Fair Work Australia

Fair Work Act 2009

Annual Wage Review 2011-12

Submission by the

Australian Catholic Council for Employment Relations

March 2012

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Executive Summary

This submission by the Australian Catholic Council for Employment Relations (ACCER) focuses on the needs of the low paid and relative living standards. It is primarily made for the purpose of improving the living standards of low paid workers and their families.

ACCER's advocacy is informed by the Church's experience as a major employer in Australia with over 150,000 employees in health, aged care, education, welfare and administration; but it essentially arises from the belief, based on Catholic social teaching, that workers have the right to wages that will support themselves and their families at a decent standard of living.

Our main objective in this and past annual wage reviews has been the increased support of families through the wage packet because we know that employment in work which pays a decent wage will promote:

- the proper care of children;
- the stability of families;
- social inclusion; and
- social cohesion.

Better wages and other conditions of employment are necessary if we are to deal with the unacceptable degree of family and social dysfunction that we now have in Australia. This goal is complementary to, and not inconsistent with, prudential economic management and the strengthening of employment opportunities. The impact that wage policies have on families, and on children in particular, is one that cannot be ignored or glossed over.

The stated object of the *Fair Work Act 2007* is "...to provide a balanced framework for cooperative workplace relations that promotes national economic prosperity and social inclusion for all Australians..." This requires the consideration of a wide range of factors in the making of decisions about setting and adjusting the minimum terms and conditions of employment, including safety net wage rates.

A precondition for social inclusion is a decent wage that takes into account the needs of workers with family responsibilities. Family payments by the Commonwealth do not, and are not intended to, provide for all of the needs of workers' dependants. The National

Minimum Wage (NMW) and other low wage rates have become poverty wages for low income working families; and the cause of social exclusion.

A major part of this submission is concerned with a detailed analysis of the way in which the setting of safety net wages since 2000 has failed low paid workers and their families. Safety net-dependent workers, who comprise about one-sixth of the Australian workforce, rely on arbitrated minimum wage rates because they do not have the ability to bargain for higher rates of pay. Low paid workers who are dependent on safety net wages have seen a substantial decline in their wages relative to wages in the rest of the community. Furthermore, many safety net-dependent workers have had increases of substantially less than the rate of inflation.

We have welcomed the Commonwealth's *Fair Work* reforms to the framework of national wage-setting because they provide an enhanced *opportunity* to address the inadequacies in the wages safety net. As we said in our submissions in 2010 and 2011, our judgment on the effectiveness of these *Fair Work* reforms will depend in large part on the capacity of the new wages system to establish a process to address questions such as, "how much income does the worker and his or her family need to live a decent life?" It is a question that defies a precise answer, but it is a question that must be answered as best it can if Fair Work Australia is to discharge its overriding statutory duty to provide a fair safety net. Accordingly, another part of this submission is concerned with quantifying the needs of low paid workers and their families.

ACCER seeks the following orders in the *Annual Wage Review 2011-12*:

> *Award wages*
>
> ACCER seeks increases in award safety net wage rates on two grounds:
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> First, a percentage increase to compensate for the published increases in the Consumer Price Index (CPI) since the handing down of the *Annual Wage Review 2010-11* in June 2011. Since that time the three published CPI increases have totalled 1.5%, with another adjustment, for the March Quarter 2012, to be published prior to the conclusion of this year's wage review. If the trend were to continue, the four quarters increase would be around 2%.
>
> Second, a further increase of 1% on account of productivity increases. It is sought as an interim amount because estimated annual productivity increases in

recent years have been more than 1% and because there has been no compensation for productivity increases over the past seven years. ACCER proposes that further adjustments of wage rates on account of these productivity increases be considered in subsequent annual wage reviews. Having regard to the productivity increases of the past seven years, this interim percentage is very modest. This period of seven years covers the times during which both *Work Choices* and *Fair Work* legislative schemes have been in operation.

ACCER seeks *percentage* wage increases for all award classifications that provide wage rates equal to or more than the base tradesperson's (C10) wage rate. For all classifications below that rate, ACCER seeks a *money* increase equal to the money amount by which the base tradesperson's wage will increase as a result of the claimed percentage adjustment. An increase of 3% would amount to $20.60 per week. This will give the lowest paid workers an increase slightly in excess of the increase in prices and the interim productivity adjustment.

National Minimum Wage

The current NMW of $589.30 per week is manifestly inadequate. ACCER seeks a further increase in the NMW. In 2012 we ask that the NMW be adjusted in a similar way to award wages and that it be adjusted by a further amount of $10.00 per week. Our submissions show that the cost of this $10.00 per week first step towards a decent NMW would be insignificant.

Our submissions also present the case for the base cleaner's classification rate of pay, currently $629.50 per week, and $40.20 per week above the NMW, to be adopted as the target rate for the NMW pending the completion of a research program designed to identify the needs of workers and their families. We propose that the target rate be achieved over time.

List of Abbreviations

ABS	Australian Bureau of Statistics
ACCER	Australian Catholic Council for Employment Relations
ACCI	Australian Chamber of Commerce and Industry
ACOSS	Australian Council of Social Services
ACTU	Australian Council of Trade Unions
AFPC	Australian Fair Pay Commission
AIRC	Australian Industrial Relations Commission
APS	Australian Public Service
AWOTE	Average Weekly Ordinary Time Earnings
CCER	Catholic Commission for Employment Relations
CPI	Consumer Price Index
CSSA	Catholic Social Services Australia
FMW	Federal Minimum Wage
FTB A	Family Tax Benefit Part A
FTB B	Family Tax Benefit Part B
FWA	Fair Work Australia
GST	Goods and Services Tax
HPL	Henderson Poverty Line
MTAWE	Male Total Average Weekly Earnings
NMW	National Minimum Wage
OECD	Organisation for Economic Co-operation and Development
SPRC	Social Policy Research Centre
WPI	Wage Price Index

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Chapter 1 *Fair Work*: an opportunity for reform

A. Introduction

1. This submission to the *Annual Wage Review 2011-12* of Fair Work Australia (FWA) is made by the Australian Catholic Council for Employment Relations (ACCER). ACCER is an agency of the Australian Catholic Bishops Conference which provides the Bishops with advice on employment relations issues and acts as a public advocate for good employment relations. One of its principal activities has been the advocacy of adequate safety net wages for low paid workers. About one in six Australian workers receives no more than the prescribed safety net wage. They are unable to bargain for a higher rate, either individually or collectively, and most usually are not union members.
2. The submission was prepared in cooperation with the Catholic Commission for Employment Relations (CCER) and Catholic Social Services Australia (CSSA) and Catholic Social Services Victoria.
3. CCER is an employer body representing Catholic employers in New South Wales and the Australian Capital Territory. In recent years CCER played an active role in State Wage Cases in the New South Wales Industrial Relations Commission in support of low paid workers. In 2007 it alone successfully argued for a further wage increase of $7.00 per week for workers on the lowest award rate of pay; see *NSW State Wage Case 2007* [2007] NSWIRComm 118.
4. CSSA is the Catholic Church's peak national body for social services and is an agency of the Australian Catholic Bishops Conference. CSSA represents 69 member organizations which employ about 11,000 people, engage over 3,000 volunteers and provide 500 different services to over a million people each year from sites in metropolitan, regional and rural Australia. Clients are drawn from a wide spectrum of Australian society, including low income and unemployed workers and their families. Last financial year the members of CSSA reported expenditure of almost $600,000,000.
5. Through its many agencies the Catholic Church employs over 150,000 employees throughout Australia. ACCER's advocacy is informed by the Church's experience as a

major employer and as a major supplier of services in health, aged care, education and welfare throughout Australia. However, the advocacy is based on concern for the well being of workers, especially low paid workers and low income working families, as well as Catholic social teaching on work and the employment relationship. Catholic social teaching places great emphasis on the right of workers to wages that will support themselves and their families at a decent standard of living. (For a review of this teaching see *Workplace Relations: A Catholic Perspective,* published by ACCER in 2007. It is also available at www.accer.asn.au). We refer to aspects of that teaching later in this chapter.

B. From *Work Choices* to *Fair Work*

6. The protection of vulnerable workers and their families was the subject of a Statement made by the Australian Catholic Bishops Conference on 25 November 2005 in relation to the then Commonwealth Government's *Workplace Relations Amendment (Work Choices) Bill 2005* (*Work Choices*). In commenting on the proposed amendments and calling for changes to them (which were unheeded), the Bishops said:

- "Our experience emphasises the importance that employment, fair remuneration and job security play in providing a decent life for workers and their families. They are particularly important for those who have limited job prospects and who are vulnerable to economic change. It is not morally acceptable to reduce the scourge of unemployment by allowing wages and conditions of employment to fall below the level that is needed by workers to sustain a decent standard of living."

- "Workers are entitled to a wage that allows them to live a fulfilling life and to meet their family obligations. We are concerned that the legislation does not give sufficient emphasis to the objective of fairness in the setting of wages; the provision of a fair safety net by reference to the living standards generally prevailing in Australia; the needs of employees and their families; and the proper assessment of the impact of taxes and welfare support payments.
  In our view, changes should be made to the proposed legislation to take into account these concerns."

- "The integration of economic growth and social justice is a fundamental obligation of government. They must be pursued in ways that are fair and equitable to the society as a whole. In this context, our proposals for change to the *Workplace Relations Amendment (Work Choices) Bill 2005* seek to moderate the impact on the poor, the vulnerable and families and limit any consequences on social cohesion."

7. It was for these reasons that we welcomed the current Government's *Fair Work* reforms to the framework of national wage-setting when they were enacted in the *Fair Work Act 2009* (FW Act). The new legislative framework provides the opportunity to address what we see as significant inadequacies in the wages safety net. Consistent with the concerns of the Bishops about *Work Choices*, our judgment on *Fair Work* will depend on whether or not FWA actually sets a fair safety net by reference to (amongst other matters) the needs of workers and their families and to the living standards generally prevailing in Australia.

The new legislative framework

8. FWA is required by the FW Act to set and vary minimum wages. In each financial year the Minimum Wage Panel of FWA is required to conduct and complete an annual wage review of minimum wages in modern awards and to make minimum wage orders for employees who are not covered by modern awards. The Act specifies the "minimum wages objective" which requires FWA to establish and maintain a safety net of fair minimum wages, taking into account certain social and economic factors. The minimum wages objective is set out in subsection 284(1):

> "FWA must establish and maintain a safety net of *fair minimum wages*, taking into account:
>
> (a) the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and
>
> (b) promoting social inclusion through increased workforce participation; and
>
> (c) *relative living standards and the needs of the low paid*; and
>
> (d) the principle of equal remuneration for work of equal or comparable value; and
>
> (e) providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability." (Emphasis added)

9. The same kind of provision is found in FWA's duties regarding award-making. Subsection 134(1) provides:

> "FWA 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:
>
> (a) *relative living standards and the needs of the low paid*; and
>
> (b) the need to encourage collective bargaining; and
>
> (c) the need to promote social inclusion through increased workforce participation; and
>
> (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and

(e) the principle of equal remuneration for work of equal or comparable value; and
(f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and
(g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
(h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy." (Emphasis added)

The return of fairness

10. We have particularly welcomed the return of *fairness* to wage setting following the repeal of the *Work Choices* legislation. Despite its name, the Australian *Fair* Pay Commission, there was nothing in the repealed *Work Choices* legislation that required the AFPC to act fairly. Over the years various parties (including ACCER) urged it to be fair, arguing for the implication of fairness from its name and from the requirement that it "have regard to ... providing a safety net for the low paid". The significance of the AFPC's charter was referred to in a paper by the former Chairman of the AFPC, Professor Ian Harper:

> "Notwithstanding the name of the Commission, the words 'fair' and 'fairness' did not appear among the criteria governing the powers of the AFPC. The closest the law came to obliging the Commission to consider distributional aspects of minimum wage-setting (i.e. the 'needs' or living standards of low paid workers) was the requirement to have regard to the provision of a safety net for the low paid. This was in stark contrast to the wording of the prior legislation and to the current *Fair Work Act*, which explicitly directs the AFPC's successor (the Minimum Wages Panel of Fair Work Australia) to establish 'fair' minimum wages. Nor was there any express reference to the living standards or needs of the low paid, as there had been in prior legislation, and as there is now, reflecting the influence of the original *Harvester Judgement* and Justice J.B.Higgins' notion of the 'basic living wage'." (*Why Would an Economic Liberal Set Minimum Wages? Policy*, Vol. 25 No. 4, page 4.)

11. It is also significant that the requirement to consider "relative living standards" has returned to the wage-setting legislation. Again this is a significant and welcome departure from the AFPC's charter. We say "returned" because the pre-*Work Choices* legislation required the Australian Industrial Relations Commission (AIRC) to have regard to, amongst others, "the need to provide fair minimum standards for employees in the context of living standards generally prevailing in the Australian community".

The notion of social equity and fairness underlying these kinds of provisions is important.

12. We also welcome the adoption of "social inclusion" as an explicit object of the Act. Section 3 provides:

> "The object of this Act is to provide a balanced framework for cooperative workplace relations that promotes national economic prosperity and social inclusion for all Australians by [amongst others]…ensuring a guaranteed safety net of fair, relevant and enforceable minimum terms and conditions…"

13. The legislation's concern with social inclusion finds particular expression in another of the matters to which FWA is to have regard when setting wages: "promoting social inclusion through increased workforce participation"; section 284(1)(b). These provisions recognise two important matters: the importance of work and the promotion of social inclusion. Increased workforce participation, of itself, is insufficient to promote social inclusion and to ensure a decent living for workers and their families.

14. The term social inclusion is not defined in the legislation, but it is one of common usage in community debate, academic research and policy-making. Programs for the promotion of social inclusion will matter little unless the incomes of the low paid are sufficient. A precondition for social inclusion is a wage which, together with government transfers, will support workers and their families at an acceptable standard of living. We believe that a review of minimum wages should be at the heart of an integrated program to improve social inclusion.

C. The loss of fairness in safety net wages, 2000 to 2011

15. Our submissions in Chapter 3 are primarily based on the developments in wage-setting since 2000. We show that the loss of fairness in wage-setting over that period was not confined to the *Work Choices* period. The *Work Choices* period covered the four years between the last Safety Net Wage Review decision by the AIRC in June 2005 and the last decision of the AFPC in July 2009, when it decided to freeze wages, thereby bringing about a real wage reduction for safety net-dependent workers. The first Annual Wage Reviews by FWA in June 2010 June 2011 had to deal with the consequences of a wage freeze. As we show later, the adverse impact of the wage freeze on low paid workers and their families has continued. Our concerns are not limited to the consequences of the repealed legislation, with its continuing legacy in the current wage rates; but with some fundamental systemic issues in wage-setting.

16. Since 2000 tribunal decisions on safety net wages have worked against low paid workers and their families. Compared to the rest of the workforce, all safety net workers are relatively worse off now. This has happened even though the disposable incomes of NMW-dependent workers and their families, and some others who are dependent on higher safety net wages, have risen by more than the rate of inflation. There has been a cut in the real value of classification rates that are now more than $729.00 per week. In support of our claims, we establish a number of key points in Chapter 3:

(a) We should be careful in illustrating changes in safety net rates by reference to the NMW. The number of workers on the NMW is very small and references to improvements in the NMW as a justification for past decisions and as an indicator of how safety net changes have operated are misleading.

(b) The real wages of many safety net workers have fallen over the decade, with the greatest falls being at the higher end of the low paid spectrum; for example, workers on a safety net wage of $840.60 per week in December 2011 have had a real wage cut of $47.30 per week, or 5.3% since 2000.

(c) When compared with other rates of pay and income measures, safety net wages have fallen dramatically; for example, while Average Weekly Ordinary Time Earnings (AWOTE) have risen 66.9%, the base safety net wage for a trades-qualified worker, or a worker with equivalent qualifications and skills, has risen by 39.4%.

(d) Since 2000 substantial productivity gains across the economy have resulted in substantial wage increases across the national economy; but safety net workers have not benefited from those gains. Unlike other workers, safety net workers have been denied the benefit of the increases in their own productivity.

(e) Some commentators have sought to explain away real wage cuts by arguing that tax cuts have increased the disposable incomes of safety net workers and their families. However, low paid workers have not received benefits in excess of those received by taxpayers generally: the tax cuts over the past decade have not targeted low paid workers. The use of after-tax figures as a justification for real wage cuts, or limited real wage increases, is not justified.

(f) Family payments to low income working families have not compensated for real wage cuts. Family payments have increased, but not in a way that would permit them to be used as a justification for limiting safety net wage increases.

(g) Low paid workers and their families have fallen towards, and sometimes below, the Henderson Poverty Lines (HPLs) and relative poverty lines.

(h) The living standards of families who are dependent on the NMW and other low wage rates have fallen behind the living standards of low income households that depend on government pensions.

Safety net wages as macroeconomic regulators

17. These submissions give emphasis to the needs of low paid workers and relative living standards. Of course, those factors are only part of the factors that must be taken into account by FWA when setting wage rates. Changes in safety net rates will be influenced by macroeconomic conditions. One of our concerns is the use of safety net wages as labour market and macroeconomic regulators, which have the effect of requiring low paid workers to bear a burden that other workers do not have to bear. However, as *safety nets,* these wages must operate according to their nature and purpose, ie to provide a minimum acceptable standard of living for workers and their families.

18. In the good economic times of 2008 safety net workers received lesser wage increases than the rest of the workforce. In the threatening economic times of 2009 safety net workers suffered a wage freeze, a real wage cut, when the real wages of the rest of the workforce were increasing. In each year the *arguments* that had been put in support of those outcomes were based on the use of safety net wages to affect outcomes in the rest of the economy.

19. In 2008 it was argued that safety net wage increases should be limited in order to reduce the chances of a wage "breakout" in the bargaining sector. ACCER replied:

> "There is no basis for concluding that these workers with bargaining power will bargain for less than the market rate because they know that they have received tax cuts or that lower paid workers who rely on AFPC decisions are doing it harder than they are. Even if it could be shown that there might be some impact on the behaviour of others, it would only demonstrate that the depression of the living standards of the low paid is the bluntest of policy instruments." (ACCER Post-Budget Submission May 2008.)

20. The increases awarded by the AFPC in 2008 not only fell well short of the predicted increases in community wage levels, but ensured real wage cuts. As we pointed out in the following year, the loss for a worker on a classification rate paying $600.00 per week was $3.54 per week and the loss for a worker on a classification rate paying $700.00 per week was $7.44 per week. By contrast, from November 2007 to November 2008, average weekly ordinary time earnings, as measured by AWOTE, rose 5.3%; from $1,100.70 to $1,158.50 (see Table 10, below). The 2008 decision was a failure of wage-setting in good economic times.

21. In 2009 it was argued by some that safety net wage increases should be refused or be minimal in order to keep down labour costs. ACCER stressed that safety net workers need protection against real wage cuts because of the nature of safety net wages and that safety net wages should not be treated as a kind of regulator of wages in the bargaining sector. The wage freeze was imposed even though it was evident at the time that wage increases in the bargaining sector would be substantial; for example, as we pointed out to the AFPC, the Commonwealth Budget of May 2009 forecast a 3.25% rise in the Wage Price Index over 2009-10; see ACCER Post-Budget Submission May 2009. Wages did rise. From November 2008 to November 2009, average weekly ordinary time earnings rose 5.8% from $1,158.50 to $1,225.20; and in the following 12 months, they rose another 4.0%, to $1,274.10 (see Table 10). The 2009 decision was a failure of wage setting in threatening economic times, with a continuing legacy for safety net-dependent workers.

22. The decisions in 2008 and 2009 were made by the AFPC which, as we have explained, was not obliged to set *fair* wages. The decisions, in fact, failed the fairness test.

23. Despite the increases granted by FWA in 2010 and 2011 safety net rates have not recovered the real value that they had prior to the 2009 wage freeze. Real wages declined over the three years 2008 to 2011. From when the AFPC last decided to increase the safety net rates, in July 2008, until FWA's decision in June 2011, the most recently published CPI figures at each date (March 2008 and March 2011) show that prices had increased by 8.9%. The 2011 decision increased the 2008 NMW by a total of 8.4%. At the trade-qualified (C10) rate, the increase was 7.6% and, for example, at the current safety net rate of $840.60, the increase was 6.8%.

Flexibility in the bargaining sector

24. None of these matters regarding the setting of safety net wages denies the value of wage flexibility in changing economic circumstances. But wage flexibility, reflecting

changes in supply and demand for labour, is essentially a function of the bargaining sector. Safety net wages, based as they are on *needs* (and on wage increments reflecting changes in relative work values) are not intended to be affected by the business cycle in the way that bargained rates are. In good economic times fairness in the setting of minimum wages might result in extra benefits that may not be sustained in a subsequent downturn. But this is very different to the way in which the bargaining sector of the labour market can operate. A bargaining system presents the *opportunity* for making various arrangements that can minimise the impact of an economic downturn or changes within the firm. Wage rates and other terms of employment in the bargaining sector are intended to be, and are able to be, more responsive to the changing operational needs of the firm than safety net rates. Logic and fairness mean that the burden of adjustment should not fall on safety net-dependent workers who do not have the power to bargain and who do not receive the benefits that come from bargaining.

D. Why we advocate for low paid workers and their families

25. Catholic teaching on the spiritual, economic and social aspects of modern industrial societies has its genesis in Pope Leo XIII's 1891 encyclical *Rerum Novarum. Rerum Novarum* was the seminal contribution of the Catholic Church to a range of social, economic and political issues of the late nineteenth and twentieth centuries. *Rerum Novarum* "expounds … the Catholic doctrine on work, the right to property, the principle of collaboration instead of class struggle as the fundamental means for social change, the rights of the weak, the dignity of the poor and the obligations of the rich, the perfecting of justice through charity, on the right to form professional associations"; Congregation for Catholic Education, *Guidelines for the Study and Teaching of the Church's Social Doctrine in the Formation of Priests,* Vatican Polyglot Press, Rome, 1988, page 24.

26. *Rerum Novarum* has particular relevance to Australian wage-setting history and in shaping attitudes to the kind task that is now before FWA. Indeed, the fact that there is such a task, and its terms, owes something to *Rerum Novarum* and to the continuing relevance of its values. In the inaugural *Bishop Manning Lecture*, delivered on 7 October 2010, the former Prime Minister, the Hon. R J L Hawke AC, spoke about the substantial and positive impact that *Rerum Novarum* had on the debates and decisions

about whether the Commonwealth of Australia should have an employment-regulating power, and how that power should be exercised.

27. Two major themes of Catholic social teaching are the importance of work to human development and the right of workers to a decent standard of living. In Catholic social teaching work is an obligation and a source of rights. It is an obligation because of the importance of work to the individual, the family and society as a whole. Unemployment is, therefore, a scourge and its presence imposes serious obligations on governments.

28. The special emphasis on the rights of vulnerable workers is summed up in the following passage by Pope John Paul II in his 1981 encyclical *Laborem Exercens* in regard to the connection between work and the achievement of social justice for the poor:

> “And the "poor" appear under various forms; they appear in various places and at various times; in many cases they appear as a *result of the violation of the dignity of human work:* either because the opportunities for human work are limited as a result of the scourge of unemployment, or because a low value is put on work and the rights that flow from it, especially the right to a just wage and to the personal security of the worker and his or her family.” (*Laborem Exercens*, 8, italics in original)

29. The concluding words of this passage highlight and bring together three important aspects of the plight of poor and vulnerable workers: lack of employment opportunities, inadequate wages and the lack of job security. Employment, in itself, is not sufficient. The dignity of the worker requires a just wage and personal security. While the position of the low paid workers requires greatest attention, the fundamental principles apply to all workers. Higher paid and less vulnerable workers are also entitled to the rights that flow from the performance of work.

30. Understanding the human dimension is vital to the determination of fair minimum rates of pay. Catholic welfare agencies, like other agencies, have day-to-day experience of the circumstances of the unemployed, of the under-employed and of those who are employed in low paid jobs. Many people move between these three categories. The under-employed are those who rely on insufficient and irregular casual or part-time employment. They have little or no job security. The tenuous nature of their employment means that they will live a hand-to-mouth existence. There are also low paid workers in regular and ongoing employment who are unable to make adequate provision for themselves and their families. They have to call on welfare agencies

because wages do not provide them with a decent standard of living. Furthermore, for many of these low paid workers there is little or no prospect of longer-term increases in pay by improving their skills.

31. The circumstances of the unemployed, the under-employed and those in full time low paid employment are similar in many respects. All of them share a struggle for work, security and decent pay in one of the richest countries in the world. A failure to appreciate the common interests of the unemployed, the under-employed and those in full time employment may result in simplistic and unjust proposals for the setting of minimum wages, creating jobs and providing rewards and incentives to work. We must guard against solutions, such as lower minimum wages, that seek to set the interests of low paid workers against the interests of the unemployed. We reject the argument that wages should be allowed to find their own level by operation of market forces as a means of addressing the scourge of unemployment.

32. Many in the community, from a wide variety of backgrounds and views, have a deep concern for vulnerable low paid workers and their families and for those who are unemployed or underemployed. We do not present a position that is unique to the Catholic Church. The view that wages for the most vulnerable workers should be able to fall to a "market-clearing" level is inconsistent with long-held beliefs and values across all major political groups in Australia and, of course, the terms of our minimum wages legislation.

33. Catholic teaching does not require a minimum standard of living that a well-governed and just society cannot afford. Specifically, workers should have a job *and* a decent wage, by reference to the standards and capacities of the societies in which they live. The teaching rejects the view that some workers can have a job *or* a decent wage. It is not morally acceptable to seek to reduce unemployment by letting wages fall below the level at which workers can sustain a decent standard of living.

34. None of this denies a proper role for labour markets and market processes for the setting of wages above the minimum necessary for a decent life. Catholic social teaching on markets is presented in Pope John Paul II's encyclical *Centesimus Annus* delivered on the 100th anniversary of *Rerum Novarum*, and Pope Benedict XVI's 2009 encyclical *Caritas in Veritate*. Catholic social teaching recognises the importance of private ownership, price signals and profits to a free and prosperous society. But it recognises that outcomes are not necessarily consistent with social justice. Markets may undervalue, or fail to value, some socially desirable goods and services.

35. Labour markets, in particular, reflect the current distribution of wealth and personal skills of workers and the fact that some workers come to the labour market disadvantaged. Hence there is a heavy responsibility on government and civil society to provide a social and economic structure in which the interests of these marginal workers will be protected and that they be assisted to realise their potential.

36. In May 2011 the Australian Catholic Bishops issued a statement to mark the 120th anniversary of *Rerum Novarum*. The Statement included a reference to the passage on wages in the Bishops' 2005 Statement on *Work Choices* (which was quoted earlier):

> "On Monday 16 May 2011, almost exactly 120 years after *Rerum Novarum*, Fair Work Australia will begin hearing final submissions in this year's Annual Wage Review. The Australian Catholic Council for Employment Relations has filed extensive submissions in support of low paid workers with family responsibilities. The Tribunal will make a decision under provisions in the *Fair Work Act 2009* that are consistent with the objective stated in the 2005 Statement. However, it is only by the outcomes of the decisions that the success of the legislation can be measured."

37. The terms of the new legislation enable FWA to meet the concerns identified by the Bishops in 2005, but if it is to do so, it will be necessary to address and correct some very concerning developments in the safety net protections for low paid workers and their families.

E. Challenges not yet met

38. The lives of safety net-dependent low paid workers and their families will not improve unless the past defects in wage-setting are recognised and their consequences of are addressed over time.

39. Wage-setting has failed low income workers and their families. We demonstrate in Chapter 3 that we have had more than a decade of increasing inequality. We have had more than a decade of a decline in safety net protections, which are vital to those who cannot bargain for higher wages, while the community as a whole has seen very substantial and widespread increases in incomes. This has been inconsistent with the nature and purpose of a safety net.

40. The nature and purpose of a safety net is to provide an acceptable standard of living. A safety net wage should be sufficient to meet the needs of low paid workers, including those with family responsibilities. It should enable them to live in dignity. The wage safety net does not have to cover exceptional cases, but it must cover ordinary and foreseeable cases and circumstances. Having regard to the sizes of Australian families, ACCER has argued

that the needs should be calculated by reference to the position of families with two children. The wage has to be sufficient to cover a family of two adults and two children, where the second parent stays at home to care for the children; and to cover a sole parent with two children, where the parent will necessarily incur child care expenses. It would not be acceptable to set a wage that is sufficient for one of these families, but not for the other. Both are within the ordinary and expected scope of a safety net.

41. A fair national system of minimum wages requires annual wage adjustments that reflect increases in prices and productivity and changes in community wage levels. This does not exclude flexibility from year to year, but the system must guard against the exercise of flexibility that leads to long term declines of the kind that has occurred since 2000. The two wage review decisions by FWA since the AFPC's wage freeze in 2009 show how difficult it is to recover past losses.

42. The obligation to take into account relative living standards means that price-based adjustments to wages are insufficient and that regard has to be paid to general increases in wages and disposable incomes throughout the community. While safety net rates may not be in short term lockstep with these increases, they should be adjusted to ensure that they are consistent with community movements over time.

43. A fair system of wage-setting also needs to be able to address the adequacy of the current NMW and some of the very low award wage rates. Progress in this regard is hampered by the dearth of contemporary research and data to fully address the question of how much income a worker needs in order for the worker and his or her family to live a decent life. There are no simple answers to that question, but it is the kind of question that must be answered in order to discharge the overriding statutory task to provide a *fair* safety net. Research is needed. ACCER welcomes FWA's decision to establish a process that will enable closer attention to be given to the various ways in which the needs of the low paid may be identified and measured.

44. This research is not a precondition for the steps that we ask FWA to take in 2012, but it is essential for the setting of wage rates that take proper account of the needs of the low paid. ACCER accepts that this can only be achieved over time and it is the reason why it now seeks an extra $10 per week increase in the NMW.

Chapter 2 Poverty, social inclusion and wages

A. Mr Costigan's five questions

45. In the *Safety Net Review Case 2003* the late Frank Costigan QC, who appeared with Paul O’Grady on behalf of ACCER, urged the AIRC to establish an inquiry into the needs of the low paid. He submitted that, in order for the AIRC to satisfy its statutory obligation to have regard to the needs of the low paid when setting wages, it needed to ensure that the rates that it sets, the FMW in particular, do not fall under the poverty line. He continued:

> “And we would say simply, and stress, that it is a fundamental need of the low paid not to live below the poverty line. Now, in one sense, that is a statement that is easily made, but there are a number of complex issues in it.”

46. Mr Costigan then went on to pose a number of questions:

    (a) Who are the low paid?

    (b) What is living in poverty?

    (c) What is the poverty line?

    (d) How does the FMW compare to the poverty line?

    (e) What are the needs of the low paid?

47. Questions such as those asked in 2003 had been raised from time to time since the FMW was established by the AIRC in 1997. Similar questions had been raised in earlier decades of Australian wage-setting.

48. ACCER submitted that the proposed inquiry would enable the AIRC to establish a benchmark for the setting of the FMW. The benchmark was not proposed as one that would involve a particular formula to be applied in an arithmetical way, but, rather, as one that would provide the AIRC with appropriate guidelines within which to judge “needs”. The Australian Council of Social Services (ACOSS) also sought the establishment of a similar inquiry.

49. The proposal for an inquiry into the needs of the low paid was not supported by “any party in the proceedings”, as the AIRC noted in refusing the request. The attitudes of

the parties were particularly relevant because, in 2003 and at other times when the AIRC set wages, the FMW and other safety net rates of pay were set in the arbitration of disputes between unions and employers; and ACCER and ACOSS were interveners in that process. The AIRC said:

> "Our rejection of the proposals for an inquiry should not be taken as a rejection of the utility of empirically determined "benchmarks" such as the poverty line. Indeed, it seems to us that the use of such measures is relevant to an assessment of the needs of the low paid. In this context we also note that in their oral submissions ACCER argued that the Commission must ensure the minimum rates it sets (and in particular the federal minimum wage) do not fall below the poverty line. It was put that this task involved determining questions such as *"what are needs, who are the low paid, what is the poverty line, what is living in poverty and how does the federal minimum wage compare to the poverty line?"* We acknowledge the relevance of the questions posed by ACCER and would be assisted by submissions and material directed to them. As we have already noted empirical studies dealing with these matters would be of more assistance to the Commission in addressing the specific matters mentioned in the Act than the type of illustrative evidence adduced by the ACTU in these proceedings. There is no impediment to ACOSS and ACCER, or any other party, bringing forward such material in any future safety net review. It is not, however, desirable for the Commission to establish a separate inquiry for that purpose particularly in view of the absence of any support for the proposal from any other party or intervener." (*Safety Net Review Case 2003*, paragraph [222], italics in original.)

50. The terms *poverty* and *the poverty line* do not appear in the legislation. As the AIRC later pointed out in the *Safety Net Review Case 2004*, the legislation of the time (like the present):

> "…makes no reference to a "poverty line" but rather focuses on the issue of the needs of the low paid... However, we do not accept that the Commission could not rely upon a poverty line as a tool to assist it in determining the needs of the low paid if it had probative evidence by which a poverty line could be accurately identified" (*Safety Net Review Case 2004*, paragraph [287]).

51. In each of its submissions to the AFPC during 2006 to 2009, ACCER asked that research on the needs of the low paid be undertaken, but none was undertaken. However, as we explain later, the AFPC used the Henderson Poverty Lines (HPLs) as measures of needs and relative poverty lines as a proxy measure of needs. In 2010 FWA's Minimum Wages and Research Branch commenced a research project on definition and measurement of relative living standards and the needs of the low paid. The report, *Research Report 2/2011, Relative Living Standards and the needs of the low paid: definition and measurement* was released in early 2011. This report is a valuable review of the literature and the issues.

52. In its submissions to the 2011 wages review, ACCER asked FWA to establish its own inquiry into the needs of the low paid because there had been very limited progress in answering the questions about needs of the low paid and related matters and because the position of low paid workers and their families was worse than it was in 2003. It argued than an inquiry could build on the FWA research report and would present the opportunity for the consideration of the utility of various empirically determined benchmarks and the development of those benchmarks, along the lines mentioned by the AIRC in 2003. Other parties had similar proposals.

53. In the *Annual Wage Review 2010–11* decision, the Minimum Wage Panel of FWA stated:

> "While there is a reasonable level of agreement on the relevant indicators of relative wages and living standards, there is no consensus on how to measure and assess the needs of the low paid. Some parties have called for a program of research and consultations to inform the Panel in this regard. We would welcome the considered views of interested parties on what were the most pertinent and valuable proxy measures of the needs of the low paid and how these are changing. The Fair Work Australia Research Report 2/2011 provides a useful starting point. One or more members of the Panel will consult with any interested parties and provide a report under s.290 of the Fair Work Act." (Paragraph [227])

54. A process was established which included the filing of written submissions and the making of oral submissions at consultations with two members of the Minimum Wage Panel on 4 November 2011. A report by the two members (Senior Deputy Watson and Professor Richardson) was published on 14 December 2011 (Print 517718).

55. ACCER welcomes FWA's initiative to provide a process for the measurement of the needs of the low paid. The process will assist the development of a body of knowledge about matters that are insufficiently researched and understood. We note that this process does not give, or have the effect of giving, this matter any more weight than carries under the terms of the legislation. The needs of the low paid are only some of the matters that are to be taken into account when setting safety net wages.

B. What is living in poverty?

56. In its written submission in the *Safety Net Review Case 2004* ACCER proposed a qualitative definition of poverty previously advanced by ACOSS:

> "Poverty is an enforced lack of socially perceived necessities. This definition, and most others in poverty research, has three core elements:
> - a lack of necessities;
> - that necessities are socially defined;

• that the lack of necessities is caused by limited material resources."

57. Poverty may be defined qualitatively or quantitatively. They are not alternative ways of defining the term. A quantitative measure should be based on, and tested against, a qualitative definition.

Quantitative needs-based measures

58. Quantitative measures of poverty seek to identify money amounts, or poverty lines, below which a household will be in poverty. Quantitative estimates of poverty fall into two categories. The first are those based on an itemised assessment of the costs of basic needs. These needs-based measures are sometimes called "absolute" poverty measures, but this is somewhat misleading as they will vary according to the socio-economic context in which they are set.

59. The two major Australian needs-based quantitative measures are the HPLs and the budget standards research of the Social Policy Research Centre (SPRC). The HPLs are based on research into basic living costs in the 1960s and some of the work of the Commonwealth Commission of Inquiry into Poverty (Poverty Commission) in the early 1970s. The Poverty Commission described the poverty line that it fixed as being fixed at an "austere low level". It said that it did this so that "It cannot seriously be argued that those below this austere line, whom we describe as 'very poor', are not so." (*Poverty Report*, *First Main Report*, page 13.)

60. The SPRC research was initially commissioned in 1995 by the Department of Family and Community Services. It identified two standards of living. The *Low Cost* budget was developed as a standard for unemployed families and for social security purposes. The *Modest but Adequate* budget was developed to describe the situation of a household whose standard of living falls somewhere around the median standard of living within the Australian community taken as a whole.

61. The SPRC material is not concerned with identifying "poverty", as such, but with identifying and quantifying standards of living. Its Low Cost budgets for several kinds of households identify what might be described as a minimum acceptable standard of living. Although these budgets were developed for social security purposes, they are capable of providing a reference point, but not a standard, for low paid workers and their families.

62. Like all costs-based measures, the HPLs and the Low Cost budgets need to be adjusted to reflect price changes over time and rising community-wide living standards. The

HPLs are updated each quarter by the Melbourne Institute of Applied Economic and Social Research (Melbourne Institute) on the basis of changes in seasonally adjusted per head household disposable income, reflecting the view that poverty is a relative concept. The Melbourne Institute's quarterly newsletters (*Poverty Lines: Australia*) also provide data on CPI increases over time, but do not use them in the quarterly adjustments to the HPLs. There is no regular process for updating the SPRC budgets, but ACCER and others have periodically adjusted the SPRC budgets to reflect price changes. The absence of an adjustment mechanism to reflect community standards has reduced the capacity of this SPRC material to reflect rising community standards. We will return to this aspect.

Quantitative measures of relative poverty

63. The second kind of quantitative measures are relative poverty lines which are expressed as a percentage of the national median or mean income. Usually this is done by reference to the national median equivalised disposable household income. Relative poverty lines do not measure actual needs or identify a particular standard of living. However, as poverty is a relative concept to be determined in an economic context, they have been widely used. They place low paid workers, and their families, in the national economic context and are a widely accepted tool of analysis and policy-making in member countries of the Organisation for Economic Co-operation and Development (OECD). The major exception to this is the United States where the U.S. Census Bureau uses its own needs-based poverty lines; see *Income, Poverty, and Health Insurance Coverage in the United States: 2010*, published by the Bureau in September 2011.

64. Relative poverty lines are also an important tool in the setting of wage rates with reference to relative living standards, as FWA is required to do under the minimum wages objective in section 284(1) of the FW Act.

65. Poverty lines at 60% of the median are the most frequently used measure, but 60% has not been universally accepted as a measure of poverty and some relative poverty lines are based on lower percentages. The mean average disposable income may also be used, with 50% of the mean as the poverty line. The mean is typically higher than the median. The 60% of median disposable income level was used by the AFPC.

66. There is no *a priori* reason for accepting any one of these relative poverty lines. Each has to be tested against experience and relevant research. We submit that there is no reason to depart from the AFPC's decision to use the 60% of median relative poverty line.

Estimating and adjusting median income

67. The foundation stone for the construction of relative poverty lines is the median (or mean) equivalised disposable household income. It has to be calculated by appropriate research. In Australia research on disposable incomes is collected and calculated by the Australian Bureau of Statistics (ABS) in accordance with internationally recognised standards. The most recent ABS publication on this aspect is *Household Income and Distribution, Australia 2009-10,* cat. no. 6523.0, published in August 2011, where median and mean disposable incomes were calculated for 2009-10.

68. As the ABS collects the relevant data for this purpose every two years and there is a necessary delay between collection and publication, the relative poverty lines generated by this data will be outdated by the time of publication. Accordingly, it is necessary to adopt a suitable adjustment process to generate contemporaneous poverty lines. The AFPC adopted the method used by Melbourne Institute to update the HPLs, ie the quarterly changes in per capita household disposable income as recorded in its *Poverty Lines* newsletters. This has been done by FWA's Minimum Wages and Research Branch, most recently in the *Statistical Report - Annual Wage Review 2011-12*

Equivalence scales

69. Poverty lines for a range of different households can be calculated by the application of equivalence scales. The purpose of equivalence scales is to show the various income levels that will produce the same standard of living across different types of households. The equivalence scales used in the construction of relative poverty lines are usually based on the "modified OECD equivalence" scales, which were developed by the OECD and which are used by the ABS. However, needs-based poverty lines are generally based on the underlying research, or the adoption of equivalence scales used in similar research.

70. ACCER has argued that the equivalence scales used in the HPLs and the relative poverty lines do not take into account the cost of child care for working sole parents. Any assessment of the needs and living costs of parents with family responsibilities, other than those where one parent stays at home to care for the children full time, has to take into account child care costs for pre-school and school-aged children. The equivalence scales between couple and sole parent families do not take this aspect into account. The costs of child care require substantial research because there is presently insufficient evidence about the sessional costs of child care and the frequency with which it is used. This is a priority because, even after government assistance, child care

costs can drive low income sole parent families into poverty and/or force sole parents into inadequate child care arrangements. We return to this at Table 4.

71. As will be apparent from what follows in this chapter, public policy across a range of areas and wage-setting in particular, suffers from the lack of widely-accepted measures of poverty and of basic needs. This presents particular challenges for advocates for better levels of funding from government or increased safety net wages; and it means that decision-makers can have limited confidence in the capacity of their decisions to achieve important social goals.

C. The social inclusion objective

72. Over recent decades a broader view of poverty has emerged, based on a greater understanding of the dimensions and consequences of poverty. The term social exclusion may be used to describe this broader view of poverty. Social inclusion is, in substance, the opposite of social exclusion and poverty. Social exclusion and social inclusion are not terms of fixed and certain meanings; but the substance of the meaning of each is clear. Although social exclusion may be the product of a range of factors, it is primarily the result of poverty and low income. The primary means of promoting social inclusion will be increases in income for those in or near poverty.

73. A number of these matters are brought together and considered in *Measuring Poverty and Social Exclusion in Australia: A Proposed Multidimensional Framework for Identifying Socio-Economic Disadvantage*, R. Scutella et al Melbourne Institute Working Paper Series, Working Paper No. 4/09. An extensive review of social inclusion and associated matters is in a paper published by Catholic Social Services Australia in January 2010: *The Social Inclusion Agenda: Where it came from, what it means and why it matters*.

74. The appointment of a Minister for Social Inclusion and the establishment of Australian Social Inclusion Board bring the *promise* of overdue attention being given to the circumstances of low paid workers and their families. In its first annual report (December 2009), *Social Inclusion in Australia: How Australia is faring*, the Chair of the Board wrote:

> "Social inclusion is about ensuring that everyone is able to participate fully in Australian society. It is about people having the necessary opportunities, capabilities and resources to enable them both to contribute to and share in the benefits of Australia's success as a nation." (Page 1)

75. There is a discussion of social inclusion in a paper published by FWA in 2010: *Research Report 2/2010 - Literature review on social inclusion and its relationship to minimum wages and workforce participation*. The following is extracted from the Executive Summary of that report.

> "There is no universal or generally accepted definition of either social inclusion or exclusion. Based on how the term has been used, social inclusion could be broadly understood as the process or means by which individuals and groups are provided with the resources, rights, goods and services, capabilities and opportunities to engage in cultural, economic, political and social aspects of life. The concept is still relatively new to Australia, although its significance to research, policy and legislation is growing."

76. The research report notes a definition by Pierson (*Tackling Social Inclusion*, Routledge, London, 2002) "which appears to be favoured by the Australian Social Inclusion Board":

> "Social exclusion is a process that deprives individuals and families, and groups and neighbourhoods of the resources required for participation in the social, economic and political activity of society as a whole. This process is primarily a consequence of poverty and low income, but other factors such as discrimination, low educational attainment and depleted living environments also underpin it.
> Through this process people are cut off for a significant period in their lives from institutions and services, social networks and developmental opportunities that the great majority of a society enjoys."

77. European policies and writings have influenced Australian descriptions and definitions of social inclusion and poverty. The European Union declared 2010 as the *Year Against Poverty and Social Exclusion*. A European definition of poverty which usefully links poverty with exclusion and marginalisation is one which has been used by the Irish government:

> "People are living in poverty if their income and resources (material, cultural and social) are so inadequate as to preclude them from having a standard of living that is regarded as acceptable by Irish society generally. As a result of inadequate income and resources people may be excluded and marginalized from participating in activities that are considered the norm for other people in society." (*National Action Plan for Social Inclusion 2007-2016*)

78. It is clear that strategies for the promotion of social inclusion must be pursued over a wide range of governmental activities. The promotion of social inclusion also requires action by a range of organisations across civil society. For example, the role that can be played by Catholic schools in pursuing social inclusion is discussed in the Research Document *Social Inclusion in Catholic Schools*, published by the Catholic Education

Office Melbourne in May 2011. Social inclusion has much in common with Catholic social teaching on the common good. The connection between the two underpins the document:

> "This Research Document builds on a significant body of research, Catholic Social Teaching and government policy, both state and federal. It locates social inclusion in schools at the heart of the mission of Catholic education, which obligates schools to exercise a preferential option for the poor and vulnerable and to work for the common good."

79. As we discussed earlier, social inclusion is one of the two parts of the object of the FW Act. The Act requires that FWA plays *its part* in the promotion of social inclusion, in accordance with the terms of the legislation. The outcomes that it can affect are limited, ie the terms and conditions of employment. However, within that scope, the exercise of its powers will be fundamental to the reduction of poverty and social exclusion: a decent wage is a pre-condition for the social inclusion of workers and their families.

D. How does the NMW compare to the poverty line?

80. In 2003 Mr Costigan put the most basic of propositions: "it is a fundamental need of the low paid not to live in poverty". In its first decision in 2006 the AFPC referred to the various submissions made to it about wages and poverty and said, without any reservation:

> "There is general agreement that minimum wages should, in combination with cash transfers, provide an income 'well above poverty'. The Commission's modelling shows that this is indeed the case for a variety of family types and commonly used definitions of poverty." (*Wage-Setting Decision October 2006,* page 96.)

81. We agree with the view in the first sentence. As we show later, the AFPC's conclusion in the second sentence was based on an error in the calculations: not all families could live well above poverty.

The AFPC's tabular method of showing poverty levels

82. The AFPC made a substantial and sustained effort to measure living standards of low income families. In each of its decisions the APPC included a table or tables setting out the disposable incomes of various kinds of FMW-dependent households and their respective poverty lines in order to assess the different impacts that the FMW and government transfers payments would have on the living standards of those households. From its first decision in 2006 the AFPC used the HPLs as the guide to its consideration of the adequacy of the FMW safety net for low paid workers and their

families. It had no other evidence about the needs of low paid workers and their families. In its 2008 Decision the AFPC introduced relative poverty lines based on 60% of median equivalised disposable household income. These poverty lines were estimates by the AFPC using the ABS's *Household and Income Distribution, Australia, 2005-06,* 6523.0. That document was published in 2007 and the figures were updated by the AFPC in its 2008 and 2009 decisions by the use of the estimated changes in per capita seasonally adjusted household disposable income published by the Melbourne Institute in *Poverty Lines: Australia*.

83. Although we have questioned aspects of this work by the AFPC, it has been important in our understanding of the needs of workers and their families, the impact that wage levels have on different kinds of households, the interaction of wages, taxes and family payments and the differential impact that wage increases have on various households. The NMW has a differential impact on the living standards of various kinds of households and will continue to do so for as long as government transfers do not meet the needs of those or are dependent upon low paid workers. We submit that this kind of data is essential to a proper evaluation of the needs of the low paid and relative living standards.

The demise of the Henderson Poverty Lines

84. The AFPC placed substantial weight on the HPLs as a measure of needs. ACCER argued in successive submissions that the HPLs underestimated needs. In particular, it argued that the estimates of housing costs (which are specifically identified) were unrealistic and that child care costs for working sole parents had not been taken into account. ACCER argued that the housing problem was curable by the use of other data on housing costs. In substance, the revised "housing-adjusted" HPLs supported ACCER's claim that the FMW was manifestly inadequate. ACCER’s argument was developed in FWA in the 2010 and 2011 wage reviews.

85. ACCER placed some weight on the adjusted HPLs in its submissions to the 2010 and 2011 annual wage reviews. In each year FWA was unpersuaded by those figures as a measure of need. In 2011 it said:

> "We have been asked to express a view about the utility of the Henderson Poverty Line as part of the range of indicators of relative standards of living. Our view at present is that this measure is not helpful to our task. Its origins in the 1960s, the inconsistency between its original construction and the way it is updated, and its focus on poverty rather than the needs of the low paid reduce its value as a tool for wage-setting." (*Annual Wage Review 2010-11*, paragraph [226])

86. ACCER does not press the same kind of arguments again. In these submissions we do not include the HPLs as a measure of need, but in Chapter 3 they will be used to show changes in living standards of low income households by reference to their HPLs, and to the underlying estimates by the Melbourne Institute of per capita household disposable income, over the period 2000 to 2011.

Poverty lines and the poverty gap

87. In Table 1 we have calculated the disposable incomes of three NMW-dependent households for the purpose of comparing their standards of living with their 60% relative poverty lines. It is drawn from Table 8.3 of the FWA *Statistical Report - Annual Wage Review 2011-12* (Statistical Report). The poverty gap column has been added to that data. The three household types in Table 1 were included in the larger group of households in the AFPC's earlier calculations and more recently in the Statistical Report. The couple parent family is the family in which one parent stays at home to care for the children and who is not eligible for the Newstart unemployment allowance. The last column in Table 1, which records any poverty gap or any margin over the poverty line, is an addition to the other tables.

Table 1

Disposable incomes and poverty lines of NMW households September 2011

Household type	Disposable Income ($pw)	Poverty Line ($pw)	Disposable Income as proportion of Poverty Line	Poverty Gap ($pw)
Single adult, no children	537.73	471.01	1.14	–
Single parent, two children	864.72	753.62	1.15	–
Single-earner couple, two children	864.72	989.13	0.87	124.41

The modified OECD equivalence scale sets the single person at 1.0, a second adult at .5 and each child at .3.

88. Table 1 takes into account the most recent data on household disposable income published in *Household Income and Distribution, Australia 2009-10*, cat. no. 6523.0, (published in August 2011) where median and mean disposable incomes were calculated for 2009-10. The median was found to be $715.00 per week, with 60% being $429.00 per week. Consistent with the practice of the AFPC to use the Melbourne Institute's estimates of quarterly changes in per head household disposable

income, we can calculate a figure for the September 2011 (being the most month for which data available). Applying that increase, the Statistical Report shows that 60% of the median equivalised disposable household income had risen to $471.01 per week by September 2011.

89. The 60% poverty line for a single adult is based on a median equivalised disposable household income of $785.02 per week. For a family of four, the figure is 2.1 times that figure, ie $1,648.54, 60% of which is $989.13. A similar calculation applies to the sole parent with two children, but with the equivalence scale at 1.6 times.

90. Table 1 shows that the disposable income of the two families is the same. The reason for this is that Family Tax Benefit B (FTB B) which is paid to the stay at home parent in the couple family is also payable to the sole parent. FTB B is sometimes referred to as a payment to “stay at home Mums", but it is not because it is also payable to an employed sole parent; and it is payable to “stay at home Dads”. We refer to this payment in more detail later. For present purposes it should be noted that the FTB B has the effect of producing a wider gap in living standards between the two family types. However, we stress the point made earlier: the equivalence scale used to enable the comparison of living standards between these two household types takes no account of the child care costs which will be incurred by the sole parent and which need not be incurred by the couple where one of them stays at home to care for the children.

91. We repeat the point made to earlier that the 60% relative poverty line in Table 1 is not universally accepted as a measure of need. However, as wages should be set at a level that gives working families an outcome that is well above poverty, the 60% relative poverty line is a reasonable one to use. Even if we were to set the poverty line at 55%, the family of four would be in poverty. At the updated median equivalised disposable household income of $785.02 per week, at 55% the family's poverty line would be $906.69, with a poverty gap of $41.97. We will return to this topic in Chapter 3J

92. While we have provided detailed calculations of the positions of workers and their families relative to their poverty lines, we stress that this is not a mere arithmetical exercise. The calculations of poverty lines require some rigour, but, in the end, FWA has to make a broader judgment about the proper margin between disposable income and the poverty line. That judgment is one that also has to be made in a broader context of setting a safety net of fair minimum wages taking into account the other matters referred to in section 284(1) of the FW Act.

E. Who are the low paid?

93. The term "low paid" is not defined in the legislation. In the *Annual Wage Review 2009-10* the Minimum Wage Panel concluded:

> "There is no consensus among the parties and other commentators with respect to a definition of the low paid. Because there is a continuous distribution of wages, there is no wage threshold just below which people are clearly low paid and just above which people are clearly not low paid. Rather, the lower the wage, the more ―low paid‖ is the employee. People earning above or near median earnings are clearly not low paid in an absolute sense. In considering relative living standards and the needs of the low paid, we have focussed mainly on those receiving less than two-thirds of median adult ordinary-time earnings . . . We have also had regard in particular to those paid at the C10 rate, in recognition of past practice, on the C14 rate, which is equivalent to the minimum wage, and on those whose full-time equivalent wages put them in the bottom quintile of the wage distribution. Employees on award wages that are above these rates can be considered to be low paid in a different sense." (Paragraph [237])

94. Following further submissions on the matter in 2011 the Panel said:

> "There was no consensus with respect to a definition of the low paid, although there was general support for the relevance of award rates and two-thirds of AWOTE [Average Weekly Ordinary Time Earnings] as relevant benchmarks. Consistent with our decision last year, we consider the low paid to be those on award rates, particularly those paid at equal to or less than the C10 rate. We note that two-thirds of AWOTE currently lies between the C3 and C2(a) award rates. In understanding the relative living standards and needs of the low paid, we require a definition that situates the low-paid worker in his or her family. There is also a practical requirement that suitable data be available to identify the standard of living of low-paid workers, or changes therein. (*Annual Wage Review 2010-11*, paragraph [215])

95. The recognition that the term "low paid" requires a definition that situates a person in his or her family for the purpose of determining relative living standards and the needs of the low paid is significant. It is relevant to the submissions later in this chapter regarding the needs of workers with family responsibilities.

96. We show in Chapter 3, over the past decade successive wage increases have caused a growing disconnection between safety net wages and prevailing community wage levels. The awarding of "across the board" money increases has compressed relativities and opened large differentials between safety net-dependent workers and those workers doing similar work in the bargaining sector. The impact has been severe on workers with substantial skills and responsibilities, but with little bargaining power.

97. Many safety net-dependent workers have fallen into the low paid category over the past decade. We have referred at various times to the trades-qualified, or C10, wage. At $686.20 per week it is well within the low paid category. A *skilled* person's classification should not fit so easily into the low paid category. A trade qualification should be a means out of low paid work. Had the trades-qualified rate been adjusted in line with community wage movements, as reflected in average weekly ordinary time earnings (AWOTE) since 2000, the current rate would be $824.48 per week, $135.28 more than it is (see Table 13). We do not argue that safety net wages have to be in lockstep with AWOTE, but where there is a statutory duty to take into account relative living standards there needs to be a clearly articulated reason for departing from such this kind of measure of relative living standards.

F. The needs of workers include the needs of their families

98. The needs of the low paid include the needs of their families. ACCER's submissions have emphasised a "family wage" approach or, to adopt the more recent terminology, it is an approach which takes into account the needs of workers with family responsibilities. The provision of a safety net for workers with family responsibilities is one which recognises the need to support families and in which due regard is paid to the substantial, but insufficient, family payments received by workers and their families.

99. There have been proposals or suggestions in the past that wages may be set by reference to the needs of the single person and that the support of dependants be left to government. The fact of the matter is that government transfers are insufficient to meet the needs of dependants, and are not intended to do so. As we explain later, the adoption of the "single person test" in setting wages in this context would be discriminatory.

100. Another position is the one advanced last year by ACOSS in its Submissions of March 2011. It is in similar form to those that it had put in previous wage reviews:

> "Our recommendations focus on how the needs of people on low pay can best be assessed and the respective roles of wages and social security in sustaining a decent standard of living. Our starting point is that the Federal Minimum Wage (FMW) (sic) should be designed to at least provide a decent living standard, well above poverty levels, for a single adult and that the tax-transfer system should meet the basic costs of raising children in a low income family. The FMW should not be directly designed to cover the costs of children because that role is best performed by the social security system. However the FMW together with family

payments should be sufficient to prevent a family from falling into poverty. The minimum wage itself should be set well above poverty levels in keeping with Australian public policy tradition, and the need to maintain a gap between maximum social security payments and minimum wages to preserve work incentives." (Page 4)

"Decisions on the level of minimum wages should be informed by 'benchmark' estimates of the cost of attaining a 'decent basic living standard' for a single adult according to contemporary Australian standards." (Page 4)

"The combined effect of the minimum wage and family payments on the extent of poverty among families should also be taken into account in setting minimum wages." (Page 5)

101. ACCER opposed this approach and replied in the following terms:

> "ACOSS appears to propose a modified single person test: the NMW should be sufficient to provide a decent standard of living for single workers, but that it be set to ensure that families will not fall into poverty. If this understanding is correct, ACOSS is not proposing a wage safety net that would deliver a decent standard of living to families, but a lesser standard based on keeping them out of poverty. We could not agree with such an approach. We have explained in our principal submissions how we see the safety net operating in the "ordinary cases", whether there is one parent or two parents living with the children. Families need to be supported at a decent standard of living. Given the inadequacy of family payments, this objective will mean that the wage of a single person will be more than that needed to provide him or her at a decent standard of living and that there will be a degree of over-compensation. If it is unacceptable from an economic point of view, then it is the function of government to increase transfers to a point where there need be no over-compensation of single workers." (ACCER April 2011 Reply Submission April 2011, paragraph 60)

102. We submit that this dual standard approach by ACOSS is the product of the intrusion of a long term policy goal into current decision-making. ACCER is not opposed in principle to a movement towards a single person test. Indeed, in their Social Justice Statement of 1954, *The Australian Standard of Living*, the Australian Catholic Bishops proposed the adoption of a new wages and family payments system, with the support of dependants being provided out of the public purse and wages being set on the basis of the needs of the single person, with *men and women being paid the same wage*.

103. The pre-condition for that kind of step is a change in government policy and expenditure, which has not been met. Given the Commonwealth's short and medium term budgetary position, we expect that there will be no significant change in the real value of government transfers to families, let alone the introduction of a transfer payments regime that will cover all of the living costs of the families of low paid workers.

104. For more than a century arbitrated wages in Australia have been fixed on the basis that they will be required to support families. It has always been based on the fact that workers without family responsibilities will have an element of over-compensation in minimum wage rates. The increase in family payments has permitted this over-compensation to be reduced. If the current level of over-compensation is unacceptable from an economic point of view, then it is the function of government to increase family payments. There appears to be neither a capacity nor a desire by the Government to do this; nor any significant advocacy of interested groups, whether businesses, unions or community organisations.

105. The principle that wages should support families is secure, but the precise way in which it should be done can be contentious. ACCER submits that the proper approach to decision-making is to recognise that the purpose of minimum wages is to set a safety net that covers ordinary and foreseeable circumstances.

106. The nature and purpose of a safety net is to provide an acceptable standard of living. It should be sufficient to meet the needs of low paid workers, including those with family responsibilities, so that they can live at an acceptable standard of living. The safety net does not have to cover exceptional cases, but it must cover ordinary and foreseeable cases and circumstances.

107. The wage has to be sufficient to cover a family of two adults and two children, where the second parent stays at home to care for the children, and to cover a sole parent with two children, where the parent will necessarily incur child care expenses. The family (with a sole parent or both parents) with two children is the reference point because it best approximates the size of contemporary Australian families. It would not be acceptable to set a wage that is sufficient for one of these families, but not for the other.

108. We know from data published by the AFPC and FWA that the NMW-dependent family of four is under the greatest economic pressure. Hence it is our primary reference point in advocating wage increases. We do not accept, however, that the financial position of sole parent families described in AFPC and FWA data is correct because it does not cover the costs of child care. Hence our concerns about the costs of child care for sole parents.

109. ACCER, therefore, places particular emphasis on the fixing of minimum rates of pay that are sufficient, after allowing for income tax and relevant government transfers, to support a family of four at the minimum acceptable standard of living without the need for the second parent to undertake paid employment. The capacity of the wage to

support the second parent, and not to require that parent to seek paid employment, is a necessary part of the ability of parents to exercise their family responsibilities in the way in which they believe will best advance the interests of their children.

The scope of family protections

110. Our submission that the needs of workers should include the needs of their families and that the wage should be sufficient to allow a second parent to stay at home to care for the children are based on principle, sound public policy and the legislation under which FWA operates.

111. The International Labour Organisation's *Minimum Wage Fixing Convention, 1970*, which has been ratified by Australia, recognises the interests of workers *and their families* and the relevance of general economic circumstances. Article 3 provides:

> "The elements to be taken into consideration in determining the level of minimum wages shall, so far as possible and appropriate in relation to national practice and conditions, include--
>
> (a) the needs of workers *and their families*, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups;
>
> (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment." (Emphasis added)

112. There are two specific requirements in the FW Act that bear on this issue. Section 153, which applies to the making of modern awards, and to wage rates in particular, provides:

> "A modern award must not include terms that discriminate against an employee because of, or for reasons including, the employee's…family or carer's responsibilities…"

A similar obligation is found in section 578 which provides:

> "In performing functions or exercising powers under this Act…, FWA must take into account…(c) the need to respect and value the diversity of the workforce by helping to prevent and eliminate discrimination on the basis of…family or carer's responsibilities…"

Similar provisions are also found in respect of the making of enterprise agreements (section 195) and in regard to the taking of adverse action (section 351).

113. The family responsibilities obligations reflect Parliament's concern to protect and advance the proper interests of workers and their families, to strike a balance between work and family, to prevent discrimination against those with family responsibilities

and to ensure that relevant decisions and instruments give effect to these *values*. They recognise the right of parents to make choices about how they will exercise their parental responsibilities. Those freedoms may not extend to unreasonable choices; but nothing we are advocating amounts to an unreasonable choice. A decision by parents that one of them will stay at home to care for their children and not seek employment is not an unreasonable choice.

114. Wage-setting decisions cannot be separated from a wide range of "family friendly" laws and policies that have been developed, especially in recent years. There is protection against direct and indirect discrimination. Anti-discrimination laws and policies might be breached in a variety of ways; for example by rostering and leave provisions. A provision in an award or an industrial agreement that does not enable the flexibility needed for workers to exercise their family responsibilities would be impermissible. Provisions in an award or agreement that are predicated on the workers being single and not having family responsibilities would also be impermissible.

115. A wages policy that is predicated on the needs of the single person without dependants cannot be consistent with the protection of workers with family responsibilities. This is so in regard to sole parent families and families where one parent works and the other does not seek paid employment in order to care for their children. To have wages fixed by reference to the more limited needs of single workers without dependants places those who have family responsibilities at a disadvantage and discriminates against them.

The Poverty Commission: sound public policy

116. A substantial impetus for the change in Commonwealth financial support for families came from the work of the earlier mentioned Poverty Commission in the early 1970s. In August 1972 the McMahon Government established the Poverty Commission with Professor R F Henderson as its sole member. In March 1973 it was expanded by the Whitlam Government to include four extra Commissioners, with Professor Henderson becoming Chairman. The Commission delivered its *First Main Report* in April 1975 (the Poverty Report).

117. One of the Poverty Commission's major concerns was the extent of poverty among single breadwinner families and the policies needed to address their situation. The Poverty Report adopted poverty lines for various household groups. Those poverty lines, now called HPLs, were established by reference to a benchmark household of two

adults and two children, with one parent working and the other parent caring for the children without seeking employment. This is ACCER's primary reference point.

118. The work of the Poverty Commission and the Poverty Report made an important contribution to family policy in Australia and the articulation of the values that underpin good family policies. Providing parents with a choice about how they care for their children is of fundamental importance. The issue was usefully summarised by the Poverty Report in the context of its discussion of the extent of poverty among families in which there is a full time breadwinner:

> "A further way in which many low income families are often placed under great stress is in relation to the freedom parents have to decide how they will divide their time between working, looking after children, and other activities. Because of financial pressures some parents are confronted with the choice of spending more time earning money and less time at home or struggling on an income below the poverty line….
>
> Some fathers compensate for their low wages by working more hours or working two jobs. In many instances this may create considerable pressure on parents and their children….
>
> Inadequate wages and pensions place considerable pressure on mothers to work…The mere fact of a mother working is not necessarily detrimental to the family. The relationship between a mother working and child development has been hotly debated in recent years, but the research on the subject has been inconclusive. *The pertinent issue is the freedom of mothers to choose whether or not to work, so that each family can reach a solution which is satisfactory for its members. The pressure to work created by an inadequate income means that some mothers are less free to choose*." (*First Main Report, April 1975*, volume 1, page 204, footnote omitted, italics added.)

119. This passage was written in the context of a higher proportion of stay-at-home mothers in two parent families than is presently the case. Whether the changes since that time in workforce participation by mothers are the result of free choice or economic pressure is a matter of debate. However, the substantive point made in the passage remains true: parents should have the ability to choose that one of them will stay at home and care for the children and not engage in employment.

120. The Poverty Commission proposed substantial changes to government policies to lift these families above the poverty line. The policy objective was to have an acceptable disposable income for families without the need for the second parent to undertake, or apply for, paid employment.

121. This policy objective, which was central to the work of the Poverty Commission, remains a valid objective. The objective is to provide a minimum wage which, together with family payments, will enable families to rely *solely* on that wage.

The Newstart allowance

122. In its first decision in 2006 the AFPC compared family disposable incomes with the relevant HPLs. It found that the objective had been achieved:

> "The income support and family assistance safety net, and its continued improvement over recent years, *allows people with family responsibilities to rely solely on a single wage to support their families*." (*Wage-Setting Decision and Reasons for Decision* October 2006, page 96, emphasis added.)

123. We wish this were the case. It was not the case because the calculation of disposable income underpinning the conclusion in respect to families of two adults and two children had erroneously included income from the Newstart allowance, an unemployment benefit, in respect of the second parent. It was not an appropriate inclusion because it is an allowance that carries with it the obligation to take up employment if it is available. A parent is not entitled to the Newstart allowance if he or she wishes to stay at home to care for the children. We note that the Poverty Commission took no account of any potential entitlement to an unemployment benefit because the intention was to provide support to the single-breadwinner family.

124. The inclusion of the Newstart allowance is not a minor matter. Where the breadwinner is paid the NMW, the other parent is currently entitled to $113.93 per week, subject to compliance with the requirements of the allowance. This amount is reduced on a scale that takes into account the breadwinner's income. Where the partner is receiving the NMW or more, the payment reduces at the rate of 60 cents in the dollar. At this rate the Newstart allowance would cease to be payable when the breadwinner's wage reaches $780.00 per week.

125. Most fundamentally, what is the rationale for taking into account the Newstart allowance? In substance, the claimed rationale is that if a family is living in poverty, or below an acceptable basic standard of living, the second parent should get a job, just to get out of poverty, or achieve a basic acceptable standard of living. We note that in the years since the AFPC first included the Newstart allowance in the calculations of disposable income, no party, nor the AFPC, has presented a rationale for its inclusion.

126. Despite the absence of any rationale for its inclusion, the Newstart allowance has appeared in statistical reports and submissions in a way that does not alert the reader to the fundamental issue. ACCER has regularly argued against the inclusion of the Newstart allowance in the calculation of the incomes of "single earner couple families"; for example, see its March 2011 submission to the last annual wage review (at

paragraph 104) and its Reply submission April 2011 (at paragraph 52). We have also complained about the lack of transparency and the risk of errors that it presents.

Table 4.2 and Chart 4.2 of FWA's 2011 decision

127. The lack of a rationale for the inclusion of the Newstart allowance and transparency in data was illustrated in Table 4.2 of the *Annual Wage Review Decision - 2010-2012*. That table stated that the disposable income of a family of four who is dependent on the NMW was $941.10 per week. This figure had some relevance because it was in the context of the discussion of the wage and transfer outcomes for various kinds of households, in particular comparing the NMW-dependent family of four with the AWOTE-dependent family of four. Associated with Table 4.2 is Chart 4.2, which charts the ratio between the two families over the period 2002 to 2010. According to the notes to Table 4.2, the source of its data was Table 8.1 of the FWA's *Research Report 2/2011, Relative Living Standards and the needs of the low paid: definition and measurement*. Table 8.1, at page 69 of the report, and the discussion surrounding it do not disclose, or even suggest, that the figure includes the Newstart allowance for the second parent; see section 8.2.1 at pages 68-69. It is only in a footnote at page 64 of the report where any reference is made to this aspect. Footnote 49 states: "Depending on the level of wages and family composition, these transfers may include Parenting Payment or Newstart Allowance for a non-working partner, Family Tax Benefits and/or Rent Assistance."

128. The effect of this is to carry through, without transparency, the inclusion of the Newstart allowance into Table 4.2 and Chart 4.2 of FWA's decision. The consequences are significant: without the Newstart allowance the disposable income for the same family at December 2010 was $840.49 per week (including maximum rental assistance). That amount is at ACCER' submission of March 2011, paragraph 395. The effect of the inclusion of the Newstart allowance was to increase that figure by $110.61 per week.

129. Another aspect of the comparisons is that they do not compare like with like, a matter that is not evident from the material contained in the decision. They do not compare like with like because the second parent in the AWOTE family does not qualify for a Newstart payment because the AWOTE has an income in excess of the cut-off point under the income test (now at $780.00 per week). It is an unbalanced comparison because the only way that a stay at home parent in NMW family can receive the income that is claimed in the table is to be prepared to undertake paid employment if work

becomes available. That does not apply to the AWOTE family. The only way to compare the relative living standards of both households is to exclude the Newstart allowance and compare families where each has a parent who stays at home to care for the children. Table 4.2 claimed that in August 2010, the NMW family was at 77.2% of the AWOTE family. The figures in Tables 13 and 17 below contain the relevant figures. The NMW has fallen from 50.1% of AWOTE in December 2000 to 44.2% in December 2011. For the two families of four, dependent on the NMW and AWOTE, comparing like with like, the fall in disposable income has been from 73.1% to 64.7% over the same period. We return to Table 4.2 in Chapter 3J.

Gender neutral advocacy

130. Many Australian families can, and do, choose to live on a single income. Many couples chose to live on a single income for the benefit of their children and many couples find that the best interests of their children can be best served by both of them working, often with one parent working part time. That is a choice that they are entitled to make. But it is harder for lower income families as a result of low wages and limited government support. So much so, that it requires many of them to live in or near poverty.

131. We emphasise that our advocacy for a wage that takes into account the needs of parents with family responsibilities *does not raise any gender-specific issue*. It should also be remembered that the Catholic Church is one of Australia's largest employers of women with family responsibilities. There are three important points to make about ACCER's view of the *family wage*.

- First, parents should have the *effective* right to choose that one of them will stay out of the employed workforce in order to care for their children. A corollary of this principle is that parents may decide that the interests of the family, and those of the children in particular, would be best served by both of them being employed. Whether the second parent takes a job will depend on a variety of factors, including the availability and cost of good child care.
- Second, the principle applies whether the breadwinner, or principal breadwinner, is male or female. Parents should be able to choose which one of them will be the breadwinner and which one of them will stay out of the employed workforce in order to care for their children.

- Third, where parents are out of the employed workforce for a substantial period of time in order to raise children there should be various kinds of training programs and other educational support to assist them to return to the workforce when they choose to do so.

G. Quantifying the needs of the low paid

132. The needs of the low paid may be described in broad qualitative terms, such as: the need to live in modest comfort, to live with dignity, to receive a living wage, and to live without poverty. These are legitimate considerations in assessing needs, but they depend on measurable economic assessments. The statutory obligation to take account of the needs of the low paid requires that close attention be given to quantifying the financial needs of the low paid, upon which these kinds of qualitative outcomes depend. Similarly, the obligation to take into account relative living standards requires measurable economic comparisons.

Social Policy Research Centre Budget Standards research

133. The best evidence in Australia about the needs of low income families is in the Budget Standards research of the SPRC, which we briefly described earlier. The SPRC research was initially commissioned in 1995 by the Department of Family and Community Services. It identifies two standards of living. The Low Cost budget was developed as a standard for unemployed families and for social security purposes. The Modest but Adequate budget was developed to describe the situation of a household whose standard of living falls somewhere around the median standard of living within the Australian community taken as a whole.

134. The original SPRC budgets were developed for households in Sydney over the period 1995 to 1998 and prices were set at February 1997 prices. Each budget comprises a detailed list of goods and services for a number of households. There are 26 pages of detailed items, grouped under a series of headings; see the Attachment to *Updated Budget Standard Estimates for Australian Working Families in September 2003*, Professor Peter Saunders, SPRC 2004.

135. In its past submissions ACCER has argued that the itemised budgets are credible and, with adjustments to cover price increases since 1997, provide a sound basis upon which the needs of low paid workers and their families can be estimated. In Table 2 we have extracted the first four items of the Low Cost food budget for a family of two adults and two children, a girl aged 6 and a boy aged 14, to illustrate the detail in the budget.

Table 2

Extract from SPRC Low Cost Budget

Low Cost Food Budget for Couple with Two Children

	Serving unit	Grams per serve	Girl aged 6 Serves per week	Girl aged 6 Cost ($ per week)	Boy aged 14 Serves per week	Boy aged 14 Cost ($ per week)	Woman aged 35 Serves per week	Woman aged 35 Cost ($ per week)	Man aged 40 Serves per week	Man aged 40 Cost ($ per week)
Cereals										
Boiled rice	½ cup	80	1.3	0.11	1.6	0.13	1.9	0.15	1.7	0.14
Bread roll	½ roll	30					3.8	1.48	6.7	2.56
Bread sliced	1 slice	30	25.1	1.70	35.8	2.43	26.9	1.83	40.7	2.76
Breakfast cereal	2 bix	30	15.1	1.16	16.8	1.29	15.4	1.18	15.5	1.19

AIRC and FWA responses to SPRC research

136. The SPRC material was first used in a minimum wage case when the Australian Council of Trade Unions (ACTU) relied on it in the *Safety Net Review Case 2004*. Professor Saunders abovementioned paper was commissioned by the ACTU for use in that case.

137. Before further explaining this research and how we rely on it, we refer to the responses made to it by the AIRC in 2004 and by the FWA in 2010 and 2011.

138. In 2004 the AIRC discussed the evidence and concluded that it could not accept the material as providing the basis for an Australian benchmark. It agreed with some of the parties that there were significant difficulties in adopting the SPRC budget standards as an Australian benchmark. In particular, the AIRC was concerned about the housing component of the budget, which was based on the rental costs in the Hurstville area of Sydney. It added:

> "Further, the very construction of the budgets ultimately turns on value judgments. ACOSS's submissions candidly acknowledged the deficiencies of the SPRC budget standards. On the material presently before the Commission, we do not think that we can responsibly attempt to establish such a benchmark.
> Nevertheless, in our opinion, the SPRC budget standards provide an indication that for certain household types, the federal minimum wage is significantly below the amount which is necessary to provide a modest living standard for those households in the context of living standards generally prevailing in the Australian community." (*Safety Net Review Case 2004*, paragraphs 284-5.)

139. In its decision in the *Annual Wage Review 2009-10* the Minimum Wage Panel of FWA wrote the following on Budget Standards research:

> "There was support among a number of parties for the view expressed by the Australian Social Inclusion Board that, for the low paid, the "… level of income needs to be of a standard to enable all workers to live in dignity". While the concept of living with dignity has a long provenance in Australian wage fixing, it is difficult to translate it into a specific monetary amount. We were presented with little evidence as to what this amount should be. We were not persuaded that updated measures of Budget Standards derived from the mid 1990s could provide us with useful guidance." (Paragraph [243], footnote omitted.)

140. The ACTU, ACOSS and ACCER returned to the Budget Standards in their 2011 submissions. The 2011 submissions provided FWA with the opportunity to canvass the strengths and weaknesses of the SPRC material, but it did not qualify its 2010 conclusion. In their section 290 report of 14 December 2011(*Measuring the Needs of the Low Paid*), Senior Deputy President Watson and Professor Richardson wrote:

> "The current HPL data and the SPRC budget standards data provide little guidance to the Panel because the original research upon which they are based lacks contemporary relevance. The proposed research project submitted to the ARC [Australian Research Council] for updating budget standards will, if funded, provide valuable information when focused on the needs of the low paid so long as the information remains contemporary. Budget standards that are based on the needs of the low paid, rather than, for example, set at a level deemed appropriate for social welfare recipients, would be of most value to the work of the Panel. However, it is of concern that the availability of contemporary budget standards data is reliant upon the ad hoc efforts of academic researchers and there may be times, as is currently the case, when reliable contemporary data is not available.
> There is a widespread view that more regular and consistent primary data as to the needs of the low paid is required and, if available, would better inform the Panel." (Paragraphs [41] - [42])

141. The lack of contemporary relevance identified by FWA is not merely about price levels. If it were, the adjustment of prices to reflect increases in the CPI, or relevant components of it, would be sufficient. The fundamental concern is that the basket of goods and services are outdated because of the changes in community levels over the past 15 years (and more than 40 years in the case of the HPLs). The discrepancy between the two is illustrated by the changes in the CPI and per capita disposable income over the period as set out by the Melbourne Institute in *Poverty Lines: Australia, September Quarter 2011*. From the March 1997 to the December 2011, the CPI increased by 48.9%. By comparison, seasonally adjusted household disposable income (per head), as calculated by the Melbourne Institute, increased by 106.7% over the same period, and the HPLs reflect that increase.

142. Professor Saunders referred in his 2004 paper to the need to re-construct budgets after a period of time so that they reflect prevailing judgments, community standards and

expenditure patters and said that at that the time limit for applying a simple price adjustment was "close" (page 26). Clearly some time has passed since then. We have used CPI-adjusted figures in this section, mindful of that comment. However, given that the community standards have increased, a re-construction can be expected to raise the budgets, not lower them. Our adjustments are, therefore, conservative.

Updated SPRC research

143. In Table 3 we have updated a table used in the SPRC evidence to the *Safety Net Review Case 2004* so that it takes into take account of CPI increases from the September Quarter 2003 to the December Quarter 2011, save for the adjustment to housing costs which has been made on another basis, as explained below.

Table 3

Updated Low Cost and Modest but Adequate budgets
December 2011
($ per week)

	Family/ household type:				
	Single Female	**Single Male**	**Couple, without children**	**Couple plus girl aged 6 (G6)**	**Couple plus G 6 and B 14**
	Modest but Adequate				
Housing	208.80	208.80	208.80	253.28	297.87
Energy	11.63	11.63	15.17	19.45	23.12
Food	75.54	90.83	165.35	212.33	291.16
Clothing & footwear	35.74	27.16	53.81	74.27	88.93
Household goods & services	44.97	44.97	4.42	72.63	61.52
Health	6.57	9.73	16.04	20.47	23.88
Transport	112.93	112.55	126.70	130.74	134.78
Leisure	41.82	48.37	81.60	86.66	128.85
Personal care	33.47	14.78	41.94	44.97	46.49
Total	571.46	568.83	713.83	914.81	1096.60
	Low Cost				
Housing	181.64	184.18	184.18	232.17	303.60
Energy	10.73	10.87	14.40	17.30	20.08
Food	71.25	72.39	130.49	166.74	229.90
Clothing & footwear	21.09	21.48	48.37	61.40	77.43
Household goods & services	35.24	35.87	44.84	57.48	87.91
Health	6.06	6.32	10.87	14.02	16.81
Transport	84.38	85.89	97.26	104.59	104.59
Leisure	29.18	29.69	37.14	44.84	55.58
Personal care	8.09	8.21	18.19	19.20	22.73
Total	447.67	454.89	585.74	717.74	918.65

144. Table 3 has not been prepared on the basis of it providing a satisfactory benchmark for the setting of minimum wages, but for the purpose of showing that ACCER's claim for an extra $10 per week in the NMW is justified.

Housing costs

145. In 2004 the level of housing costs was the principal reason, or at least a major reason, for the AIRC's reluctance to adopt the SPRC material. The budgets were based on housing costs in Hurstville, Sydney and were regarded as unrepresentative of the national position. In its 2011 Reply Submission ACCER produced figures from the Department of Families, Housing, Community Services and Indigenous Affairs which showed the average rent paid by recipients of Commonwealth rental assistance (in the couple with one or two dependent children category) at June 2010 was $284.00 per week. To our knowledge, this is the latest available data. Applying the CPI rental index over the period to December 2011, that figure rises to $303.30 per week. That figure has been placed in the housing cost cell of the Low Cost budget. We have not made changes to the other relevant cells for the other families and those figures have only been adjusted by the CPI. We submit that, in regard to the Low Cost budget this effectively overcomes the major concern in 2004 about the costings of the SPRC budgets. It might be noted from a comparison of the adjusted cell in the table with the other housing cells that the housing market now appears to have moved ahead of the CPI-adjusted 1997 figures.

146. The updated and revised Low Cost budget of $918.65 per week is well above the disposable income (including maximum rental assistance) of the NMW-dependent family, which was $864.46 per week at the same time (see Table 26). Having regard to the design of the Low Cost budget, for social security purposes, the disposable income of these working families should be substantially higher than the budget figure. The Low Cost budget is a reference point, not a standard, and the NMW should provide a standard of living "well above" that level. (This updated low cost budget is 52.4% of the updated equivalised median disposable household income calculated earlier.)

The utility of the updated budget

147. We submit that, while the CPI-adjusted Low Cost budget in Table 3 is not sufficient for the setting of a fully-considered NMW, it demonstrates that the further adjustment to the NMW of $10.00 per week that we seek in 2012 is a very conservative amount and is justified on the basis of the best available evidence of the needs of the low paid. We rely on it for that limited purpose.

Further Budget Standards research

148. The section 290 report that we quoted from earlier (*Measuring the Needs of the Low Paid*) refers to a pending application to the Australian Research Council for funding to enable the updating of the SPRC budget standards research. Catholic Social Services Australia is one of the SPRC's research partners in that application. One of the purposes of the application is to produce research that will assist in the measurement of the needs of low income families, with obvious relevance to minimum wage cases. ACCER is concerned to see that the research has the most utility that it can in such cases. In particular, it is keen to ensure that there is a process in FWA that will elicit views about the design and methodological issues of this kind of research. We return to this in Chapter 4, but make some submissions about aspects of it in the context of the current chapter.

Value judgments

149. There were criticisms of the SPRC material in 2004 to the effect that it involved value judgements. Indeed, Professor Saunders had raised them in his paper in support of the ACTU's claim. He referred to the transparency of the assumptions and judgments and argued that they provide the basis for an informed debate:

> "The most important strength of the budget standards approach is that the method confronts directly the many difficult issues that have to be faced when developing any kind of adequacy standard. The method involves identifying what needs have to be met in order to maintain a given standard of living, what items will meet those needs, and at what cost. This is a complex and formidable task, but one that has to be confronted in order to put a monetary figure on a particular standard of living. The fact that this requires judgements to be made which many will dispute reflects the inherent difficulties associated with obtaining quantitative measures of the standard of living, rather than any fundamental objection to the notion of a budget standard itself." (*Updated Budget Standard Estimates for Australian Working Families in September 2003*, page 9)

150. We accept that where research such as the budget standards is used in cases such as wage reviews there should be an opportunity for interested parties to question and contest its value judgments. But the making of value judgments is legitimate in this process, and not a reason for the rejection of this kind of material. For example, whether the cost of children's books is taken into account is an issue that involves a value judgment. We presume that no one would argue that the wages for low income families should not take into account books for the children.

151. In a system that is directed at an ultimate value judgment, the setting a *fair* wage, how can it be said that value judgments about the food, clothing and educational needs of

children are impermissible value judgments? The strength of the budget standards approach is that it enables these matters to be identified, discussed and judgments made. FWA has the capacity to have these issues ventilated and determined, either in an inquiry or through a structured research program involving interested parties. In such a forum or process the parties who have an interest in the matter can, and should, raise their concerns in advance of the research being conducted. This is not a case where parties should be allowed to hold their fire until research has been conducted.

152. We do not claim that budget standards evidence can operate to the exclusion of other measures of needs and living standards. We are confident that the SPRC research will provide strong decision-making guidance if FWA permits a testing debate on, and gives full consideration to, this research.

Child care costs are a research priority

153. There is an urgent need for further research into child care costs. As we showed in Table 1, the application of the modified OECD equivalence scale shows that NMW-dependent sole parents with two children appear to have a higher standard of living than singles on the same wage. This kind of comparison was first presented by the AFPC in 2008. It cannot be right. ACCER has pointed out over the years that child care costs need to be taken into account and that these figures give a misleading impression of the true position of working sole parents. It risks giving the misleading impression that sole parents are doing as well as singles and do not need any more help.

154. Child care costs can drive low income sole parent families into poverty and/or force sole parents into inadequate child care arrangements. Indeed, it is the prospect of inadequate child care support that is a barrier to increased sole parent participation in the workforce. We are particularly concerned about the impact that inadequate child care has on children.

155. There has been much discussion about this matter and considerable Commonwealth expenditure on child care support, especially in recent years. However, if the underlying wage rate is insufficient, child care support may not be addressing the needs of low income sole parents. It is important to assist low income sole parents participate in the workforce, but that assistance requires a wage, family transfers and child care support that are adequate for them to participate on an equitable basis and with the proper care of their children.

156. In Table 4 we have set out child care costs for the NMW-dependent sole parent with two children using child care before and after school and during vacations. It does not

attempt to draw on general survey material regarding child care costs, if only because low income working sole parents can only spend what they have available. We appreciate that various kinds of averaging is required in factoring a child care component into the estimation of the needs of low income workers. We submit that this is an issue that should be addressed by FWA on an ongoing basis and one which presents an opportunity for joint research and/or consultation with a variety of bodies.

157. Table 4 is based on the fees charged in the extensive out of school hours service provided by Centacare Child Care Services which operates 86 centres throughout the Archdiocese of Brisbane. Based on the current range of fees, we have used $5.75 per hour for before and after school care and $38.50 per day for vacation care. They are very modest figures.

Table 4

Child care costs for NMW-dependent sole parent with two children

($ per week)

	Total cost per week	**Child Care Benefit**	**Out of Pocket Expenses**	**Child Care Rebate**	**Net Child Care Costs**
Before and After School Care 2 sessions, totalling 5 hours per day @ $5.75 per hour per child	287.00	167.88	119.62	59.81	59.81
Vacation Care 10 hours per day for 5 days @ $38.50 per day per child	385.00	335.76	49.24	24.62	24.62

The calculations are taken from the Centrelink online estimator. The children are aged 9 and 8.

158. These are substantial costs for low paid workers, which rise significantly with higher hourly fees. Beyond these fees no more is payable under the Child Care Benefit and the parent can only rely on the Child Care Tax Rebate for the recovery of 50% of out of pocket expenses. If the hourly rate is $1.00 more, at $6.75 per hour, the weekly out of pocket expenses would increase to $169.62 and the net child care costs to $84.81. If vacation care increased by $5.00 per week, out of pockets would increase by $50.00 per week and the net cost by $25.00 per week.

159. Child care costs have the capacity to drive a sole parent into poverty. Where both parents work, the costs of child care may consume a large proportion of the income generated by the second job. In low income families, they deter work in cases where

parents would prefer to work (full time or part time) and they create latch key arrangements when employment is obtained. Some parents will use latch key arrangements when they shouldn't and they can afford child care, but that is no reason to discount wage rates.

160. These figures demonstrate how care must be taken with the estimation of the relative living standards of working sole parents. The data in Table 1 has to be revised. When the purpose is to compare the living standards of working households where the breadwinner is in full time employment, we cannot ignore the need for the sole parent to pay for child care. Of course, this factor is of less importance than it was before the substantial increase in child care support in recent years. Those targeted changes have widened the gap in the relative standards of living of the single breadwinner family of four and the sole parent breadwinner family of three.

Chapter 3 Wage-setting has failed low income workers and their families

A. Introduction

161. In this chapter we give an overview of changes in safety net wages since 2000 to demonstrate that the wage-setting system has failed low income workers and their families. This chapter updates similar chapters in ACCER's submissions to the annual wage reviews of 2010 and 2011 and is part of ACCER's ongoing commentary on the parlous position of low income workers and their families.

162. We have concentrated on the events since the turn of the century because the new century started with a convenient reference point: a package of taxation and family support measures that accompanied the introduction of the *Goods and Services Tax* on 1 July 2000. Our comparisons and commentary will concentrate on the period December 2000 to December 2011. The period has presented the best of economic times and, in the last part, threatened the worst economic circumstances since the Great Depression. As it turned out, the Australian economy remained strong despite the Global Financial Crisis and the continuing global economic malaise.

163. We should take a close look at these years and ask whether we have had a fair and balanced way of distributing the benefits of economic growth and sharing the burdens of economic pain. Analysing how the wages system has worked over this period is necessary if we are to assess our current position and establish a fair, balanced and sustainable framework for setting safety net wages. Our review will pay particular attention to changes in the FMW and, from 2010, its successor, the NMW. In general, we will use the term NMW, unless the context requires reference to the FMW.

164. Wage-setting since 2000 falls into three parts: until December 2005 wage rates were set by the AIRC; from December 2006 to 2009 they were set by the AFPC under the *Work Choices* legislation; and from 2010 when FWA set wages under the FW Act. The outcomes for safety net workers in each period were different, reflecting, in part, differences in legislation. We stress, however, that the failures in wage-setting that we point to were not limited to the *Work Choices* years.

165. The disposable incomes of NMW-dependent workers and their families have risen by more than the rate of inflation over the past 11 years; but, overall, the tribunal decisions on safety net wages have worked against low paid workers and their families. Many safety net workers have suffered a real wage cut since 2000.

166. Compared to the rest of the workforce, *all* safety net workers are *relatively* worse off in 2011 compared to 2000.

167. In this chapter we establish:

(a) The number of workers on the NMW is very small and references to improvements in the NMW as an indicator of how safety net changes have operated are misleading. Changes in the NMW cannot be used as a guide to the impact of past decisions.

(b) The real wages of many safety net workers have fallen since 2011, with the greatest falls being at the higher end of the low paid spectrum; for example, all safety net classifications of more than $729.00 per week have had a real wage cut since 2000.

(c) When compared with other rates of pay and income measures, safety net wages have fallen dramatically; for example, while average weekly ordinary time earnings (AWOTE) have risen 66.9%, the base safety net wage for a trades-qualified worker, or a worker in an equivalent classification, has risen by 39.4%.

(d) Since 2000 substantial productivity gains across the economy have resulted in substantial wage increases across the national economy; but safety net workers have not benefited from those gains. Unlike other workers, safety net workers have been denied the benefit of the increases in their own productivity.

(e) The use of after-tax figures by some commentators as a justification for real wage cuts, or limited real wage increases, is not justified. The tax cuts over the period have not targeted low paid workers and they have not received benefits in excess of those received by taxpayers generally. Safety net workers

have been deprived of their tax cuts as a result of cuts in the real value of safety net wages.

(f) Decisions made by the AFPC under the *Work Choices* legislation have exacerbated the trend towards greater wage inequality since 2000. The effects of decisions under that legislation are still being felt.

(g) Family payments paid to low income working families have not compensated for real wage cuts. Family payments have increased, but not in a way that would permit them to be used as a justification for limiting safety net wage increases.

(h) Safety net wages have fallen behind pensions and are likely to fall further behind pension rates unless wage-setting decisions change.

(i) Since 2000 poverty lines have increased at a greater rate than the disposable incomes of low income safety net-dependent families causing lower living standards and more of them to fall into poverty. Many low income working families have fallen behind rising poverty lines.

(j) Safety net wages have not been based on evidence of workers' needs, despite calls for inquiries or research into those needs.

168. We demonstrate that while Australian workers and their families *as a whole* were much better off in 2011 than they were in 2000, the diversity of circumstances within the workforce have hidden counter-trends that call for rectification. The figures demonstrate the dangers in focussing on aggregates, without regard to the groups within them. Safety-net dependent workers, about one sixth of all workers, rely on the safety net because, typically, they have no ability to bargain for higher wages and they are not union members.

169. Our major concern is for the low paid safety net-dependent workers and their families who have not shared in the general improvement in living standards during what has been, overall, a period of very strong economic growth. However, we will also draw attention to sectors of employment among higher paid safety net-dependent workers who have suffered a marked deterioration in their wages over the decade.

B. Safety net wages have not kept up with price increases

170. Table 5 shows safety net wage adjustments over the decade by reference to a range of starting points in 2000. Throughout this chapter we have generally used December of each year for the presentation of data because it overcomes differences in the timing of

some wage decisions and the operative dates for transfer payments. Our tables generally reflect how the calendar years finished. Table 5 shows the wage increases awarded at various wage levels and changes in the CPI. Each wage adjustment can be compared with the cumulative increases in the CPI. From December 2000 to December 2011 the CPI increased by 36.6%.; see *Consumer Price Index, Australia, December 2011 cat. no 6401.0,* Table 1.

171. There were real increases in the NMW and in some low paid classifications. We can calculate that from December 2000 to December 2010 real wages were reduced for safety net rates that are now paying more than $729.00 per week. For example, the classification originally paying $600.00 per week, and now paying the modest wage of $794.40 per week, has had a real wage reduction of $25.20 per week since 2000.

Table 5

Changes in various national safety net wage rates
2000-2011
$$ per week, unless otherwise indicated)

Year	Safety Net Rates ($)								Cumulative CPI increases
	FMW/NMW		C10						
2000	400.40	450.00	492.20	500.00	550.00	600.00	650.00	700.00	
2001	413.40	463.00	507.20	515.00	565.00	617.00	667.00	717.00	3.1%
2002	431.40	481.00	525.20	533.00	583.00	635.00	685.00	735.00	6.2%
2003	448.40	498.00	542.20	550.00	600.00	652.00	702.00	750.00	8.8%
2004	467.40	517.00	561.20	569.00	619.00	671.00	721.00	769.00	11.6%
2005	484.40	534.00	578.20	586.00	636.00	688.00	738.00	786.00	14.3%
2006	511.86	561.36	605.56	613.36	663.36	715.36	760.04	808.04	18.4%
2007	522.12	571.62	615.82	623.62	673.62	720.68	765.36	813.36	21.9%
2008	543.78	593.28	637.48	645.28	695.28	742.34	787.02	835.02	26.4%
2009	543.78	593.28	637.48	645.28	695.28	742.34	787.02	835.02	29.1%
2010	569.90	619.30	663.60	671.30	721.30	768.30	813.00	861.00	32.5%
2011	589.30	640.40	686.20	694.10	745.80	794.40	840.60	890.30	36.6%
$ Increase	188.90	190.40	194.00	194.10	195.80	194.40	190.60	190.30	-
% Increase	47.2%	42.3%	39.4%	38.8%	35.6%	32.4%	29.3%	27.2%	36.6%

In 2000 the Federal Minimum Wage (FMW) was $400.40 and the base trades-qualified, or equivalent, wage rate (C10) was $492.20. Wage rates have been rounded in the transition from the AFPC's rates to the modern award rates in 2000. The 2011 figures are also rounded to the nearest 10 cents, consistent with FWA practice. The figures are those at December of each year.

172. A feature of Table 5 is the narrow band in which the wage increases have fallen: from $188.90 to $195.80 per week. This has produced sharply contrasting real wage outcomes.

173. The varying real wage increases were the product of the awarding of money increases, rather than percentage increases, by the various tribunals in each wage increase since 2000, save for 2011 when FWA awarded percentage increases. Because of a concern for the relativities between wage classifications, in 2001 an extra $2.00 per week was awarded by the AIRC to classifications above $490.00 per week, and an extra $2.00 per week for those above $590 per week. Yet in 2003 classifications in excess of $731.80 per week received $2.00 per week less than other classifications. In 2006 and 2007 the AFPC gave much smaller increases to classifications over $700.00 per week (approximately). The end result was a substantial compression in relativities.

From 1997 to 2005

174. It is important, however, to put this development in the context of changes that were introduced by the enactment of the *Workplace Relations Act 1996* and the wage-setting function established under that legislation. In its first wage review after the enactment of the legislation the AIRC introduced the FMW, which it fixed at the same rate as the C14 classification rate in the *Metal Industry Award 1984*.

175. Table 6 shows the increases in the FMW, two other classifications in the *Metal Industry Award* and the CPI over the period June 1997 to June 2005, following the implementation of the AIRC decisions in each of those years. We have used those months because they best reflect the price contexts in which the decisions were made.

Table 6

Increases in CPI and safety net wages
June 1997 - June 2005
($ per week, unless otherwise indicated)

	June 1997	June 2005	Increase
Federal Minimum Wage	359.40	484.40	34.8%
C10 classification	451.20	578.20	28.1%
C4 classification	597.20	722.20	20.9%
Consumer Price Index	120.3	147.5	22.6%

The decisions were handed down on 29 April 1997 and 7 June 2005. The 1997 decision relied on the December Quarter 1996 CPI and the 2005 decision relied on the March Quarter 2005 CPI. The CPI numbers are those for December 1996 and March 2005. The March Quarter 1997 figure was 120.5.

176. Table 6 is very important in any assessment of the impact of legislation and wage-setting decisions on the wages of safety net-dependent workers. It shows a substantial increase in real wages for low paid workers; although there was a real wage cut for higher income earners in those pre-*Work Choices* years.

177. By contrast, in Table 7 we can see the changes in the same rates since June 2005:

Table 7

Increases in CPI and safety net wages
June 2005 - June 2011
($ per week, unless otherwise indicated)

	June 2005	June 2011	Increase
Federal/National Minimum Wage	484.40	589.30	21.7%
C10 classification	578.20	686.20	18.7%
C4 classification	722.20	824.30	14.1%
Consumer Price Index	147.5	176.7	19.8%

The CPI numbers are for March 2005 and March 2011, which were the most recently published figures prior to the respective decisions of the AIRC in 2005 and FWA in 2011.

178. A major explanation for this turnaround was the decision by the AFPC in July 2009 that it would not increase the rates that it had set in July 2008 for commencement in October 2008.

179. FWA's decisions in 2010 and 2011 did not overcome the effects of the AFPC's wage freeze in 2009. Over the period between the AFPC's last decision in 2008 and FWA's decision in 2011 the published CPI increases, from March 2008 to March 2011, totalled 8.9%. (The March quarter figures were the most recent figures prior to each of the 2008 and 2011 decisions.) FWA's decisions meant that the NMW was increased by 8.4% ($543.78 to $589.30 per week). A shop assistant, for example, has had a wage increase of 7.9% (from $600.00 to $647.30 per week). A classification paying a very modest wage of $700 per week in 2008 has risen to $750.70, an increase of 7.2%, which is substantially below the rate of inflation.

180. The impact of the wage freeze has not been remedied: there is still a real wage cut, and a fairness deficit, as a result of the freeze.

181. From the point of view of low paid workers, the 14 years from the 1997 decision has been a period of two very different parts. In the first eight years there was a substantial increase for low paid workers that might seem to be a reflection of increases in productivity and broader community earnings. But, in fact, in those years these

improvements came at the cost of real wage reductions and no productivity increases for higher skilled classifications. There was a re-allocation of price compensation. In the last six years (which also had two parts) many low paid workers have had a real wage cut, no compensation for productivity increases and increasing disconnection from community earnings. In these years the outcomes for higher skilled workers have been worse.

C. Many safety net workers have suffered real wage cuts

182. To understand the operation of a safety net system that is required to take into account the needs of low paid workers there must be concentration on the level of the NMW. But the NMW is not the best indicator of the way in which low paid workers and other safety net workers have been affected by successive wage decisions. Changes in the NMW over time are misleading indicators of what has happened to safety net workers in general and low paid workers in particular. The trades-qualified C10 rate is a better guide to the impact that successive wage-setting decisions have had on low paid workers and their families and how those rates have fared by reference to the CPI and community-wide wage increases. A balanced description of changes to safety net rates over time would also require a reference to an award rate such as the C4 classification which currently pays a modest wage of $824.30 per week. Tables 6 and 7 show that the C4 classification increased by only 38.0% from June 1997 to June 2011, during which time the CPI increased by 46.9%. The purpose of this section is to estimate the extent to which safety net wages have diverged from CPI increases over the period since 2000.

183. The most common way of describing the impact of wage decisions on safety net wage rates is to refer to changes in the NMW. It is apparent from Table 5 that a very different picture emerges when we consider the position of other low and very low wage rates. ACCER focuses on the NMW because it shows the position of the lowest paid. While we argue that particular attention needs to be given to this group, for they have the greatest needs, the group is only a very small part of the low paid safety net-dependent workforce. The concentration on the small group of NMW workers diverts attention away from what has happened to other low paid workers and their families.

184. The number of NMW-dependent workers is limited because most low paid workers are covered by an award classification that pays a higher rate. Some pay scales have the NMW rate as an introductory wage, with a higher wage payable after a transitional period, typically 3 months. The lowest rate in many wage classifications is well above

the NMW. To evaluate the changes in safety net rates by only referring to the NMW is misleading, particularly when the dispersion of the low paid across wage classifications is well-known, and has been for some time.

185. The overall impact of wage-setting decisions on safety net workers and their families will depend on the spread of wage classifications, the distribution of workers across those classifications and the distribution of safety net-dependent workers across those classifications.

ACCI's Effective Minimum Wage

186. The distribution of workers across the safety net classifications has been addressed in past wage cases in the AIRC. In the AIRC's Safety Net Review cases of 2004 and 2005 the Australian Chamber of Commerce and Industry (ACCI) argued that the emphasis given to the FMW by ACCER and others was misconceived because it was a wage of very limited application. It supported this argument by reference to a number of awards that provided higher wage rates in their lowest work classification. ACCI introduced the concept of the *Effective Minimum Wage*. (The relevant parts of ACCI's March 2005 submission are at pages 5-39 to 5-49 and the relevant parts of its April 2005 submission are at pages R4-18 to R4-23.) The submissions also identified a *Transitional Minimum Wage*, applying to newly-employed workers, which provided a lower wage rate than the Effective Minimum Wage, but only for a limited period.

187. In the *Safety Net Review Case 2005* ACCI said that the material "…show[s], in practical terms, very few employees would ever be employed on the Federal Minimum Wage" (page 5-40). The ACCI material showed that the Effective Minimum Wage was substantially in excess of the FMW. It said:

> "A proper analysis of award rates of pay demonstrates the award dependent employees, while they may be lower paid relative to other groups of employees in the community (e.g. those covered by agreements), are unlikely to be receiving rates of pay such as the Federal Minimum Wage *in almost all instances*" (page 5-46, emphasis added).

188. The ACCI submissions presented an estimate of the gap between the FMW and the Effective Minimum Wage. At a time when the FMW was $467.40 per week, the sample of awards used by ACCI produced an average of $502.35, or $34.95 per week extra (see page 5-45). Because the safety net increases granted since 2005 have been flat money amounts, save for the percentage increases in 2011, we expect the margin to have been maintained and that the Effective Minimum Wage at December 2011 would have been approximately $625.00. This figure is of some significance because it is

very close to the cleaner's base rate of $629.50, which we have nominated as our interim target rate for the NMW.

Award classification rates

189. Another guide to the distribution of workers across the range of safety net rates is to be found in the various classification rates in awards at December 2011. Table 8 sets out a cross section of entry level rates of pay. We do not claim that the rates in Table 8 are necessarily a representative sample, but the data supports the view that the NMW is inadequate by reference to other rates of pay.

Table 8

Lowest classification rates in various awards, December 2011
($ per week)

Award	Introductory rate	Lowest Classification Rate
Miscellaneous	$589.30	$629.70
Clerks Private Sector		$626.60
Car Parking		$620.80
General Retail Industry		$647.30
Cleaning Services Industry		$629.50
Hair and Beauty Industry		$647.30
Restaurant Industry	$589.30	$606.40
Hospitality Industry (General) Award	$589.30	$606.40
Fast Food Industry Award		$647.30
Aged Care		$626.60
Higher Education Industry- General Staff Award		$610.10
Waste Management		$624.10
Local Government Industry		$630.00
Manufacturing and Associated Industries and Occupations	$589.30	$606.40
Storage Services and Wholesale	$629.70	$637.50
Rail Industry- Operations		$589.30

Where the award specifies an annual rate it has been divided by 52.18. In awards where annual or other time increments are provided in the lowest non-introductory classification, the lowest annual rate is specified. The introductory rates apply to the first three months.

190. Table 8 also shows the impact of the limited wage increases on low paid workers has not been as beneficial as a simple reference to the NMW adjustments would suggest. A rate of $647.30 per week (eg shop assistant) has been increased by $190.60 per week,

or 41.7%, since December 2000. A wage at the base cleaner's rate, now $629.50 per week, has increased by $190.50, or 43.4%, over that time. Both are substantially less than the 47.2% increase in the NMW over the same period. They demonstrate how misleading references to the changes in the NMW are when describing the impact of wage setting decisions on the low paid.

Wage rate dispersion of low paid workers and median safety net workers

191. The second indicator of the inappropriateness of the NMW as a guide to the evaluations of the impact of wage-setting decisions on low paid workers is found in the data on the spread of safety net-dependent workers across work classifications. For this we have drawn on FWA's Research Report 4/2010, *Earnings of employees who are reliant on minimum rates of pay*. In May 2006, when the estimated number of workers in Australia was 10.2 million, 47% of "minimum wage-reliant" workers were permanent (ie non-casual) adult employees, 37% were adult casual workers and 16% were juniors in both casual and non-casual employment. At the time 19% of non-farm workers were minimum wage-reliant, although this figure fell to 16.5% by August 2008. Therefore, 47% of about 19% of the workforce would suggest that the group in the adult permanent category was about 8.9% of the working population. We can round this to 900,000 workers in the category of permanent minimum wage-reliant (or safety net-dependent) workers. We can round the adult casual group to 700,000.

192. Tables 2 (adult permanent) and Table 3 (adult casual) of the report show the distribution of adult workers across a range of wage rates fixed by reference to the "metals award" classifications. The tables show that a greater proportion of permanent workers are employed in the higher paid classifications than is the case with casuals. The distribution of these workers provides an indication of the overall spread of workers across the range of work classifications. There are several important points that arise from the data as presented.

Earnings dispersion of adult permanent employees

193. The adult permanent safety net workers were a very significant percentage of the workforce. How they, and their families, fared before and after May 2006 is very important in our assessment of the equity of the wages system. We should note that some of them would have been covered by State tribunals, but from January 2010 nearly all previously State-covered workers, other than those in Western Australia, came into a system shaped by the decisions of the AFPC, all of which occurred after the date of this May 2006 study.

194. The median rate of pay for safety net-dependent adult permanent workers in May 2006 was $16.81 and $17.91 per hour. The figures suggest that the median weekly wage for these safety net dependent workers was about $660.00 per week when the minimum wage was $484.40 per week. The median sits about halfway between the $550.00 and $600.00 per week columns in our Table 5, which have had increases of 35.6% and 32.4%, respectively, since 2000. The current rates are $745.80 and $794.40 per week. The rounded half way point is $770 per week.

195. We can say, therefore, that the median adult permanent safety net worker identified by this survey has had increases of about 34.0% since 2000, substantially less than the CPI increase of 36.6%, and, as we shall see, much less than community wage increases. This provides a sound basis for concluding that most full time safety net-dependent workers have suffered a real wage cut since 2000.

196. The report's figures also show that 29.2% of the group were employed on rates below the C10 rate, including 9.5% on rates below the then current base cleaner's rate of $13.78 per hour (the C12 rate). This latter group represents about 1% of the workforce, which, nevertheless, is a considerable number: about 100,000 workers. This group is our top priority among the permanent employees. Those figures support our submission that the economic cost of improving the living standards of the lowest paid will be negligible.

197. Table 1 in the FWA report shows that about 25% of these adult permanent workers were employed at rates above the relevant figure in the $700.00 column in our Table 5 (then $786.00 per week or $20.68 per hour). This group of over 250,000 workers have had increases of less than 27.2% since 2000, ie much less than the rate of inflation over that period. This is a very significant group of workers.

Earnings dispersion of adult casual employees

198. The situation with adult casual workers is significantly different, but, nonetheless, very concerning. Their position is set out in Table 2 of the FWA report. They constituted about 7% of the workforce. This represents a substantial number of workers and working families. The median wage rate was just short of the C10 rate and 23.8% were in receipt of less than the cleaner's base rate. Almost 30% were on rates of $15.77 per hour or more (then $599 per week, when not in receipt of the casual loading). These workers were employed at wage rates that are close to or more than the rate above which there has been a real wage cut since 2000 (ie $729.00 per week).

Conclusion on the median

199. It is clear from the foregoing that the reliance on the NMW as an indicator of the movement in real wages over the decade is misleading and that many safety net-dependent workers have had a substantial real wage cut since 2000. If there is to be a single and fair indicator of the impact of safety net decisions on the low paid workforce, a wage rate at about the median wage of safety net-dependent workers should be chosen. It would present a very different picture; and demonstrate that the median adult permanent employee, who we have estimated to be on a rate of around $770 per week, has received a significant real wage cut since 2000, and especially since 2005.

D. Safety net workers have not received productivity increases

200. The evaluation of the outcomes for NMW-dependent and other low paid safety net workers cannot be judged only by reference to CPI increases. The maintenance of real wages is a necessary, but not a sufficient, condition for the effective operation of a fair safety net wage. Productivity gains have to be taken into account.

201. Productivity and how to improve it are now at the centre of economic debate in Australia. Productivity growth is vital for the continuing strength of the economy and the maintenance and improvement of living standards. Productivity growth enables increases in real wages. Substantial increases in, for example, average weekly ordinary time earnings have occurred without undue inflationary pressures because the economy has generated substantial productivity increases. All workers are entitled to expect that their living standards will increase as a result of national productivity improvements. Safety net workers should not receive less than increases in prices and productivity.

202. While most of the Australian workforce has reaped a productivity dividend in recent years, in the form of increased real wages, many safety net workers have had a real wage cut, thereby depriving them of a productivity dividend, and more. Even in those cases where real safety net wages have been increased, the increases have not been a fair reflection of productivity improvements.

203. The substantial increases in productivity since 2000-01 are shown in Table 9 which contains indexes of chain volume measures of gross product per hour worked for three industries and for all industries. The three industries that have been included in the table are those in which there is a significant proportion of safety net-dependent workers.

Across all industries the productivity increase was 14.5% over the ten year period 2000-01 to 2010-11, almost 1.5% per year.

Table 9

Labour productivity
2000-01 - 2010-11
(Indexes of gross value added per hour worked)

	2000–01	**2001–02**	**2002–03**	**2003–04**	**2004–05**	**2005–06**	**2006–07**	**2007–08**	**2008–09**	**2009-10**	**2010-11**
Health care and social assistance	89.6	91.3	93.0	94.6	95.2	93.8	95.3	97.3	97.5	100.0	95.9
Accommodation and food services	96.0	98.1	101.5	102.0	104.4	109.2	112.5	107.5	105.2	100.0	98.2
Retail trade	79.8	83.3	82.0	86.7	86.9	87.5	90.1	91.2	94.0	100.0	98.3
All industries	87.8	91.4	91.6	93.7	94.6	95.4	96.3	97.2	97.7	100.0	99.2

Source: *Australian System of National Accounts, 2010-11*, October 2011 cat. no. *5204.0.,* Table 25 and Times Series Spreadsheet Table 15.

204. On 17 January 2012 the Commonwealth Department of Education, Employment and Workplace Relations released the *Fair Work Act Review Background Paper* (Departmental Background Paper) in which there is commentary on recent changes in productivity. The relevant commentary, without charts and footnotes, is:

> *"Productivity*
> Trend labour productivity in the market sector increased by 0.6 per cent in the September quarter 2011 and by 0.3 per cent over the year to the September quarter 2011 (see Chart 4 below).
>
> For all sectors, trend labour productivity increased by 0.4 per cent in the September quarter 2011 and by 0.4 per cent over the year to the September quarter 2011.
>
> These quarterly and annual rates should be interpreted with caution. They are prone to volatile and cyclical effects and are often revised in subsequent releases as more information becomes available." (Pages 8-9)
>
> *"Productivity cycles*
> The most reliable estimates of productivity growth over an extended period are those based on productivity growth cycles.
>
> Year to year changes in measured productivity may reflect changes that are conceptually distinct from the notion of productivity. By analysing averages of productivity statistics between growth cycle peaks, the effects of some of these temporary influences can be minimised, allowing better analysis of the drivers of productivity growth in different periods.

Productivity growth cycle peaks are determined by comparing the annual multi-factor productivity estimates with their corresponding long–term trend estimates. The peak deviations between these two series are the primary indicators of a growth–cycle peak, although general economic conditions at the time are also considered.

Chart 5 below shows that during the most recent growth cycle of 2003-04 to 2007-08, annual growth in labour productivity averaged 1.1 per cent per year (in the 'market sector').

This is down on the average annual growth of 2.4 per cent recorded between 1998-99 to 2003-04, and is also below the long-term average growth rate of 1.8 per cent per year (1998-99 to 2007-08). While there has been no completed productivity cycle since 2007-08, average annual growth in labour productivity from the June quarter 2008 to the September quarter 2011 was 1.0 per cent." (Pages 10-11)

205. This material supports the conclusion that the annual productivity growth across all industries has been at least 1.0% per year since 2003-04. The 2003-04 financial year is significant because it was the last financial year considered by the AIRC when dealing with productivity in the *Safety Net Review 2005*. That case was the last wage review before the transfer of the AIRC's minimum wage-setting functions to the AFPC under the *Work Choices* amendments.

206. Prior to the *Work Choices* amendments the AIRC was required to have regard to, amongst others, "levels of productivity" when setting safety net wages. Under *Work Choices* there was no such requirement on the AFPC. In its four decisions the AFPC did not deal with the issue of productivity increases, let alone use productivity growth as a basis for its decisions on general safety net rates. There was no productivity dividend for safety net workers, with all of the benefit of productivity gains going to employers.

207. By contrast to the AFPC, the AIRC had earlier given careful consideration to the question of productivity gains and, specifically, to productivity gains in industries in which there was a high degree of safety net-dependent workers. In 2005, for example, the ACTU based part of its claim on productivity increases for the 2003-4 year, which was 2.1%, with greater increases in three significant award-reliant industries: retail (6.9%), accommodation cafes and restaurants 3.4% and health and community services (2.1%).

208. The AIRC also had evidence suggesting that in the calendar year to December 2004 there had been a decline in labour productivity. In its conclusions, it stated:

> "Turning to a review of economic indicators in the last year... Prices as measured by the CPI increased by 2.6 per cent over the 12 months to December 2004. Productivity growth has been negative for the last 12 months.
> We consider that to grant the ACTU's claim for an increase of $26.60 per week in all award rates would be inconsistent with our statutory responsibilities. We agree with those who submitted that the claim is excessive. It is clear that there has been a slowing of GDP growth in 2004-05 and that in recent quarters productivity growth has been disappointing..." (*Safety Net Review 2005*, Print PR002005, paragraphs [420]-[421])

209. We now know, with the benefit of hindsight, that across all industries there was an increase in productivity in 2003-4 and in 2004-5; see Table 9 and the Departmental Background Paper. It illustrates the difficulty of trying to fully and finally distribute productivity benefits in respect of the period that has just passed. A longer term view is required, with productivity increases to be distributed by reference to trends over, say, the past five years.

210. There was some opposition in 2005 (and in earlier years) to the claim that safety net workers should receive productivity-based increases. It was argued that productivity increases had resulted from bargaining, that increases in safety net wages would remove the incentive to bargain and that productivity based increases for safety net workers would jeopardise productivity growth.

211. In the earlier 2003 and 2004 Safety Net Review cases the ACTU had relied on significant annual productivity changes. In 2004 the AIRC concluded:

> "Based on the material before us, we adhere to the conclusion reached in the May 2003 decision that it has not been demonstrated that there is a negative association between safety net adjustments and productivity growth. There is no necessary association between award coverage, safety net adjustments and productivity growth" (*Safety Net Review Case 2004*, paragraph [166], footnote omitted.)

212. After an extensive review of the data and research, the AIRC concluded in 2005:

> "There is no cogent evidence before us that award coverage per se inhibits productivity growth. The increase in productivity in the award-reliant sectors relied on by the ACTU and welcomed by the Commonwealth tells us nothing about causation. Nor is there any measure of the extent to which productivity has increased as a result of the shift to enterprise bargaining….
> In determining the appropriate safety net adjustment to be granted, we are satisfied that we have not exercised our award variation powers in a way which fails to encourage enterprise bargaining. We agree with the States and Territories that the claim by the Commonwealth that safety net adjustments discourage productivity pivots on assertions that such adjustments act as a disincentive to bargaining. If safety net adjustments do not discourage bargaining, there is really no case to be answered in relation to productivity. We see no sound basis to

> depart from the conclusion in the May 2004 decision [at paragraph [166]] that "*There is no necessary association between award coverage, safety net adjustments and productivity growth*"." (*Safety Net Review Case 2005*, paragraphs [327] and [330], italics in original)

213. We appreciate that in a system that encourages bargaining, and seeks to use bargaining as a means of achieving productivity gains, similar questions will arise in FWA to those that have been raised in the AIRC. We submit that the AIRC's approach to this matter should be adopted by FWA and, consistent with the AIRC's decisions, productivity increases should be distributed across all industries and not on an industry by industry basis.

The failure to distribute productivity increases: 1997 to 2005 and 2005 to 2011

214. In the period 1997 to 2005 there were substantial productivity increases across the economy. The data series used in Table 9 extends to the whole of this period and shows that the "all industries" index rose from 77.5 in 1995-96 (the last available full year at the time of the AIRC's 1997 Safety Net Wage Review decision) to 93.7 in 2003-04 (the last available full year to the AIRC in 2005), an increase of 20.9%. We can see from Table 6 that there were real wage cuts for workers on or above wage rates that were a little less than the C4 rate. The compensation for price increases for these higher paid workers was re-directed to low paid workers. Whether there was any distribution of the large productivity increases over this period of striking productivity gains is unclear. Our earlier discussion on the dispersion of median safety net workers suggests that there was very little of the productivity gains distributed to safety net wage rates and safety net workers.

215. The period since 2005 presents a clearer picture: none of the productivity increases has been distributed. Table 7 confirms that there have been real wage cuts for all but the very low paid workers. On average, workers have not been compensated for price increases and there has been no distribution of productivity increases. Table 9 shows that in the period 2003-04 to 2009-10 (the latest available when the 2011 Annual Wage Review decision was made), the "all industries" productivity index rose from 93.7 to 100, an increase of 6.7% over the 6 years. This is consistent with the passages extracted from the Departmental Background Paper.

216. Looking at the period from 2000, little, if any, of the productivity increases has been distributed to workers, taken as a whole. The resolution of this uncertainty is affected by the dispersion of safety net workers across the classification rates, as we discussed

earlier and depends on the total wages bill above and below the point where real wage cuts commenced, ie $729.00 per week. If the total wages bill above that point is greater than the other part then, overall, none of the productivity increases has been distributed. It is unnecessary to resolve this question because the productivity increases are most likely to overwhelm any overall increase in real wages. In the ten completed financial years prior to the 2011 Annual Wage Review decision the "all industries" productivity index increased from 86.0 (1999-2000) to 100.0 (2009-10), an increase of 16.3%. Again, this is consistent with the Departmental Background Paper.

217. We submit that safety net workers have lost productivity increases of at least 1.0% per year over the period since 2000. The benefit of these lost labour productivity increases has gone to their employers.

Applying proper principle on productivity increases

218. How can it be fair that safety net-dependent workers have been deprived of these gains in labour productivity? This question is especially important in an environment that stresses the need for productivity increases, the rewards for productivity growth and the linkage between productivity increases and real wage growth.

219. To deny safety net dependent workers access to productivity gains would be unjust and inconsistent with the FWA requirement to provide a fair safety net. Unless productivity is taken into account, safety net wages will fall further behind community movements. Failing to take into account productivity gains would perpetuate the systemic failure in wage-setting that has seen the bargaining sector workers take advantage of productivity gains while workers without bargaining power have been denied the benefits of increases in their own productivity.

220. We expect that some will argue that our proposal is inconsistent with a wages system that encourages productivity and wage growth through collective enterprise bargaining. The fundamental point in response is that there is no inhibition on employers that are not covered by a collective agreement from instigating the kind of productivity improving changes that can be made under a formal collective bargaining process. The limitations in awards and the National Employment Standards apply in a similar way to firms that are within and outside the formal bargaining processes. Collective bargaining is not needed to improve productivity and the absence of it does not prevent an employer from instigating productivity enhancing changes. Where collective bargaining operates it has the capacity to engage workers in a cooperative search for productivity improvements and increased wages. There is no reason an employer

outside the bargaining system could not introduce the changes in consultation with, and with the assistance of, its workers; but it does not have to. Indeed, employers that have the ability to pay only safety net rates and to disregard consultations with workers may have more incentive to introduce productivity enhancing changes because they can be introduced without wage increases.

221. The distribution of productivity gains should be done on an annual basis, but it should not be limited by the available data for the most recent year. The 2005 decision of the AIRC is a good example of the difficulties that can be encountered when data has to be revised. In that year it appeared that recent productivity growth had been negative, yet we now know that it was positive. Support for a more flexible approach to the measurement of productivity and its distribution is found for this in the Departmental Background Paper which stated "quarterly and annual rates should be interpreted with caution. They are prone to volatile and cyclical effects and are often revised in subsequent releases as more information becomes available....The most reliable estimates of productivity growth over an extended period are those based on productivity growth cycles".

222. We submit that FWA should re-examine data that was not available on earlier wage reviews and apply productivity gains over time by reference to trends. We submit that the productivity gains since 2005 and continuing increases in productivity provide a productivity pool that supports the granting of our 2012 claim for a 1% increase in wages specifically on the basis of productivity. As the material demonstrates, this would represent no more than the current estimate of annual productivity growth and be only a small part of the accrued productivity increases since 2005 for which no compensation has been given. It should be treated as an interim amount. We ask that the consideration of the distribution of the remaining recent increases in productivity be considered in next year's Annual Wage Review.

E. Safety net wages have fallen well behind general wage levels

223. Any proper assessment of the adjustments to low paid classifications has to be evaluated in the light of what has happened in the rest of the community. Fair wages have to be set with regard to other wage levels throughout the community. We now turn to a comparison between safety net wages and various measures of wages and incomes.

224. Table 10 compares the changes in the NMW and the base trade-qualified (C10) rate with broad measures of changes in national wages and incomes since 2000. These broader measures may also be compared with the other safety net rates set out in Table 5. Of particular importance in Table 10 is the comparison between safety net rates and AWOTE. As a measure of ordinary time earnings the AWOTE figures are an appropriate comparator for the safety net rates.

225. The figures show that safety net wage rates have fallen substantially against AWOTE, which increased by 66.9% over the past 11 years. The NMW increase of 47.2% compares unfavourably with the increase in AWOTE. The NMW fell from 50.1% to 44.2% of AWOTE over the 11 years to December 2011. If it had increased at the same rate as AWOTE, the NMW would now be $668.30 per week, $79.00 per week more than it is. At the other end of the Table 5 calculations, a safety net rate starting at $700 per week in December 2000 was increased by only 27.2% over the same period. In 2000 it started at 87.6% of AWOTE and in 2011 it was 67.8% of it.

Table 10
Safety net rates compared to other wages and incomes
2000-2011
($ per week, unless otherwise indicated)

	Cumulative increases in FMW/ NMW	**Cumulative increase in trade-qualified rate C(10)**	**Average Weekly Ordinary Time Earnings (AWOTE)**	**Cumulative increases in AWOTE**	**Cumulative Increases in Wage Price Index**	**Household Disposable Income per head (Melbourne Institute)**	**Cumulative increase in Household Disposable Income**
2000			798.80			420.47	
2001	3.3%	3.0%	843.10	5.5%	3.4%	452.11	7.5%
2002	7.7%	6.7%	882.20	10.4%	6.9%	456.01	8.5%
2003	11.9%	10.2%	929.60	16.4%	10.8%	476.74	13.4%
2004	16.7%	14.0%	964.90	20.8%	14.9%	505.93	20.3%
2005	20.9%	17.5%	1014.50	27.0%	19.6%	530.11	26.1%
2006	27.8%	23.0%	1045.40	30.9%	24.5%	572.44	36.1%
2007	30.4%	25.1%	1100.70	37.8%	29.5%	615.96	46.5%
2008	35.8%	29.5%	1158.50	45.0%	35.0%	679.93	61.7%
2009	35.8%	29.5%	1225.20	53.4%	39.0%	671.19	59.6%
2010	42.3%	34.8%	1274.10	59.5%	44.3%	702.48	67.1%
2011	47.2%	39.4%	1333.40	66.9%	49.6%	736.92	75.3%

Save as noted below, the figures are at December of each year. AWOTE figures are trend estimates of full-time adult ordinary time earnings, public and private sectors, at November of the relevant years see *Average Weekly Earnings, Australia, November 2011* cat. no. 6302.0. Wage Price Index; see *Labour Price Index December 2011* cat. no. 6345.0. Household Disposable Income figures are taken from the Melbourne Institute's *Poverty Lines: Australia September Quarter 2011* and are in respect of December of each year, save for 2011, where the figure for September 2011 is used.

226. We do not argue for a strict arithmetical nexus between the NMW and AWOTE, because the ratio between them may go up or down depending on circumstances, but the figure shows how much the NMW has lost when compared to community wage movements and, as a result, general living standards. As a matter of principle and fairness, we do not see any reason why the NMW *and* other safety net rates should not follow a similar path to these average weekly earnings.

227. It is important to note that AWOTE covers the population as a whole, including safety net workers and their families. A comparison between the wages and disposable incomes of safety net-dependent workers and other workers and their families would present a greater contrast than the figures used in Table 10. Simply put, if one-sixth of the workforce (the proportion who are safety net-dependent) have a wage increase of 30% over the decade, while the overall community increase is 60%, the five-sixths who are able to bargain (formally or informally) for higher wages will have had an increase of about 66%.

228. The Wage Price Index (WPI) increased by 49.6% over the eleven years to December 2011, rather less than AWOTE. However, the WPI and other similar indexes used by the ABS are not designed to reflect the payments received across the workforce or in segments of it, but "to identify and measure quality and quantity changes and ensure that only pure price changes are reflected in the indexes"; *Labour Price Index, December 2011*, cat. no. 6345.0, page 16. On the other hand AWOTE and similar measures actually reflect levels of remuneration received by employees and changes in those levels. These measures are particularly useful in describing what is happening in the workforce and are needed because the legislation requires that relative living standards have to be taken into account.

229. The Melbourne Institute's quarterly newsletter updates of the Henderson Poverty Lines (HPLs) are based on updated estimates of seasonally adjusted household disposable income per head (HDI). The HDI figures used in Table 10 are taken from the latest newsletter, *Poverty Lines: Australia, September Quarter 2011*. The newsletter advises that the quarterly HDIs are based on data in *National Accounts* (cat. no. 5206.0) and *Australian Demographic Statistics* (cat. no. 3101.0). The figures are subject to revision. The next issue, in respect of the December quarter 2011, is due in April 2011.

230. Unlike AWOTE, which measures pre-tax wages of the workforce, this is a measure of disposable income across the population. There is an arithmetical relationship between

each poverty line and the estimated HDI. The HDIs in Table 10 show a change that is greater than the change shown in the AWOTE measure of pre-tax wages.

F. Safety net wages have lost value compared to other arbitrated wages

231. While the AFPC was the primary wage-setting tribunal in Australia over the period 2006 to 2009 State industrial tribunals had coverage of up to one third of safety net-dependent workers. These were workers who were outside the Federal jurisdiction and were covered by State awards made by industrial tribunals in States other than Victoria. The decisions of the AFPC in those years saw a departure from the earlier high degree of consistency in the wage rates set in the various jurisdictions. That consistency dates back to the late 1980s when all industrial tribunals cooperated to introduce nationally consistent classification structures and wage rates. It involved the establishment of pay relativities between the various classifications in each award, and the use of the tradesperson's (C10) rate, or its equivalent, as the key reference point for establishing consistency between awards.

232. The compression of relativities as a result of the awarding of money amounts, not percentages, has been significant, compounded federally by the AFPC awarding lower increases to higher paid workers on two occasions. The question of safety net relativities beyond the range of low paid wage rates needs to be addressed, but it is not as pressing as the need to establish proper rates for low paid workers.

Diverging State and Federal decisions

233. The differences between State and Federal tribunals in recent years are illustrated in Table 11, which compares the FMW/NMW and its State equivalents in each December from 2008 to 2011.

Table 11

Comparison of FMW/NMW and relevant State rates
($ per week)

	Dec 2008	Dec 2009	Dec 2010	December 2011
FMW/NMW	543.78	543.78	569.90	589.30
New South Wales	552.70	568.20	569.90/592.30	-
Queensland	552.00	568.20	588.20	610.20
Western Australia	557.40	569.70	587.20	607.10
South Australia	546.65	560.65	580.30	600.00
Tasmania	546.10	558.10	569.90	589.30

Note: in 2010 the Tasmanian Industrial Commission adopted the NMW, thereby eliminating the earlier margin between the Tasmanian and Federal rates.

234. Although New South Wales, Queensland, South Australia and Tasmania have now transferred the great bulk of their employment powers to the Commonwealth, their industrial tribunals have had a limited role in wage-setting. Apart from New South Wales, each of them made a change to their minimum wages in 2011; as did Western Australia under its established arrangements. Tasmania followed the NMW in 2010 and 2011. In 2010 the four States that set their own rates independently of the level of the NMW, the unweighted average of the State rates was $17.10 more than the NMW. In 2011 the average of the three States which set their own rates was $605.77, $16.47 more than the NMW, with the minimum margin being $10.70. ACCER's claim for an extra $10.00 per week increase in the NMW fits within all of these rates.

235. Special reference should be made to the situation in New South Wales. Until December 2010 the State Minimum Wage, the Award Review Classification Rate (which is the minimum rate payable under an award) and the C14 rate were the same: $568.20. The *State Wage Case 2010* in December 2010 resulted in the awarding of an increase of only $1.70 per week in the State Minimum Wage, to bring it in line with the NMW, and a 4.25% increase in the Award Review Classification Rate, as a result of a decision to generally increase rates by that percentage. The State Minimum Wage increased only slightly to $569.90 because of the terms of the changes that were made to the State legislation in 2010. Absent that constraint, the tribunal fixed the minimum rate for award workers at $592.30: the Award Review Classification Rate and the NSW C14 rate were increased to $592.30. The NSW C14 rate was $22.40 per week more than the C14 rates in Federal awards. Following further legislative changes in New South Wales in 2011 there was no State Wage Case for 2011.

236. A reason for the Award Review Classification Rate and the New South Wales C14 rate being higher than the Federal rates was that the Catholic Commission for Employment Relations alone successfully argued in 2007 for a further wage increase of $7.00 per week for workers on the lowest award rate of pay; see *NSW State Wage Case 2007* [2007] NSWIRComm 118.

The Remuneration Tribunal and the Commonwealth's own practices

237. The trend in national safety net wage rates since 2000 may also be compared to the outcomes of decisions of the Commonwealth Remuneration Tribunal (the Tribunal) and the Commonwealth's own employment practices. The Tribunal sets rates of pay and

various other entitlements for a wide range of public officeholders (including members of FWA), Parliamentary office holders (including Ministers) judicial and related officers and the holders of Principal Executive Offices (PEOs). The Tribunal sets salary bands for PEOs and within each of them there is a "reference salary". The Tribunal awards general pay increases and pay increases in particular cases; eg for positions where there have been significant work value changes. The general increases awarded by the Tribunal are reflected in the PEO rates set out in Table 12. In June 2011 the Tribunal announced that it would increase the remuneration for the holders of public offices by 3%, effective from 1 July 2011.

Table 12

Remuneration of Commonwealth officers and public sector employees 2000-2011
($ per annum)

	Principal Executive Office Band A Reference salary	**Principal Executive Office Band D Reference salary**	**SES Band 1 (Median)**	**SES Band 2 (Median)**	**SES Band 3 (Median)**	**AWOTE Public sector**
2000	92000	209900	132287	160882	194309	887.40
2001	95600	218100	135541	166041	202884	925.60
2002	98800	225300	139948	171672	210725	960.50
2003	102760	234320	154097	187959	229147	1004.70
2004	106770	243460	164981	203410	250607	1046.10
2005	111150	253450	170416	210861	260983	1097.30
2006	113930	259790	177857	220691	276446	1142.60
2007	127060	289700	185606	233526	293404	1177.10
2008	132530	302160	196880	248133	315007	1228.30
2009	136500	311230	202589	255328	324142	1303.50
2010	142100	324000	209274	263754	334838	1371.30
2011	146380	333720	-	-	-	1428.10
% increase	59.1%	59.0%	58.2% (2010)	63.9% (2010)	72.3% (2010)	60.9%

SES figures are for total remuneration, but do not include performance pay. The public sector AWOTE trend figures are taken from *Average Weekly Earnings, Australia, November 2011* cat. no. 6302.0. The other figures are taken from determinations and decisions of the Tribunal, supplemented by ACCER calculations, as explained in the text. The figures are at December of each year.

238. Table 12 sets out adjustments to two of the four PEO bands set by the Tribunal and the level of payments made to members of the Senior Executive Service (SES). The two PEO bands have been increased by 59.0 and 59.1% since 2000. SES salaries are not set by the Tribunal, but by governmental processes.

239. We have included the SES data in Table 12 for the same reason that the Tribunal included it in its reasons for decision: it provides a guide as to how the Commonwealth treats its own senior officers, and the impact that it has for wage-setting outside the SES. Information about SES remuneration was contained in the Tribunal's 2009 decision and re-produced in 2010. In 2010 it said:

> "In its September 2009 Statement, the Tribunal noted the distinctions between the roles of SES employees and those of the holders of public offices, particularly where the latter have responsibility for exercising statutory responsibilities and for leading agencies of considerable significance. As the Tribunal observed, then:
>
> > "… while the responsibilities of an SES office may be onerous, they are, in general, not of the same order as those of an agency head or of a public office carrying particular statutory powers."
>
> The evident and sustained adverse shifts in relativities - unsupported by demonstrable changes in the roles and responsibilities of the SES and untested by any external authority - create unsatisfactory tensions within the overall structure of public administration and, ultimately, are unsustainable."

240. The Tribunal pointed out in 2010 that no new information on the levels of SES remuneration had come to hand since 2009. It returned to the subject in 2011:

> "The Tribunal has drawn attention, repeatedly, to the magnitude of movements in SES remuneration. The Tribunal's August 2010 Statement noted that median SES Band 3 total remuneration (excluding performance pay) had increased by a compound rate of 6.15% in the ten years since 1998. According to the SES Remuneration Survey as at December 2009 (the latest data available), although the compound rate of increase had decreased a little, it had still been 5.88%, per annum, for the 11 years since 1998. At the 3rd quartile, the compound annual increase was 6.19%.
>
> Sustained increases of this magnitude cannot be overlooked in establishing proper remuneration for public offices. Indeed, the Tribunal is coming to the view that the SES Band 3 level is a useful indicator in gauging appropriate remuneration for higher-level public offices. Such offices tend to be distinguished from positions held by APS SES employees in their having a high degree of autonomy and demanding 'head of agency' responsibilities. Moreover, SES employees are often the direct reports of the holders of such public offices. Factors of these kinds need to be reflected in remuneration and the Tribunal's reviews are directed, in part, to this end"

241. The Australian Public Service Commission website now contains a summary of the 2010 Remuneration Survey (released in August 2011), which includes some data for 2009. Relevantly it states that the median SES Total Remuneration Packages increased by 2.9% in 2009 and 3.3% in 2010. We have applied those percentages to each of the three SES bands in Table 12. In the ordinary course the 2011 report would not be released until August 2012. The SES Band 3 level to which the

Tribunal referred is included in Table 12 and shows an increase of 72.3% from 2000 to 2010. This is a very high figure.

242. Table 12 also includes AWOTE for the public sector, which includes more than the Commonwealth. The public sector AWOTE rose from $887.40 in November 2000 to $1428.10 in November 2011, an increase of 60.9%. This figure is six percentage points less than the combined public and private sector AWOTE that we use elsewhere in this submission. The increase in the public sector AWOTE over the year to November 2011 was 4.1%.

243. FWA members are covered by determinations of the Remuneration Tribunal. There has been a change from the previous arrangements where legislation provided a salary link between FWA's predecessor, the AIRC, and judicial salaries. In 2000 the salaries of Deputy Presidents were set by legislation at 95% of the salary of a Federal Court judge, and Commissioners at 70% of a Deputy President's salary. The salaries of Deputy Presidents have risen from $202,255 to $313,660 per annum and the salaries of Commissioners have risen from $141,578 to $240,770 per annum (see Tribunal Determinations 2000/13 and 2011/08). These are increases are 55.1% and 70.1%, respectively, and, on average, are not outside the range of increases that have been awarded in the senior echelons of the public sector.

244. We do not argue that the Tribunal has awarded excessive increases. In fact, the general increases awarded by the Tribunal, as reflected in the PEO rates, were very close to the public sector AWOTE increase. The same cannot be said for all of the SES salaries, which are under Government control.

245. The general level of increases reflected in the PEO rates, SES agreements and the public sector AWOTE contrast markedly with safety net rates. The public sector AWOTE increased by 60.9% while, for example, the trade-qualified rate increased by 39.4%. The contrast is even starker in, for example, classifications that now pay a modest wage of $890.00 per week. In those classifications the increase since 2000 was 27.2%, less than half the public sector increases.

246. The inconsistency between government employment and the wages for safety net workers was brought home in the social and community sector equal remuneration case which demonstrated the very wide gap between the wages of public sector workers administering government supported programs and the safety net wages of workers delivering those programs through not for profit organisations; a gap that

was secured and maintained by government funding being provided on the basis of award rates.

247. These figures highlight a major inconsistency between the outcomes for the well-paid part of the public sector and low income working families. We are not dealing with just a few rates that are out of alignment. It is important for there to be broad consistency between what the Commonwealth does in respect of its own employees, including how its members and public officeholders are treated by the Tribunal, and the position it takes in respect of wages for low paid workers.

248. Our complaint is not with the outcomes of the Tribunal's decisions, but with the fact that safety net workers have been treated inequitably. We submit that they are entitled to the same kind of outcomes. We ask, rhetorically, why is it that public sector workers and the most senior members of government can have such better and sustained outcomes? We submit that we a systemic problem entrenched by unacceptable values.

G. Tax cuts do not justify the real wage cuts

249. Some commentaries on recent safety net wage increases have pointed to the improved after-tax position of safety net-dependent workers, arguing that the increases in disposable incomes have been greater than the CPI increases. In effect, income tax cuts given to low paid workers have been used to justify the reduction in their real wages. Changes in taxation rates for all workers since 2000 have had a major impact on disposable incomes, but not in a way that would justify real wage cuts, or the discounting of wage increases.

250. Table 13 includes the after-tax outcomes since 2000 for the safety net workers covered in Table 5 and AWOTE workers. It shows that taxation cuts have increased the disposable income of low paid workers by significant margins. However, the after-tax outcomes for safety net workers are well short of the after-tax community movement as reflected by AWOTE.

251. There are, of course, many low paid workers who are covered by collective agreements and who have received similar increases to the general community wage increases. Situations will vary, but for those who have been able to bargain for the general outcome, as reflected in AWOTE, the decade has seen a significant improvement in their position, absolutely and relative to those in similar jobs but who are only paid safety net rates.

Table 13

After-tax changes to safety net wages and AWOTE 2000-2011

($ per week, unless otherwise indicated)

	NMW		C10						**AWOTE**
2000 Gross	400.40	450.00	492.20	500.00	550.00	600.00	650.00	700.00	798.80
2000 Net	346.38	378.37	406.53	412.39	446.13	480.38	514.63	548.88	616.55
2011 Gross	589.30	640.40	686.20	694.10	745.80	794.40	840.60	890.30	1333.40
2011 Net	537.49	578.11	614.52	620.80	656.39	687.75	717.55	749.60	1035.10
$ increase in Gross	188.90	190.40	194.00	194.10	195.80	194.40	190.60	190.30	534.60
% increase in Gross	47.2%	42.3%	39.4%	38.8%	35.6%	32.4%	29.3%	27.2%	66.9%
$ increase in Net	191.11	199.74	207.99	208.41	210.26	207.37	202.92	200.72	418.55
% increase in Net	55.2 %	52.8%	51.2%	50.5%	47.1%	43.2%	39.4%	36.6%	67.9%
$ loss in gross relative to gross AWOTE	78.97	110.65	135.28	140.40	172.15	207.00	244.25	278.00	-
$ loss in net relative to net AWOTE	44.08	57.17	68.04	71.60	92.66	118.81	146.51	171.97	-

The figures are at December in each year. Calculations are based on 52.18 weeks in a year. The Medicare levy is included. The Low Income Tax Offset (LITO) is included where relevant. In 2000 the full LITO of $150.00 was paid at 20,700 and phased out at 4 cents for every dollar, and was zero at $24,450 (at $470 per week). In 2011/12 the LITO cuts out once a taxpayer's assessable income reaches $67,500.

252. Part of our response to those who would rely on tax cuts to justify the discounting of safety net wage increases is to point to the fact that tax cuts have applied to all workers and that low income earners have not been especially advantaged.

253. In order to compare the impact of taxation changes on various income groups since it is necessary take into account rising income levels and to use a uniform increase incomes which reflects the general movement in wages. Table 14 shows what has happened to after-tax incomes for various wage groups receiving a 65% wage increase since 2000. Otherwise, it is compiled on the same basis as Table 13. The percentage used to illustrate the changes is just a little lower than the AWOTE increase of 66.9%.

254. Table 14 shows that the taxation changes have led to higher after-tax outcomes for workers who have moved in line with the changes in average ordinary time wages. The dollar value of the changes has been calculated for each income group by multiplying

the 2000/01 after-tax figure by 165% and finding the difference between that sum and the after-tax sum in 2011/12. Clearly, the position of those who have moved by more or less than the 65% used here will have different outcomes, but all will have been advantaged.

Table 14

Net income of groups receiving wage increases of 65%
2000-2011
($ per week, unless otherwise indicated)

2000 Gross	400.00	425.00	450.00	500.00	550.00	600.00	800.00	1200.00	1600.00	2000.00	2400.00
2000 Net	346.12	362.24	378.37	412.39	446.13	480.38	617.38	859.86	1063.94	1271.86	1477.86
2011 Gross	660.00	701.25	742.50	825.00	907.50	990.00	1320.00	1980.00	2640.00	3300.00	3960.00
2011 Net	593.70	626.48	654.27	707.49	760.69	813.74	1026.00	1443.20	1842.50	2241.80	2600.27
$ increase in Gross	260.00	276.25	292.50	325.00	357.50	390.00	520.00	780.00	1040.00	1300.00	1560.00
$ increase in Net	247.58	264.24	275.90	295.10	314.56	333.36	408.62	583.34	778.56	969.94	1122.41
% increase in Net	71.5%	72.9%	72.9%	71.6%	70.5%	69.4%	66.2%	67.8%	73.2%	76.3%	75.9%
$ value of tax cuts	22.60	28.78	29.96	27.05	24.58	21.11	7.32	24.43	87.00	143.23	161.80

255. Table 14 reveals that the taxation changes have had very different outcomes, in percentage and dollar terms, across the wage (and non-wage) groups. The limited tax cuts for incomes that are now at $1,320 per week stand out from the rest. The starting point of $800.00 per week is close to the AWOTE starting point of $798.80 and the end point of $1,320.00 is only $13.40 below the most recent AWOTE figure of $1,333.40. The tax cuts have not favoured this middle income group. However, the tax cuts for high income earners have been substantial.

256. Another way of presenting the essence of these changes is in Table 15, which compares the percentage of tax paid in 2000 and 2011 by four income groups. Again it demonstrates that low income groups have not been targeted for special consideration, but it does show that the middle income group has received relatively little by way of tax cuts.

Table 15

**Income taxation for groups receiving wage increases of 65%
2000-2011**

$ per week	2000	2011
$400/$660	13.5%	10.0%
$800/$1320	22.8%	22.3%
$1600/$2640	33.5%	30.2%
$2400/$3960	38.4%	34.3%

,

The tax cuts of 2008 to 2011

257. The changes to income taxation rates over the three Commonwealth Budgets of 2008 to 2010 were based on a three year package of tax cuts that the previous and current Commonwealth governments proposed shortly prior to the 2007 Federal election. The points of difference between the two packages were limited and we can treat the income taxation policies of those three years as bi-partisan.

258. The tax cuts varied. For low income earners in the $20,000 to $30,000 per year range tax cuts for the three years were $14.42 per week. Most of their cuts came in the first year (2008-09), with $8.65 per week, followed by $2.89 per week in 2009-10 and $2.88 per week in 2010-11. A taxpayer on $180,000 per year, for example, received tax cuts of $77.89 per week over the same period.

259. The 2011 Budget did not include tax cuts. On 10 July 2011 the Commonwealth Government announced major changes to the taxation system to accompany the introduction of the carbon tax. We stress the point that those changes are compensatory measures designed to deal with increases in costs that will flow from the introduction of the carbon tax. They are not benefits that can be used to reduce wage increases.

260. The question of whether tax cuts should be used to reduce wage increases has been ventilated in various wage cases. The same kind of question came before the AFPC in 2008, following the 2008 Budget, which commenced the three year program of tax cuts. Various parties argued for the tax cuts to be taken into account in the adjustment of safety net wages. There were two issues: whether the tax cuts favoured low paid workers, only some of whom would depend on safety net wages; and whether the purpose of the tax cuts was inconsistent with their use as a discounting factor. ACCER put the following on both aspects:

> "The tax cuts were promised as a *real* benefit by the former Government and by the then Opposition in the recent election campaign. There was no suggestion by either side that they might be taken away from some working families by way of reduced wage increases. Consistent with the promise, the Treasurer, Mr Swan, said in his Budget speech:
>
> > 'For too long, working families have watched the proceeds of the boom directed elsewhere, in the form of tax cuts skewed to those already doing very well. Tonight we tip the scales in favour of working families.'
>
> The discounting of wage increases would tip the scales against the most disadvantaged working families and would be inconsistent with the explicit purpose of the tax cuts. The AFPC should not take from the most disadvantaged of working families any of the benefit of the tax cuts that they were promised, on a bi-partisan basis, and which have been delivered in the Budget. This point is particularly compelling because higher paid workers are able to bargain for wage increases in addition to their tax cuts. Discounting wage increases by reference to tax cuts would effectively discriminate against low paid workers and would fail the fairness test." (ACCER *Post-Budget Submission 2008*, paragraphs 20-1, emphasis in original.)

261. These are matters of great importance in determining whether the real wage reductions in recent years were justified. Low paid workers did not get any special treatment from the three Budgets that delivered the tax cuts proposed in the 2007 Federal election. They did not get more than their fair share of the benefits of strong economic growth and the resources boom.

262. We submit that it is clear that, since 2000, the low paid have not been targeted for tax cuts any more than the rest of the population. To use their tax cuts to justify wage-discounting would deprive safety net workers of those cuts and impose on them a burden not suffered by those workers who have the capacity to bargain for higher rates of pay. We add the observation that over the same period the Remuneration Tribunal has not discounted increases on account of the very substantial tax cuts received by high income earners.

263. Even if it could be said that low income workers were targeted for special tax cuts and were treated more favourably than other taxpayers, it doesn't follow that they should be deprived of a benefit intended by the Parliament. If a tax cut were to be given for the purpose of improving their condition it would not be proper for a wage tribunal to withdraw the benefit, or part of it, by way of a reduced wage increase.

264. There may be cases where tax cuts can be taken into account. However, three conditions should be met before this happens: first, the tax cuts should be targeted at low paid workers and not part of a broader initiative; second, the cuts should have been

for the explicit purpose of seeking a moderation in wage increases; and, third, based on a proper assessment of needs of the low paid, the discounting of wage increases should occur. If this threefold test is applied, there would be no basis for reducing safety net wage increases on account of the income tax cuts since 2000.

H. Increased family payments have not compensated for wage cuts

265. The assessment of living standards of low income working families depends on wage levels, income taxation and family payments. Family payments began in 1941 with the payment of child endowment of 5/- per week to each child after the first child of a family. The restriction was removed in 1950. Limited changes were made to the scheme until 1976 when the Family Allowance replaced child endowment. The change followed the investigations and reports of the Poverty Commission which we referred to earlier. Since 1976 various changes have been made to the eligibility, benefits and, on several occasions, the name of the scheme. A detailed history of family payments since 1941 is found in *Social Security Payments for People Caring for Children, 1912 to 2006*, Australian Parliamentary Library, 2006.

266. In July 2000 Family Tax Benefit Part A (FTB A) and Family Tax Benefit Part B (FTB B) were introduced to replace some earlier family payments and as part of the package of compensatory measures to accompany the commencement of the GST. FTB A provides payments for various categories of children, subject to income tests. FTB B provides an extra payment for families with one main income and replaced, amongst others, the Sole Parent Rebate and the Dependent Spouse [with children] Rebate. It is paid to the "dependent spouse" who stays at home to look after the children and to the sole parent who is in employment.

267. Table 16 is adapted from the abovementioned Australian Parliamentary Library report by the addition of entries for the period from 1 July 2007 and the use of weekly, rather than fortnightly, figures. Table 16 demonstrates the importance of the age of the children in determining the level of family payments. The AFPC's calculations of transfer payments were usually based on the children being in the 8 to 12 year range. We have adopted that practice throughout this submission. The presence of a child under 5 will give a higher FTB B figure. The higher rate for children under 5 may be justified by higher child care costs, especially in the case of sole parents.

268. Lower income taxpayers with children are exempted from the Medicare levy of 1.5% of taxable income, but the levy exemption is phased out over an income range. In effect,

the exemption is a family payment, but we have not specifically designated it as such in the following tables. In the following calculations of net wages we have not included the Medicare levy unless a family is required to pay part or all of it.

Table 16

Family payments 2000-2011
($ per week, unless otherwise indicated)

	Family tax benefit part A					**Family tax benefit part B**		
	Maximum Rates per Child		**Base rate per child**	**Annual Supple-ment per child**	**Large Family Supplement**	**Rate per family**		**Annual Supplement per family**
	Child under 13	**Child 13-15**	**Child 0-15**			**Youngest aged under 5**	**Youngest aged 5-18**	
	($ per week)			**($ p.a.)**	**($ per week)**	**($ per week)**		**($ p.a.)**
07.00	58.10	73.64	18.69	-	3.99	49.91	34.79	-
07.01	61.46	77.91	19.74	-	4.20	52.78	36.82	-
07.02	63.35	80.36	20.37	-	4.34	54.39	37.94	-
07.03	65.24	82.74	21.00	-	4.48	56.00	39.06	-
07.04	66.78	84.70	21.49	613.20	4.62	57.33	39.97	150 (from 1 Jan)
07.05	68.53	86.87	22.05	627.80	4.76	58.80	41.02	306.6
07.06	70.42	89.88	22.68	646.05	4.90	60.48	42.14	313.90
07.07	72.73	94.50	23.45	667.95	5.04	62.51	43.54	324.85
07.08	75.67	98.42	24.15	686.20	5.18	64.40	44.87	335.80
07.09	78.47	102.06	25.06	711.75	5.39	66.78	46.55	346.75
07.10	80.15	104.23	25.62	726.35	5.53	68.18	47.53	354.05
07.11	82.32	107.03	26.32	726.35	5.67	70.00	48.79	354.05

The Annual Supplements were frozen in the 2011 Budget for a period of three years, commencing 1 July 2011.

269. Over the eleven year period the weekly rates have increased by 40.2% to 45.3%, which are higher than the CPI increases of 36.6%. The total payments have increased more substantially because of the introduction and adjustment of annual supplements, which operate to provide a buffer in the event that income estimates for the making of weekly payments are understated. However, it is important to note that the rate of change has slowed and that the days of significant real increases in family payments are over.

270. Rental assistance is available for low income families in private rental accommodation. It is available to recipients of FTB A, subject to income tests. The payment has been available since before 2000 and has been indexed to reflect price changes. It has not

been included in the following Table 17 calculations, but it has been included in some later tables. The payment operates as a rental subsidy and is not a general monetary entitlement available to low income earners. It is in the nature of a utilities allowance. The AFPC treated it as part of the disposable income of low income families and assumed that the maximum rental assistance was received by all eligible groups, whether they were in private rental accommodation or not.

271. Generally we have treated rental assistance as an item that reduces the cost of housing, rent in particular, when calculating needs. However, we have included it on occasions in subsequent parts of this chapter in order to make various comments about the information and analysis provided by the AFPC. We are troubled by its treatment as income, especially when the maximum is used, because it has the effect of reducing safety net wages for all workers. It is a matter that needs to be considered by FWA in due course.

272. Our calculations of family payments do not include Child Care Benefits and the Education Tax Refund. Both are dependent on expenditure and are not general monetary entitlements. The Education Tax Refund, which provides a 50% rebate on a very limited range of expenses, such as home computers and laptops, has the effect of reducing the costs of education, provided the family can afford these items in the first place. Low income families have limited capacity to take up these government subsidies. It is a scheme, like child care and rental assistance, that should be taken into account in calculating expenses, rather than disposable income. In any event, there is no data at this time to enable us to estimate the value of these targeted measures.

273. Table 17 shows the impact of changes in wages, taxation and family transfers since 2000 over various income levels by reference the single breadwinner family, with two children. The table enables a comparison to be made between the AWOTE-dependent family and various similar, but safety net-dependent, families. For the reasons given earlier, the figures equally apply to a family of a couple and two children, with one of the parents staying home to care for the children, and a family of a sole parent and two children.

274. This middle income AWOTE family has had a gross wage increase of 66.9% (Table 10), a net wage increase of 67.9% and a disposable income increase of 78.4%, well in excess of similar families who depend on safety net wages. The comparable figures for the NMW-dependent family are 47.2%, 55.0% and 57.8%, respectively. The dollar loss per week that appears in the last row of Table 17 is the difference between what the

families have received and what they would have received had they received the AWOTE increase. It demonstrates how far they have fallen behind. Again, we make the point made earlier: the AWOTE percentage would be higher if we excluded safety net-dependent workers from that measure and compared the two groups without any overlapping.

Table 17

Safety net-dependent and AWOTE families compared
(Couple or sole parent with two children families)
2000-2011
($ per week, unless otherwise indicated)

	(NMW)	(C10)	**Safety Net Wages**						**AWOTE**
2000 Gross wage	400.40	450.00	492.20	500.00	550.00	600.00	650.00	700.00	798.80
2000 Net Wage	352.38	385.12	413.91	419.89	446.13	480.38	514.63	548.88	616.55
2000 Family Transfers	150.99	150.99	150.59	150.99	145.25	112.95	85.25	72.17	72.17
2000 Disposable Income	503.37	536.11	564.50	570.88	591.38	593.33	599.88	621.05	688.72
2011 Gross wage	589.30	640.40	686.20	694.10	745.80	794.40	840.60	890.30	1333.40
2011 Net Wage	546.33	587.72	624.91	631.21	665.11	693.29	718.21	749.60	1035.10
2011 Family Transfers	248.06	248.06	248.06	248.06	248.06	248.06	248.06	247.01	193.25
2011 Disposable Income	794.39	835.78	872.97	879.27	913.17	941.35	966.27	996.61	1228.35
% Net Wage Increase	55.0%	52.6%	51.2%	50.3%	49.1%	44.3%	39.6%	36.6%	67.9%
% Transfers Increase	64.3%	64.3%	64.3%	64.3%	70.1%	119.6%	190.1%	242.4%	267.8%
$ Disposable Income Increase	291.02	299.67	308.47	308.39	321.79	348.02	366.39	375.56	539.63
%Disposable Income Increase	57.8%	55.9%	54.6%	54.0%	54.4%	58.7%	61.1%	60.5%	78.4%
$ Loss per week in Disposable Income of Safety Net family relative to AWOTE family	103.62	120.64	134.10	139.18	141.85	117.15	103.92	111.34	-

Where it is applicable, the Medicare levy has been taken into account when calculating the net wage. At the NMW, for example, the full Medicare Levy exemption adds $8.84 per week to the net wage. Family transfers in 2011 include the weekly value of the annual supplements for FTB A and FTB B. The reduction in FTB A commences close to the last column of safety net rates.

275. Table 17 demonstrates several matters. First, families who qualified for the maximum family payments in 2000 have had increases in these payments of 64.3%, well in excess of the rate of inflation. Second, family payments have been extended to higher income families, resulting in some very large increases. The AWOTE family, which is beyond

the range for maximum payments, has benefited with an increase of 267.8% in its family payments. Third, and importantly, with all aspects taken into account, low income families have fallen further behind higher income families. For example, the family that depends on the base trade-qualified, C10, rate has had an increase of 54.6% in its disposable income, compared to the AWOTE family's 78.4%. This amounts to a relative loss of $134.10 per week. In terms of disposable income, the C10 family has fallen from 79.4% of the AWOTE family to 71.1%.

276. There is, therefore, nothing in this material that would justify a real wage cut or discounted wage increases for low paid workers. There is nothing to support a claim that the relative standards of low income working families are rising. It demonstrates the contrary: since 2000 low paid working families *at or near* the safety net rates wage have fallen behind middle income families. Family payments have not made up for the lack of wages growth.

277. Table 17 compares safety net-dependent families with middle income families who have moved in line with AWOTE. Many low paid workers who have had access to collective bargaining may have had quite different outcomes to safety net workers. Their wage increases may even exceed the AWOTE increase. There are very different outcomes for low paid workers who have the capacity to bargain, generally through a union presence in their workplaces, and those who have no capacity to bargain.

278. We have the kind of situation to that described in the well-known advertisement for industry superannuation funds which emphasises the importance of the choice that workers make about their superannuation fund. But here, a safety net worker will have to take a slow escalator while his or her bargaining neighbour who is employed to do the same kind of work under a collective agreement is on the faster escalator; and here the wage-setting system sets the pace of the slow escalator, and does so in full knowledge of the pace of the other escalator. It is, we submit, a two-speed labour market without an acceptable rationale.

279. We accept that bargaining outcomes should not be applied automatically to safety net decisions, especially when unusual cyclical factors are in operation, but there is a need to maintain a reasonable relationship between community wage levels and safety net rates.

I. Safety net wages have fallen behind pensions

280. As a result of a much needed and overdue review of pensions, new arrangements were introduced in 2009 for the setting and adjustment of pensions. The Commonwealth Government's *Secure and Sustainable Pension Reform* followed the *Pension Review* conducted by Dr Jeff Harmer, the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs. A central part of that review was to identify a pension rate that provides "a basic acceptable standard of living" for those who are reliant on it. The new pension system has two components: the base pension and the supplement. The supplement is provided in lieu of earlier allowances for GST compensation, utilities, telephone/internet and pharmaceuticals.

281. The pensions include the Age Pension and the Disability Support Pension. The Treasurer's Press Statement of 12 May 2009 stated:

> "3.3 million...will benefit from increases in their pension payments.
> These reforms will improve the adequacy of the pension system, make its operation simpler, and secure its sustainability into the future.
> These long overdue reforms deliver a stronger and fairer pension system."

282. The following summary of the new scheme is taken from the website of the Department of Families, Housing, Community Services and Indigenous Affairs:

> "Maximum base pension rates are adjusted each March and September by the greater of the increase in the Consumer Price Index or the Pensioner and Beneficiary Living Cost Index. After this adjustment is made, the maximum base pension rate is compared with 41.76 per cent of Male Total Average Weekly Earnings (MTAWE) for pensioner couples combined and around 27.7 per cent of MTAWE for single pensioners. If the pension is below the MTAWE wages benchmark, it is increased to that rate."

Changes in pension and wage relativities

283. A significant part of the 2009 changes was an increase from 25% to 27.7% of MTAWE for single pensioners. The MTAWE benchmark for singles and couples guarantees that single and couple pensioners share in improved community living standards as measured by wages. Increases in community living standards have had an impact on pension rates since 2000 (and earlier) through this linkage. In Table 18 we compare the changes in pension rates and two safety net rates over the years 2000 to 2011: the NMW and the base trade-qualified (C10) rate.

284. Table 18 demonstrates that there has been a substantial divergence in the wages safety net and the pension safety net over the whole period. The divergence occurred before and after the 2009 reforms. For example, from September 2000 to September 2008

(prior to the reforms) the single base pension rose from $197.05 to $281.05 per week, an increase of 42.6%, while the CPI for the period June 2000 to June 2008 rose from 126.2 to 164.6, an increase of 30.4%; producing a gap of 12.2 percentage points.

Table 18

Comparison of pensions and safety net wages
December 2000 - December 2011
($ per week, unless otherwise indicated)

	Single Pension	**Couple pension**	**FMW/NMW Gross**	**FMW/NMW Net**	**Trades (C10) Gross**	**Trades (C10) Net**	**Consumer Price Index**
2000	197.05	328.90	400.40	346.38	492.20	406.53	131.3
2011	344.50	519.40	589.30	537.49	686.20	614.52	179.4
% increase	74.8%	57.9%	47.2%	55.2%	39.4%	50.5%	36.6%

The pension figures do not include supplementary allowances or, from 2009, the supplement payment.

285. Table 19 shows the substantial divergence between pensions and safety net wages since the 2009 reforms, with reference to the CPI, the NMW and the C10 wage.

Table 19

Changes in pensions and safety net wages
December 2009 - December 2011

		December 2009 $ per week	**December 2011 $ per week**	**$ increase per week**	**Percentage increase**
Single	Base	307.90	344.50	36.60	11.9%
	Supplement	28.05	29.90	1.85	6.6%
	Total	335.95	374.40	38.45	11.5%
Couple (combined)	Base	464.20	519.40	55.20	11.9%
	Supplement	42.30	45.10	2.80	6.6 %
	Total	506.50	564.50	$58.00	11.5%
Consumer Price Index		167.0	178.3		6.8%
National Minimum Wage		543.78	589.30	45.52	8.4%
C10 Wage		637.48	686.20	48.72	7.6%

The figures for the CPI index are those at June 2009 and June 2011, the most recently reported increases prior to the pension changes of September in each of those years.

286. Table 19 covers the period in which the first two decisions under the *Fair Work* reforms were made. The table compares the outcomes of the *reformed wage-setting system* and the *reformed pensions system*. In two years pensions have increased by 3.1 percentage points more than the NMW; and by more than that in comparison with other safety net rates. The increases in total pension rates were much greater than the CPI increase of 6.8% from June 2009 to June 2011.

287. Table 19 also shows that the total pension rate will be adjusted by two methods: a price-based mechanism for the supplement and the wages index for the base pension. This means that 95.2% of the pension will be adjusted by no less than the MTAWE increase. The table also shows that over the two years MTAWE increased by 11.9% while the NMW increased by 8.4%. As we have seen, other safety net rates increased by a smaller percentage.

288. The linkage of pensions to the MTAWE means that the total pension rate will continue to be adjusted by an amount that is very close to the MTAWE. This will continue to have important consequences for the relative living standards of pensioners and low paid workers and for workforce participation. From November 2000 to November 2011, MTAWE increased from $770.90 to $1,253.90, or 62.7%, considerably more than the NMW increase of 47.2%. If we are to avoid compounding the current problem there must be a significant change in the approach to the setting and adjusting safety net wages.

289. The use of the MTAWE benchmark guarantees that pensioners share in improved community living standards as measured by wages. It is a market-based mechanism which measures what is happening in the labour market as a whole, and reflects cyclical patterns in the economy. So understood it is the kind mechanism that commends itself to the setting of safety net wages.

290. It is clear that the consensus in the community is that the pension safety net should move in line with community earnings. In these circumstances, why shouldn't the wage safety net? We submit that FWA should seek submissions on whether the NMW increases and other safety net rates should be linked to movements in pensions.

291. These matters have added importance because FWA has to take into account relative living standards when setting safety net wages. It makes sense to establish consistency across safety net incomes, especially where there are large numbers involved. In our

comparison of safety net wages and pensions we are not comparing small segments of the community. As the Treasurer said in the Press Release quoted earlier, 3.3 million are covered by pensions. This is to be compared with about half this number for workers on safety net wages. Pension increases at 11.5% from 2009 to 2011 were substantially greater than the increased payments to safety net workers, who received varying increases, but not more than 8.4%.

Assessing the current pension and wage relativities

292. In addition to measuring changes and forecasting future movements, judgments need to be made about the fairness of current relative living standards. A fair wage system needs to produce fair outcomes for safety net-dependent workers and their families and other relevant groups in the community, and the community as a whole. There should be fairness as between wage safety net outcomes and pension safety net outcomes.

293. In Table 20 we have compared the living standard outcomes for various households by reference to the modified OECD equivalence scales which are used by the ABS. The modified OECD equivalence scales have the family of two adults and two children at 2.1 times the individual, and two adults at 1.5 times the individual. The family of two adults and two children is at 1.4 times the couple without children.

Table 20

Relative living standards of pension and NMW-dependent families December 2011

Household	Disposable income $ per week	Modified OECD equivalence scale	Equivalised income $ per week	Disposable income as percentage of median disposable income
NMW-dependent family, second parent not seeking employment, 2 children	864.46	2.1	411.65	52.4%
Sole parent on disability pension, 2 children	692.53	1.6	432.83	55.1%
Couple, each on disability pension, 2 children	882.63	2.1	420.30	53.5%
Single person on disability pension	434.10	1	434.10	55.3%
Couple on age pension	620.80	1.5	413.87	52.7%
Single person on age pension	434.10	1	434.10	55.3%

Median equivalised disposable household income for December 2011 was $785.30 per week; see Table 1. Relevant pension data is taken from the *Centrelink Estimator* and the *Family Assistance Estimator*. Pensioner incomes include the pension supplement. Family payments are calculated on the basis that the children are in the 8 to 12 age group. The NMW figure is taken from Table 17, with the addition of

maximum rental assistance. Maximum rental assistance has been included in the incomes of pensioner households.

294. It is important to keep in mind that the pensions were set on the basis that they would provide a basic acceptable standard of living. We accept that this may be contested, ie that some will argue that pensions are insufficient, but it is not a point that arises in this analysis. Table 20 is not concerned about identifying a poverty line, but with comparing the present outcomes for working families and families that rely totally on government transfers.

295. The purpose of the last column in Table 20 is to put each of the households in a community-wide context by reference to the household's income relative to the community as a whole. We will return to the underlying methodology later, but it can be seen that, for example, the single person on the Aged Pension or a Disability Pension has an outcome that is 55.3% of national median disposable household income. He or she would be, for example, 4.7 percentage points below the 60% relative poverty line and 5.3 percentage points above a 50% relative poverty line.

296. Table 20 shows, by reference to the equivalence scales used by the ABS, that the pension safety net for a couple of $620.80 per week produces a higher standard of living than that experienced by the NMW-dependent family of two adults and two children with a disposable income. The couple pension equates to $869.12 per week for the family. The NMW-dependent family has a disposable income of $864.46 per week, but has the costs of work. This comparison leaves aside the considerations of the reward for work and the impact that the relatively low wage outcomes have on work participation. The NMW family would have a substantially lower standard of living than the pensioner couple. The same applies in a comparison with single pensioners.

297. We should note that the review of pensions did not include unemployment benefits. In December 2000 a single unemployed person was entitled to a Newstart allowance of $175.40 per week. In December 2011 this figure had risen to $243.40. This was an increase of only 38.7%, only marginally above the CPI (36.6%), but well behind the movement in pensions. The single pension increase of 74.8% over the past decade is almost double the increase in the Newstart allowance. The couple pension increase of 57.9% was two-thirds greater. The Newstart allowance is well under the Henderson Poverty Line for an unemployed person, which was $372.85 in September 2011, and produces a poverty gap of $129.45 per week. Especially given that the unemployed

have to satisfy a work test in order to establish their eligibility, this is an iniquitous situation. It is, of course, a rate that cannot provide any guidance to FWA when setting safety net rates.

J. Low income working families have fallen behind rising poverty lines

298. Over the past decade increasing numbers of safety net-dependent families have fallen into poverty, whether measured by the HPLs or by relative poverty lines. Even if they have not fallen into poverty, for many families their margins over poverty have been reduced. All of this has occurred in a most prosperous decade, despite the Global Financial Crisis.

299. We have already referred to FWA's view in the *Annual Wage Review 2010-11*. The relevant passage is:

> "**[226]** We have been asked to express a view about the utility of the Henderson Poverty Line as part of the range of indicators of relative standards of living. Our view at present is that this measure is not helpful to our task. Its origins in the 1960s, the inconsistency between its original construction and the way it is updated, and its focus on poverty rather than the needs of the low paid reduce its value as a tool for wage-setting."

300. We accept that there is a need for contemporary research on the needs of low paid and are hopeful that the processes that are now under way will address those issues and enable the setting of wages that provide a standard of living that is above poverty; or, to use the terminology in the 2009 pension review, a basic acceptable standard of living.

301. Having FWA's views in mind, we do not attempt to argue in the following pages for the HPLs to be adopted as a measure of income adequacy, whether in their current form or in a modified form, but we do rely on the HPLs to show the extent of the drift in the relative position of low paid workers. In this section we compare the changes in the disposable incomes of various kinds of NMW-dependent families relative to their respective HPLs and relative poverty lines.

Henderson Poverty Lines

302. Over the period covered by the four decisions of the AFPC, the ratios of disposable income to the HPLs fell in all households. Table 21 illustrates this in respect of the single person. The figures in the first four rows are taken from AFPC decisions. Those years record a decline of more than a third in the margin above the HPL. Yet there is no commentary on the figures in the AFPC's decisions. The change since the last AFPC decision reflects the decline and recovery following the onset of the Global

Financial crisis. The latest figures show a decline of 45% in the margin over poverty during the five and a half years from July 2006. Because the HPLs for the various households are based on movements in per head household disposable income, similar declines have been experienced by all households.

Table 21

Ratio of disposable income to HPL for single NMW worker 2006-2010

	HPL
July 2006	1.31
December 2006	1.30
December 2007	1.25
December 2008	1.19
December 2009	1.24
December 2010	1.22
December 2011	1.19

The figures for July 2006 to December 2008 were calculated by the AFPC. The figures for December 2009, December 2010 and December 2011 were calculated by ACCER. In December 2009 the single HPL was $401.16 and the disposable income was $497.17; see ACCER submission to *Annual Wage Review 2009-10*, Table 7. In December 2010 the single HPL was $427.94 and the disposable income was $521.86; see ACCER submission to *Annual Wage Review 2010-11*, Table 20. The September 2011 HPL (the latest available) for the single person was $459.83 (*Poverty Lines Australia: September Quarter* 2011) and the disposable income was $547.39 (see Table 13)

303. Table 21 presents a summary of a longer term trend, which we have summarised in Table 22. The trend shown in Table 22 has occurred across the board.

Table 22

Changes in incomes relative to Henderson Poverty Lines 2000-2011

($ per week, unless otherwise indicated)

	Single Worker (NMW)	**Couple and 2 children** (NMW)
2000 HPL	262.37	492.80
2000 Disposable income	346.38	503.37
2000 DI:HPL	+32.0%	+2.1%
2011 HPL	459.83	863.68
2011 Disposable income	537.49	794.39
2011 DI:HPL	+16.9%	-8.0%

Each of the HPLs for 2000 are calculated by the formula provided in *Poverty Lines Australia September Quarter 2011*. The figures are calculated at December of each year, save for 2011 where the latest available figures (September 2011) are used; see *Poverty Lines Australia September Quarter 2011*. The rent assistance to which the family may be entitled has not been included. Maximum rent assistance for this family increased from $50.47 to $68.39 per week over the period December 2000 to December 2011.

304. Table 22 demonstrates that very substantial changes have taken place. The family has fallen below the poverty line in one of the most prosperous periods in Australia's history, and by a very large margin. In 2000 it was 2.1% above the poverty line and in 2011 it was 8.0% below the poverty line. The single worker without dependants has lost almost a third of his or her initial margin over poverty.

305. We note from Table 21 that in July 2006, the margin above poverty for the single worker was 31%, just below the 32% margin at the start of the decade (see Table 22). This demonstrates that almost all of the deterioration occurred during the *Work Choices* years.

306. For the benchmark family to be at the poverty line in December 2011 it would have been necessary to have another $69.29 per week; and an extra $87.43 to obtain the margin over the poverty line that it had in December 2000.

307. These changes have put the family back to a similar position to that which it had in 1973. The Poverty Commission was established in 1972 with bi-partisan support to find a solution to poverty among working households. It proposed the introduction of long term systemic changes to better support Australian families, to show a way out of poverty and to prevent them from falling into poverty. Calculations by the Poverty Commission showed the following at August 1973:

Table 23

Poverty Commission calculations of poverty margins 1973
($ per week)

Income unit	**Poverty line**	**Min wage after tax**	**Child endowment**	**Total**
Single	$33.40	$54.00	-	$54.00
Couple	$44.70	$55.00	-	$55.00
Couple, 2 children	$62.70	$57.00	$1.50	$58.50

Extracted from Table 3.14 of the *First Main Report*. The minimum wage used by the Poverty Commission was $60.00 per week and was fixed by reference to the different male rates that applied throughout Australia. The equal pay decisions had not been implemented at that time.

308. The Poverty Commission fixed the HPLs at an "austere low level". It said that it did this so that "It cannot seriously be argued that those below this austere line, whom we describe as 'very poor', are not so." (*First Main Report*, page 13.). These poverty lines

are updated by the Melbourne Institute to reflect changes in household disposable income. In 1973 the family was 6.7% below the poverty line. Table 22 shows that it was 8.0% below. Even if we add in the maximum rental assistance that is now payable ($68.39 per week), the family is still below the poverty line, albeit by the small margin of 90 cents per week. The descriptions used to describe the poverty line in 1973 are appropriate to describe the position of these low income *working* families in 2012. Where is their reward for work?

309. It is important to draw attention to the changes for the single worker. The single worker has fallen from a margin of 61.7% to 16.9% above the poverty line. This reflects the long term decline of the lowest minimum wage (now the NMW) relative to community incomes. This change has clear economic consequences (especially in regard to the cost of labour), but it has social implications for single workers, including their capacity to save and prepare for their futures, whether in a family or in retirement. The figures show that, for families, the decline in their wages has been broadly met by an increase in government support. We return to this development in Table 28.

This is not just about the HPLs

310. The pattern that we have seen with the HPLs reveals a substantial change in the share of national income that goes to safety net-dependent workers through their wage packets.

311. The Melbourne Institute's calculations of per head household disposable income (HDI), which underpin the HPLs, are important because they provide information about changes in national per head income and provide a basis for comparing the relative position of safety net workers and their families, which is a required consideration in wage-setting. This data can show, for example, the increase in disposable income that the NMW-dependent family of four requires in order to restore their December 2000 position relative to the rest of the community. The same kind of calculations can be done for sole parent families and other couple parent families.

312. The latest calculations by the Melbourne Institute show that safety net wage outcomes have lagged behind increases in the HDI. Table 24 compares HDI changes with the disposable incomes of two households. It demonstrates that the distribution of national household disposable income to NMW workers and their families has reduced substantially since 2000. The discrepancy is even greater in the case of safety net workers employed in higher work classifications. We repeat the point made earlier: measures such as HDI, by their inclusion of safety net workers and their households,

understate the changes that have taken place in the position of safety net workers relative to the workforce as a whole.

Table 24

Disposable incomes of safety net families relative to national averages 2000-2011

($ per week, unless otherwise indicated)

	Single Worker (NMW)	**Families with two children** (NMW)	**Household Disposable Income** (Per head)
December 2000	346.38	503.37	420.47
December 2011	537.49	794.39	736.92
% increase	55.2%	57.8%	75.3%

Household disposable income is from calculations of the Melbourne Institute and is seasonally adjusted. The most recent calculation is for September 2011 in *Poverty Lines Australia September Quarter 2011*. That figure has been used for December 2011. The disposable incomes of NMW-dependent couple parent and sole parent families are the same, as explained in Chapter 3H.

Relative Poverty Lines

313. In 2008 the AFPC introduced a relative poverty line into its consideration of the living standards of low paid workers and their families. The poverty line chosen was 60% of the median equivalised disposable household income. Its 2008 and 2009 decisions contained information about the level of this relative poverty line for each of ten households. Apart from the AFPC's work, we do not have in Australia an established relative poverty line to inform public policy. The AFPC's work provides a sound basis for its development.

314. Relative poverty lines are set at a percentage relationship with a broader measure of community wealth on the basis that poverty is a relative concept. Such a measure has an element of social justice and social equity. There are many poverty lines that may be chosen, but whichever is chosen must be credible if it is to gain broad support. This requires empirical knowledge and proper consideration of the living standards of those who live on the poverty line. Whether the poverty line should be at, for example, 50% or 60% of the mean or the median requires some knowledge of the costs of living.

315. The fundamental task in setting a relative poverty line is identifying the median equivalised disposable household income.

316. Our knowledge of the levels and distribution of disposable incomes across the community is based on surveys conducted by the ABS. The survey used by the AFPC in 2008 was *Household Income and Distribution, Australia 2005-06,* cat. no. 6523.0, published in 2007. Median equivalised disposable household income was found to have been $563.00 per week in 2005-06, with the 60% of that figure being $337.80. The mean was $644.00. In order to calculate the poverty lines for December 2007 and December 2008, the AFPC adjusted the ABS figures by reference to the movements in disposable household income as published by the Melbourne Institute in *Poverty Lines: Australia*, which we have discussed earlier.

317. Since 2008 we have had two ABS publications on these matters: *Household Income and Distribution, Australia 2007-08,* cat. no. 6523.0, published in August 2009 and *Household Income and Distribution, Australia 2009-10*, cat. no. 6523.0, published in August 2011. The first provides information that was not available to the AFPC in 2009.

318. The 2009 ABS publication enables a re-calculation of the AFPC's estimates of relative poverty lines for 2007 and 2008. In the 2007-08 survey the median disposable household income was $692.00 per week; and 60% of it was $415.20 per week. In Table 25 we have used the latter figure for December 2007 and applied the Melbourne Institute's figures in *Poverty Lines Australia: September Quarter 2011* in order to set a figure for December 2008.

319. According to the latest ABS survey, for 2009-10, the median equivalised disposable household income was $715.00 per week and 60% of it was $429.00 per week. This modest rise was the result of the economic downturn. We have used $429.00 for December 2009 and updated it for 2010 by the application of Melbourne Institute's figures contained in *Poverty Lines Australia: September Quarter 2011*. For 2011 we have used the figures at Table 8.3 of FWA's *Statistical Report - Annual Wage Review 2011-12*. The Statistical Report also uses the Melbourne Institute's figures and estimates that 60% of median equivalised disposable household income was $471.01 per week. We have used the report's September 2011 figures to show the position at December 2011 and will revise our figures and advise FWA if the next publication by the Melbourne Institute produces a significantly different set of figures for December 2011.

320. Table 25 shows these revised figures, with the figures used by the AFPC in its 2008 and 2009 decisions in brackets. The revised figures are substantially more than the AFPC's estimates, for the reasons discussed.

Table 25

60% median poverty line for workers and families
2007-2011
($ per week)

	Single	Couple and 2 children	Sole parent and 2 children
December 2007	415.20 (387.48)	871.92 (813.71)	664.32 (619.97)
December 2008	452.57 (421.40)	950.37 (884.93)	724.11 (674.23)
December 2009	429.00	900.90	686.40
December 2010	449.16	943.24	718.66
December 2011	471.17	989.46	753.87

The figures for 2007 and 2009 are respectively drawn from the ABS surveys (*Household Income and Distribution, Australia 2007-08,* cat. no. 6523.0 and *Household Income and Distribution, Australia 2009-10,* cat. no. 6523.0). The figures for 2008, 2010 and 2011 are based on the previous ABS figure, adjusted by the relevant movement in Household Disposable Income (HDI) as calculated in *Poverty Lines Australia: September Quarter 2011*. The HDI increase from December 2007 to December 2008 was 9.0%; from December 2009 to December 2010, 4.7%; and from December 2010 to December 2011, 4.9%. In the period December 2008 to December 2009 (which is covered by the 2009-10 ABS survey), the HDI decreased from $679.93 to $671.19. At December 2011 the median equivalised disposable household income is calculated to have been $785.29 per week, with 60% being $471.17 per week

321. Table 26 shows the ratio of disposable income to the 60% relative poverty line. The figures in brackets were those used by the AFPC in its 2008 and 2009 decisions. The new figures for those years draw on the revised figures in Table 25. In order to provide consistency with the AFPC figures, we have included, in the case of the families, maximum rental assistance in the calculations of disposable incomes.

Table 26

Ratio of disposable income to 60% median poverty line
NMW-dependent workers and families
2007-2011

	Single		Couple plus 2 children		Sole parent plus 2 children	
	$ per week	**Ratio**	**$ per week**	**Ratio**	**$ per week**	**Ratio**
December 2007	467.70	1.13(1.21)	758.26	.87(.93)	758.26	1.14(1.22)
December 2008	494.44	1.09(1.17)	796.25	.84(.90)	796.25	1.10(1.18)
December 2009	497.17	1.16	808.41	.90	808.41	1.18
December 2010	521.86	1.16	840.49	.89	840.49	1.17
December 2011	537.49	1.14	864.46	.87	864.46	1.15

Disposable incomes include maximum rental assistance. Maximum rental assistance over the five years was (per week and respectively): $61.88, $64.68, $65.66, $67.62 and $70.07. Disposable incomes for 2007 and 2008 are taken from the AFPC's decisions in 2008 and 2009. Disposable incomes for 2009 and 2010 are taken from ACCER submissions in 2010 and 2011. The disposable incomes for 2011 are at Table 17 (above), with the addition of rental assistance. As explained earlier, the disposable incomes of the two families because the government transfers to couple parent and sole parent families are the same.

322. Table 26 demonstrates that the family of four is very much below the widely recognised 60% relative poverty line. The median equivalised disposable income for a family of this composition is $1,648.54 per week and the family's income is only 52.4% of that figure. Even if we were to use the unacceptably low 50% of median poverty line for this *working* family, ie $824.27, it is barely above the poverty line.

323. In Table 27 we have adapted Table 8.3 in the recently published FWA *Statistical Report - Annual Wage Review 2011-12*. We have also taken the opportunity to include in this table the row in the original table that deals with the position of the two parent family where the second parent is seeking the Newstart allowance. In Chapter 2F we made submissions about this aspect and Table 4.2 and Chart 4.2 of the decision in the *Annual Wage Review Decision - 2010-201*. Those submissions set out the reasons why the Newstart allowance should not be taken into account when setting the NMW.

324. Table 27 confirms the dire position of low income working families and the enormous pressure on them to have both parents working just to make ends meet. Even at the C10 rate the single breadwinner family of four is still below the poverty line.

Table 27

Comparison of 60% median poverty lines with disposable income of selected households earning various wage rates, September 2011

		Disposable income ($pw)				Disposable income as proportion of PL (%)			
Household type	**60% median income PL ($pw)**	**C14**	**C13**	**C10**	**C4**	**C14**	**C13**	**C10**	**C4**
Single adult	471.01	537.73	551.32	614.76	707.64	1.14	1.17	1.31	1.50
Single parent, two children	753.62	864.72	878.57	943.21	1028.08	1.15	1.17	1.25	1.36
Single earner couple, two children Second parent cares for children	989.13	864.72	878.57	943.21	1028.08	0.87	0.89	0.95	1.04
Single earner couple, two children Second parent seeks employment	989.13	974.67	980.31	997.98	1028.08	.99	.99	1.01	1.04

This table is extracted from Table 8.3 of the Statistical Report Annual Wage Review - 2011-12. The single earner couple is a family in which the second parent stays at home to care for the children and, accordingly, does not qualify for the Newstart unemployment allowance. The following notes are mostly taken from the notes to that table.

Sources: ABS (2011), *Household Income and Income Distribution, Australia, 2009–10*, cat. no. 6523.0, ABS, Canberra; Fair Work Australia modelling; *Manufacturing and Associated Industries and Occupations Award 2010*; Melbourne Institute of Applied Economic and Social Research (2011), *Poverty Lines: Australia*, September Quarter 2011.

Assumptions: PLs are based on estimates of median equivalised household disposable income for 2009–10, updated for movements in household disposable income per head as calculated by the Melbourne Institute of Applied Economic and Social Research, and adjusted for household composition using the modified OECD equivalence scale. Tax/transfer parameters as at September 2011. C14 = $589.30 pw, C13 = $606.40, C10= $686.20 and C4 = $824.30. Children aged 8–12. Disposable income includes all available income transfers, unless otherwise specified. Households paying sufficient rent to receive maximum Rent Assistance, where applicable. Single parent households are non-pensioners i.e. not in receipt of Parenting Payment (Single). Where the second parent is seeking employment, the Newstart allowance is payable, subject to the usual requirements, at a rate that reflects the other parent's income.

325. From the figures in Table 27, compared to those in Table 17, show that the disposable incomes for households in receipt of AWOTE do not reflect median incomes. Calculations in a number of the tables in this submission comparing safety net and AWOTE workers and their families produce figures that are substantially less than those based on the median equivalised disposable household income. This means, for example, that for a family of four 60% of the disposable income of the AWOTE family will be substantially less than 60% of median equivalised disposable household income: 60% of the AWOTE figure (at Table 17) would be $737.01 per week, substantially less than $989.13 per week, which appears in Table 27. The amount of $989.13 per week is equal to 80.5% of the AWOTE family's disposable income. Accordingly, we would reject any contention that the NMW's family's disposable income should be set at less than 80% of the comparable AWOTE figure.

326. ACCER has argued in the past that debate and research are required if we are to address a number of issues that arise out of the use of relative poverty lines and establish them as very useful indicators for wage-setting purposes, both as a proxy for the measurement of need and a means of taking into account relative living standards. We have raised concerns about the appropriateness of the modified OECD equivalence scales in the case of sole parents who are required to engage child care services if they are to participate in the workforce. But, we submit, these issues cannot hide the conclusion that the NMW-dependent family is *living in deep poverty*.

K. Safety net wages have not been based on evidence of workers' needs

327. An extraordinary feature of Australian minimum wage-setting since the FMW was introduced in the *Safety Net Review April 1997* has been the lack of any serious attempt to set wages by reference to the needs of the low paid, despite the presence most of that time of an explicit obligation on the decision-maker to take into account the needs of the low paid.

328. In 1997 the majority of the Full Bench of the AIRC did not undertake a review of the adequacy of the C14 classification rate in the *Metal Industry Award* 1984 when it decided to use that rate to set the level of the FMW. Nor had the C14 rate been set by reference to a review of evidence about needs and relative living standards. At the time it was set, the C14 rate was part of a carefully established system of vertical and horizontal award relativities and in 1997 that system was in the final stages of implementation. In the following wage review, in 1998, ACOSS (which had raised questions about the adequacy of the C14 rate in 1997) argued for an inquiry into the needs of the low paid and relative living standards in order to review the adequacy of the FMW. Significantly, the ACTU did not support an inquiry, apparently because it wished to bed down the new wage relativities. These matters are evident in the AIRC's decision in the *Safety Net Review April 1998*, (1998) 79 IR 37, at 71-76. In referring to the ACTU's submissions the Full Bench noted (at 74):

> "In the ACTU's submission, the maintenance of the federal minimum wage at the C14 classification rate would ensure a secure minimum level in award classification structures. The establishment of the federal minimum wage at the C14 classification would not preclude an adjustment at some future time based on different criteria"

329. This position, and similar views from other parties, continued until 2003. We noted earlier in relation to Mr Costigan's questions in the *Safety Net Review 2003* (see Chapter 2A), that the ACTU and other parties did not support the holding of an inquiry into the needs of the low paid in that year. This continuing position was crucial because, as we pointed out, in the wage-setting system of the time ACCER and ACOSS were interveners in a dispute resolution process in which the parties sought a resolution of *their* dispute. However, the ACTU did change its position in 2004 when it sought to rely on the SPRC's budget standards research in support of its application. That initiative did not bear any fruit for the reasons we discussed earlier. No progress was made in 2005

330. It is ironic that the only serious attempt to deal with this issue was made by the AFPC under the *Work Choices* legislation, which did not contain an explicit statutory obligation on the AFPC to take into account the needs of the low paid when setting wages.

331. Starting with its inaugural decision in 2006 the AFPC used the HPLs as a guide to living costs and the sufficiency of the FMW, taking into account relevant family payments. It used the ratios of household disposable incomes to the relevant HPLs in order to assess the differential impact that the FMW had on various kinds of households. In the first two years it assessed nine kinds of households and, from 2008, ten households.

332. When the AFPC first compared disposable incomes and HPLs it found that the margins were well above the HPLs. The size of the margin apparently gave it comfort. In referring to the submissions made to it, the AFPC said, without any reservation:

> "There is general agreement that minimum wages should, in combination with cash transfers, provide an income 'well above poverty'. The Commission's modelling shows that this is indeed the case for a variety of family types and commonly used definitions of poverty." (*Wage-Setting Decision October 2006*, page 96.)

333. The AFPC returned to this matter in the following year's decision, and said:

> "It is also worth noting that the original Henderson poverty benchmark for a couple family with one earner and two dependent children was equal to the combined value of the then basic wage and child endowment. In other words, at that time, a family with one earner on the basic wage had an income equal to the HPL. Continued improvements over many years in the extent and coverage of income transfers *for working families have resulted in families now having disposable incomes well in excess of relevant HPLs*." (*Wage-Setting Decisions and Reasons for Decisions, July 2007*, page 70, footnote omitted and emphasis added.)

334. We wish these conclusions were correct. Much of ACCER's submissions over the following years were concerned with establishing three conclusions which are contrary to the claims about the application of the HPLs that are made in these two passages. ACCER argued that the FMW and family payments did not allow families to rely solely on a single wage; the wages outcomes were not "well in excess of relevant HPLs", especially in the case of the single breadwinner family of two adults and two children; and families were not better off relative to the poverty lines, either by reference to the recent years or to the period since the HPLs were established. In particular, ACCER argued that the estimate of housing costs in the HPLs was

unrealistic and that the HPLs took no account of child care costs for sole parents. In ACCER's view, the problems were curable and, if adapted, the HPLs would be useful tools in estimating the financial needs of low paid workers and their families.

335. The HPLs were the only evidence that the AFPC had about the needs of workers and their families. ACCER and ACOSS made repeated requests to the AFPC to undertake or commission research into the needs of low paid workers and their families, but it did not do so. It appears that it was satisfied with the HPLs as a measure of need.

336. We have discussed elsewhere the progress that has been made in the development of a process in FWA to promote research and to obtain evidence on the needs of the low paid and their families, in particular the section 290 report of 14 December 2011 (*Measuring the Needs of the Low Paid*) by Senior Deputy President Watson and Professor Richardson. While significant progress has been made, it must be remembered that the issue of wage adequacy was first raised by ACOSS 15 years ago in the 1997 Safety Net Review case. We submit that one of the reasons why there have been the unsatisfactory outcomes described in this chapter is that there has been a failure to undertake a review of wage adequacy and, as a result, to understand the consequences of a failure to provide decent wages for low income working families.

Chapter 4 Conclusions and orders sought

A. ACCER's claims

337. ACCER seeks the following orders in the *Annual Wage Review 2011-12*:

(a) Award wages

ACCER seeks increases in award safety net wage rates on two grounds:

- First, a percentage increase to compensate for the published increases in the Consumer Price Index (CPI) since the handing down of the *Annual Wage Review 2010-11* in June 2011. Since that time the three published CPI increases have totalled 1.5%, with another adjustment, for the March Quarter 2012, to be published prior to the conclusion of this year's wage review. If the trend were to continue, the four quarters increase would be around 2%.
- Second, a further increase of 1% on account of productivity increases. It is sought as an interim amount because there has been no compensation for productivity increases over the past seven years and because estimated annual productivity increases in recent years have been more than 1%. ACCER proposes that further adjustments of wage rates on account of these productivity increases be considered in subsequent annual wage reviews. Having regard to the productivity increases of the past seven years, this interim percentage is very modest. This period of seven years covers the times during which both *Work Choices* and *Fair Work* legislative schemes have been in operation.

ACCER seeks *percentage* wage increases for all award classifications that provide wage rates equal to or more than the base tradesperson's (C10) wage rate. For all classifications below that rate, ACCER seeks a *money* increase equal to the money amount by which the base tradesperson's wage will increase as a result of the claimed percentage adjustment. An increase of 3% would amount to $20.60 per week. This will give the lowest paid workers an increase slightly in excess of the increase in prices and the interim productivity adjustment.

(b) National Minimum Wage

The current NMW of $589.30 per week is manifestly inadequate. ACCER seeks a further increase in the NMW. In 2012 we seek that the NMW be adjusted in a similar way to award wages and that it be adjusted by a further amount of $10.00 per week. Our submissions show that the cost of this $10.00 per week first step towards a decent NMW would be insignificant.

Our submissions also present the case for the base cleaner's classification rate of pay, currently $629.50 per week, and $40.20 per week above the NMW, to be adopted as the target rate for the NMW pending the completion of a research program designed to identify the needs of workers and their families. We propose that the target rate be achieved over time.

338. The arguments in support of these claims have been laid out in the earlier chapters. We have made extensive submissions on the failure of minimum wages to meet price increases, reflect productivity increases and retain relativity with wage outcomes across the community and in relevant sectors of it; and the failure of the NMW to meet the needs of the low paid and their families.

339. The outcome of both aspects of this part of ACCER's claim will be less than the increase in community-wide wage levels during recent years and those expected in 2011-12. As our submissions stress in some detail, the continuing decline in the relative living standards of safety net workers must be arrested. We see the adjustment of wages partly on the basis of productivity-based increases as means of minimising, but not eliminating, the current and emerging gap between CPI increases and community-wide wage movements. The recent *Mid-Year Economic and Fiscal Outlook 2011-12* forecasts an increase in the Wage Price Index one percentage point higher than the CPI (3.25% and 2.25%) for the 2011-12 year; see Table 13.3 of FWA's *Statistical Report - Annual Wage Review 2011-12*. As we have seen earlier (at Table 10) average weekly ordinary time earnings (AWOTE) typically increase at a greater rate than the Wage Price Index.

340. Our claim to convert the percentage increase into a flat money amount for wage classifications below the C10 rate (now $686.20 per week) will cover a small part of this emerging gap at the lower end of the wage scale.

341. We submit that issues concerning the relationship between safety net rates and community wage levels should be raised and considered in the consultations during the

current annual review and that the Minimum Wage Panel of FWA establish a process of submissions and conferences commencing early in the 2012-13 year, with a view to their resolution in the *Annual Wage Review 2012-13*.

Low income working families

342. Safety net-dependent workers, who comprise about one-sixth of the Australian workforce, rely on safety net wages because they do not have the ability to bargain for higher rates of pay, either directly or through their unions. They can only improve their position and achieve a fair outcome through the annual wage reviews.

343. Our major concern is with the low paid, particularly the lowest of the low paid with family responsibilities: low income working families. They are not able to *live in dignity*. They do not have a *decent wage*. This means that, at the least, they are unable to achieve a *basic acceptable standard of living*. As we have explained, providing a basic acceptable standard of living was the objective of the Commonwealth's review of pensions in 2009, which had the effect of delivering to pensioners a higher standard of living than that of the NMW-dependent family of four.

344. We have shown by reference to the widely-used 60% relative poverty line, that the NMW-dependent family of four is in deep poverty and the NMW-dependent sole parent family will be close to, or in, poverty if child care expenses are substantial, after taking into account government child care payments. We submit that a sole parent on the NMW is likely to be under severe financial pressure to make unsatisfactory child care arrangements.

345. Our concern is not limited to the lowest paid, but extends to other workers who are on higher safety net wages, particularly those with family responsibilities. Many safety net workers are employed on safety net wages that have been reduced in real value since 2000. Our figures have demonstrated that these families have fallen well behind community wage movements. For example, couples and sole parents with two children (aged 8-12) who now rely on a modest safety net wage of $794.40 per week have lost much of their earlier relativity to average weekly ordinary time earnings, as measured by AWOTE. Relative to AWOTE, those families have lost $117.15 per week disposable income (see Table 17). For a single person on the same wage rate, the loss of relativity equates to $118.81 per week (see Table 13).

346. Although the relative losses have been greatest at the higher classification rates, the financial needs remain greatest at the low income levels.

347. We have argued that the extra increase of $10.00 per week in the NMW safety net is justified by:

- the needs of low paid workers and their families;
- the potential benefit to a significant number of workers and their families, but with insignificant economic costs; and
- the proper application of principle in wage setting.

B. A contemporary *Harvester* that supports workers with family responsibilities

348. ACCER's main objective in this and past annual wage reviews has been the increased support of families through the wage packet because we know that employment in work which pays a decent wage will promote the proper care of children, the stability of families, social inclusion and social cohesion.

349. Better wages and other conditions of employment are necessary if we are to deal with the unacceptable degree of family and social dysfunction that we now have in Australia. This goal is complementary to, and not inconsistent with, prudential economic management and the strengthening of employment opportunities.

350. The impact that wage policies have on families, on children in particular, is one that cannot be ignored or glossed over. One of the two explicit goals of the FW Act (at section 3) is the promotion of social inclusion. A precondition for social inclusion is a decent wage. Family payments by the Commonwealth do not, and are not intended to, provide for all of the needs of workers' dependants. As a result, safety net wages have to cover a large part of the needs of these dependants. Unless and until family payments cover the full costs of dependants, wages will have to be set by reference to the needs of dependants.

351. Our analysis and proposals are necessarily based on the application of values about work, social participation and family life. The setting of wages is not a value-free process. The very objective of providing a fair safety net emphasises the need to consider a range of values. The proper support of parents with family responsibilities is a value that necessarily enters into the setting of a fair wage. The requirement for the workplace relations system to take into account the needs of workers with family responsibilities is made explicit in sections 153 and 578 of the FW Act

352. In a speech entitled *Introducing Australia's New Workplace Relations System* at the National Press Club on 17 September 2008, the current Prime Minister, the Hon Julia

Gillard, then Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion, started her speech with the following:

> "The signature values of nations are often defined by the circumstances of their birth. This is as true for Australia as for other countries. And for us there's one value above all others that we identify with as truly our own. It's the value that emerged out of the circumstances of Federation, which coincided with the industrial turbulence of the late nineteenth and early twentieth centuries. That *value* is *fairness*. Or as we like to put it: 'the *fair go*'. It inspired us to establish a society that aimed to give every citizen a *decent standard of living*. And it led us in 1907 to establish *the principle of the living wage*." (Emphasis added.)

353. We have discussed in Chapter 1 aspects of the changes that followed the enactment of the FW Act. The point we make here is that the passage highlights the ingrained values in the current legislation and, we submit, in the Australian community.

The family safety net

354. The Prime Minister was rightly talking about the substance of the *Harvester* decision in 1907. She was not referring to the formula or benchmark that seemed relevant to its time: the needs of a man, his wife and three children. In the absence of any government family payments in the early part of the twentieth century, the *Harvester* wage provided the total support of children. The wage was intended to support the family; and it was set in circumstances where many workers receiving that wage were not heads of households with family responsibilities.

355. It is important that we separate the substance from the formula. *Harvester* and the Basic Wage (which developed from *Harvester*) through to the NMW, over-compensated workers without family responsibilities because it was necessary in order to have a wage that recognised the needs of families and the importance that our society attaches to the support of families, especially those at the margins of the labour market.

356. The safety net does not have to cover exceptional cases, but it must cover ordinary and foreseeable cases and circumstances in which families find themselves. We have argued, by reference to the nature and purpose of a safety net, that a safety net wage must be sufficient to support families with two children, whether the family is headed by a couple where one of them stays at home, and remains outside the paid workforce, in order to care for their children or by a sole parent in employment, and incurring child care expenses. It would not be acceptable to set a wage that is sufficient for one of these families, but not for the other. Both are within the ordinary and expected scope of a safety net.

357. It is in this context that we note research that shows that a substantial proportion of low income workers live in higher income households. This is nothing new because it was a well-known feature of life around the time of *Harvester* and has been ever since. In some cases low income is the reason single workers cannot live independently. The fact that some low paid workers have lower costs because they live in wealthier households does not justify any reduction in the safety net for those who do not have those resources. We would not, for example, reduce the level of pensions by reference to the proportion of those pensioners who live with their children or other relatives. Research on the dispersion of low paid workers among households is relevant to the question of whether family payments should be increased to better target needs, but not to the setting of safety net rates.

358. The level of a safety net wage, just like the level of pensions, cannot be determined by the proportion that needs it to achieve a minimum acceptable standard of living. Similarly, the number of families in which both parents work is not relevant to the setting of the safety net wage that will support a family. When the NMW is manifestly inadequate and is a poverty wage the fact that the second parent works is not to the point. The second parent should not have to work so that the family can avoid poverty and achieve an acceptable standard of living. On this aspect we refer to part of a previously quoted passage from the Poverty Commission's report:

> "Inadequate wages and pensions place considerable pressure on mothers to work…The mere fact of a mother working is not necessarily detrimental to the family. The relationship between a mother working and child development has been hotly debated in recent years, but the research on the subject has been inconclusive. The pertinent issue is the freedom of mothers to choose whether or not to work, so that each family can reach a solution which is satisfactory for its members. The pressure to work created by an inadequate income means that some mothers are less free to choose." (*First Main Report, April 1975*, volume 1, page 204, footnote omitted.)

359. Of course, a safety net should also be sufficient to cover the single person living alone; but, we know that with government transfers being set at rates less than the needs of dependants, the single person will be in a relatively better position than workers with family responsibilities. If we were ever to reach a situation where government transfers provided for the needs of dependants, our analysis could focus on the individual.

360. A contemporary *Harvester* is not gender specific, as we explained in Chapter 2F. Our submissions recognise the rights of parents to make decisions about how they will

exercise their parental responsibilities, which includes the ability of one of them, whether the father or mother, to stay at home to care for the children.

The impact of increased family payments on wage-setting

361. The major feature of wage-setting over the past century has been the increase in family payments, particularly in the last four decades. We have discussed the developments in family support and the work of the Poverty Commission in the early 1970s in promoting these changes as part of a strategy to end poverty in, amongst others, families who depend on a single breadwinner. Support of the family or, as the legislation now puts it, workers with family responsibilities, is fundamental to the setting of fair safety net wages. In its first decision in 2006 the AFPC compared family disposable incomes with the relevant Henderson Poverty Lines. It found that the objective had been achieved and concluded:

> "The income support and family assistance safety net, and its continued improvement over recent years, allows people with family responsibilities to rely solely on a single wage to support their families." (*Wage-Setting Decision and Reasons for Decision* October 2006, page 96.)

362. This passage identifies a fundamental objective of wage-setting: enabling families to rely solely on a single wage, with the aid of family payments. This means that the second parent does not need to work in order for the family to avoid poverty and achieve the minimum acceptable standard of living. The objective of providing a system of wages, supported by family payments, underpinned the work of the Poverty Commission and remains a valid objective. The objective is to provide a minimum wage which, together with family payments, will enable families to rely *solely* on that wage. We can test the fairness of the wages system by asking whether the NMW and other wages enable families with two children to rely solely on a single wage, supplemented by family transfers.

363. Unfortunately, the AFPC's conclusion in 2006 was erroneous because, in its calculation of the disposable incomes of single breadwinner families, it had included the Newstart allowance for the second parent. As the Newstart allowance is an unemployment benefit that is only payable to a person who is seeking employment, it should not be included.

364. A contemporary *Harvester* does not need to provide for the total support of dependants as its predecessor did a century ago. The economics of family support have changed, particularly in the last 40 years. The changes in the balance between wages and social measures (ie between the pay packet and the public purse) in Australia from 1973 to 2011 are illustrated in Table 28.

Table 28

Changes in wages and transfer payments in Australia 1973 - 2011
($ per week)

Year	Income unit	Lowest Min. Wage	Min. wage after tax	Family transfers	Disposable income	Transfers as a % of disposable income
August 1973	Couple, 2 children	60.00	54.00	4.50	58.50	7.7%
August 1973	Single person	60.00	54.00	-	54.00	-
December 2011	Couple, 2 children	589.30	537.49	326.97	864.46	37.8%
December 2011	Single	589.30	537.49	-	537.86	-

This table is derived from Tables 13, 17 and 28. The disposable income for the couple with 2 children in 2011 includes rent assistance.

365. Table 28 covers the single wage earners and families of four who are dependent on the lowest minimum rate of pay. In 1973 the minimum wage had a much greater role in the support of families because of the limited family payments, though less than at the time of *Harvester*. In 1973 over 90% of family income for the lowest paid worker with a dependent spouse and two children came from the wage packet. Family payments now provide a substantial supplement to the wage, 37.8% of disposable income, but obviously do not cover all of the family's costs which are additional to the breadwinner's.

366. This change in the proportions that the wage packet and the public purse contribute to the support of families has economic consequences. The increase in family payments has permitted the decline of minimum wages in Australia relative to general wage levels and cushioned the impact of the decline on families. This change has taken some of the family support element out of minimum wages and it has kept down labour costs compared to what they would have been without those payments. As we explained in Chapter 3J, despite the substantial increase in government family support, the position of families is much the same, relative to the (HPL) poverty line, as it was in 1973. From 2000 the disposable income (excluding rental assistance) of the NMW-dependent family of four has gone from 2.1% above the HPL to 8.0% below it. Community-wide increases have outstripped the rising incomes of the low income working families by a considerable margin.

367. This change is illustrated by reference to the single worker's margin over the (HPL) poverty line which fell from 32% in 2000 to 16.9% in 2011 (Table 22). Tables 21 and 22 show that most of this occurred in the *Work Choices* years. However, we can see from Table 23 that there has been a long term trend of wage reduction. Table 23 shows that in 1973 the minimum wage put the single worker 61.7% above the poverty line. A drop from 61.7% to 16.9% has substantial economic and social consequences. Economic consequences follow from the reduction of the "over-compensation" of needs in the wage rate paid to single workers. It has social consequences by reducing the capacity of single workers to save and prepare for family life or retirement. Since 2000 safety net wage cuts have gone too far, while increased transfer payments have not gone far enough.

368. We are concerned that these kinds of trends are not discussed in the community generally and that they are not debated by the parties to wage reviews. The underlying data is not well-known in the community, but it is well-known in the wage reviews that have produced these economic and social changes.

C. The wage-setting system has failed low paid workers and their families

369. A major part of this submission is concerned with a detailed analysis of the way in which the setting of safety net wages since 2000 has failed low paid workers and their families. We showed in Chapter 3 that the safety net wages system has failed low paid workers and their families, by:

- allowing the incomes of some low paid workers and their families to fall below the 60% relative poverty line
- causing real wages to fall for a large proportion of safety net workers;
- failing to take into account productivity gains when adjusting wage rates ; and
- failing to maintain their living standards relative to the rest of the community.

Families are living in poverty

370. FWA is required by the minimum wage objective in section 284 of the FW Act to take into account the needs of low paid workers. At the least, workers require a wage that will keep them and their families out of poverty. Since 2000, and earlier, declining wage levels have meant that safety net workers with family responsibilities have fallen under the poverty line, or, if not yet in poverty, have moved much closer to the poverty line. In Table 26 we showed that NMW-dependent family of four was at 13% below

the 60% relative poverty line in December 2011: a poverty gap of $125.00 per week. We accept that this percentage is not universally accepted as a measure of poverty, but the family would still be in poverty at the 55% relative poverty line. The family is on 52.4% of the median. The poverty gap is so great that it calls for a response. In 2012 ACCER is asking that it be closed by a very small step of $10.00 per week.

Real wage cuts

371. We have shown that real wages have been cut since 2000 for those work classifications that now pay $730.00 per week or more. This is a very modest wage rate. Apart from the percentage increase in 2011, since 2000 compensation for price increases has been by way of money increases that have favoured low paid safety net workers at the expense of higher paid safety net workers. On the basis of a FWA Research Report 4/2010 regarding the dispersion of safety net workers across work classifications (see Chapter 3C, above), we have been able to estimate the proportion of safety net workers who have had a real wage cut. Using the 2006 figures in that report, we have argued that at least 38.8%, and probably more than 50%, of an estimated 900,000 full time adult workers had a real wage cut. Among the 700,000 adult casuals, up to about 30% have had real wage increases of no more than 2.0% or real wage cuts. We don't know what the mean average effect has been; but it is likely that across the whole of the safety net-dependent workforce, real wages have not risen substantially since 2000. But we do know that $730.00 per week is a very modest wage.

Productivity denied

372. Fair outcomes require more than compensation for price increases. Fair wages should be set by reference to community wage movements and productivity improvements. Increases of not less than prices and productivity should be a fundamental *minimum* objective of a fair wages system.

373. With average annual productivity increases in excess of 1% per year over the past eleven years (see Chapter 3D), wage increases based on prices and productivity would have yielded not less than 50% increase since 2000.

374. Not one group of safety net workers has had wage increases even equal to price and productivity increases. Even those safety net workers who had real wage increases received them wholly or mainly at the expense of higher paid safety net workers who suffered real wage cuts. The increase of 47.2% in the NMW from 2000 is less than prices and productivity. For workers in a classification now paying $890.00 per week,

the 27.2% increase since 2000 leaves them more than 22% below prices and productivity.

375. Nearly all, if not all, of the labour productivity dividend from one of the most prosperous periods in Australian history has not been distributed to safety net workers. This means that there has been a massive transfer of labour productivity gains from the workers who have generated those gains (about one-sixth of the workforce) to the owners of the businesses in which they are employed.

The loss of wages relative to the rest of the community

376. The minimum wage objective in section 284 of the FW Act also requires that FWA take into account "relative living standards" when setting wages.

377. The loss of wages relative to the rest of the community is illustrated in Table 29. It summarises the changes from December 2000 to December 2011 for a single person without dependants, a family of two adults and two children and a family of one adult and two children, at three different wage levels: the NMW, the base trade-qualified, C10, rate and average weekly ordinary time earnings as measured by the ABS's AWOTE series. The different outcomes for single workers and workers with family responsibilities are the result of increased family payments, especially for middle income families. We need to consider these figures having in mind that increases based on prices and productivity would have yielded not less than 50% over the period since 2000.

Table 29

Losses of safety net-dependent workers and their families relative to AWOTE 2000-2011

Household	**Disposable Income 2000** $ per week	**Disposable income 2011** $ per week	**Increase in gross wage**	**Increase in Disposable Income**
NMW single	346.38	537.49	47.2%	55.2%
NMW 2+2	503.37	794.39	47.2%	57.8%
NMW 1+2	503.37	794.39	47.2%	57.8%
C10 Single	406.53	614.52	39.4%	51.2%
C10 2+2	564.90	872.97	39.4%	54.6%
C10 1+2	564.90	872.97	39.4%	54.6%
AWOTE Single	616.48	1035.10	66.9%	67.9%
AWOTE 2+2	688.65	1228.35	66.9%	78.4%
AWOTE 1+2	688.65	1228.35	66.9%	78.4%

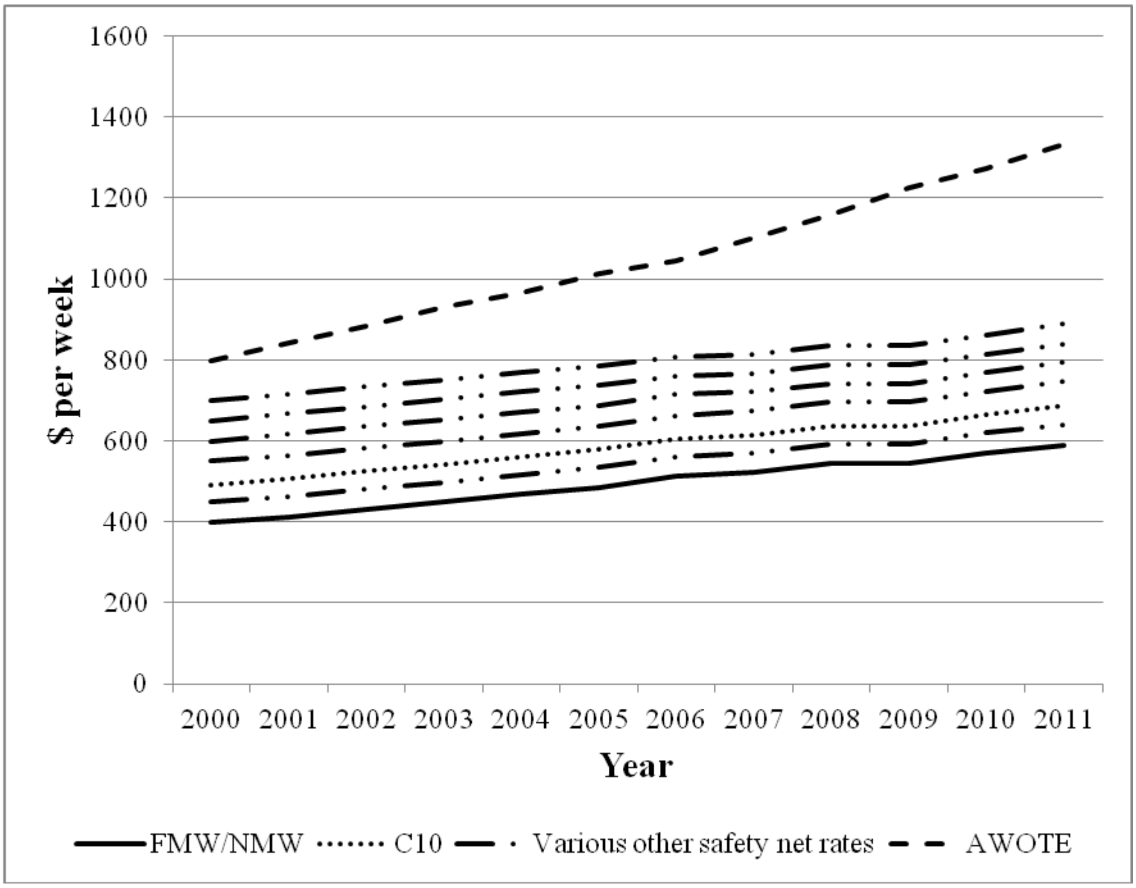
The figures are drawn from Tables 13 and 17. The family transfers to couple parent and sole parent families are the same. The two children are in the 8 to 12 age group.

378. Table 29 demonstrates major changes in the relative position of safety net workers and the safety net rates upon which employees bargain. Over the eleven years gross NMW increased by 47.2%, the net NMW by 55.2% and, for the families, the increase in disposable incomes (net NMW and family payments) was 57.8%. For the average income earner and his or her family, as represented by AWOTE, the increases were 66.9%, 67.9% and 78.4%, respectively. These are very significant differences.

379. The contrast between the outcomes of safety net workers and AWOTE workers is more striking when we look to the position of the C10 worker where the increases were 39.4%, 51.2% and 54.6%, respectively. Tables 13 and 17 enable us to calculate the outcomes for other income levels. These outcomes are the result of changes in wages, taxes and transfers since 2000. Graph 1 shows the major influence that wages have had on the outcomes.

Graph 1

Increases in safety net rates and average weekly ordinary time earnings (AWOTE) December 2000 - December 2011



380. We have described this situation as similar to the well-known advertisement by industry superannuation funds where two escalators are shown as travelling at different speeds. The advertising emphasises choice. But here, a safety net worker will have to take a slow escalator while his or her neighbour who is employed to do the same kind of work under a collective agreement or other agreement is on the faster escalator; and here the wage-setting system sets the pace of the slow escalator, and does so in full knowledge of the pace of the other escalator. Graph 1 illustrates this two speed labour market.

381. The kinds outcomes summarised in Table 29 are the inevitable result of the failure to increase wages to reflect community living standards. Had the NMW wage increased in line with average weekly earnings, as measured by AWOTE, the NMW would now be an extra $78.97 per week (see Table 13). We do not argue that safety net wages should move in lockstep with AWOTE, but we do argue that the AWOTE trend should be followed over time.

382. Finally, we repeat a point explained earlier: because AWOTE is a national average that includes the wage rates of safety net-dependent workers, any comparison between safety net rates and AWOTE will understate the differences between safety net workers and the rest of the workforce. This means that the actual increase in average weekly ordinary time earnings of the five-sixths of the working population who were able to bargain for higher wage rates were significantly greater than the AWOTE figures in Table 29.

Comparisons with Pensioners

383. The need for safety net increases to be linked to a measure of community wage movements was highlighted by our submissions in regard to aged and disability pensions.

384. Our comparison between the standards of living of pensioners and low income working families (at Chapter 3I) showed that the Commonwealth-provided safety net for pensioners results in a higher standard of living than that available to the NMW-dependent family of four and with the assurance of increasing disparities unless wage-setting changes.

385. Pension rates were increased in 2009 after a much needed and overdue review of their sufficiency. Table 20 shows that, according to the modified OECD equivalence scales used by the ABS, the living standards of the NMW-dependent family of four are lower than single aged and disability pensioners and very similar to couples on the aged

pension. However, those comparisons do not take into account the substantial costs of working in the working family household, or any component that rewards the performance of work. A pensioner couple now has a disposable income of $620.80 per week and, without the costs of work, they have a substantially higher standard of living than the working family of four on $864.46 per week.

386. Our second point in regard to pensions is that under the current arrangements, pensions will increase by no less than the increases in male total average weekly earnings, as measured by the ABS's MTAWE series. The decision to link pensions with changes in community average earnings is designed to share the benefits of economic growth and rising living standards and to achieve a degree of social equity. This mechanism stands in contrast to the treatment of safety net workers who have not shared in the rising living standards as measured by average weekly earnings (AWOTE and MTAWE) over the since. If the next decade of wage-setting brings the same kind of outcomes as the past decade, the gap between pensions and safety net wages will widen considerably and demonstrate with even greater clarity the systemic failure in safety net wage-setting.

387. The consensus is that pensions should move in line with community earnings. In these circumstances, we have posed the question "Why shouldn't wages?", and asked that FWA seek submissions on whether the NMW increases and other safety net rates should be linked to movements in pensions.

D. Award classifications should not constrain a fair NMW

388. As we explained in Chapter 3K, the C14 rate in the Metal Industry Award 1984 was adopted in the *Safety Net Review - Wages, April 1997* as the rate for the newly-introduced FMW. The FMW was not set by reference to the needs of low paid workers; nor had the C14 rate been set on that basis. The FMW/NMW has not been the subject of any separate inquiry regarding its sufficiency and has always been adjusted in a similar manner to award rates of pay. We seek to break that connection in 2012.

389. In a number of awards the second lowest classification rate is the C13 rate (or its equivalent), which is currently $17.10 per week more than the C14/NMW rate. The granting of a further $10.00 per week increase in the NMW would result in this margin being reduced to $7.10 per week. Having regard to the matters set out below, we submit that there is no reason based on the terms and operation of the award classifications why this change cannot be made in 2012.

390. The further adjustment of the NMW in subsequent years would have implications for some classifications in some awards. Whether the further adjustment of the NMW should occur by the overtaking of some classification rates or by increases in those rates in order that they retain a margin over the rising NMW is not a matter to be determined in this case. However, we do ask that FWA establishes a process by which this can be considered prior to the lodging of submissions in the early part of 2013.

391. The C14 rate in the *Manufacturing and Associated Industries and Occupations Award 2010* is an introductory rate to cover short term transitional work arrangements involving structured training. The provisions in the current manufacturing award are in similar form to provisions of the *Metal Industry Award 1984 – Part I* as it was amended in 1990 to give effect to the then structural efficiency principle of the AIRC (Print J2043). The C13 classification applies to an employee after the completion of the introductory period: "an employee who has completed up to three months structured training so as to enable the employee to perform work within the scope of this level" (Schedule B.3.4). The C14 rate covers a three month training period for new workers.

392. A number of other awards have introductory transitional provisions. Generally, they set the introductory rate at the C14 level and provide for movement to the equivalent of the C13 rate or something similar. We estimate that this occurs in about 23 awards. In some, the award provides for the opportunity of "on the job" training (such as the manufacturing award) and in some the introductory period contains no training. There are other awards where the C14 rate is the base award rate, or one of a number of base rates, but with no time limit on their operation. We estimate that 16 awards have these kinds of provisions. How easily a person may move to the next wage level varies.

393. The effect of our claim for an increase of $10.00 would be to reduce the gap between the introductory, C14, rate, and the C13 rate, where those two classification, or similar classifications are found. In many awards the change would have no impact whatsoever; for example, cleaning, fast food and retail would not be affected because their lowest wage rates are well in excess of the proposed NMW.

The benefits and economic costs of the first step

394. The granting of an increase of $10.00 will be of benefit to a significant number of workers and their families, but with insignificant economic costs. The workers who will benefit will be those who are on the C14, or equivalent, introductory rate and those who work in a substantive classification that pays the C14 rate, or some other rate less

than the C13 rate and within $10.00 per week of the current NMW. For some it will only increase their wages over a three month period.

395. We referred in Chapter 3C to the research contained in the FWA's Research Report 4/2010, *Earnings of employees who are reliant on minimum rates of pay*. This report provides a sound basis for estimating the number of workers employed on or around the C14 rate. That research shows that in May 2006 the proportion of full time safety net workers paid less than the C13 rate was 5.9% (Table 2 of the report) and that 16.2% of adult casuals were paid less than the C13 rate (Table 3 of the report). The total number in the former group was about 900,000 workers and the total number in the latter group was about 700,000 in a workforce of 10,142,200 (*Labour Force Australia, May 2006,* cat. no. 6202.0). This meant about 53,000 adult full time workers and about 113,000 adult casual workers were paid less than the C13 rate. Together they comprised about 1.6% of the workforce, but less in full time equivalent terms. At January 2012 the workforce had increased to 11,448,500, of which 8,053,400 were full time who worked 85.3% of total hours; see *Labour Force Australia, January 2012,* cat. no. 6202.0, Tables 1 and 18 (trend figures). Other matters remaining the same, this would mean that the numbers would be 12.9% higher; than in 2006 about 59,800 for full time workers and about 127,600 casuals.

396. We are asking FWA to do something significant for the lives of about 187,000 of the lowest paid workers who comprise 1.6% of the labour force. It will not be a way out of poverty for those workers and their families who depend on the NMW, but it will be a significant and necessary step towards that goal.

The application of principle

397. We submit that the provisions of current awards should not constrain the proposed increase. The minimum wage objective in the FW Act operates with the intent that the awards will give effect to decisions about what is a fair wage rate, not hinder it. Current award rates are not based on the evaluation of the needs of low paid workers. The establishment of a new system of national modern awards, as part of the Commonwealth's *Fair Work* reforms, was a process of award-making on uneven ground. As a result, the modern awards contain a variety of minimum rates for unskilled and basic entry level work.

398. There are classifications in awards that are at the current NMW/C14 level, but a substantial number of them are only transitional introductory rates. Even if the current award rates were thought to have the potential to constrain a NMW increase, account

would have to be taken of the fact is that there are many unskilled and basic entry level jobs with higher award wages than the proposed NMW. The following list contains awards where the lowest wage rate is well above the C14 rate and where that rate applies to basic entry level work.

- *Aboriginal Community Controlled Health Services Award*: $654.50
- *Aged Care*: $626.60
- *Airport Employees Award*: $611.80
- *Car Parking*: $620.80
- *Cleaning Services Industry*: $629.50
- *Educational Services (Schools) General Staff*: $606.40
- *Higher Education Industry – General Staff Award*: $631.10 (Year 1)
- *Fast Food Industry*: $647.30
- *Gas Industry Award*: $611.50
- *General Retail Industry*: $647.30
- *Hair and Beauty Industry*: $647.30
- *Local Government Industry*: $630.00
- *Passenger Vehicle Transportation*: $635.90
- *Premixed Concrete Award*: $606.10
- *Security Services Industry Award*: $662.20
- *Storage Services and Wholesale*: $629.70
- *Waste Management Award*: $624.10
- *Water Industry Award*: $630.00

399. The *Manufacturing and Associated Industries and Occupations Award* contains provisions that are clearly directed to the establishment of a meaningful introductory program prior to payment under the C13 classification. In some awards the introductory rate is not, or barely, related to a training process. For example, in the *Restaurant Industry Award 2010* the introductory rate is the same as the C14 rate, with a rate that is equal to the C13 rate payable after 3 months, although that period may be extended by mutual agreement. Schedule B includes the following definitions:

> "B.1 Introductory level
> Introductory level means a worker who enters the industry and is unable to meet the competency requirements of Level 1. Such an employee will remain in this level for a maximum of three months. Provided that an additional three months may be served at this level by mutual agreement between the employer and the employee. Further, if any disagreement arises from this provision it will be determined in accordance with clause 9—Dispute resolution.
> B.2 Food and beverage
> B.2.1 Food and beverage attendant grade 1 means an employee who is engaged in any of the following:
> (a) picking up glasses;
> (b) general assistance to food and beverage attendants of a higher grade not including service to customers;
> (c) removing food plates;

(d) setting and/or wiping down tables; and
(e) cleaning and tidying of associated areas."

400. It will be seen that the work covered by the Grade 1 (C13) classification is unskilled work that needs no training. These are ordinary life skills that people have and, even if the worker had little opportunity to observe their application in a restaurant, would be learned very quickly. Furthermore, the provision enabling the period of lower pay to be extended to six months creates a circumstance where vulnerable workers will be faced with the prospect of agreeing to an extension or losing their job.

401. The introductory rate in the *Restaurant Industry Award* is also contrary to the general principle of setting wages according to the work performed and the equal pay provisions of subsection 284 (1) of the FW Act, which provides that "FWA must establish and maintain a safety net of fair minimum wages, taking into account [amongst others]...the principle of equal remuneration for work of equal or comparable value...".

402. This equal pay provision is not limited to discrimination, such as gender discrimination, but operates to ensure that the wages are fair. If the safety net provides different rates of pay for work of equal or comparable value it will not be a fair safety net, especially where there is no valid ground for distinguishing between the two kinds of work. The work performed in the introductory period in the *Restaurant Industry Award* is work that is equal to or comparable with the work performed after that period and the introductory rate cannot be justified.

403. Another example of an introductory rate based solely on the period of employment is in the *Miscellaneous Award 2010*. It also has the C14 rate of $589.30 as its lowest rate, with an increase to $629.70 after 3 months. This award was made in the award modernisation process to cover a wide range of employees who are not covered by other awards. It was a "new" award in the sense that it had no predecessor in the earlier award system. The substantive rate after 3 months employment, which is well above the C13 rate, is significant because it indicates what the AIRC regarded as an appropriate minimum wage over a miscellany of jobs and industries, not otherwise covered by an award. That wage is 20 cents per week above the base cleaner's rate, which we have identified as an interim target rate for the NMW. The relevant provisions of Schedule B of this award provide:

> “Level 1
> An employee at this level has been employed for a period of less than three months and is not carrying out the duties of a level 3 or level 4 employee.
> Level 2
> An employee at this level has been employed for more than three months and is not carrying out the duties of a level 3 or level 4 employee.”

404. Finally on issues of principle, we submit that the NMW, which now operates independently of award rates (unlike in 1977 when the FMW operated on and in an award system), should not be set at the same rate as a short term introductory rate. The NMW is a single rate to be applied to ongoing employment. The NMW is not capable under the legislation of being split into an introductory rate and an ongoing rate. In these circumstances, the NMW should be based on the factors that are relevant to the setting of an ongoing rate. The C14 rate, as an introductory rate, is not such a rate.

E. Research into the needs of the low paid

405. A major part of this submission is concerned with quantifying the needs of low paid workers and their families so that safety net wages can provide an acceptable standard of living for low paid workers and their families. It should be "well above poverty" and enable them to live in dignity.

406. A fair system of wage-setting requires the information that is necessary to establish the needs of workers and their families. We have relied on a wide range of material in support of the claim for an additional $10.00 per week increase in the NMW. We expect that the currently available material will provide a sound basis for several increases to our interim target of the base cleaner's rate. However, further evidence about the needs of low paid workers and their families is required if FWA is to be fully informed and may be needed to go beyond this interim goal. We need further research on the identification and quantification of needs.

407. We have welcomed the initiative of the Minimum Wage Panel of FWA to establish a process for the identification of issues in regard to the measurement of the needs of the low paid. The section 290 investigation and report (*Measuring the Needs of the Low Paid*) was a significant development. We submit that this should be an ongoing process with consultations being held throughout the year.

408. The section 290 report refers to a pending application to the Australian Research Council for funding to enable the updating of the SPRC budget standards research. Catholic Social Services Australia is one of the SPRC's research partners in that

application. One of the purposes of the application is to produce research that will assist in the measurement of the needs of low income families, with obvious relevance to minimum wage cases. ACCER is concerned to see that the research has the most utility that it can in wage reviews. In particular, we are keen to ensure that there is a process in FWA that will elicit views about the design and methodological issues of this kind of research so that they might be considered in the research project. FWA has, we submit, the capacity under the section 290 investigation and report process to have these issues ventilated and narrowed, and possibly determined. In such a process the parties who have an interest in the matter can, and should, raise their concerns in advance of the research being conducted. This is not a case where parties should be allowed to hold their fire until research has been conducted and its results come before FWA in an annual wage review.

409. ACCER supports the continued use of relative poverty lines as a proxy for the measurement of need and a means of taking into account relative living standards. We have argued that debate and research are required if we are to improve their utility in wage-setting. One issue that needs to be considered is whether the maximum amount of rent assistance that is available to families who rent in the private rental market should be treated as disposable income, as the AFPC did.

410. A major problem with the current relative poverty lines is that the modified OECD equivalence scales used to establish relative living costs produces an outcome for sole parents that our experience and closer inspection show to be erroneous. This is illustrated in Table 8.3 of the *Statistical Report - Annual Wage Review 2011-12*. The table shows that a sole parent employed on the NMW and having two children to support has a slightly higher standard of living than a single person who is employed on the NMW, but who has no dependants. The ratios of disposable income to poverty lines are 1.15 and 1.14, respectively. The problem arises from the use of equivalence scales that do not distinguish between the costs of working and non-working families, whether couple parent or sole parent. The same issue arises when making a comparison between the pension safety net and the wage safety net. Costs of work, particularly for sole parents, can be substantial. Ordinarily, sole parents are required to engage child care services if they are to participate in full time work and many kinds of part time work.

411. We expect that the Commonwealth has extensive data on the costs of child care by virtue of its procedures for the payment of the Child Care Benefit. We submit that a

section 290 investigation would be an appropriate process for the release and further consideration of that material. Given the importance of this information to a range of its policies (workforce participation, family support, social inclusion, child care, etc), the Commonwealth should be asked to provide financial assistance to FWA to facilitate further research in this area.