



RETRENCHMENT AND LABOUR MARKET DISADVANTAGE: ROLE OF AGE, JOB TENURE AND CASUAL EMPLOYMENT

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Industrial tribunals have been considering redundancy benefits for older workers, workers with long job tenure and casual workers (the latter group presently having no access to redundancy benefits regardless of tenure). This paper details labour market disadvantage faced by these categories of retrenched workers.

INTRODUCTION

Misfortune in the labour market is unevenly distributed. Some groups are more likely than others to face labour market disadvantage through such factors as a greater likelihood to lose employment and to be unable to find employment; without employment for longer periods of time once they are without employment; or forced into inferior jobs with lesser conditions or pay. This disadvantage may flow from personal characteristics (such as gender, ethnicity, race), job characteristics (such as occupation, industry) or situational characteristics (such as region) (Alcorso & Harrison 1993; Pocock 1998). Such characteristics may be used to segment labour markets leading to people with similar capabilities receiving different pay and conditions (McNabb & Ryan 1990). This article focuses on three particular characteristics (one personal, two job related) and their roles in one aspect of labour market misfortune—workers' experience after they have been retrenched. The characteristics are age, prior job tenure and casual/permanent employment status.

The focus is on these dimensions because they have particular policy salience. In 1984, the then Australian Conciliation and Arbitration Commission (ACAC) granted all award-covered employees severance benefits in redundancy situations. These benefits were to range from 4 weeks pay for workers with 1 year of service, to a maximum of 8 weeks pay for workers with 4 or more years of service. No benefits were payable to casual employees or employees with less than 1 year service. At a time when many retrenched employees received no benefits, this was seen as a groundbreaking decision. Since then, the adequacy of these benefits has been challenged.

Contention focuses on three areas. One is the adequacy of benefits for older workers, which was highlighted by the 1994 decision of the New South Wales Industrial Commission (NSWIC) to grant a 25% loading in redundancy benefits to workers aged 45 and above. This is particularly salient in light of evidence of

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discrimination against older (potential) workers. Discrimination against workers due to age or other grounds is well documented (Walley *et al.* 1999) and illegal under state and federal anti-discrimination laws. Yet these laws cannot prevent discrimination, because they operate through complaints-based mechanisms and much discrimination is unobservable (Riach & Rich 1991). The level of severance benefits matter greatly as anti-discrimination laws are mostly of little use to older retrenched workers.

A second contention is the adequacy of benefits for workers with longer prior tenure in their job. These benefits were in effect doubled by the NSWIC in 1994. Tenure, by implication, is closely related to age, but the advantage of tenure over age as a criterion for severance benefits is that it bears a direct relation to the 'service' provided by the employee to the employer.

The third focus is the exclusion of casuals from any redundancy benefits. At the time of the 1984 ACAC decision, casuals were only a small proportion of workers and they tended to occupy short-term (and part-time) jobs. By 1998, 53% of self-identified casuals had been in the same job for over a year; 24% had been there for 2 years (ABS Cat no. 6359.0). By November 2001, 76% of casuals still expected to be with the same employer in 12 months time (Australia 2003: 172). This emergence of long-term casual employment is a 'recent phenomenon' (Australia 2003: 152). Many casuals (perhaps over half) are not 'genuine' casuals in the sense of being people who are only engaged irregularly and for intermittent, short periods (Murtough & Waite 2000). Rather, many are merely employees with regular work but insecurity of tenure, no redundancy pay and no rights to annual or sick leave. Controversy over the adequacy of 'casual' has led to the ABS ceasing to use the term in its labour force statistics, instead identifying employees 'without leave entitlements'. This paper, however, uses the more common nomenclature, 'casuals'.

The tribunal system has lightly regulated casual employees; they typically receive less training than permanent employees, have fewer career opportunities, lower employment entitlements (such as superannuation) and, as indicated above, no leave entitlements, little security of employment and no redundancy benefits (Campbell 1996: 574). This has created an incentive for employers to concentrate growth in casual employment. Recent years have seen the start of a reconfiguration of the role of casual employment. The use of permanent part-time work is increasing, but full-time work is becoming casualised. Thus, while the proportion of permanent employees who were part-time increased from 14 to 16% in the 4 years from 1999 to 2003, the proportion of casual employees who were full-time increased from 30 to 35% (ABS Cat no. 6310.0). The exclusion of casuals from redundancy pay is increasingly affecting full-time workers, and is the subject of industrial disputes, for example at the Sydney Hilton Hotel (Workers Online 2002).

These issues culminated in test cases sought by union confederations to expand the scope and increase the level of severance payments in the Queensland and Australian Industrial Relations Commissions and later in the Western Australian and South Australian tribunals. Employers and the Commonwealth Government opposed any extension of these benefits, arguing, among other things, that the

disadvantages claimed by unions did not exist or had been reduced in relative terms; that older workers were retiring earlier; that casuals received a loading which compensated for the risk of termination; and that the cost of any increase would hurt employers and cost jobs. It is not the purpose of this paper to address all these issues, but to focus on the question of the disadvantage faced by retrenched employees in relation to the three characteristics already mentioned.

This paper first considers the role of age in disadvantage regarding retrenchment, before turning to the related question of prior job tenure. Finally, it considers the situation for casual employees. It addresses the questions: are older retrenched workers and workers with longer prior job tenure disadvantaged compared to other retrenched workers; and are retrenched casuals at least as disadvantaged in the labour market as retrenched permanent employees?

DATA

The main focus is on data from the Australian Bureau of Statistics. One source is the Labour Force Survey (LFS). A number of supplementary surveys associated with the LFS are also used, primarily the Retrenchment and Redundancy (R&R) Survey, undertaken in July 1997 and July 2001 and from which unpublished data have been obtained. The LFS, undertaken monthly, provides information from a potentially larger dataset than the episodic R&R Survey, which may only collect information from a defined subgroup in the population.

The two R&R Surveys were undertaken in different labour market contexts, with the national unemployment rate lower in July 2001 (6.9% seasonally adjusted) than in July 1997 (8.3%). As a consequence of improved labour market conditions, the estimated number of retrenched employees was lower over the 3 years to June 2001 (596 400) compared to the 3 years to June 1997 (685 400). In a labour market characterised by lower unemployment, the labour market outcomes for retrenched employees were also more favourable over the later period, with 16.6% of employees who had been retrenched in the 3 years to June 2001 still unemployed in July 2001. The comparable figure for July 1997 was 29.3%. As a consequence, unemployment duration among retrenched employees also declined. However, in July 2001, 16.2% of employees who had been retrenched in the preceding 3 years were now 'not in the labour force', compared to 16% in July 1997.

In interpreting changes between the 1997 and 2001 data, it is important to recognise that both sets of data are subject to sampling error. Because of the lower rates of redundancy and unemployment in the later period, most estimates in tables for 2001 tend to have higher standard errors and lower reliability than comparable estimates for 1997.

AGE

Before turning to the specifics of the R&R Surveys, we first consider general data on age from the LFS. There is considerable evidence of a higher level of disadvantage faced by older people (Walley *et al.* 1999: 10), whom employers are reluctant to hire (VandenHeuvel 1999).

We focus initially on unemployment duration as a key indicator of labour market disadvantage. This is because people with longer periods of unemployment

duration are more likely to experience hardship, for example through exhausting financial resources, and becoming disillusioned and depressed. Table 1 considers LFS data on unemployment duration by age. 'High-duration' unemployment refers to unemployment with observed duration of 26 or more weeks. It is important to note that the LFS does not measure completed unemployment spells; rather it observes duration of the unemployment spell to date, which will be, on an average, half way through their period of unemployment. Hence the average person unemployed for 26 weeks at the time of the survey will end up unemployed for about a year before obtaining a job.

Table 1 *Proportion of unemployed persons with high-duration unemployment and incidence of high-duration unemployment, by age, June quarters, 1997, 2001*

	1997	2001
Proportion of unemployed persons with high-duration unemployment		
Aged 55 and over (%)	67	57
Aged 54 and under (%)	44	34
Incidence of high-duration unemployment—ratio of aged 55+ to 54 and under	1.5	1.7

Source: ABS, Labour Force, Australia, Cat no. 6203.0, various months.

Population: unemployed persons.

In the June quarter 1997, around two-thirds of over 55-year-old unemployed persons experienced high-duration unemployment, compared to no more than half of those under 55 years. In 2001, the proportion of high-duration unemployed in both groups fell, but the fall was proportionately smaller for the over 55 age group (the fall of 9% represented a drop of 14% for the over 55 age group, compared to 24% for the under 55 year olds). As a consequence, in the June quarter 1997, an unemployed person over 55 years was 1.5 times more likely to be experiencing high-duration unemployment as an under 55 year old, but by June quarter 2001 they were 1.7 times more likely to experience high-duration unemployment.

Retrenchment and redundancy

Just as older employees are disadvantaged in the labour market, so too they are disadvantaged when retrenched. There is near 'unanimous' agreement in the literature that 'age is negatively related to the likelihood and speed of the re-employment' of retrenched workers (Wooden, 1988: 6). Once unemployed, mature workers often find it extremely difficult to regain work, for a range of reasons; from employers attitudes of who and what is an older worker, to a lack of qualifications or skills (Walley *et al.* 1999: 8, 9). The R&R Survey shows that, in 1997, 65% of unemployed persons aged 55 and over had been unemployed for 26 weeks or more, compared to 37% of unemployed 24–34 year olds.

Of course, unemployment duration does not indicate the full extent of labour market disadvantage faced by various groups in the labour market. Some people may leave the labour force altogether, for example, they may eventually give up looking for work if, they are unable to find suitable employment after a

period of job search (VandenHeuvel 1999: 16). The ABS supplementary survey on successful and unsuccessful job search experience reveals that jobseekers in older age groups were the least likely group to be successful (ABS Cat no. 6245.0, July 2000). Data on labour force exit incorporates the effect of discouraged job seekers—people who would like a job but who no longer satisfy the ABS definition of unemployment—and people who have given up hope of employment altogether. Discouraged job seeking is a particular problem among mature-age people. For example, discouraged job seekers make up a considerably larger percentage of the population of older male workers (over 55 years) than of younger males. For women, the differences by age are even larger (VandenHeuvel 1999: 16, 17; Walley *et al.* 1999: 9).

The data from the R&R Survey did not include specific counts of discouraged job seekers. However, a related useful indicator of need among retrenched employees from this survey is the proportion not in work—they are either unemployed or not in the labour force. Table 2, from the R&R Survey, shows that older retrenched persons, particularly those aged 55 and above, had a higher probability of being either unemployed or not in the labour force than younger workers.

Table 2 *Percentage unemployed or not in the labour force, by age group and employment status of previous job*

	Proportion unemployed or not in the labour force, July 1997, by age group					
	18–24 (%)	25–34 (%)	35–44 (%)	45–54 (%)	55–64 (%)	All (%)
1997						
Permanent	40.9	34.8	33.4	39.3	67.7	40.4
Casual	62.3	53.2	53.9	55.6	66.1	57.3
All employees	51.4	40.7	38.1	42.4	67.4	45.3
2001						
Permanent	30.8	26.9	25.4	28.5	51.1	30.2
Casual	49.6	34.6	30.8	43.6	47.3*	40.8
All employees	39.7	28.9	26.5	31.7	50.8	32.8

Source: ABS Cat no. 6266.0, unpublished data.

Population: Persons aged 18–64 years who had been retrenched or made redundant in the 3 years to 30 June 1997/2001. *Asterisked proportions based on estimates with a standard error of greater than 25 per cent.

Early retirement

Do these patterns regarding older workers simply reflect a trend towards early retirement? After all, in its submissions to the 2003 AIRC test case, the Commonwealth government relied in part on arguments that many older and longer-tenure retrenched workers were simply choosing to retire early and their 'not in the labour force' indicated nothing about their level of disadvantage (Australia 2003: 181).

This argument is difficult to sustain. Data presented earlier show the growing problem of high-duration unemployment among older workers. Just as significantly, the idea that early retirement was increasingly common is simply a myth. Labour force participation rates increased in all three older age groups (45–54, 55–59 and 60–64 year olds) between 1997 and 2001. For example, between June 1997 and June 2001, the participation rate among 55–59 year olds increased from 57.7 to 61.4%, and among 60–64 year olds it increased from 32.2 to 34%.¹ If these data indicate anything about retirement patterns, it is that people were retiring later.

Moreover, if retrenched employees were 'retiring' at the times they do through genuine choice, we would expect the distribution of retirement ages among retrenchedes to be similar to the distribution among people who choose their retirement date. Yet the ABS Retirement and Retirement Intentions Survey indicates that, among persons who retired after reaching the age of 45 years, 68% of those who lost their last job due to retrenchment 'retired' before reaching age 60 years. This compares to only 45% among all 'job leavers' and 56% among those who left their last job for reasons associated with early retirement ('early retirement package', 'eligible for superannuation or service pension').

The rate at which retrenched employees leave the labour force is also considerably higher than in the labour force as a whole. In 2000, an estimated 208 000 employees were retrenched. These employees were retrenched between 6.5 and 18.5 months before the July 2001 survey, that is, an average of slightly over 12 months before the survey. Among those retrenched workers, 32 800 (15.8%) had left the labour force by the time of the survey. By comparison, the Labour Mobility Survey shows that only 3.8% of all people employed in February 2001 had left the workforce 12 months later, by February 2002 (ABS Cat no. 6209.0). This discrepancy is not because retrenchments are concentrated among older workers, since this group appeared no more likely than any other cohort to become retrenched. The principal problem for older workers is not that they are more likely to be retrenched, it is that their subsequent employment prospects are bleaker than those of other workers. Hence, once retrenched, many older workers leave the labour market (or at least actively cease looking for work according to the ABS definition of unemployed).

Some employees may voluntarily choose redundancy because they are close to retirement and might prefer to retire early anyway. This mainly occurs among employees represented by unions which are able to negotiate voluntary redundancy frameworks in the context of enterprise bargaining arrangements. For those employees reliant on awards, voluntary redundancy is less common and those with long tenure who face retrenchment normally do not have a say in whether or not they are made redundant. In unionised workplaces, unions are often able to demand voluntary redundancy programs of management, whereas in non-union workplaces compulsory retrenchments are more common. The 1995 Australian Workplace Industrial Relations Survey (AWIRS) (Morehead *et al.* 1997) revealed that compulsory retrenchments were more common in non-union workplaces (14%) than unionised workplaces (9%). By contrast, unionised workplaces were much more likely to experience voluntary

redundancies (12%) than were non-union workplaces (3%) (Morehead *et al.* 1997: 419, and unpublished AWIRS data). A similar pattern can be seen in Britain (Sisson 1993: 206). By August 2002 approximately 77% of employees were non-union members (ABS Cat no. 6310.0), suggesting that a large proportion of re-trenched employees are likely to have been compulsorily re-trenched.

PRIOR JOB TENURE

Age is a key factor in understanding the relationship between prior job tenure and labour market outcomes. The term 'prior job' is used as shorthand in this text for a job from which the employee was re-trenched or made redundant. Older workers are more likely to have been in long-duration jobs. In 2001, 71% of re-trenched workers aged 55–64 had prior job tenure of 5 years and over, as did 63% of re-trenched workers aged 45–54, compared to just 45% of those aged 35–44 and 30% of those aged 25–34. Re-trenched employees with longer prior job tenure would be relatively disadvantaged as a consequence of their age, and because their skills and experience are specific to a particular employer and may not be readily transferable (Wooden, 1988: 7).

Unemployed or not in the labour force

Table 3 shows the proportion of employees unemployed or not in the labour force among re-trenched employees who were formerly in 'permanent' jobs, differentiated by tenure of prior job. The greatest disadvantage in 1997 was experienced by those with very short prior job tenure, and those with long prior tenure. Although the situation improved for all groups between 1997 and 2001, the improvement was smallest for those with greater than 5 years job tenure (4% compared to 9% for the 1 and under 5 years group and 21% for the under 12 months group).

Table 3 *Proportion unemployed or not in the labour force, July 1997, by duration of job from which re-trenched or made redundant*

Duration in job from which re-trenched or made redundant	Proportion unemployed or not in the labour force	
	July 1997 (%)	July 2001 (%)
Under 12 months	49.1	28.0
1 and under 5 years	34.3	24.9
5 years and over	39.4	35.2
Total	40.4	30.2

Source: ABS Cat no. 6266.0, unpublished data.

Population: Persons aged 18–64 years who had been re-trenched or made redundant from permanent jobs in the 3 years to 30 June 1997/2001 and were unemployed in July 1997/2001.

Changing from full-time to part-time status

There is evidence to suggest that re-trenchment can be the catalyst to different, less secure forms of workforce attachment; that is, it can mark an individual's point of

transition to casualised employment (Webber & Webber 1999: 110), which tends to be: low skilled, involve little training, insecure and with few career prospects (Walley *et al.* 1999: 12). The literature also finds, that re-employment, where it does occur, is frequently in less well paid jobs than those from which employees were retrenched (Wooden 1988: 18). Another indicator of disadvantage among retrenched employees is whether they have been able to resist reductions in their hours of work, from full-time to part-time. As shown in Table 4, retrenched employees with long prior job tenure are more likely than other retrenched employees to shift from full-time to part-time employment.

Table 4 *Proportion of permanent employees who changed from full-time to part-time status, by duration in job from which retrenched or made redundant*

Duration in job from which retrenched or made redundant	Proportion of permanent employees who changed from full-time to part-time status (%)	
	1997	2001
Under 12 months	11.0	12.5
1 and under 5 years	13.5	12.0
5 years and over	19.4	17.4
All	14.9	14.3

Source: ABS Cat no 6266.0, unpublished data.

Population: Persons aged 18–64 years who had been retrenched or made redundant in the 3 years to 30 June 1997/2001 and who were employed in July 1997/2001.

Is this switching from full-time to part-time status all voluntary? It seems unlikely. In the 3 years to February 2002, approximately 264 000 (4.2%) of all full-time employees switched to part-time jobs (ABS Cat no. 6209.0).² In the R&R Survey, some 56 400 (11.6%) people retrenched from full-time jobs ended up in part-time jobs over the 3 years to July 2001. This implies that approximately 3.5% of non-retrenched full-time employees switched to part-time work over the 3-year period (and there is no reason to believe that all of this shifting is voluntary).³ That is, retrenched employees were approximately 3.3 times more likely to switch from full-time to part-time work than other employees, suggesting a majority involuntary component to this shifting.

Of the 56 400 retrenched employees who switched from full-time to part-time jobs in the 3 years to 2001, most (69%) switched from permanent full-time to casual part-time work. The ABS Forms of Employment Survey, undertaken 4 months later, found that among *all* part-time casual employees, 43% wanted more hours (ABS Cat no. 6359.0). Among male part-time casual employees, 53% wanted more hours. The figure among *retrenched* employees now in casual part-time jobs was likely to be higher than this population average.

Unemployment duration

Table 5 shows the distribution of unemployment duration of people who had been retrenched from a 'permanent' job in the previous 3 years and who were

still unemployed. Some 51% of retrenched employees with prior job tenure of 5 years or more had been unemployed for 26 weeks or more at the time of the ABS Survey. Within this tenure group, disadvantage increased with tenure: among retrenched employees with prior job tenure of 10 years or more, the figure was 59%.

Table 5 *Unemployment duration, by previous job tenure*

Duration of current period of unemployment	Duration in job from which retrenched or made redundant		
	In job for under 12 months (%)	In job for 1 and under 5 year (%)	In job for 5 years and over (%)
1997			
Under 8 weeks	28.4	26.2	21.3
8 and under 26 weeks	23.9	32.8	27.5
26 weeks and over	47.7	41.0	51.2
All	100.0	100.0	100.0
2001			
Under 8 weeks	42.2	45.2	43.1
8 and under 26 weeks	39.8	28.2	31.0
26 weeks and over	18.1*	26.6	25.9
All	100.0	100.0	100.0

Source: ABS Cat no. 6266.0, unpublished data.

Note. Numbers in columns may not add to 100.0% due to rounding.

*Based on estimates with a standard error of greater than 25%.

Population: Persons aged 18–64 years who had been retrenched or made redundant from permanent jobs in the 3 years to 30 June 1997/2001 and were unemployed in July 1997/2001.

Although in 1997 the proportion of retrenched people who suffered high-duration unemployment was greatest among those with prior job tenure of under 1 year and over 5 years, in 2001 the greatest rates of high-duration unemployment were experienced among those with prior job tenure of 1 to 5 years and over 5 years. On the surface this could signify an improvement in the relative position of retrenched permanent employees with long prior job tenure in 2001, compared to 1997, to the point where they were in a similar position to retrenched employees with 1–5 years tenure. However, as discussed below, this is almost certainly an illusion. In relation to indicators such as the proportion of retrenched employees who are unemployed or not in the labour force (Table 3) and switching from full-time to part-time employment (Table 4), the relative disadvantage faced by employees with long prior job tenure persisted. In addition, age, which continued to be strongly correlated to prior job duration, was also correlated with the proportion of unemployed or those not in the labour force (Table 2). Before seeking to understand this seeming paradox, we shall turn to evidence from another indicator of disadvantage, 'joblessness duration'.

Joblessness duration

Although data on duration of current unemployment spells were collected by the ABS, directly analogous data for periods of 'not being in the labour force' were not collected. However, for all those people who are no longer currently employed (i.e. they are either unemployed or not in the labour force) we can calculate in grouped format, based on in what year the employees were retrenched, the period of time since these retrenched employees lost their jobs. This is referred to here as 'joblessness duration', though this is not quite accurate because it does not take into account intervening periods of temporary employment experienced by some employees. Its usefulness is in seeing whether similar relationships exist with tenure as are found in relation to unemployment duration; it provides a reality check on the unemployment duration data.

Table 6 indicates that 'joblessness duration', like unemployment duration, shows a marked bias against retrenched employees from jobs with long prior tenure; that is, it confirms the disadvantage faced by employees retrenched from jobs with high prior tenure. Between 1997 and 2001, the incidence of high joblessness duration (greater than 26 weeks) fell for all groups of permanent employees, but the decrease appeared to be weakest for those with prior job tenure of over 5 years (3.5% compared to around 6% for the other two groups).

Unemployment duration revisited

There appear to be three possible explanations for the pattern whereby declining estimated unemployment duration among employees with long prior job tenure, seems to sit alongside the persistence of other indicators of disadvantage for this group. One might be that there has been a significant increase in voluntary early retirement among older people, but we can quickly dismiss this explanation based on the data presented above. Two other explanations are more plausible. One is that an increasing proportion of older retrenched people are leaving the labour market altogether and this has disproportionately lowered average unemployment duration among those with long prior job tenure (the 'discouraged worker effect'). The other is that the apparent change reflects sampling variation between surveys (the sampling effect). In fact, the 10.4% shift in relativities between the 1-5 year and over 5-year tenure groups was not statistically significant. Given this and the greater reliability of the LFS data as a whole, the sampling effect appears the more likely explanation.

CASUAL/PERMANENT EMPLOYMENT STATUS

Do retrenched casual employees experience lesser labour market disadvantage than retrenched permanent employees of similar prior job duration? In these and other ABS data, casuals are employees without access to annual leave or sick leave. Accordingly, there can be casuals who have worked in the same job for the same employer for several years. The term permanent employees is used here simply as the opposite of casual, that is employees with holiday or sick leave.

We compare here the experience of retrenched casual employees with retrenched permanent employees who are entitled to severance benefits (those who have been with the employer for at least a year). Accordingly we focus on

Table 6 'Joblessness' duration, by employment status and prior job tenure

Joblessness duration (period of time since retrenched)	Tenure in job from which retrenched or made redundant		
	In job for under 12 months (%)	In job for 1 and under 5 year (%)	In job for 5 years and over (%)
1997			
Permanent employees			
Under 26 weeks	44.5	44.3	26.0
26 weeks and over	55.5	55.7	74.0
Total	100.0	100.0	100.0
Casual employees			
Under 26 weeks	42.7	34.9	24.2*
26 weeks and over	57.3	65.1	75.8*
Total	100.0	100.0	100.0
2001			
Permanent employees			
Under 26 weeks	50.2	50.5	29.5
26 weeks and over	49.8	49.5	70.5
Total	100.0	100.0	100.0
Casual employees			
Under 26 weeks	48.3	46.7	25.0*
26 weeks and over	51.7	53.3	75.0*
Total	100.0	100.0	100.0

Source: ABS Cat no. 6266.0, unpublished data.

*Based on estimates with a standard error of greater than 25%.

Population: Persons aged 18–64 years who had been retrenched or made redundant in the 3 years to 30 June 1997/2001 and who were not employed in July 1997/2001.

'long-term' casuals, those with 12 months or higher tenure. As context, persons aged 25 and over accounted for the majority (82%) of retrenched long-term casuals (those with 12 months or more service in their previous job). Indeed, 56% were aged 35 or over. Long-term casuals accounted for one-third of retrenched casual employees.

Table 7 considers the differences between retrenched long-term casual employees and permanent employees with similar prior tenure, in terms of their chance of being unemployed or not in the labour force. The greater disadvantage experienced by retrenched long-term casuals is apparent. Fifty-one per cent of long-term casuals who had been retrenched were still unemployed or out of the labour force in July 1997, compared to 37% of permanent employees with similar job duration. In 2001, the gap was smaller but still to the disadvantage of long-term casuals. Retrenched casuals are disadvantaged relative to retrenched

Table 7 *Percentage unemployed or not in the labour force, by permanent or casual status of previous job, retrenched persons with prior job tenure of 12 months and over*

Employment status	Proportion unemployed (%)	Proportion not in the labour force (%)	Proportion unemployed or not in the labour force (%)
1997			
Permanent employees with 12 months or more prior job tenure	18.6	18.6	37.2
Casual employees with 12 months or more prior job tenure	27.7	23.5	51.1
All employees	20.0	19.4	39.4
2001			
Permanent employees with 12 months or more prior job tenure	13.7	16.9	30.7
Casual employees with 12 months or more prior job tenure	16.5	21.2	37.7
All employees	14.2	17.6	31.8

Source: ABS Cat no. 6266.0, unpublished data.

Population: Persons aged 18–64 years who had been retrenched or made redundant in the 3 years to 30 June 1997/2001 from jobs with tenure of 12 months or more.

permanent employees in all age groups except the over 55 age group, in which the experiences of casuals and permanents are almost equally poor.

When measured by unemployment duration, retrenched long-term casuals are more disadvantaged than are equivalent retrenched permanent employees (Table 8). In 2001, while 26% of unemployed persons in the latter group had unemployment duration of at least 26 weeks, the same was the case for about 41% of retrenched long-term casuals. Table 6, shown earlier, also confirms that, in terms of joblessness duration, the position of retrenched long-term casuals is at least as bad, and probably worse, than that of retrenched permanent employees with similar prior job duration.

With casual employment possibly becoming 'more secure in terms of regularity of earnings and predictable working patterns, along with high expectations of continued employment for casual employees with their current employer' (Australia 2003: 174), it seems that the larger difference between long-term casuals and permanents is not in their expectations of continuing employment but in the degree of disadvantage they face when retrenched; and, given the low costs of doing so, the incentive for employers to retrench them.

CONCLUDING COMMENTS

Older retrenched persons and those with long prior job tenure face higher labour market disadvantage than younger persons and those with shorter tenure. Those

Table 8 *Unemployment duration, by permanent or casual status, retrenched persons employed for 12 months and over job duration*

Duration of current period of unemployment	Distribution of unemployment duration (%)	
	Permanent employees with 12 months or more prior job tenure	Casual employees with 12 months or more prior job tenure
1997		
Under 8 weeks	24.2	25.0*
8 and under 26 weeks	30.7	18.5*
26 weeks and over	44.8	56.5
Total	100.0	100.0
2001		
Under 8 weeks	44.2	41.3*
8 and under 26 weeks	29.5	16.3*
26 weeks and over	26.3	41.3*
Total	100.0	100.0

Note: Numbers in columns may not add to 100.0% due to rounding.

*Based on estimates with a standard error of greater than 25%.

Population: Persons aged 18–64 years who had been retrenched or made redundant in the 3 years to 30 June 1997/2001 from jobs with tenure of 12 months or more.

Source: ABS Cat no. 6266.0, unpublished data.

with long prior job tenure face a lower probability of finding future employment than other retrenched employees, though those with very short tenure face different difficulties in the labour market. Those with long tenure also face a higher probability of being forced to shift from full-time to part-time employment if they do manage to find future employment. The most important reason for this is age. Older retrenched workers are clearly disadvantaged in the labour market.

In 2003, the Queensland Industrial Relations Commission (QIRC) handed down its decision on severance benefits, and in 2004, the Australian Industrial Relations Commission (AIRC) handed down its decision. Tribunals in Western Australia and South Australia followed suit with variations of their own. Though the decisions differed in detail, both the federal and Queensland tribunals (whose decisions we focus on) decided to maintain severance benefits for workers with tenure of up to 4 years, but raise the benefits for workers with longer prior job tenure, doubling them for workers with 9 (AIRC) or 12 (QIRC) years service. The QIRC's rationale for increasing payments focused principally on the need for social justice for long-tenured retrenched workers who lost valuable credits such as sick leave and long service leave, faced the prospect of never finding 'similar work or work that provides them with the level of remuneration received in the position from which they were retrenched', and the costs they face due

to the need for extensive retraining or study into new areas (QIRC 2003: 10). The AIRC focused on maintaining the rationale for the 1984 *Termination Change and Redundancy* decision, and redressing the anomaly whereby it was recognised that hardship increased with tenure but the scale of benefits did not increase after 4 years service (AIRC 2004: 44).

Both tribunals declined to apply any loading for older workers. For Queensland, this was principally because of concerns that this would exacerbate discrimination against older workers, but it recognised that long-tenured workers also happened to be older workers. The AIRC also considered that tenure-based scales indirectly took age into account, but added that the extra difficulty experienced by older retrenched workers in finding employment was not relevant as it was not appropriate to take income maintenance considerations into account (AIRC 2004: 46). This was the role of the social security system, notwithstanding the fact that many retrenched workers are ineligible for social security payments because they have an employed spouse (AIRC 2004: 39, 40). Still, while allocating compensation based on tenure rather than age is imperfectly targeted at employees most disadvantaged in retrenchment situations, it at least goes some way to achieving this in a way least likely to cause offence to employers.

As for casual employees, the data demonstrate that the position of retrenched long-term casuals is at least as difficult as that facing retrenched permanent employees with similar job tenure and in most respects is more difficult. They face longer periods of unemployment than equivalent permanent employees and lower probabilities of finding work. Yet they receive no severance benefits except when union pressure is successfully applied. The QIRC declined to grant casuals a severance entitlement, but left the door for revisiting the application pending the AIRC decision. On the one hand, it considered that a severance benefit was incorporated into the casual loading and on the other, that the term casual now encompasses a wide variety of employment types. The traditional casual is one of those types' and the Commission had 'some sympathy for those non-traditional long-term casuals who are displaced as a result of retrenchment' (QIRC 2003: 16). The AIRC was more decisive, rejecting any compensation for casuals on the grounds that this would be 'double dipping' as one factor taken into account in an increase in the casual loading in the *Metals Award* in 2000 was the lack of redundancy benefits for casuals (AIRC 2004: 83).

Although the AIRC decision may be reasoned, the outcome is clearly inequitable for casual employees. Implicitly, policy-makers expect long-term casual employees to put money aside each week to cover the potential hardship associated with redundancy, just as they are expected to do the same in relation to annual leave and sick leave. Whatever the merits of requiring them to save up for their relatively predictable annual leave each year, it is quite unrealistic to imagine this happens for the unpredictable contingency of redundancy. Even if the casual loading encompasses compensation for the lack of access to redundancy pay, it represents an inefficient distribution of compensation and is of little practical benefit to casuals when they are retrenched. Whatever the significance of the casual loading, it is difficult to see how older workers with 10 or more years service to an employer, retrenched in difficult labour market circumstances and

facing even greater difficulties than permanent employees with similar age and tenure, should be denied severance benefits merely because they are classified as a casual employee—that is, not given annual and sick leave—by their employing organisation. The data presented here, and the treatment of casuals in the decision, call into serious question the nature of the regulation of casual employment. With many casual employees not being genuinely casual, the proliferation of long-term casual employment has become a mechanism by which over a quarter of the workforce are defined outside of the safety net that ostensibly provides rights of access to recreation leave, sick leave and redundancy benefits to Australian employees. It would seem an appropriate time for policy makers, including those in unions, to rethink the role of casual employment in modern society, as the relationship between casual employment and redundancy pay highlights one of the more significant holes in the safety net provided by the Australian arbitral system.

POSTSCRIPT

In May 2005 the Commonwealth government announced plans to legislate severance pay out of the safety net, by abolishing the 'no disadvantage test' in the *Workplace Relations Act 1996* and omitting severance pay from a list of proposed minimum standards for agreements.

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ENDNOTES

1. For 45–54 year olds the increase was from 78.3% in June quarter 1997 to 79.0% in June quarter 2001 and 80.1% in June quarter 2002.
2. In the 12 months to February 2002, an estimated 94 800 full-timers converted to part-time jobs, as indicated above. In the 12 months to February 2000 the equivalent figure was 81 100. No estimate is available for February 2001 but a reasonable estimate would be the midpoint of these two figures, 88 000. These three figures sum to 263 900. The denominator is the number of people in full-time work in February 1999 in the Labour Mobility Survey, 6 329 600. See ABS, *Labour Mobility*, Cat no. 6209.0.
3. The estimate is approximate as the two periods concerned have only an 81% overlap, but this is not likely to have a major impact on the estimate. Calculated as $(263\,900 - 56\,400) / (6\,329\,600 - 484\,200)$.

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