativities: how enterprise agreement rates for one exemplar classification per sector compare across enterprises within sector

Enterprise agreements give employers, their workers and unions the opportunity to settle arrangements appropriate to the immediate parties. To analyse where enterprises were placed in terms of agreement rates, a key occupational group was selected and for each of these the entry level classification was identified. The occupational categories selected as exemplars for the purposes of this analysis were as follows.

- Category 1 (Fast Food): an entry level employee (such as a sales assistant or kitchen hand) in fast food, i.e. level 1 or equivalent from the *Fast Food Industry Award 2010* (MA000003).
- Category 2 (Supermarket and Grocery Stores): an entry level sales assistant in food retailing, i.e. level 1 or equivalent in the *General Retail Industry Award 2010* (MA000004).
- Category 3 (Dairy and Beef Cattle Farming): an experienced farm hand, i.e. a level 3 Farm and Livestock Hand in the *Pastoral Award 2010* (MA000035).
- Category 4 (Domestic Waste Management): a garbage truck driver, i.e. a level 3 worker from the *Waste Management Award 2010* (MA000043).
- Category 5 (Medical Practices: support staff): a secretarial/clerical employee with some experience in general medical practice, i.e. a level 3 worker in the *Health Professionals and Support Services Award 2010* (MA000027).
- Category 6 (Medical Practices: Nurses): an Enrolled Nurse Level 1 and a Registered Nurse Level 1(1) in the *Nurses Award 2010* (MA000034).

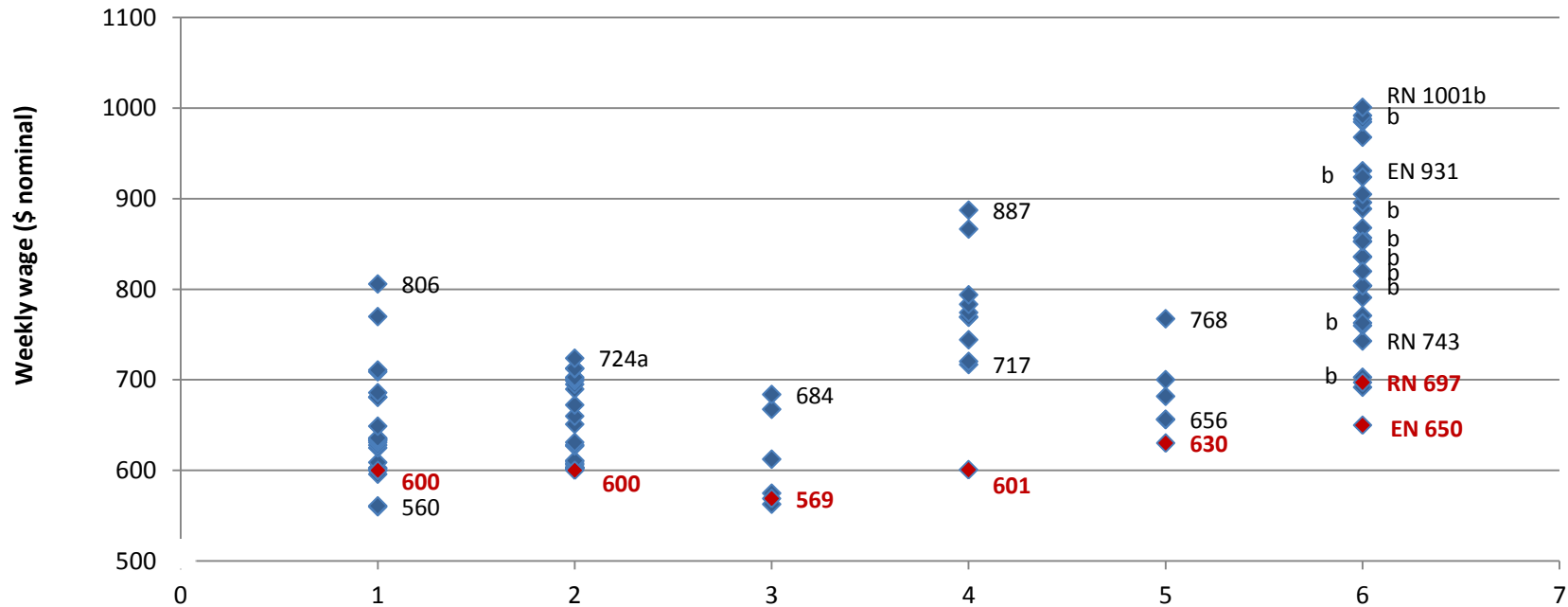
The variability in agreement rates for each of these job categories is summarised in Figure 2.2. In this figure, each diamond represents the wage rates for the exemplar classifications contained in the enterprise agreements, grouped according to the five industry sector case studies.⁷⁴ Amongst base grade sales workers in the Fast Food industry, the range was between \$40.00 (or 7 per cent) below the award rate (as a result of transition arrangements) to \$206.00 (or 34 per cent) above the award. Outside of registered nursing, the biggest gap between award and agreement rates was in Domestic Waste Management—where the minimum difference was \$116.00 (or 19 per cent) to a maximum of \$286.00 (or 48 per cent) above the award. This figure provides evidence that employers positioned themselves in very different parts of their labour market based on agreement rates in exemplar job categories. The most compressed external relativities were in Supermarket and Grocery Stores, where the exemplar rates ranged from the award rate to \$124.00 (or 21 per cent) above the award, and for Medical Practices: Support Services, where the rates ranged from \$16.00 (or 2.5 per cent) to \$148.00 (or 23 per cent) above the award.

Nominal wages are used as the majority of enterprise agreements were approved between 1 July 2010 and 30 June 2011. Due to inflation effects within this period, the real value of wages can vary slightly from the graph's distribution. For consistency, award rates used are as at 30 June 2010.⁷⁵ Full details of the rates are provided in each of the relevant industries in Appendix 5, while these data are consolidated in table form in Appendix 6.

⁷⁴ Due to the dispersion in rates and the different relevant modern awards, the classifications for medical support staff and nursing staff have been grouped separately.

⁷⁵ Award versions at 30 June were used for wage benchmarks in this report, including the case study analysis detailed in Appendix 5. These are transitional rates, however the relativities are unlikely to vary substantially between the 30 June 2010 and 1 July 2010 versions of awards.

Figure 2.2: Going pay rates for a key job category in selected industry sectors, for strategically selected enterprise agreements



Red points = award rates

- 1 = Fast Food (Level 1)
- 2 = Supermarket & Grocery Stores (Level 1)
- 3 = Dairy & Beef Cattle Farming (Level 3)
- 4 = Domestic Waste Management (Level 3)
- 5 = Medical Practices: Support Services (Level 3)
- 6 = Medical Practices: Nurses - Enrolled (Level 1) and Registered (Level 1)

Note: a) Wage rates implemented after July 2011 (Coles 7 September 2011, \$724); b) Wage rates implemented between January 2010–June 2010: EN 703, 804 (2 agreements), 836, 889; RN 760, 820, 853, 924, 992, 1001.

Notes: Sample size n = 6 modern awards and 65 agreements: Fast Food (23), Supermarket and Grocery Stores (30), Dairy and Beef Cattle Farming (6), Domestic Waste Management (11), Medical Practices: Support Services (5), and Medical Practices: Nurses (13).

Source: WRC analysis using Workplace Agreements Database (Department of Employment 2011, unpublished data) and modern awards (listed under Figure 2.1).

2.3.2.2.2 Internal agreement relativities: how the pay of different classifications within an enterprise agreement compare with each other within the enterprise

In Appendix 6, information on internal wage relativities is provided for each industry sector. The information is presented using three wage reference points from enterprise agreements with classification structures that were comparable to the relevant modern awards. The wage points represent a stylised lower bound, upper bound, and median comparator. The lower bound is based on the entry point for the key classification (this is the information that was presented in Figure 2.2). The upper bound represents an advanced classification level for the same occupational stream, while the median comparator is the C10 equivalent rate (except in the case of the higher-paid nursing occupations, where the C7 rate is used instead). Each classification for the five industry sectors is shown in Table 2.4.

Table 2.4: Classification levels for lower, upper and median reference points

Key occupation	Classification level		
	Entry level	Advanced	C10/ median comparator
Fast Food: customer service assistant	1	3(2)	2
Supermarket and Grocery Stores: sales assistant	1	8	4
Dairy and Beef Cattle Farming: farm and livestock hand	1	8	6
Domestic Waste Management: garbage truck driver	1	9	6
Medical Practices: support services	1	9(1)	4
Medical: nurses			
	Nursing assistant	1st year	3rd year
	Enrolled nurses	1	5
	Registered nurses	1(1)	5(2)

Notes: 1) Award versions at 30 June were used for wage benchmarks in this report, including the case study analysis detailed in Appendix 5. These are transitional rates, however the relativities are unlikely to vary substantially between the 30 June 2010 and 1 July 2010 versions of awards. 2) Numbers in brackets are pay point levels.

Source: *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010) as at 30 June 2010; *Fast Food Industry Award 2010* (MA000003) as at 30 June 2010; *General Retail Industry Award 2010* (MA000004) as at 30 June 2010; *Pastoral Award 2010* (MA000035), as at 30 June 2010; *Waste Management Award 2010* (MA000043) as at 30 June 2010; *Health Professionals and Support Services Award 2010* (MA000027) as at 30 June 2010; *Nurses Award 2010* (MA000034) as at June 2010.

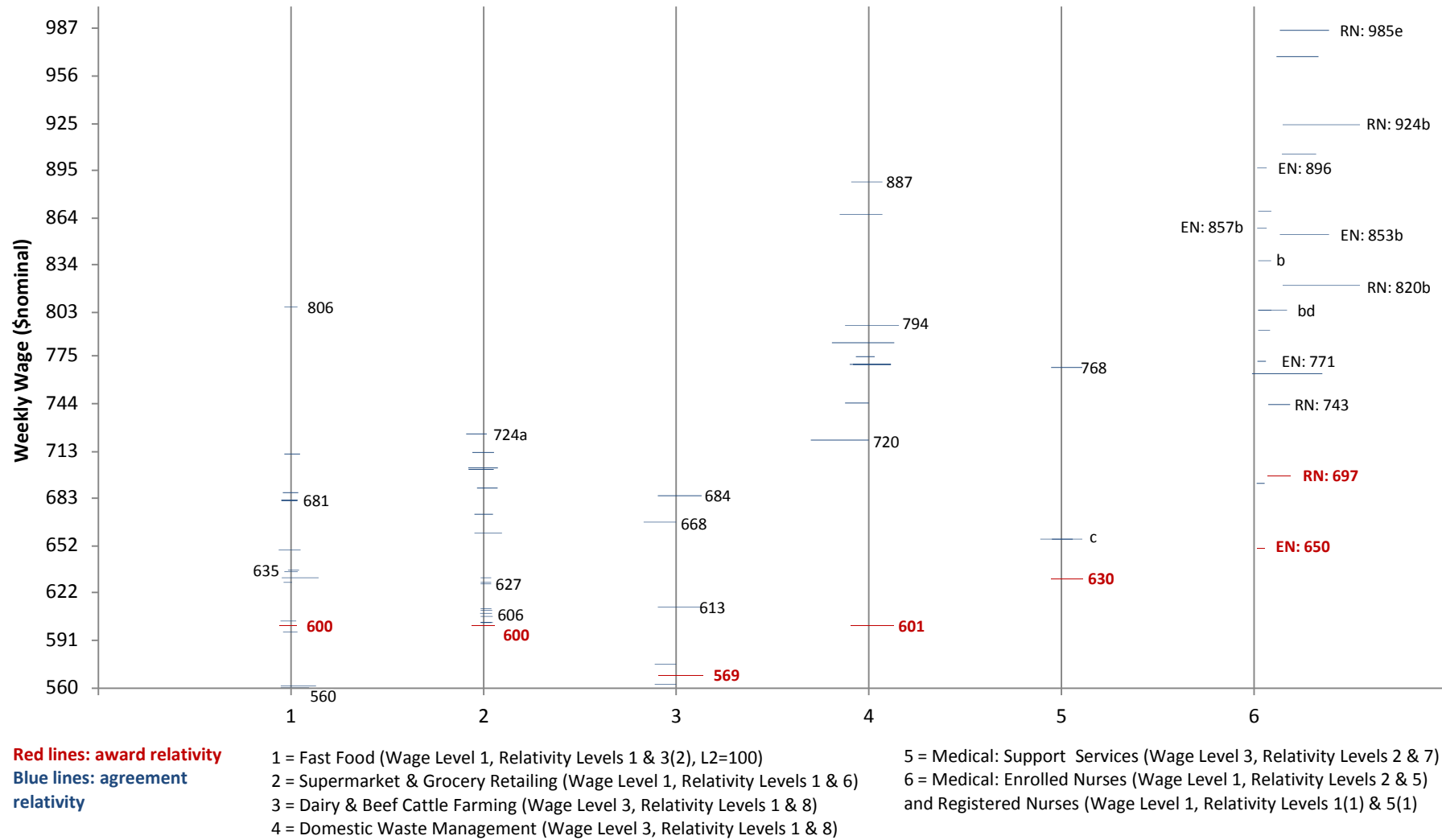
This information is presented graphically in Figure 2.3 below. Each bar's position on the vertical axis indicates the weekly wages for the entry-level exemplar classifications. The length of the horizontal lines summarises the difference between the entry level and advanced classifications considered in the analysis. The point at which the horizontal line intersects with the vertical line represents where the classification that is the equivalent of the C10 classification sits. The left and right endpoints of the bar indicate the upper and lower bound of key classifications, expressed as a proportion of the agreement's C10 equivalent rate. A longer horizontal bar indicates a wider dispersion of pay rates within the enterprise agreement. For example, in Fast Food, the left-hand side of the horizontal line refers to the relativity of the level 1 rate to the level 2 rate, for this sector and the right-hand side refers to the relativity of the level 3(2) rate to the level 2 rate. At the bottom, the relativities for the enterprise agreement, paying \$560.00 for the level 1 classification, range from 94.7 per cent for the level

1 position to 109.4 per cent of the level 2 rate for the level 3(2) rate. The narrower bar for the highest paying Fast Food enterprise agreement (\$806.00 for a level 1 classification) indicates a narrower set of relativities, ranging from 96 per cent to 103 per cent.

Except for one or two outliers, the figure shows that, outside of nursing, no matter where the enterprise is positioned in the labour market in terms of rates paid for the exemplar classification, internal relativities were similar between enterprise agreements. Enterprise agreement relativities were also very close to the relativities contained in the relevant award. Again, the situation for nursing, especially for Registered Nurses, is different. Some of the key features of this figure are as follows.

- Dairy and Beef Cattle Farming (category 3) have the lowest award rates amongst the exemplar occupations and some of the lowest rates in enterprise agreements. The relativities are very similar to those in the Pastoral Award, but two of the enterprise agreements do not contain reportable information on level 8—the highest award classification (equivalent to C6 in the Manufacturing Award).
- The Fast Food (category 1) and Supermarket and Grocery Stores (category 2) enterprise agreements have many similarities: similar base award rates at entry level for customer service work, roughly similar spread in dispersion of agreement rates for this exemplar classification and once again very similar internal relativities, no matter where the enterprise is positioned in the labour market in wage terms.
- With the exception of Medical Practices: Nursing enterprise agreements (category 6), the Domestic Waste Management (category 4) enterprise agreements have the most variability in internal relativities. Although the enterprise agreements have largely retained the award classification structure, there are instances of compressed and expanded internal relativities.
- The situation in Medical Practices highlights the importance of taking account of different occupational labour market settings and relative pay positioning. The situation for white collar medical support services staff (category 5) is very similar to the other service sectors—Fast Food and Supermarket and Grocery Stores. The situation for Enrolled Nurses (at the lower end of category 6) is also similar to these service occupations. Registered Nurses, however, have a completely different situation. As noted earlier, their rates of pay in enterprise agreements are consistently and considerably higher than the Nurses Award. The dispersion in relativities, especially in the upper reaches of the professions is very different to that in the award. Nursing enterprise agreements represent the highest rates of pay, while the waste services relativities are much closer to those in the relevant award compared to the situation prevailing for senior Registered Nurses.

Figure 2.3: Entry level rates and wage relativities in a sample of enterprise agreements



Note: a) Wage rates implemented between January 2010–June 2010: EN 804, 836, 857; RN 853, 924; b) Wage rates implemented after July 2011 (Coles 7 September 2011, \$724). c) Two agreements: wage \$656.26, relativity range of 95.1–110.9, and wage \$656.64, relativity range 89.1–105.9; d) Two agreements: (EN) wage \$804, relativity range 102.2–108.8, (EN) wage \$804, relativity range 102.2–117.10; e) Classification structure notably differs from other agreements in the industry.

Note: 1) **Sample size:** n= 6 modern awards and 65 enterprise agreements: Fast Food (15), Supermarket & Grocery Stores (18), Dairy & Beef Cattle Farming (6), Domestic Waste Management (10), Medical Practices: Support Services (4), and Medical Practices: Nurses (11). 2) Nominal wages are used as the majority of enterprise agreements were approved between 1 July 2010 and 30 June 2011. Due to inflation effects within this period, the real value of wages can vary slightly from the graph's distribution. For consistency, award rates used are as at 30 June 2010. Full details of the rates are provided in each of the relevant subsections in Appendix 5, while these data are consolidated in table form in Appendix 6.

Note on how to read this graph: Each bar's position on the vertical axis indicates the weekly wages for the entry-level exemplar classifications, set out in Section 2.3.2.2.2.1. The length of the bar contains information about the relativities of two classifications within the agreement. On the horizontal axis, the point at which it intersects with the vertical axis for each group represents 100% of the agreement's C10 equivalent rate (C7 for the nursing classifications in group six). The left and right endpoints of the bar indicate the upper and lower bound of key classifications, expressed as a proportion of the agreement's C10 equivalent rate. A longer horizontal bar indicates a wider dispersion of pay rates within the agreement. For example, in Fast Food, the left-hand side of the horizontal line refers to the relativity of level 1 to level 2 for this sector and right side to the relativity of the level 3(2) rate to the level 2 rate. At the bottom, the relativities for the agreement paying \$560 for the level 1 classification range from 94.7 per cent for the level 1 position compared to the level 2 classification. The level 3(2) classification pay is 109.4 of the level 2 classification. The narrower bar for the highest paying fast food agreement (\$806 for a level 1 classification) indicates a narrower set of relativities, ranging from 96 per cent to 103 per cent.

Source: WRC analysis using Workplace Agreements Database (Department of Employment 2011, unpublished data); *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010) as at 30 June 2010 (levels C2(b)–C14); *Fast Food Industry Award 2010* (MA000003) as at 30 June 2010 (levels 1–3(2)); *General Retail Industry Award 2010* (MA000004) as at 30 June 2010 (Retail Employee Levels 1–8); *Pastoral Award 2010* (MA000035) (Farm and Labour Hand Levels 1–8); *Waste Management Award 2010* (MA000043) as at 30 June 2010 (levels 1-9); *Health Professionals and Support Services Award 2010* (MA000027) as at 30 June 2010 (Support Service Employees Levels 1–9(1)); *Nurses Award 2010* (MA000034) as at June 2010 (EN(1)-RN5(2)).

2.3.2.3 Summary

Section 2.3 considered the impact of AWR increases on pay relativities in a selection of 97 approved enterprise agreements, focusing on five case study industry sectors: Supermarket and Grocery Stores, Fast Food, Dairy and Beef Cattle Farming, Domestic Waste Management, and Medical Practices. The analysis covered external pay relativities (the relationship between the enterprise agreement rates of pay and those in the relevant award, for a selected exemplar classification) and internal pay relativities (pay rates for entry level and advanced classifications, expressed as a proportion of the C10 equivalent or other benchmark median rate).

The analysis showed diverse outcomes in relation to external relativities for the enterprise agreements analysed. In some industries there was considerable dispersion away from the modern award rate (such as Fast Food, Domestic Waste Management, and nursing rates for Medical Practices) yet in other sectors (notably Supermarket and Grocery Retail and Dairy and Beef Cattle Farming) rates of pay in the enterprise agreements analysed remained close to the relevant award rates. Despite the range of external relativities, across the industries, the internal relativities within enterprise agreements analysed remained similar to those of the relevant modern award. Only in one sector (nursing) was there evidence that enterprise agreement making for analysed agreements had widened the internal and external relativities beyond the relativities of the underlying modern award. It was considered that a factor relevant to widening could be the relatively skilled nature of the occupations in this sector and their ability to earn above median earnings (i.e. registered nurses).

On the basis of the enterprise agreements examined, AWR increases appeared to have influenced enterprise agreement rates primarily through their provision of a reference point for setting relativities. As award relativities have been compressed, so have relativities in the enterprise agreements analysed (which chiefly covered workers in the lower reaches of the labour market). There was little evidence in the enterprise agreements studied that employees were able to use agreement making to offset the fall in their relative earnings. While this fall in relative earnings may have provided a material incentive for these employees to bargain further, they appear on this evidence to have not acted on the incentive or, if they have, have been unsuccessful in achieving their objectives. In the next section we assess, among other things, what processes have been associated with these outcomes in the case study sectors.

2.4 Workplace case study analysis

In this section, analysis moves to consider how, if at all, the AWR decision impacts on wage outcomes and bargaining processes at the workplace level (hereafter referred to as 'AWR increases').

As noted in the section on Research design, workplaces were selected systematically to ensure experiences from a diverse range of settings informed the analysis. This was achieved by a three stage selection process. The first involved dividing the labour market into three distinct segments based on an industry's predominant form of wage determination involving either (a) collective agreements, (b) a high level of direct reliance on awards or (c) informal, usually individually-based, over-award arrangements. Within these sectors effort was made to select two industries, one predominantly blue collar and one predominantly white collar. And within each sub-industry finally selected for inclusion, workplaces of comparable size and specific product/service produced were identified. At least three sites within these precisely defined sub-industries were then selected for detailed interviewing. They were deliberately chosen to ensure the experiences of sites with different predominant modes of wage determination informed the analysis. A summary of the key features of the sites included in the project field work are summarised in Table 2.5 below.

Table 2.5: Case study matrix—descriptive characteristics

ANZSIC Subdivision	Sub-sector for workplace case studies	Award	Informal over-award	Formal over-award
Predominantly Agreement				
Food Retailing (41)	Independent Grocery Retail (part of 411)	Regional Owner operated Medium-sized business		Outer-metropolitan Owner operated Medium-sized business Inner-metropolitan Owner operated Medium-sized business
Predominantly individual (over-award) arrangements				
Waste Collection, Treatment and Disposal Services (29)	Domestic Waste Collection (parts of 2911 & 292)	Regional Owner operated Medium-sized business		Inner-metropolitan Owner/manager operated Medium-sized business NSW inner-metropolitan Corporate owned Large-sized business
Medical and Other Health Care Services (85)	Private General Medical Practices (part of 8511)	Outer-metropolitan Owner operated Small-sized business	Inner-metropolitan medical practice Silent owner, financial manager present Small-sized business	Inner-metropolitan Owner operated Medium-sized business
Predominantly award-reliant				
Agriculture (01)	Dairy Cattle Farming (016)	Regional Corporate owned Small-sized business	Regional Family owned Small-sized business	Regional Corporate owned Small-sized business
Food and Beverage Services (45)	Franchise Fast Food Services (part of 4511 & 4512)	Inner-metropolitan Corporate owned Small-sized business	Outer-metropolitan Franchisee owned Small-sized business	Inner-metropolitan Corporate owned Small-sized business Inner-metropolitan Franchisee owned Small-sized business
Social Assistance Services (87)	Child Care Services (Long Day Care) (part of 871)	Regional Owner/manager operated Small-sized business	Inner-metropolitan Owner operated, with parent management committee Small-sized business	Regional child care centre Owner/manager operated Medium-sized business
		Outer-metropolitan Owner operated Small-sized business		

Interviews with key managerial and non-managerial personnel at these sites helped to generate new knowledge to answer the following questions.

- How, if at all, do minimum wages affect wages, enterprise agreement and informal arrangement content and bargaining?
- Under what conditions does enterprise agreement making and/or other over-award wage setting occur?
- What is the nature of bargaining, if any, associated with those workplaces with enterprise agreements and/or other over-award arrangements?
- Even if a workplace does not have an enterprise agreement, what bargaining, if any, occurs over pay?

The collection of information by means of semi-structured interviews at workplace level helped to generate new knowledge about the nature and importance of 'context' broadly defined and the often

highly informal processes involved in shaping wage outcomes and bargaining processes. Special attention was devoted to interviewing both senior management and, where relevant, supervisory level staff. In addition, employees both experienced and new were interviewed wherever possible. This helped to ensure that a balanced account of workplace practice informed the analysis.

While organisations underwent an initial screening process to accurately identify their wage-setting arrangements according to determined industry and workplace selection criteria, in some cases workplaces did not easily sit in one category. This complexity generally emerged only after intensive interviewing at the workplace across both management and employee roles. Some case study sites were more accurately described as having a 'mix' of different wage-setting arrangements rather than a predominant wage-setting arrangement, and in some cases individual employees and managers did not have a complete understanding of all of the wage-setting arrangements used in their workplace.

To protect the anonymity of both workplaces visited and personnel interviewed, reports on individual workplaces have not been produced. Instead, the findings have been reported as brief sub-industry case studies. The reports have a common structure. Each commences with an account of the nature of the operating context shaping the workplaces studied. This is followed by two sub-sections that engage with the two research questions driving this project. The first provides an account of the findings on the role of over-award pay rates in the sector and observations on how, if at all, these are affected by AWR increases. The second provides an account of the nature of the interaction between minimum wages, AWR increases and the incentive to bargain.

Before commencing the detailed analyses that follow, it is important that the reader appreciates the key finding from this qualitative fieldwork based component of the study, which is that: AWR increases, bargaining and agreement making did not appear to play a very significant role in the business strategies of most managers and working lives of most employees interviewed. A proper understanding of the impact of minimum wage increases on wage outcomes and bargaining processes is only possible if this fundamental fact is properly appreciated. The commentary that follows provides an account of the often at best subtle (and at worst highly limited) impact of AWR increases in the sites examined. This provides the background to the more considered analysis of the factors that do shape the incentives to bargain for employer and employees in the sections following the industry case studies.

2.4.1 Workplace case studies

The following section provides an analysis of workplaces in six industry or sectors being:

- Independent Grocery Retail;
- Private General Medical Practices;
- Franchise Fast Food Services;
- Domestic Waste Management;
- Dairy Cattle Farming; and
- Child Care Services (Long Day Care).

2.4.1.1 Independent Grocery Retail

2.4.1.1.1 Operating context

Almost 285 000 people are employed in grocery retailing (including supermarkets) accounting for almost one-quarter (23.9 per cent) of all Retail industry employment in Australia.⁷⁶ Grocery retailing is highly competitive, operates on low margins, and is dominated by two large employers.⁷⁷ Profitability is maintained through volume of sales, with emphasis placed on high and continuous turnover of low cost product. While there may be some variation in the type of products stocked by different operators, grocery retailing is generally comprised of a mix of pre-packaged (branded) household goods and processed foods, fresh grocery goods, and some speciality departments including bakery, butcher and delicatessen.

Customer service in grocery retailing is generally comprised of a set of core (constituent) daily activities including: maintaining appropriate quantities of stock to meet consumer demand (monitoring levels of stock and ordering from vendors); stacking shelves and replenishing fresh produce and perishable items; and maintaining quality standards of customer service (ensuring counter staff are attentive, and check out and cashier processes deliver prompt service). All of these activities are highly labour intensive. The grocery retailing labour force includes a high proportion of casual and part-time workers, and labour turnover is high. Much of the work within the grocery retailing sector is low paid and considered low skill work.⁷⁸ Each of the three workplaces included in the study employed staff in a mix of shop assistant roles, management, department managers and specialty trades (butchers in the cases outlined).

The two major supermarket retailers have a long history of enterprise bargaining (and prior to that enterprise awards). For that reason, the independent grocery retailing sector of the grocery retailing industry division was selected for the case studies. The case studies included in this research were located in urban and regional areas, and included workplaces where the predominant wage-setting arrangement was award-reliant (with a small number of staff paid over-award rates) and also where there were formal over-award arrangements (enterprise agreements).

2.4.1.1.2 Qualitative findings on the role of over-award pay rates in the sector and exploring the relationship to minimum wage increases

Across the three case study workplaces in this sector, both employer/manager and employee interviewees reported that AWR increases had exercised little or no direct influence on the over-award pay rates in place at their workplaces. Two other factors—meeting market rates and (rewarding) individual performance—were considerably more influential in determining wages.

2.4.1.1.2.1 The emphasis on performance management

At the three case study workplaces, individual performance was a significant determinant of wage rates. This was true even in the award-reliant workplace, where a small number of staff were paid over-award rates. Typically these were department or store managers and butchers (specialty trades).

⁷⁶ ABS, *Labour Force Survey – Detailed Quarterly – May 2013*, Catalogue No. 6291.0.55.003, Data cube E06, Employed Persons by Sex, Industry, State, Status in Employment.

⁷⁷ Productivity Commission (2011) *Economic Structure and Performance of the Australian Retail Industry* (Inquiry Report No. 56), Commonwealth of Australia.

⁷⁸ Price, R. (2004) "Checking out supermarket labour usage: the nature of labour usage and employment relations consequences in a food retail firm in Australia", PhD thesis, Department of Industrial Relations, Griffith University, Brisbane.

These roles have quantifiable performance outcomes associated with their work and according to interviewees, the evidence base which justified the over-award arrangements was very important. For example, the performance of butchers could be calculated on the amount of meat sectioned and prepared for sale and through tracking sales (both at the departmental and aggregate store level). Similarly for managers, performance was closely monitored through the meeting of budget targets (at both the departmental and aggregate store level).

Even where performance could not be easily quantified, the employers across the three case study sites explained the importance of individual performance to the process of wage determinations and workplace conversations about wages. They noted that AWR increases had no bearing on the deliberations about over-award wages. In the following quote, the manager discusses the need to retain an employee, but also emphasises the role that performance plays in influencing pay rates:

'Well it's quite easy. If you're a very good deli manager, the award may say your rate is equivalent to \$45,000 a year for 40 hours... So you sit down and she says, I'm going unless you give me \$50,000. So I'll say, oh, look, you're making it hard. Let's put you on probation. We'll do it for three months. See how you go. If they're worth their money, they're worth \$50,000.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

In a number of instances involving skilled (especially managerial) employees across the case study sites, the individual performance measures in place at the store level were linked directly to store targets and budgets. In other cases however, store managers had little option but to follow the wage assessment processes which existed across multiple stores, so their ability to consider other factors in revising or reconsidering wage arrangements was limited. While it was reported that performance was the most important factor in determining wages for individuals and across the store as a whole, some employers noted that minimum wage increases might be passed on to employees earning over-award rates if performance was seen as being good and in circumstances where there was a perception that wage rates were falling behind in some way.

'In July yep, from time to time that was just passed on to our salary workers ... it just depends on how I feel they're performing or how the business is performing or where I think they're situated with the whole award. If I think they're falling behind we'll pass it on. Or they'll come and ask me and then we'll pass it on. But sometimes it's just sort of a gut feeling. I'll think yeah I'll give it to them... Last year we didn't pass it on. The year before we did... Well the year before I was asked for it by a couple of employees so I said yep righto, we'll pass it on... I've said look you know, your performance is really good, you're doing an absolutely fantastic job... we'll increase your rate of pay by \$2 a week or \$3 or \$20 a week... I look at their performance, the performance of the department, the profit margins. It's predominantly all based around the performance. How the shop's performing in sales or profit-wise, how they're performing themselves personally.' [Manager, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

This quote generally reflects the wage adjustment mechanisms applicable in all of the independent groceries studied. While there were basic systems of performance related pay in place, these were primarily for skilled, and especially supervisory, staff. Moreover, the tight margins at all three stores limited how much could be paid as part of these arrangements and where discretionary payments were granted, this occurred on an ad hoc basis.

The employee participants recognised the role of performance in influencing over-award payments. They saw their wage levels—defined variously as informal over-awards and sometimes as appropriate classification—as reflecting a demonstrated level of commitment to work and preparedness to increase their workload and job responsibilities.

'...they couldn't say that I didn't do more than anybody else on the floor so they had to come up with something, and that's what they said they'd give me. I didn't actually say how much I wanted. I just said I wanted to be paid what I was worth...' [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'Yes, with this one [I did negotiate]. When the new system came in I believe I was on a level 1 or 2 and I did negotiate... they looked at everything so I got up to a level 3 just because of the workload I believe.' [Employee, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

2.4.1.1.2.2 Paying well above the award in a competitive labour market

In the inner metropolitan formal over-award workplace, all employees (including those at the lowest classification level) were paid well above the relevant award rates. According to management interviewees, AWR increases were not factored into decision-making processes surrounding the setting of wage rates because they were not seen as contributing to maintaining or improving the labour market position of the supermarket. Managers stated that they paid above the relevant award rates as a way to attract and retain staff. They used the enterprise agreements of major competitors as a benchmark for their decision-making processes rather than the award. Paying significantly over the award was used as a way of minimising the risk of losing staff to a competitor on the basis of pay:

'[W]e can follow what the next [enterprise agreement] is going to be by looking at the competitor enterprise agreements] ...That's basically the benchmark for us... I can't pay \$5 an hour less because they'd all work for [the main supermarket chains]... So it's sort of common sense when it comes down to [it], if you want to employ someone, you've got to be up with the market.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

Following on from this, one manager noted that while their wage considerations were shaped by external forces (the wage rates of their competitors), this had resulted in their wage rates being set, in their estimation, quite high (relative to the award standard).

A similar line of reasoning emerged in discussions with other managers. As this manager explains, paying wages at a rate which meets the market is perceived to be a commercial necessity because it is the only way the employer could retain employees and maintain a profile as a viable and desirable employer (compared to their grocery retail competitors in the region):

'You can't afford to be outside, too far outside from the chains because you won't have any staff because the same role that we have for a front-end supervisor, [competitors] have.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'I can't pay less than what the chains are paying, can I? Because they will hear I'm \$5 less an hour. They'll go to [supermarket chain 1, 2 and 3]. So I can say I don't want them to get a pay rise and things are tough and we've all got to bleed and all that. But if I don't pay what the opposition are paying, they'll go.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

2.4.1.1.2.3 Qualitative findings on minimum wages, minimum wage increases and incentives to bargain in grocery retailing

Across the three case study sites, employers and employees stated that AWR increases did not discourage bargaining; however, in order to understand why interviewees expressed these views, it is necessary to consider the context in which wage-setting decisions are made and the factors that shape the propensity to bargain. Relevant factors to consider include: the market environment in

which the retailer is operating; the existing relationships between the employer and employees; and the culture of the workplace.

2.4.1.1.2.4 The impact of competitive labour markets: over-award 'going rates' and rosters as factors shaping bargaining

Across the three case study sites, all of the employers noted significant challenges in recruiting and retaining labour (especially at supervisor and trade level), because of the reported 'intense' competition within the sector. This pressure was particularly intense for one employer operating in a regional labour market in which they were competing with two chain grocery retailers and two independent grocery retailers:

'We have a very competitive market. We have two [large grocery chain], a [large grocery chain], a [small grocery chain] and just a small [grocery chain]... Getting the skills that we need is almost impossible...' [Manager, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

The effect of this competition meant that employers needed to match or exceed the wages of the larger supermarket chains in order to source and retain labour. All of the case studies sites noted the need to 'keep pace' with the competitors' wages. This was something they did proactively by raising wages when they needed to. As a result, these employers were generally not engaging in bargaining over wages with employees because they were at least in line with or exceeded award rates by a good deal more than the quantum of the AWR increase.

The employer interviewees explained that although margins were tight and that wage costs needed be kept as low as possible in order for their businesses to remain viable, in many cases they paid over the award as it helped to attract and retain staff. One employer explained that over-award rates were used to attract and retain staff, while favourable rostering arrangements helped to contain overall wage costs. As a result, negotiation of rostering and hours took precedence over wages. Employee interviewees also reported that rostering and hours were the key issues for bargaining in their workplace. While pay rates were considered important, the greatest incentive to bargain with their employer was over their hours and roster as this was said to be critical to maintaining and meeting their personal responsibilities. That is, while pay increases were desirable, an issue of greater importance to bargain with employers over for employees interviewed was achieving suitable hours and rostering. In one of the case study workplaces, a manager explained that he/she had been successfully poached from a competitor by being offered a higher wage with more suitable working time arrangements and that it was the favourable rostering arrangement that made the offer particularly appealing:

'[T]hey rang me to start here from [large supermarket chain] and they offered me an amount of money that was probably \$40/\$30 a week more. [It] wasn't so much the money side as the fact that I could do four days a week straight as opposed to doing like a Saturday now and again or hours all over the place.' [Manager, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

2.4.1.1.2.5 Propensity to bargain in the case study settings

The intense competition between grocery retailers and its impact on profit margins was the primary driver shaping management—employee interactions and wage-setting. Processes involving formal or even explicit 'wage bargaining' were rarely reported. Rather, the interactions involved processes and decisions primarily concerned with maintaining or improving operational performance of the store:

'We sit with the manager and we'll say, look, you're over budget. We need to get you within budget. [The] shop needs to make a profit so we can continue running and being successful. They go, good. Where can

we cut you down? He says, oh - and they'll say, well, we're under pressure already. We're under-staffed already. You want me to cut wages, it's too hard. So you both try and work out areas where you can save money to get it back to budget.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

Managers explained that the tight margins posed a disincentive to bargain because they did not have the capacity to meet the demands/expectations of employees. One employer explained that the tight profit margins of the store prevented a more open discussion about wages with employees. In general, where bargaining did occur in these workplaces, this was for a limited number of positions.

The concern with operational efficiency included maintaining a sense of fairness about wages in the workplaces. Some managers articulated the importance of maintaining internal relativities for reasons of workplace harmony. One employer acknowledged openly discouraging employees from negotiating about pay because one negotiation might encourage other employees to do the same:

'What he's saying to me is match it or I'm going. That's it. He just goes... I've been there too often. [I] mainly let them go because you don't want to set a precedent... show a weakness to the staff... It's not fair to the other staff... we have problems with basically butchers, and that's it. Because they've got a trade and they're in demand.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'A casual or part-time or full-time deli person would be paid very similarly, if not - it would be paid the same as a casual part-time cashier, floor person, yes. Yes. It's only when you get to management where it comes up. That's negotiable. We have set rates for some. Some is negotiable.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

Employers at the case study workplaces experienced difficulties with the negotiation process that made them reluctant to engage in collective bargaining too frequently. In one case, the employer called on the support services of the Master Grocers Association to take over the entire bargaining process at the workplace because the burden of negotiation had become too time consuming and complex. In another situation, an owner/manager explained that the process of negotiating pay was embedded within a complex set of conditions and other allowances, and this was something that could only be properly unpacked and negotiated every few years. For this reason, the manager believed the minimum wage increases are not of a magnitude to warrant revising the entire system of pay and remuneration:

'[Y]ou still have to spend time meeting them [union representatives] and go through all this, and last time ... they took months to do it. It takes a long time.' [Manager, Union Enterprise Agreement (transitioning to award), Independent Grocery Retailing, Outer Metropolitan, 80 employees]

This employer reported that they were moving back to wage arrangements based on a combination of relying on the relevant modern award for the bulk of his workforce and over-awards for a limited group of managerial employees. He believed moving to the modern award and away from an enterprise agreement was important for achieving regular, straightforward movement in pay for the bulk of the workforce, free of the requirement to negotiate over a larger agenda of matters. He would continue to use informal over-award arrangements to manage his more complex recruitment and retention issues, primarily for supervisory level employees. This sentiment was typical of the other employers interviewed. They regularly drew a very clear distinction between over-award employees and award-reliant employees at the workplace in terms of their propensity to bargain. Employees in lower skilled classifications were often reported by employers to be 'easily' replaceable, and as a result, employers interviewed were not as motivated to bargain with them:

'He's a manager, meat manager. But he's on good money because he's got a skill. Whereas a deli person, you don't need them to go to a deli school.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'There's a thousand of those [cashiers]. So he hasn't got the power... You can come to me and say I want \$5 more. I say no. The award's there [if they want to go and work somewhere else].' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

Interviewee: "... the general shop assistants are all on award."

Facilitator: "Do they ever attempt to negotiate when they start or how does that happen?"

Interviewee: "No we've never had any of those [with shop floor assistants]. We just offer them the rate of pay and that's it." [Manager, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

The experience of the employees interviewed with attempting to bargain with employers varied widely. In some cases employees had a preference for leaving their current employer to take a higher paid job rather than seeking to increase their pay by negotiation. In other cases, an unsuccessful attempt to negotiate a higher wage package had prompted interviewees to seek a higher wage with another employer.

Attitudinal barriers to bargaining were suggested by many employees working in lower skilled classifications. The barriers to bargaining or negotiation over pay are deeply rooted in the nature of relationships between managers and staff, and the general belief that lower skilled employees can be easily replaced. Given the intensely competitive operating environment most employees believed that there was little point in negotiating higher wages. Employees also reacted to how they perceived their employers valued their contribution and worth as a lower classified worker, and a lack of awareness of any opportunities to bargain:

'All I know is they have to pay me that. That's their bare minimum and that's it.' [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'I've actually worked for other companies that actually paid me a lot less for doing a lot more, and I thought - I just don't think - well, personally, I don't think I deserve a pay increase.' [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

2.4.1.2 Private General Medical Practices

2.4.1.2.1 Operating context

Private General Medical Practices fall within the ANZSIC sub-division of Medical and other health care services, and are typically privately-owned small businesses offering general and specialist medical practice services (generally described as 'medical practices' in this paper).⁷⁹ Across Australia the sector consists of approximately 20,000 businesses employing over 100 000 people.⁸⁰ Work in the sector is undertaken by general practice doctors, specialist medical practitioners, administrative staff and nurses.

⁷⁹ ABS, *Australian and New Zealand Standard Industrial Classification (ANZSIC)*, 2006 (Revision 2.0), Catalogue No. 1292.0.

⁸⁰ ABS (2003) *Private Medical Practices, Australia, 2001–02: Summary of Findings*, Catalogue No. 8685.0. This is the most recent data available, from the only specific survey instrument in Australia dealing with the business structure, workforce composition and income generated by medical practice business and pathology services. The survey is conducted infrequently by the Australian Bureau of Statistics.

The business structure of private medical practices is unique to the sector. While the composition and ownership structures associated with individual businesses can vary, according to the employers and leading stakeholders interviewed, many private medical practice businesses employ administrative and nursing staff, but do not directly employ doctors. General medical practitioners or specialists (who are most likely self-employed and have their own Australian Business Number (ABN)), will lease the consultation room from the medical practice, and contract the medical practice to provide the administrative and customer support services necessary for them to assess and treat patients. Thus the medical practice supplies services to the doctor who may or may not be a partner in the business. This arrangement enables doctors to consult with patients and 'practice' with lower overheads and less risk than if they were to manage all aspects of their own business themselves.

The medical practice typically provides operational and administrative services (account keeping, filing, patient booking services, liaison with other referral and pathology services, and appointment scheduling). In cases where registered nurses are also employed by the medical practice, nurses are responsible for some patient care and are on hand to assist doctors with the examination process when required. This may include a range of tasks including minor first aid (treatment of cuts, burns, wounds), administering injections (immunisations), venipuncture (intravenous access in order to extract blood and/or the collection of other cultures for analysis) and pathology liaison (collecting and sending tissue, blood or urine samples for analysis).

Demographic shifts are a major challenge facing the wider health sector, including medical practices. The ageing of the baby boomer cohort, and increased co-morbidities in the population, places pressure on frontline or primary health care provision, within which medical practice businesses play the central role.⁸¹ The need to source staff who are sufficiently skilled to meet the clinical and administrative needs of these businesses is an ongoing challenge for the sector. Frontline patient care can also be stressful and emotionally intense for the support and administrative staff involved. Medical practices are increasingly operating outside standard business hours to meet high demand for services, meaning that rosters and shift work arrangements are becoming more common in the sector.

The three case study sites featured in this research operate as private businesses and employ administrative staff and nurses. They ranged in size from 14–45 staff, overwhelmingly non-medical in nature.⁸² The business model operating in the sector has a significant influence on bargaining because the pay arrangements of doctors do not form part of the wage structure of the medical practice business. Of the three case study workplaces, one predominantly paid their employees award rates, but exercised flexibility around rosters and hours. The other two had over-award arrangements, one of which was formal and the other informal.

2.4.1.2.2 Qualitative findings on the role of over-award pay rates in the sector and exploring the relationship to annual wage review increases

Across the three case study sites, the manager and owner interviewees explained there was a need to include some type of above-award 'sweetener' to attract and retain sufficiently qualified and competent staff. All had incorporated entitlements in excess of those provided for in the award in some way. In the two over-award workplaces this took the form of above-award rates of pay. In the

⁸¹ Department of Health and Ageing (2008) *Towards a Primary Health Care Strategy: A Discussion Paper from the Australian Government*, Commonwealth of Australia, Canberra.

⁸² At one site there was one salaried medical practitioner—a junior doctor in training.

award-reliant workplace, although reception staff were paid at the award rate, some employees had negotiated access to additional paid leave in order to meet family responsibilities. In general, similar views were expressed across the three medical practice case studies in relation to providing nursing and administrative staff with above-award entitlements:

'Well I know none of my employees would work for [\$17 an hour]. I wouldn't expect someone with their skill base to actually work for \$17 an hour. As I said, a kid at McDonalds - my son, before he was 18, was earning that sort of money at McDonalds... flipping burgers. ... For \$17 an hour... I don't believe you're going to get a very high quality staff.' [Manager, Over-award, Private General Medical Practice, Inner Metropolitan, 15 employees]

2.4.1.2.2.1 Links to minimum wage increases

Across the three workplaces, AWR increases were seen as having little impact on over-award wages paid because all believed that they were paying above the award and were not required to apply the increase to their employees being paid over-award rates:

'Because we're above the award, it doesn't affect us, no. If you were on the award, yes, you'd have to make the adjustment.' [Manager, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

'No, not really here at the practice I don't think because we've got a fairly straight forward set up. Yeah we negotiate with our staff, we pay them well above the award - except for the nurses - but for them they're working on an agreed [agreement]⁸³ which is far more than what the nursing award actually is except for in hospital[s]. In hospital nurses do earn more.' [Manager, Over-award, Private General Medical Practice, Inner Metropolitan, 15 employees]

It was also explained that pay and pay rises needed to be considered in the context of performance reviews and the responsibilities expected of staff. This, as the following quotes demonstrate, was perceived as a 'private' matter between the employer and employee and was therefore seen as distinct from AWR increases. The following quotes illustrate how managers in two of the case study workplaces link pay and performance:

'[My business manager] might be able to inform you better but yeah, she's supposed to do a performance review and then she would talk to us about any increases in salary... She's more likely to come back to us and tell us and we've tended to follow her advice.' [Owner, Informal over-award, Private General Medical Practice, Inner Metropolitan, 15 employees]

'there is no doubt there are some places where the pay is higher, but then what the staff are doing for their pay is often different as well, and that's another thing that was looked at - the duties that they perform and their level of responsibility.' [Manager, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

The owner/manager of one medical practice explained that AWR increases did not impact on wage decisions within their workplace because of the uniqueness of the medical practice environment in the context of other jobs in health care. At that workplace pay rates for nurses were informed by standards defined in a MOU concerning practice nurses settled between the state branch of the AMA and the corresponding state affiliate of the Australian Nurses Federation (ANF). This rate was well above the award rate(s) but below the rates contained in enterprise agreements of hospitals. The

⁸³ The agreement referred to is a MOU between the Australian Medical Association and the state branch of the Australian Nursing Federation. It concerns suggested wages and conditions for practice nurses.

owner of this business believed this pay rate represented a 'fair rate' because it had been agreed between respected industry representatives on both sides. This owner describes the rationale of management, in regard to pay setting, in the following way:

'the size of the practice and the corporate structure is very, very different to a hospital situation. So I think this [i.e. following the rates in the MOU] is a much fairer way of looking at equity for both sides.' [Owner, Over-award, Private General Medical Practice, Inner Metropolitan, 15 employees]

2.4.1.2.2.2 Qualitative findings on minimum wages, minimum wage increases and incentives to bargain in medical practice businesses

Although AWR increases appeared to exercise a low level of direct influence over either employee or employer considerations with regard to over-award pay rates or other workplace bargaining concerns, the reasons for this varied amongst the three sites studied. Other factors were more likely to drive bargaining (or the lack of) including the workplace culture.

The experience of past negotiations had a significant influence on the extent to which managers and employees were willing to engage in bargaining. Across the three case study workplaces, negotiation processes between management and employees were variously described as 'complex' and 'tense'. In the formal over-award workplace that had its own enterprise agreement, the organisation had experienced a prolonged period of hostility and distrust between employees and management resulting from the enterprise agreement negotiations. In this environment, external factors (such as the minimum wage increase) had little bearing on the negotiations between staff and management. As one employee noted, bad experiences had resulted from unpleasant group dynamics amongst employees—and not from 'management-employee' differences:

Facilitator 2: "Can you just give us a little bit of an overview of your sense of how the negotiation process occurred from the employee side? ... was there a regular meeting of the employees as a group? You've mentioned one person was the negotiator. Can I just get a sense of how you as a group functioned?"

Interviewee: "Very dysfunctional."

Facilitator 2: "Really?"

Interviewee: "Very, very dysfunctional. Very scared, they're very intimidated, very scared, very yeah. I can't explain it any other way. Very subordinate, [group] as such." [Employee, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

The same employee discussed what they described as the negative bargaining experience and environment at the workplace in the following way:

'It was absolutely not [a positive experience]. It caused a lot of tension in the building. In the end, then, well you heard that the agreement was knocked back [by FWA],⁸⁴ I think, two or three times... And then [the owner] and [the manager] suggested that they put us onto individual contracts... Then I joined the union, but they weren't going to help at all. They were just completely useless. They just wanted me to get myself a different job.' [Employee, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

⁸⁴ According to the head of the practice and office manager, FWC required changes of a procedural, and not substantive, nature.

The owner/manager at this workplace reported a similar negative experience in the negotiation process, and said that it had impacted their willingness to bargain over any issues in the long term:

'The amount of heartache - I mean emotional stress and heartache - that it caused the Practice Manager in particular but also some of the receptionists and me, probably to the least degree - I would never put us through that again.' [Owner, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

In this workplace, the employer commented:

'We will not do an EA again... I would think we would have to go to the award and take the risk that we will pay people incorrectly.' [Owner, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

Factors specific to the industry also appeared to drive bargaining behaviour in the workplaces analysed. In particular, bargaining terrain was perceived as being inherently shaped by the relationship between doctors and the medical practice business. As one manager noted, doctors (even if not part of the ownership structure of the business) exercise considerable influence over the culture of the practice, the relationships between practitioners and staff, and ultimately over the viability of the medical practice itself.

The complexity of award provisions and fear of the consequences from unintentional non-compliance had led employers to establish wages and conditions at a level that provided them with some 'insurance' against the potential for compliance liabilities. Across the case study workplaces, managers expressed a common fear of facing 'sanction' or retribution, in the event of underpaying employees. Across the three medical practice employers, each noted the need to structure pay in a way that would insulate them from unintentional under-payment:

'The problem was, as we understood it, you had to either have an enterprise agreement or pay the award. The problem with paying the award is it's, I think, almost impossible for small businesses to actually pay the award correctly.⁸⁵ So what you're doing is, you can say the award is \$10 an hour, we'll pay you \$11 an hour and then hopefully that means we've covered everything. But the truth is, if you have a disgruntled employee, they can come back and say, well no, you're paying me \$11 an hour and I still want my meal allowance or my car allowance. I want my allowances... therefore you can't just pay over award, as I understand it. You can't under the modern award system pay over the award and say that incorporates the allowances. You have to formally have an agreement where your pay rating incorporates the allowances. So that's why we went into the EA.' [Owner, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

2.4.1.2.2.3 Views of employees

Across all three case study sites, employees were generally sanguine about their pay and conditions and reported that AWR increases did not influence their impressions of the appropriateness of their pay arrangements. A number of reasons appeared to underpin this. Firstly, both award-reliant and over-award employees demonstrated a very low level of awareness generally about how their pay was set, and exhibited very little knowledge or awareness of AWR increases:

⁸⁵ This interviewee was especially concerned, if not overwhelmed, by the complexity of award provisions concerning allowances associated with different working time standards. This interviewee did not think simply honouring AWR increases would be enough to satisfy award requirements, because he rightly recognised awards concern far more matters.

'Nothing is sort of categorised, so I can't really compare it to anything... it was between me and the employer.' [Employee, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

'No one really knows very much about all this. No one really understands much of it...' [Employee, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

Receptionists and administrative support workers across the case studies identified a range of complex and multifaceted reasons for their reluctance to bargain, particularly over the issues of wages. These included a recognition of business realities, relationships and interactions with colleagues and industry issues. In general most were relatively content with what they were being paid and believed that they were being paid fairly in relation to people in similar occupations or industries:

'I think it's a very badly-paid profession anyway. I think there must be other workers that work in the same field, other receptionists, they're all paid badly. So I think in that regard I do think they look after us reasonably. Look, there's a fine line between, he's a businessman and I do see he's got to run a business.' [Employee, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

How the medical practice workplace environment compared to the wider health sector also had an influence on employee interest in bargaining. Across the case study sites, the nurses had all come from what they viewed as a stressful and pressured hospital sector for a 'change of pace'. For these workers, wages were considered in the context of a much wider set of workplace issues including quality of life, work intensification and stress at work. While work for nurses in medical practice businesses is not without its stresses, interviewees noted that the environment was less stressful than the hospital one which they associated with a higher pay rate. Working in a medical practice was a conscious choice in which a higher salary was traded off for non-wage conditions such as more favourable work hours:

'I suppose I didn't ask. I presumed that it is... higher than other practices... I didn't research it. I knew what they would pay in hospital... I was tired of washing patients in bed and frustrated that you couldn't spend more time talking to patients, which you can do a bit more here. I suppose it was a lot of politics in the hospital that you don't seem to get here. I think it was just for a change. The hours worked better, because otherwise I would have started at seven... I've got three young children so I thought this would be good. I didn't have to do shift work and I didn't have to work on weekends... it is indeed quality of life.' [Employee, informal over-award, Private General Medical Practice, Inner Metropolitan, 15 employees]

Apart from these general influences, factors specific to the workplace also impacted on employee views of the bargaining process. As one employee noted, employee reluctance to bargain could be driven by a lack of confidence in their employer's knowledge of employment law, or their willingness to engage in good faith in the bargaining process:

'So then most of the girls reluctantly agreed to do this and there was me and another girl there too, she was sort of starting to understand that we need conditions ... So I'm not quite sure. Look, there was moments where I thought no, our employer is trying to diddle us out of a few things, and there were times when I believed that they genuinely just did not know what they were doing.' [Employee, Non-union agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

Some interviewees were also concerned about the impact that bargaining could have on colleagues who were not part of the bargaining process. They reported that they considered it could fuel a general reluctance to bargain because wage rates were seen as a sensitive subject. Perceptions of fairness and equity in wages remained important to many of the interviewees, and a perception that

one group might be advantaged over another was seen as having the potential to undermine collegiality in the workplace. As one employee noted:

'I didn't want to get into it too much... I thought if I was told that mine was higher, I didn't want to highlight that to other people, if you know what I mean.' [Employee, Over-award, Private General Medical Practice, Inner Metropolitan, 15 employees]

2.4.1.3 Franchise Fast Food Services

2.4.1.3.1 Operating context

The Franchise Fast Food Services sector provides food services for immediate consumption or consumption in limited seating areas, where customers pay before consumption. Small operations are typically located in food halls and food courts, while larger operations are usually located in stand-alone buildings (which may or may not have a drive-through window facility, depending on the product).⁸⁶

Work is usually broadly divided into 'back of house' food preparation and/or front counter customer service tasks and supervisor responsibilities. Some fast food operators require front counter staff to undertake some food preparation in the form of assembly of pre-chopped, cooked or prepared ingredients. This separation of duties is reflected in some enterprise agreements, but is not reflected in the Fast Food Industry Award. In common with the rest of the Accommodation and food services industry, the workforce is characterised by high turnover. According to the Labour Mobility Survey, in February 2012, less than two-thirds of people working in the industry had been with the same employer for more than 12 months, the lowest for all industry divisions.⁸⁷ The food services sub-division (comprising takeaway food services, cafes and restaurants, and catering services) workforce is also among the youngest—in August 2012, approximately 7 per cent of those working in the sub-division were aged 15–19, with another 17 per cent aged 20–24.⁸⁸

The franchise business model dominates this sector, with individual owner/operators buying into a pre-established company which has a pre-existing (template) business model. In order to reflect the dominant business and ownership model of the fast food sector, all four of the case studies included in this research operate on a franchise basis for a large part of their turnover. Therefore, across the four case study sites, marketing, price-setting and strategic direction were centralised functions, with decisions about human resources and the day-to-day running of the business at the discretion of the franchisee (or in the case of corporate stores, the store manager). Employees account for 480 000 of the 515 000 (93 per cent) employed in the ANZSIC sub-industry grouping of cafes, restaurants and takeaway food services.⁸⁹

The case study sites fall into three categories:

- two formal over-award sites operated by the same large multi-national franchising company;

⁸⁶ ABS, *Australian and New Zealand Standard Industrial Classification 2006*, Catalogue No. 1292.0.

⁸⁷ ABS, *Labour Mobility, Australia February 2012*, Catalogue No. 6209.0.

⁸⁸ ABS, *Labour Force Australia, Detailed, Quarterly August 2012*, Catalogue No. 6291.0.55.003.

⁸⁹ ABS, *Labour Force Australia, Detailed, Quarterly August 2012*, Catalogue No. 6291.0.55.003. This is the lowest level of industry category available through the Labour Force Survey. However, an investigation of the ABS 2011 Census of Australian Population and Housing (which under-reports total figures for industry of employment) found little difference between the proportion of all those working in cafes, restaurants and takeaway food services who were employees (85%) and the proportion of those working in takeaway food services who classed themselves as employees (87%).

- an informal over-award site that is a franchise of a large national company; and
- an award-reliant site that is a corporate store within a small national operation.

Intense competition within the fast food sector emerged as a recurring theme across the case study sites. This competition, according to key industry stakeholders, appeared to be driven by two major consumer and market shifts. Firstly, a reported trend whereby supermarkets are now seen to be directly competing with fast food operators in the sale of pre-packaged meals. Secondly, that inter- and intra-franchise competition had been seen to intensify in the last five years. It was also noted by these stakeholders that competition between fellow franchisees offering the same prices on the same products in the same region could be intense.

2.4.1.3.2 Qualitative findings on the role of over-award pay rates in the sector and exploring the relationship to minimum wage increases

In all four case study workplaces, AWR increases played an indirect role in influencing over-award pay rates. In the informal over-award workplace, this was mediated by changes in the award rates. In the formal over-award case study sites, the enterprise agreement negotiated by the franchisor passed on AWR increases according to a set formula. Thus, while these workplaces saw over-award wage decisions as being shaped by advice from the franchisor, and the need to maintain a 'profile' as a 'good paying' employer in the sector, some adjustments could be related back to AWR increases.

All managers reported pressure to minimise their labour costs. However, they stressed that penalty rates and junior rates of pay had more impact on their ability to manage labour costs than AWR increases. Since the unit costs of labour were largely fixed, the main strategy available to employers to control labour costs across all sites was the employment of junior labour. The Fast Food Industry Award sets out proportional wages for junior employees, beginning at 40 per cent of the full adult wage for employees under 16 years of age, and increasing by 10 per cent annually to 100 per cent by the age of 21 years.⁹⁰

The franchisee with the informal over-award wages talked of 'moving on' junior employees as their wage gets closer to the full adult wage, or providing them with fewer shifts so they would leave the business voluntarily. He felt that increased wages on each birthday combined with AWR created a cost burden on the business that could not be absorbed:

'When they're 20, they've usually been there for two or three years already. By that time, they've been there for too long... You know the minimum wage increase, when that increased plus their age, that's so hard to [break even]... I can't keep up with it. So what's happening now is I'm laying off a lot of older staff and rehiring.' [Owner, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

The rostering experience of a 19 year old shift manager in the formal over-award case study site also demonstrated this observed reliance on younger workers. The shift manager explained the reason for the decrease in shifts occurs because managers 'like to roster people who are under aged' (i.e. junior employees).⁹¹ Prior to becoming a shift manager he would expect to work 15 hours per week. His weekly roster, however, usually only had a four hour shift marked in for him. As a shift manager he utilised the same rostering strategy. Another strategy used by the formal over-award case study was to give individuals in training a large amount of shifts:

⁹⁰ *Fast Food Industry Award 2010 (MA000003)*, cl.18.

⁹¹ Shift supervisor, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees.

'For the first three months, as I told you, the training period, my pay was really less, like \$12 or \$13 per hour. [On] that pay, I got a lot of hours' work. After that ... your pay just goes [from] \$13 to \$19 or \$20. They start cutting up your hours.' [Manager, Union Enterprise Agreement, Franchise Fast Food (corporate outlet), Inner Metropolitan, 150 employees (approx)]

A number of employer interviewees in this sector made reference to AWR increases forming a backdrop for their wage deliberations, and the influence of AWR increases could be described as indirect. Minimum wages were referenced in all case study sites as an issue relevant to the determination of wage rates. Interestingly, and in contrast to the findings in medical practice settings, managers at the formal over-award (enterprise agreement) site indicated that minimum wages played a role in determining the quantum of over-award pay rates. This indirect impact included distinct features:

- The minimum wage decisions, and wage levels in the industry, were referred to in deliberations at both formal and informal over-award workplaces, but would be a peripheral rather than central concern (which primarily concerned managing labour costs by balancing rosters with as many junior staff and in a way that minimised having to make penalty payments).
- Consideration was given to minimum wages, but they could not be said to exercise direct influence over wage negotiations because multiple information sources were used to supplement and inform the negotiation processes between staff and management.

While increases in minimum wages were found to have limited direct connection with the level and movements in over-award rates, the award rates and associated conditions were at the front and centre of deliberations and actions of employer and managerial interviewees. One interviewee suggested that the reason why minimum wages represent a fairly high profile issue in the fast food sector, in contrast to other sectors, is because wages in all job roles (even those comprising over-award elements) typically sit 'generally a few dollars above the award rates'. One manager noted the value of having slightly higher wages than competitors, to attract and retain employees in a sector characterised by high turnover. Another manager highlighted that the commitment to pay just above the relevant modern award insulated the business from future problems, that is, so that employees could not pursue claims of unfair payment if the employment relationship broke down:

'We will pay a couple of extra dollars per hour over [the award] so that we're not on the minimum because we have enough issues to deal with without reputation and debunking some of those myths that we're still a minimum wage employer. If you look at some of the rates of pay that we are actually on, we're not exactly paying the minimum wage anymore.' [Employee Representative, Union Enterprise Agreement, Franchise Fast Food (corporate outlet), Inner Metropolitan, 150 employees (approx)]

According to key industry stakeholders interviewed, regular, systemic over-award payments built into hourly rates were uncommon outside sites with enterprise agreements. An informal over-award employer in this sector described the kind of intermittent incentive payments it paid to its employees as follows:

'gift-cards, lunches. Like 20 bucks: "go shout yourself, go crazy." I don't know. Whatever tickles their fancy.' [Owner, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

Bonuses and non-wage benefits, such as free or discounted food, were also considered as staff benefits in one of the formal over-award case studies:

'Sometimes what's not clear are the benefits related to what we have. So for example you know, most crew get half price at nearly every restaurant in Australia. Half price off food. As soon as you get to a certain level

of management you get all your food for free.' [Franchisor, Union Enterprise Agreement, Franchise Fast Food (franchised outlet), Inner Metropolitan, 100 employees (approx)]

2.4.1.3.2.1 Views of employees

Amongst employees, awareness of AWR increases (and the AWR process) was low. In interviews, employees associated wage increases almost entirely with wage increases they had received as juniors which were linked to their age. This was even though employers in the same case studies had indicated that there were regular increases in general rates of pay, whether they arose directly as a result of AWR increases or not. In the award-reliant site, for example, the employer specified that he passed on AWR increases to employees, yet the employee stated that he hadn't received a single increase (despite being with the employer for two years):

Facilitator: "... has your pay rate gone up?"

Interviewee: "I think when it was like - no, I think that's - it hasn't changed."

Facilitator: "It hasn't changed?"

Interviewee: "When I had my birthday in February I thought that I was going to get a pay rise..."

Facilitator: "Yeah."

Interviewee: "... but I went and enquired about it, but they said that you only get it when you're 17."

Facilitator: "Okay."

Interviewee: "Which I didn't get."

Facilitator: "So you started when you were 15, now you're 16?"

Interviewee: "Yeah."

Facilitator: "... What about any sort of other pay increase, has it gone up, you know, have you got a percentage increase at all or anything at all, any other changes?"

Interviewee: "What do you mean by that sorry?"

Facilitator: "Sorry, so I mean sometimes some people might get say a three per cent per annum increase, not just for turning older, they might get a pay increase outside of that?"

Interviewee: "I don't think I get that."

[Employee, Award-reliant, Franchise Fast Food (corporate outlet), Inner Metropolitan, 30–35 employees]

As the informal over-award case study did not provide over-award wages, but rather over-award bonuses, wage movements were dependent on minimum wage increases as well as birthdays for junior employees. None of the employees interviewed for the over-award case study identified the AWR as resulting in increased wages for them. Instead they felt that wage increases occurred only annually on their birthdays:

Facilitator: "Do you remember when your first wage increase was? Not the exact date but do you remember?"

Interviewee: "It was just on my birthday. I think until you're 20, 21 [years old] or something it just stops. It stops increasing at your birthday. Then I think it depends if you get promoted and stuff. Because I'm 20 now

so my pay increased the day of my birthday.” [Employee, Informal over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

The franchise owner, however, stated that wage increases occurred twice annually, on birthdays and at the time of the AWR increase.

The formal over-award case studies sites based wage increases in the enterprise agreement on the minimum wage increases which occurred to the relevant modern award. Two of the three employees identified wage increases as occurring only as a result of their increase in age, and not the annual increase in the agreement. For example, one employee responded that their wage had increased ‘because I’m getting older’. He identified that wages go up automatically, and that his pay would be, in his words, ‘even better’ in the coming year, however he did not identify that the wage increases resulted from annual increases specified in the enterprise agreement. In part, this may be attributable to the different scale of the increases: a 10 per cent increase in pay arising from a change in age would be more noticeable than a pay increase of around three per cent arising from an increase in minimum wages.

Employees in the sector generally exhibited a low level of awareness and knowledge of the award classification levels, any notion of minimum wages, and the AWR increases. This theme appeared to be consistent across different levels of employees, including those who undertook full-time work, with greater responsibility at the workplace level. For example, one supervisor had no knowledge of classification levels, including what level she was at. In another case described by an interviewee, the employee had sought to negotiate wage increases after the individual had to take on additional duties and responsibilities. In this case, the employee said she had very poor knowledge of the wage entitlements and her position within the hierarchy of the organisation. Following a prolonged period of frustration trying to negotiate with the employer, the employee accepted an offer of cash bonuses instead of a permanent increase to her wage. The bonuses, usually around \$150.00, were provided on an irregular basis at the employer’s discretion.

2.4.1.3.3 Qualitative findings on minimum wages, minimum wage increases and incentives to bargain in the fast food case studies

Bargaining, or attempts at bargaining, wage and non-wage outcomes had occurred in all three fast food case studies. Minimum wage adjustments were not considered an incentive to bargain for any employer or employee involved in these case studies. Managers from the award-reliant and the informal over-award workplaces both reported that minimum wage adjustments had an impact on profit margins. In both instances, managers reported that they would respond by varying their labour utilisation strategies.

While minimum wage adjustments put pressure on the profit margins of the case study sites, the way employers responded to them was to adopt various non-wage non-bargaining strategies, rather than to bargain:

‘Oh yeah. Minimum wage increase, we hate that because we’ve got to change the whole - the accountant, or my mum, who does it - got to change that whole entire Excel spreadsheets that we have. Then we can just see it, oh my god. It’s just like whoa. Instead of - in our labour costs say at 22, it’s probably up to 24.5 because of that wage increase... So even though my growth, my sales growth, [is] very good, eight per cent. It still can’t bank on the 22 - yeah, [to] compensate for that. I’m going to have to grow to 25 per cent to compensate for that. Then that’s - I’m in this plan right now where I’ve got to say goodbye to some of the old staff now. They’re going to go and think of better things. But I can’t take their load anymore.’ [Owner, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

The nature of the relationship between franchisor and franchisee, or head office and corporate store, was the most influential factor in bargaining practices in these workplaces. Managing labour costs to increase profit was made difficult in the informal over-award case study by the nature of the contractual relationship between the franchisor and franchisee. In this case, the owner explained that financial control is limited to labour and ‘food and paper’ costs. This is explained by the human resources manager:

‘The labour costs - well, it’s interesting because when we have a profit and loss statement for a restaurant, there are so many aspects of that P&L which are not really variable... So as far as the things that they can control on the profit and loss statement - are really quite limited because there are set costs associated with being part of a franchise model. The company has the say over what those are... The two things that they can really vary and impact their cash flow - degrade it - would be labour and their food and paper costs.’
[Human Resources Manager, Union Enterprise Agreement, Franchise Fast Food (corporate outlet), Inner Metropolitan, 150 employees (approx)]

This sentiment was confirmed by the franchisee in the informal over-award case study:

‘There’s only two factors that we can control here, your sales and your labour. Oh no, three actually, your sales, your labour and your wastage.’ [Owner, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

The formal over-award case study franchisees explained that they are constrained in their ability to manage labour costs because of the enterprise agreement that is in place. Franchisees reported no direct involvement in the bargaining process or its outcomes:

Facilitator: “The annual wage review that happens every year where the minimum wage is increased are you aware of that or do you - does that have any kind of importance?”

Interviewee: “Oh, definitely. I know it happens. If it wasn’t for [the franchise head office] telling us then we wouldn’t be told about it. I don’t think we get informed by the powers to be that it’s happened, but [the franchise head office] basically informs us. It gets upgraded through the back office system. Franchisees are able to offer staff more than is set out in the enterprise agreement, but they cannot offer them less.”
[Franchisor, Union Enterprise Agreement, Franchise Fast Food (franchised outlet), Inner Metropolitan, 100 employees (approx)]

Therefore, since they cannot reduce nominal wage rates to gain competitive advantage, some franchisees reported that it was necessary to vary the quantity and (age) mix of labour:

‘Our franchisees will do whatever they - whatever is necessary to remain profitable. What that means though is that they will want to reduce their trading hours, and they will physically work some shifts in their business so that they’re not paying somebody else to be working in their business. They’ll basically be closing their doors, not open overnight... It would mean that if they weren’t laying off people their current people wouldn’t be getting as many shifts. So the casual workers would be getting far less shifts; potentially, to the point where it’s not financially worthwhile for those casual people to continue to work.’ [Human Resources Manager, Union Enterprise Agreement, Franchise Fast Food (corporate outlet), Inner Metropolitan, 150 employees (approx)]

In the award case study (a company owned store rather a franchisee) the relationship between the store manager and head office was similar to the relationship between the franchisors and their franchisees. The manager of the company-owned store’s decision-making capacity was limited to operational decisions, including hiring staff members, and negotiating salaries for the few full-time staff members. The head office was reported as making the decisions about costs and pricing:

Facilitator: "... When you said that, if the minimum wage does go up, or if a wage increase occur you can put up the price of foods?"

Interviewee: "That's right"

Facilitator: "Is that your decision there at your local store or does that come from head office?"

Interviewee: "No, that'll come from head office. It used to come from the partnership but now we're all falling under the same banner. So yeah, no, it'll come from head office. I guess they won't just look at that. They'll look at a lot of the factors when they do set those prices and cost of goods being one and labour as the - just the whole - I guess the whole package with the business, what they want to offer, where they want to sit in the marketplace sort of thing." [Manager, Award-reliant, Franchise Fast Food (corporate outlet), Inner Metropolitan, 30–35 employees]

2.4.1.3.3.1 Views of employees

As outlined earlier, employees in the fast food case studies were for the most part completely unaware of minimum wage increases and primarily they saw wage rates being tied to age (with some employees mentioning wage increases when moving into roles with higher skill requirements or greater responsibility). Consequently employees indicated that minimum wage increases had little to no impact on their incentives to bargain:

Interviewee: "I think it was about \$6, \$6.32, something like that and then it went up and now currently I'm now on \$7.32 and I'm turning sixteen like next week, so it should, I think I get a pay rise. So, yeah, that's pretty fair and then I think we got a pay rise a couple of months ago and just recently now, so."

Facilitator: "And do you know why you got that pay rise?"

Interviewee: "No." [Employee, Union collective agreement, Franchise Fast Food (franchise outlet), Inner Metropolitan, 100 employees]

Facilitator: "Do you know anything at all about the National Minimum Wage Decision that comes down in July? So when the government sets the wage increase—the minimum wage goes up for all the people on the award?"

Interviewee: "Never heard of it, no." [Employee, Informal over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

Facilitator: "Do you know the minimum wage decisions? Do you ever hear about anything to do with that?"

Interviewee: "I was 18 when I started so I wouldn't have a clue. I would have no idea." [Employee, Informal over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

For most employees interviewed, the notion of initiating bargaining or even participating in workplace-level bargaining over wages had not been considered. Pay was considered to be set unilaterally by management, taking into account age and role, without the involvement of employees. Most employees didn't conceive changing their rate of pay as possible. When asked how he might go about getting more pay in his job, one employee responded that he could work more hours. This was also reflected in employee-employer discussions about pay, with employees tending to accept the pay rate they were offered. An example of this was in the award case study:

Facilitator: "How is that actual rate worked out?"

Interviewee: "Well it was discussed at my interview."

Facilitator: "It was discussed, okay, and when you say it was discussed did you negotiate back and forth or was it..."

Interviewee: "Not really, because I really wanted the job." [Employee, Award-reliant, Franchise Fast Food (corporate outlet), Inner Metropolitan, 30–35 employees]

In an example from a formal over-award case study site, another employee responded that a wage increase could be achieved by getting promoted or completing an in-house qualification.

In the informal over-award case study, bargaining occurred on an individual basis as a need arose and had not involved any ongoing wage increase.

Facilitator : "Have you ever asked for a bonus for you or have you ever gotten one?"

Interviewee: "No, I've asked for like just little things like can you pay for my parking or my lunch or something and he goes oh yeah. But nothing formal, consistent every week or anything like that. I've never asked for that" [Employee, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

2.4.1.4 Domestic Waste Collection

2.4.1.4.1 Operating context

The Domestic Waste Management sector can be categorised into three types of activities: collection, disposal, and final processing. Waste collection services (domestic, commercial and industrial) is a relatively small part of the sector with only 17 000 workers—16 000 of whom are employees.⁹² The focus of the three case studies is the Domestic Waste Collection sector. In this context, duties of employees are based around the operation and maintenance of the waste collection truck. Some trucks require additional 'runners' to collect bins and bring them to the trucks, however upgrades to robotic arm technology mean that these traditional forms of collection are fast becoming obsolete. This impacts on demand for labour in the sector because fewer workers are required to provide the same quantity of rubbish collection services. The introduction of more technologically advanced machinery has also impacted on skill requirements in the sector.

While the case studies featured in this analysis all operate in 'domestic waste management', the relationship between waste collection disposal and processing are pivotal to the contractual arrangements, profit margins and in turn the wage-setting and bargaining arrangements in place at the case study sites. Local councils typically award waste collection contracts to private companies. Contracts are typically long-term and vary widely. The contract periods for the case studies varied from seven to 15 years. While each council has its own methods for allocating contracts, the various councils in which the case studies were located awarded separate recycling contracts for organic (i.e. green clippings) and household waste. Management interviewees in the case study workplaces believed that in order to win council contracts, tenderers must demonstrate a high level of service, but this is often secondary to a demonstrated ability to deliver services on incredibly tight margins. The nature of outsourcing and competitive tendering in this sector was described by case study employers as intense.

Two major changes in waste collection and processing occurred in the latter half of the 20th century, both of which affected the way the waste industry operates. The first was increased transfer of

⁹² ABS, *Labour Force Survey, Detailed Quarterly, May 2013*, Catalogue No. 6291.0.55.003, Data cube E06, Employed Persons by Sex, Industry, State, Status in Employment.

responsibility for waste processing from individual households to councils and then to private companies. As one operator of a waste operation described, weekly backyard burn-offs are no longer a common occurrence, instead most waste is disposed of through council services. He claimed this shift resulted in growth of his business operations over the past 20 years. The second shift is the greater focus on recycling. This has led to the introduction of new waste collection systems and innovations in the disposal and processing of recycled goods; it has also had consequences for waste collection contracts. Both of these contextual factors form the backdrop to the market environment in domestic waste collection. Operators are under greater pressure than has been the case historically, both in terms of the volume of waste to be collected and processed, and the environmental demands associated with how the waste must be stored and processed after collection.

2.4.1.4.2 Qualitative findings on the role of over-award pay rates in the sector and exploring the relationship to minimum wage increases

According to key industry stakeholders and employer interviewees in the sector, wages in waste collection tend to be set on a depot-by-depot basis, therefore, the unit of analysis for the purposes of this qualitative study is the depot rather than the overarching enterprise. The case study sites fall into three categories according to wage-setting practices and the type of operation:

- predominantly set by a formal over-award agreement located within a large multinational;
- predominantly set by a formal over-award agreement located within a national operation; or
- equally distributed between informal over-award arrangements, and the award.

While these worksites were initially categorised as one of the three wage-setting arrangements (award-reliant, informal over-award and formal over-award (enterprise agreement)), this categorisation required revision following the detailed examination of the range of wage-setting arrangements in place in this sector. All of the depots paid at least some employees under formal or informal over-award arrangements and one also paid employees award wages.

In addressing the key question associated with this research, the AWR increases were not considered an incentive to bargain by any employers or employees. However, the AWR adjustments were identified at two of the case study sites as an important information and research source and continued to play a role in influencing internal relativities.

At the two formal over-award case study sites, wages paid to employees across the workforce were significantly higher than the minimum rates set out in the award. For this reason, interviewees at the case study sites were of the view that minimum wage adjustments have little impact on the wage-setting decisions in these case studies. Rather, negotiations centred around bonus structures and KPIs. The extent to which minimum wages impact on wage decisions was explained by one HR manager in the following way:

‘For me, the minimum wage adjustment is just an article in the paper. It’s not a news story of any relevance to our business.’ [Manager, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

Two key factors were identified across the interviews as particularly influential for wage-setting practices. For operators who had a long established history in the sector, and a long standing relationship with unions, the wage structures in the previous enterprise agreement formed the basis for wage negotiations. As this manager, in the workplace site covered by the enterprise agreement, stated:

'... we only ever look at the previous wage structure under the previous agreement. That's the base. That's always the base we work from.' [Manager, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

In the award-reliant case study site, minimum wage adjustments formed part of a strategy to moderate informal over-award wage levels and increases. In this case study site, managers monitor the minimum wage levels because it provides a way to 'cap' wage growth, while award wages caught up with the current levels of informal over-award wages.

The case study site that employed workers on informal over-award and award wages looked to the minimum wage to make wage decisions. Employer interviewees at this case study site indicated their intention to move all employees to the applicable award wage by the time their domestic waste collection contract with the council was up for re-tender. So while employees on the award received the AWR increase, this was not passed on to over-award employees. The employer anticipated that by following this strategy, the wages of the employees paid under an informal over-award arrangement would be equal to the wages of award-reliant employees in coming years:

'So the minimal - the federal minimum increase then taken as a percentage projected forward we estimate that it's going to be about three per cent a year for the federal guys so - and then we try to marry that so the two wages meet by about 2014, 2015.' [Manager, Over-award, Private Waste Collection and Management, Regional, 40+ employees]

According to the interviewees, this strategy had been forged from a recognition (by both the employer and employees) that in order to achieve longevity for the business, future contracts would need to more closely match the lower wage rates offered by their competitors. Without this agreed wage strategy, both the employer and employees believed that the business would be unlikely to win contracts over competitors who could offer a lower cost service to local councils. One manager explained how the employees reacted to, and accepted, this strategy which was initiated by the business:

Interviewee: "A lot of the [employee] discussion was [over] the fact that they weren't getting pay increases and so... [the union] reps turned up with paper cuttings. They actually gave me some."

Facilitator: "The [union] reps did?"

Interviewee: "Yes, and they put them up on the board, because they understood very well, and again it was the older, calmer headed [employees responding to the] other ones that were used to getting pay increases each year... 'we're going to get a five per cent increase', 'well, no, you're not'. So, they actually had some paper clippings that they gave to the other guys to actually help them see, this is the mess we [will] end up [in]. Do you want to work for this company [that is paying very low wages], that's what's going to happen if you force us to [pay high wages and lose contracts]."

Facilitator: "... Did any of them say, well, we should at least get the wage increases that the Fair Work hands down, or the Industrial Relation Commission hands down? There was no - they just accepted that it was already high?"

Interviewee: "That they were above and that we were absorbing. Because if they got any increases, effectively that - any further increase was going to make us uncompetitive for re-tender. So, they did understand that." [Manager, Non-union Enterprise Agreement (transitioning to award), Private Waste Collection and Management, Inner Metropolitan, 23 employees]

2.4.1.4.3 The importance of local workplace factors: bonuses and wage setting

During the recruitment stage of the project and in the early stages of qualitative data collection, it did not appear that bonuses played a substantial role in wage negotiations in the Domestic Waste Collection sector. However, as the case study examination progressed, it became clear that workplace-level bonuses were paid to employees at the case study sites regularly or on an ad hoc basis to augment base wages. This is important for the core issues addressed by this research because it demonstrates that local workplace factors play a dominant role in shaping the nature and focus of wage negotiations.

Each of the three case study sites had a bonus structure that covered a wide range of workplace performance issues. For example, bonuses are used by employers to encourage retention of staff. Bonus structures were also used as an incentive to increase productivity and for using equipment in accordance with safety protocols and in a cost effective way. In all cases, bonus systems were broad ranging and subject to change from year to year. For example, at the regional case study site, bonuses are notionally awarded for increases in productivity. These were measured on a range of performance indicators, including:

- hourly bin collection rates;
- low fuel usage;
- lack of overloading;
- no or a low number of complaints;
- attendance;
- low accident and damage rates; and
- passing drug and alcohol tests.

A wide range of employees in the case study sites could potentially access the bonus system, and in the minds of the managers, this motivated good performance across a wide range of areas critical to the business bottom line. The commercial value of a bonus scheme of this type, which can be adapted to meet the changing needs of the business easily (because it lies within the discretion of management) was described by one manager as follows:

‘The margins are so tight. You have one truck accident and that costs you \$25,000 and you’re only planning on making half a million bucks a year, you’ve just blown two and a half per cent of the yearly EBIT with one prang.’ [Manager, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

The employees at the case study sites were generally far more informed and better able to explain the bonus system arrangements in place than they were about the wage-setting practices and mechanisms for wage adjustments (such as minimum wage increases):

‘We get three bonuses. We get a bonus each quarter of \$200 just for showing up. We get \$300 for not having an accident that’s our fault, and we get \$200 for not having a sick day. At the end of the contract, end of the three years, we get \$5000 just for staying there.’ [Employee, Non-union Enterprise Agreement (transitioning to award), Private Waste Collection and Management, Inner Metropolitan, 23 employees]

Overtime was identified by the interviewees in this sector as playing an important role in ‘lifting’ earnings, and was built into the weekly wage rate. Employees interviewed typically worked between 45 and 50 hours per week. Employers explained that they were happy to pay 10 hours a day even when employees complete the ‘run’ in fewer hours because completing the task ahead of the

allocated time represented an efficient use of equipment and meant the employees would be available to help out on other runs if required:

'We get like \$50 a day completion bonus, so guys don't – if someone has problems with their truck and they've got to stay out longer, instead of saying 'oh right I've finished my eight hours I'm going' you have an incentive to stay as long as it takes to finish your run and then you get that \$50 bonus.' [Employee, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

Some interviewees had described additional payments as 'overtime' (in each setting, the agreements made provision for it); however, the overtime payment system is implemented by the employers like a bonus system. The employers explained that paying for overtime that is not actually worked allowed management to use the overtime system as an additional performance management tool, and a sweetener for employees who they believed were likely to seek employment in another sector or with a competitor.

2.4.1.4.4 Qualitative findings on minimum wages, minimum wage increases and incentives to bargain in the domestic waste collection case studies

The AWR increases were not cited by interviewees as acting as either an incentive or disincentive to bargain. The key industry stakeholders explained that negotiations between management and the union, and a high level of union membership, had created both the structures and timelines for bargaining for formal over-award arrangements. This legacy of bargaining combined with the highly competitive nature of tendering for outsourced contracts with councils had motivated both parties to engage in bargaining. All of the case study interviewees in this sector argued that the history of bargaining had created a culture which was endemic to the sector, and this was a more influential incentive to bargain (or more recently not to bargain) than the AWR per se:

Facilitator 2: "Going back to when you lost the contract with [client], as you were \$2 million above, what was the union's response? Were you able to negotiate on labour costs?"

Interviewee 2: "Do you know what the union's response is? We've now got the unions seeking redundancy payments for the guys who lost their jobs because we lost that contract and URM didn't pick them up. We're now being - so we paid the highest rates in the industry. It cost us pretty much 12 contracts and now, three years after that, now we want redundancies for the blokes that lost jobs because of it."

...

Interviewee 1: "So, what's happening is already this disparity with - the stronger unionised companies have been forced to bargain. The ones that aren't, aren't being forced to. They're sitting there. So, that gap's created. This creates the gap nearly double, so incentive to bargain is not going to be there. Because simply, if we continue down the track that we go, and nobody - none of our competitors are, what do you think is going to happen to us? We ain't going to be here. Effectively, so what's about to happen is the race to the bottom is about to be created. The good companies that provide all the good human resource things, flexible work practices..."

Interviewee 2: "All that stuff".

Interviewee 1: "...all that, that will all start to go whoosh, because they won't be able to afford it. It will just get back to the old base, come to work, do your job, blah, blah, blah, minimum rates. So, we're about, I think, getting to the point where we'll go over the top. All the large companies start pushing back and start the race to the bottom, because what used to be the union's role is to continue the level playing field on the way up, they haven't been effective. It's not just the TWU, it's most unions are in this boat. Some have done

it better than others. But they have not been effective at keeping that level playing field, moving up. So, what's about to happen, because they haven't been, is you've got that gap, it will start to turn now, and all the larger companies will start the race to the bottom." [Manager, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

Facilitator 2: "Yeah. What about with these contracts when they come up for tender, will you still tender for them, but put in a lower budget and then work your agreement around that?"

Interviewee 2: "We did that a couple of years ago with the [area] domestic contract. We said 'hey, listen, we can't bid on this based on current rates. We need to bid on the award, because [this company] will bid on the award, [that company] will bid on the [award]. [That company] won it, by the way, the lot... We'd had that contract for 12 years."

[Manager, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

The annual adjustment of minimum wages was not identified as influencing wage setting by either employers or employees in the domestic waste collection case studies. In the case study site in the midst of transitioning to award wages, the AWR increases were being used as a device to bring over-award wages into line—that is, maintaining them at the same level until modern award wages caught up. Negotiations occurred between management and long-term employees receiving over-award rates at this site, through meetings where management explained the reasons and the process. Some negotiation around the structuring of bonuses occurred during this process, and resulted in assessing bonuses and 'locking them in' on a quarterly, rather than annual, basis. This effectively meant that employees who had accidents in the waste collection trucks (and would previously have lost an entire years bonus), would only lose the bonus awarded to them in the quarter the accident took place.

Some employee interviewees demonstrated a low level of knowledge about minimum wage decisions and about the processes of negotiation which may have impaired their capacity to improve their wage outcomes in general. This is demonstrated in the following excerpt from an employee interview. The enterprise agreement was negotiated by two employee spokespersons representing the employees without the presence of a union. The approved enterprise agreement did not contain any provision for a wage increase.

'We don't [get an increase]... well there's not an increase. There were - for those three years we do - we forgo or forwent, or whatever, the - I think we were tied to the CPI. I think we were tied to three per cent increase. But we - yeah, we didn't take it.' [Employee, Non-union Enterprise Agreement (transitioning to award), Private Waste Collection and Management, Inner Metropolitan, 23 employees]

2.4.1.5 Dairy Cattle Farming

2.4.1.5.1 Operating context

The dairy industry in Australia makes a significant contribution to the national economy. It continues to be Australia's third largest rural industry and is a major regional employer. It makes up around 7 per cent of all agricultural businesses and directly employs a workforce of around 40 000–50 000 people.⁹³

Australian dairy production is predominantly located in south-eastern Australia, with a scattering of farms in other regions. Traditionally Dairy Farming businesses have been family run, with a high

⁹³ ABS, *Labour Force Survey, Detailed Quarterly, May 2013*, Catalogue No. 6291.0.55.003, Data cube E06, Employed Persons by Sex, Industry, State, Status in Employment.

proportion of unpaid family workers and few employees. Farm owners have traditionally managed stock and pasture directly, employing shift workers (usually referred to as farm hands or relief milkers) to help with droving, feeding and milking. Specialist tasks have traditionally been undertaken by consultants, including veterinary services, and services related to stock growth and fertility (e.g. artificial insemination), pasture management (agronomists) and improvements to stock viability (e.g. nutritionists). Larger operations may also employ farm managers to oversee operations.

The traditional farm business model explains why only 58 per cent (17 300 of the 29 700) of those working in Dairy Farming are employees.⁹⁴ However, in recent years a major shift has occurred with an increase in herd numbers and farm size. Accompanying this has been an increase in the number of employees as opposed to owner-operators. This has been associated with the entry of corporate enterprises into the sector, many of whom have sought to develop and enhance the commercial capacity of dairy production. Two of the case study sites chosen for the dairy production analysis are farms belonging to corporate enterprises, while the third is a traditional family farm operation.

While the dairy industry is commonly associated with milk production, dairy farms comprise the start of the supply chain only. Milk producers on-sell fresh milk to milk processing manufacturers which pool the milk and may sell it fresh or process it into secondary products such as milk powder, cheese or yoghurt. Frequently processors guarantee prices for a specified period, with quality incentives being included.

As noted earlier, the Pastoral Award commenced on 1 January 2010. It applies to all dairy farm operations in the national system employing employees. Of the three case study sites, two (one a corporation and the other the family farm operation) paid over the award, although one of these was more award-reliant than the other. Both had fewer than 10 employees. The third farm was a corporation with 17 employees and had a non-union enterprise agreement.

2.4.1.5.2 Qualitative findings on the role of over-award pay rates in the sector and exploring the relationship to minimum wage increases

Some consistent themes emerged on the issue of wage setting in the dairy sector which provide context for the discussion on minimum wage impacts.

Across the three case study sites, and amongst employer and employee interviewees alike, local labour market conditions had a profound influence on approaches to wage setting. Firstly, the notion of competition for labour in small and isolated labour markets is a key issue of concern for those in the sector and shaped behaviour toward the determination of wage levels to both attract and retain staff. In particular, managerial and supervisory positions requiring a higher skill level and experience were said to be harder to recruit for than lower level roles (such as those involving hands-on animal management and milking). The view of case study farm owners and managers was that recruitment for lower level positions was relatively quick and easy, although there were sometimes difficulties with long-term retention. Recruitment and retention issues shaped employer views of wages in all three case study farms.

Secondly, dairy farms are situated in regional labour markets which are deeply affected by seasonal factors. While dairy farms operate year round, many other rural businesses require seasonal labour (e.g. during harvesting/picking times) which has a marked effect on labour demand. All of the case study sites noted that intense competition for labour at critical points in the growing and harvesting

⁹⁴ ABS, 2012 *Year Book Australia*, Catalogue No. 1301.0.

cycle meant that they needed to adopt more effective strategies to ensure labour could be retained. For this reason, strategies had been adopted across the three case study sites for managing retention. These included over-award salary arrangements for managers and supervisors, a more diverse set of wage arrangements for farm hands being paid award or near-award payments, and the use of piece rates ('by the milking').

In all three case studies farmers undertook milking year-round with costs typically being higher in the winter and autumn months. Due to the lower rainfall, cooler temperatures and slower field (grass) growth, farms need to purchase grain, and often additional water, in order to maintain production volume. Higher production costs made producers particularly conscious of the need to contain other costs, particularly labour, in these periods, and led to a concern about 'winter wage movements'.

Universally, interviewees argued that neither minimum wages nor minimum wage adjustments were critical for determining over-award wages for employees in the sector. In only one of the case study farms did an interviewee cite the relevance of the minimum wage adjustment decision as pertinent to their operation and wage determinations. This happened when a farm owner considered the minimum wage adjustment decision, in conjunction with the Consumer Price Index (CPI), as part of his decision making on the quantum of the winter wage movements. While this farmer did not want to lose staff because of a failure to meet market rates, equally he did not want to compromise his profit margins by paying substantially above them. In the face of intense local labour market competition, farm owners argue that the costs of recruiting staff means that retention remains a priority. For one case study site (paying over-award wage rates on an informal basis), the pressure of competition for labour directly influenced the introduction of a piece rate (where milkers were paid by the milking, rather than by the hour) for casual/relief staff. This strategy ensured the workplace maintained a reliable pool of labour to cover absences. The farm manager explained that paying a set rate for each milking ensured that employees maintained a more predictable income in the face of a seasonal difference in hours. These decisions were influenced more by local labour market conditions, and wage rates offered by competitor farms, than they were by the Pastoral Award.

2.4.1.5.2.1 Over-award rates, classification structure ambiguity and payment by the milking or per hour

AWR increases did not play a significant role in setting or adjusting over-award rates of pay at any of the three case study sites.

For one of the case study farms, the Pastoral Award was used for determining farm hand wages, while assistant managers were paid above the award rate. However, the employer noted that ambiguities associated with performing farm roles (in terms of skill levels) made issues surrounding wages and wage movements difficult to assess. While the Pastoral Award provided a framework to assess and understand the skills, roles and wage levels that should apply in what is a complex team environment, minimum wages did not greatly influence changes in rates paid for either group. As this manager explains:

"... if they're not experienced they will go straight to FOH1 [i.e. the entry level classification used in the award and taken as a reference point for the farm's classification structure] and if they've got a little bit of experience FOH3. Maybe two years experience or so depending on what they're doing on-farm so if they're just milking it's kind of hard to say but if they're feeding out and they're tractor operating and doing bits and pieces maybe FOH5. Then FOH7 and 8 you're kind of looking at your 2ICs or assistant managers. I would say that with any of the assistant managers that we have they get paid above award." [Manager, Award+over-award, Dairy Farming (corporate), Regional, 5 employees (+ head office support)]

Given this ambiguity, employers often used their discretion to place workers at the classification level which most closely reflected the skills and experience and the role being performed. For employers in all three case study workplaces, this reflected a disjuncture between the role descriptions included in the award and the day-to-day work being performed on-farm. However, complications associated with managing a workforce where the roles are blurred meant that having a 'go to' document (such as the Pastoral Award) allowed workplace managers to assess the appropriateness of the judgments made about wage levels.

As employees often worked for multiple employers in a region, employees were generally well informed about 'market rates' and rates paid by individual employers. This in turn was factored into decisions by employers about wage arrangements and the appropriateness of wage level. Employees also were conscious of the trade-offs that may need to be made between wages and conditions, and trade-offs between being an employee and a contractor. As one employee noted:

'... because I was doing other milking somewhere else, so I got my own ABN number, and then I started as a contractor here, and then it sort of just got too much at the end of the tax season, you paid all this tax, and I said to [the manager], at that stage he was here, can I just go under [on to the award as an hourly rate casual], you taking tax out, and he said yeah that's fine. So that's when I went on to per hour.' [Employee, Award+over-award, Dairy Farming (corporate), Regional, 5 employees (+ head office support)]

A human resources (HR) manager at the corporate farm also notes the importance of having a consolidated source document for managing issues of pay. As a range of managers in the dairy farm noted, those engaged in HR roles (either farm managers or designated HR staff), have particularly challenging management responsibilities in terms of recruitment, staff retention, managing payroll, and ensuring that health and safety remains a priority at the workplace. For these managers, the ability to access a centralised document, without having to monitor and assess a wide range of other documentation to ensure people are paid 'correctly' is invaluable. As this HR manager at the corporate farm explains, the ambiguity surrounding farm roles means one reliable source document makes life easier for management:

'Well I have noticed that when I first started I sort of said - a lot of people would just put them on \$20 an hour and I was thinking where does that \$20 an hour come from like what's going on? So anyway I got my head around the pastoral award and I'm looking at the bands and I thought oh my God why aren't we doing this? So we sought advice from our legal team and whatever and they ended up doing a proper banding which is as per you find on the People in Dairy [website].' [Manager, Award+over-award, Dairy Farming (corporate), Regional, 5 employees (+ head office support)]

Competition for workers in the local labour market affected the wage negotiations at all three farming workplaces. Even while bound by an enterprise agreement, one farm manager argued that, in order to remain attractive as an employer, he needed to consider the wages offered by competitors in other industries (such as supermarkets) outside the farm sector. The reasoning for this was that the farm is competing with the wages paid for work of a comparable skill level in other industries in the local area to recruit and retain staff. For this reason he uses a supermarket chain's wages to determine the pay of farm hands, despite knowing that that chain's wages are generally higher than its competitors.

Interviewee: "With the milkers and that, I tended to base my wage on being about \$1 or \$2 above what supermarket shelf stackers were paid. I'd never had any trouble. But the other managers paid, and it wasn't for any other reason other than it paid \$2 or \$3 an hour less because they wanted to improve their budget line. They had constant turnover all the time... You've got to compare with what they're comparing against... really dairy, or milking, it's unskilled, it's uneducated. It's long hours, it's unsociable hours. It's bad, dirty conditions, all the rest of it. So I've tried to find jobs that were similar, I mean not to the extent that

dairying is but a shelf stacker, anyone can walk in there and stack shelves. It's often odd hours of the day. It's menial work. You don't need any education. You don't need any skills... So [the supermarket chain] tended to advertise in the papers for their shelf stackers and they had their rate there. So I started doing about \$1 or \$2 above what Aldi's ad was and I never had any trouble after that." [Manager, Non-union enterprise Agreement, Dairy Farming (Corporate), Regional, 17 employees]

Facilitator: "If [the supermarket chain's] rate was to change would you take notice of that?"

Interviewee: "Oh [expletive removed] yes. That's my litmus test, the [supermarket chain]'s ads for milkers." [Manager, Non-union enterprise Agreement, Dairy Farming (Corporate), Regional, 17 employees]

Managers in all of the three case studies are paid over-award salaries with additional benefits. Local labour market conditions exercise the greatest influence over pay and conditions governing employment, particularly for farm management roles where employers need to look beyond the local labour market in order to recruit suitably qualified staff. Across all the case study settings therefore, farm managers received recruitment incentives such as rent-free housing, company vehicles with fuel cards and laptops. Additional bonuses could be achieved through milk quality and farm safety improvement bonuses. As the farm owner of the formal over-award case study site noted, all of these factors are deeply shaped by local labour competition and the need to retain staff. Attractive salary packages encourage good farm managers to stay and this, in turn, encourages farm hands to stay because of a positive work culture and environment. As this manager noted:

'[T]he bonus is ... sort of loaded towards profitability, productivity... and then milk quality comes into it, and worker retention.' [Manager, Non-union enterprise Agreement, Dairy Farming (Corporate), Regional, 17 employees]

Working conditions, and what interviewees variously describe as 'gritty', 'dirty' and 'hard work' also exercises a great deal of influence over the decision-making processes surrounding wages. In one of the case studies, for example, wage increases are deliberately scheduled to occur mid-year because it is widely acknowledged that winter brings the most arduous, challenging tasks for dairy workers:

'The days are so short, it's probably when everyone finds it the hardest because the cows get slow on their feet. They get sore feet so animal health issues are at their highest due to mud and mastitis so that's probably around the time that I often say oh, well let's up [the pay] a little bit...' [Manager, Over-award, Dairy Farming (family farm), Regional, 7 employees]

'... I don't think we're far away from sort of getting towards our peak numbers for this winter and at that stage I think we'll probably up [employee's] pay too, so she'll probably get \$70 for a milking and that probably just a signal to - I think it's probably, what's five on - going to be well above CPI... it's probably time to reward them, yeah and probably to keep up with neighbouring farms because they are our competition for labour.' [Manager, Over-award, Dairy Farming (family farm), Regional, 7 employees]

2.4.1.5.2.2 Views of employees

The employees interviewed in the Dairy Farming case studies demonstrated a low level of knowledge about wage increases and the possible reasons for wage movements. For example, at the award case study site an award-based employee was asked about wage increases:

Facilitator 2: "Does it go up each year at all?"

Interviewee: "No."

Facilitator 2: "So it's still at \$22 an hour?"

Interviewee: "Yeah. [The manager] reckons I get paid too much so I don't know. I don't look at the internet or anything, what award, what wages are..." [Employee, Award+over-award, Dairy Farming (corporate), Regional, 5 employees (+ head office support)]

For the employees who were aware that annual wage increases had taken effect, the reasons for the increase had not been well understood. For example, the annual increase at the formal over-award wage site was described by the HR manager as being influenced by the CPI, but was understood by a farm hand as due to changes in national payrolls:

Facilitator: "Has your wage changed at all since you came here?"

Interviewee: "Changed? Yeah it has increased. It was \$21.50 and it's gone to \$22.31 now."

Facilitator: "Why did that happen?"

Interviewee: "It's something to do with the national payrolls or something." [Employee, Non-union Enterprise Agreement, Dairy Farming (Corporate), Regional, 17 employees]

2.4.1.5.3 Qualitative findings on minimum wages, minimum wage increases and incentives to bargain in Dairy Farming workplaces

Across the dairy farm case studies limited bargaining on either wages or conditions of work occurred. For example, in the informal over-award case study site wage increases were openly acknowledged by the farm manager to be determined unilaterally by the farm manager/owner with little involvement from employees. The production manager at this farm stated: '...as far as I can assume, they were just happy with what I was doing with the targets and that...' The lack of negotiation is further corroborated by a relief milker on site, who had worked there for more than 10 years but admits no knowledge of the reasons why wages move, or when. As this milker stated:

'... I don't know [pause] I think just the number of milkings. Well it must be more, yeah. Because when I first started milking it was only 400 cows... and now it's 600 cows so it has gone up because of the number of cows we milk.' [Employee, Over-award, Dairy Farming (family farm), Regional, 7 employees]

A similar theme was identified at the award-reliant workplace. The following excerpt from an interview with a farm hand illustrates the negotiation 'culture' in effect at this workplace:

Facilitator: "What if you were wanting to get more money, what would you do?"

Interviewee: "I really don't know whether I want much more money for what I'm doing. I figure I'm getting paid pretty well for what I do, for the hours I work."

Facilitator: "What if you wanted to change it, what if you wanted to get [an extra dollar], what would you do?"

Interviewee: "I don't know. I always say to them, give me a - give me a pay rise, but he never says anything, so."

Facilitator: "Okay".

Interviewee: "I'm only joking at him but, if you give me one, I'd jump at it." [Employee, Over-award, Dairy Farming (family farm), Regional, 7 employees]

Across the three case study sites, one workplace had a non-union enterprise agreement in place. At this farm the farm manager actively negotiated his/her own salary with the corporate accountants

when first hired. However, this did not occur for the farm hands who comprise the bulk of the workforce:

'There was a lot of to-ing and fro-ing. Yes, they put a lot of work into it I think. They asked a lot of, not a lot of people, but a lot of industry consultants I suppose you'd call them. They came up with a figure. Initially I said it was about \$30,000 shy of where I thought it needed to be. Anyway, they restructured it so there was a bonus component, I suppose. Then I was a bit unhappy with the ratio of base salary to bonus. So that had to get renegotiated a bit. Then eventually we came up with a deal I was happy with and I accepted the job.'
[Manager, Non-union enterprise Agreement, Dairy Farming (Corporate), Regional, 17 employees]

2.4.1.6 Child Care Services (Long Day Care sector)

2.4.1.6.1 Operating context

While the care and educational practices of child care centres vary, provision of core services involves a mix of: caring tasks (effective communication and the provision of a comfortable and safe environment for children); supervision, monitoring, assessment and behavioural management of children; and the development and delivery of age-appropriate activities which aim to both educate and socialise.⁹⁵ In recent years, child care centres have also had to adapt to demographic shifts and a number of education and care policy shifts. Firstly, increasing numbers of children presenting with high level additional needs (e.g. autism spectrum disorder, attention deficit issues) has meant that child care workers need greater levels of specialisation, knowledge and experience in order to manage and care for children with these complex needs. Secondly, the National Quality Agenda for Early Childhood Education and Care for reform in the industry (which commenced on 1 January 2012 with the qualification requirements to commence 1 January 2014)⁹⁶ has re-shaped the context for child care delivery by altering the mandatory ratios, and the skill levels required by many staff engaged in frontline care roles.⁹⁷

Up to 95 per cent of workers in the Child care services industry group are female.⁹⁸ As at 2011, 25 per cent of child care workers were aged 15–24 years, while this age group of workers formed only 15 per cent of all those employed in the Australian labour market.⁹⁹

The National Quality Agenda for Early Childhood Education and Care, endorsed as a set of sector-wide reforms by the Council of Australian Governments,¹⁰⁰ has impacted operations of child care centres. Employers are required to engage teachers specifically trained in the early childhood field in

⁹⁵ Bretherton T (2010) *Developing the child care workforce: Understanding 'fight' or 'flight' amongst workers*, National Centre for Vocational Education Research (NCVER) Research Paper, Adelaide, 9 July (<http://www.ncver.edu.au/publications/2261.html>)

⁹⁶ Australian Children's Education & Care Quality Authority (2013) *Guide to the Education and Care Services National Law and the Education and Care Services National Regulations 2011*, September, accessed 6 November 2013 from <http://www.acecqa.gov.au/National-Law>.

⁹⁷ Bretherton T (2010) *Developing the child care workforce: Understanding 'fight' or 'flight' amongst workers*, National Centre for Vocational Education Research (NCVER) Research Paper, Adelaide, 9 July, (<http://www.ncver.edu.au/publications/2261.html>); Australian Children's Education & Care Quality Authority (2013) *Higher Qualifications*, Accessed 6 November 2013 from <http://acecqa.gov.au/Higher-qualifications>.

⁹⁸ ABS, *Labour Force Survey, Detailed Quarterly, May 2013*, Catalogue No.6291.0.55.003, Data cube E06, Employed Persons by Sex, Industry, State, Status in Employment. ANZSIC industry group 871 Child care services.

⁹⁹ ABS, *Census of Population and Housing 2011*, accessed via TableBuilder, Canberra.

¹⁰⁰ Council of Australian Governments (2009) *Communiqué: Productivity Agenda, Early Childhood Reform, Council of Australian Governments*, Brisbane, 7 December 2009; see also Council of Australian Governments (2013) *Early Childhood*, accessed 19 September 2013 from http://www.coag.gov.au/early_childhood.

order to fulfil accreditation requirements. The national reform agenda has also re-defined mandatory staff to child ratios (which vary depending on the age of children in care). Operators will be required to change the staff to child ratios on which they have historically operated resulting in centres employing more staff in order to supervise the same number of children for which they are accredited to care.

2.4.1.6.2 Qualitative findings on the role of over-award pay rates in the sector and exploring the relationship to minimum wage increases

The four workplaces considered by this analysis had adopted a variety of strategies in the way they determined and paid over-award rates. However, as each of the following examples will demonstrate, these determinations are generally made with little regard for AWR increases. To illustrate, a range of examples, typical of the experiences of case study sites are provided below.

In this excerpt, an employer interviewee noted that the payment of informal over-award rates places them comfortably out of the realm where minimum wage increases would otherwise be paid to staff:

‘Yeah, the July increase. The reason being is that the people that are over-award are significantly over-award, so when the increases came in play it didn't affect them because they were already being paid well above what the award states, you know what I mean?’ [Manager, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

One workplace manager was committed to pay informally over the award in order to ensure that they could retain staff, especially teacher-qualified staff, and minimise staff moving to other child care centres. In this case a number of additional provisions had been put in place over time to make continued employment an attractive option for staff:

‘Definitely, yes [We plan to stay over the award]... We don't want to drop back anything, but we just want to give a bit more and better conditions... At the moment in the award the lunchbreak is 30 minutes, but we give them one hour paid lunchbreak. Everyone get one hour paid lunchbreak. Also at the end of the year when we close the centre for five weeks - we have only four weeks annual leave but the centre is closed for five weeks and one week is paid by our company... So they can have five weeks annual leave... we have 14 weeks paid maternity leave for our staff. It's new, we didn't have any maternity or study leave, I think, three or four years ago. Again we approached the board and they approved, so we have 14 weeks maternity leave. We have two weeks study leave as a block for practical or for work experience. We also have three days study leave or exam leave, they are all paid leave... it's pretty good here. Maybe that's why the staff is staying. From the beginning I think the centre has a culture, they always support their staff and they always have a really good team. So that makes a huge difference. We have a staff member who's working here nearly 20 years. We have a couple of staff members who are eligible for long service leave. That means they are here more than 10 years, so that's pretty good.’ [Manager, Informal over-awards, Child Care Centre, Inner Metropolitan, 15 employees]

Another workplace manager/director notes the important role that paying over-award rates could play in recruiting staff, particularly staff that perform well at interview:

‘[S]ay you want to hire someone but then they're looking for - because the childcare industry pay is quite low, so if they want to get quality applicants, they might make an exception and just pay them over-award...’ [Manager, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

‘She's got a great reputation. She's got lots of experience. We found it really hard to get an early childhood teacher, and when a really good one came along, we grabbed her.’ [Manager, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

In the child care workplaces featured in this study, wages remained either at award level (award-reliant) or only marginally above the award rate in the informal over-award workplace. Interestingly, the need to recruit teachers into the sector and retain their services resulting from changes in mandatory ratios of qualified teachers to children had not led to significantly higher wages being offered for these roles. Rather, the workplaces to the study had reported offering non-wage over-award entitlements to attract the more highly skilled workers into the industry (and particularly to attract teachers away from education into child care).

Despite the acknowledgement by the interviewees that the over-award wage amounts 'hovered' just above or near the applicable award rates, the minimum wage increases were not considered to be a significant issue in their wage deliberations. Both employer and employee interviewees emphasised that wages were not the central issue for employees and employers. Instead, the workplaces had sought to implement additional provisions and over-award conditions to permit workers better flexibility to manage their arrangements outside of work. For example, one workplace had implemented a more flexible rostering system which gave workers more control and discretion over the shifts they worked. Another workplace had introduced a more generous maternity and carers leave provision to account for the high number of staff who had caring responsibilities of their own. The over-award workplace supplemented the over-award pay rates they had in place with a range of over-award conditions to encourage staff to stay. This included an additional week of paid leave each year, payment for a one hour meal break for lunch (the award provides for a paid meal break of up to 30 minutes or unpaid meal break of up to one hour) and more generous maternity leave provisions than the formal industry standard. The AWR increases had not featured in the discussions about over-award entitlements as other factors, such as rosters, had taken precedence in the discussions/negotiations of over-award conditions.

The desire to link wage increases directly with performance management processes was noted by a number of interviewees as a key determinant for the chosen method of over-award payments. In the following example, the interviewee highlights that an event such as the AWR increase was often viewed as something 'external' to the workplace which had limited influence over the provision of over-award payments (in this case in the form of bonuses):

'There was one particular one that [manager] and I were relatively passionate about and so were the committee members. That was the bonus at the end of the year. If it was across the board that the people that just come in, clock on and clock off and don't do any extra reap the same benefits. So we came up with more of a democratic process over the year that people's work is reviewed...that it is then decided what part of the bonus you get. So it's a more fair way for people that have been loyal to the service and worked ... So it was just a nice way to actually - a little bit of an extra pat on the back for the people that actually do come to work, put more in and work a bit harder - go that bit further.' [Employee Representative, Non-union Enterprise Agreement, Child Care Centre, Regional, 30 employees]

The following workplace manager also explains the benefits of linking wage increases and performance management in the centre. This manager argues that any wage increases should serve as an inducement for behaviour change if staff are not meeting the performance expectations of management:

'That was pretty [much] almost [the] only ... the thing that we had long, long discussions about on how to do it and whether that would be fair to someone - or fair to everyone. It was agreed that it would be. The committee were quite happy with that. They were actually hoping that it would improve the performances of people who were probably working below par.' [Employee Representative, Non-union Enterprise Agreement, Child Care Centre, Regional, 30 employees]

2.4.1.6.3 Qualitative findings on minimum wages, minimum wage increases and incentives to bargain in the Child Care Services case studies

Across the four case study sites, employers and employees alike contended that AWR increases did not discourage bargaining from occurring. Analysis of the commentaries reveals some common themes across the individual experiences of interviewees and across the case study sites. Firstly, both employers and employees explained that financial constraints faced by the child care operators (explained by operators to the study as being the cost of fees and what parents were perceived to be able to afford) acted as a disincentive to bargain because both parties understood this to largely determine the extent of over-award arrangements possible in the workplace. Secondly, as outlined further below, some interviewees (both employers and employees) noted a high level of confusion and misunderstanding about the correct pay rates that should apply and this acted as a barrier to establishing and maintaining over-award arrangements. Thirdly, some employees explained their commitment to the sector was primarily influenced by intrinsic factors and that wages and wage increases were lower priority concerns for them. These issues are detailed in the discussion below.

Only one workplace indicated that the AWR increase decision influenced their negotiations and wage deliberations. However, as this manager explains, the AWR increase features as one in many factors which influence their negotiations around pay at this particular child care centre. The manager, who was responsible for budgeting, determination of pay rates, and the scheduling and planning processes for the centre in the coming year, took a wide range of issues into consideration. In this instance, the manager explained that the incorporation of the AWR increase into these deliberations had as much to do with timing as anything else:

'[S]o we've got time between - the time the national decision and the CPI stuff is handed down usually about July or August gives us a couple of months to have negotiations in September, October and then set rates for the following year, because we have to set wage rates before we do our budget. So the wage rates determine the budget. The budget determines our fee for our parents. That's the sort of process that'll be coming in. From pretty soon now, we'll be looking to see that there's a formalised decision on the national wage rise, some decision on CPI for the past year. That'll give us an opportunity to have a couple of months of negotiation and then I'll develop a budget following that.' [Manager, Non-union Enterprise Agreement, Child Care Centre, Regional, 30 employees]

There was confusion among many employee participants about pay rates and, as the following quotes demonstrate, this affected employee confidence and knowledge to either respond to, or initiate discussions with, their employers on the issue of pay. These employees explained that they had sought to remain informed, but were confounded by the complexity of awards, the transition of the awards, and the pay rates applicable to their current job role. These factors were effectively barriers to bargain for wage increases:

'I also get extra money because the [carbon] tax has gone down, paying less tax... That's where I got a bit confused because I thought this is just from the tax. Then I realised my pay rate has changed as well.' [Employee, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

'I don't know, to be honest with you. There's so much change at the moment. There's so much talk of change. I'm a bit sceptical about everything at the moment. Coming into this industry as a teacher, we're always the bottom rung compared to teachers in primary school and secondary schools.' [Employee, Informal over-awards, Child Care Centre, Inner Metropolitan, 15 employees]

The following interviewee comment is also illustrative of this point. This interviewee, in her capacity as an employee representative at a child care centre, was aware and committed to exploring the issues

around the agreement, but due to the complexity of issues surrounding pay and employment conditions in the sector, she doubted her ability to be a good representative:

'I'm quite happy to be a representative. The scary part is whether my knowledge is great enough and my understanding is great enough to assist them with their questions.' [Employee Representative, Non-union Enterprise Agreement, Child Care Centre, Regional, 30 employees]

In the enterprise agreement workplace, an employee interviewee describes the confusion surrounding the process of negotiation. In this case, this employee explained that the process had been transparent and that employees had attended meetings about the enterprise agreement. Yet, this interviewee felt this still had not resolved the issues of confusion surrounding pay, and the wider bargaining process:

'I don't know whether blasé is actually the right word to come up with - but they were kind of a bit non-committal... Actually, when it came to the end of the year - this is when the majority of the questions came up because we had in place how we were going to distribute any bonuses. That was all in part of the agreement. Most people didn't actually understand what they'd actually agreed to.' [Employee Representative, Non-union Enterprise Agreement, Child Care Centre, Regional, 30 employees]

The employee explains the situation further that even when there appears to be genuine intent to bargain, this is confounded by the complications of working in an industry which has a high proportion of casual workers and rostered workers. In this context, the structure of working arrangements and workplace practice may have been a disincentive to bargain because of employment insecurity:

'A lot of them that I thought should know I basically asked them if they wouldn't mind going away and reading it again and if they didn't understand it I would help then. But I thought it was important that they actually knew because they'd actually signed it. I'm thinking you signed it but did you really know what you were signing? That actually brought out a whole lot of things for me, whether we did that process correctly... But then that's really hard because you have a fluctuation of staffing - of staff that come and go... and every new staff member you would have to have review...' [Employee Representative, Non-union Enterprise Agreement, Child Care Centre, Regional, 30 employees]

Some employees in the study explained that they hadn't proactively sought to bargain with their employer(s) because seeking wage increases was not their priority:

'I have to say a lot of the people I work with are highly intelligent and care about their own welfare, not just about the children that they work with. So they're quite keen on investigating and finding out what it's all about and what they're entitled to; not to the point of being by the book... [but] they won't find a particular clause and come and say this is not happening here. They're not that finicky...' [Employee, Informal over-awards, Child Care Centre, Inner Metropolitan, 15 employees]

'I've been in childcare for 20 something years now and before that I worked in an office. Even when I did that I have never ever asked for a wage increase.' [Employee, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

These employees believed that their feeling toward working in child care was illustrative of a sector-wide disinclination to bargain that resulted from the 'strong level of commitment to the children in their care' that child care workers have. These interviewees felt that wages are not what draws people to the sector. Intrinsic factors such as enjoying the work were thought to be key reasons why many people sought employment in the sector and remained in the sector. Wages and wage increases were not the primary reason why these employees chose to remain in the sector:

'I love what I do. I love working with young children. I think if you ask most people in the industry that's what they'll say because nobody comes in to this industry for the money. You have to love your job. It's hard

work. It's physical and emotional, mentally demanding. You just have to enjoy it.' [Employee, Informal over-awards, Child Care Centre, Inner Metropolitan, 15 employees]

'I really do think childcare workers should be paid more. We have a big responsibility and we do have a lot of things that - extra paperwork and things like that that we have to do. I don't think we are paid accordingly, but I guess we do it because we like the job.' [Employee, Award (with some over-awards), Child Care Centre, Regional, 21 employees].

'I've just reviewed a national group employee survey where they got a third party company to come in and just build their system and stuff for this to happen. I was just looking at the results and when it came to pay and wages, it was close to 90 per cent satisfied... That was one of the things I picked up that I was extremely surprised about, because in hospitality when I did it, the major issue was wages. Whereas it was quite the opposite, it wasn't even about wages. Their major issues were communication and lack of communication and things like that.' [Manager, Award (with some over-awards), Child Care Centre, Regional, 21 employees]

Another interviewee explained that regardless of AWR increases, employees were unlikely to initiate wage bargaining because there was a deep-seated sense of resignation that little could be done in the sector to improve pay. At her workplace, for example, while she had been the beneficiary of accelerated advancement through the award classification structure (as a means for rewarding and retaining skilled teaching staff), there had not been movement in pay rates across for the board for at least 12 months:

'I'm a little bit sceptical about the fact that - I mean that we haven't seen much so far and if the conditions and the pay are decreasing, I really don't think - I think we're going to see even less in terms of wage increases. I know when I started here, during a period of about a year or 18 months, I think the childcare workers got two or three wage increases, and the teachers. At the point I was actually earning less than them because of my starting salary.' [Employee, Informal over-awards, Child Care Centre, Inner Metropolitan, 15 employees]

This interviewee at an informal over-award case study site noted that some workers saw a direct link between wage increases and increased fees for parents and families in care. For some workers this represented a significant disincentive to consider any factors that might increase fees, including minimum wage increases. This quote is from a manager, from an informal over-award workplace, located in a child care centre which had a substantial number of children from low socioeconomic groups. This manager explained that the centre was aware of the financial position of many parents, and so remained reluctant to grant wage increases on a more frequent basis because they would flow on to fee increases:

'I know lots of friends who work in different centres. The first thing they do, when the Government changed the regulations and named frameworks and all these new awards and things like that, the first thing they do is they increase the child care fees. That goes to parents straightaway. But we don't want to do that here. We increase the fees every three or four years and we try to increase as minimum as possible.' [Manager, Informal over-awards, Child Care Centre, Inner Metropolitan, 15 employees].

2.4.2 Factors shaping the incentives to bargain for employers and employees

2.4.2.1 Identifying factors that shape propensity to bargain at the enterprise level

This research examines the range and nature of incentives to bargain. The following discussion reviews the qualitative commentaries, with a view to identifying any major themes or patterns which shed light on incentives to bargain. Two clearly discernible and overarching themes emerged from the analysis of qualitative data. Firstly, some common issues or experiences appear to transcend sectoral and industry context. While sectoral and workplace context might change the manifestation of an incentive, the following discussion outlines that there are some incentives which are, to some extent, universal and not sector specific. Secondly, while the employer and employee interviewees shared some common incentives to bargain, for the most part, employers and employees were driven by distinctly different incentives to negotiate wages and/or associated conditions. It should be noted that this section will also not refer to the specific wage-setting arrangement for two reasons. Firstly, the significance of the predominant wage-setting arrangement will be discussed in the final section of this report, and secondly, because the purpose of this section is to identify the issues which emerged as significant across the board, irrespective of sectoral location or wage-setting arrangement.

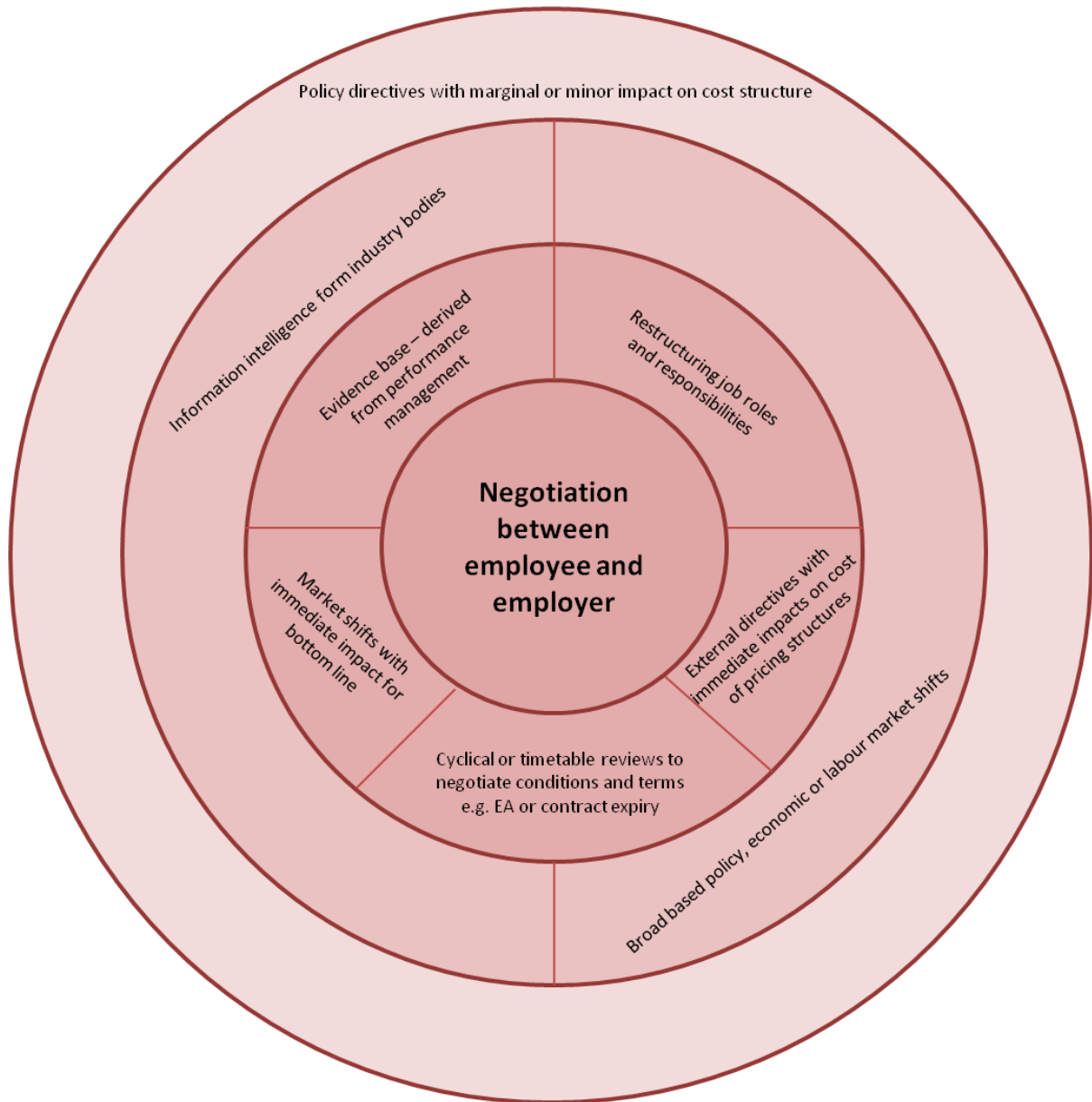
It is important to also note that the structure of the following discussion purposefully describes incentives and disincentives concurrently. This approach is used for a number of reasons. In many cases, when interviewees discussed what encouraged them to bargain, the obverse of these conditions represented the disincentive to bargain. During the analysis it became clear that if the key factor or precondition pivotal to bargaining could be identified, this would forthwith shed light on both incentives and disincentives.

The veracity with which interviewees identified these factors varied. The analysis identifies some common themes which were said to have major significance (i.e. were strongly influential in the minds of interviewees), while other issues were identified as having some impact, but were of less importance overall. To bring order to this analysis, issues are considered as primary and second order concerns and with a third category of factors which have been termed tertiary issues because they exercised only a marginal (peripheral) influence. While previous sections have dealt more explicitly with the issue of relationships between minimum wage movements and over-award arrangements, this section will address the issues which shape incentives and disincentives to bargain more broadly by describing the 'terrain' of bargaining, and identify the issues that form the backdrop for bargaining, from the respective employer and employee standpoints.

2.4.2.2 Issues framing employer incentives and disincentives to bargain

The following discussion is supported by a pictorial representation of the qualitative findings. The major and minor issues which shape bargaining appear as circles of influence to bargaining, with first order concerns being most likely to motivate bargaining, and outer rim issues among the least likely to exercise influence over the propensity to bargain. The middle of the diagram represents the bargaining 'table' and the range of issues (major and minor) that surround and influence these negotiations (see Figure 2.4).

Figure 2.4: Factors of influence: Employer incentives and disincentives to bargain



Source: Workplace Research Centre

2.4.2.2.1 Primary (first order) concerns in shaping propensity to bargain

All of the 'first order' issues or primary factors driving employer incentives to bargain pertain to productivity—taken broadly to mean the relationship between inputs and outputs—in both monetary and substantive terms. Five core issues of concern most directly influenced employer incentives to bargain.¹⁰¹

Market and/or labour market shifts with immediate impacts for bottom line

All of the employer interviewees identified market pressures as having a strong direct influence on their incentives to bargain with their workforces. These forces were not neatly identified as coming from the 'product', 'capital' and 'labour' markets—rather the pressures were often highly interconnected. Labour management strategy, including enterprise level wages policy, was often regarded as integral to responding to shifts in the external environment, no matter what the source. A typical example of restrained demand limiting the space for further wage movement is provided by this independent grocery retailer:

'Well if you look at five years ago people are spending money. Now people are saving money. Times are bad. You just have to look at it, can I afford another union award? I look at it, I can't. I just can't afford it.'
[Manager, Union Enterprise Agreement (transitioning to Award), Independent Grocery Retailing, Outer Metropolitan, 80 employees]

An employer from the Fast Food sector expressed a similar sentiment, showing the connections he saw between wages and firm performance:

'... we look at trying to see if the business can afford it and what it can afford and kind of that's our starting point. If we see that that's not possible to afford a person at such a salary we try to negotiate it down a little bit, I guess, or we have to redesign - not salary so much, but what the job criteria is going to be and how much responsibility and how many hours they're going to do.' [Manager, Award-reliant, Franchise Fast Food (corporate outlet), Inner Metropolitan, 30–35 employees]

Another employer from the same sector was able to specify with a little more clarity what this 'hard to explain' issue entails:

'The salary is based on their performance and responsibilities...It's just not automatic, I guess, that you do more hours when you get a pay rise, but with a pay rise you're giving them a new job profile which could mean they have to be doing more hours, but not because we want them to do more hours, just they might have to. It's sort of hard to explain.' [Manager, Award-reliant, Franchise Fast Food (corporate outlet), Inner Metropolitan, 30–35 employees]

Local labour market pressure had influenced employer willingness to bargain across a range of different sectors. For the dairy farm employers, the key issue of local competition for labour and the need to ensure the wage profile of the business represents an attractive alternative, or lure, for potential employees. One dairy employer perceived the greatest competition as not from within the farming sector, but from the grocery retailing sector. This employer tracked the wage movements of the grocery retailing business, and sought to negotiate with his employees informed by these movements. Similarly, in the independent grocery retailing sector, employers discuss the need to 'shadow' the wage profile of their competitors in the sector. These employers cite many instances of

¹⁰¹ It must be noted that not all five issues were raised by every individual employer, but rather these represent the 'top five' issues of concern. Where relevant to a specific employer, a discussion of their circumstances will be included accordingly. In other words, all of the sectors will be mentioned at some point across the breadth of the five issues, but may not appear in the discussion of every individual issue.

employees leaving, with little notice, to go and work for a competitor store. For this reason, the independent grocery retail employers remained motivated to bargain because of this intense labour market pressure from competitors. One of the Private General Medical Practice businesses and a child care business also noted the use of a similar wage 'shadowing' strategy. This shadowing strategy minimised the risk of staff flight:

'we will continue to be able to recruit staff, no matter how tight the labour market conditions become.'

In the domestic waste collection sector, employers noted the intense wage competition they faced (due to new operators offering significantly lower wages to win council contracts for garbage collection). For these employers, the need to minimise or cap wage growth because of tendering conditions becoming more competitive, as well as the drop in the modern award rates compared to previous industrial arrangements, meant they remained highly motivated to bargain. In this case, the motivation to bargain was to reduce rates until they eventually matched the modern award rates. In one domestic waste site, the workforce (employees) generally agreed that wage stasis was necessary in order to ensure the survival of the business (because lower cost contracts and hence more attractive tender proposals could be developed). In this case, the employees who had agreed to wage stasis, had agreed in the long term (i.e. 5–15 years).

The domestic waste collection sector case studies included an example of how a shift in market conditions had motivated an employer to contain wages growth through a transparent 'bargaining' process that was supported by the employee representatives. This bargaining was necessary for the purpose of limiting wages growth so that the business could remain viable.

Performance management

The issue of individual worker performance management was identified strongly as an issue which motivates employers to negotiate with their workforces. All of the case study sites noted that wage negotiations are premised very clearly on the performance of workers, because this represents an important way to ensure that wage growth occurs in line with the needs of the business, and to maintain an impression of fairness to the workforce (defined in terms of ensuring all employees contribute equally to meeting work obligations and keeping the business viable). In many cases, performance management systems are annexed by a bonus payment system. From the perspectives of employers interviewed, bonuses represent an additional way to motivate employees to engage in workplace behaviour which keeps costs low, and output high. In Domestic Waste Collection and dairy farming, more time and resources were dedicated to developing and refining the performance management system than other aspects of wage arrangements. Without exception, employers explained that performance management offers an ability to exercise a greater degree of control over wages, because employers maintain a greater degree of discretionary control over any wage movements, and that decisions can be made in line with the immediate commercial needs of the business.

In the dairy farming case studies, having a performance management system allowed an employer a means to assert the importance of maintaining high output (milk production) consistent with occupational health and safety guidelines. Similarly, in domestic waste collection, performance management incorporated the issues of safety more directly into wage negotiations, by linking bonuses to reduced accident levels.

One child care employer explained that the performance management system in place provides a motivation to bargain with employees in another way. This employer explained that they perceive 'real' wage negotiations to occur in the context of these performance management discussions. This

was indicative of just how broadly some interviewees defined what 'bargaining' meant. In addition, the performance management system provides a calendar, or timetable for these negotiations to occur and ensures that the issue of wages across the workforce is reflected on regularly and systematically. The process ensures that wages are more directly linked to enhancements to service delivery. For these employers, the need to either implement a new performance management system or refine an existing one remains a key reason for engaging in bargaining.

Restructuring job roles and responsibilities

A wide range of issues were identified by employers as exercising a direct impact on the nature of work, and hence, a direct impact on the wage structures which could be considered feasible and optimal in the context of shifting work processes. In the context of changes of this nature, for some employers the incentive to engage with employees on the issue of wages was to contain over-award wages growth. In dairy cattle farming, for example, dramatic technological change, particularly with farm machinery, had altered the way that employers viewed farming operations, and therefore the work associated with machine maintenance had changed. Farm hands were often expected to perform a wide range of tasks in addition to their primary task of milking, including routine maintenance of milking machinery.

In the Private General Medical Practices sector, shaping job roles to meet the needs of business had a very strong influence on wage negotiations. For these employers, the nursing roles in these settings, which all interviewees believed to be much less stressful and intense than hospital settings, compared favourably to the higher wages available to nurses for working in a hospital environment. These employers remained motivated to engage on the issue of wages with this group of workers as a way to contain wage costs by reinforcing that the medical centre environment offered a better quality of life and therefore did not have to match the higher pay earned by nurses performing more highly stressed roles in hospital settings.

In the independent grocery retailing sector, employers explained that the responsibility for different departments in the supermarket, which was substantively held by assistant managers, was frequently bestowed upon other staff when assistant managers were not working. This was possible because of the relatively low levels of skill required to manage the departments. For this reason, the employers explained that the issue of role definition and the need to continue clarifying job responsibility facilitated a more flexible and responsive customer service workforce. Employers remained highly motivated to bargain around these issues. Such negotiations were usually informal in nature and rarely formalised in writing:

'We have 2ICs, which is like an assistant manager. Then we have department managers. Then you have weekend management teams. You'll find that 80 per cent of the staff in some capacity are managers... Because we're open basically 18 hours a day... at some time or other you're going to be in some sort of management role... We have a meat department. We have a produce department. We have a deli department. We have a freezer department. We have a liquor department. We have - we call it tatts lotto, lotto department... If you're in charge of the dairy case, you're a dairy manager. But there's responsibilities to that. They order. They fill. They talk to reps... I might be generalising. But a lot of the staff. There's more managers than staff.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

A similar, but slightly different situation existed in the Fast Food case study sites. In this sector, the employers identified a strong link between wage negotiations and shifting job responsibilities because marginal shifts in wages (more often than not associated with AWRs) were used as a mechanism to encourage workers to take on more responsibility, particularly supervisory and management roles. From the perspective of the employers, supervisory roles did not require significant skill improvement,

and so a small increase to wages offered an inducement to staff to take on the additional responsibility associated with the supervisory roles. Again, the form of bargaining was more informal and involved negotiations over changes in responsibility and roles in return for slight increases in hourly rates.

External directives with immediate impacts for costs or pricing structures

A wide range of directives or changes to mandatory standards were identified as having a strong direct impact on employer willingness to negotiate with employees. In the child care case studies, the introduction of changes to mandatory staff to child ratios had exercised a profound influence over the wage packages negotiated. In particular, child care employers all noted their desire to try and leverage improved wage packages for early childhood teacher roles because their recruitment had become mandatory to maintaining accreditation to operate.

All of the employers in the other sectors explained that a key objective of their over-award wage negotiations was to ensure they were meeting or exceeding the award due to concern about penalties they could incur in the event of paying wages below the legal standard. For these employers, the need to either pay significantly over the award or structure their wage packages in a way that insulated them from any future claims was paramount. Formal over-award arrangements and paying significantly more than the relevant award rates were regarded by many employers interviewed as important 'insurance' against potential future claims of non-compliance with awards.

Cyclical or timetabled reviews to negotiate

While not all case study workplaces had a regular timetable for bargaining, key milestones for securing funding and income, such as contract renewal, formed a backdrop for some form of bargaining in most of the workplaces. In some instances, this bargaining was more cursory (in workplaces with a high proportion of casual staff), and in workplaces where there had been a history of formal over-award arrangements, the workplace already had a timetable for negotiation. The market circumstances that underpinned the timetables varied greatly across case study sites. For example, in the dairy farming context, the seasonal nature of work provided an important cyclical backdrop for wage negotiations. This manifested in the colloquial notion of 'winter wages' in which one employer reported he was particularly motivated to check wage movements to see if they were 'on track' (i.e. remain viable for the business) during those challenging seasons. In child care, two case study sites noted the role of the parent committee structure forming an influence over the wage and bonus payments for staff. In this model, the management team for the centre was partially guided by the decisions and advice of the parent committee when annually assessing employee wage arrangements and in performance management reviews. In the domestic waste collection sector, bargaining was linked to contract renewal or re-tendering negotiations. In this sector, operators could only plan for an income stream for their business for the term of their services contract. For this reason, wage structures are linked directly to the terms of this contract, and are negotiated in alignment with specific contracts and the services tendered within the terms of that contract. Across the case study sites that had enterprise agreements nearing expiry, the employers noted that this factor made them highly motivated to bargain with their employees and lock a commercially optimal arrangement in place for the coming year, or term ahead.

2.4.2.2.2 Secondary (middle order) concerns in shaping propensity to bargain

Employers also identified a broad range of issues that are considered relevant and important to wage negotiations and bargaining, but were not as influential as the primary concerns.

Advice from industry bodies and other sources

Employers noted that the advice and guidance they received from a range of advisory bodies and employer associations was important in their considerations surrounding bargaining. While local workplace factors and needs primarily shaped their decision making, their responses to these issues were often informed by advice from supporting organisations. A wide range of sources were identified as important because they had proven to have authoritative insights on workplace issues including when and how to bargain. These sources included advisory groups, employer bodies, support networks and franchisors (or franchising consultants). In one sector, an employer interviewed had placed such a high priority on accessing and sharing information provided by industry stakeholders and experts that they led the initiative to establish a state-level working group (comprised of other employers and experts) to give advice, and meet regularly to discuss issues of concern for the sector. This structure sat outside the industry association structure and was designed to mobilise quickly and operate as a 'think tank' on key issues of crisis for the sector.

Broad based policy, economic or labour market shifts

Employers also acknowledged that broader shifts in the economic environment, the local labour market, and in areas of policy relevant to their business also factored into their decisions about wages. These shifts were not direct or immediate, but rather, they were 'on the horizon' and may require the business to reposition to maintain or improve its commercial position. In the Private General Medical Practices sector, employers were mindful that administrative changes to Medicare arrangements may have an influence on the workload of their operational staff, and hence their wages. In child care, employers explained that government policy in the area of child care, particularly shifts in the approaches to early childhood health and development, would mean that different types of skills/workers may need to be recruited or that different tasks may need to be incorporated into job roles and responsibilities. This, in turn, would impact the wage profile over time. One employer in the child care sector, mindful of the looming importance of having more professionally trained teachers on staff, described why she paid an over-award rate to an employee who asserted their desire for a pay rise:

'My teacher, I employed her six months ago, and she negotiated a higher rate... it was up to me whether I thought it was worth paying her the extra money to employ her, and I thought it was so we did... She's got a great reputation. She's got lots of experience. We found it really hard to get an early childhood teacher, and when a really good one came along, we grabbed her.' [Manager Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

In the domestic waste collection sector, changes to council priorities around recycling, waste, and in particular waste reduction, are issues upon which they must keep a 'watching eye' because these issues directly impact upon the labour they require and the cost structures attached to this labour.

2.4.2.2.3 Tertiary level concerns (peripheral issues)

Employers also noted a range of broad policy issues/policy directives that may have an impact on business operations, but if and when they did have an impact, it would only be marginal. In the Private General Medical Practices sector, for example, broader shifts in health care or changes in the pattern or nature of patient care practices was identified as a tertiary level concern with relation to bargaining incentives. In the dairy farming sector, shifts in conventions surrounding animal welfare management were reportedly common, but did not directly impact the operational practices of the businesses in most cases and hence only tangentially impacted the incentive to bargain.

Another tertiary order concern related to broader shifts in educational policy, particularly because this appears to impact job readiness skill levels observed among new labour market entrants. While this may be an important concern for businesses, their ability to directly influence these policies is in many ways constrained, and so it could not be said to exercise any type of significant or direct influence on propensity to bargain.

The link between minimum wage adjustments and over-award negotiations was marginal with regard to propensity to bargain. Across all of the case study sites, minimum wage adjustments were not identified to be factored into their negotiations with employees in any direct way. In award-reliant workplaces the adjustment of minimum wages was generally regarded as part of the wage-setting process for award-reliant employees, but it did not provide incentives nor disincentives to bargain for either employer or employees. While this theme is developed more thoroughly in each of the sectoral case study discussions, the following quotes highlight how employers perceived the distance between minimum wages and negotiations around over-award arrangements.

‘For me, the minimum wage adjustment is just an article in the paper. It’s not a news story of any relevance to our business.’ [Manager, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

‘So I don’t think we’ve had much involvement, if any, with them [minimum wage movements]... Because our award is well above the minimum wage, we don’t fall into those categories.’ [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

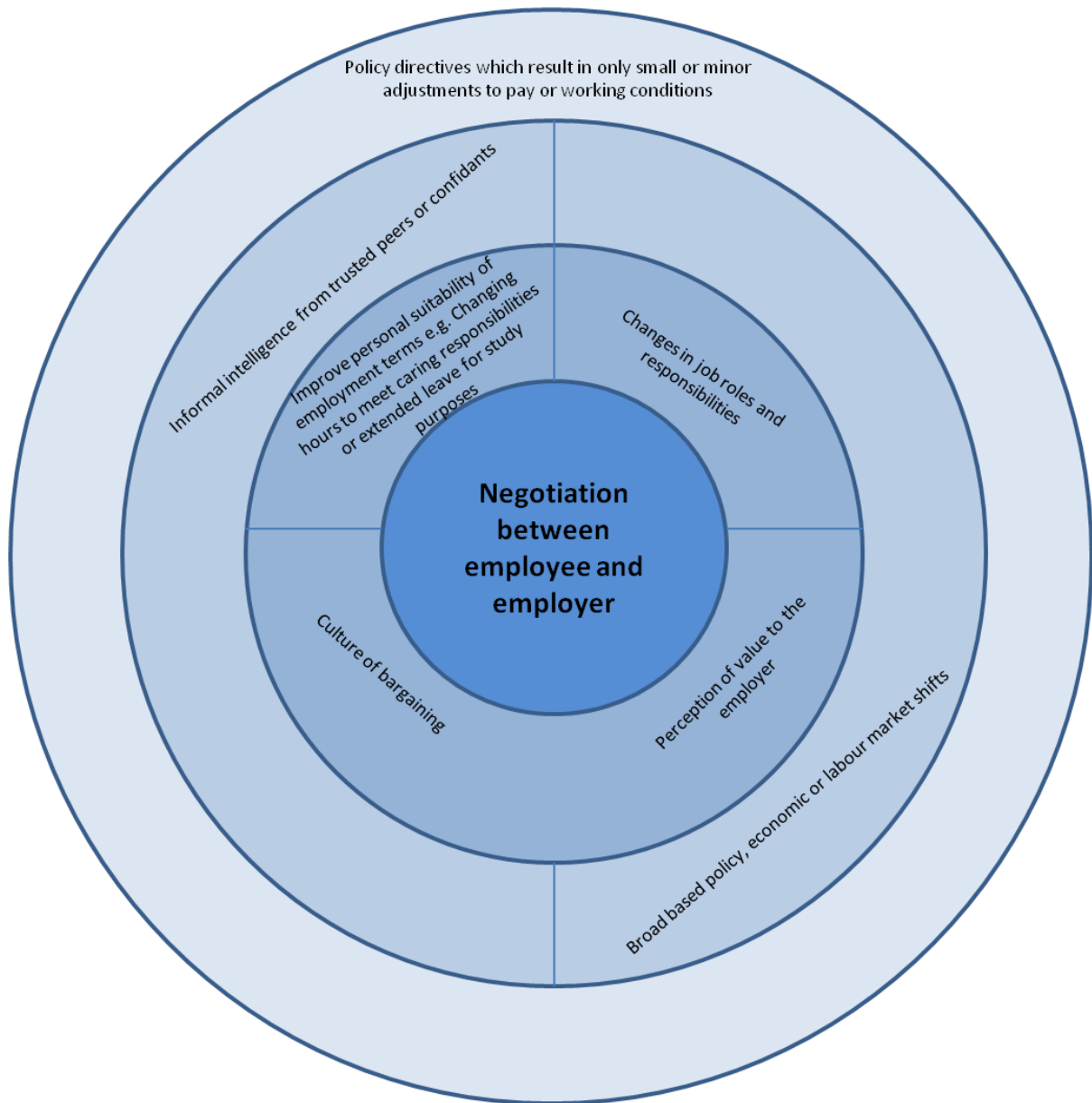
‘The reason being is that the people that are over-award are significantly over-award, so when the increases came in play... it didn’t affect them because they were already being paid well above what the award states, you know what I mean?’ [Manager, Award (with some over-awards), Child Care Centre, Regional, 21 employees]

‘No, not really here at the practice I don’t think because we’ve got a fairly straight forward set up. Yeah we negotiate with our staff, we pay them well above the award.’ [Manager, Over-award, Private General Medical Practice, Inner Metropolitan, 15 employees]

2.4.2.3 Issues framing employee incentives and disincentives to bargain

The analysis draws out common themes for employees and their motivations to bargain, drawing a distinction between major and minor issues of significance. To bring order to this analysis, it is useful to consider these issues as primary and second order concerns, and with a third category of factors which we label tertiary issues because while they were identified as relevant to bargaining, they exercised only a marginal (peripheral) influence. While previous sections have dealt more explicitly with the issue of relationships between minimum wage movements and over-award rates of pay, this section will speak more broadly of the issues which shape incentives and disincentives to bargain more broadly for employees. To assist the reader, the following discussion is supported by a diagram which is a pictorial representation of the qualitative findings. The major and minor issues which shape bargaining might be usefully considered as ‘circles of influence’ of bargaining, with first order concerns being most likely to motivate bargaining, and outer rim issues among the least likely to exercise influence, if any, over propensity to bargain. If the bargaining ‘table’ can be symbolically said to rest within the middle of the diagram, a range of issues form the backdrop for these negotiations, with some closely connected, and other issues more removed from these negotiations (see Figure 2.5).

Figure 2.5: Factors of influence: Employee incentives and disincentives to bargain



Source: Workplace Research Centre

2.4.2.3.1 Primary (first order) concerns shaping propensity to bargain

Across the qualitative interviews with employees, five main issues appeared to have a very direct and immediate impact on employee willingness to bargain with their employers over pay and associated conditions. These five issues are discussed below, with no significance attached to the order in which the issues are presented. Nearly all of the issues identified as potentially worthy of further reflection and investigation for employers are relevant to these matters too.

Changes to job roles and responsibilities

Across the different sectoral settings, employees appeared to engage more with the issue of bargaining or renegotiation of their wage arrangements when they had experienced a restructure that significantly altered, and more particularly, increased the volume or complexity of their responsibilities. This emblematic quote, drawn from the child care sector, is included to illustrate the tone of these comments:

'... yeah I'm pretty happy with my pay right now. As long as I'm not taking on any more responsibilities at work like banking and all that sort of stuff for the business, well I don't expect to be paid anymore. I'm doing what's on my employment contract so far sort of thing. I'm getting paid for what I said I would get paid for. As long as - if I do any more tasks then I'm going to ask for more money.' [Employee, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

For instance, across the independent grocery retailing sites, the employees most motivated to negotiate with their employers to increase their salaries were those who believed they were doing tasks above and beyond their current job description:

'When the new system came in I believe I was on a level 1 or 2 and I did negotiate that which got all the other departments, they looked at everything so I got up to a level 3, just because of the workload I believe.' [Employee, Union Enterprise Agreement (transitioning to Award), Independent Grocery Retailing, Outer Metropolitan, 80 employees]

In the child care case studies, the changing conventions of early childhood practice had impacted job roles. The employees engaged in teaching positions were highly motivated to bargain over pay because changing regulatory requirements to increase the quality of child care services have increased the demand for early childhood teachers.

Perceptions of value to employer

Across the employee interviews, two broad types of employee perspectives were discernible. Some employees exhibited a belief or perception that the value of their work to their employer was low, which led to a low propensity or willingness to bargain. This perspective was evident across a range of skill levels and roles. For example, in the Private General Medical Practice sites, reception and clerical staff who had a high level of responsibility and required knowledge of patient care protocols, patient liaison, administration and scheduling of patients (in some cases, basic triage) were reportedly reluctant to actively bargain with their employers because they often lacked confidence arising from the perception of relative value to the employer.

'I personally came to terms with the fact that I have not got a well paid job. That is my lot in life, that was my stupidity for not getting a better education, and that's it.' [Employee, Non-union Agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

Interviewee: "Well when I was offered the job I just asked [the manager] and she said she'd have to speak to whoever organised the pay... then she let me know."

Facilitator: "Okay. Were you happy with the figure, or..."

Interviewee: "Yeah, I don't think I was that - like, I was only 18 so I was like yeah, money's money."

Facilitator: "Did you check at all or verify what you were supposed be paid and how did you know what you were supposed to be paid?"

Interviewee: "No, I didn't even think about it. I'm like oh, that sounds like everybody else." [Employee, Award-reliant, Private General Medical Practice, Outer Metropolitan, 20 employees]

Despite the different workplace circumstances, many employees demonstrated a similar 'disinclination' to bargaining because they did not perceive their work and skills to be worthy of a higher (over-award) wage or higher annual increase:

'I'm fairly happy with my position... I just don't think - well, personally, I don't think I deserve a pay increase.' [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'Okay so I get \$12, that's being 18. Get \$12 an hour, then I get about \$2.30 casual rate... it wasn't really discussed about how much I was going to get. He just had the standard table [of wages ... [which] he sent to me. He said this is [what you are] going to get ... I'm happy with it. For the work that I do I think it's fair...' [Employee, Informal Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

In contrast, employees that exhibited a higher perception of their value to their employer appeared more inclined to bargain. These employees were more willing to bargain because they inherently held more confidence, or a belief that a negotiation process could yield a better outcome for them.

Facilitator: "You mentioned before that you negotiated your wage, was that when you started there?"

Interviewee: "So I sort of knew that I wasn't going to move unless it was viable and, yeah, [the Manager] just came up with a figure and I said, \$30 more than what I was getting and it was 4 days a week so I decided to make the move... I'd say at the moment I'm okay with it [the level of pay] yeah, but if the conditions [workloads] become any more than they are at the moment I'd probably be pushing for the next one." [Employee, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees].

'We have to do a lot - we do a lot of work for what we get paid. There's the whole Big Steps campaign at the moment, trying to get us more pay for what we deserved and what we do... We just had a staff meeting and talked about it [pay-setting arrangements]... it was just a general meeting. We just all talked about it.' [Employee, Informal Over-awards, Child Care Centre, Inner Metropolitan, 15 employees]

Improve personal suitability of employment terms

Across the case study sites, a range of personal and family issues were raised by interviewees to explain circumstances which could precipitate employees negotiating with their employers. On balance, the issue of wages in many cases represented a lesser priority than other issues such as rosters, hours, the level of responsibility they were required to manage and the impact their workplace environment had on the 'quality of experience' at work. In the independent grocery retailing case studies, employees who had bargained with their employer reported that they were motivated to negotiate with their employer in order to alter rostering and hours. Across the three sites featured in this study, juggling multiple caring responsibilities had motivated female employees to bargain.

To give some insight of the span of issues that took precedence over pay, across the case study sites, a list is provided below. This list is not exhaustive, but indicative of:

- changing hours to meet caring responsibilities (either older parents, or children), including changing rosters in a way that allows for better accommodation of family responsibilities;
- extended leave or changes to hours to accommodate study or exam commitments;
- desire to undertake a different mix of work tasks that reduces stress;
- changing working patterns to reduce travel time to and from work; and
- changing working arrangements or organisation of work to allow better compatibility between workers and reduce conflict.

The following quotes demonstrate that while pay plays a role, employees are highly incentivised to bargain around issues such as working arrangements, hours, and quality of life issues (work/life balance).

'It wasn't sort of overly specific at the time. There was no written contract or anything, so I sort of wrote one up myself to cover myself... I did and I got it signed which was probably a first [for this business]... three and a half years ago I just basically stipulated that the hours that I'd work, the days that I'd work, the amount per hour that I would get, holiday loading and just things to cover myself basically. It wasn't anything overly professional.' [Employee, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

'Then I negotiated more privately with the doctors. I kept getting paid a higher rate for the job obviously and staying casual, as far as, if I work I get paid, if I don't work I don't get paid. So that gives me the flexibility that if I don't want to - if I've got a function on at school, or want to meet the girlfriends for lunch this day, then I'll work Friday instead and swap my days around... With me, then I felt I didn't like having a week off and not getting paid - with holidays and things like that - because I work a lot of hours. Not just two days a week. So then I negotiated that I would get four weeks holiday, but stay - I don't bother with sick leave, because I never get sick and I get the day off and those sorts of things. So I've negotiated that I do get four weeks paid rec leave.' [Manager, Award-reliant, Private General Medical Practice, Outer Metropolitan, 20 employees]

Culture of bargaining

Across the employee interviews, a strong set of themes emerged around what we have described as the 'culture of bargaining' in a workplace. This culture could be described as having two key aspects. First, employees refer to the cyclical nature of bargaining. In other words, employees argue that their 'readiness' to bargain is deeply shaped by the notion that there are times when the environment is inherently more receptive to this bargaining. These times are linked to what might be generically described as contractually dependent factors (and these varied from workplace to workplace and the type of agreement in place). For example, expiry dates are an important scene setter for bargaining for employees (contract renewal, performance management reviews, enterprise agreement expiry dates—are all examples of these cycles). Secondly, employees tend to describe their workplace environments as either bargaining-friendly, or not. Some employees conjecture that their own willingness to bargain might be explained by the culture or legacy of bargaining in which they are currently immersed. For example, some sectors have longer or more established histories of bargaining (domestic waste collection, and grocery retailing to a varied extent) and other sectors do not (fast food, medical practices, child care, dairy farming). In addition, the factors which define this culture of bargaining vary from workplace to workplace. In some environments, the ongoing presence of a union seems to heighten confidence in employees to engage in the bargaining process. In one case study site, a particular manager, who had particularly strong communication skills and was trusted by staff, had helped to create a higher trust environment overall, and as a consequence,

employees argued that they were more willing to initiate bargaining. The following quotes provide examples of these two different types of receptive bargaining 'cultures' which could range from relatively structured (in the first example) to being more like an informal discussion:

Facilitator: "Can I just ask you a couple of questions about that process; how did you find it, the negotiations? Did you feel like you were involved in things like that?"

Interviewee: "Yeah, we could all have our say when we wanted to."

Facilitator: "How did you have your say, did you talk directly to the employer or did you talk to your union delegate?"

Interviewee: "We basically talked amongst ourselves and one of the garbage guys would go back to our union delegate to say - and the actual union guy would come in and we'd just voice our opinion or what we thought, if we think it was fair and yeah, then they went back to the company probably through - with our union delegate and spoke about it." [Employee, Union Enterprise Agreement, Private Waste Collection and Management, 32 employees]

Interviewee: "I was with a union or something like that and they emphasise that every six months - I think it was - a guy came in and he did some contracty (sic) thing and we signed. So we actually got a percentage [pay increase] every six months..."

Facilitator: "If you wanted to get a wage increase [now], what would you do?"

Interviewee: "First of all, talk to my manager about it and then - yeah, talk to my manager. Then they go upstairs and talk within the office and all that. He's [the manager] very easy to talk to, that's the best thing..." [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

In contrast, the following interviewees described a culture of staff engagement with management in their workplaces that did not encourage bargaining, which is why they are less enthusiastic about entering negotiations with employers. These interviewees stated they are less likely to bargain because they expect their concerns would not be actioned.

'I actually don't talk to [manager]. I avoid him like the plague... I don't know. It's just something about my boss - like the higher end. It's just like, yeah, just leave me alone.' [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

Interviewee: "He [the manager] wouldn't have anything [negotiation about weekend pay]. He wouldn't think about that. He wasn't interested in that at all. He felt that it covered it all or perfectly legal..."

Facilitator 2: "Can you just give us a little bit of an overview of your sense of how the negotiation process occurred from the employee side?"

Interviewee: "Very, very dysfunctional. Very scared, they're very intimidated, very scared, very yeah. I can't explain it any other way. Very subordinate, [group] as such..."

Facilitator 2: "So would you describe it as a positive experience?"

Interviewee: "Absolutely not, no. It caused a lot of tension in the building. In the end, then, well you heard that the agreement was knocked back, I think, two or three times... The others pretty much just shrugged their shoulders... One of them just said, look, I don't care, I'm not for it, I'm not against it; just keep my name out of it." [Employee, Non-union Agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

In other cases, employees demonstrated a low level of understanding about how their employer had determined the wage rates paid to staff, and doubted that the amounts had been based on sound considerations.

‘No I don’t really know what he [manager] - how he sort of came up with that. I think he just plucked a figure out of the air and just thought well that was per hour. I’m thinking, I’m guessing, that he sort of looked at what his wife - who’s the owner - was getting per hour and what the lady who worked here for 100 years was getting per hour and sort of, I guess they sort of worked around that. That would be my guess.’

[Employee, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

Employees also variously described the ‘absence’ of a bargaining culture within a workplace, and this was a significant barrier to workers initiating negotiations as there was limited or no consideration of their wages and conditions and if, let alone how, they could initiate bargaining.

Facilitator: “Is there any opportunity to negotiate your pay? Do you have any kind of conversation about that?”

Interviewee: “Well, no. We don’t do that here, yeah.”

Facilitator: “Do you know how the wages are actually set; how that decision is made from...”

Interviewee: “No, it’s from upstairs so we don’t know how it works...”

Facilitator: “Do you know about the enterprise agreement?”

Interviewee: “No.” [Employee, Union Enterprise Agreement, Franchise Fast Food (corporate outlet), Inner Metropolitan, 150 employees (approx)]

The qualitative data shows that while all workplace owners/managers interviewed consider and reflect on the appropriateness of wages paid, the processes in place to support and systematise these deliberations varied greatly. For example, while performance management formed a feature of all workplace management systems in some form or another, these programs too ranged from formal (annual reviews which are linked to wage or salary arrangements) to informal, ad-hoc arrangements (cash in hand bonuses, gift cards). This variability was symptomatic of the ability of workplaces to have orderly, transparent discussions—let alone negotiations—with staff about pay.

Overall, most employees felt they had limited scope to change/improve the ‘culture of bargaining’, at a workplace because it was largely shaped by the attitudes and actions of their employers. That is, the opportunity to, and processes for, negotiation at the workplace were primarily determined by the attitude of employers and the skills of managers in dealing with employees.

2.4.2.3.2 Secondary (middle order) concerns in shaping propensity to bargain

Across the employee interviews, two sets of issues emerged that are best described as second order factors in shaping propensity to bargain. Employees also identified a broad range of issues as relevant and important to wage negotiations and bargaining, but when compared to first order issues, were, in relative terms, less influential.

Informal advice from trusted peers and other sources

Employees, across the different sectors featured in the analysis, placed value on the information they received from family, friends, colleagues and other workers who they believed ‘understood’ comparable kinds of work. The way in which this information was located, and pursued, varied from

employee to employee, but there did appear to be a common agreement that when a worker believes they are being unfairly treated (either in terms of conditions or wages) this may stimulate them to act in terms of bargaining with an employer to renegotiate the terms of their employment.¹⁰²

Facilitator: "Yep, okay. So that's a very specific amount that you just mentioned, so award plus five per cent. Are you able to tell me a little bit about how that figure was negotiated or how it came to exist?"

Interviewee: "Well a little bit of naivety on both myself and [employer] who negotiated it. If I had my time over, I wouldn't do it again."

Facilitator: "Okay and why is that?"

Interviewee: "Well because the company we work for has legal representation and accounting representation and us as just, well everyday workers - a little bit naïve in the ins and outs of what goes on. So the only way I would do it again is if I was to have a - well a solicitor present to explain everything and an accountant to make sure that we weren't being touched."

Facilitator: "Okay so am I getting the impression that you think that it should have been a higher amount or..."

Interviewee: "Well two years down the track I realised we have short changed ourselves."

Facilitator: "You have okay, alright. Why do you think that that is? Is that in contrast to other workplaces or..."

Interviewee: "Well in contact - I speak to a friend of mine who works for [an employer] up here on the Central Coast and because they have union representation which involves the legal side and the accounting side, they're on a better rate of pay and they have far better conditions that what we have. We are only a small yard admittedly." [Employee Representative, Non-union Enterprise Agreement (transitioning to Award), Private Waste Collection and Management, Inner-metropolitan, 23 employees]

Broad based policy, economic or labour market shifts

Like employers, employees also noted that a range of broad based issues influence their attitudes and perceptions of bargaining. In the child care and domestic waste collection services for example, broad based policy shifts were observed by both sets of employees to be important, but for profoundly different reasons. In child care, the need for existing workers to upgrade skills (obtaining specialised early childhood education training) and for potential workers with these skills entering the industry, appeared to create an incentive to bargain (at least for some workers) where this incentive had not been a feature of the industry before. In domestic waste collection, intense competition from other tendering organisations meant that employees had become increasingly aware of the need to reflect on, and manage (and in many cases contain) their expectations with regard to wages. At one site, for example, the employees had actually negotiated for wage stasis, on encouragement from the union. The employees interviewed for this project noted that this was highly significant for the sector, and they had never before negotiated an agreement in this way.

¹⁰² It is important to note that we separate this kind of intelligence as distinctly different to the intelligence provided by unions, who are on the work site and actively engaged in and knowledgeable about the history of agreement making and conditions of work on site. While not all employees are receptive to union involvement, those that are appear to place the insights provided by the unions as a first-tier concern.

2.4.2.4 Tertiary level concerns (peripheral issues)

The issues of award classification rates and annual wage adjustments were peripheral concerns to the bargaining landscape, mainly due to low levels of awareness and understanding of how modern awards operate and the process of AWR adjustments. Typically, employees demonstrated limited knowledge and understanding of how the safety net operated and how it affected their wage rates and conditions of employment. This appeared to be particularly the case amongst lower skilled workers;

'I've never heard of any it, minimum wage increase or anything.' [Employee, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

Facilitator: "Even in the last couple of years or in the last five years, have you ever had a look at the award itself and do you know what level you're on, on the award?"

Interviewee: "Do you know, I don't know what level I'm on...It's something you don't think to look up. Everything goes along, you get your pay rise and you don't think to look up the award." [Employee, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

There were also employees who demonstrated an interest and knowledge in award wage structures, but believed they have little direct impact on their immediate job circumstances. In the dairy, child care and medical practice sectors, for example, employees refer to checking the pay levels within the relevant awards 'for reference', but with no specific or immediate action emerging from this. The motivation for doing so appeared to have more to do with curiosity than any particular grievance about pay or desire to negotiate over it. This suggests that the incentives to bargain amongst the employees in this study were largely shaped by the first or second order concerns, including the culture of bargaining, the changing nature of job roles at the workplace level, or personal circumstances.

2.4.3 Process of bargaining, and key issues underpinning process

The qualitative case study phase also examined features of bargaining processes to see if any patterns in process could be discerned within and between different types of workplaces (e.g. award-reliant, over-award formal, over-award informal). This section describes the arrangements at the workplace level designed to support bargaining, and explores the rationale or backdrop informing and shaping this bargaining process.¹⁰³ This analysis also seeks to consider whether, irrespective of sectoral or industry location, distinctive bargaining processes tend to be associated with or aligned to particular wage-setting arrangements.

The findings derived from this analysis can be distilled into three main observations. Firstly, both the employers/managers and employees in the study were not well informed about bargaining in general, and specifically about the bargaining practices that might or might not exist within their workplaces. Secondly, with the exception of some enterprise agreement sites, bargaining is typified by informal rather than formal or documented protocols surrounding practice. Finally, across the workplace case studies featured in this analysis, cost-driven motives universally underpinned bargaining, regardless of the form of wage-setting arrangements which prevailed at a particular worksite.

¹⁰³ To preserve the anonymity of participants, generic identifiers related to the form of bargaining arrangement in place are used to discuss case study evidence, without reference to sectoral location. A cross section of sector by type of bargaining arrangement by features of process would reveal a good deal of information about the profile of a business, and may allow readers to identify either a workplace, or perhaps an individual worker (in the case of smaller workplaces). Interviewees gave consent to participate, based on an assurance of confidentiality, and this level of detail could potentially compromise this guarantee.

2.4.3.1 Form of bargaining and level of employee involvement

The bargaining terrain within workplaces is ambiguous, opaque and remains difficult to map in a systematic way. For participants, the issue of what might constitute 'bargaining' was difficult to define. For some interviewees, bargaining processes pertained to psychological factors including behaviours, attitudes and a 'state of mind'. For others, bargaining could be said to occur when acts, events or processes were in place at the workplace which were identified and labelled as 'bargaining'.¹⁰⁴

Based on the qualitative data collected for this research, more explicitly structured bargaining processes were found in the workplaces where formal over-award arrangements existed, such as enterprise agreements. In these workplaces, evidence of the following bargaining processes were observed.

- Regular meetings to discuss the agreements in place between employers and employees.
- Formal notification processes to inform staff when and where meetings were designated to occur.
- Notification of the period of consideration given to employees to contemplate the possible contents of an agreement.
- A comprehensive and consolidated account of the span of items to be included in an agreement (e.g., wages, conditions, allowances, leave entitlements, etc.).
- An agreed way of circulating this material to employees in a timely way (e.g. on public display in a staff tea room, circulated by email etc.).

The involvement of a union also appeared to have a role in formalising the processes of bargaining. In addition to scheduled meetings, unions appeared to provide an additional source of information about bargaining that employees could draw on, if required. These additional formalised processes include the following:

- Provision of information about the employer claims made and detailed accounts of these claims, and in some cases the possible impacts for other associated clauses.
- Contact points (e.g. in the form of phone numbers and designated staff to answer questions or provide advice to employees about the possible agreement content).
- Scheduled meetings with union staff to discuss agreement content and the processes of bargaining to be undertaken during the countdown to agreement expiry.

In the informal over-award workplaces and the award-reliant workplaces, the processes underpinning bargaining was less uniform and less formalised than the processes in workplaces where employees had collectively bargained with the employer to make an enterprise agreement. A range of illustrative quotes appear below which elucidate the confusion that employees experienced when considering bargaining. The broad interpretation of bargaining adopted for this research was not necessarily how

¹⁰⁴ Identifying bargaining processes at the workplace level is not a straightforward research exercise. While an interview protocol was developed which specifically targeted the collection of participant views on process issues, the ability to collect data around this issue was limited by a lack of employer and employee knowledge and understanding of bargaining process. In many cases, bargaining processes were largely informal, and this contributed to the general lack of awareness of any opportunities to bargain that might be said to exist, particularly amongst employees.

Consequently, during the analysis of qualitative material, issues surrounding process and 'form' of bargaining remained difficult to categorise because the testimonies presented were highly fragmented, vague, or in some cases misinformed about the processes that actually were in place. The findings discussed should therefore be viewed with consideration of these limitations.

participants understood bargaining; with many assuming that it relates only to collectively negotiating pay and conditions rather than how they pursue their own interests by negotiating with their employer.

'The last time we had any kind of meeting [team meeting] was in December. We used to have them all the time but we haven't had one in a while.' [Employee, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

'I guess if I wanted to [negotiate]... I'd talk to [name removed] and [name removed].' [Employee, Over-award, Dairy Farming (family farm), Regional, 7 employees]

'[W]e don't really do that [negotiate] around here.' [Employee, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

'No one really knows very much about all this. No one really understands much of it.' [Employee, Non-union Agreement, Private General Medical Practice, Outer Metropolitan, 14 employees]

It is axiomatic that workplaces with formal over-award arrangements have more transparent, formally structured, bargaining arrangements because that is required by the Fair Work Act for registering such agreements. It is also important to appreciate, however, that formal transparency of negotiating processes at workplace level did not necessarily mean optimal bargaining arrangements prevailed as depicted by the experiences of the two formal over-award medical practice case study sites. Formal enterprise bargaining could bring latent antagonisms to the surface in a way that no managerial or employee interviewees reported as constructive. Further, negotiations that took place without involvement of the workplace by the AMA-NSW Nurses Association to reach an MOU for Practice Nurses pay rates had helped the informal over-award site bargain with its nursing staff to relatively quickly settle matters of pay and conditions in a way that achieved widespread acceptance. Elevating bargaining over potentially controversial matters to sectoral level worked very well in this case to maintain harmonious relations at this worksite.

2.4.3.2 Key considerations—the imperative of cost (the cost of bargaining)

Cost, and more specifically the cost of bargaining, was a key concern across all the different forms of wage-setting arrangements. While it might be unsurprising that cost was a key focus for employers, it is noteworthy because 'bargaining' did not appear to represent value to employers for engaging with their workforce. Employers needed to maintain efficient business processes, and many did so through cost containment. Bargaining and negotiation processes simply formed an additional way to maintain a cost control focus within a business.

'But I don't know whether it's going to be an advantage for any other reason. It could be easier to manage, I guess, from the head office point of view. It may - we're in business where we do pay penalty rates in the weekends, and if we can negotiate something that actually helps us reduce the costs during that period of time, I guess that's obviously great... I guess it just comes down to saving money.' [Manager, Award-reliant, Franchise Fast Food (corporate outlet), Inner Metropolitan, 30–35 employees]

'... they all go for price... Price is the biggest factor and when labour costs are 50 per cent of your costs, and you can save 10 per cent on 50 per cent, that's a significant cost saving.' [Manager, Non-union Enterprise Agreement (transitioning to award), Private Waste Collection and Management, Inner Metropolitan, 23 employees]

The costs associated with bargaining were also noted by employers to be a significant deterrent to negotiating with employees, and for some employers avoiding and/or discouraging negotiation was 'cost-efficient' for the business.

'So I suppose we used the old thing if it ain't broke don't try and fix it.' [Manager, Award-reliant (with some over-awards), Independent Grocery Retailing, Regional, 90–100 employees]

'One benefit of going to general award is I don't have to renegotiate with the union every three years.'
[Manager, Union Enterprise Agreement (transitioning to Award), Independent Grocery Retailing, Outer Metropolitan, 80 employees]

'[Y]ou still have to be spend time meeting them and go through all this, and it - last time I still remember negotiate the whole thing, they took months to do it. It takes a long time, isn't it?' [Manager, Union Enterprise Agreement (transitioning to Award), Independent Grocery Retailing, Outer Metropolitan, 80 employees]

Cost also featured as a consistent theme in the award-reliant workplaces. While different businesses obviously had different cost concerns, all of the employers emphasised the need to try and keep wages 'in check'. They explained that their award-based wage-setting arrangements served a purpose in achieving this cost containment goal. For employers, this theme was particularly evident in workplaces with lower skilled staff, in that they wanted to discourage discussion about wages in the workplace because they did not want to pay over-award wages to their lower skilled employees. Employee testimonies in these workplaces correspond with the perspective of the employer. These employees variously described a sense of disinterest, defeat and disempowerment as defining their experience of bargaining or negotiation in their award-reliant workplaces. It was clear that these employees were very disengaged from the bargaining process and saw no opportunity to bargain with their employer. The following quotes, all drawn from award-reliant workplaces, are representative of the tone of the discussions with many employees in these environments:¹⁰⁵

'I honestly have no idea because I don't really discuss the pay. When he raises it, I'm just like, okay. That's it.' [Employee, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

'... Not really [interested in negotiating]... especially when management get a bonus if they pass all their things every twelve months, but they don't seem to hand it out to the workers that got them the bonus too.'
[Employee, Award+over-award, Dairy Farming (corporate), Regional, 5 employees (+ head office support)]

'It's something you don't think to look up. Everything goes along, you get your pay rise and you don't think to look up the award.' [Employee, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

'It's always nice to get a wage increase and I think it doesn't matter what it is, you always think gee, I'd like it to be paid more. But I guess you just have to go with what the pay rate is, and we get the correct amount... I really do think child care workers should be paid more. We have a big responsibility and we do have a lot of things that - extra paperwork and things like that that we have to do. I don't think we are paid accordingly, but I guess we do it because we like the job.' [Employee, Award-reliant (with some over-awards), Child Care Centre, Regional, 21 employees]

Even at formal over-award workplaces where there were enterprise agreements, many employees expressed similar sentiments about not attempting to improve their individual arrangements through attempting to bargain with their employer:

'No, there was no negotiating; it was just the award rate. They're not a very good company. The owner of it is quite arrogant, to be honest. But I mean your deal was rates based. If ever a union member came in, so if

¹⁰⁵ This finding is somewhat consistent with another key finding that employees were not motivated to negotiate around issues of pay generally. Issues associated with hours or rosters, or work/life balance often took precedence over issues of pay when it came to negotiating with their employer.

you're just come in from the union, they'd basically be told to leave.' [Employee, , Private Waste Collection and Management,]

'... they [management] had to come up with something, and that's what they said they'd give me. I didn't actually say how much I wanted. I just said I wanted to be paid what I was worth.' [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'It's just personally - I've never been the person to ask for a pay increase. I'm just normally happy with what I'm doing' [Employee, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees].

In circumstances where over-award pay formed part of the arrangements, employers emphasised a wide range of reasons for enhancing the provisions of the award, but they were all linked essentially to cost concerns. This employer notes the high costs of turnover, and the fact that the bargaining arrangements and structure of over-award payments needed to address this issue:

'We'd never be able to keep a [identified removed] here if we just paid them award wages.' [Manager, Non-union Enterprise Agreement, Dairy Farming (Corporate), Regional, 17 employees]

Similar sentiments were expressed at the over-award private medical practice: without significant over-award payments they could not run their business.

Across the three forms of wage-setting, employers indicated that the most suitable form of bargaining was the 'easiest'. Again, the issue of cost often underpinned these perspectives because employers were concerned that work time would be consumed by managing formal bargaining processes rather than undertaking commercially productive activities. This was a particularly notable concern in the sectors where workplaces used rosters to manage staff as rosters already represented a particularly time consuming and ongoing challenge for workplaces to manage. Many employers also highlighted the burden that formal over-award bargaining placed on their time due to the complexity of the process and the knowledge required to co-ordinate negotiations. As one owner/manager explained, maintaining knowledge and understanding of pay arrangements was an ongoing challenge for their business:

'I don't think I want to go to [Fair Work] ... [even] the basic union award is time consuming. Every three years I've got to go and spend time looking at it. I mean, like [larger grocery retailers], they don't mind because they've got... the full time to look at it. I don't have all these things... last time I still remember negotiating the whole thing, they took months to do it ... My store manager, I don't even know how much he's paid.' [Manager, Union Enterprise Agreement (transitioning to Award), Independent Grocery Retailing, Outer Metropolitan, 80 employees]

As a consequence, the wage-setting arrangements (e.g. award reliance, enterprise agreement or over-award informal) were driven by a need to achieve clarity, to streamline, and to provide simplicity in administration.

'We had some independent [identifier removed] stores. So we had three different awards. We had big difficulty in trying to run the three different awards, three different pay classes. We had difficulty trying to do the pay runs for different people in different shops. We had managers at one shop earning one wage and another shop earning more. We sat down with the union and asked them to help us draw up their own awards [enterprise agreement]. We amalgamated all those together with the union.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

'I can't - the amount of money that - you know the minimum wage increase, when that increased plus their age, that's so hard to - you know that break even time when you get the mathematics, you know x over this

and that, to get the percentage? I can't keep up with it. Because like from the summer period it was so bad. Now the growth period, it's just like - you know what I mean? ... I can't keep up with it. So what's happening now is I'm laying off a lot of older staff and rehiring. So, I don't know, restructure.' [Owner, Over-award, Franchise Fast Food, Outer Metropolitan, 18–30 employees]

The act of collectively negotiating with employees can be time consuming, administratively complex and burdensome. For this reason, some employers preferred to exhibit a 'neutral' or 'disinterested' approach to bargaining. In addition, this approach averted wage rises because it prevented a precedent being established at the workplace that could encourage employees to (attempt to) bargain over wages. As one employer explained, when faced with the prospect of a skilled tradesperson seeking to negotiate an increase in pay, the employer opted to refuse the employee's request rather than to bargain:

'I've not been there too often. Mainly let them go because you don't want to set a precedent. You don't want to set - show a weakness to the staff. You don't want to be held accountable. Even if he's good...you just show a weakness. When you show a weakness, it's not fair. You're vulnerable to the other staff. It's not fair to the other staff.' [Manager, Union Enterprise Agreement, Independent Grocery Retailing, Inner Metropolitan, 220 employees]

The following employer uses an alternative strategy. This employer sidesteps the challenges of bargaining by deliberately recruiting someone with a lower skill set. In the mind of this employer, pay improvements down the track can then be more closely aligned and justified by specific training and skill achievements, and this reduces the hassle of 'bargaining'.

'But if we can't afford it [i.e., the costs of negotiating regular wage increases] from the outset we try to - well, we offer jobs or look for people who are probably a lower skill set that we can probably encompass and train and go that way' [that is, pay more as workers' productivity rises]. [Manager, Award-reliant, Franchise Fast Food (corporate outlet), Inner Metropolitan, 30–35 employees]

2.4.3.3 Conclusion

In summary, this analysis identifies that bargaining in many workplaces lacks systematic process, with few workplaces beyond the formal agreement makers (enterprise agreement sites) actively 'managing' their agreement making process, and with very little in the way of formalised workplace protocols to guide those responsible for negotiating with employees. This is an important overarching point, because it provides important explanatory context for the findings on employee incentives to bargain, outlined previously in this paper. Few employees across the 20 case study sites appeared willing to take the initiative to actively 'bargain' with employers at all, unless they had another motivation (e.g. a need to change work for personal reasons, or because they believed changes at the workplace level had restructured their job to a degree that renegotiation of the terms was imperative).

In seeking to understand the reasons for the absence of informal and formal processes surrounding bargaining, two themes emerged as explanations. In particular, perceptions of high cost and poor information amongst employers emerged as key contextual points. It could be argued that the lack of systematic process for bargaining is indicative of the utilitarian way in which participants consider or approach the question of bargaining. During the course of the analysis it became clear that employers particularly did not see a value in bargaining 'in and of itself' (the enterprise agreement workplaces included), but rather that bargaining played a functional role, or presented the means to a desirable commercial end. For this reason, purposeful consideration of how the 'act' or 'process' of bargaining might be improved or altered remained of limited interest to most employers interviewed.

3 Conclusions

What can be concluded about the impact of AWR decisions on over-award wage outcomes and the incentive to bargain?

3.1 The case study findings

On first appearances, the case study evidence appears to imply that AWR increases are all but irrelevant. At most of the 20 work sites studied, the AWR was perceived as having virtually no direct impact on wage outcomes or the process of wage determination. In particular, according to interviewees at most of these workplaces, the AWR:

- had no direct impact on over-award rates of pay in the case study sites;
- had a direct impact on some enterprise agreement rates of pay in some workplaces in some industries examined (these were workplaces generally paying very close to award rates); and
- had no direct impact on the incentive to bargain—either positively or negatively—in any of the workplaces examined.

The case studies generated extensive material that sheds new light on what shapes the incentive to bargain amongst employers and employees. On the basis of this material, the primary factors that frame employer incentives and disincentives to bargain are:

- product and labour market shifts that impact on revenue and costs;
- the operation of performance management systems;
- workplace level restructuring or changes to job roles;
- directives with immediate impacts for costs or pricing structures; and
- cyclical or timetabled reviews to negotiate.

From the workplaces studied, the primary factors that frame employee incentives and disincentives to bargain are:

- workplace level restructuring or changes to job roles;
- perceptions of value to the employer;
- culture of bargaining; and
- desire/requirement to fit work in around other roles in life.

The factors framing the incentive to bargain were categorised as being either first, second or third order considerations. The qualitative case study research established that the impact of AWR decisions on the incentive to bargain is a third order factor.

The case study evidence also revealed that to understand the impact of AWR decisions on bargaining and wages outcomes due consideration must also be given to three fundamental facts.

- Both employers and employees at enterprise level are poorly informed about bargaining and the opportunities for bargaining in general, and especially about the bargaining practices that might or might not exist within their local workplaces.
- Beyond some sites with approved enterprise agreements, bargaining is more commonly informal than formal in nature.

- There are considerable transaction costs associated with bargaining. Unless bargaining helps achieve a desirable commercial end employers will have little interest in it.

3.2 Findings from the quantitative and qualitative analysis of enterprise agreements

The workplace case study findings must, however, be interpreted in light of the findings from the qualitative and quantitative analysis of enterprise agreements. Agreements document what people are actually doing and signing off on as legally enforceable rights and obligations. Analyses of agreements provide a different perspective on potential answers to the research questions.

The quantitative analysis of agreements was based on more sensitive measures of agreement wage increases than are commonly used, and found a prima facie positive association between these measures and the 2009–10 AWR decision. This association was especially strong in sectors where agreement pay was very close to award rates, where there was a high incidence of employees who rely totally on awards for wage determination and have lower levels of AAWI contained in their agreements. Put another way, this analysis suggests that in sectors where the gap between the agreement and the award rate of pay is small there may be little incentive to bargain. This may be the case particularly where agreements are almost totally reliant on awards for determining pay levels and changes in pay rates. But even this tentative conclusion must always be considered in the context of the product and labour markets of the relevant sector. The case of domestic waste management was highly instructive on this matter. In parts of this sector the gap between award and agreement rates widened in the year prior to the field work. This sector is well known for intensely competitive tendering between waste management contractors and for having an abundance of labour. The widening of the gap between award and agreement rates in this case study decreased the incentive to bargain as employers with business models based on award rates won growing numbers of service contract with local councils.¹⁰⁶ This is an example of why understanding the impact of minimum wages on over-award rates and their determination must consider broader factors – especially the economic and labour market context in which they apply

The qualitative analysis of agreements found that the most substantive differences in agreements compared with awards concerned working time arrangements, especially penalties and loading associated with hours of work. In the sectors with a high degree of award-reliant agreements and employees noted above, the design of hours clauses meant that wage increases were offsets for effective reduction in rates of pay given changes in hours-related entitlements. The AWR increases did, however, appear to shape the quantum of the wage norm in the agreements.

The analysis of wage relativities established that between enterprises analysed, going rates of pay differ for employees engaged at the same classification level. That is, deviations from award rates of pay exist in the labour market. However, the relativities between different wage levels for jobs covered by these agreements were commonly very close to award relativities. This was especially the case in industries with low AAWIs and a large number of employees who rely on the award for wage determination. Given that award relativities have become more compressed in recent decades, the impact of successive minimum wage increases on real earnings has been more pronounced for high award classification employees—whether they are award-reliant or not.

Considered as a whole, the agreements analysis reveals that the greatest impact of AWR increases on enterprise agreement rates of pay is to provide a reference point for wage determination and outcomes even in situations where no worker is paid is the exact award rate of pay

¹⁰⁶ See Section 2.4.1.4 and Appendix A5.4 for a discussion of the domestic waste management sector.

3.3 Findings from the Award Reliance Survey

The case study and agreement analyses are not only consistent with, but indeed help make better sense of, the findings from a survey of 11 569 organisations undertaken in 2012–13 to investigate the incidence and nature of pay-setting using awards.¹⁰⁷ These were non-public sector organisations operating in the national workplace relations system. The study found that awards, enterprise agreements and other arrangements often operate in conjunction with each other—not as substitutes. Among non award-reliant organisations, 36 per cent reported basing wages on awards even though they did not pay any employees exact award rates. In award-reliant organisations, of the 49 per cent of employees not directly dependent on awards, 30 per cent received AWR increases.¹⁰⁸ Further, amongst award-reliant organisations, the most common reasons for using ‘other pay arrangements’ was to position the organisation more ‘up market’ than the awards allowed, or to reward good performance. Award-reliant organisations that had enterprise agreements primarily used them to change award conditions—not just (or even necessarily) wages.

All of these findings suggest that AWR decisions may not be pervasive in their impact on over-award rates of pay and the process of their determination, but at the same time these decisions are not irrelevant.

3.4 Conclusion

The direct impact of AWR decisions was perceived to be limited at the work sites studied. However, analyses of enterprise agreements revealed some prima facie associations with AWR decisions. Further, the workplace cases in general, and the relativities analysis in particular, revealed that minimum wages themselves (awards) can shape the wage determination process and wage outcomes. All of these findings are consistent with and help to better understand findings from the related 2012–13 study of award reliance.¹⁰⁹ If the AWR increases examined are conceived as being part of an ongoing evolution of the award system, then their impact could be seen to be significant, primarily because such increases are an integral part of a labour standards regime that conditions workplace behaviour and shapes wage outcomes. This appears to be especially the case in those parts of the labour market paying below median wages.

¹⁰⁷ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

¹⁰⁸ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne, Table 3.3.3.

¹⁰⁹ Wright S and Buchanan J (2013) *Award reliance*, Research Report 6/2013, Fair Work Commission, December, Melbourne.

Appendix 1: Categories for classifying arrangements that define wage entitlements

Classification: legislation	Sub-classification: wage-setting practice	Examples of workplace practice
Award/agreement-free (Defines an employee to whom neither a modern award nor enterprise agreement applies (s.12 of the Fair Work Act))	(a) Reliant on the national minimum wage order to set minimum rates of pay/casual loading.	Pay rate is set according to the relevant rate specified in the national minimum wage order. Pay rate may be set above this level.
Award applies (Would define employees to whom a modern award applies (within the meaning of s.47 of the Fair Work Act). This category would thus exclude employees whose wages are determined by an enterprise agreement and 'high income' employees (within s.329 definition of Fair Work Act) but could include employees on over-award payments or on common law contracts.)	(b) Award-reliant	Pay rate is set according to the relevant award rate specified for the classification of the employee. Conditions set by the award.
	(c) Over-award (informal arrangements)	Pay rate is set above the relevant award rate specified for the classification of the employee. Pay rate is not determined by an enterprise agreement and employee is not a 'high income' guaranteed employee.
	(d) Over-award (common law contract)	Pay rate is set above the relevant award rate specified for the classification of the employee. Pay rate is not determined by an enterprise agreement and employee is not a 'high income' guaranteed employee. Pay rate above the award rate is specified in a common law contract.
Award covered Would define employees who are covered (within the meaning of s.48 of the Fair Work Act) by a modern award. Predominantly those under formal agreements but also individuals who earn over the high income threshold.	(e) Over-award (covered by a formal enterprise agreement)	Covered by a formal enterprise agreement.
	(f) Over-award (high income employee with guarantee of earnings) ¹¹⁰	High income employee (as of 1 July 2011) is a full-time employee not covered by an enterprise agreement, covered by a modern award but earning \$118,100 plus superannuation or over with a guarantee of earnings with their employer (note that amount is indexed 1 July 2012). Note that under s.329 for an employee to be defined as a 'high income employee' they must be subject to a guarantee of earnings with their employer for a period of at least 12 months. See ss.329-333A. Guarantee means that modern award provisions will not apply to the employee for the life of the guarantee.

¹¹⁰ See Division 3, Part 2-9, Ch.2 of the Fair Work Act. Extract of Para 11.61 of Creighton, B and Stewart, A (2010) *Labour Law: Fifth Edition*, The Federation Press, NSW:

'If no [high income] guarantee is given, then the modern award will apply to the employee in the same way as to any other employee covered by it. It is erroneous, therefore, to assume that a modern award cannot apply to a high income earner—rather, the employer and the employee can enter into an agreed arrangement whereby it will not apply to a particular employee who earns in excess of the threshold. The effect of the arrangement, while in force, is that the employer need not comply with the requirements of the relevant award. It would also appear to have the effect of making the worker an 'award/agreement free employee', given the way the term is defined in s.12. That would in turn affect the operation of various provisions in the NES, for example as to the cashing out of annual leave. On the other hand, because the employee is still covered by the relevant award, they remain eligible to make an unfair dismissal claim'.

Note: Transitional instruments may also cover or apply to employees: see *Fair Work (Transitional Provisions and Consequential Amendments Act 2009)* (Cth), Schedule 3, Part 2 and Part 5; and Dunn A and Bray G, *Minimum wage transitional instruments under the Fair Work Act 2009 and the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*, Research Report 6/2010, Fair Work Australia, June 2010, Melbourne.

For the purpose of this study, a situation is described as an 'award-based' pay-setting arrangement if it involves any or all of (b), (c), (d) and/or (very rarely) (f).

This categorical framework was derived from a more detailed taxonomy prepared by Justine Evesson in close collaboration with Miranda Pointon and the FWC information services and research group in the early stages of this project in 2011. A version of it was published in Maltman K and Dunn A (2012), *Higher classification/professional employee award reliance qualitative research: interim report*, Research Report No. 4/2012, February, Fair Work Australia, Melbourne.

Appendix 2: Workplace Agreements Database Coding Frameworks

WAGES AND DEMOGRAPHICS

FIELD	DESCRIPTION
Agreement number	As allocated by Fair Work Australia/Commission
Agreement title	As allocated by Fair Work Australia/Commission
Agreement type	Single enterprise non-greenfields etc.
ANZSIC classification	Currently to the sub-divisional (2-digit) level
Sector	Public or private
Union coverage	Union and state/territories coverage
Award	Parent award for agreement
Other demographic data	Agreement involves single interest employers/approved in public interest under s.189/has undertakings

WAGE INCREASES

Wage increases	Quantum and timing of any wage increases
Agreements with no quantifiable wage increases	Lists the reason for non-quantification (e.g. linked to Fair Work Australia/Commission Minimum Wage Panel decisions)
First wage increase not quantifiable	Records whether the first wage increase is non-quantifiable due to a new classification structure, or another reason
No wage rates in agreement	Keeps track of agreements that contain no wage rates and no reference to award rates
Other wage increases	Outlines extent to which wage increases in the agreement are linked to Fair Work Commission minimum wage decisions and/or movements in the CPI
CPI in line with allowances	Agreement links movements in allowances to movements in the CPI

FIELD	DESCRIPTION
PERFORMANCE AND PRODUCTIVITY PAYMENTS	
Bonuses	Conditional or unconditional
Performance/productivity pay schemes	Incidence and nature (e.g. individual/work team/all employees)
Employee share ownership	Incidence (profit sharing or share acquisition)
REPLACED AGREEMENTS	
Replaced agreements	List of agreements which the current agreement replaces
VARIATIONS TO AGREEMENT	
Variations	List of variations to current agreement. Agreement record includes details of varied agreement provisions
Undertakings	<p>Details of any undertaking provided in order to get the agreement approved. Undertakings recorded as one of the following:</p> <ul style="list-style-type: none"> • Dispute resolution—scope/representation • Dispute resolution—arbitration • NES compliance • Remuneration • Conditions • Other/Unclear
EMPLOYER DETAILS	
ABN	Australian Business Number
Name	Legal name as recorded in the Australian Business Number Register
Employees	Number of employees covered by agreement (including the breakdown into women, part-time/casual e.tc. where provided)

CONDITIONS

No.	FIELD NAME	DESCRIPTION
Leave and salary provisions		
1.	Special paid leave (including grandparent leave)	<p>The agreement specifically provides for paid leave of a personal nature, <i>aside from</i> sick leave, family/carer's or compassionate leave. For example, this leave would allow an employee to attend meetings with their child's teacher, or to be home when repairs are carried out on a service or appliance.</p> <p>From 2011 onwards, this clause includes paid grandparent leave.</p>
2.	Volunteering leave	The agreement contains a provision for employees to take leave for volunteer work.
3.	LONG SERVICE LEAVE	<p>This is a 'header' field.</p> <p>The agreement contains long service leave provisions, such as those below, or where there are long service leave provisions not covered by the definitions below.</p>
4.	Flexible access	Access to taking long service leave is flexible, i.e. may be taken at a time negotiated between employer and employee. It may also cover LSL which can be taken at half pay for an extended period or for half the period at double pay.
5.	Accrual ___ weeks per year	<p>The amount of long service leave accrued by the employee is included in the agreement, e.g. 12 weeks over 10years is coded as 1.3.</p> <p>This is the rate of accrual in the first 10 or 15 years and ignores subsequent rates of accrual.</p>
6.	Cashing out	Employees are able to cash out some or all of their LSL entitlement during the course of their employment, or where LSL is paid out quarterly, annually, etc. This does not include LSL pay-out provisions that are part of redundancy pay-outs.
7.	ANNUAL LEAVE	<p>This is a 'header' field.</p> <p>The agreement contains annual leave provisions either as defined below or where there are annual leave provisions not covered by the definitions below.</p>
8.	Flexible/facilitative	The use of and access to annual leave for employees is not limited by any provision in the agreement. Facilitative means that access to the condition or any change over access to the condition is negotiated between the employer and employee.

No.	FIELD NAME	DESCRIPTION
9.	Access to single days	The agreement provides for some annual leave to be taken in single days rather than as a block. This provision will often be found among family-leave provisions.
10.	Cashing out	The agreement includes payment for any unused annual leave or an employee can cash out a proportion of annual leave, except where these are mentioned in conjunction with redundancy pay-outs.
11.	Annual leave quantum exceeds NES entitlement	The amount of annual leave per year exceeds the entitlements provided in the NES (four weeks for non-shift workers, and five weeks for shift workers). This is a new clause for 2011.
12.	Purchased leave or 48/52 or career break scheme	Under this provision an employee can, for example, elect to be paid four years salary over a five-year period and have the fifth year off as a career break. Purchased leave can enable an employee to obtain additional annual leave by way of salary sacrifice and have the salary decrease averaged over the year, for example an employee could take an additional four weeks leave and have the 48 weeks pay averaged over 52 weeks of the year.
13.	Annual leave loading	There is an annual leave loading paid to all entitled employees either once per year or included in the employee's salary when he/she takes annual leave.
14.	PARENTAL LEAVE	This is a 'header' field. The agreement contains provisions for parental leave associated with childbirth or adoption.
15.	Top up of government paid parental leave scheme	The agreement tops up the government paid parental leave scheme so that the employee can receive their normal rate of pay while on maternity leave. The number of weeks of top-up is recorded. This is a new clause in 2011.
16.	Primary caregivers or maternity leave— number of weeks (paid)	The agreement includes paid maternity leave or paid leave for the 'primary care giver' of a child/children. Agreements may stipulate maternity leave as time off work for a woman to have and be the primary care giver for her child, while some agreements are not gender-specific and use the term primary care giver. The number of weeks of paid leave is recorded.
17.	Secondary caregivers or maternity leave—	The agreement includes paid paternity leave or paid leave for the 'secondary care giver' of a child/children. Agreements may stipulate paternity leave as time off work for a man at the time

No.	FIELD NAME	DESCRIPTION
	number of weeks (paid)	of the birth of his child to be the secondary care giver or, provider of partner support, while agreements may not be gender-specific and use a term such as 'secondary care giver'. The number of weeks of paid leave is recorded.
18.	Paid adoption leave— number of weeks (paid)	The agreement includes paid adoptive leave. Adoption leave is time off work for an employee to adopt and provide primary care for an adoptive child. The number of weeks of paid leave is recorded.
19.	Final payment on return to work	The agreement provides that the final part of a parental leave payment will be paid when the employee returns to work after the period of leave.
20.	Flexible paid parental leave	Access to taking paid parental leave is flexible, i.e. it may be taken in a way negotiated between employer and employee such as at half pay for an extended period or for half of the period at double pay.
21.	Simultaneous leave	Parents have the right to request concurrent parental leave be extended from the standard three weeks [up to a limit of eight weeks].
22.	Return to part-time from parental leave	The agreement contains provisions which allow an employee to return to work on a part-time basis after taking parental leave.
23.	Agreement paid parental leave to be removed on commencement of Government paid parental leave	The agreement provides for paid parental leave, but states that the scheme under the agreement will cease once the government's universal paid parental leave scheme commences operation.
24.	Agreement paid parental leave scheme to be modified on commencement of Government paid parental leave	The paid parental leave scheme in the agreement will be modified in some way upon commencement of the government's paid parental leave scheme, but will not be removed altogether. For example, the modification might be that the agreement scheme is reduced to topping up the difference between the government's scheme and what was previously provided under the agreement.
25.	PERSONAL LEAVE	This is a 'header' field. The agreement contains personal leave provisions.
26.	Insurance scheme	The agreement provides for an insurance scheme covering absence from work due to a non work-related illness or injury. The agreement may stipulate that employees have to 'cash in' part of their sick leave entitlement to cover payment of the premiums. This field also covers 'income protection insurance'

No.	FIELD NAME	DESCRIPTION
		that relates to non work-related injury or illness (Note: this is distinct from income protection insurance related to redundancy provisions).
27.	Pay-out on termination/retirement	The agreement provides for employees to be paid the value (full or partial) of accumulated sick leave on resignation, retirement or other form of termination of employment.
28.	Sick leave unlimited	The agreement is open-ended on the number of days of sick leave available to the employee, for example, there is no limit on the number of days of leave providing a certificate is produced.
29.	Days sick leave	The agreement provides for paid leave available for employees when they are sick or injured. The number of days of paid leave is recorded.
30.	Extra days paid carer's leave	Paid leave (separate from ordinary sick/personal leave) is available for employees to care for a sick family member in addition to them being able to access paid days as part of their personal leave entitlements. The number of days leave is recorded if specified in the agreement.
31.	Accumulation bank—limited	The amount of sick leave that an employee may accumulate from year to year is limited by the agreement.
32.	COMPASSIONATE LEAVE	<p>This is a 'header' field.</p> <p>The agreement provides compassionate leave either as defined below or not covered by the specific provisions below.</p> <p>Compassionate leave is defined as:</p> <p>When a member of the employee's immediate family, or a member of the employee's household:</p> <p>[a] contracts or develops a personal illness that poses a serious threat to his or her life; or</p> <p>[b] sustains a personal injury that poses a serious threat to his or her life; or</p> <p>[c] dies</p> <p>Bereavement is now only one component of compassionate leave.</p>
33.	Greater than NES	Agreement's compassionate leave provisions are more generous than those contained in the NES. This would typically be with regards to quantum of leave available per occasion.

No.	FIELD NAME	DESCRIPTION
		This is a new condition for 2011.
34.	Less than NES	<p>Agreement's compassionate leave provisions are less generous than those contained in the NES. This might be with regards to quantum of leave available, or the circumstances in which the leave is available (e.g. for bereavement only).</p> <p>This is a new condition for 2011.</p>
35.	SALARY	<p>This is a 'header' field.</p> <p>The agreement contains salary provisions either as defined below or not covered by the specific provisions below.</p>
36.	Annualised salary	<p>An annualised salary exists at date of certification or there is a commitment to developing an annualised salary arrangement during the life of the agreement. Where an annualised salary exists, employees forgo payments that are additional to their salary (such as allowances) in return for a higher annual salary. At least three of these payments have to be absorbed for it to be coded as an annualised salary. Annualised salaries commonly incorporate some of the following:</p> <p>Penalty rates, overtime payments, allowances, rostered days off, public holiday entitlements, annual leave loading, on-call and call-out pay.</p>
37.	Loaded hourly rate	<p>The agreement incorporates both shift penalties and allowances into a higher hourly base rate.</p>
38.	Flexible remuneration	<p>The agreement allows for flexible remuneration for overtime, public holidays, annual leave loading, long service leave etc. For example, instead of penalty rates for working on a public holiday, additional leave is added to annual leave, or annual leave loading may be salary sacrificed to superannuation.</p>
39.	SALARY SACRIFICE/ PACKAGING	<p>This is a 'header' field.</p> <p>Employees may elect to give up part of their salary for non-cash benefits. These benefits include those listed below, and any other arrangements that might apply.</p>
40.	Superannuation	<p>Employees have the option to salary sacrifice into their superannuation.</p> <p>This is a new field for 2011.</p>
41.	Child care	<p>Employees have the option to salary sacrifice to pay for child care.</p> <p>This is a new field for 2011.</p>

No.	FIELD NAME	DESCRIPTION
42.	Other/Unclear Arrangement	Employees have the option to salary sacrifice for any other benefit, or the details of the clause are unclear. This is a new field for 2011.
43.	SUPERANNUATION	This is a 'header' field. The agreement contains 'superannuation' provisions either as defined below or not covered by the specific provisions below.
44.	Number of funds named in the agreement	The number of funds named in the agreement is recorded. 'Employees may have their superannuation entitlements credited to either HESTA or First State Super' is recoded as two funds.
45.	Threshold \$ ____ months/hours	The agreement specifies that the employee must either earn a particular amount (the threshold), or work a particular number of hours, before the employer must make superannuation contributions.
46.	Calls up super guarantee only	The agreement refers only to requirements of superannuation guarantee legislation, for example: 'The parties are aware of their obligations under the <i>Superannuation Guarantee (Administration) Act 1992</i> ' with no further superannuation provision.
47.	Employer super contribution, per cent of income ____%	The agreement states that the employer must pay a certain percentage of the employee's salary which is different (can be either lower or higher) than the superannuation guarantee (9 per cent from 1 July 2002) as a superannuation contribution. The percentage amount is recorded.
48.	Flat dollar rate	The agreement stipulates that the employer must contribute a set dollar amount into employee superannuation schemes.
49.	Incentive from employer	The agreement provides that voluntary employee contributions result in higher employer contributions.
50.	Superannuation paid during parental leave	Superannuation is to be paid when employee is on parental leave. This is a new field for 2011.
51.	Other entitlements modified to pay for increase to superannuation guarantee legislation	Agreement modifies other entitlements to fund government's increases to the superannuation guarantee legislation minimum. This is a new field for 2011.

No.	FIELD NAME	DESCRIPTION
Hours of work provisions		
52.	HOURS OF WORK	This is a 'header' field. The agreement contains 'hours of work' provisions either as defined below or not covered by the specific provisions below.
53.	Seasonal variation	The agreement provides (a) flexible working hours which increase during peak periods, with excess hours banked and used during non-peak periods, e.g. working on a ski resort all year round—building up extra hours during winter and working fewer hours during the summer months or (b) for instances such as earlier start times in the hotter months of the year.
54.	Average over more than four weeks	The agreement provides for average weekly hours to be averaged over a period of more than four weeks.
55.	Weekly hrs _____	Records the number of hours to be regularly worked per week.
56.	Compressed working week	The hours worked in a day can be increased such that the number of days worked in a week will be less . For example an agreement may allow employees to work four 10-hour days per week. This is different from rostered day off or paid time off provisions.
57.	Penalty rates apply for Saturday and Sunday work	The agreement stipulates that ordinary hours of work can only be worked between Monday and Friday.
58.	Penalty rates apply for Sunday work only	The ordinary hours of work a week can only be worked Monday to Saturday.
59.	No weekend penalty rates	There is no restriction on the days which ordinary hours can be worked.
60.	PUBLIC HOLIDAYS	This is a 'header' field. The agreement contains 'public holiday' provisions either as defined below or not covered by the specific provisions below.
61.	Ordinary time rates apply	Rather than taking time off, employees may be paid for work on public holidays at the equivalent of their ordinary time rates of pay.
62.	Penalty rates apply	Rather than taking time off, employees may be paid for work on public holidays at penalty rates of pay (at time and a half, double time etc.).
63.	Some or all absorbed	The agreement provides for some or all public holidays to be absorbed into an annualised salary or loaded hourly rate of

No.	FIELD NAME	DESCRIPTION
		pay.
64.	Enterprise-specific public holiday	The agreement designates an additional public holiday. This might be a union picnic day, or another enterprise-specific day. A paid day off for employees birthdays is also recorded here.
65.	OVERTIME	This is a 'header' field. The agreement contains overtime provisions such as those below or where there are overtime provisions not covered by the definitions below.
66.	Ordinary time rates apply	Rather than taking time off, employees may be paid for overtime at the equivalent of their ordinary time rates of pay.
67.	Penalty rates apply	Rather than taking time off, employees may be paid for overtime at penalty rates of pay (at time and a half, double time etc.).
68.	Absorbed	The agreement partially or completely absorbs overtime payments and incorporates them into a loaded salary (sometimes called an annualised salary).
69.	OVERTIME - TOIL	This is a 'header' field. The agreement contains time off in lieu (TOIL) provisions with regards to overtime work.
70.	TOIL at ordinary time rates	TOIL accumulates at a rate of time for time, i.e. 1 hour off for every hour worked. If an agreement mentions TOIL but doesn't specify the rate (e.g. overtime may be taken as TOIL by agreement between the employee and the manager) this field is coded.
71.	TOIL at penalty rates	TOIL, to be taken in the future, accumulates at a rate greater than time for time, i.e. 1.5 hours off for every 1 hour worked or TOIL is given at penalty rates.
72.	SHIFT WORK/ROSTER	This is a 'header' field. The agreement contains 'shift work and/or rostering' provisions either as defined below or not covered by the specific provisions below.
73.	Greater than 12 hour shifts	The agreement either provides for shifts longer than 12-hours, or states that employees can work for more than 12 hours in a shift. (amended from only recording 12-hour shifts)

No.	FIELD NAME	DESCRIPTION
74.	Split/broken shifts	The agreement contains other shift arrangements such as split shifts (often called broken shifts).
75.	Min break between shifts ___hours	The agreement provides for an employee on completion of a shift to commence replacement work on another shift. Amendment: will record the number of hours minimum break an employee must have between shifts (as amended—enables quantum of minimum break to be coded).
76.	No loadings apply/absorbed	Shiftwork is paid at ordinary time rates and no extra pay is received for working irregular hours.
77.	Loadings apply	Shiftwork is paid with an additional payment, identified as a loading or a penalty for working irregular hours.
78.	BREAKS	This is a 'header' field. The agreement contains 'break' provisions (e.g. lunch breaks, tea breaks) either as defined below (fields 155 to 159) or not covered by the specific provisions below.
79.	Flexible/facilitative	The agreement allows the employee greater flexibility in taking breaks, e.g. 'It is recognised that the time of actually taking meal breaks and smoko is flexible and will alter to suit individual and operational need' or 'The employer must not require you to work for more than 5 hours continuously without an unpaid interval of at least 30 minutes for a meal. If the employer has approved you to work your hours at your own discretion then organising your meal break is your responsibility.'
80.	Not to interrupt continuity of work	The agreement stipulates that breaks may only be taken in a way which allows for an uninterrupted workflow or continuous running of machines etc.
81.	RDO/ADO/PDO PROVISIONS	This is a header field. The agreement contains 'rostered day off' provisions either as defined below (fields 126 to 131) or specifies extra 'productivity leisure day' provisions that are not covered by the specific provisions below.
82.	RDO paid out on termination	Agreement provides for RDOs to be paid out to employees upon termination of employment. This is a new field for 2011.
83.	RDOs may be varied	RDOs may be varied by any party for any reason, or by mutual agreement. This is a new field for 2011.

No.	FIELD NAME	DESCRIPTION
84.	FLEXIBLE WORKING HOURS	This is a 'header' field. The agreement contains 'flexible working hours' provisions either as defined (fields 147 to 153) below or not covered by the specific provisions below. (These give the employee some degree of choice in the way working hours are organised).
85.	Hours may be negotiated	The agreement allows for the employer and employee or union to negotiate the hours that the employee will work. For example, starting and finishing times.
86.	Hours decided by majority of employees	The agreement allows the employees to decide some aspect of the hours they will work by a majority decision. They will more than likely have a fixed span of hours but can determine their own start/finish times and break times, by the majority decision. This includes starting and finishing times for shift-workers.
87.	Management may alter hours after consulting employees	The agreement lets management change employee hours (shift or non-shift) but only after consultation.
88.	Make up time	The agreement allows employees to take time off from work and at a later date to make up the hours lost.
89.	Home-based/telework	The agreement contains provisions for 'home-based work' or 'telework' or 'telecommuting'.
90.	FAMILY-FRIENDLY/WORK-LIFE BALANCE	This is a 'header' field. The agreement contains 'family responsibilities' provisions either as defined below or not covered by the specific provisions below.
91.	Child care provisions	The agreement contains employer-based or funded/subsidised child care arrangements. Most likely to be encountered where the employer meets the cost of child care when the employee works overtime; school holidays; travel overseas etc.
92.	Breastfeeding facilities	The agreement states that the employer will provide appropriate facilities for an employee to use when breastfeeding.
93.	Paid breastfeeding breaks	The agreement states that employees may take paid breaks in order to breastfeed a child.
94.	Employee assistance program	The employer offers an employee assistance program. This would normally involve the provision of free counselling to employees. This is normally intended to assist employees with

No.	FIELD NAME	DESCRIPTION
		personal matters, including drug or alcohol issues, depression, grief, interpersonal conflicts, etc.
95.	Right to request flexible working arrangements beyond minimum	<p>The agreement provides a right to request flexible working arrangements with no restrictions or in circumstances beyond the minimum provided in the NES.</p> <p>The minimum in the NES is a right to request flexible work if the employee has children under 5 years old or a child with a disability under 18 years old.</p> <p>For example, if the agreement provided a right to request flexible working arrangements if the employee has a child who is at school, this field would be coded.</p> <p>If the agreement provides an employee with the right to request flexible working arrangements and places no limits on the circumstances in which that could occur, this field would be coded.</p>
Type of employment provisions		
96.	PART-TIME EMPLOYMENT	<p>This is a 'header' field.</p> <p>The agreement contains 'part-time employment' provisions either as defined below (fields 90 to 93) or not covered by the specific provisions below.</p>
97.	Employee flexibility	The agreement assists employees in accessing part-time employment, that is, the agreement provides access for full-time employees to change between full-time and part-time employment at their instigation.
98.	Minimum consecutive hours __	If the agreement quantifies a minimum continuous number of hours of work, this is the minimum number of hours that can be worked in one <u>engagement</u> .
99.	Regular hours/days rostered	The agreement contains a commitment to and/or provisions which encourage regularity and stability in part-time working hours (e.g. specified starting and finishing times for each day, the days on which those hours are to be worked, change of hours by agreement, etc.).
100.	CASUAL EMPLOYMENT	<p>This is a 'header' field.</p> <p>The agreement contains 'casual employment' provisions either as defined below (fields 95 to 99) or not covered by the specific provisions below.</p>
101.	Works up to full-time	The agreement allows/requests/requires casuals to work up to the full-time hours worked by the full-time permanent employees of the business.

No.	FIELD NAME	DESCRIPTION
102.	Minimum consecutive hours ___	The agreement provides for a minimum continuous number of hours that can be worked in one engagement .
103.	Provision to transfer long-term casuals to regular status	The agreement includes a process whereby casuals, after a period of time, are transferred to permanent status, or are eligible to become permanent (also known as casual conversion clauses).
104.	JOB SHARING	<p>The agreement contains either job-sharing arrangements or a commitment to introduce/discuss the introduction of job-sharing during the life of the agreement.</p> <p>Definition: Job-sharing is where two (or more) employees share a job that would normally be performed by one employee.</p>
105.	FIXED-TERM/SHORT-TERM	<p>This is a 'header' field.</p> <p>This provision relates to either fixed-term employment, short-term employment or temporary employment. This is coded if the agreement contains these provisions either as defined below (field 103) or not covered by these specific fields.</p>
106.	MULTI-HIRING	The agreement allows for employees to work under more than one employment type, e.g., allows full-time employees to also work as casuals.
107.	APPRENTICES/TRAINEES	<p>This is a 'header' field.</p> <p>The agreement contains 'apprentices/trainees' provisions either as defined below or not covered by the specific provisions below.</p> <p>This does not include induction arrangements.</p>
108.	Recognition of prior learning	<p>An apprentice can have an advanced standing through recognition of prior learning, including pre-apprenticeships and overseas qualifications. An Apprentice can receive credit for previous study or begin learning in the second year of apprenticeship.</p> <p>This is a new field for 2011.</p>
109.	Competency-based progression	<p>Apprenticeships are competency-based rather than time-based.</p> <p>This is a new field for 2011.</p>
110.	Early apprenticeship completion	Apprentices can complete their apprenticeships early, provided they meet the competency requirements of their training.

No.	FIELD NAME	DESCRIPTION
		This is a new field for 2011.
111.	Incorporates national training wage schedule	The agreement calls up, includes, or incorporates the national training wage schedule from modern awards. This is a new field for 2011.
112.	Apprentice/trainee wage provisions	The agreement contains wage arrangements for apprentices or trainees or refers to adopting the apprentice/trainee wage provisions in an award (usually the National Training Wage Award).
113.	Adult apprentice wage provisions	The agreement provides a separate wage for those apprentices who are adults (should be greater than usual apprentice wages).
114.	School-based/transitional apprenticeships	The agreement provides for apprenticeships for employees still completing school.
115.	JUNIOR EMPLOYEES	This is a 'header' field. The agreement contains 'junior employees' provisions either as defined below or not covered by the specific provisions below. This does not include induction arrangements.
116.	Agreement includes junior rates	The agreement contains rates of pay for junior employees, e.g. percentage of an adult rate or different set dollar amounts.
117.	Other junior provisions	The agreement contains provisions relating to junior employees with regards to the non-wages conditions of employment. This is a new field for 2011.
118.	CONTRACTORS/ LABOUR HIRE	This is a 'header' field. The agreement contains provisions for contractors or sub-contractors in terms of the fields below or not covered by the specific provisions below.
119.	Contract labour restricted use	The agreement mentions any employment restrictions to contractors such as limitation on numbers of contractors in relation to full-time employees, length of employment or number of hours etc.
120.	Rates of pay	Specific rates of pay are included in the agreement for

No.	FIELD NAME	DESCRIPTION
	(contractors)	contractors.
121.	TRADE UNION	This is a 'header' field. The agreement contains 'trade union' provisions either as defined below or not covered by the specific provisions below.
122.	Union right of entry	The agreement provides union officials with the right to enter a place of work in order to conduct union business and/or inspect time/wages record books. This field is not coded if the only right of entry provisions for the union are those under the mandatory consultation and dispute settlement terms.
123.	Union deduction of dues	The agreement includes a clause that provides for union dues to be collected at source, i.e. to be deducted by the employer from the employee's salary.
124.	Union consultation	An agreement provides a provision for a company and/or employees to consult with a union on any workplace issue, condition or proposal prior to implementing an agreement.
125.	EMPLOYEE DELEGATES	This is a 'header' field. The agreement contains 'employee delegate' provisions either as defined below or not covered by the specific provisions below.
126.	Leave to attend trade union training	The agreement provides employees with paid or unpaid leave to attend training provided by the employee's trade union.
127.	Use of office facilities	Employee delegates have access to office facilities on the employer's premises. This is a new field for 2011.
128.	Paid time for delegate duties	The agreement provides for paid time for delegates to perform their duties as employee representatives. This is a new field for 2011.
129.	WORK ORGANISATION	This is a 'header' field. The agreement contains 'work organisation' provisions either as defined below (fields 161 to 164) or not covered by the specific provisions below.
130.	Multi-skilling/flexible deployment of labour	Employees can be moved between roles and/or locations to suit the needs of the business, or to develop their own skill sets.

No.	FIELD NAME	DESCRIPTION
131.	Competency-based wage movements	The agreement contains a provision to link salary progression or progression through the classification structure to the attainment of a competency level in a training structure. (This is usually an industry-based certificate).
132.	Individual performance appraisal	The agreement provides for individual performance appraisals, or mentions annual performance reviews, performance assessments etc.
133.	Quantifiable key performance indicator measures	The agreement contains performance indicator(s) with specific measurable goals. This will sometimes be in a separate schedule detailing production goals, or reduced injury claims etc. There will be specific targets identified and corresponding incentives or outcomes.
134.	GENERAL TRAINING ARRANGEMENTS	This is a 'header' field. The agreement contains 'general training' provisions either as defined below or not covered by the specific provisions below.
135.	Type of training, including training plan/program	Some agreements will specify the type, or nature, of training to be undertaken. This may relate to the type of qualification that the training will produce or its relevance throughout an industry. For example, competency-based or accredited, nationally recognised etc. The agreement might refer to any <u>formalised training arrangement</u> for an organisation, such as a training plan or program. Such provisions tend to relate to a commitment to training (by employees and/or employers), the determination of an organisation's training needs, the development of a training program, how employees are to be selected for training and be trained, and the conditions under which employees will be trained or their employment entitlements while being trained. The program may already exist or there may be a commitment to develop such a program.
136.	Allowance costs associated with training	The agreement contains provisions that the employer will pay costs associated with training, such as: direct purchase of items required for the course; direct payment of costs/fees incurred; procedures for the reimbursement of such costs; or circumstances where such costs will be reimbursed.

No.	FIELD NAME	DESCRIPTION
137.	Training bonds	The agreement contains a provision where an employee agrees that, in the event of resignation or termination of employment, the employee will refund to the employer a sum of money representing full or part value of training received by the employee at the employer's expense in the course of that employment.
138.	Leave for training purposes (including study/exams)	The agreement provides for leave (whether paid or unpaid) to attend training.
139.	Training in relation to part-time workers or casual workers	Provisions which note that training will be provided in relation to part-time workers, casuals or seasonal workers (seasonal workers are engaged in employment that is seasonal, for example fruit picking). The agreement may make a point of referring to training for all employees and have detailed employment status at the business if full-time, part-time and casual or seasonal.
Agreement Provisions		
140.	Incorporates award	The agreement calls up an award or the agreement is to be read in conjunction with a particular award.
141.	Disciplinary procedures	The agreement contains a provision that brings into play a formal procedure relating to the discipline of employees within an organisation. Disciplinary procedures generally set down the steps to be followed when an employee has allegedly breached the rules of an organisation or when their work is claimed to have been unsatisfactory.
142.	Policies specifically incorporated	
143.	MANDATORY CLAUSES	This is a header field. Under the Fair Work Act, agreements are required to contain a clause allowing for individual flexibility arrangements, and a consultation clause.
144.	Individual flexibility—model	The agreement contains a form of model individual flexibility clause (either the award or agreement model clause).
145.	Individual flexibility—model incorporated by the FWC	The approval decision notes that the model flexibility clause has been incorporated by the FWC.
146.	Individual flexibility—general	The agreement contains an individual flexibility term that allows the entire agreement to be varied.

No.	FIELD NAME	DESCRIPTION
147.	Individual flexibility—specific	The agreement contains an individual flexibility term that allows only specified terms in the agreement to be varied.
148.	Collective flexibility	The agreement contains a flexibility clause that requires collective agreement to vary the effect of a term of the agreement.
149.	Model consultation clause re major change	Agreement contains the model consultation clause (Schedule 2.3 of <i>Fair Work Regulations 2009</i>).
150.	Model consultation clause incorporated by FWC	The approval decisions notes that the model consultation clause has been incorporated by the FWC.
151.	DISPUTE RESOLUTION	This is a header field. Details of dispute resolution clauses are in the following subheadings.
152.	Model clause	The agreement contains the model dispute resolution clause found in Schedule 6.1 of the <i>Fair Work Regulations 2009</i> .
153.	Refers to third party (not FWC)	The agreement specifies that alternative dispute resolution is to be conducted by someone other than the FWC.
154.	Arbitration of disputes	The dispute resolution clause finally results in FWC (or a third party) ‘arbitrating’, ‘determining’ or ‘making a binding decision’ to settle a dispute. This is not coded where agreement is required by both parties to allow arbitration, where determination is made within the workplace (e.g. by management), or where dispute resolution results only in conciliation, mediation or recommendation.
155.	Disputes in relation to s.65(5) or s.76(4)—flexible working arrangements	Agreement allows for the dispute resolution process to be conducted with regards to requests for flexible working arrangements or extended unpaid parental leave (s.65(5) and s.76(4) of the Fair Work Act respectively).
156.	OHS	This is a 'header' field. The agreement contains ‘occupational health and safety’ (OHS) provisions either as defined below or not covered by the specific provisions below.
157.	OHS training	The enterprise supplies training facilities and resources to educate staff so as to better meet safety requirements.
158.	OHS protective clothing issued	The employee is supplied with protective workplace clothing such as boots, glasses, sunscreen etc.

No.	FIELD NAME	DESCRIPTION
159.	OHS proactive workplace health care policy	The agreement contains a commitment to a safe working environment through workplace policies which address drinking, smoking or other dangerous workplace practices. This includes QUIT smoking programmes, drug/alcohol treatment/programs, vaccination programs for those at occupational risk, e.g. health care workers, teachers, child care workers.
160.	Top-up workers compensation premium	The agreement has provisions for additional payments to employees on workers compensation to reduce the gap between compensation levels and previous (to injury) take-home pay. This compensation is often referred to as accident make-up pay.
161.	Termination, change and redundancy	This is a 'header' field. The agreement contains 'termination, change and redundancy' provisions either as defined below or not covered by the specific provisions below.
162.	Severance pay	The agreement provides for severance pay regardless of the amount paid.
163.	Severance entitlement at four years service	The number of weeks' pay employees are entitled to after four years' service. This is a new field for 2011.
164.	Maximum severance entitlement	The maximum number of weeks' pay that employees can be entitled to upon being made redundant. This is a new field for 2011.
165.	Years service for maximum entitlement	The number of years' service required to achieve the maximum severance entitlement in condition 164. This is a new field for 2011.
166.	Redundancy income protection scheme	The agreement has provisions for payments to redundancy schemes/redundancy income protection plans for the employees, e.g. INCOLINK/ACCIRT. This provision is NOT the same as an insurance scheme to cover illness.
167.	PRODUCTIVITY	This is a header field. The agreement contains some form of commitment to improving productivity. This could be a general statement of intent or specific measures.

No.	FIELD NAME	DESCRIPTION
168.	Specific productivity measures	An agreement links productivity improvements to specific policies, procedures and/or practices. This is a new field for 2011.
169.	ENVIRONMENTAL	This is a header field. The agreement contains some form of commitment to the environment. This could be a general statement of intent or specific measures.
170.	Specific green initiatives	The agreement provides a commitment to the environment with regard to company policy and/or legislative frameworks. This provision may include a disciplinary process for dealing with breaches, up to and including dismissal.
171.	LABOUR RELATIONS EQUITY	This is a 'header' field. The agreement contains 'equity' provisions either as defined below or not covered by the specific provisions below.
172.	Affirmative action plans	The agreement has provisions which are designed as a systematic means of eliminating discrimination and achieving equal opportunity for women.
173.	Commitment to pay equity	The agreement contains commitments or a program of action to ensure that two or more groups who do the same work receive equal pay for work of equal value.
174.	Provisions for non-English speaking background workers	The agreement contains clauses dealing with equity for non-English speaking background employees. This includes provision of training in literacy or English language.
175.	Extended definition of family	The agreement contains a definition of 'family', which extends beyond the traditional definition (see below). For example, these definitions may recognise indigenous kinship systems. These definitions are most likely to be found in conjunction with personal leave/family/carer's leave/bereavement leave clauses.
176.	Access and equity for Aboriginal and Torres Strait Islander	The agreement has provisions which recognise the particular circumstances of Aboriginal and Torres Strait Islander peoples. Such provisions may consider the particular circumstances of Aboriginal and Torres Strait Islander peoples in recruitment, conditions of employment, promotion, etc.
177.	Cultural/ceremonial leave	The agreement recognises and allows leave for cultural/ceremonial purposes for Aboriginal and Torres Strait Islander or other distinct cultural/religious groups.
178.	Special needs	The agreement has provisions which recognise the special

No.	FIELD NAME	DESCRIPTION
	employees	needs of people with disability. They may include provisions for supported wages or for reasonable adjustment in the workplace to allow greater accessibility for people with disability (wheelchair access etc.).
179.	Provisions for mature age workers	The agreement contains provisions that encourage mature age workers to remain in the workforce beyond retirement age, or that allow older workers to remain working on a part-time basis as a transition into retirement.

Appendix 3: Impact of Changes to WAD Coding Frames between 2010 and 2011

A3.1 Significant changes in the March quarter 2011 trends report

In 2010, the Department of Employment and Workplace Relations (formerly known as the Department of Education, Employment and Workplace Relations) conducted a review of its coding framework. While the majority of data used remain unchanged, the most significant for this study is as follows:

A procedural change now allows the department to capture wages data for agreements where the first wage increase is not quantifiable. The AAWI for these agreements is calculated as if the agreement commenced upon the date of the first quantifiable wage increase instead. This change allows wage data to be recorded for a much greater proportion of agreements than before, and makes the data in the March 2011 quarter much more representative of the entire population than in previous reports.

These changes do not affect historical data, or any historical coding frameworks as only data for agreements made after 1 January 2011 is affected. No historical data has been revised with regards to these changes.

The last two quarters of data used for this study have been impacted. This needs to be kept in mind when examining all data and output derived using WAD's own calculation of AAWI. In particular, data produced in tables that report AAWI (as opposed to separate wage increase instalments delivered year by year in each agreement). However, WRC has determined that the impact overall is marginal and will not affect the findings associated with addressing the key research questions.

A3.2 Significant changes in the June quarter 2011 trends report

The duration fields in the report have been modified to reflect the 'formal duration' of an agreement, which is the difference in years between approval and expiry. Previous reports have reported on the 'effective duration'. (For more details on how this is calculated, refer to the technical notes). All historical data have been revised to reflect this change.

This change only affects one of the six quarters of data that was used for this study. Therefore the impact is minimal, if not insignificant.

Appendix 4: WRC's Long Coding Framework for the Qualitative Analysis of Agreements from the Five Case Study Sectors

A4.1 Overall Demographics

4 digit ANZSIC code

Sector Specific Code

Sectors selected for FWC Incentives to Bargain project

Key Informant Insight/Comments

Comments about Award Coverage (identifying the reference award used in agreement)

Agreement Coverage/Structure:

- 1=Single site stand alone
- 2=Multiple-occupation based
- 3=Multiple-location based
- 4=Multiple-div/function/section based
- 5=Multiple-service/product based
- 6=Framework/umbrella
- 7=Other/unsure

A4.2 Award Comparison

Award-agreement comparison of content:

- 1=Agreement mirrors award completely
- 2=Single issue agreement mirrors award for most terms and conditions with changes to one key issue
- 3=Several differences from award
- 4=Stand alone agreement - substantial differences from award
- 5=Completely tailored agreement

A4.3 Hours, Penalty Rates and Working Arrangements

1. Saturday pen rate
2. Sunday pen rate
3. Evening work on weekdays (after 6pm)
4. Casual rate
5. Weekly work days
6. Hours averaged
7. Ordinary span of hours
8. Overtime rate
9. Other

A4.4 Wage increases and wage relativities

Details of scheduling of wage increases

Wage rate (per occupation): weekly base rate of pay for each occupation listed in the agreement

Award classification comparison:

1=exact match of all classification levels (identical)

2=exact match of some classification levels

3=partial match-some signs of tailoring with occasional alignment OR classifications levels are broadbanded/expanded

4=different-tailored or overhaul

Wage relative to award: aligning each classification level to the award, deriving a percentage calculation of the agreement rate of pay relative to the equivalent modern award (where possible).

Scale of confidence of classification comparison (per cent): a rating applied by the researcher, to each classification level in each agreement, that assesses the degree to which they can confidently match the classification structures from the agreement to those stipulated in the modern award (based primarily on knowledge from the agreement itself). Ratings of 90–100 per cent equate to high confidence of the alignment process, ratings of 70–80 per cent equate to medium confidence of the alignment of alignment process, ratings of 60 per cent and below equate to low confidence (indicating that caution should be taken with these figures).

A4.5 General comments/insight

Overall comment and judgment made about the agreement's overall content.

Appendix 5: Qualitative Analysis of Agreements—Industry Case Studies

A5.1 Supermarket and grocery stores

Retailers in the supermarket and grocery sector can be categorised according to market share and operating profile.

- National retail chains have many operations and employ large numbers of workers, these are referred to as ‘high-tier retailers’.
- Independent operators have large single site operations and are referred to as ‘mid-tier retailers’.
- Small grocery stores or independent corner stores are referred to as ‘low-tier retailers’.

Agreements were selected for analysis based on these three grocery retailer categories. In total, 25 of the 42 supermarket/grocery retail agreements included in the quantitative analysis were selected for qualitative analysis. Of these, five mid-tier retailers and 18 lower-tier retailers were selected. None of the high-tier retailers had an agreement approved within the 1 July 2010–30 June 2011 period. Due to their strategic importance and sheer magnitude of coverage, two agreements covering the high-tier retailers were included in the analysis. The first agreement was approved on 20 May 2010 while the second agreement was approved on 7 September 2011. In total, 25 agreements were chosen for the qualitative analysis.

A5.1.1 Demographics

The key characteristics of each of the agreements considered in this section are summarised in Table A5.1. The two high-tier retailers agreements covered the majority of retail employees in the WAD. The first high-tier retailer agreement is the first fully national workplace agreement for these employees. Covering 94 000 employees, the agreement consolidates six separate state and territory agreements and two standalone meat worker agreements. Different state agreements will phase into the new deal at different times as each agreement reaches its expiry. The second high-tier retailer underwent a process of unifying its industrial arrangements with the one agreement covering its entire 90 000 wage-based employees.

The high-tier retailers are established agreement makers, with the current agreements representing a long-standing history of agreement making (dating as far back as 1993). Union coverage and role in bargaining was well established with the high-tier retailers. A total of three unions were covered by each agreement, representing the three key occupational groups. The term of these agreements were either 2.7 or 3 years.

The mid-tier category of agreements covered as many as 241, and as few as eight employees. Union coverage was evident in only two agreements. Most agreements also displayed a history of agreement making with only one first generation agreement. All other agreements were either second or fourth generation. The duration of the agreements ranged from 2 to 2.8 years. Three of the agreements were from Queensland, with one in Victoria and one in the ACT.

Low-tier retail agreements generally covered as few as five employees and mostly around 20 employees. All but one agreement was from workplaces located in Queensland. These agreements were all first generation, indicating an active move towards enterprise bargaining in this region. The state of transition towards agreement making was also evident by the referral of all these agreements to their previous state parent award. Union coverage was absent amongst this group of grocery retail agreements. Agreement duration ranged from two to four years (the maximum term available under the law).

Table A5.1: Demographics of supermarket and grocery stores agreements

Title	Union party	State	Duration (years)	Employees	Agreement generation	Female %	Part-time	Casual
High-tier retail grocers								
Woolworths National Supermarket	SDAEA, LHMU, AMIEU	National	3	94 282		59		17 833
Coles Supermarkets Australia Pty Ltd and Bi-Lo Pty Limited Retail	SDAEA, AWU, AMIEU	National	2.7	90 000	-	-	-	-
Mid-tier retail grocers								
A&K Malakou Pty Ltd ATF The Malakou Family Trust	None	Qld	2.8	26	1	69	25	1
Goondiwindi Co-operative Society Limited Trading as Foodworks Supermarket	None	Qld	2.6	95	2	74	25	50
IGA Pialba	SDAEA	Qld	2.8	79	2	76	71	8
Independent Supermarkets ACT	SDAEA	ACT	2.3	241	4	59	187	8
Morgan's Supa IGA	None	Vic	2	12	2	58	-	10
Low-tier retail grocers								
Aussienett Trading atf Hodnett Trust	None	Qld	2.9	15	1	93	14	-
Barra Pty Ltd	None	Qld	3.3	4	1	100	4	0
Century Trading Co Pty Ltd	None	Qld	3.2	25	1	56	20	1
Coral Cove Supermarkets Pty Ltd	None	Qld	2.7	30	1	53	29	0
GMH Investment & Champaka	None	Qld	4	12	1	75	12	0
JKN Investments Pty Ltd ATF The Golding Family Trust	None	Qld	3.3	23	1	26	-	-
Mayvista Pty Ltd	None	Qld	2.8	20	1	70	13	7
MBI Enterprises Pty Ltd ATF Hung-Sheaff Family Trust	None	Qld	3.4	20	1	75	12	6
Orbitway Pty Ltd	None	Qld	2.9	16	1	63	11	0

Title	Union party	State	Duration (years)	Employees	Agreement generation	Female %	Part-time	Casual
Petillian Trading Pty Ltd	None	Qld	2.8	82	1	62	68	0
Sirianni Enterprises Pty Ltd	None	Qld	3	34	1		-	-
Van Cooten & Sons Pty Ltd	None	Qld	2.8	9	1	67	5	-
Xtina Investments Pty Ltd	None	Qld	3.2	5	1	80	3	-
Shelmic Pty Ltd	None	Qld	3.2	7	1	43	7	0
Craigson Pty Ltd	None	Qld	3.33	3	1	33	3	0
Friendly Grocer Strathpine	None	Qld	3.98	6	1		-	-
Jacama Pty Ltd	None	Qld	3.27	11	1	82	10	-
Health & Happiness Australia Pty Ltd	None	NSW	3.2	7	1	86	7	0

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

A5.1.2 Reference awards

The *General Retail Industry Award 2010* (MA000004) is the major award operating in the retail grocery industry, however according to the WAD it was only referenced by one agreement. The majority (15) referenced the state parent award, and Table A5.2 shows the other awards referenced.

Table A5.2: Number of agreements referencing each type of award

Award name	No. of agreements
<i>General Retail Industry Award 2010</i> only	1
State parent award only	15
<i>Retail and Wholesale Shop Employees (Australian Capital Territory) Award 1983</i> and the <i>General Retail Industry Award 2010</i>	1
<i>Master Grocers' Association and the Shop, Distributive and Allied Employees Association Award 2005</i>	1
Unknown award	1

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

All but one agreement in the analysis—*Independent Supermarkets ACT Certified Agreement 2010*—were expressed to completely replace any award. Most grocery retail agreements excluded all other industrial instruments with the agreement regulating all terms and conditions of employment. For example, the following clause was included in the Goondiwindi enterprise agreement: 'This Agreement shall prevail over an award or order of the Commission.' Other example clauses are found in the following Woolworths, Coles and Morgans Supa IGA agreements:

1.4.1. This Agreement comprehensively regulates the terms and conditions of employment of employees to whom it applies and operates to the exclusion of any other industrial agreements, award or notional agreements preserving State awards, including in respect of any protected award conditions which may otherwise apply in respect of employees engaged under this Agreement. [*Woolworths National Supermarket Agreement 2009*]

1.4.3. This Agreement shall operate in complete substitution of any Award or Agreement, whether State or Federal, previously covering such team members as are provided for within the classifications contained herein. [*Coles Supermarkets Australia Pty Ltd and Bi-Lo Pty Limited Retail Agreement 2011*]

This Agreement:

4.3. overrides all letters of offer and employment contracts, whether written or oral, in existence prior to the Commencement Date, save for an Employee's Letter of Engagement or any agreement or deed relating to confidential information, intellectual property or post employment obligations;

4.4. constitutes the entire agreement between Employees and Morgan's Supa IGA in relation to all matters relating to their employment with Morgan's Supa IGA, save for Employee letters of engagement, any

agreement or deed relating to confidential information, intellectual property or post employment obligations or any of Morgan's Supa IGA's Policies;

4.5. is not to be read in conjunction with any award... [*Morgan's Supa IGA Enterprise Agreement 2010*]

In some cases specific legislation or previous agreements were deemed to apply to those covered by the agreement. For example, a number of agreements used the NES as a safety net for employees. A typical clause is included below.

1.5.2 Any terms in this Agreement, which offers or implies employee entitlements that are not at least equivalent to the entitlements under the respective Standard, or which contravene the conditions of the Standard, shall have no effect and the relevant conditions of the Standard shall prevail. [*GMH Investment & Champaka Enterprise Agreement 2009*]

In the case of Woolworths, their attempt to create one uniform arrangement meant that national coverage of the new agreement was only complete once current agreements reached their nominal expiry date.

1.2.1(d) To the extent that Woolworths Limited is already bound by an existing workplace agreement made under the *Workplace Relations Act 1996* (as in force prior to the amendments made by the *Fair Work Act 2009*) in respect of any employee who would otherwise be covered by this Agreement, then this Agreement will not cover or apply to, or in respect of, that employee until the beginning of the day immediately after the nominal expiry date of the relevant existing workplace agreement. [*Woolworths National Supermarket Agreement 2009*]

A5.1.3 Coverage

Supermarket agreements cover the majority of its non-managerial employees in the enterprise, generally excluding store managers and above. Coverage was mostly defined according to occupation. As many of the agreements came from a template, the coverage clause included in the majority of agreements (18) was very similar. That covering Orbitway in Queensland was typical of most:

3.1 This Agreement binds:

(a) Orbitway

(b) All Employees who are employed by the Employer pursuant to the classifications in this agreement listed in Appendix 1 **and** who are legally able to be bound by this agreement ("Employees"). [*Orbitway Pty Ltd (The Retailers Association) Single Enterprise Agreement 2009*]

The Woolworths and Coles agreements are more thorough in their coverage clauses. The Woolworths agreement was a single national agreement which, for the first time, makes provision for common and consistent employment conditions for all non-salaried supermarket employees. However there was state and territory variation in conditions for the remaining levels of employees. The largest divergence was in the placement of department/duty managers and employees with trades qualifications. Tasmania, for example, deemed the two roles to be of the same stature and pay, while all other states clearly distinguished between the two roles. Victoria did not list the department manager at all. NSW and Western Australia also identified roles at the post-trades qualification level.

Coles had the one agreement covering its entire wages staff, and this agreement also covered all Queensland meat workers and the warehouse employees in the Northern and Mackay districts of Queensland. However, breaking with tradition, the Coles agreement excluded employees at the department or duty manager level or above. The agreement has also renamed certain positions with a

team emphasis. Shop assistants were called 'team members' and supervisory positions termed 'team leaders'. According to key industry stakeholders, some positions in the store were abolished and replaced with the term 'team member'. Coles did, however, shift employment to a greater number of permanent part-time positions in place of casuals.

A5.1.4 Wage increases and relationship to AWR

The AWR plays a prominent role in wage increases in the supermarket and grocery store agreements analysed. Of the agreements studied, only five of the 25 agreements specifically contain their own schedule of wage increases over the life of the agreement. Two of these agreements were the high-tier retailers, one delivering 8.5 per cent over five instalments and the other delivering 10.2 per cent over six instalments. A further three agreements from mid-tier retailers Goondiwindi Co-operative Society Limited, IGA Pinalba and Independent Supermarkets ACT also set their own wage increase quantum during the life of the agreement.

While agreements for the high-tier retailers appear to set out their own wage increase instalments, it appears that wage movements determined by the AWR have a strong influence over the quantum delivered. The two recent agreements struck by Coles and Woolworths are testament to this, with annual wage increases of around 3.5 per cent per annum—rates very similar to those specified in the AWR decision.¹¹¹

A further two agreements relied on the FWC's minimum wages adjustment process, but in a less direct manner. These agreements made guarantees that the wage rates would not fall below the relevant modern award, and that they would review the wages annually in their own manner. Extracts from Morgan's Supa IGA and GMH Investment agreements are below:

24.1. Morgan's Supa IGA guarantees that it will, at all times, pay all Employees no less than nominated Minimum Wage Rate Schedule which shall be adjusted from time to time to ensure that the Wage Rates specified therein meet or exceed the minimum hourly rate of pay prescribed under the relevant modern award as it operates on 31 July in each year.

24.2. For the purposes of Clause 24.1, a reference to the relevant modern award is a reference to the modern award that would have applied to an Employee but for the operation of this Agreement. [*Morgan's Supa IGA Enterprise Agreement 2010*]

3.4.1 The basic rates of pay contained in this Agreement are guaranteed never to fall below the relevant basic award / pay scale rates for the respective job classifications as prescribed by Fair Work Australia (or subsequent authority responsible for setting minimum wage rates). Therefore, the pay rates contained herein shall be reviewed annually and adjusted accordingly. [*GMH Investment & Champaka Enterprise Agreement 2009*]

The remainder (18 agreements) rely directly on increasing wage rates in the agreement in line with modern award wages as adjusted by the AWR decision. All of these agreements were from the lower-tier category and based on a pattern agreement produced by an employer association, of which the following simple clause was derived:

19.2 The ordinary weekly rates of pay in this Agreement shall increase in accordance with the determination of Fair Work Australia [*Shelmic Pty Ltd (The Retailers Association) Single Enterprise Agreement 2009*]

¹¹¹ According to key industry stakeholders, historically wages for the high-tier retailers are up to 20 per cent above the award. More recently there has been a shift towards delivering minimal wage increases with quantum aligned with the AWR.

A5.1.5 Non-wage issues in agreements

Distinct patterns are evident in the agreements according to the group they fall within. High-tier supermarkets and grocery stores display a more comprehensive approach to linking changes in wages, hours of work, and other conditions of employment in their enterprise agreements. They typically build on previous enterprise agreements with unions involved in negotiations. Wage rates are prescribed above and beyond the award standard while still following the structure of the modern award. **Premium wage rates are offered in place of concessions gained with overtime and penalty rates.** There are generally more detailed provisions regarding the management and rostering of hours, especially around caps on hours of work for part-time and casual employees.

Agreements from mid-tier retailers took a more strategic approach to agreement making, as they use the opportunity to craft workplace arrangements suited to their particular needs. This is especially in relation to hours of work and working arrangements. Agreements in this category also show signs of a more tailored approach to the classification structure. These agreements also tend to pay higher wages premiums (though not as high as the high-tier retailers), *with savings* gained through initiatives designed to deliver flexible hours of work and overtime arrangements.

The low-tier agreements displayed a simple approach to agreement making. They were overwhelmingly first generation agreements with evidence of pattern agreement-making driven by an employer association. They mostly mirror the award with simple rules for rostering and tend to provide the lowest standards and wage rates possible under the law. There was no evidence of innovation or initiatives targeted to mould rates or conditions to workplace requirements, however attempts to undercut conditions in the award were apparent. Most of these attempts were negated by the application of the BOOT. The starkest deviation from the award is in the classification structure, with most agreements referring to three classifications of sales workers instead of six.

In exchange for wage premiums provided by high-tier retailers and some middle-tier retailers, savings were made through concessions or gains in overtime and penalty rates. For example, the reduction of overtime rates, or delays in when the overtime penalty rates become effective. Savings were also made through the removal or reduction of penalty rates (such as no Saturday weekend penalty rate). This is described below in section A5.1.5.1.

A5.1.5.1 Hours of work and penalty rates

The most notable non-wage issue among the grocery retail agreements was attempts by employers to remove or reduce the conditions or arrangements surrounding the hours of work; in particular, daily span of hours and penalty rates. Savings in agreements were made mostly through the reduction or removal of weekend penalty rates, evening work penalty rates for weekdays, and increased daily span of hours. These savings were evident across most agreements, not just those paying higher wage premiums.

Penalties for Sunday work was the biggest concession made, with most agreements paying a 150 per cent penalty compared with 200 per cent in the modern award.¹¹² For the high-tier grocery agreements, Saturday work is often considered to be part of the normal working week, having removed the modern award rate of 125 per cent altogether.¹¹³ Another agreement (Morgan's SUPA IGA) provided one flat weekend penalty rate of 150 per cent, but no evening work penalty rates. It

¹¹² *General Retail Industry Award 2010 (MA000004)*, cl. 28.4(c).

¹¹³ *General Retail Industry Award 2010 (MA000004)*, cl. 28.4(b).

also contained the longest daily span of hours of 19 hours (6am to 1am). Only two mid-tier retail agreements (both IGA stores) contained a 19 hour daily span (5am to midnight). This compares with 14 hours (7am to 9pm) between Monday and Friday in the modern award, followed by 11 hours (7am to 6pm) on Saturday and nine hours (9am to 6pm) on Sunday.¹¹⁴

Only one agreement (a mid-tier retailer, Goondiwindi Coop – trading as Foodworks Agreement) stipulated the same weekend penalty rates as the modern award and also paid high wage premiums. It offered evening work penalty rates of 150 per cent, well above the modern award penalty of 125 per cent.¹¹⁵ Coles and Woolworths were the only other two agreements that paid an evening work penalty rate (of 130 per cent—also above the modern award standard). The biggest gain (or cost saving) under the Goondiwindi agreement was in the overtime arrangements. While overtime rates remained the same, the number of hours worked in order to qualify for overtime penalty rates were increased. Up to 10 additional hours were required to be worked over the ‘2 or 4 week’ averaging period before penalty rates were paid.

Overall, overtime penalty rates remained relatively consistent across the agreements and in line with the modern award. The only deviation in this respect was amongst six agreements which only required two hours of overtime to be worked before double time was paid, compared with three hours under the modern award.¹¹⁶

The most significant cost savings made by lower-tier grocery agreements was through lowering Sunday penalty rates (150 per cent instead of 200 per cent as per modern award).¹¹⁷ Penalty payments for night work on weekdays were absent in all agreements. A longer daily span of hours was the most common across these agreements, compared with the modern award. The daily hours spanned from 6am until midnight across the seven days of the week. Several lower-tier agreements expanded the period in which weekly hours of work could be averaged compared to the award. Often, averaging of hours over a 52 week period was stipulated in the proposed agreement, compared with a maximum averaging period of four weeks in the modern award.¹¹⁸ These agreements did not pass the BOOT on first instance. Consequently, undertakings pertaining to several of these matters were imposed by the FWC on such agreements.

The most obvious signs of tailoring conditions to the needs of the workplace was evident within the mid-tier retailers. For example, the Morgans Supa IGA agreement tailored the hours of work arrangements, giving employees three different options for determining their pay rates. Each of the three options centred on penalty rates for weekend work and/or overtime hours worked. Under this agreement, employees have the option to choose from:

- **Minimum wage rate option A** which mirrors the award arrangements for penalty rates and overtime rates;
- **Minimum wage rate option B** which is similar in many respects, though a higher hourly rate is paid to offset the inclusion of Saturday work as part of normal working week; and
- **Minimum wage rate option C** which is a loaded wage rate option with no penalties paid for weekend or overtime worked as it is absorbed into the hourly rate.

¹¹⁴ *General Retail Industry Award 2010* (MA000004), cl. 26.2(a).

¹¹⁵ *General Retail Industry Award 2010* (MA000004), cl. 28.4(a).

¹¹⁶ *General Retail Industry Award 2010* (MA000004), cl. 28.2.

¹¹⁷ *General Retail Industry Award 2010* (MA000004), cl. 28.4(c).

¹¹⁸ *General Retail Industry Award 2010* (MA000004), cl. 27.2.

The agreement also offered salary sacrifice to all employees and the option of taking TOIL of overtime payment. The enterprise agreement also attempted to reduce minimum shift engagement from three hours to 2.5, although this did not pass the BOOT.

A5.1.5.2 Allowances and other conditions

Some mid-tier players provide more comprehensive coverage of conditions such as allowances (training, vehicle, laundry, cold work, disability, first aid), paid meetings, annual leave loading and additional special types of leave (blood donors, natural disaster, bone marrow). These agreements did not introduce any real productivity or flexibility initiatives.

The high-tier agreements were more prescriptive around hours of work for part-time, casuals and temporary employees, as well as their rostering arrangements. In the Woolworths agreement—being the first national agreement with transition provisions for pre-existing arrangements—state differences were also apparent with classifications and weekend/late night trading.

A5.1.6 Classification structures

In order to compare the wage rates in the respective modern award with the enterprise agreements, each level within the classification structure of the agreements was aligned with the *General Retail Industry Award 2010* (MA000004). This process was relatively straightforward in cases where the classification structures were similar or identical to the modern award. However, some level of judgment or inference was required in a number of agreements.

Classification structures in the supermarket/grocery retail sector agreements generally appear more broadly defined relative to the modern award. The Retail Industry Award contains a total of eight classification levels,¹¹⁹ while the supermarket and grocery store agreements in the analysis covers as few as three, and as many as 15, classification levels. Overall, the analysis identified four distinct ways in which the award classification structures were adopted (or referred to) in the enterprise agreements.

- The complete adoption (mirroring) of the modern award classification structure.
- The adoption of most parts of the modern award classification structure (with differences evident in one to three levels).
- Occasional alignment to the modern award classification structure with signs of tailoring.
- The adoption of a tailored (or non-linear) classification structure that doesn't reflect the modern award.

Many of the low-tier agreements used classification structures from previous awards. Specifically, 11 agreements copied the same three retail employee classification levels from within the previous Queensland state award: shop assistant, first level supervisor and second level supervisor. A further seven included these three classifications as well as a combination of ancillary roles, clerks, bakers, or butchers. Two agreements covered only shop assistants, with another agreement including a second occupation at the trade level, being a butcher.

Only five agreements displayed signs of partial or complete tailoring of their classification structure, most of which were from the mid-tier retailers. Often this was reflected in an additional classification level (for example a more specialised shop assistant) underneath the supervisory level. Tailored

¹¹⁹ *General Retail Industry Award 2010* (MA000004), Schedule B.

structures covered as many as 13 classification types and levels. For example, the *Goondiwindi Co-operative Society Limited Trading as Foodworks Supermarket Enterprise Agreement* includes the following.

- New Shop Assistant
- Shop Assistant
- Skilled Shop Assistant
- Specialist Coordinator
- Tradesperson
- Department Manager
- Senior Dept Manager
- Meat Packer
- Baker-2IC
- Baker-Manager
- Butcher
- Butcher-2IC
- Butcher-Manager
- Clerical Officer

High-tier grocery agreements contained a greater number of classification streams, including trades-qualified workers such as bakers, butchers, and store managers. The one key difference in classification structures across both the high-tier retailers and mid-tier supermarket agreements was the new entry point for shop assistants. Many agreements included an 'induction' retail employee/shop assistant. This rate was at a lower pay scale than the entry level award rate.¹²⁰ New workers were employed at this level for the first 3–4 months and then shifted to the entry level.

A5.1.7 Internal wage relativities

Analysis of relativities has taken the equivalent of the C10 classification in the Manufacturing Award as the point of comparison. This is used to express award and agreement rates of pay as a proportion of a common reference point.¹²¹ The C10 equivalent occupation within the Retail Industry Award is the Retail Employee Level 4. This level incorporates a range of jobs from trades-qualified bakers or butchers to managers of a defined section, assistant or deputy managers, or second-in-charge of a shop with supervisory roles (such as a shop manager of a store without departments).¹²²

Replicating earlier analysis, the agreements are categorised according to whether the majority of wage rates are:

- below the award—i.e. agreements that pay below modern award rates (because they are part of transition arrangements);
- slightly above the award—i.e. agreements that pay slightly above modern award rates (\$1–\$50 per week); and
- Well above the award—i.e. agreements that pay well above modern award rates (\$50+ per week).¹²³

¹²⁰ *General Retail Industry Award 2010* (MA000004), cl.17.

¹²¹ A similar methodology for examining wage relativities within classification structures is provided in ACTU (2011) *ACTU Submission to the Annual Wage Review 2010–11*, Melbourne.

¹²² *General Retail Industry Award 2010* (MA000004), cl.B.4.

¹²³ Given the extreme variability in the way specific classifications and actual pay rates were reported in agreements, comparisons of pay relativities contained in awards and agreements were conducted in a piecemeal fashion with extensive cross checking. Additionally, differing industry classification structures meant that the boundaries between these categories varied for each industry.

It was possible to compare most of the 25 agreements with a high degree of confidence, because there was strong evidence of award replication of classification structures. It was not possible to compare two agreements with tailored classification structures. A further six agreements with slightly above-award rates of pay were excluded from analysis as only one occupation of worker was covered by the agreement.

The classification levels within the Retail Industry Award are shown in Table A5.3. These categories are used for the analysis in Table A5.4, in which the following analytical distinctions are drawn between perfectly aligned classification structures (distinguished by one asterisk), similar classification structures (two asterisks) and tailored classifications structures (three asterisks).

Table A5.3: Retail Industry Award classifications levels and associated job titles

Classification level	Job title
Retail Employee Level 1	Shop Assistant
Retail Employee Level 2	Forklift operator, Ride on equipment operator
Retail Employee Level 3	Supervisory Assistance to Section Mgr, Second-in-charge of a section
Retail Employee Level 4	Manager of defined section/Butcher/Baker/Pastry, Supervision of up to 4 sales staff including self, 2IC of Shop without Depts
Retail Employee Level 5	Tradesperson in charge of other tradespeople
Retail Employee Level 6	Section/Department manager with 5 or more employees (including self), Manager/Duty Manager in a shop without Departments/Sections
Retail Employee Level 7	Visual Merchandiser (diploma)
Retail Employee Level 8	Diploma qualified, Shop Manager of a shop with Departments/Sections

Source: *General Retail Industry Award 2010* (MA000004).

Table A5.4 outlines the internal wage relativities between the modern award and each of the agreements that provide below award wages (all from the lower tier retailers). The relativities within agreements are more alike than different. This co-exists with the fact that they have very different basic rates for a level 1 sales assistant—ranging from \$651 to \$724. That said, there are differences at the margin—and these are worth noting. Retail Employee Level 1 (i.e. a shop assistant) in the modern award is paid 94.1 per cent of the C10 equivalent (Retail Employee Level 4) rate of pay. In comparison, most low-tier agreements paid shop assistants an internal relativity of 98.4 per cent. This shows that shop assistants in lower-tier agreements are paid rates closer to the trade equivalent than the modern award. It is important to remember, however, that these are transition agreements that pay below the Retail Industry Award rate for the Level 1 Shop Assistant. Retail Employee Level 6 under the award is paid 105.9 per cent of the Retail Employee Level 4. This compares with 104.1 per cent in most of the agreements in the ‘below-award’ group. At the top end of the classification structure, the deviation of agreement from award relativities is even less pronounced.

Amongst the group of agreements that pay wage rates well above the Retail Industry Award, there was no clear evidence of any compression of wage relativities. A total of six agreements were examined here, but given the interstate differentials still apparent in the Woolworths agreement, the rates for each state were examined and compared separately.

Internal wage relativities in the 'well above award' agreements varied in levels of wage compression. Only one agreement showed signs of much compression. The Morgan's Supa IGA Enterprise Agreement had only a 9 per cent difference between the entry level and top level within the classification structure. On the other hand, the Goondiwindi Society agreement displayed an expansion of wage relativities, with a difference of up to 16 per cent between the entry level Retail Employee Level 1 and that agreement's highest level, Retail Employee Level 7. Overall, wage rates at the Retail Employee Level 2 displayed the most uniform internal wage relativities. Of the four agreements including this classification level, three calculated the rate to be approximately 97 per cent of the C10 equivalent (compared with 96.5 per cent in the modern award) and 95.5 per cent in the Coles agreement.

Table A5.4: Internal wage relativities of retail agreements, per cent

Classification	Award	Below award			Well above award										
		Cluster 1 (n=1) REL 1: 98.2 REL 6: 104.3	Cluster 2 (n=2) REL 1: 98.4 REL 6: 104.1	Cluster 3 (n=6) REL 1: 98.5 REL 6: 104.1	Independents	Independent ACT*	Goondiwindi Co-operative Society***	IGA Pialba ***	Morgan's Supa IGA**	VIC ***	NSW ***	QLD ***	WA ***	SA/N T ***	Tas ***
Level 1 rates	\$600.00	-	-	-	\$651.12	\$660.05	\$672.44	\$712.50	\$702.91	\$701.27	\$699.14	\$712.85	\$689.91	\$695.22	\$724.00
Induction	-	-	-	-	-	-	90.5	-	-	-	-	-	-	-	-
Level 1	94.1	98.2	98.4	98.5	92.2	95.2	95.2	93.8	92.0	92.0	92.1	94.2	96.6	92.3	90.9
Level 2	96.5	-	-	-	-	97.1	97.1	-	-	-	-	-	97.6	-	95.4
Level 3	98.0	-	-	-	-	-	-	-	97	95.3	94.5	96.7	98.4	96.2	96.4
Level 4	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100.0 + 100.5
Level 5	104.3	-	-	-	-	109.5	-	-	-	105.0	-	102.4	107.2	-	-
Level 6	105.9	104.3	104.1	104.1	-	109.5	104.8	-	-	107.4	105.3	105.4	-	-	101.6
Level 7	111.4	-	-	-	-	111.4	-	-	-	-	-	-	-	-	-
Level 8	116.1	-	-	-	-	-	-	102.5	-	-	-	-	-	-	-

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data); *General Retail Industry Award 2010* (MA000004) as at 30 June 2010.

Note: Internal wage relativities were calculated by aligning each enterprise agreement's classification structure wage rates to the C10 wage rate (a proxy for a qualified tradesperson), and comparing the proportional differences between the C10 equivalent and wage rates of higher and lower classification levels.

Cluster 1: This agreement has an REL 1 Relativity to REL 4 of 98.16. It is the agreement covering GMH Investment and Champaka business entity.

Cluster 2: All these have a REL 1 relativity to REL 4 of 98.38. These agreements are: Century Trading Company Pty Ltd (98.4), Craigson Pty Ltd (98.4), Barra Pty Ltd (98.4), Coral Cover Supermarkets Pty Ltd (98.4), Friendly Grocer Strathpine (98.4), JKN Investments Pty Ltd (98.4), Van Cooten & Sons Pty Ltd (98.4), A&K Malakou Pty Ltd (98.4).

Cluster 3: All these have a REL 1 relativity to REL 4 of between 98.40 to 98.46. These agreements are: MBI Enterprises Pty Ltd (98.4), Shelmic Pty Ltd (98.41), and Sirianni Enterprises Pty Ltd (98.4), Petilian Trading Pty Ltd, (98.5), Jacama Pty Ltd (98.5) and Aussienett Trading (98.5).

Note on how the data were generated

- For this sector, all in-scope agreements for the sector on the WAD were examined. These are agreements recorded on the WAD as being approved between January 2010 and June 2011.
- All agreements were read closely and the key information in them coded using the coding frame summarised in Appendix 4 to this report. The findings of this scrutiny are reported in the body of the report above.
- This scrutiny of agreements provided the context for understanding the classification structures contained in the agreement. Classification structures were classified as falling into one of four categories, the first three of which are indicated by one, two or three asterisk:
 - * = exact match of all classification levels (identical);
 - ** = exact match of some classification levels;
 - *** = partial match between the agreement and award classification levels. This involved some tailoring of classifications in the agreement with occasional alignment or broadbanding of classifications; and
 - – non comparable classification arrangements, i.e. the arrangements are so different on the basis of tailoring or overhauling enterprise agreement classification that it makes any meaningful comparison of wage relativities impossible.
- Agreements falling into the first three categories which reported actual rates of pay were then scrutinised for analysis of their internal relativities. This resulted in four agreements, those included in the table, being available for the relativities analysis.
- The rate closest to the C10 Classification in the Manufacturing and Associated Industries and Occupations Award was identified. In this sector it was the level 4 classification. This was used as the comparator or reference point for report on wage relativities within the agreement.
- All rates within the agreement were then expressed as percentage of the benchmark classification.
- The actual rate for the C10 equivalent classification is provided to give an indication of where the enterprise agreement rates sit in the labour market. All other numbers represent a presentation of internal relativities as a proportion of the level 4 rate.

Example of how to read the table

- Row 1 shows how the rate for the entry level shop assistant classification varies from the \$600 per week contained in the modern award. Among agreements for which analysis was possible the lowest rate was \$651.12 per week and the highest was \$724 per week. The lowest paying enterprise agreement had classification arrangements where there was a direct match between agreement and award classification levels (i.e. *). The highest paying enterprise agreement was based on a classification structure where there was a match of some modification of classification levels (i.e. ***).

- The remaining rows in each column show the internal relativities for each agreement. For example, column 11 shows the relativities for the Queensland stores that are part of the Woolworth's chain. It has only four classifications and these align with the modern award classification levels 1, 3, 4 and 6. The relativities between these rates are slightly below the relativities contained in the modern award rates. For example, the rates for the lowest classification in the enterprise agreement is 92.1 per cent of the level 4 rate (C10 equivalent rate), compared to 94.1 per cent of the rate relative to that comparator contained in the modern award.

A5.2. Fast Food

The choice of strategic agreements in the Fast Food sector was guided by the inclusion of all business types. Despite the predominance of franchise agreements, two agreements covering non-franchise stores were included in the analysis. Most agreements in the WAD for the period of analysis covered the eastern seaboard, consequently all but one agreement included at least partial coverage of this area. The Perth based *The Herdsman and Blah Blah Bar Staff Multi Enterprise Agreement 2010 (WA)* was included due to the size of its coverage (89 people) making it the fourth largest agreement made during the time period.

All agreements from the large players in the industry (KFC, McDonalds and Pizza Hut) were included as these businesses are widely recognised as pace-setters in the sector. When negotiating agreements, other fast food enterprises look to the decisions made by these businesses. The McDonalds agreement was approved on 29 June 2010, two days outside of the timeframe for analysis, but was included due to its strategic importance.

A5.2.1 Demographics

Agreements made in the Fast Food industry account for 1.2 per cent of all agreements made between 1 July 2010 and 1 July 2011. Very few agreements were made with a union party to the agreement. In fact, of the 91 approved between 1 July 2010 and 30 June 2011, only five have union coverage. Around one-third (34 per cent) of employees are covered by these five agreements (911 of the total 2686).¹²⁴ The union party to these agreements is the Shop, Distributive and Allied Employees Association (SDA). All five agreements have been included in the analysis as they cover such a large portion of those employed in the sector.

Table A5.5, on the following page, reports on the demographic and other data for the 23 agreements (not counting the McDonalds agreements) included in the analysis—they cover 1707 people. Employees are mostly part-time (1 281) and the agreements cover slightly more women than men (894 and 813 respectively). The length of agreements has a mean of 3.08 years and a median of 3.2 years. The shortest agreement length goes for only 1.2 years and the longest agreement length (belonging to nine agreements) is four years.

¹²⁴This figure does not include McDonalds coverage.

Table A5.5: Demographics of fast food agreements

Title	Unions Party	State	Duration (years)	Employees	Agreement Generation	Female %	Part-time	Casual
Privately operated								
The Herdsman and Blah Blah Bar Staff Multi	None	WA	3	89	1	48	75	4
The Loaded Aces Pty Ltd Employees	None	Qld	4	14	1	79	14	0
Franchise								
Arbejo Pty Ltd as trustee for the Liversidge Family Trust	None	Qld	4	42	1	83	40	0
Adermann Pty Ltd ATF Adermann Family Trust and Leslee Pty Ltd ATF Leslee Family Trust	None	Qld	1.2	9	1	78	9	0
Ali Baba/Uncle Tony's Kebabs Queensland	SDAEA	Qld	2.2	59	1	61	54	1
Salsa's Pty Ltd	None	NSW, Qld, Vic, SA	3.1	229	1	57	208	0
Subway (Kingaroy)	None	Qld	4	15	1	100	15	0
Noodle Box (Fairfield and West End)	None	Qld	4	18	1	44	10	0
Mooloolaba Boost Pty Ltd	None	Qld	4	19	1	58	19	0
Tosfri Pty Ltd t/a Gloria Jeans (Greenhills)	None	NSW	4	16	2	69	14	0
Mad Mex Fresh Mexican Grill Pty Ltd	None	NSW, Vic	1.4	53	1	47	0	45
Ali Baba	SDAEA	ACT, NSW, Vic	1.4	234	1	74	207	10
KFC National	SDAEA	Aus	1.9	21	1	71	17	4
The Hollyberry Group Pty Ltd	None	Qld	4	12	2	42	4	8
Tasty Trucks Production	None	Vic	2	36	2	67	11	25
Pizza Hut - SDA National Employee Relations	SDAEA	All	2.3	597	5	36	493	71
McDonald's Australia	SDAEA	All	3	-	1	-	-	-
CSSB Pty Ltd & CSSBH Pty Ltd	None	NSW	3.4	75	1	40	74	0
Oporto (Franchising) Pty Limited	None	Vic	3.7	16	1	38	0	16
Hog's Breath Cafe Newcastle Pty Ltd	None	NSW	3.2	35	1	34	0	31
Timbs Hospitality	None	NSW	4	60	1	58	10	50
Tasty Trucks Van Staff	None	Vic	3	52	2	85	7	35
Grill'd Darlinghurst Enterprise Agreement 2010	None	NSW	4	6	1	66	0	6

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

A5.2.2 Reference award

The reference award for the Fast Food industry is the *Fast Food Industry Award 2010* (MA000003). Table A5.6 below shows that the majority of agreements analysed referenced this award either by itself or in conjunction with other awards.

Table A5.6: Number of agreements referencing each type of award

Award name	No. of agreements
<i>Fast Food Industry Award 2010</i> only	3
State parent award only	6
<i>Fast Food Industry Award 2010</i> and state parent award	4
<i>Fast Food Industry Award 2010</i> along with another award (i.e. the <i>National Fast Food Retail Award 2000</i> , the <i>National Training Wage Award 1994</i>)	5
<i>Restaurant Industry Award 2010</i>	2
Single enterprise awards (the <i>Pizza Hut Australia Employee Relations Award 1993</i> , <i>KFC National Enterprise Award 2001</i>)	2
<i>Liquor and Allied Industries Catering, Cafe, Restaurant, Etc. (A.C.T.) Consolidated Award, 1979</i> ; and the <i>National Fast Food Retail Award 2000</i>	1

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

There were three ways in which the fast food agreements referenced awards: silence, operating to the exclusion of the award, or agreements applying where there are inconsistencies with awards. Nearly half the agreements were silent on whether they operated to the exclusion of the award or any other industrial arrangement. Of those that were not silent, most specified that the agreement was exhaustive. A clause in the *Grill'd Darlinghurst Enterprise Agreement 2010* is representative of this:

4.1 This Agreement will operate to the exclusion of any award, order or industrial instrument that may otherwise apply to Grill'd and its Employees.

4.2 The terms and conditions of employment in this Agreement are intended to be exhaustive.

Only the two Tasty Trucks agreements specified that the agreement would apply in cases where there existed inconsistency or conflict with the award. A similar clause to the Grill'd clause was found in the *Noodle Box (Fairfield and West End) Enterprise Agreement 2009*, however it specified that the award would be called upon for the purpose of the 'no disadvantage test':

This Agreement shall operate to the exclusion of and wholly replaces any and all other agreements, certified agreements and awards that would otherwise apply to your employment. For the purpose of the No Disadvantage Test, the Award shall have application.

A5.2.3 Coverage

The strategically selected fast food agreements have four main coverage arrangements. These included coverage of:

- all employees in all locations;
- employees in specific regions (usually state-based);
- those employed by single franchisees (this includes both single or multiple sites); and
- employees in specific occupations.

Full coverage of employees was common among the agreements included in the analysis. Variants of the following clause (found in *The Hollyberry Group Pty Ltd Enterprise Agreement 2010*) were found in nine of the agreements:

This agreement shall apply to all Employees employed by the Employer and classified in accordance with the classifications in clause 6 of this Agreement.

Other agreements made specific mention of coverage of franchise operations. A coverage clause in the *Ali Baba Enterprise Agreement 2009* illustrates this:

This agreement shall apply to Ali Baba Pty Limited, as well as its subsidiaries and the franchisees and their associated companies listed in the attached Schedule A, and to any new franchisee who acquires a franchise through transmission of business from Ali Baba or a franchisee of Ali Baba, and all employees as defined.

Some agreements covered specific occupation groups. The *Ali Baba/Uncle Tony's Kebabs Queensland Agreement 2009* specified its coverage as including all 'team members' (with the effect of excluding store managers), whilst the *Tosfri Pty Ltd t/a Gloria Jeans (Greenhills) Workplace Agreement 2011* likewise excluded managers. Two Tasty Trucks agreements were included in the analysis. One covered production workers, while the other covered van staff. In some agreements, clauses defined exclusions rather than inclusions. For example the *Grill'd Darlinghurst Enterprise Agreement 2010* excludes casual employees while the *Ali Baba Enterprise Agreement 2009* excludes managers through its definition of 'employee':

All Team Members as defined but does not include employees classified as managers, trainee managers, cadet managers or employees in any other managerial position.

Agreements also covered employees of individual franchisees or regions. The *Noodle Box (Fairfield and West End) Enterprise Agreement 2009* lists two addresses and a holdings company to specify its coverage. *CSSB Pty Ltd & CSSBH Pty Ltd - Enterprise Agreement 2010-2014*, *Hog's Breath Cafe Newcastle Pty Ltd Enterprise Agreement 2010-2014* and *Oporto (Franchising) Pty Limited - Enterprise Agreement 2010-2014*¹²⁵ all included a clause outlining state based coverage:

This Agreement will apply to the Employer and all Employees classified under this Agreement performing work in New South Wales. It is the intention of the parties to this Agreement that it will replace all terms and conditions of any applicable Award/s, Industrial Agreement or Industrial instrument or any variations thereto.

¹²⁵ The Oporto agreement covered Victoria, not New South Wales, however the wording of the clause other than the location remained identical to the other agreements.

A5.2.4 Wage increases and relationship to award wage rates and the AWR

The 23 fast food agreements analysed in this section can be categorised into three distinct groups according to the payment of a trade-qualified employee in an agreement with the equivalent classification (level 2) Fast Food Industry Award. The groups are categorised as follows:

- 'minimum wage reliant' agreements pay level 2 employees Fast Food Industry Award rates;
- 'slightly above the award' agreements pay level 2 employees slightly above Fast Food Industry Award rates; and
- 'above-award' agreements pay level 2 employees well above Fast Food Industry Award rates.

The 'award-reliant' agreements provide wages close to the rates prescribed in the Fast Food Industry Award. All but one agreement in this group reference the AWR decision. Despite some agreements including annual flat dollar pay increases, most also include a clause stating that rates cannot fall below the 'Fast Food Industry Modern Award', 'any rate prescribed by FWA,' or any other rate 'required by law'. References to the AWR can be direct, as seen in the example clauses from *The Loaded Aces Pty Ltd Employees Enterprise Agreement 2009* and the *Tosfri Pty Ltd t/a Gloria Jeans (Greenhills) Workplace Agreement 2011* below.

Rates of pay will be reviewed annually and will increase by the percentage increase awarded to the Federal Minimum Wage by Fair Work Australia ('Federal Minimum Wage Increase') its successor or any other body empowered to make such a determination under Legislation.

...the hourly rates of pay as set out in clause 3.2.1 will increase over the nominal period of the Agreement by any decisions of Fair Work Australia arising out of any National Wage Case Decision

References to the AWR can also be indirect. The *Adermann Pty Ltd ATF Adermann Family Trust and Leslee Pty Ltd ATF Leslee Family Trust Enterprise Agreement* references the award, and changes that are made to it, rather than the actual annual AWR:

At no stage will this basic hourly rate of pay be less than the base hourly rate prescribed by the *Fast Food Industry Award 2010* as varied from time to time.

In most of these agreements, a clause linking wage increases to the AWR operates to ensure that wages are maintained at or above the level provided for in the Fast Food Industry Award.¹²⁶

The group of Fast Food Industry Award rates between \$10 and \$50 more a week at the C10/level 2 classification level is referred to as 'Slightly above the award' as such group's pay rates that are just above the award. The majority of this group pass on the AWR decision. The *Tasty Trucks Production Enterprise Agreement 2010* increased wages by 3 per cent annually, the *McDonald Enterprise Agreement Australia 2009* passed on the FWC minimum wage adjustment plus an additional 5 per cent, while the *Pizza Hut - SDA National Employee Relations Agreement 2010* provided flat dollar amounts above the award rate. The *Hollyberry Group Pty Ltd Enterprise Agreement 2010* included a clause specifying that although minimum rates have been set, higher rates can be provided to employees:

This Agreement provides for minimum legal entitlements only and shall not restrict the Employer and Employees from agreeing to higher rates of pay, or additional benefits via a separate common law employment contract.

¹²⁶ When looking at each agreement's 'Level 2' or 'C10' classification equivalent.

Agreements in the third category provided weekly wages between \$75 and \$200 more than the Fast Food Industry Award. Three of these seven agreements reference the AWR to determine wage increases. Three agreements provide percentage increases between 2.5 per cent and 3 per cent and another passes on CPI increases annually. The *Grill'd Darlinghurst Enterprise Agreement 2010* specified that:

Grill'd may also in its absolute discretion, increase your Wage Rate after taking into account relevant factors, including your performance and prevailing market conditions both generally and relating to the operational requirements of the business.

A5.2.5 Non-wage issues in agreements

The expectation of a seven day working week underpinned many of the unique arrangements among the 23 fast food agreements analysed. Agreements which provide a higher wage for employees roll-in Saturday, Sunday, evening, casual, and public holiday rates into their base wage. Award-hugging and higher paying agreements have reduced penalty rates on wages.

Agreements that provide wage rates lower than (or 'on') the award have removed some penalties, though not all, and many provide higher wage rates than stipulated in the Fast Food Industry Award. Some agreements tailor their classification structures, others provide lower penalty rates, yet another mirrors the award in nearly all respects. Perhaps an insight provided by the over-award formal agreement case study industrial relations manager can help us to understand another incentive to bargain:

The current agreement is, I guess it's not ideal from our perspective, but it was necessary in order to gain us some short term protection from the application of the fast food Modern Award. The fast food Modern Award would have had a 25 per cent impact on our labour and a four per cent impact on our [profit and loss].

As the nature of bargaining can be long, it is not uncommon for an agreement bargaining process beginning in one year to end in another. Despite the inclusion in the analysis of only those agreements approved after 1 July 2010, it appears that some of the agreements may have been made in anticipation of the rise of labour standards occurring in some states with the introduction of the Fast Food Industry Award. It appears such agreements were settled before our study period but made it into our sample as a result of administrative imperfections associated with the placement of agreements on the public register and inclusion in the WAD.

A5.2.5.1 Rolled-in rates

Removing penalties from wages by 'rolling' the penalties into a significantly higher base pay rate is evident among the group of 'above-award' agreements. The Fast Food Industry Modern Award includes a number of penalties for work performed in the evenings, on weekends and on public holidays. According to the modern award, employees are to be provided with a loading of 10 per cent for working between 9pm and midnight and 15 per cent between midnight and 6am.¹²⁷ Weekend loadings include 15 per cent on a Saturday (except shiftworkers) and 50 per cent on a Sunday.¹²⁸ The public holiday loading is 250 per cent.¹²⁹

¹²⁷ *Fast Food Industry Award 2010* (MA000003), cl.26.2(a).

¹²⁸ *Fast Food Industry Award 2010* (MA000003), cl.26.2(b) and (c).

¹²⁹ *Fast Food Industry Award 2010* (MA000003), cl.30.3.

The seven day business cycle, common in the fast food sector, is one motivation to 'roll-in' penalty rates to the base wage rate. To circumvent overtime penalties, most agreements include an ordinary hours span of Monday to Sunday, although seven agreements make no mention of ordinary days of work. The only agreement which specifies less than a seven day working week, the *Tasty Trucks Production Enterprise Agreement 2010*, covers only production workers. In this case, the working week is a Monday to Friday day shift, or a Sunday to Friday night shift.

The group of agreements providing above-award rates have 'rolled in' virtually all of the hours loadings specified in the Fast Food Industry Award. Absent from these agreements are Saturday and Sunday pay loadings. Only three of these agreements (*The Herdsman and Blah Blah Bar Staff Multi Enterprise Agreement 2010*, the *CSSB Pty Ltd & CSSBH Pty Ltd - Enterprise Agreement 2010-2014*, and *Oporto (Franchising) Pty Limited - Enterprise Agreement 2010-2014*) specify night hours. In the latter two, however, it is expected that employees will not work these hours and no night rate is provided. Only one of these agreements provides the Fast Food Industry Award public holiday loading of 250 per cent.¹³⁰

A greater number of agreements with wage rates sitting just above the Fast Food Industry Award provide Saturday, Sunday, evening and public holiday penalty rates. Two of these agreements do not provide Sunday rates, while the rest vary between 110 and 200 per cent. The *Tasty Trucks Production Enterprise Agreement 2010* pays a public holiday rate of 250 per cent, the *Mad Mex Fresh Mexican Grill Pty Ltd Enterprise Agreement* pays 130 per cent, *The Hollyberry Group Pty Ltd Enterprise Agreement 2010* makes no mention, and a further four pay 200 per cent.

The final group of agreements, those which are 'award-reliant', generally provide penalties reflecting the Fast Food Industry Award or a little bit more. Three agreements in this group pay the Saturday rate of 125 per cent while a further four pay 150 per cent, and the final two pay 105 and 110 per cent respectively. Sunday rates are similar—two pay 110 per cent, another pays 125 per cent, five pay 150 per cent, another pays 175 per cent. The *Mooloolaba Boost Pty Ltd Enterprise Agreement 2009* pays all staff 150 per cent of their normal hourly rate on Sundays, whilst providing an additional amount equivalent to one-twelfth of their normal rate to casual staff. Public holidays are mostly paid at 250 per cent, with one providing 150 per cent and another providing 130 per cent. The *Tosfri Pty Ltd t/a Gloria Jeans (Greenhills) Workplace Agreement 2011*, however, pays substantially less. Staff are entitled to a 'loaded rate' of 110 per cent in lieu of all other penalty rates, and are only paid 250 per cent for public holidays in excess of three worked per year. Again, casual staff at Mooloolaba Boost were outliers, paid a 265 per cent loading. Evening rates among this group are less reflective of the Fast Food Industry Award. Three agreements provide flat dollar increase rather than percentages. The agreements that provide evening penalties via a percentage truncate the hours and provide less than the Fast Food Industry Award (generally between 102 and 109 per cent).

A5.2.5.2 Training and trial periods

In general, employees undertaking training and trial periods are paid less than fellow employees as they acquire the knowledge it takes to perform a job competently. This is true of trade apprentices, junior lawyers and fast food workers. The Fast Food Industry Award specifies a trial period may be

¹³⁰ *Fast Food Industry Award 2010* (MA000003), cl. 30.3. Removing penalties from wages by 'rolling' the penalties into the pay rates is evident among the group of 'above-award' enterprise agreements. Rolling in rates was provided as one of the main reasons for agreement making by the employer from the fast food formal over-award arrangement case study workplace (see Section 2.3.1.3.1). A union representative in this sector also identified the creation of wage premiums to remove penalty rates as an incentive for some employers to create formal over-award arrangements.

offered to new employees for no longer than 12 weeks.¹³¹ The award does not specify a trial wage, though employees should not be paid less than \$71 a week.¹³² Agreements that contain trial clauses include wage rates at around 90 per cent of the level 1 classification.¹³³

Examples of trial clauses are included in agreements referencing their own enterprise awards rather than the Fast Food Industry Award. Training periods in the *KFC National Enterprise Agreement 2010* can last up to six months and ‘trainee employees other than delivery drivers shall be paid at 90 per cent of the appropriate weekly rate’. The *Pizza Hut - SDA National Employee Relations Agreement 2010*, which also references its own enterprise award, includes an introductory grade customer service assistant that is paid 92 per cent of the customer service grade 3 (equivalent to the Fast Food Industry Award level 1). This ‘... is an entry level position and will comprise persons who have less than 6 months service with the employer’.

Agreements that reference national awards similarly have extended training and trial periods which pay substantially less. In the *Ali Baba Enterprise Agreement 2009* a ‘trainee’ is defined as ‘an employee with less than 6 months service who has not yet completed training’. Under the *Weekly Employee Rates of Pay* it stipulates ‘trainee employees shall be paid at 90 per cent of the appropriate weekly rate’. It should be noted that this agreement is nearly a direct replica of its reference award.¹³⁴

A number of agreements include clauses stipulating the wage rates and conditions of employees in traineeships. Six agreements in the analysis include clauses specific to traineeships. Of the seven ‘high’ paying agreements, four offer employees the option of undertaking traineeships. The Fast Food Industry Award defines traineeship wage rates according to the certificate level;¹³⁵ these are much lower than non-traineeship rates. For example, a school leaver with their highest level of schooling at the Year 10 level undertaking a traineeship will receive \$245 a week, far less than the \$300 a 16 year old level 1 employee would receive.¹³⁶ In the *Grill'd Darlinghurst Enterprise Agreement 2010*, any employee who completes a Certificate II, III or IV or diploma receives a \$400 bonus upon completion. This indicates an incentive to entice employees to move onto the training rate rather than the full rate.

A5.2.5.3 Hours of work and overtime

The capacity to alter the maximum hours employees can work can provide an incentive to create ‘over-award’ formal agreements. In most of the 23 agreements, hours of work and overtime remain consistent with the Fast Food Industry Award, however there are a few outliers. Despite the Fast Food Industry Award specifying that hours are not to exceed an average of 152 over a four week period, *The Hollyberry Group Pty Ltd Enterprise Agreement 2010* and *Grill'd Darlinghurst Enterprise*

¹³¹ *Fast Food Industry Award 2010* (MA000003), cl. C.10.1.

¹³² *Fast Food Industry Award 2010* (MA000003), cl. C.10.3.

¹³³ A union official spoken to through the course of the research remarked that many of the fast food operations rely on youth labour markets with high annual turnover. The term that is officially used for labour practices among some fast food retailers was ‘churn and burn’.

¹³⁴ According to one key informant the creation of this agreement was done with a lot of ‘hand-holding’ by the Fair Work Ombudsman. It is also useful to note all three of the agreements discussed so far belong to the middle-tier of agreements—those that pay just above the award. According to key industry stakeholders and case study participants in the research, the sector relies heavily on first-time employees. It is therefore likely that many employees covered by these agreements will spend their first six months on the trainee rate. This training arrangement, and its impact on wages, appears to be another incentive to create ‘over-award’ formal arrangements

¹³⁵ *Fast Food Industry Award 2010* (MA000003), cl. D.5.1.

¹³⁶ *Fast Food Industry Award 2010* (MA000003), cl. D.5.1, pp. 17–18.

Agreement 2010 allow an averaging of 38 hours over a 26 week period. The relevant provisions reads respectively as follows:

Ordinary hours of work for Employees will not exceed 38 hours per week on average over 26 weeks.

Full-time Non-Salaried Employees are required to work 38 hours per week, averaged over each 26-week period.

The Arbejo Pty Ltd as trustee for the Liversidge Family Trust Enterprise Agreement allows full-time employees to work 160 hours averaged over a four week period 'with a paid day off banked per period, up to a maximum of 5', whilst *The Herdsman and Blah Blah Bar Staff Multi Enterprise Agreement 2010* states that 'Reasonable additional hours can be worked up to 42.5 before incurring overtime rates', and that these hours are averaged on a weekly basis. These agreements come from all three groups in the analysis, but the Herdsman and Blah Blah agreement, which outlines the highest number of normal hours for its employees, is the highest paying agreement in the analysis, again illustrating the utilisation of 'rolled-in rates' and formal over-award agreements to reconfigure the connections between hours worked and pay in ways quite different to those stipulated by the modern award.

Most of the agreements included in the analysis set out the maximum numbers of hours employees can work each day. The Fast Food Industry Award specifies that employees cannot work more than 11 hours per day.¹³⁷ The majority of agreements specify that employees cannot work longer than 10 hours per day, usually within a spread of 11 or 12 hours. *The Loaded Aces Pty Ltd Employees Enterprise Agreement 2009* specifies maximum ordinary hours for full-time, part-time and casual employees as 10 hours per shift. Later in the agreement, under the heading 'reasonable additional hours', it states 'employees may be requested or required to work reasonable additional hours in excess of 38 hours to meet operational needs... [and] full-time and part-time employees will not be required to work more than 12 hours in any one shift including additional hours'.

The Grill'd Darlinghurst Enterprise Agreement 2010 states that full-time salaried employees are required to work 'reasonable additional hours; and ... Your salary is in full satisfaction of all hours worked by you and you shall not be entitled to overtime'. This particular agreement provides the second highest wage of all 23 agreements, whilst the highest paying agreement, *The Herdsman and Blah Blah Bar Staff Multi Enterprise Agreement 2010*, states that employees cannot work 'more than 12 consecutive hours, although the number of consecutive hours may be extended by mutual agreement'. A number of agreements also include a clause that specifies employees may work 10 consecutive days. Of these, only one has an undertaking over-ruling the clause, while others remain without comment.

Most agreements provide overtime at 150 per cent for the first two hours and 200 per cent thereafter, as specified in the Fast Food Industry Award.¹³⁸ Of the seven 'over-award' agreements, five provide the minimum standard overtime rates as set out in the Fast Food Industry Award while the *Timbs Hospitality Enterprise Agreement 2010* and the *Tasty Trucks Van Staff Enterprise Agreement 2010* provide a 100 per cent overtime rate. A similar pattern is evident for the 'award-huggers', with four agreements providing the modern award standard, one agreement providing 100 per cent and a final agreement providing TOIL or 200 per cent on public holidays. Among the 'award-reliant' agreements, five extend the 150 per cent loading to the first three hours, and 200 per cent thereafter. The *Tosfri*

¹³⁷ *Fast Food Industry Award 2010* (MA000003), cl. 25.3.

¹³⁸ *Fast Food Industry Award 2010* (MA000003), cl. 26.2.

Pty Ltd t/a Gloria Jeans (Greenhills) Workplace Agreement 2011 provides only a 50 per cent loading for the first three hours and then 100 per cent thereafter.

Although there is variation between overtime rates, there is greater consistency in the conditions under which overtime is provided. Most agreements specify overtime as hours in excess of a 10-, 11-, or 12-hour shift, or more than 36 or 38 hours worked a week. A number of agreements define overtime as only occurring once an employee has worked more than 36–38 hours a week. The main outlier, as mentioned above, is *The Herdsman and Blah Blah Bar Staff Multi Enterprise Agreement 2010* which defines overtime as in excess of 42.5 hours per week. Some agreements include salaried full-time employees who are not eligible for overtime.

A5.2.6 Classification structures

In order to compare the wage rates in the respective modern award with the enterprise agreements, each level within the classification structure of the agreements was aligned with those in the Fast Food Industry Award. Table A5.7 lists the Fast Food Industry Award's three classification levels, with the last level (Fast Food Employee Level 3) further divided into management of zero or one staff members, or two or more staff members.

Table A5.7: Fast food modern award classification levels

Classification	Job description
Level 1	An employee engaged in the preparation, the receipt of orders, cooking, sale, serving or delivery of meals, snacks and/or beverages which are sold to the public primarily to take away or in food courts in shopping centres. A Fast Food Employee Level 1 will undertake duties as directed within the limits of their competence, skills and training including incidental cleaning and cleaning of toilets.
Level 2	An employee who has the major responsibility on a day-to-day basis for supervising Fast Food Employees Level 1 and/or training new employees or an employee required to exercise trade skills.
Level 3	An employee appointed by the employer to be in charge of a shop, food outlet, or delivery outlet.

Fast Food Industry Award 2010 (MA000003), Schedule B.

Pay rates in the award are defined at three levels specified above, with a higher pay rate given to level 3 employees who manage two or more staff.^{139 140}

Of the fast food agreements, three replicated the award in both classification titles and descriptions. A further 15 classification structures resembled the award with slight changes. This included the dropping of certain classification levels (as in the Boost Moolooba Enterprise Agreement, the Timbs Hospitality Enterprise Agreement, and both Ali Baba Enterprise Agreements) or a re-write of job titles and descriptions that remain based on the classifications in the Fast Food Industry Award. Tailored

¹³⁹ *Fast Food Industry Award 2010 (MA000003)*, cl.17.

¹⁴⁰ Evidence from key informant interviews and the case studies indicates that in the fast food industry most employees are employed at level 1, with fewer at level 2, and even fewer progressing to level 3. Where training levels exist in agreements these are usually also used for most entry level employees.

classification structures were found in seven of the agreements. These agreements included between two and 15 classification levels. For example, the Loaded Aces Agreement (a non-franchise fast food restaurant) included two 'streams' with up to seven levels, based on the *Hospitality Industry - Restaurant, Catering and Allied Establishments Award - South-Eastern Division 2002*. These are described in the table below.

Table A5.8: Loaded Aces classification structure

Food and beverage stream	Kitchen and production room stream
Food and beverage attendant grade 1	Kitchen attendant grade 1
Food and beverage attendant grade 2	Kitchen attendant grade 2
Food and beverage attendant grade 3	Kitchen attendant grade 3
Food and beverage attendant grade 4	Cook grade 1
Food and beverage attendant grade 5	Cook grade 2
	Chef/cook (tradesperson) grade 4
	Chef/cook (tradesperson) grade 5

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

A5.2.7 Internal wage relativities

Of the 23 agreements analysed in fast food, three directly reference the classification structure of the Fast Food Industry Award by using its exact wording to define classification levels. A further 12 agreements do not use the exact wording of the Fast Food Industry Award, but describe the tasks of each classification level in a similar manner. The other eight agreements have a tailored classification structure.

There are degrees of difficulty in comparing agreement classifications with Fast Food Industry Award classifications depending on how similar or different they are. It is simple to compare the 14 agreements copying the Fast Food Industry Award classification structure with the award to assess how their internal relativities match with award relativities. More difficult to compare are the six agreements with tailored classifications. Some agreements include up to 15 classification levels while others separate kitchen staff from front of house staff and pay them differently. In the following analysis, distinctions are drawn between perfectly aligned classification structures, similar classification structures and tailored classifications structures. One agreement has been left out of the analysis due to its lack of a 'level 2' classification.

Corresponding with earlier analysis, the agreements are categorised according to whether they provide a wage rate at the level 2 that is:

- 'award-reliant' (sitting right on the award);
- slightly above the award (\$1–\$50 per week more); or
- well above the award (\$75–\$200 per week more).

For those agreements paying right on the Fast Food Industry Award the relativity between levels 1 and 2 are similar to the award relativities, with a slight amount of compression. The Fast Food Industry Award level 1 is 94.1 per cent of the level 2 classification, while the level 1 rates in the

agreements hover between 94.7 and 95.9 per cent. Those agreements that provide training rates provide them at a more compressed rate, with rates between 93.3 and 94.5 per cent, compared to the award relativity of 84.7 per cent.

The two agreements with a classification structure very distinct from the modern award (drawn instead from the Queensland *Hospitality Industry - Restaurant, Catering and Allied Establishments Award - South-Eastern Division 2002*) provide their highest level employee with a wage rate 113 per cent or 109.4 per cent greater than the level 2 rate (Table A5.9). The Arbejo Pty Ltd enterprise agreement includes 15 classification levels divided into 'food and beverage', 'kitchen', 'cook' and 'tradesperson'. The highest classification levels in the food and beverage structure provide wages equivalent to the Fast Food Industry Award, with the Grade 5 attendant receiving \$637.64 and the Grade 6 attendant receiving \$658.54 (equivalent to what level 2 and level 3 employees receive on the Fast Food Industry Award).¹⁴¹ The description of the duties for a Grade 5 attendant (there is no description for Grade 6) includes 'responsible for the supervision, training and co-ordination of food and beverage staff', and 'responsible for the overall running of on-site functions'. Clearly this includes greater responsibilities than the level 2 responsibilities prescribed in the Fast Food Industry Award.¹⁴² In the award the greatest requirements of a level 2 employee includes shift supervision and responsibility for training staff. In this agreement, the Grade 3 attendant (paid \$582.92, below the Fast Food Industry Award level 1 classification)¹⁴³ is required to assist 'in the training & supervision of Food and Beverage Attendants'. There are no undertakings relating to this matter in either agreement. The incentive to bargain these agreements, which provide penalties in line with the award, appear to be the adoption or retention of a classification structure that is different from the Fast Food Industry Award, with wages provided that are not at all in line with the modern award's classification structure.

The group of agreements sitting slightly above the modern award are even more consistent in their replication of the Fast Food Industry Award relativities. For six of the seven agreements, level 1 is provided between 93.6 and 96.5 per cent below level 2 (the award is 94.1 per cent). For the agreements that stipulate a training rate, it is between 85.7 and 86.1 per cent (the award is 84.7 per cent). Level 3 classification wage rates are less consistent, from as low as 100.6 per cent, to as high as 114.3 per cent (the award is 102.9 per cent).¹⁴⁴

The final group of agreements are those which sit well above award, but cash out most penalties. Besides the Timbs Hospitality enterprise agreement, with its tailored classification structure, the relativities in these agreements are most like the award. Level 1 classification level wages hover between 95 per cent and 96.6 per cent less than level 2, which is slightly more compressed than the award relativity. Level 3 classification level wages hover between 103.3 per cent and 104.7 per cent above level 2, which is a slightly larger gap than the award. If these agreements are not looking to the award to determine their relativities (which appears unlikely), then there are other common influences.

¹⁴¹ *Fast Food Industry Award 2010* (MA000003), cl.17.

¹⁴² *Fast Food Industry Award 2010* (MA000003), cl. B.2.

¹⁴³ *Fast Food Industry Award 2010* (MA000003), cl.17.

¹⁴⁴ Key informant and case study evidence indicates that most employees begin at the training level (which can last as long as six months) before moving on to level 1, so these relativities are more important than the level 3 relativities for employers to keep wage rates down. The higher wage rate for level 3 employees may indicate an attempt to retain more skilled staff.

Table A5.9: 'Award-reliant' classification structure, internal wage relativities (per cent)

	AWARD-RELIANT							SLIGHTLY ABOVE AWARD							OVER-AWARD								
	Award	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22
Level 1 rate	\$600	\$560	\$561	\$596	\$600	\$602	\$603	\$609	\$625	\$628	\$631	\$633	\$634	\$635	\$636	\$649	\$681	\$681	\$686	\$709	\$711	\$770	\$806
Training rate	84.7	93.3	93.3	-	-	-	-	94.5	90.0	-	85.7	85.7	85.7	-	-	86.1	-	-	92.8	-	-	-	-
Level 1	94.1	94.7	94.7	95.9	95.2	98.2	94.5	96.7	-	96.2	95.2	95.2	95.2	96.5	98.4	93.6	95.1	95	95.7	88.9	96.6	89.6	96.6
Level 2	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100.0	100
Level 3 (0-1)	101.6	103.6	103.6	103.1	-	-	<i>n</i>	-	-	-	-	-	-	-	101.6	-	-	-	-	-	-	-	-
Level 3 (2+)	102.9	109.4	113	103.3	-	-	102.7	-	-	100.6	114.3	-	na	103.5	104.1	105	103.3	103.3	103.8	-	104.7	-	103.4

Source: WRC using data derived from the Workplace Agreements Database (Department of Employment 2011, unpublished data); *Fast Food Industry Award 2010* (MA000003) as at 30 June 2010.
 Note: Numbers in brackets represent the number of persons supervised i.e. (0–1) persons, or (2 or more) persons.

Agreement numbers:

- | | | | |
|----|--------------------------------|----|-------------------------|
| 1 | The Loaded Aces | 12 | KFC |
| 2 | Arbejo Pty Ltd | 13 | Hollyberry |
| 3 | Adermann Pty Ltd | 14 | Tasty Trucks Production |
| 4 | Ali Baba / Uncle Tony's Kebabs | 15 | Pizza Hut |
| 5 | Moololaba Boost | 16 | Oporto Franchising |
| 6 | Salsa's Pty Ltd | 17 | CSSB Pty Ltd |
| 7 | Subway Kingaroy | 18 | Hog's Breath Newcastle |
| 8 | Tosfri Gloria Jeans | 19 | Timbs Hospitality |
| 9 | Mad Mex | 20 | Tasty Trucks Van |
| 10 | McDonalds | 21 | Herdsmen |
| 11 | Ali Baba | 22 | Grill'd Darlinghurst |

Note on how the data were generated

- For this sector, all in scope agreements for the sector on the WAD were examined. These are agreements recorded on the WAD as being approved between January 2010 and June 2011.
- All agreements were read closely and the key information in them coded using the coding frame summarised in Appendix 4 to this report. The findings of this scrutiny are reported in the body of the report above.
- This scrutiny of agreements provided the context for understanding the classification structures contained in the agreement. Classification structures were classified as falling into one of four categories, the first three of which are indicated by one, two or three asterisks:
 - * = exact match of all classification levels (identical);
 - ** = exact match of some classification levels;
 - *** = partial match between the agreement and award classification levels. This involved some tailoring of classifications in the agreement with occasional alignment or broadbanding of classifications; and
 - – non comparable classification arrangements, i.e. the arrangements are so different on the basis of tailoring or overhauling enterprise agreement classifications that it makes any meaningful comparison of wage relativities impossible.
- Agreements falling into the first three categories which reported actual rates of pay were then scrutinised for analysis of their internal relativities. This resulted in four agreements, those included in the table, being available for the relativities analysis.
- The rate closest to the C10 classification in the Manufacturing and Associated Industries and Occupations [Modern] Award was identified. In this sector it was the level 2 classification. This was used as the comparator or reference point for report on wage relativities within the agreement.
- All rates within the agreement were then expressed as a percentage of the benchmark classification.
- The actual rate for the C10 equivalent classification is provided to give an indication of where the enterprise agreement rates sit in the labour market. All other numbers represent a presentation of internal relativities as a proportion of the level 2 rate.

Example of how to read the table

- Row 1 shows that the rate for the C10 equivalent (i.e. level 2) varies from the \$600 per week contained in the modern award. Among agreements for which analysis was possible, the lowest rate was \$560 per week and the highest was \$806 per week.
- The remaining rows in each column show the internal relativities for each agreement. For example, column 3 shows the relativities for the Tosfri Gloria Jeans Enterprise Agreement. It has only two classifications and these align with the modern award training rate classification and the level 2 classification. The relativities between the training rates are slightly above the relativities contained in the modern award rates—90.0 per cent as opposed to the award relativity of 84.7 per cent.

A5.3. Dairy and Beef Cattle Farming

Both dairy and beef cattle farming industries were included in the qualitative analysis. A search of the WAD identified a total of 17 agreements from the Dairy and Beef Cattle Farming industry.¹⁴⁵ Of these, eight were located on the eastern seaboard of Australia and chosen for closer scrutiny: six beef farming and two dairy farming.

The analysis distinguishes two types of farm operators: corporate entities and private enterprises (typically family-based farms). The two farms are distinguished by their structure and ownership profile. Corporate farms are run similarly to a private corporation, governed by a board of directors which is responsible to its shareholders for the overall governance and performance of the company. Family run farms function like a privately owned small business operation, with less formal systems and work structures in place.

A5.3.1 Demographics

Included in the analysis are three corporate farms, a further two were family operations, and the remaining three could not be determined (see Table A5.10). The farms were mostly located in Queensland (five agreements) followed by Victoria (two agreements) and NSW (one agreement). The agreements covered as few as five and up to 25 employees. Employees were mostly male, non-casual and generally employed full-time.

Agreement making was a new experience for most of the cattle farming agreement makers, with seven of the eight agreements first generation and only one second generation agreement. Absent from all agreements were unions. Four years was the most common agreement term (the maximum length under the law), and the shortest term was two years.

¹⁴⁵ Many of the agreements included in the WAD as falling with these sectors were dairy and beef processing – not cattle farming as strictly defined.

Table A5.10: Demographics of dairy and beef cattle farming agreements (per cent)

Title	Union party	State	Duration (years)	Employees	Agreement Generation	Female %	Part-time	Casual
Family operation								
Australian Country Choice Feedlot	None	Qld	3	20	1	45	14	0
Teys Feedlots Pty Ltd	None	Qld	4	25	1	32	0	0
Corporate								
The Lawn Hill & Riversleigh Pastoral Holding Company Pty Ltd	None	Qld	4	7	1	29	0	0
Macquarie Agricultural Services	None	Vic	4	7	1	29	2	1
ICM Dairy Agreement Dec	None	NSW	2.7	13	2	8	5	0
Unclear								
Todd Enterprise	None	Qld	4	6	1	0	0	0
MPH Agriculture	None	Vic	4	5	1	20	2	1
A.G. Contracting (Moree) Pty Ltd Employee	None	Qld	2	14	1	14	14	0

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

A5.3.2 Reference awards

Most agreements made reference to the *Pastoral Award 2010* (MA000035) with only two agreements referencing the Dairy Industry Employees (State) Award, a pre-reform state award. In all cases, clauses were included clearly stating that agreements were standalone documents representing the terms and conditions of employment for the employees covered. The extract below, from the *A.G. Contracting (Moree) Pty Ltd Employee Enterprise Agreement*, is an example of this:

This agreement shall commence operation on the day stipulated in the decision notice issued by Fair Work Australia and shall operate to the exclusion of any other award, agreement or industrial instrument that might otherwise have applied to the employer.

While all agreements represent the total matters pertaining to the employment relationship, two agreements also made mention of the role and use of company policy in determining the conditions and entitlements of workers. One agreement stated that company policy is used as a support document and does not form part of the enterprise agreement, effectively removing any legal effect (see the first extract, from *Australian Country Choice Feedlot Enterprise Agreement 2010*, below). Another agreement gives company policy legal standing as it overtly states that it forms part of the agreement see the second extract, from *ICM Dairy Agreement Dec Enterprise Agreement*, below).

This Agreement is supported by policies and procedures determined by the Company from time to time. These policies and procedures will not reduce the substantive entitlements contained in this Agreement but provide guidelines for the fair and efficient administration of the employment relationship. The Company's Policies and Procedures do not form part of this Agreement.

Company policy will supplement the clauses in this Agreement. To the extent that there is any disparity between Company policy and this Agreement, the Agreement will prevail.

A5.3.3 Coverage

Employment coverage varied between agreements, from form of employment, occupation, or even task. One agreement covered only casual employees, another covered only feedlot employees, and another covered 'general farm hand work, milking, livestock husbandry and feeding'. A more inclusive agreement covered all employees in the pastoral industry. Of the eight agreements, three specifically excluded managers and supervisors and one agreement excluded clerical workers. Salaried workers were also often excluded from the scope of the agreements.

The most notable observation amongst the farming agreements was the degree of diversity in classification structures. The range of occupations within each agreement's classification structure varied. For example, the beef farming agreements contained as many as eight distinct jobs and as little as three. This is reflective of the diversity of operations of each farm and the resultant need to tailor the jobs to suit the business operation.

A5.3.4 Wage increases and relationship to AWR

Four of the farm agreements set out wage increase instalments with the quantum between 2.5 per cent and 3 per cent per annum. There was no pattern or uniformity amongst these agreements in the manner used to determine the quantum. A further three agreements rely on the AWR to set movements in wage rates. One agreement was silent on wage increases. The clauses below, from *The Lawn Hill & Riversleigh Pastoral Holding Company Pty Ltd Enterprise Agreement 2009* defaults wage increases to the AWR decision. It also includes an additional measure (the Labour Price Index) to adjust wages if other external factors impact on applicable market rates of pay for similar work.

(1) Subject to clauses (2) and (3), ordinary rates per day for Employees (including junior Employees) shall increase or decrease by a percentage equivalent to any percentage change in the minimum rate applicable to that particular Employee, on the date the minimum rate for any given Employee changes.

(2) If the minimum rate applicable to an Employee increases other than as a consequence of general incremental economic change (such as, but without limitation, because of a change in the method by which the minimum rate is derived, or due to the minimum rate taking into account changes in any applicable award), then:

(a) clause (1) shall not apply, and instead;

(b) on the date the applicable minimum rate changes, the ordinary rate per day for that Employee shall increase or decrease by the percentage change in the All Industries Labour Price Index for Australia since the last minimum rate change for that Employee (comparing the index as most recently published prior to applicable dates).

(3) If no minimum rate is applicable to an Employee, then the ordinary rate per day for that Employee shall increase or decrease on each anniversary of the date this agreement commenced to operate, by the percentage change in the All Industries Labour Price Index for Australia over the preceding year (comparing the index as then most recently published to the index one year previously).

The extract below was used in two corporate dairy farm agreements with slight variation. One agreement specified a 2.5 per cent increase per annum to all employees while the other agreement adjusted wages according to the annual wage reviews. Both agreements allowed employer discretion to pay workers 'above agreement' rates in recognition of good work performance and commitment.

6.2. The Employer's pay system is designed to encourage and reward high standards of work performance. In order to reward, encourage and retain employees with a strong record of service and performance, the Employer, at its discretion, may decide to pay an individual Employee at a higher rate than that which is prescribed in Schedule A of this Agreement. Such action by the Employer is intended to emphasise to each Employee that individual merit will be recognised and rewarded.

...

The minimum rates of pay for each hour worked are set out within this Schedule, and will be adjusted in line with changes to the Australian Fair Pay and Conditions Standard, or its successive legislative standard, as made from time to time. [*Macquarie Agricultural Services Dairy Division Enterprise Agreement 2010*]

The ordinary hourly rates of pay include a 2.5% increase in the first year as shown above and 2.5% Increases per year over the remainder of the Agreement.

...

6.4 The pay system is designed to encourage and reward high standards of work performance. In order to reward, encourage and retain employees with a strong record of service and performance the Company, at its discretion, may decide to pay an individual employee at a higher rate than that which is prescribed at Sub-clause 6.2. Such action by the Company is intended to emphasise to each employee that individual merit will be recognised and rewarded. [*ICM Dairy Agreement Dec 2009-2012*]

A5.3.5 Non-wage issues in agreements

Relative to norms in other modern awards, the Pastoral Award provides substantial flexibility in setting hours of work arrangements and pay. For Farming and Livestock Hands—the exemplar classification

group analysed—there is no set daily span of hours within the award, and ordinary hours are an average of 38 hours per week over a fourweek period.¹⁴⁶ Weekend penalty rates do not exist, and overtime rates are 150 per cent, excepting a 200 per cent overtime rate on Sunday for particular types of work.¹⁴⁷ This is most likely because of the nature of the operations and unorthodox working arrangements in the farming sector.

This predicament was recognised in preambles in some of the farming agreements analysed. Often found in the introductory sections of the agreement, such clauses typically outline the objectives underpinning the agreement and its overall aims and intentions. The following two extracts are examples of the role and significance of working arrangements and costs within the broader context of the farm's operations:

This Agreement is designed to further the Company's objectives of aiming for excellence in all areas of operations, producing safe, high-quality beef and satisfying customer's expectations, assisting the well-being of staff and their ongoing development, promoting awareness of the environment in practicing the highest standards of environmental responsibility, focusing on the welfare of its cattle, consistently improving the quality of the Company's stocks of cattle, and delivering sustainable returns to the Company's shareholders. To achieve this, the agreement aims to combine a flexible and productivity focused approach to work programs with a remuneration system designed for the mutual benefit of both the Employees and the Company. The Agreement incorporates a pay system that is based on Employees being engaged in accordance with specific job descriptions, to the benefit of both the Employees and the Company. Flexibility is required for the demands of the Company's operations and serves to maintain and improve the Company's performance as well as enhancing lifestyle and leisure opportunities for all Employees. Such a flexible system is designed to deliver the following key benefits to Employees:

- (1) recognising and rewarding consistent delivery of commercial level services;
- (2) promoting a safe system of work;
- (3) enhancing Employee lifestyle opportunities by operating a leave system that allows for leave entitlements to be utilised when it suits both Employees and the Company [*The Lawn Hill & Riversleigh Pastoral Holding Company Pty Ltd Enterprise Agreement 2009*]

The principal aims shaping the development of this Agreement are:

To continually improve the efficiency, productivity, safety and quality of operations by seeking the total commitment and involvement of all Employees in the business.

To provide competitive rewards to all Employees based on individual team performance.

To develop adaptable, committed and skilled Employees.

To focus and deliver on our customers' needs.

Our mutual objectives are:

- Operational Performance – To measure and operate a successful business driven by Key Performance Indicators (KPI's).

¹⁴⁶ *Pastoral Award 2010* (MA000003), cl.30.1–2.

¹⁴⁷ *Pastoral Award 2010* (MA000003), cl.31. Key industry informants noted that farming employers are open to adapting to the new way of classifying workers and setting the way in which work is organised, structured and paid.

- Safety – To eliminate accidents & injuries.
- Environment – To operate the plant without incident and within specification 100% of the time.
- Customer Satisfaction – To ensure the customer (internal and external) receives 100% in full, on time, every time.
- Ethics – To conduct our business in an open and honest manner.
- Innovation – To respond to market changes by continually seeking to innovate and provide solutions that represent added value as measured by our customers.
- People – To engage our Employees within an environment where there is greater involvement and participation in decision making in matters which can have an impact on their working environment and business performance.
- Performance Standards – To ensure all Employees fully understand their performance objectives, responsibilities, expectations and accountabilities all the time [*Australian Country Choice Feedlot Enterprise Agreement 2010*]

A5.3.5.1 Hours of work

Hours of work arrangements and overtime payments were a focal point of all Dairy and Beef Cattle Farming agreements examined, highlighting the importance placed on working arrangements, process and costs. The corporate and family operated farms were no different in this respect. The most typical approach to this was imposing a longer cap on the hours worked before overtime applies (for example, after 45 hours worked per week, or 95 and even after 100 hours worked in a fortnight). Of the agreements analysed, two did not pay overtime at all and simply provided TOIL, and only after the extended cap on hours worked were met. In four agreements cost savings were made by averaging hours between 12 and 52 weeks rather than the four week period set in the award.

Interestingly, despite the lack of weekend penalty rates in the Pastoral Award for farming and livestock hands, three beef farming agreements provided penalty rates: two agreements stipulated 150 per cent for Saturday and 200 per cent for Sunday work,¹⁴⁸ while one agreement stipulated 100 per cent for Saturday and 150 per cent for Sunday work.

Despite the significant degree of freedom in setting working arrangements in the Pastoral Award, farming agreements have managed to expand these boundaries and craft overtime and hours of work arrangements to suit their operations. The clause from the *A.G. Contracting (Moree) Pty Ltd Employee Agreement 2010*, which covers casual employees, below, included a very open and last minute approach to working arrangements and rostering. Employees are given very short notice about their roster and are unaware of their next roster until the end of the working day.

The hours of work shall remain flexible and will depend on the requirements of the employer on a day to day basis. The employee shall be advised by the employer at the end of each engagement as to their requirements for work on the next or following days. Ordinary hours of work will not exceed those provided for in the national Employment Standard.

¹⁴⁸ *Pastoral Award 2010* (MA000003) cl. 31 and 36.

Flexible work arrangements and hours of work are usually offset by a higher wage premium. The *Teys Feedlots Pty Ltd Enterprise Agreement 2010*, covering a family farm, is an example of an agreement that stretches the hours of work arrangements beyond the boundaries set in the modern award in exchange for higher wages. Wage premiums range between 15 and 24 per cent above the modern award in exchange for significantly tailored hours of work arrangements. Overtime is paid only if an employee works more than 100 hours in a fortnight. Start and finish times may be altered by agreement or if 36 hours notice is given. Weekend penalty rates are as generous as the Pastoral Award overtime rates,¹⁴⁹ though these rates are not paid if the employee did not work all other designated hours or if the employee requested a shift switch. Non-payment of weekend penalties is also used in a punitive manner for poor attendance during the roster cycle.

Higher wage premiums for flexible work arrangements were not provided in a number of farming agreements. The A.G. Contracting agreement, for example, provides slightly less than Pastoral Award rates for all occupations. In two other cases, undertakings were imposed onto the employer to offset employees for the potentially negative impact of the hours of work arrangements on their earnings.

The *MPH Agriculture Enterprise Agreement 2010* included undertakings to pay higher wage premiums for long hours and flexible arrangements. The agreement acknowledged the fluctuations in the business cycle and the way in which workflows are organised to best meet these peaks and troughs. Seasonal work cycles of between four and 12 weeks were adopted in recognition of peaks and troughs in the business cycle, with a cap on the hours worked of 60 hours per week. Overtime is not provided and TOIL is only provided after a 60-hour work week. Employees also have the option to be paid an annual salary. An undertaking was imposed by FWC despite the 20 per cent wage premium currently paid to workers. This was out of concern that the extension in hours worked before the overtime was paid would still impact negatively on earnings. As a result, the employer undertook to pay overtime (or TOIL) for all hours worked more than an average of 53 hours per week in any four-week period.

Another issue particular to farming agreements was the use of 'half day' and 'full day' engagement instead of the traditional 'engagement by the hour'. The half day was generally divided between work performed up until midday, and work performed from midday onwards. One key informant reported that this form of daily engagement had been the industry norm for several years. Provisions of this nature are regarded as acceptable in this sector because tribunals are reported to believe work such arrangements are necessary for farm viability. Such arrangements would not be acceptable in any other sector. According to key industry stakeholders, some agreements provide annual leave as high as 6–7 weeks. This innovative method of organising work to meet business demands was found in the Lawn Hill Enterprise Agreement. The clauses are as follows:

- (1) As far as practicable work will be tailored to the needs of the Company's enterprise and the requirements of the livestock in accordance with industry practice. Within this general constraint, employees will be rostered to perform their duties in such a way that they have access to meaningful periods of leisure.
- (2) The basic unit of employed time shall be by the day (or half day) rather than the hour. The calculations of fair reward for Employees under this Agreement have been made on this basis. An Employee shall be paid according to the number of days (or half days) that they are required to, and actually do, work and not in accordance with the hours worked.

¹⁴⁹ *Pastoral Award 2010* (MA000003) cl. 31 and 36.

(3) Starting and finishing times of individuals or work groups shall be determined by reference to their particular work area and workloads on an operational basis. Times will vary with the particular work program and time during the year.

(4) The average hours per week of an Employee, averaged over a 12 month period, shall not exceed 38 hours, plus reasonable additional hours. Where it is necessary for the purpose of calculating maximum permissible working hours to take into account leave taken, the number of hours of work nominally represented by a day or half day of leave is to be taken as the minimum number of working hours that a day or half day may comprise, namely five hours or two hours respectively.

A5.3.6 Classification structures

In order to compare the wage rates in the Pastoral Award with the enterprise agreements, each level within the classification structure of the agreements was aligned with this award. The process of comparison and alignment of structures proved difficult in some cases due to the extent and degree of variability. A large degree of inference was required on most occasions, deeming some comparisons unreliable.

The analysis identified three distinct ways in which the award classification structures were adopted (or referred to) in the enterprise agreements:

- the complete adoption (mirroring) of the modern award classification structure;
- the adoption of most parts of the modern award classification structure (with differences evident in one to three levels); and
- occasional alignment to the modern award classification structure with signs of tailoring.

A significant degree of tailoring of job roles and levels was evident across each agreement. For the partially tailored classification structures, the alignment process was most clear and reliable at the entry level. At higher levels the degree of variability in job roles rendered the comparison process more unreliable.

A5.3.7 Internal wage relativities

The C10 equivalent occupation within the Pastoral Award is the Farm and Livestock Hand (F&LH) Level 6 utilising Certificate III qualifications daily in the employee's primary work area.¹⁵⁰ This level, however, does not apply to dairy farm workers. Within the Pastoral Award, job roles for dairy farm workers are distinguished from cattle farms as each are considered their own specialty. A dairy farmer plans, directs, coordinates and performs farming operations to breed and raise dairy cattle for milk, breeding stock and meat. A beef cattle farmer plans, directs, coordinates and performs farming operations to breed and raise beef cattle for meat production and breeding. In total, only five of the eight levels of the classification structure within the Pastoral Award are relevant for dairy farm workers. As a result, only half of the agreements were used for the analysis of internal relativities as only four agreements in total listed F&LH6 within the agreement's classification structure. Table A5.11 below lists these agreements and the internal relativities.

The table shows that the agreements follow similar trends in internal relativities from level to level to those in the Pastoral Award. In fact, there is no evidence of a compression in relativities. In particular, award relativities have been maintained in the two agreements that have replicated the award's classification structure (MPH Agriculture and Todd Enterprises). In the remaining two agreements, the

¹⁵⁰ *Pastoral Award 2010* (MA000003), cl.27.6

internal relativities are less aligned to the award relativities. In both cases, the dispersion of wage relativities are larger, commencing at 83.1 per cent and 88.8 per cent compared with 90 per cent in the Pastoral Award, with the dispersion being greatest in the highest paying agreement. It is important to keep differences in perspective: the relativities are more similar among groups of agreements than when agreements are compared with relativities in the Pastoral Award.

Table A5.11: Internal wage relativities (per cent)

	Award	The Lawn Hill & Riversleigh Pastoral Holding Company	Todd Enterprises	MPH Agriculture	Teys Feedlots
		***	*	*	**
Level 6 wage	\$604	\$625	\$649	\$725	\$751
F&LH level 1	90.1	88.8	90.5	90.5	83.1
F&LH level 2	92.8		93.0	93.0	86.5
F&LH level 3	94.2	92.0	94.4	94.4	88.9
F&LH level 4	96.5	-	96.7	96.6	-
F&LH level 5	98.3	96.0	98.4	98.3	94.9
F&LH level 6	100.0	100.0	100.0	100.0	100.0
F&LH level 7	105.6	-	105.3	105.3	-
F&LH level 8	113.8	-	113.2	113.2	-

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data); *Pastoral Award 2010* (MA0000350), as at 30 June 2010.

Note on how the data were generated

- For this sector, all in scope agreements for the sector on the WAD were examined. These are agreements recorded on the WAD as being approved between January 2010 and June 2011.
- All agreements were read closely and the key information in them coded using the coding frame summarised in Appendix 4 to this report. The findings of this scrutiny are reported in the body of the report above.
- This scrutiny of agreements provided the context for understanding the classification structures contained in the agreement. Classification structures were classified as falling into one of four categories, the first three of which are indicated by one, two or three asterisks:
 - * = exact match of all classification levels (identical);
 - ** = exact match of some classification levels;
 - *** = partial match between the agreement and award classification levels. This involved some tailoring of classifications in the agreement with occasional alignment or broadbanding of classifications; and
 - – non comparable classification arrangements, i.e. the arrangements are so different on the basis of tailoring or overhauling enterprise agreement classifications that it makes any meaningful comparison of wage relativities impossible.

- Agreements falling into the first three categories which reported actual rates of pay were then scrutinised for analysis of their internal relativities. This resulted in four agreements, those included in the table, being available for the relativities analysis.
- The rate closest to the C10 classification in the Manufacturing Industries [and Related Occupations Award] was identified. In this sector it was the Farm and Livestock Hand Level 6 classification. This was used as the comparator or reference point for report on wage relativities within the agreement.
- All rates within the agreement were then expressed as a percentage of the benchmark classification.
- The actual rate for the C10 equivalent classification is provided to give an indication of where the enterprise agreement rates sit in the labour market. All other numbers represent a presentation of internal relativities as a proportion of the Farm and Livestock Hand Level 6 rate.

Example of how to read the table.

- Row 1 shows the rate for the C10 equivalent (i.e. Farm and Livestock Hand Level 6) varies from the \$604 per week contained in the modern award. Among agreements for which analysis was possible the lowest rate was \$625 per week and the highest was \$751 per week. The lowest paying enterprise agreement had classification arrangements where there was a partial match between agreement and award classification levels (i.e. ***). The highest paying enterprise agreement was based on a classification structure where there was a match of some classification levels (i.e. **). The middle two agreements were based on enterprise agreement classifications that were identical to those in the award (i.e. *).
- The remaining rows in each column show the internal relativities for each agreement. For example, column 3 shows the relativities for the Lawn Hill and Riversleigh Pastoral Holding Company Enterprise Agreement. It has only four classifications and these align with the modern award classification levels 1, 3, 5 and 6. The relativities between these rates are slightly below the relativities contained in the modern award rates. For example, the rates for the lowest classification in the enterprise agreement are 88.8 per cent of the level 6 (C10 equivalent rate), compared to 90.1 per cent of the rate relative to that comparator contained in the modern award.

A5.4. Domestic Waste Management

The private sector waste management industry is comprised of three distinct areas of operation:

- waste collection work that is done for local councils on a contract basis and is conducted by drivers and runners who collect and empty domestic waste bins;
- material recycling facilities (MRF) at which waste is deposited, treated and handled; and
- maintenance work on the plant equipment used at MRFs.

There were 41 enterprise agreements in the waste collection sector in the WAD. In selecting agreements, priority was given to the domestic waste management sub-sector examined as a case study, i.e. waste collection done on a contract basis for local councils (see Section 2.4.1.4). As a result, agreements in domestic waste collection make up the bulk of the enterprise agreements in the analysis, however a limited number of other waste-related businesses were also included.

The first two categories are distinct in terms of both working arrangements and business operations. As reported in the account of this sector in the case study section (Section 2.4.1.4), work at specialised MRF plants tends to be more profitable than collections work. This is because domestic household waste collection occurs in a highly competitive contracting environment in which tenders are contracted out by local councils to private contracting companies. Maintenance work is distinct from waste collection and MRF as it requires a discrete set of skills.

Waste collection and MRFs are often dealt with in the one enterprise agreement but in some cases separate agreements cover distinct occupational groups such as drivers, administrative staff or facilities workers. Maintenance agreements are usually occupation or site specific. *The Transpacific Industries Crestmead Workshop Enterprise Agreement 2010* and the *Veolia Environmental Services - AWU & AMWU Offshore Maintenance Agreement 2009* are examples of these types of agreements. The “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU) and The Australian Workers’ Union are parties to (covered by) agreements in maintenance, while the Transport Workers’ Union of Australia (TWU) is party to (covered by) agreements in waste collection and facilities.

Due to the nature of agreement coverage in waste management, researchers included waste collection work and waste transfer centre work in the analysis. Maintenance work is excluded as it is occupationally distinct, covered by different unions and not comparable to facilities and waste collection operations.

A5.4.1 Demographics

The agreements covered as few as two employees and up to 185. Not surprisingly for this sector, agreements largely covered male, full-time, non-casual employees. There is a fairly even spread of agreements across New South Wales, Victoria and Queensland. The TWU was party to more than half the agreements, and The Australian Workers’ Union was co-party to one. Agreement makers were mostly experienced—of the 19 agreements examined only seven were first generation agreements. Table A5.12 provides further details.

Table A5.12: Demographics of waste collection and materials recycling facility agreements

	Union party	State	Duration (years)	Employees	Agreement generation	Female %	Part-time	Casual
Waste collection only								
Application for approval of the Transpacific Cleanaway Erskine Park - Drivers	TWU	NSW	2.53	33	2	0	1	1
SITA Environmental Solutions Gippsland	None	Vic	2.69	10	1	10	1	-
Transpacific Cleanaway Peakhurst (Municipal) Depot Drivers	None	NSW	2.88	11	2	0	2	0
Transpacific Cleanaway Rockhampton Region Drivers	TWU	Qld	2.95	17	3	-	2	-
Transpacific Waste Management Mornington Drivers	TWU	Vic	2.44	33	1	0	6	1
Transwaste Technologies Thomastown	TWU	Vic	2.63	2	5	0	0	0
Materials recycling facility only								
SMS Willoughby Waste Collection and Recycling	None	NSW	2.76	14	1	0	3	0
Thiess Services Pty Ltd, ACT Materials Recovery Facility	TWU	ACT	2.26	9	2	-	-	-
Waste collection and materials recycling facility								
L V Rawlinson & Associates (LVRA) New South Wales Drivers	TWU	NSW	2.86	7	1	-	2	-
N Q Resource Recovery Mackay and Mt Isa Drivers	None	Qld	3.2	10	3	-	-	-
NQ Resource Recovery Townsville Drivers	TWU, AWU	Qld	2.11	11	2	-	1	-
Thiess Services Pty Ltd, Waste Management, NSW Landfills	TWU	NSW	2.34	4	1	-	-	-
Thiess Services Pty Ltd, Waste Management, South Western Region, Domestic and Commercial	None	ACT, NSW	2.4	36	1	-	5	-
Transpacific Cleanaway (Municipal) Bundaberg and Maryborough	TWU	Qld	1.78	185	2	0	5	0
Transpacific Cleanaway (Regional Victoria)	TWU	Vic	1.86	95	6	11	5	2
Veolia Environmental Services (Australia) Pty Ltd Southern Highlands Transfer Station and Related Activities	TWU	NSW	2	12	2	0	0	0
Veolia Environmental Services, Queensland 'Mackay Waste Management Operations'	TWU	Qld	2.73	25	1	12	9	-
WSN Environmental Solutions and TWU (Operations)	TWU	NSW	2.68	345	2	22	38	8
Thiess Services Pty Ltd Enterprise Agreement Mackay (Landfills, Haulage and Waste Transfer Stations)	None	Qld	2.19	13	3	0	0	0

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

A5.4.2 Reference awards

The majority of agreements made explicit reference to the *Waste Management Award 2010* (MA000043). There were five distinct ways the agreements made reference to and/or incorporated the Waste Management Award and legislation such as the NES. Eleven agreements stipulated that the agreement set out the whole agreement between the parties and operates to the exclusion of any and all other federal and state awards and agreements to the extent permitted by the Fair Work Act. One even codified the old notion of a 'no extra claims' provision in either the award or agreement domain. For example, the *NQ Resource Recovery Mackay and Mt Isa Drivers - Enterprise Agreement 2010* states:

The employee organisation and/or any employee covered by this Agreement will not pursue any extra claims, whether award, above award or otherwise, for the period of operation provided for in this Agreement.

A number of agreements were to be read in conjunction with the award. For three agreements this was the case, with the agreement prevailing in the case of inconsistencies. For example, from the *Veolia Environmental Services (Australia) Pty Ltd Southern Highlands Transfer Station and Related Activities Workplace Agreement 2010*:

Agreement is read in conjunction with award. In the event of any inconsistency the agreement shall prevail.

One agreement (*Thiess Services Pty Ltd, Waste Management, South Western Region, Domestic and Commercial Enterprise Agreement 2010-2013*) stated that the award prevails for silences in the agreement, but did not mention the resolution of inconsistencies between award and agreement. The *SMS Willoughby Waste Collection and Recycling Enterprise Agreement 2010* stated that where there is silence on an issue, or where differences exist, the award shall prevail:

Where differences exist, or where the Agreement is silent, entitlements and conditions as outlined in the Waste Management Award 2010 (The Award) and the National Employment Standards (NES) shall prevail.

Finally, three agreements made no mention about whether the award was read in conjunction or excluded. Under the Fair Work Act, where agreements are silent on whether an award is to be read in conjunction or excluded, the relevant award is excluded. Thus, the majority of the agreements stipulated that the enterprise agreement excluded federal and state awards to the extent permitted by the Fair Work Act. In some cases even agreements that had clauses excluding the terms of the Waste Management Award made reference to it in later clauses of the agreement, for example to keep pace with changes in penalties or minimum wage increases. This was the case for the *LV Rawlinson Agreement*. In clause 13.3(c) the agreement stated that:

Casual loading as mentioned in (b) of this clause shall not be payable on overtime worked. However, should the Waste Management Award 2010 be varied to provide for casual loading to be paid on overtime, a casual employee in addition to normal overtime rates, while working overtime or outside ordinary hours, shall be paid on an hourly basis one thirty-eighth of the appropriate weekly wage rate prescribed by this Agreement, plus 10 per cent.

A5.4.3 Coverage

Agreement coverage was generally based on location, organisational unit, or occupation. Waste collection and waste transfer are often covered by one agreement. Of the waste agreements three covered multiple locations, organisational units and occupations. For example, the *WSN*

Environmental Solutions and TWU (Operations) Agreement 2010 employees are based at one of 15 waste management centres. The agreement covers roles including, but not limited to:

- Drivers
- Mobile Plant Operators
- Sorters
- Weighbridge Operators
- Depot Hands
- Offsiders

A5.4.4 Wage increases and relationship to AWR

The AWR appeared to have little bearing on wage adjustments in the 19 waste agreements. Only one enterprise agreement set wage increases in accordance with the AWR decision. The *SMS Willoughby Waste Collection and Recycling Enterprise Agreement* includes the following clause:

The weekly wage rates paid for employee classifications are set out in Schedule B (wage rates) and will increase annually in accordance with the annual wage review conducted by the Minimum Wage Panel of Fair Work Australia (or by its successor) each year during the Agreement.

Three enterprise agreements contained wage increases referencing the CPI. The *Transpacific Cleanaway Peakhurst (Municipal) Depot Drivers Enterprise Agreement*, the *NO Resource Recovery Townsville Drivers Enterprise Agreement*, and the *WSN Environmental Solutions and TWU (Operations) Agreement* all include clauses stating specific increases of between 3 and 5 per cent, or the CPI, whichever is greater. An example of this, from the *WSN Environmental Solutions and TWU (Operations) Enterprise Agreement* is:

(h) The rates of pay and allowances as prescribed in Schedules 1 to 7 excluding Items 1, 2 and 3 of Schedule 7. Allowances shall be adjusted to provide for the following increases;

- (i) 3.0 per cent increase from the first full pay period to commence on or after 4 September 2011.
- (ii) A further increase from the first full pay period to commence on or after 4 September 2012, being the greater of either:
 - (1) 3.0 per cent, or
 - (2) the percentage change in the ASS 'Consumer Price Index, All Groups, Sydney' for the financial year commencing 1 July 2011 and ending 30 June 2012.

Wage increases in the remaining agreements were between 2 and 4 per cent. *The Veolia Environmental Services, Queensland 'Mackay Waste Management Operations' Enterprise Agreement* had a large wage increase of 9.46 per cent in the first year of the agreement, followed in the remaining two years by an increase of 4.5 per cent.

A5.4.5 Non-wage issues in agreements

The enterprise agreements in this sector reflect the conditions of the modern award in relation to casual loadings and minimum hours of work for casuals, afternoon and shift loadings, Saturday and Sunday penalty rates and span of hours. Non-wage issues of interest centre on allowances and KPIs.

A5.4.5.1 Allowances

Agreements deviated from statutory standards in the Waste Management Award in relation to allowances and bonuses. The Waste Management Award provides allowances for meals, leading hands, first aid and 'boat'.¹⁵¹ Allowances in agreements can be characterised as resulting from specific skills expected for the job, disruption to normal life, dangerous or discomforting work, and assistance with costs associated with the job. Each of these are discussed in turn.

Allowances for specific skills associated with work included supervisory, technical skills, or specific skills. For example, the Transwaste Thomastown Enterprise Agreement included an allowance for leading hands with specific rates for the amount of workers being supervised: 2.7 per cent for 4–8 employees; 4 per cent for 9–15 employees and 5.5 per cent for more than 15 employees. The *Thiess NSW Landfills Enterprise Agreement* included a flat rate of \$10.00 per day as a supervisor allowance. Road train operator allowances were provided in both the *NQ Resource Recovery Townsville Enterprise Agreement* and the *NQ Resource Recovery Mackay and Mt Isa Enterprise Agreement*. This included \$1.65 for employees operating road trains with GVMs of more than 80 tonnes for more than one consecutive shift. Finally, five agreements included a first aid allowance.

A number of agreements also included allowances for disruption to normal life. On call allowances of \$100.00 were provided in three NQ Resource Recovery agreements for Townsville, Mackay and Mt Isa. A living away from home allowance, which included accommodation, three meals, 15 minutes of phone calls per day, and \$25.00 per night in excess of three nights was also provided in these three agreements. A miscellaneous allowance of \$25.00 a week for casuals and part-time workers who work full-time hours on a pro-rata basis was specified in the *NQ Resource Recovery Mackay Enterprise Agreement*. The *Transpacific Cleanaway Erskine Park Enterprise Agreement* provided a call back allowance of \$25.00. Finally, to counteract the high costs of living in the Mackay region a district allowance of \$38.00 was provided as a district allowance in the *Veolia Mackay Enterprise Agreement*.

Dangerous and discomforting work allowances were provided in a number of waste agreements. For example, a sanitary waste allowance of \$14.80 per week in the *Transpacific Cleanaway Regional Victoria Enterprise Agreement*; an animal collection allowance of \$100 per weekend in the *Veolia Mackay Enterprise Agreement*; and a dangerous goods allowance of \$6.00 per day in the *Transpacific Cleanaway Erskine Park Enterprise Agreement*, the *NQ Resource Recover Townsville Enterprise Agreement* and the *NQ Resource Recovery Mackay and Mt Isa Enterprise Agreement*.

Finally, allowances common to other industries were occasionally provided in agreements. The *Transwaste Thomastown Enterprise Agreement* specified a transport allowance of \$7.94 per day when required to commence before 4am. Both the *NQ Resource Recovery Townsville Enterprise Agreement* and the *NQ Resource Recovery Mackay and Mt Isa Enterprise Agreement* specified laundry allowances of \$25.00 per week. For example, there was some deviation in the quantum of meal allowance provided for in the enterprise agreements—the modern award's prescribed meal allowance is \$12.60, while the meal allowance in agreements ranged from between \$10.45 and \$14.59.

A5.4.5.2 Key performance indicators

Of the 19 waste agreements, six had clauses dealing with monetary bonuses for KPIs. This is a significant deviation from the Waste Management Award, which does not contain any provision for bonuses or KPIs. The utilisation of KPI/productivity bonus clauses in these agreements suggests that

¹⁵¹ *Waste Management Award 2010* (MA000043), cl.20.

employers, employees and bargaining representatives, such as trade unions and employer bodies (if relevant), have crafted at least some aspects of the agreement to suit the circumstances of their enterprise/business unit.

An example of this is the *Thiess Services Pty Ltd, Waste Management, NSW Landfills, Enterprise Agreement 2009–2012* which contains clauses that provide for bonuses of \$100.00 per month if the collective group of employees achieve targets in areas of safety and performance. If targets are met consecutively over a six month period, then the amount of bonus increases. A clause in the *Transpacific Cleanaway Peakhurst (Municipal) Depot Drivers Enterprise Agreement 2010* contained bonuses for KPI achievements in punctuality, cab cleanliness, accident damage, missed services and complaints. The Agreement states that:

The bonus will be calculated quarterly in accordance with the below table and will be accumulated and paid in December each year. The payment shall be based on the performance as measured in the preceding four quarters.

The *SMS Willoughby Waste Collection and Recycling Enterprise Agreement 2010* had a transitional bonus clause. Unlike any other agreement, employees are paid close to the rates of pay in the *Waste Management Award 2010* (taking into account transitional rates). The transitional bonus according to Clause 4(i) of the agreement is:

...to compensate employees for wage increases which they may normally have expected during the Agreement while not increasing obligations of the employer above the Waste Management Award 2010 after the conclusion of the Agreement.

The SMS agreement contains a contract extension bonus for inspecting vehicles and a contract completion bonus of \$5000 when the contract between the council and SMS is concluded.

A5.4.6 Classification structures

Classification levels in the Waste Management Award fall into the nine categories outlined in table A5.13 below.

Table A5.13: Classification levels in the Waste Management Award

Classification	
Level 1	An employee engaged as a depot hand in training.
Level 2	An employee performing one or more of the following functions: Labourer or depot hand at any waste management facility including but not limited to transfer stations, landfills, recycling centres, alternative waste treatment facilities, and incinerators; Waste treatment and/or handling and/or disposal facility attendant and/or process worker; and Offsider (includes Runners) to a Driver in all waste management systems.
Level 3	An employee performing one or more of the following functions: Weighbridge operator; Trainee driver of vehicle up to and including 14 tonnes GVM; and Driver (not elsewhere included) of a waste management vehicle up to and including 4.5 tonnes GVM.
Level 4	An employee performing one or more of the following functions: Driver of a vehicle with a truck mounted loading crane; Driver/operator of a mechanical road sweeper; Incinerator operator; Operator of earthmoving plant at a waste management facility up to and including 150 BHP (estimated 112 kW); Trainee driver of vehicle exceeding 14 tonnes GVM; and Driver of a waste management vehicle exceeding 4.5 tonnes GVM and up to and including 14 tonnes GVM.
Level 5	An employee performing one or more of the following functions: Driver of a waste management vehicle exceeding 14 tonnes GVM and up to and including 30 tonnes GVM being: rear end loading vehicles; roll on/roll off vehicles including hook lift, dino and cable; side lift vehicles (commercial collections) liquid waste rigid vehicles; pantehnicon; vehicle carrying septic tanks, chemical closets, portaloos, etc.
Level 6	An employee performing one or more of the following functions: Driver of an articulated vehicle; Driver of a rigid vehicle exceeding 30 tonnes GVM; Driver of a front lift vehicle; and Driver of a vehicle collecting containers of solid waste and/or recyclable materials by means of a one-man side operated grab and lifting device (SOLO) in accordance with local government contracts.
Level 7	An employee performing one or more of the following functions: Driver/instructor (all systems).
Level 8	An employee performing one or more of the following functions: Intermodal facility operator and tipping platform operator only; Operator of earth moving plant at a waste management facility over 150 BHP (estimated 112 kW).
Level 9	Driver of a double articulated vehicle (B double).

Source: *Waste Management Award 2010 (MA000043)*, Schedule B

In order to compare the wage rates in the Waste Management Award with the enterprise agreements, each level within the classification structure of the agreements was aligned with those in the modern award. There were four distinct ways in which the award classification structures were utilised or referred to in the enterprise agreements. Compared to award classification structures agreements were mirrored, altered or completely tailored. Other than one agreement with an absence of a classification structure (the *Thiess Services Pty Ltd, Waste Management, NSW Landfills, Enterprise Agreement 2009-2012*) the rest of the agreements fell into four categories:

- the complete adoption or mirroring of the modern award classification structure;

- the adoption of some part of the modern award classification structure with fewer classifications;
- the adoption of some part of the modern award classification structure with more classifications; and
- the adoption of a tailored classification structure that does not reflect the modern award.

Of the 19 waste agreements, six included classification structures that mirrored the award in full. A further six agreements were very similar to the award, either in the levels provided or in the wording of the description of classification levels. These agreements were not direct replicas as they either included an extra level, or dropped off a level or two. The remaining six agreements (not including the agreement with just one classification level) were tailored agreements. They comprised between two and nine classification levels. Some agreements, like the *Thiess Services Pty Ltd Mackay Enterprise Agreement*, appear to be designed for the discrete skills needed in the business unit in landfills, haulage and waste transfer work. This agreement had four classification levels starting at waste assistant and ending at leading hand.

A5.4.7 Internal wage relativities

For the most part, internal wage relativities among the above-award waste agreements reflected the relativities of the award. For example, the top level in the award is 114.2 per cent of level 6. Of the waste agreements with this classification level, two had relativities of 112 per cent, one had a relativity of 114 per cent and the last had a compressed relativity of 109 per cent.

Wage relativities in agreements well above the award displayed less similarity in internal award relativities than those paying closer to the award. For example, the bottom classification level, 90.7 per cent in the Waste Management Award, was as low as 69.9 per cent in the *LV Rawlinson Enterprise Agreement*, 80.9 per cent in the *Transpacific Peakhurst Enterprise Agreement*, 84.9 per cent in the *Transpacific Erskine Park Enterprise Agreement*, and at its highest, was still below the award relativity at 87.7 per cent in the *Transpacific Bundaberg Enterprise Agreement*. The similarities in internal relativities are more distinct than the differences—with most differences, it appears, being where the actual wage paid is significantly higher than the award rate.

Table A5.14: Internal wage relativities over-award waste agreements (per cent)

Classification	Award	ABOVE AWARD						WELL ABOVE AWARD				
		SMS Willoughby *	SITA **	Transpacific Mornington **	Transpacific Regional Victoria **	Transwaste Thomastown *	Veolia Mackay *	Transpacific Rockhampton *	Transpacific Bundaberg *	Transpacific Peakhurst **	Transpacific Erskine Park*	LV Rawlinson **
Level 6 rate	\$637	\$736	\$754	\$776	\$803	\$805	\$810	\$819	\$857	\$897	\$981	\$996
Level 1	90.7	na	na	na	87.7	93.3	91.8	90.1	87.7	80.9	84.9	69.9
Level 2	93.1	94.0	na	na	90.5	95.2	94.1	92.6	91.0	86.4	87.1	71.6
Level 3	94.3	na	95.0	na	92.7	96.2	95.0	93.9	92.6	87.3	88.3	72.3
Level 4	96.1	na	96.6	93.0	95.1	97.6	96.6	95.8	95.1	88.1	89.0	73.5
Level 5	97.3	na	97.6	99.6	96.7	98.5	97.6	97.1	96.6	97.4	100.0	87.7
Level 6	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Level 7	107.5	na	106.5	107.3	na	100.9	106.5	107.9	109.6	112.2	101.7	na
Level 8	113.1	na	111.3	107.3	na	103.1	111.4	114.1	114.6	113.2	107.0	na
Level 9	114.2	na	112.3	na	na	109.0	112.4	114.1	115.6	114.2	108.1	na

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data); *Waste Management Award 2010* (MA000043) as at 30 June 2010.

Note on how the data were generated

- For this sector, 19 agreements for the sector on the WAD were examined. These are agreements recorded on the WAD as being approved between January 2010 and June 2011. Twelve were suitable for inclusion in the relativities analysis.
- All 11 agreements were read closely and the key information in them coded using the coding frame summarised in Appendix 4 to this report. The findings of this scrutiny are reported in the body of the report above.
- This scrutiny of agreements provided the context for understanding the classification structures contained in the agreement. Classification structures were classified as falling into one of four categories, the first three of which are indicated by one, two or three asterisks:

- * = exact match of all classification levels (identical);
 - ** = exact match of some classification levels;
 - *** = partial match between the agreement and award classification levels. This involved some tailoring of classifications in the agreement with occasional alignment or broadbanding of classifications; and
 - – non comparable classification arrangements, i.e. the arrangements are so different on the basis of tailoring or overhauling enterprise agreement classification that it makes any meaningful comparison of wage relativities impossible.
- Agreements falling into the first three categories which reported actual rates of pay were then scrutinised for analysis of their internal relativities. This resulted in 11 agreements, those included in the table, being available for the relativities analysis.
 - The rate closest to the C10 classification in the Manufacturing and Associated Industries and Occupations Award was identified. In this sector it was the level 6 classification. This was used as the comparator or reference point for report on wage relativities within the agreement.
 - All rates within the agreement were then expressed as a percentage of the benchmark classification.
 - The actual rate for the C10 equivalent classification is provided to give an indication of where the enterprise agreement rates sit in the labour market. All other numbers represent a presentation of internal relativities as a proportion of the level 6 rate.

Example of how to read the table.

- Row 1 shows the rate for the C10 equivalent (i.e. level 6) as \$637 per week as contained in the modern award. Among agreements for which analysis was possible, the lowest rate was \$736 per week and the highest was \$996 per week. The lowest paying enterprise agreement had classification arrangements where there was a partial match between agreement and award classification levels (i.e. **). The highest paying enterprise agreement was based on a classification structure where there was a match of some classification levels (i.e. **). The middle agreements were based on enterprise agreement classifications that were usually identical to those in the award (i.e. *).
- The remaining rows in each column show the internal relativities for each agreement. For example, column 7 shows the relativities for the Veolia Mackay enterprise agreement. It has all classifications contained in the modern award. The relativities between these rates are very close to the relativities contained in the modern award rates. For example, the rates for the lowest classification in the enterprise agreement is 91.88 per cent of the level 6 rate (C10 equivalent rate), compared to 90.7 per cent of the rate relative to that comparator contained in the modern award.

A5.5 Medical Services

A total of 25 of the 52 Medical Services agreements from the WAD were chosen for the qualitative analysis. The selection of agreements was guided by the following four categories:

- individual general practices (typically standalone private facilities offering a general medical service);
- corporate general practice (larger organisations operating under a corporate ownership structure);
- specialist medical services (varied ownership structure, with small privately owned operations existing amongst corporate operations); and
- divisions of general practice (part of a federal government initiative to provide services and support to general practice at the local level that would not otherwise be achieved on an individual general practitioner basis).

Of the enterprise agreements selected only one was a corporate general practice, a further six were individual general practices, ten were specialist medical services, and eight were divisions of general practice.

A5.5.1 Demographics

Medical Services agreements covered as little as eight and as many as 168 employees. Overall, most agreements covered a small number of employees, typically ranging between eight and 28. Table A5.16 below outlines the demographic features of each agreement selected. The 25 agreements selected spanned the eastern seaboard of Australia, with a higher proportion of agreements covering workplaces in NSW. Three agreements covered workplaces in Queensland, while six covered workplaces in Victoria. This is reflective of the regional distribution of the 52 medical service agreements included in the WAD. Agreement making appears to be a new phenomenon amongst this round of Medical Services agreements in the WAD, with all but four agreements first generation, and the remaining second generation.

Under half of the agreements (10) had unions party to them. These were mostly specialist Medical Services agreements. Individual private general practice agreements and divisions of general practice agreements were least likely to have the union covered by the agreement. The unions covered by the agreements corresponded to the occupational coverage, with the Australian Nursing Federation covering the nursing staff agreements and the Health Services Union of Australia (HSUA) covering the clerical/professional staff agreements. In the two instances where the one agreement covered both nursing and support staff, union coverage was either with the one or both unions. The majority of Medical Services agreements covered single sites, with only four agreements covering multiple sites.

Table A5.15: Demographics of medical practice agreements

Title	Union party	State	Duration (years)	Employees	Agreement Generation	Female %	Part-time	Casual
Individual medical practice								
South Coast Medical Administration and Clerical Employees	None	Vic	2.9	16	1	100	4	8
South Coast Medical Nurses and Support Services Employees	ANF	Vic	2.9	7	1	100	0	6
Standish Street Surgery	None	Vic	3.7	16	1	100	4	16
The MCMC Service Trust at the Mermaid Central Medical Clinic Pty Ltd	None	Qld	4	9	1	100	0	7
Toronto General Practice Clerical Agreement	None	NSW	4	8	1	100	1	5
Yeppoon Family Practice/The Family Practice	None	Qld	4	21	1	100	1	20
Corporate general practice								
Prime Health Group Ltd Victoria	None	Vic	3.8	13	1	85	3	4
Specialist medical service								
The Central Coast Surgery Centre and NSWNA/ANF	ANF	NSW	1.8	123	1	-	-	-
Central Coast Surgery Centre and HSU Greenfields	HSUA	NSW	2	168	2	-	-	-
Ballarat Day Procedure Centre	HSUA, ANF	Vic	2.4	61	1	92	6	50
Dee Why Endoscopy Unit Nursing Employees	None	NSW	1	11	1	100	6	5
The Epping Surgery Centre Pty Ltd and the NSWNA/ANF	ANF	NSW	1.9	14	1	100	10	3
Wollongong Day Surgery and NSWNA/ANF	ANF	NSW	1.6	27	1	96	9	12
Eastern Heart Clinic and NSWNA/ANF	ANF	NSW	1.7	24	1	88	6	0
Sutherland Heart Clinic and NSWNA/ANF	ANF	NSW	1.7	21	2	86	7	5
Haematology & Oncology Clinics of Australasia Pty Ltd and QNU Nursing	ANF	Qld	2.1	92	1	96	24	47
Fresenius Medical Care and The Queensland Nurses Union	ANF	Qld	3	28	1	100	-	-
Division of general practice								
Genprac Ltd	None	NSW	4	21	1	71	10	9
Central Coast Division of General Practice	None	NSW	4	25	1	60	2	5
Hornsby Ku-ring-gai Ryde Division of General Practice Employee	None	NSW	3	18	1	89	0	10
Hunter Rural Division of General Practice	None	NSW	2	18	1	67	2	6
Northern Rivers General Practice Network	None	NSW	4	26	2	81	3	18

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data).

A5.5.2 Reference awards

Prior to the introduction of the *Health Professionals and Support Services Award 2010* (MA000027) and the *Nurses Award 2010* (MA000034), the Medical Services sector was governed by a vast array of awards. One of these two modern awards was referenced in most agreements, with five other awards referenced on occasion. These awards were:

- *Health and Allied Service – Private Sector – Victoria Award 1995*;
- *Nurses (Victorian Medical Centres and Clinics) Award 2000*;
- state parent award (respective states);
- *Clerks – Private Sector Award 2010*; and
- Divisions of General Practice Award (NSW).

The majority of agreements stated that all former instruments (pre-reform state and federal awards, or earlier agreements) governing the workplace no longer applied. There were five distinct ways in which the agreements made reference to and/or incorporated the abovementioned modern awards and legislation (such as the NES).¹⁵² The first method was where the agreement set out all of the terms and conditions between the parties (and by default under the Fair Work Act, operated to the exclusion of any and all other federal and state awards and agreements). Just under half of the agreements adopted this arrangement and this was predominantly the case with agreements covering divisions of general practice. An example clause is found in the *Ballarat Day Procedure Centre Enterprise Agreement 2010*:

This Agreement contains all the terms and conditions of employment for employees covered by the agreement and shall apply to all employees employed pursuant to the classifications listed in Schedule 1 employed by the Employer.

Under this arrangement, exceptions are also made. It is not uncommon for the agreement to still make reference to the award or NES in relation to certain matters. For example, clause 3 of the *Standish Street Surgery, Enterprise Agreement 2010-2014* states:

- a) This Agreement supersedes and excludes any prior or associated negotiation, understanding, communication or agreement by or between the Employer and Employees; and
- b) This Agreement shall prevail over any and all modern awards to the extent of the inconsistency between such instruments and this Agreement.
- c) This Agreement expressly excludes state or territory industrial laws, as defined in the *Fair Work Act 2009* (Cth), to the full extent permitted by law, unless specified otherwise in this Agreement

The second way agreements interact with legislation is where agreements incorporated parts of the modern award. Only the *Dee Why Endoscopy Unit Nursing Employees Enterprise Agreement 2009-2011* specifically incorporated provisions of awards, in this case referencing awards that operated prior to the Health Award and Nurses Award:

This is a stand-alone Enterprise Agreement which incorporates certain provisions of the Nurses Other Than in Hospitals NSW Award (NAPSA) [AN120385] and the Private Hospital Industry Nurses' State Award NSW.

¹⁵² It is important to note the commentary on this section is based on what the agreements purport to do vis-a-vis the awards. It is not necessarily the case that their specification of what is desired will in fact be legally enforceable. That is a different question. This section is concerned with how the parties have positioned themselves with respect to both modern awards and instruments pre-dating them.

It is not the intention of the parties for this Enterprise Agreement to be read in conjunction with this, or any other, Award.

We intend that this Enterprise Agreement shall contain all of the agreed terms and conditions of employment relevant to Nursing Staff employed at the Unit. We believe this will assist us to preserve and protect the existing employment conditions for our valued Nursing Staff.

In addition to the terms contained within this Enterprise Agreement, any National Employment Standard providing better terms and conditions to nursing employees shall prevail over the terms contained within this Enterprise Agreement.

The third type of relationship between the agreement and the award is where the agreement was silent on the relationship with the abovementioned modern awards, referring only to the NES (also referred to as 'the standard'). This was the second most common arrangement (with 10 agreements). Under the Fair Work Act an agreement that is silent on the award is interpreted as excluding the award. An example of this comes from *The Epping Surgery Centre Pty Ltd and the NSWNA/ANF Enterprise Agreement 2009 - 2011*

(i) It is the intention of this Agreement that the Standard, that is the Australia Fair Pay and Commission Standard or the National Employment Standard, whichever is applicable at the time, and as it may be varied from time to time, shall apply to the employees the subject of this Agreement. Any provisions of the Standard that are also referred to or set out in this Agreement are for the ease of the parties,

(ii) Where the Standard provides, or is varied to provide, a condition or entitlement more favourable to the employee in a particular respect than that set out in this Agreement, the better entitlement will apply.

(iii) The minimum guarantees provided by the Standard will override less favourable provisions in this Agreement.

The fourth relationship between legislation and agreements involves agreements being read in conjunction with an award, and agreement terms prevailing in the event of inconsistencies. Only one agreement fully incorporated the modern award into the agreement, making it legally binding. The *Fresenius Medical Care and The Queensland Nurses Union Collective Agreement 2010* includes the following clause:

This collective agreement incorporates the terms of

1. the Nurses Award 2010 (MA000034)
2. the National Employment Standards

as amended from time to time and where a term of this collective agreement are inconsistent with the modern award the term of this agreement will prevail to the extent of any inconsistency. Where a term of this agreement supplements the National Employment Standard the term will only have effect if the term is not detrimental to the employee in any respect, when compared to the National Employment Standards.

The final way in which the medical agreements reference the award is where the agreement makes reference to the modern award in relation to particular issues or employment conditions. Only *The MCMC Service Trust atf the Mermaid Central Medical Clinic Pty Ltd Enterprise Agreement (National System Employers)* included this type of arrangement. This is evidenced in the following excerpt:

References to the award are to the Health Professionals and Support Services Award 2010...

Where this Enterprise Agreement refers to a condition of employment provided for in the NES, the NES definition applies...

All employees covered by this enterprise agreement will be classified in accordance with the award. The Employer will advise its employees in writing of their classification upon commencement and of any subsequent changes to their classification.

A5.5.3 Coverage

More than half of the medical enterprise agreements contained information on nursing occupations only, with the remainder covering administrative and support staff. Coverage clauses were often specific about the occupations included, or excluded, as the following clauses exemplify:

This Enterprise Agreement covers all medical receptionist staff employed by The MCMC Service Trust atf (as trustee for) the Mermaid Central Medical Clinic Pty Ltd.

The *Northern Rivers General Practice Network Enterprise Agreement* covered:

...all employees of the Division and related entities with the exception of General Practitioners, Nurses, and persons undertaking voluntary work or industry experience.

Agreements generally covered single workplace sites (18), a number of specific workplaces (3), or regions (4). Variants of the following clause were found in 18 of the agreements:

This agreement will be binding on:

3.1 WDS Management Pty Ltd atf WDS Unit Trust (A.B.N 53 959117154) trading as Wollongong Day Surgery (the employer) of 354-358 Crown Street, Wollongong, NSW 2500.

A5.5.4 Wage increases and relationship to AWR

The majority of Medical Services agreements set their own wage increases. While many agreements were already paying well above the reference award, most included a safety net mechanism. This ensured any AWR resulting in rates greater than those in agreements would be applied in lieu of agreement increases. In two instances an undertaking was imposed ensuring that the rates of pay would at no stage fall below the reference award during the life of the agreements. The main concern, however, was to ensure 'absorption' of AWR increases if the increases in minimum wages resulted in award rates lower than those prevailing in the workplace. An example of using the minimum wage adjustment process as a safety net is found in *The Epping Surgery Centre Enterprise Agreement*:

The wage increases specified above are inclusive of any wage increase; determination or award made by Fair Work Australia or any other authorised tribunal or commission made during the period of this Agreement. Any increases in the Award rates of pay shall be absorbed into the wage rates paid under this Agreement. Should the application of any increases awarded by the Fair Work Australia result in rates applicable to the employees that are greater than those applying under this Agreement, those rates will be applied in lieu of the above increases from the date specified by the Fair Work Australia.

Of the 25 agreements, three set increases in accordance with the annual wages review and a further three set increases in accordance with the CPI. In a small number of agreements, staff performance and appraisals were used as the benchmarks amongst other economic factors to determine wage increases (see for example Prime Health Group). In one case (*Central Coast Division of General Practice Enterprise Agreement 2009*), discretionary bonus payments were also given.

A number of agreements based on a 'model contract' are currently in place in NSW and Victoria. The model contract—often referred to as an MOU—is a template employment agreement negotiated by nurses unions with the Australian Medical Association, and provides a standard form contract for reference by employees and employers. It is underpinned by the Nurses' Award and provides additional benefits such as wage and allowance increases (on current contract rates) of 3.8 per cent

per annum. The model contract provides paid leave for relevant training and professional indemnity. A model flexibility clause allows practices to negotiate flexibility in relation to overtime rates, allowances and leave loading specific to the needs of the practice. Clauses concerning family-friendly workplaces, and an annual review of hours for part-time employees are also included.

The bulk of the agreements contained their own wage-setting arrangements setting out specific wage quantum; usually on an annual basis. The most common quantum was 3 per cent per annum in agreements covering divisions of general practice. The most common wage quantum in agreements were in the order of 3.75 per cent per annum, 3.9 per cent per annum and even as high as 4.4 per cent per annum, displaying signs of conforming to the suggested wage increase of 3.8 per cent in the model template agreement. The model contract recommended wage and allowance increases (on current contract rates) of 3.8 per cent per annum. The wages in the agreement are in accordance with the Nurses (Private Hospitals) Award, with a 3.5 per cent increase in 2010.

A5.5.5 Non-wage issues in agreements

Conditions of employment amongst medical service agreements were largely guided by the Health Award and the Nurses Award. The only exception was in the divisions of general practice agreements which were influenced by the pre-reform award. Among the remaining agreements, uniformity with the modern awards was found in weekend penalty rates,¹⁵³ averaging of hours (over two or four weeks),¹⁵⁴ and overtime payments.¹⁵⁵ Overtime penalty rates only varied in relation to the number of hours when double time applies: the awards stipulate double time after two hours worked,¹⁵⁶ while some agreements extend this to three hours. Outside of the divisions of general practice agreements (which do not provide for paid overtime), the corporate general practice agreement was the only agreement type that did not pay overtime penalty rates.

A5.5.5.1 Casual loadings and hours of work

The largest variability between agreements was found in relation to casual loadings, the working week, daily span of hours and annual leave entitlements. The award provides a casual loading of 25 per cent for both nurses and support staff (with a minimum engagement of two hours for nurses and three hours for support staff).¹⁵⁷ Amongst the agreements, casual loadings ranged from 20–25 per cent, with transitional arrangements under way. One agreement stipulated a casual loading of 10 per cent.

The working week was most often Monday to Friday (in 18 agreements), with two agreements stipulating Monday to Saturday, and three agreements stipulating Monday to Sunday. Under the Nurses Award and the Health Award (with stated exceptions), the standard working week is Monday to Friday, whilst under the Health Award it is usually Monday to Friday with some exceptions that include Saturday mornings.¹⁵⁸ One agreement, the Standish Street Surgery Agreement, contained different work days for nurses (Monday to Friday) than the support staff (Monday to Saturday).

¹⁵³ *Health Professionals and Support Services Award 2010* (MA000027), cl.26; *Nurses Award 2010* (MA000034), cl.26.

¹⁵⁴ *Health Professionals and Support Services Award 2010* (MA000027), cl.23.1; *Nurses Award 2010* (MA000034), cl.21.1.

¹⁵⁵ *Health Professionals and Support Services Award 2010* (MA000027), cl.28.1; *Nurses Award 2010* (MA000034), cl.28.1.

¹⁵⁶ *Health Professionals and Support Services Award 2010* (MA000027), cl.28.1; *Nurses Award 2010* (MA000034), cl.28.1(a).

¹⁵⁷ *Health Professionals and Support Services Award 2010* (MA000027), cl.10.4(b); *Nurses Award 2010* (MA000034), cl.10.4(b).

¹⁵⁸ *Health Professionals and Support Services Award 2010* (MA000027), cl.24.1; *Nurses Award 2010* (MA000034), cl.22.1.

The daily span of hours among agreements also varied substantially. This is not surprising given the nature of the individual medical practice operations. The most common daily span was from 6am to 6pm, with the largest span from 6am to 8pm. Four agreements listed the starting time span and left the rest open ended. These were broadly consistent with the Nurses Award and the Health Award, which set a span of hours between 6am and 6pm Monday to Friday, with exception for shiftworkers and particular practice types.¹⁵⁹

A5.5.5.2 Annual leave

Annual leave provisions were of particular interest in medical practice agreements. The Nurses Award stipulates a minimum five weeks of annual leave.¹⁶⁰ Of the agreements analysed, only three provided five weeks annual leave, with the remaining providing four weeks (the NES standard). Only one of these agreements had a union party to it. Agreements with lower leave entitlements were most likely settled prior to the introduction of the Nurses Award in January 2010.

A5.5.5.3 Support for education and training

Registered nurses in general practice have a responsibility to seek out and engage in ongoing education and professional development to maintain the competencies that are specific to nursing in general practice settings.¹⁶¹ Clauses within the strategically selected agreements indicate training is well supported by most Medical Services employers. A little over half of the agreements included a provision for training, study or professional development leave. The majority offered paid time away from work to attend a course, one agreement (*Haematology & Oncology Clinics of Australasia Pty Ltd* and *QNU Nursing Enterprise Agreement*) allocated a fixed sum of \$1500 per annum for work-related training/accreditation.

Nearly all (six of the seven) divisions of general practice agreements provided support for training and skills development. This is consistent with the results of the 2011 Australian Practice Nurses Association (APNA) annual salary and conditions survey of practice nurses.¹⁶² It found that 28 per cent of primary health care nurses do not receive practice support for professional development, 14 per cent have all costs covered for all courses, and 8 per cent have some costs covered occasionally. Only 6 per cent of nurses have courses included as part of their contract, while 70 per cent of nurses have courses covered on a case-to-case basis. The ANF/AMA agreement contract for practice nurses stipulates the following:

16.1 Each permanent full time employee is entitled to three paid professional development days in recognition of Continuing Professional Development registration requirements. Permanent part time employees receive this entitlement on a pro rata basis.

16.2 Once approved by the employer as relevant/appropriate, all reasonable expenses including the course fee and registration is fully paid and considered paid time under this Agreement.

16.3 In addition, both full and part time employees will be entitled to one day paid leave to attend NSWNA Annual Conference Professional Day for professional matters relating to nursing. Proof of registration to the

¹⁵⁹ *Health Professionals and Support Services Award 2010* (MA000027), cl.24; *Nurses Award 2010* (MA000034), cl.22.

¹⁶⁰ *Nurses Award 2010* (MA000034), cl. 31.1. According to one key informant some agreements were negotiated prior to the introduction of the modern awards in January 2010 in order to avoid the more generous annual leave provisions afforded in the modern award.

¹⁶¹ ANF 2005, *Competency Standards for Nurses in General Practice: Scope of Nursing Practice*.

¹⁶² APNA 2011, *2011 Salary & Conditions Survey*, accessed from <http://www.apna.asn.au/scripts/cqjip.exe/WService=APNA/ccms.r?PageId=11061>.

conference will be provided to the employer upon request and expenses of attending the conference are not claimable from the employer.

The same standard contract (the ANF/AMA agreement) also provides a continuing education allowance to nurses who have attained a postgraduate qualification in their specialty.

A5.5.5.4 Family friendly and workload management

Other non-wage related conditions relevant in the Medical Services agreements are family-friendly workplaces and workload management. Only the *Riverina Division of General Practice and Primary Health Enterprise Agreement 2009* and the *Northern Rivers General Practice Network Enterprise Agreement 2010* (both from divisions of general practice) included clauses that promote a flexible pattern of work designed to provide greater flexibility for employees to accommodate carer or family requirements while also ensuring the delivery of quality services to clients.

The *Fresenius Medical Care and The Queensland Nurses Union Collective Agreement 2010* and the *Haematology & Oncology Clinics of Australasia Pty Ltd and QNU Nursing Enterprise Agreement* specified a need to implement strategies to maintain balanced and safe workloads. These agreements, from the specialist Medical Services, differ to the other agreements considered here because of the novelty of some of their provisions. Fresenius, for example, also contained a provision establishing a 'Staff Consultative Committee' geared towards educating and consulting staff about the agreement and modern work practices. The two standard items for discussion by the committee included workload management strategies, and recruitment and retention of nurses.

A5.5.6 Classification structures

In order to compare the wage rates in the Health Award and the Nurses Award with the enterprise agreements, each level within the classification structure of the agreements was aligned with those in the relevant modern award. The magnitude of the classification structures in these two modern awards introduced a level of complexity for this industry. Over 30 classifications exist within each of the abovementioned modern awards. The analysis identified four distinct ways in which the award classification structures were adopted (or referred to) in the enterprise agreements. These were:

- the complete adoption (mirroring) of the modern award classification structure;
- the adoption of most parts of the modern award classification structure (with differences evident in one to three levels);
- occasional alignment to the modern award classification structure with signs of tailoring; and
- the adoption of a tailored (or non-linear) classification structure that doesn't reflect the modern award.

Only a handful of agreements (four) completely adopted the modern award classification. A further seven adopted a similar structure to the relevant award, with differences apparent in some levels. These differences were mostly evident within certain classification levels. For example, distinguishing a 'medication endorsed enrolled nurse' from an 'assistant in nursing with or without sterilisation certificate'. In one agreement the additional classification was referred to as a 'senior nurse midwifery educator'.

Over half of the agreements (14) displayed signs of partial or complete tailoring of the classification structure. Many of these agreement classification structures were informed by former industrial instruments (and associated awards). All agreements that cover the divisions of general practice,

simply copied the structure of the former Divisions of General Practice Award (State). Similarly, agreements covering Victorian medical centres adopted a similar structure to the former award covered practice nurses and clerical workers in that state. Once such agreements were identified and separated, it revealed five agreements with a genuine process for tailoring. Most of these agreements related to the clerical/professional occupations. The alignment exercise was difficult for these agreements and therefore these agreements were excluded from the wage relativities analysis.

A5.5.7 Internal wage relativities

For medical practice agreements, the C7 level was used as the base index value to compare internal wage relativities, rather than the C10 level. The C10 equivalent occupation within the Nurses Award is the 'assistant in nursing' (experienced, Certificate III). Evidence from key informant interviews indicates that very few workers are employed as an 'assistant in nursing' (AIN) in the Medical Services sector. This was evidenced by the examination of the occupational coverage within the strategically selected Medical Services agreements. As few as five agreements included AINs and only four of these contained the AIN 'experienced' level. As an alternative, the C7 equivalent was used—in the modern award this is the Enrolled Nurse (1) (1st year).

Replicating earlier analysis, the agreements are categorised according to whether they provide a wage rate at the Enrolled Nurse (1) level that is:

- slightly above the award (\$1–\$50 /week); or
- well above the award (\$75+ /week).

It was possible to compare at least half of the 25 agreements with a high degree of confidence, because there was strong evidence of award replication of classification structures. Even amongst the nine agreements with some tailored classifications, some comparisons could be made. Excluded from the analysis were five agreements that only had tailored classifications, as these could not be accurately aligned to classifications in the two modern awards or other agreements. In the following analysis, distinctions are drawn between perfectly aligned classification structures, similar classification structures and tailored classifications structures.

Table A5.16 displays internal wage relativities for support services employees in the medical practice agreements. Relativities remain consistent with award relativities for most employee levels below the base line of level 4. The *Toronto General Practice Enterprise Agreement* had a slightly expanded relativity for its support services level 3 employees, with a relativity of 96.2 per cent compared to the award relativity of 98.8 per cent. Above the base line wage rate, all agreements displayed compression to some extent. For example the wage relativity in the *Yeppoon Family Practice Enterprise Agreement* for employee level eight (step one) was 105.7 per cent compared to the award relativity of 115.3 per cent. Other agreements with this level wage rate also had smaller relativities than the award, hovering between 109.2 and 111.5 per cent. The only agreement with the highest employee level (level nine) was the *Standish Street Surgery Enterprise Agreement*. The award relativity for this level is nearly 30 per cent more than the base line level; in comparison Standish Street provides a relativity of 116.6 per cent.

Table A5.16: 'Slightly above the award' classification structure, internal wage relativities, clerical workers (per cent)

	Slightly above award				Well above award		
	Award	The MCMC Service Trust*	Yeppoon Family Practice*	Central Coast Surgery Centre and HSU***	South Coast Medical Administration and Clerical Employees*	Toronto General Practice Clerical*	Standish Street Surgery*
<i>Agreement rate for Level 1</i>	\$686.20	\$663.86	\$665.00	\$669.18	\$693.89	\$728.08	\$777.10
Support Services Employee Level 1	91.0	91.3	-	-	-	-	90.7
Support Services Employee Level 2	94.9	95.1	-	89.0	95.7	-	94.6
Support Services Employee Level 3	98.8	98.9	-	97.8	98.3	96.2	98.8
Support Services Employee Level 4	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Support Services Employee Level 5	103.5	103.4	-	102.2	101.4	-	103.2
Support Services Employee Level 6	109.3	108.9	102.9	-	103.2	104.4	108.6
Support Services Employee Level 7	111.4	110.9	-	105.9	111.1	-	110.8
Support Services Employee Level 8(1)	115.3	-	105.7	109.2	-	110.2	111.5
Support Services Employee Level 8(2)	118.4	-	-	-	-	-	-
Support Services Employee Level 8(3)	127.0	-	-	-	-	-	-
Support Services Employee Level 9(1)	129.4	-	-	-	-	-	116.6

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished data); *Health Professionals and Support Services Award 2010 (MA000027)* as at 30 June 2010.

Note: Numbers in brackets are pay point levels.

Note on how the data were generated

- For this sector, 25 of a potential 52 in scope agreements included on the WAD were examined. These are agreements recorded on the WAD as being approved between January 2010 and June 2011. Of these six had information for support services employees and were included in the relativities analysis.
- All agreements were read closely and the key information in them coded using the coding frame summarised in Appendix 4 to this report. The findings of this scrutiny are reported in the body of the report above.
- This scrutiny of agreements provided the context for understanding the classification structures contained in the agreement. Classification structures were classified as falling into one of four categories, the first three of which are indicated by one, two or three asterisks:
 - * = exact match of all classification levels (identical);
 - ** = exact match of some classification levels;
 - *** = partial match between the agreement and award classification levels. This involved some tailoring of classifications in the agreement with occasional alignment or broadbanding of classifications; and
 - – non comparable classification arrangements, i.e. the arrangements are so different on the basis of tailoring or overhauling enterprise agreement classifications that it makes any meaningful comparison of wage relativities impossible.
- Agreements falling into the first three categories which reported actual rates of pay were then scrutinised for analysis of their internal relativities. This resulted in six agreements, those included in the table, being available for the relativities analysis.
- The rate closest to the C10 classification in the Manufacturing and Associated Industries Occupations Award is a Support Services Employee Level 4. Only six agreements had this classification.
- All rates within the agreement were then expressed as a percentage of the benchmark classification.
- The actual rates of pay for the Support Services Employee Level 1 in each of the agreements is provided in the top row of the table.

Example of how to read the table.

- Row 1 shows the rates for a Support Services Employees Level 1. Among agreements for which analysis was possible the lowest rate for a level 1 was \$663.86 and the highest rate was \$777.10. There was a similar classification structure for all agreements (i.e. *), with one agreement based on a classification structure where there was partial matching of classification levels (i.e. ***).
- The remaining rows in each column show the internal relativities for each agreement. For example, column 2 shows the relativities for *The MCMC Service Trust Enterprise Agreement*. It has seven classifications that align with the modern award classification levels 1 to 7. Alignment between the enterprise agreement and award relativities varies between the agreements. For example, the rate for the second lowest classification in the *MCMC Enterprise Agreement* is 95.1, which compares to 94.9 relative to that comparator contained in the modern award.

Internal wage relativities among the nursing agreements (Table A5.17 below) displayed uniformity, though they did not reflect award relativities. Only one agreement included wage rates below the base line—these three wage levels were directly representative of the relativities in the Nurses Award. The relativities in the two agreements paying slightly above award wage rates were similar to the award up until the top tier in the level two registered nurse classification. Only one of the ‘slightly above award’ agreements included wage rates above this classification level, and these relativities deviated significantly from the award. For example, the registered nurse level four (step one) received 190.7 per cent of the base level, compared with 165.3 per cent in the award.

Internal relativities were expanded among the ‘well above award’ nursing agreements. For example, all but one of these agreements included the classification level registered nurse level one (step eight). The award provides a wage rate at 129.7 per cent of the base wage rate. Among the agreements the wage rate was between 143.4 per cent and 168.5 per cent. As the classification levels increased, so did the wage relativities. Of the five agreements with the highest classification level (registered nurse level five, step two) only one provided a relativity of less than 200 per cent (189.6 per cent, to be precise) while the rest provided rates between 228.3 and 231.6 per cent of the base rate. In comparison, the Nurses Award relativity for this level is 176.5 per cent.

Table A5.17: 'Slightly above the award' classification structure, internal wage relativities, nursing workers (per cent)

	Slightly above award				Well above award									
	Award	Standish Street Surgery *	Prime Health Group ***	South Coast Medical Nurses and Support Services*	Ballarat Day Procedure Centre*	Eastern Heart Clinic *	Sutherland Heart Clinic *	Epping Surgery Centre *	Central Coast Surgery Centre*	Haematology & Oncology Clinics*	Wollongong Day Surgery*	Fresenius Medical Care*	Dee Why Endoscopy Unit **	Yeppoon Family Practice **
Agreement rates for EN/RN	\$650/\$697	\$692/\$743	\$703/\$760	\$771/\$763	\$791/\$905	\$804/\$820	\$804/\$924	\$836/\$853	\$836/\$853	\$857/\$1001	\$868/\$985	\$896/\$968	\$889/\$992	\$931/\$988
Nursing Assistant 1st year	92	-	-	-	-	-	-	-	-	91.2	-	-	-	-
Nursing Assistant 2nd year	93	-	-	-	-	-	-	-	-	93.5	-	-	-	-
Nursing Assistant 3rd year	95	-	-	-	-	-	-	-	-	94.9	-	-	-	-
Enrolled Nurse (1)	100	100	100	100	100	100	100	100	100	100	100	100	100	100
Enrolled Nurse (2)	101	101.4	-	101.8	102.1	102.2	102.2	102.2	102.2	101.6	102.2	101.6	-	-
Enrolled Nurse (3)	103	102.8	102.7	103.3	104.1	104	104.4	104.4	104.4	103.2	104.4	103.3	-	-
Enrolled Nurse (4)	104	104.4	-	105.1	106.2	106.6	106.6	106.6	106.6	104.8	105.4	104.9	-	-
Enrolled Nurse (5)	105	105.5	105.4	106.1	108.3	108.8	117.1	108.8	108.8	106.6	108.9	106.6	-	103.7
Registered Nurse-Lvl 1 (1)	107	107.4	108.1	98.9	114.5	114.9	114.9	113.4	113.4	-	113.4	111.6	-	106.1
Registered Nurse-Lvl 1 (2)	110	109.6	-	116.7	118.9	121.2	121.1	119.6	119.6	116.8	119.6	116.8	-	-
Registered Nurse-Lvl 1 (3)	112	108.5	-	121.8	123.4	127.4	127.4	125.7	125.7	122.3	125.7	122.4	111.51	-
Registered Nurse-Lvl 1 (4)	115	112.4	116.2	126.9	127.8	147.3	147.3	132.3	132.3	127.8	132.4	127.9	119.2	-

Minimum wages and their role in the process and incentive to bargain

	Slightly above award				Well above award									
	Award	Standish Street Surgery *	Prime Health Group ***	South Coast Medical Nurses and Support Services*	Ballarat Day Procedure Centre*	Eastern Heart Clinic *	Sutherland Heart Clinic *	Epping Surgery Centre *	Central Coast Surgery Centre*	Haematology & Oncology Clinics*	Wollongong Day Surgery*	Fresenius Medical Care*	Dee Why Endoscopy Unit **	Yeppoon Family Practice **
Agreement rates for EN/RN	\$650/ \$697	\$692/ \$743	\$703/ \$760	\$771/ \$763	\$791/\$905	\$804/ \$820	\$804/\$924	\$836/ \$853	\$836/ \$853	\$857/\$1001	\$868/\$985	\$896/ \$968	\$889/\$992	\$931/ \$988
Registered Nurse-Lvl 1 (5)	119	118.7	-	135.5	132.2	154.9	154.9	138.9	138.9	133.4	138.9	133.5	125.11	-
Registered Nurse-Lvl 1 (6)	123	122.4	-	136.6	136.7	161.3	161.4	145.5	145.5	138.9	145.5	139	131.03	-
Registered Nurse-Lvl 1 (7)	126	124.7	127	147.2	141.2	161.3	161.4	152.9	152.9	144.5	152.9	144.6	137.76	-
Registered Nurse-Lvl 1 (8)	130	129.1	-	149.9	144.6	168.5	168.5	159.2	159.2	150	159.2	150.1	143.44	-
Registered Nurse-Lvl 2 (1)	133	131.6	-	147.8	-	175.1	175.2	165.7	165.7	152.6	165.7	152.7	-	112.2
Registered Nurse-Lvl 2 (2)	135	134.6	-	150	-	-	-	-	-	156.2	-	156.3	-	-
Registered Nurse-Lvl 2 (3)	138	135.7	-	152.7	-	-	-	-	-	159.8	-	159.9	-	-
Registered Nurse-Lvl 2 (4)	140	138.5	-	155.3	-	-	-	-	-	163.5	-	163.6	-	-
Registered Nurse-Lvl 3 (1)	145	152.2	-	156.3	157.7	186.7 - 183.8	186.7 - 203.7	203.8	203.8	176.5	165.7 - 199.7	172.4	193.52	-
Registered Nurse-Lvl 3 (2)	148	-	-	159.2	159.4	189	189.0 - 209.2	-	-	187.6	183.8 - 209.2	176.6	-	-
Registered Nurse-Lvl 3 (3)	150	-	-	161.9	-	193.7	193.7 - 214.9	-	-	-	214.9	180.7	-	-
Registered Nurse-Lvl 3 (4)	153	-	-	164.8	-	203.7	203.8	-	-	-	-	184.7	-	-
Registered Nurse-Lvl 4 (1)	166	190.7	-	178.5	172.9	199.7	209.2	-	-	196.1	-	187.7	-	-
Registered	178	-	-	191.2	176.3	209.2	-	-	-	201	-	196.2	-	-

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	Slightly above award				Well above award									
	Award	Standish Street Surgery *	Prime Health Group ***	South Coast Medical Nurses and Support Services*	Ballarat Day Procedure Centre*	Eastern Heart Clinic *	Sutherland Heart Clinic *	Epping Surgery Centre *	Central Coast Surgery Centre*	Haematology & Oncology Clinics*	Wollongong Day Surgery*	Fresenius Medical Care*	Dee Why Endoscopy Unit **	Yeppoon Family Practice **
Agreement rates for EN/RN	\$650/\$697	\$692/\$743	\$703/\$760	\$771/\$763	\$791/\$905	\$804/\$820	\$804/\$924	\$836/\$853	\$836/\$853	\$857/\$1001	\$868/\$985	\$896/\$968	\$889/\$992	\$931/\$988
Nurse-Lvl 4 (2)														
Registered Nurse-Lvl 4 (3)	189	-	-	202.4	-	214.8	-	-	-		-	201.2	-	-
Registered Nurse-Lvl 5 (1)	167	240.1	-	180	187.8	-	215.6	215.6	215.6		207.5	220.8	-	-
Registered Nurse-Lvl 5 (2)	177			189.6	-	-	228.3	228.3	228.3		-	231.6	-	-

Source: WRC analysis, using Workplace Agreements Database (Department of Employment 2011, unpublished); *Nurses Award 2010* (MA000034) as at June 2010.

Note: Numbers in brackets are pay point levels.

Note on how the data were generated

- For this sector, 25 of a potential 52 in-scope agreements included on the WAD were examined. These are agreements recorded on the WAD as being approved between January 2010 and June 2011.
- All agreements were read closely and the key information in them coded using the coding frame summarised in Appendix 4 to this report. The findings of this scrutiny are reported in the body of the report above.
- This scrutiny of agreements provided the context for understanding the classification structures contained in the agreement. Classification structures were classified as falling into one of four categories, the first three of which are indicated by one, two or three asterisks:
 - * = exact match of all classification levels (identical);
 - ** = exact match of some classification levels;
 - *** = partial match between the agreement and award classification levels. This involved some tailoring of classifications in the agreement with occasional alignment or broadbanding of classifications; and

- – non comparable classification arrangements, i.e. the arrangements are so different on the basis of tailoring or overhauling enterprise agreement classifications that it makes any meaningful comparison of wage relativities impossible.
- Agreements falling into the first three categories which reported actual rates of pay were then scrutinised for analysis of their internal relativities. This resulted in 13 agreements, those included in the table, being available for the relativities analysis.
- The rate closest to the C10 classification in the Manufacturing and Associated Industries Occupations Award is Assistant in Nursing (Experienced). Only four agreements had this classification so another reference point was used for study of the nursing agreements. This was the Enrolled Nurse (EN) (1) – the equivalent of the C7 classification in the Manufacturing Award. This was used as the comparator or reference point for reporting on wage relativities within the agreements covering nurses.
- All rates within the agreement were then expressed as a percentage of the benchmark classification.
- The actual rates of pay for the EN (1) and Registered Nurse (RN) (1) in each of the agreements are provided in the top row of the table.

Example of how to read the table

- Row 1 shows the rates for the EN 1 and RN 1 are, respectively, \$650 and \$697. Among agreements for which analysis was possible the lowest rate for an EN 1 was \$691.60 and for an RN 1 \$742.20, and the highest rates respectively were: \$804 and \$924. The lowest paying enterprise agreement had classification arrangements that mirrored award classification levels (i.e. *). The highest paying enterprise agreement was based on a classification structure that also mirrored the classification levels (i.e. *).
- The remaining rows in each column show the internal relativities for each agreement. For example, column 7 shows the relativities for the *South Coast Medical Nurses and Support Services Enterprise Agreement*. It has 26 classifications that align with the modern award classification levels EN (1) to RN (5)(2). Alignment between the enterprise agreement and award relativities varies between ENs and RNs. Those for ENs are similar in both instruments, with the relativities being a little more dispersed in the agreement compared to the award. For RNs, the enterprise agreement relativities are more widely dispersed and get increasingly so up the occupational hierarchy. For example, the rates for the second lowest classification in the enterprise agreement for EN(2) 102.1 compares to 101.4 relative to that comparator contained in the modern award.

Appendix 6: Aggregate Agreement Analysis

The aggregate agreement analysis was underpinned by comparison of award wages and classifications and rates in strategically selected agreements.

The tables below present underlying data and additional information informing the aggregate agreements analysis. Table A6.1 maps wage relativities in each award of interest against the Manufacturing Award C10 rate, and compares these with three labour market benchmarks: the OECD's definition of low pay (two-thirds median earnings), a measure for three-quarters median earnings, and the median earnings figure. Agreement rates and relativities were also mapped for strategically selected agreements. Table A6.2 lists the entry level rates for the exemplary occupations selected in each industry.

As for the quantitative agreements analysis (Appendix 5), the relativities were calculated by aligning an award classification with the manufacturing C10 rate, and calculating the relative proportion of the other classifications within that award against this benchmark comparator.

Table A6.1: Award wage relativities compared with labour market benchmarks

Labour market benchmarks	Rate	Manufacturing and Associated Industries and Occupations Award (comparator)		Fast Food Industry Award (Fast Food)		General Retail Industry Award (Supermarket & Grocery Stores)		Pastoral Industry Award (Dairy & Beef Cattle Farming)		Waste Management Award (Domestic Waste Management)		Health Professionals and Support Services Award (Medical practice: support staff)		Nurses Award (Medical practices: nurses)	
		Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel
		14	85.3												
		13	87.9												
		12	91.4					1	90.1	1	90.7	1	91.0	NA(1)	91.7
								2	92.8	2	93.1			NA(2)	93.3
		11	94.7	1	94.1	1	94.1	3	94.2	3	94.3	2	94.9	NA(3)	94.9
						2	96.5	4	96.5	4	96.1				
						3	98.0	5	98.3	5	97.3	3	98.8		
		10	100.0	2	100.0	4	100.0	6	100.0	6	100.0	4	100.0	EN(1)	100.0
				3(0-1)	101.6									EN(2)	101.4
				3(2+)	102.9									EN(3)	102.8
		9	103.3									5	103.5		
						5	104.3							EN(4)	104.3
						6	105.9	7	105.6					EN(5)	105.4
		8	106.6												
										7	107.5			RN1(1)	107.2
		7	109.5									6	109.3	RN1(2)	109.5
						7	111.4					7	111.4		
														RN1(3)	112.3
								8	113.8	8	113.1				
										9	114.2				
		6	115.3									8(1)	115.3	RN1(4)	115.4
						8	116.1								
		5	117.7												
												8(2)	118.4		
														RN1(5)	119.1
OECD low pay	\$708	4	120.9												

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Labour market benchmarks	Rate	Manufacturing and Associated Industries and Occupations Award (comparator)		Fast Food Industry Award (Fast Food)		General Retail Industry Award (Supermarket & Grocery Stores)		Pastoral Industry Award (Dairy & Beef Cattle Farming)		Waste Management Award (Domestic Waste Management)		Health Professionals and Support Services Award (Medical practice: support staff)		Nurses Award (Medical practices: nurses)	
		Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel
														RN1(6)	122.6
														RN1(7)	126.3
		3	127.5									8(3)	127.0		
														9(1)	129.4
		2(a)	130.8												
														RN2(1)	133.2
														RN2(2)	135.4
0.75 Median	\$858	2(b)	136.7											RN2(3)	137.8
														RN2(4)	140.1
														RN3(1)	144.8
														RN3(2)	147.5
														RN3(3)	150.2
														RN3(4)	152.9

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Labour market benchmarks		Manufacturing and Associated Industries and Occupations Award (comparator)		Fast Food Industry Award (Fast Food)		General Retail Industry Award (Supermarket & Grocery Stores)		Pastoral Industry Award (Dairy & Beef Cattle Farming)		Waste Management Award (Domestic Waste Management)		Health Professionals and Support Services Award (Medical practice: support staff)		Nurses Award (Medical practices: nurses)	
Category	Rate	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel	Cat	Rel
Median earnings	\$1144														

Source (awards): *Manufacturing and Associated Industries and Occupations Award 2010* (MA000010) as at 30 June 2010; *Fast Food Industry Award 2010* (MA000003) as at 30 June 2010; *General Retail Industry Award 2010* (MA000004) as at 30 June 2010; *Pastoral Award 2010* (MA000035), as at 30 June 2010; *Waste Management Award 2010* (MA000043) as at 30 June 2010; *Health Professionals and Support Services Award 2010* (MA000027) as at 30 June 2010; *Nurses Award 2010* (MA000034) as at 30 June 2010.

Source (benchmarks): WRC analysis using ABS, *Employee Earnings and Hours, Australia, May 2010* - Weekly total cash earnings, Distribution, Catalogue No. 6306.0, Table 1 and OECD (1996) *Employment Outlook, Chapter 3: Earnings Inequality, Low-paid Employment and Earnings Mobility*, Accessed 3 April 2013, from <http://www.oecd.org/els/oecdemploymentoutlook-downloadableeditions1989-2011.htm>.

Table A6.2: Enterprise agreement key entry level rates and relativities

Fast Food			Supermarket & Grocery Retail			Dairy & Beef Cattle Farming				Domestic Waste Management				Medical practices (support staff)				Medical practices (Enrolled Nurses)			Medical practices (Registered Nurses)		
L1 Rate	Rel L1	Rel L3 (or 2)	L1 Rate	Rel L1	Rel L6 (or L5)	L3 Rate	Rel L1	Rel L3	Rel L8 (or L6)	L3 Rate	Rel L1 (or L2)	Rel L3	Rel L8 (or L6)	L3 Rate	L2 Rel	L3 Rel	Rel L7	EN1 rate	Rel L2	Rel L5	RN1 Rate	Rel L1(1)	Rel L1(5)
560	94.70	109.40	600	94.10	105.90	563	88.80	92.00	100.00	601	90.70	94.30	113.10	630	94.89	98.81	111.36	650	101.40	105.40	697	107.20	119.10
561	94.70	113.00	603	98.38	104.90	569	90.60	94.19	113.78	717	na	95.00	111.30	656	95.08	98.86	110.88	692	101.40	105.50	743	107.40	118.70
596	95.90	103.30	603	98.38	104.90	575	88.80	92.00	100.00	720	69.90	71.60	100.00	657	89.01	97.8	105.90	703	-	<i>105.40</i>	<i>760</i>	<i>108.10</i>	-
600	94.10	102.90	603	98.38	104.90	613	90.46	94.38	113.17	744	87.70	92.70	100.00	682	95.66	98.28	111.09	771	101.80	106.10	763	98.90	135.50
600	95.20	-	603	98.38	104.90	668	83.11	88.87	100.00	769	91.80	95.00	111.40	700	-	96.19	104.38	791	102.10	108.30	<i>820</i>	<i>114.90</i>	<i>154.90</i>
602	98.20	-	603	98.38	104.90	684	90.46	94.39	113.16	770	90.10	93.9	111.40	768	94.62	98.78	110.76	<i>804</i>	<i>102.20</i>	<i>108.80</i>	853	113.40	138.90
603	94.50	102.70	603	98.38	104.90					774	93.30	96.2	103.10					<i>804</i>	<i>102.20</i>	<i>117.10</i>	<i>853</i>	<i>113.40</i>	<i>138.90</i>
609	96.70	-	603	98.38	104.90					784	80.90	87.3	113.20					<i>836</i>	<i>102.20</i>	<i>108.80</i>	905	114.50	132.20
625	-	-	603	98.38	104.90					794	87.70	92.6	115.60					<i>836</i>	<i>102.20</i>	<i>108.80</i>	<i>924</i>	<i>114.90</i>	<i>154.90</i>
628	96.20	100.60	603	98.38	104.09					867	84.90	88.33	107.00					<i>857</i>	<i>101.60</i>	<i>106.60</i>	968	111.60	133.50
631	95.20	114.30	603	98.38	104.09					887	90.90	92.4	107.00					<i>868</i>	<i>102.20</i>	<i>108.90</i>	985	113.40	138.90
633	95.20	-	604	-	-													<i>889</i>	-	-	988	106.10	-
634	95.20	na	606	98.40	104.70													<i>896</i>	101.60	106.60	992	-	<i>125.11</i>
635	96.50	103.50	608	98.16	104.29													<i>931</i>	-	103.70	<i>1001</i>	-	<i>133.40</i>
636	98.40	104.10	610	98.41	104.40																		
649	93.60	105.00	611	98.41	104.04																		
681	95.10	103.30	627	98.45	103.91																		
681	95.00	103.30	628	98.45	103.93																		
686	95.70	103.80	631	98.46	103.91																		
709	88.90	-	651	92.20	-																		
711	96.60	104.70	660	95.20	109.50																		
770	89.60	-	672	95.20	104.80																		
806	96.60	103.40	690	96.56	107.20																		
			695	96.60	-																		
			699	92.30	-																		
			701	92.10	105.30																		
			703	92.00	107.40																		
			713	92.00	-																		
			713	94.20	105.40																		
			724	90.90	101.60																		

Source: WRC analysis using the Workplace Agreements Database (Department of Employment 2011, unpublished data); *Fast Food Industry Award 2010* (MA000003) as at 30 June 2010; *General Retail Industry Award 2010* (MA000004) as at 30 June 2010; *Pastoral Award 2010* (MA000035), as at 30 June 2010; *Waste Management Award 2010* (MA000043) as at 30 June 2010; *Health Professionals and Support Services Award 2010* (MA000027) as at 30 June 2010; *Nurses Award 2010* (MA000034) as at 30 June 2010.

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Note: 1) All rates are in nominal Australian dollars, paid weekly and were implemented between 1 July 2010 and 30 June 2011 (the period of analysis), except *italicised* agreements for which wage rates were implemented between 1 January and 30 June 2010 and the underlined agreement (implemented from 7 September 2011). 2) Values in **bold** are award rates, values in **red** are from agreements excluded from the qualitative agreements analysis as there was no C10 benchmark, and values in **blue** are the classification level used when an agreement did not contain the specified boundary. For example, a blue upper bound in grocery retail is a level 5 instead of level 6.