

Managing Labour in the Residential Aged Care Sector

Sarah Kaine

This thesis is submitted in
fulfilment of the requirements of the
Degree of Doctor of Philosophy,
University of Sydney

March 2010

Table of Contents

Declaration	5
Acknowledgements.....	6
Glossary of Terms.....	7
List of Figures	10
List of Tables	11
Abstract.....	12
Chapter 1.....	14
Introduction	14
Section One: Why aged care and why now?.....	14
Section Two: Methodology and chapter structure	18
Section Three: Conclusions.....	20
Chapter 2.....	21
Literature Review.....	21
Introduction	21
Section One: Industrial Relations in Residential Aged Care.....	23
<i>Gender.....</i>	25
<i>The State.....</i>	27
<i>Employee Voice</i>	29
<i>Ownership</i>	32
Section Two: Regulation Theory.....	37
Section Three: Conclusions.....	46
Chapter 3.....	48
Research Method and Design	48
Section One: Development of the research.....	48
Section Two: Research Questions	49
Section Three: Case Study Methodology	51
Section Four: Access and choice of cases	52
Section Five: Data sources.....	54
<i>Documentary evidence about the aged care sector.....</i>	55
<i>Case specific documentary evidence.....</i>	55
<i>Interviews.....</i>	56
Section Six: Conclusion	61
Chapter 4.....	63
Context.....	63
Introduction	63
Section One: The Health Sector	64
Section Two: Residential aged care in Australia	67
<i>Demographic Change</i>	68
<i>The Market for aged care services.....</i>	69
<i>Aged Care Services.....</i>	72
<i>Structure of the sector.....</i>	74
<i>The State and the Legal Regulation of Aged Care.....</i>	81
Section Three: The residential aged care labour market	91
<i>The aged care workforce.....</i>	91
<i>Industrial Instruments and Parties.....</i>	96
<i>Wages.....</i>	103
Section Four: Conclusion.....	109

Chapter 5.....	111
Port View Retirement Village.....	111
Introduction	111
Section One: Organisational Context.....	112
<i>Location and History.....</i>	112
<i>Organisational Structure</i>	117
Section Two: Port View and the aged care labour market.....	121
Section Three: Labour law and industrial instruments	128
Section Four: The Aged Care Act and the management of labour.....	130
Section Five: Work and Regulation in 2005.....	135
Section Six: Regulation and Change since 2006	139
Section Seven: Conclusion	143
Chapter 6.....	147
Christian Care.....	147
Introduction	147
Section One: Organisational Context.....	148
<i>Location and History.....</i>	148
<i>Organisational Structure</i>	150
Section Two: Christian Care and the aged care labour market.....	157
Section Three: Labour law and industrial instruments	171
Section Four: The Aged Care Act and the management of labour.....	175
Section Five: Organisational norms at NWL	179
Section Six: The Impact of Regulatory Change at NWL	182
Section Seven: Conclusion	186
Chapter 7.....	190
Red Gum Retirement Village	190
Introduction	190
Section One: Organisational Context.....	191
<i>Location and History.....</i>	191
<i>Organisational Structure</i>	192
Section Two: Red Gum Manor and the aged care labour market.....	195
Section Three: Labour Law and industrial instruments	206
Section Four: The Aged Care Act and the management of labour at Red Gum Manor	213
Section Five: Continuity and Change at the Manor	218
Section Six: Conclusion	220
Chapter 8.....	223
Case Synthesis.....	223
Introduction	223
Section One: Regulation.....	224
<i>The Managed Market.....</i>	224
<i>Labour Law.....</i>	226
<i>Architecture/Location.....</i>	228
<i>Social norms</i>	231
<i>Organisational norms.....</i>	232
<i>Ownership structure</i>	233
Section Two: Assessing the importance of external and internal regulation.....	235
<i>A comparison of external and internal regulation</i>	235
Section Three: Conclusion	237
Chapter 9.....	239
Summary and findings	239
Introduction	239

Section One: Theoretical framework	241
Section Two: The residential aged care sector	242
Section Three: Overview of the case studies	244
Section Four: Implications for future research.....	247
Section Five: Conclusions.....	249
Appendices.....	252
Appendix 1: Interview Topics	252
Appendix 2: Information for participants	254
Appendix 3: Interview Schedule	256
List of Statutes	260
List of Cases	260
References*	261

Declaration

The work contained in this thesis is, to the best of my knowledge and belief, original, except as acknowledged in the text. The material has not been submitted, either in whole or in part, for a degree at this or any other university. All the raw data pertaining to the studies reported in this thesis, as well as the analyses, have been retained and are available on request.

.....

Sarah Kaine

.....

Date

Acknowledgements

I would like to thank the many people who have supported and guided me through this research experience. There are a number of people whom I would particularly like to mention.

First, a sincere thank you to all of the aged care workers and managers who agreed to be interviewed as part of my research. I was heartened by their commitment to providing quality care to our elders.

I am grateful for the encouragement of colleagues in the Department of Work and Organisational Studies and would particularly like to thank my supervisors – Associate Professor Bradon Ellem and Dr Rae Cooper. At different times during the course of this research, Bradon and Rae have both provided me with direction, clarity and perspective. I blame them for my decision to pursue an academic career and look forward to continuing our friendships long into the future.

A special thank you to my parents for their constant support, childcare, meals and cups of tea. Without their continuing kindness and care it would not have been possible for me to undertake this research. Thanks also to my brothers and sisters, Deb, Phill, Michael and Sheri for their help navigating the daily dramas of being a working/studying parent.

To Lily and Liam, thank you for putting up with mummy even when she was a bit distracted or did not let you play on the computer because she 'had work to do'.

I especially want to thank my husband for his unwavering support and belief in me and for his continuing devotion, so often expressed through beautiful meals and the timely and frequent provision of gin and tonic.

Sarah Kaine

Glossary of Terms

ACAA	Aged Care Association Australia
ACSA	Aged and Community Services Australia
ACSAAL	Aged Care Standards and Accreditation Agency Limited
ACS-NSWACT	Aged and Community Services New South Wales and Australian Capital Territory
ACAT	Aged Care Assessment Team
ACFI	Aged Care Funding Instrument
ACT	Australian Capital Territory (a state in Australia)
ADL	Activities of Daily Living
AFPC	Australian Fair Pay Commission
APCS	Australian Pay and Classification Scale
AIHW	Australian Institute of Health and Welfare
AIN	Assistant in Nursing
AIRC	Australian Industrial Relations Commission
ANF	Australian Nurses Federation
AWA	Australian Workplace Agreement
AWU	Australian Workers Union
CACP	Community Aged Care Packages
CAP	Conditional Adjustment Payments
CEO	Chief Executive Officer
CQI	Continuous Quality Improvement
CSE	Care Service Employees
EACH	Extended Aged Care at Home
ECM	Executive Care Manager
EEN	Endorsed Enrolled Nurse

EN	Enrolled Nurses
EOWA	Equal Opportunity for Women in the Workplace Agency
GDP	Gross Domestic Product
GP	General Practitioner (Medical Doctor)
HACC	Home and Community Care
HRM	Human Resource Management
HPWS	High Performance Work Systems
HSU	Health Services Union
iCARE	The electronic management system for care plans completed by care staff which forms the basis of online ACFI claims to the Department of Health and Ageing
LHMU	Liquor, Hospitality and Miscellaneous workers Union
MCAG	Macquarie Capital Alliance Group
NACWS	National Aged Care Workforce Strategy
NAPSA	Notional Agreement Preserving a State Award
NESB	Non-English Speaking Background
NILS	National Institute of Labour Studies
NSW	New South Wales (a state in Australia)
NSWIRC	New South Wales Industrial Relations Commission
NSWNA	New South Wales Nurses' Association
NWL	North West Lodge
OECD	Organisation for Economic Co-operation and Development
PCA	Personal Care Assistant
RCA	Retirement Care Australia
RCS	Residential Classification Scale
RN	Registered Nurse
RSL	Retired Serviceman's League

TAFE Technical and Further Education

UK United Kingdom

US United States

List of Figures

Figure 1:Lessig's Regulatory Constraints	42
Figure 2: The structure of the Australian health system and its flow of funds	64
Figure 3: Regulatory Process.....	83
Figure 4: Relationship between ACFI questions and funding domains	86
Figure 5: Comparison of Registered Nurse Remuneration.....	106
Figure 6: Port View Retirement Village - Map Site 1	116
Figure 7: Organisational Structure of Port View.....	120
Figure 8: Regulatory Pressures on Employment Relations at Port View.....	145
Figure 9: Organisational Structure Christian Care	152
Figure 10: Organisational Structure Christian Care Northern Sydney Region	153
Figure 11: Christian Care Income 2007/2008	155
Figure 12: Christian Care Expenditure 2007/2008	156
Figure 13: Christian Care Income by Service	158
Figure 14: Christian Care Expenditure by Service.....	156
Figure 15: Organisational Structure of Red Gum Communities	193

List of Tables

Table 1: Supplementary Interviews	57
Table 2: Case Study Interviews	59
Table 3: Residential Aged Care Services by State/Territory and Organisation Type at June 30 2007	75
Table 4: Size of Services, by State/Territory, 30 June 2007.....	77
Table 5: For- Profit Residential Aged Care Providers.....	79
Table 6: Changes in the Residential Aged Care Workforce Between 2003-2007	94
Table 7: NSW Industrial Instruments Aged Care	97
Table 8: Wages for Non-Nurse Carers in Residential Aged Care compared to Public Hospitals in NSW.....	104
Table 9: Public Hospital and Private Aged Care Comparative Wage Information NSW	105
Table 10: Comparison of wage rates in the Aged Care General Services Award and Charitable Sector, Aged and Disability Care Services (State) Award	107
Table 11: Employees in Main Job, Mean weekly earnings for women - by union membership	108
Table 12: Port View Workplace Profile March 2006	124
Table 13: Christian Care Workforce Profile	159
Table 14: NWL Workforce Profile	161
Table 15: Red Gum Manor Workforce Profile	197
Table 16: Comparison between Red Gum Manor AWA and <i>Aged Care General Services Award</i>	208
Table 17: Case Study Overview.....	245

Abstract

Aged care is a critical public policy issue in Australia. The growing significance of the sector raises important and pressing questions about many aspects of care itself, the size of the labour force and employment relations. Answering these questions is vital, with demand for labour in the sector already outstripping supply and with demand certain to grow substantially. The implications of this labour shortfall for the sector have already been the subject of a number of key government reports. Although these reports have begun to construct a more detailed picture of the issues facing aged care workers and employers, significant gaps remain, most notably any explicit examination of approaches to the management of labour or the importance of labour law in determining these approaches.

Despite the obvious importance and critical social and economic significance of the ageing population, we do not sufficiently understand many of the critical labour market features, workplace characteristics or management strategies which are evident in the aged care sector. This study seeks to build knowledge of employment and labour management in this growing and crucial sector at a decisive moment in history. It deepens our understanding of these issues and processes through a study of three residential aged care providers in New South Wales during the period from 2005 to 2009. The thesis specifically examines employer strategy in relation to the management of labour in the three cases. Further, it investigates the impact of the regulatory environment on these approaches. In doing so, the case studies reveal the intricate web of internal and external, direct and indirect, formal and informal regulation which shapes the management of labour within the sector.

The complexity of the regulatory web in aged care demands the use of an explanatory framework which recognises that labour-management approaches are influenced by constraints not traditionally associated with the direct, legal regulation of employment relations. Consequently, regulation theory is applied here as an organising framework and as an interpretive prism for the research. This allows for an explicit acknowledgment of the importance of non-legal, informal and indirect regulation 'at work' in this sector.

The study finds that in the period under review labour law was not the primary determinant of labour-management approaches in aged care. The case studies presented here show that it was, in fact, a second order consideration for aged care providers struggling with what they saw as insufficient funding, onerous 'paperwork' and staff recruitment and retention difficulties – in short a range of other regulatory influences. This study also shows that, despite the constraints imposed by these other regulatory modes, employers remained free to exercise their prerogative within the workplace; this, in turn, is revealed as a form of internal regulation in aged care.

Chapter 1

Introduction

What are the regulatory forces which shape the management of labour in the residential aged care sector? This question is important, not only to the providers of aged care services and their employees, but in a broader sense. In the context of an ageing population, a decrease in the family-based provision of care and an increase in demand for workers in the sector, how labour is managed also of critical importance to residents and families of residents, policy makers and the broader community. In answering this question, this thesis therefore sheds new light on a vital sector and a vital issue.

This chapter explores the increasing economic, social and political significance of the Australian aged care sector and explains the rationale for the development of the key research question in this thesis. The second part of the chapter outlines the content of this thesis, providing an overview of the research methods and previewing the structure of the following eight chapters.

Section One: Why aged care and why now?

Population ageing is a common phenomenon across the world, posing economic and social challenges for governments. The extent of this demographic change suggests the scale of these challenges. In the United States the proportion of the population aged 65 and over is predicted to increase from 13 per cent in 2010 to 20 per cent in 2050 as the baby-boomer generation reaches retirement age. China faces similar demographic trends with estimates that the population aged over 60 will increase by 20 per cent, from 128 million people in 2000 to 431 million in 2050 (Administration on Aging, 2009; UN China Office, 2008). The OECD has highlighted the economic implications of population ageing noting that, 'population ageing is pushing up the number of people receiving pensions and reducing the number of people of working age who can pay for them' and that this demographic change 'places fiscal pressures

and shifts demand for public services such as education and health' (OECD, 2008, pp. 36, 60).

Australia reflects these international trends. Projections by the Federal Treasury suggest that the proportion of the Australian population aged over 65 will increase to 22.6 per cent by 2050, up from 13.5 per cent in 2010 and 8.3 per cent in 1970 (Commonwealth of Australia, 2010). This change has implications for the longer term planning and funding of pensions and the health system generally, and the provision of aged care more specifically. Within the aged care sector, the management of labour is emerging as a particular challenge, the result of an increasing demand for labour combined with the greater expectations of ageing baby-boomers regarding the quality of aged care services (Department of Health and Ageing, 2005b; Mackay, 1999).

Each of the demographic, economic and labour market challenges outlined above commend aged care as an area of inquiry and position aged care as one of the nation's most pressing economic, social and political issues. However, this thesis specifically explores the management of labour in New South Wales (NSW - the most populous state in the country) and is particularly concerned with identifying the forces shaping this from 2005 onwards. The year 2005 was chosen as the starting point for the research as it marked the beginning of the Howard government's control of the Senate, precipitating significant changes to industrial relations regulation. These were codified and enacted with the passing of the *Work Choices* amendments to the *Workplace Relations Act 1996*. The potential results of these sweeping changes to long-standing institutions, and to many of the features of the Australian industrial relations landscape, were generally unknown, but highly contentious nonetheless.

In the eyes of its critics, *Work Choices* would result in 'reductions in working conditions, greater insecurity and more pressure on working families' (Stewart & Williams, 2007, p. 2). Of particular concern to opponents, was its impact on those sections of the labour market with limited bargaining power. Low paid workers and, among them, women were quickly identified as being disproportionately affected

(Elton et al., 2007). The potential impact of *Work Choices* made residential aged care a seemingly ideal focus for a study of the management of labour characterised as it was by a predominantly female workforce largely reliant on minimum award pay and conditions (Baird et al., 2009). This assumption led to the development of the original research question: how is the management of labour in the NSW residential aged care sector influenced by changes to formal labour regulation?

However, very early in the research it became apparent that *Work Choices*, and in fact labour law more generally, was not the most significant factor shaping approaches to the management of labour by employers in residential aged care. The assumption built into the question – that formal labour regulation was an all-important causal factor – had to be re-examined. There were many reasons for this re-assessment, with a notable one being the constitutional basis of the new labour law. The *Work Choices* legislation extended the corporations power of the Australian Constitution (section 51, xx) rather than relying on the labour power (section 51, xxxv) as the basis for the new regulation (Forsyth & Stewart, 2009; Stewart & Williams, 2007). A significant issue associated with this new regulatory basis for the conduct of employment relations was that it could only be applied to ‘constitutional corporations’, and as a consequence there was ambiguity over the application of the new laws to not-for-profit organisations (Council of Social Services NSW, 2006).

More broadly, the change to labour law – perhaps no matter how important – was merely one regulatory pressure amongst many. When combined, these pressures created a diverse and intersecting web of regulation, the ‘regulatory space’ (Hancher & Moran, 1989), within which aged care providers made decisions about the management of labour. This required a new, broader question to be asked: what are the regulatory forces which shape the management of labour in the NSW residential aged care sector?

The reframing of the research question prompted a reconsideration of the research approach and extended the investigation beyond the concerns of traditional industrial relations to acknowledge the importance of indirect and non-traditional labour regulation. The need for this change in emphasis was highlighted by early

findings of this research which revealed that factors such as the location of aged care facilities and societal expectations about the provision of care also influenced the decision-making environment for aged care providers. These results suggested that to understand the management of labour in residential aged care, a framework was needed which recognised the import not only of labour law but of societal norms, the construction of markets, the importance of geography to labour markets and the nature of legislation governing the sector itself. Due to its diversity and disciplinary ambiguity (Collins, 2000), regulation theory was seen as potentially providing such a framework. Regulation theory in Australia has most often been used to explain the regulation of 'non-standard' employment relationships such as independent contracting and the growth of labour hire; that is to say, employment arrangements which have fallen outside the scope of traditional employment law (Arup et al., 2006; Cooney et al., 2006). In contrast, this thesis takes a new approach. It considers how labour law and other regulatory forces shape the management of labour in an industry characterised by more traditional employment relationships.

This thesis has, then, four claims to originality and significance. First, it examines data at the industry level to inform the case study analysis. This is particularly important given that the industry itself, aged care, has received little attention from scholars in the area of employment relations and yet is a significant part of the fastest growing employment sector – health care and social assistance (Commonwealth of Australia, 2010; Megalogenis, 2009). Second, at the core of this thesis are three case studies of different kinds of aged care providers which provide detailed examination of how industry-level regulation plays out. Third, in order to understand the case studies, this thesis investigates the contribution that regulation theory might make at industry and organisational levels characterised by traditional employment relations. Fourth, the research trajectory described above, is of note in revealing how questions, initial investigation and subsequent inquiry shape each other. Specifically, the interplay between the original question and the assumptions on which it was based and the early research results led to a change in direction and reconsideration and rephrasing of the question to: what are the regulatory forces which shape the management of labour in the NSW residential aged care sector?

Section Two: Methodology and chapter structure

Three aged care providers located in NSW, are investigated in this thesis. For the purposes of this thesis these providers have been given the following pseudonyms, Port View Retirement Village, Christian Care and Red Gum Communities. These organisations are drawn from three distinct parts of the sector. Port View Retirement Village (Port View) is a community-run, not-for-profit provider, Christian Care is also not-for profit but a larger religious charitable organisation, and Red Gum Communities is a for-profit provider. The selection of these case studies reflected a desire to examine how these different sub-sectors of residential age care (for-profit and not-for-profit, community and charitable), experienced regulation and its impact on their labour-management decisions. This case research is explicitly comparative. The cases do not stand alone but, together with the context chapter, develop the argument of this thesis.

A qualitative case study methodology has been adopted in this study because it allows a detailed analysis of each organisation. Such an in-depth examination is required when considering the volume and complexity of the factors affecting regulation, both external and internal, which shape the environment within which these providers make labour-management decisions. This research included 56 interviews with key industry informants and managers and staff at Port View, Christian Care and Red Gum Communities. These interviews were semi-structured giving rise to broad ranging discussions allowing participants to identify significant issues which may have been overlooked with the use of a more formal interview format. The rationale for the use of case studies and the specific advantages of this methodology are set out in detail in chapter 3.

The argument presented in this thesis is structured as follows. Chapter 2 explores two areas of scholarship which can be applied to this research namely, industrial relations, and regulation theory. The chapter critiques traditional industrial relations scholarship suggesting that while many features are applicable to this study, it has an insufficient focus on feminised work and an underdeveloped conceptualisation of the state, both of which are central to the study of the management of labour in

aged care. However, this chapter does specifically acknowledge the applicability to this thesis of scholarship which links industrial relations to managerial decision-making and agency. It is argued that the recognition of the importance of environmental forces on managerial decision-making assists in understanding approaches to labour-management in aged care. The chapter concludes with an examination of regulation theory, contending that a regulatory approach provides an appropriate framework for the exploration of employment relations in general and, more specifically, of the management of labour in the residential aged care sector. Chapter 3 discusses the applicability of a regulatory approach as a method and as a means to organise and understand research at the workplace level.

Chapter 4 provides context for the case studies, detailing characteristics of the residential aged care sector. This chapter positions this thesis as an industry study, providing a detailed analysis of the sector utilising industry wide surveys and numerous government reports. The industry focus is important as it offers an understanding of the 'explanatory variables' which may be constant across the three cases being studied (Bray & Waring, 2008). In much of the research and commentary 'aged care' is referred to as a sector (meaning a segment of the larger health and community services industry). This thesis largely replicates that usage but in places 'sector' is substituted with 'industry'. Both 'sector' and 'industry' are taken to mean 'a grouping of business which carry out similar economic activities' (From the ABS 2006 in Bray & Waring, 2008, p. 3).

Chapter 4 is not simply an explanation of the general context. It articulates an integral part of the argument about the various regulatory constraints on aged care providers which are developed further in the case study chapters.

Chapters 5, 6 and 7 present the case studies of Port View, Christian Care and Red Gum Communities. These chapters are divided into sections which outline the organisational context (including location, history, structure and workforce), sources of regulation both formal and informal, direct and indirect and the impact of regulatory change on the management of labour in each case. These case study chapters are also explicitly comparative, with each successive chapter drawing on

results and discussion in the previous cases. Chapter 8 expands and synthesises these comparisons and chapter 9 provides a summary of the key results and suggests areas for future research given these findings.

Section Three: Conclusions

The residential aged care sector operates in an environment shaped by the interaction of formal and informal, direct and indirect, external and internal regulation. This regulatory complexity impacts on the management of labour by aged care providers. While aged care is becoming an increasingly important focus of research, scant attention has been paid to this intersection of regulation and labour-management decisions. This gap in the research is concerning given the rapidly expanding workforce employed in the residential aged care sector and the ongoing debate about the formal regulation of the sector (Australian Ageing Agenda, 2008;Hogan, 2004b). This thesis addresses this gap, examining the industry itself and three different kinds of providers. In so doing, it argues that greater insight into the forces shaping labour-management in aged care can be provided by drawing on scholarship in industrial relations and regulation theory. The following chapters therefore investigate these bodies of literature and begin to build a framework for understanding labour-management issues in the NSW residential aged care sector.

Chapter 2

Literature Review

Introduction

Aged care is becoming an increasingly important economic and political issue as the ageing of the Australian population exerts increasing pressure not only on the federal health budget but also on providers and funding bodies to ensure appropriate care levels are being maintained. Consequently, much policy development in aged care has rightly focused on ensuring quality of care, whether provided in the home and community or in a residential aged care facility. This has been mirrored in the academic research investigating work and employment in aged care which is often centred on issues regarding the provision of care to elders by individual care-givers both paid and unpaid (Adams, 2007; Meagher & Cortis, 2009).

The emphasis on the experience of the care-giver and a lack of comprehensive data (Productivity Commission, 2008; Richardson & Martin, 2004; Vaughn, 2006) regarding employment within the residential aged care has resulted in a gap in understanding of employer behaviour within the sector. As a consequence of this incomplete picture of the sector, little is known about the management of labour and even less is known about the influence of demographics, labour market characteristics, economic trends and the activities of other actors, namely the state and unions, on the labour-management approaches of aged care employers. This thesis attempts to fill this lacuna in the research to date by answering the key question posed by this thesis: what are the regulatory forces which shape the management of labour in the NSW residential aged care sector?

Before answering the research question posed above (and considering literature which may be relevant for contextualising the original research reported on in ensuing chapters of the thesis), it is necessary to provide a brief explanation of what is meant by 'labour management'. In essence labour management, as used in this thesis, refers to the decisions and actions of management regarding the

administration, supervision and organisation of workers. The use of this term, as opposed to human resource management, is deliberate and is a reflection of the aged care sector within which the use of HRM techniques and processes is patchy due to the sector being dominated by small one-off facilities (discussed in more detail in chapters 4 and 7).

This chapter will explore two bodies of research which may provide insights into the development of the labour-management approaches of aged care providers. Consequently the chapter is structured around these two approaches which draw from industrial relations and regulation theory which, combined, illuminate the relationship between the labour management approaches of aged care providers and the various forms of regulation in the residential aged care and their impact on employment relations within the sector.

Section one examines industrial relations scholarship which, with its emphasis on the configuration of the labour market, the activities of the state and the workplace as a potential site of conflict between the actors, is useful in identifying the key themes associated with work and employment in aged care. In particular, this section adopts a critical approach to industrial relations research in order to: provide insight into the gendered nature of work within the sector; highlight the complexity of state involvement in, and influence on the sector; and consider the potential manifestations of 'employee voice' in a sector characterised by low levels of unionisation. Despite the insights gained through this critical adaptation of the traditional industrial relations research agenda, this section argues that this approach is somewhat limited as it assists with the description of the sector more than it illuminates the decision-making and behaviour of employers. It is recognised that scholarship linking strategic choice models to industrial relations systems is useful in allowing for a consideration of 'agency' of actors within an industrial relations system. However, in this study the concept of agency needs to account for the complicated and intersecting regulatory constraints which characterise the aged care sector.

Section two broadens the theoretical scope of this research by drawing on regulation theory to address the key research questions. This section recognises that just as the labour market and state activity can regulate and impact on employer decision-making and behaviour, so can organisational structure and the economic market for aged care services. It also explicitly acknowledges the importance of internal regulation, specifically organisational norms, to the management of labour in residential aged care. Section three reiterates the relevance of the literature to the results of this research.

Section One: Industrial Relations in Residential Aged Care

To date, industrial relations in the aged care sector has not been the focus of much academic exploration. What little research has been undertaken, has focused on the role and remuneration of nurses (Adams, 2007; Buchanan & Considine, 2002; Department of Health and Ageing, 2005b), the mapping of the aged care workforce (Meagher & Healy, 2005; Richardson & Martin, 2004; Vaughn, 2006) and labour supply issues (Department of Health and Ageing, 2005a). A possible explanation for the 'invisibility' of other segments of the workforce is that it is comprised predominantly of women who are middle-aged, low-paid and poorly unionised. None of these characteristics are the traditional foci of industrial relations research with women's industries largely hidden in much of the research agenda (Baird, 2003; Ellem, 1989; Munro, 1999; Pocock, 1997; Wajcman, 2000). This can be traced to the theoretical underpinnings of much industrial relations scholarship. The lack of academic interest could be seen as the result of a broader societal undervaluing of caring work (Nelson, 1999) and an incapacity of economic markets to truly reflect the worth of care.

The study of industrial relations has been dominated by a pluralist tradition (Bray et al., 2005) which has conceived of industrial relations as a system characterised by interaction between institutions, rules, values and context (see Dunlop, 1958). As a result, much academic research in the field internationally (Edwards, 1995; Kaufman, 1993) and in Australia has focused on collective bargaining and the institutional actors who are parties to it (Lansbury & Westcott, 1992; Patmore, 1990). In an

Australian context, this focus on institutions and rules provided a useful framework for industrial relations scholarship for much of the last century with the system of conciliation and arbitration privileging collective and institutional interactions.

Over time, this focus, and the assumptions on which it is based, has been the subject of criticism regarding its ongoing relevance to the understanding of employment relations in a changed environment (Baird, 2003; Edwards, 1995). More specifically, criticisms of the traditional approach to industrial relations have been levelled at the assumption of a 'static' state (Treuren, 2000), the implicit gender neutrality of the institutions it seeks to understand and explain (Wajcman, 2000), and the assumption of a balance of power relations between the actors (Hyman, 1989). Amongst other things, these criticisms offer an explanation as to why there has been little interest in industrial relations in the aged care sector; that is, the relative invisibility of aged care can be attributed to the difficulties associated with accommodating it into established conceptions of industrial relations. The residential aged care sector displays a number of characteristics which place it on the periphery, if not completely outside the boundaries of conventional industrial relations research. It is not blue collar, not highly unionised and is almost entirely feminised (Pocock, 1997). In addition, residential aged care is located at the complicated intersection of unpaid 'caring work' and 'paid work' and the impact of state regulation on the conduct of employers and workers extends beyond industrial legislation and industrial institutions. These characteristics of the aged care sector explain why it has been overlooked by researchers, and underline the contribution the research presented in this thesis will make to industrial relations. Given these criticisms, it is appropriate to ask: what is currently known about the gendered nature of the workforce, the state, and the alternative expressions of employee voice in the residential aged care sector? Additionally, each of these issues contributes to an understanding of the pressures and constraints within which decisions about labour-management are made in this sector.

Gender

The aged care sector, like the care sector more broadly, displays a high degree of gender segmentation. Folbre describes the care sector as including 'activities in the home, market, community, and state that fit loosely under the rubric of human services and have a particularly strong personal and emotional dimension: activities such as childrearing, child care, health care, elder care, social work and education' (Folbre, 1995, p. 12).

While the past generation has seen these types of caring activities increasingly being provided within a market context rather than being provided by women in the home, this change in the nature of care provision has not changed the feminised nature of care giving as women predominate in the paid caring workforce (Nelson, 1999).

The reduction of care provision of older family members in the home is largely a result of the increasing engagement of women in the paid workforce and has resulted in what has been termed the 'care deficit' (Misra, 2003). With less time available for unpaid caring duties, families are turning to the market, and to some extent the state, to fill this gap (Meagher, 2006). Consequently, paid care is becoming an area of increasing political and economic significance. In the United States, paid care workers constitute one-fifth of the labour force and the residential aged care sector provides more employment than the combined auto and steel industries (Misra, 2003). In Australia, recent estimates put the number of workers employed in a caring role in residential aged care at over 174,000 (Martin & King, 2008).

The growing economic importance of the care sector has not resulted in an increase in the market value of jobs in the sector, these jobs remain predominantly low paid. Various attempts have been made to explain this phenomenon. Neoclassical economists have described it in terms of the 'theory of compensating wage differentials' (Nelson, 1999) or through the concept of a 'vocational premium' (Heyes, 2005) proposing that 'low-paid care workers are fully compensated but simply choose to take a portion of their pay in warm feelings instead of cash'

(Nelson, 1999, p. 44). The concept of 'intrinsic motivation' supports the view that the presence of a vocation extracts greater effort from an individual worker (Frey & Jegen, 2001). This position has been expanded on by Heyes (2005), who has argued that increasing wages will attract the 'wrong sort of person' to nursing. This is based on the assumption that more productive workers (those displaying 'intrinsic motivation') will accept lower wages plus their vocational premium, in other words they will have a lower reservation wage (Heyes, 2005).

Critics of the neo-classical view question the appropriateness of attempting to apply market principles to work based on human interaction and some feminist considerations of paid care have raised concerns about whether demands for higher pay are simply 'buying into masculine norms of markets and commodification' (Nelson, 1999). More thoughtful analysis has questioned the expression of the argument as a 'love or money dichotomy' (Lee-Adams & Geller, 2006; Nelson, 1999). In reality it is unlikely that motivations are so plainly articulated or even necessarily acknowledged. Working in the paid care sector is a much more nuanced proposition than such a dichotomy would allow. The desire or need to work in the paid care sector may be better imagined as a continuum upon which both remuneration and vocation feature and whose relative importance is determined by the personal circumstances of the individual worker. The choice made between love of the job and wages received for it was a common theme among aged care staff in the three case studies reported on in this thesis and while these choices defy generalisation, the potential influence of 'intrinsic motivation' has implications for the expression of employee voice (particular regarding wage rates) by aged care workers. In addition to this tension between care and pay (King & Martin, 2009) aged care workers are confronted with an ongoing moral dilemma regarding the distribution of their time and energy between meeting personal obligations to residents and the discharge of their duties as determined by organisational policy (Provis & Stack, 2004). Both of these tensions are subject to greater analysis in later chapters in consideration of the case study results.

The State

The state has traditionally been viewed as performing three main functions in industrial relations in Australia: *regulator* responsible for setting the boundaries of labour law and minimum employment standards, *arbitrator* responsible for regulating and limiting industrial conflict and *employer* through direct public sector employment (Creighton, 1997; Keller, 1990). This characterisation has proved useful in the past to describe the largely stable role the state has played in Australian industrial relations, but is proving less durable in the context of a consideration of the state's recent pursuit of labour market change (Treuren, 2000).

The consideration of the role of the state in industrial relations needs to be prefaced by an acknowledgment that there are conflicting theoretical viewpoints about the appropriate extent and legitimacy of state involvement in the regulation of the employment relationship. These competing viewpoints within employment relations are most simply represented by the unitarist, pluralist and radical approaches. It has been pluralism, with its focus on rules and regulation, that has formed the theoretical basis for much of Australian industrial relations literature (Dabscheck, 1994; Michelson & Westcott, 2001). Consequently, the role of the state in Australian industrial relations literature has often 'simply assume[d] the state to be an agent maintaining the distinct regulatory system of arbitration' (Treuren, 2000, p.75). The interest in the arbitration system has resulted in a dearth of 'macro-level' theorising (Keller, 1990) and the associated assumption of the largely 'static' state (Treuren, 2000) discounts the agency of the state and its capacity to influence the environment in which the employment relationship is conducted. It also ignores the different and often conflicting roles that various state instrumentalities play in the regulation of work arrangements, corporations and industries (Bell & Head 1994). Disaggregating the influence of various state institutions is complicated by the unique and fragmented development of the industrial relations systems of different Australian States. Far from presenting a unified legislative foundation, the states

have historically taken very different positions reflecting that 'economies, power and politics are state-specific' (Ellem et al., 2005).

The role of the state as regulator, employer and arbitrator in the broader Australian health sector is complex due to the blend of public and private service providers funded by a universal, national Medicare scheme administered at the state level. Different tiers and branches of the state have performed different functions, with each developing its own relationship with other actors within the system. This renders the generalisation of the role of the state in industrial relations in the health sector problematic. This regulatory complexity again demonstrates that while the agency of the state needs to be considered in order to understand the attempts of federal governments to create particular industrial relations environments, 'the state' is by no means homogenous (Treuren, 1999). The actions of the various arms of the state may at times be contradictory and have unintended consequences for each other. The residential aged care sector is a case in point. An example of these contradictory forces at play is seen in the attempts of the federal government to attract workers into the sector. In the federal government's National Aged Care Workforce Strategy 2005, it was acknowledged that there was a multiplicity of 'systemic factors' impacting on the supply and demand of the aged care workforce, many of which were influenced by the actions of state instrumentalities. These 'systemic factors' included policy and planning frameworks of other federal government departments (in addition to the Department of Health and Ageing) such as the Department of Workplace Relations and the Department of Education, Science and Training, national and State/Territory training plans, national competency standards, funding frameworks within the Department of Health and Ageing and workforce strategies in other areas of health. The intricate interplay of such state agencies, actors and instruments creates a complex web of regulation which aged care providers negotiate with and through.

The interconnectedness of a variety of state activities and their impact on the aged care workforce, and consequential impacts on the management of labour in the sector, requires this thesis to move beyond the roles traditionally attributed to the state by industrial relations academics. Specifically, it is necessary to acknowledge

the agency of the state and its role in influencing the employment relationship through both direct as well as indirect regulation. Further consideration of the regulatory framework, and its implications for the management of labour in the residential aged care sector, are considered in more detail in section three.

Employee Voice

The residential aged care sector is characterised by lower levels of unionisation compared to other areas within the Australian health sector (discussed further in chapter 4). With the absence of formal, institutionalised 'voice', this thesis considers the possibility of other mechanisms for the expression of employee voice in order to assess its significance to the development of employer strategy. While feminist scholars have done much to understand the interconnectedness of care work and gender and the role of the state has been considered to some degree (if not comprehensively theorised), the concept of 'employee voice' in industrial relations research in Australia has been under examined. This is due to the historical construction of the arbitration system (Bray et al., 2001), its reliance on unions as the means of the expression of the interests of workers and the pluralist leaning of researchers which has emphasised the institutional interactions between unions, employer associations and the institutional manifestations of the state's arbitration and conciliation functions.

There has been some investigation of employee voice in the Australian aged care sector mostly in terms of the use and impact of high performance work systems (HPWS) with key aims of HPWS being 'employee involvement and employee commitment' (Allan & Lovell, 2003, p.2). While Harley et al (2007) suggest the positive influence and perception of HPWS by workers in aged care, a significant weakness in their study is the reliance on data from unionised workers based on the unsupported assertion that 'the aged-care workforce is heavily unionized' (p.612). In contrast the study by Allan and Lovell suggests that while management of the aged care organisation they examined identified positive outcomes from the adoption of HPWS, workers expressed a mixture of opinions from support to hostility and that the HPWS had raised issues of 'workload, unpaid overtime and surveillance' (p.15).

As interesting as these studies of HPWS maybe, the underlying issue explored in this thesis is the expression of employee voice in a largely non-union context.

Decreasing coverage of union representation explains, in part, the greater use of the concept of 'voice' in industrial relations as a means to understand and explain how workers influence managerial decision-making (Dundon et al 2006). Employee 'voice' has also gained currency in the field of human resource management (HRM) where employee participation has been linked to high performance, organisational commitment and skills development (Markey, 2007; Wilkinson et al., 2004).

With unionisation declining across the developed world, there has been increasing academic exploration of the resultant 'representation gap' (Bray et al., 2001; Freeman & Rogers, 1993; Heery, 2009; Markey, 2007) and the alternative 'voice' through which workers' interests are expressed and represented. Bray et al (2001) argue that even at the height of union membership in Australia, the variations in density across industries meant that 'there were many sectors of employment in Australia where unions did not provide employees with a real opportunity to have their interests represented' (p6). This variation in density continues within, not only across, industries. For example, union density in the acute health sector and in the public health sector is greater than residential aged care and the private health sector. Additionally, within the health sector, unionisation rates are higher among full-time employees compared with part-time and casual employees (ABS 6310.0, 2006b), which has particular relevance to the consideration of employee representation in residential aged care in which two thirds of employees are part-time (Richardson & Martin, 2004). Such uneven union density combined with the rapid decline in unionisation rates in Australia over the past two decades (Carter & Cooper, 2002) begs the question, in the absence of union representation: how do workers express opinions or concerns about their workplace? More specifically, what forms does employee voice take in residential aged care facilities and what influence, if any, does it have on the behaviour of aged care employers?

While there is an emerging body of literature on alternative forms of employee voice in the workplace (Charlwood & Terry, 2007; Gollan, 2005; Holland et al., 2009;

Markey, 2007) little is known about this phenomenon in the aged care context. Research from the United States has found that initiatives such as employee participation schemes and quality circles were 'more likely to be found in non-union workplaces' (Benson, 2000, p. 453) whereas research from the United Kingdom pointed to the opposite, that 'non-union firms have relatively few formal mechanisms through which employees could contribute to the operation of their workplace' (Millward et al in Benson 2000, p. 453). In Australia the past two decades have seen a professionalisation of the human resource functions in many organisations and with this a greater propensity for organisations to experiment with alternative forms of participation (Holland et al., 2009; Wright, 1995). This has coincided with an increased acceptance of HRM and its purported connection to economic performance (Bray et al., 2001). The relevance of this connection in a sector such as aged care dominated as it is by not-for-profits is questionable. However, it has been suggested that there is potential for participative 'voice' mechanisms to assist in overcoming the significant levels of absenteeism and labour turnover experienced in the sector (Ellis, 2008; Stack, 2003). This echoes Hirschman's (1970) 'voice' or 'exit' argument which proposed that failure in firms (and organisations more generally) was discovered through two mechanisms:

- (1) Some customers stop buying the firm's products or some members leave the organization: this is the *exit option*...
- (2) The firm's customers or the organization's members express their dissatisfaction directly to management or to some other authority to which management is subordinate or through general protest addressed to anyone who cares to listen: this is the *voice option* (p.4).

This approach informed Freeman and Medoff's (1984) influential work on the collective voice face of unions which suggested that unions 'channel worker discontent' (Blanchflower & Bryson, 2004), provide an alternative to 'exit' and consequently increase productivity and reduce turnover. With low rates of unionisation, it is unlikely that the 'collective voice face' of unions is common in the

aged care sector. However, the ascendancy of human resource management with its associated assumptions of the value of employee voice particularly its connection with the creation of organisational commitment (Dundon et al., 2005) makes it likely that the issue of non-union workplace representation and employee voice will remain a significant focus of HRM and industrial relations literature and research. The applicability of this research to the Australian aged care sector needs to be assessed in light of the composition of the sector and the predominance of not-for-profit organisations which raises questions about the impact of ownership on the expression of employee voice.

Ownership

With Australian aged care dominated by not-for-profit organisations (sometimes referred to as 'third sector' organisations; see Ramia and Carney, 2002; Nutt 1999), approaches to management strategy based on the maximisation of profits and the expansion of markets are potentially only relevant to a small proportion of the sector as for-profit providers of aged care in Australia account for only a quarter of residential aged care places (Department of Health and Ageing, 2003) with only two for-profit organisations in the top ten largest providers in Australia. However, the increasing corporate interest in the sector suggests that this may be about to change. The remainder of the sector is comprised of not-for-profits (over 60 per cent) and state and local government operators (between 10 and 17 per cent)(Braithwaite et al., 2007; Hogan, 2004a).

The financial imperatives driving private organisations as opposed to the social goals pursued by not-for-profit organisations 'suggest dramatically different contexts, which may call for specialized ways to make decisions in these organisations' (Nutt, 1999, p. 309). The ramifications of the potentially different approach to decision-making by for-profit and not-for-profit providers of care have been the focus of research in Australia and internationally. Much of the resulting literature has investigated the links between the for-profit provision of aged care, staffing levels and the quality of care (Comondore et al., 2009; Martin, 2005; McGregor et al.,

2005; O'Neil et al., 2003) with the consensus being epitomised by McGregor¹ et al's observation that:

Because lower staffing levels are likely to be one of the options available to generate profit in a system with fixed costs for wages, it is not surprising that staffing levels were lower in the for-profit facilities (p.648).

This literature highlights the relationship between the quality of aged care provision and organisational form. However, recent analysis by King and Martin (2007) of 2003 National Institute of Labour Studies data,(collected as part of an attempt to construct a picture of the residential aged care workforce), more explicitly investigated the industrial relations implications of the for-profit provision of care and the quality of jobs within the aged care sector. King and Martin (2009) concluded that, while the structure of the workforce differed depending on whether the facility was for-profit, not-for-profit or was government owned, this did not seem to result in a significant variation of job satisfaction of employees amongst the three types of facilities. Despite for-profits being characterised by higher ratios of staff to patients, less experienced staff and labour supply issues, 'the mode of ownership had little impact on workers' perceptions of their job and experiences of work' (King & Martin, 2009).

Two possible reasons for King and Martin's findings regarding job satisfaction are suggested. The first is that the marketisation² of aged care has been accompanied by a greater acceptance of practices modelled on private sector management practice and discourse (Stack, 2003) regardless of organisational form. The second explanation may be that regulation within the residential aged care sector acts as an equalising force circumscribing the scope of managerial activity resulting in similar pressures on labour-management at the workplace level (King & Martin, 2009).

Similarly in considering the consequences of the for-profit provision of care, Meagher and Cortis (2009) conclude that the not-for-profit, for-profit comparison

¹ While the McGregor study was undertaken in British Columbia, the funding system is similar to the Australian system where for-profit and not-for-profit providers are funded to a commensurate degree.

² Meaning 'significant levels of government funding combined with the increasing involvement of the private sector' (Meagher, 2006, p. 5)

could be 'too course-grained', not allowing for differences among each group (for example in the for-profit sector corporations and owner operated and in the not-for-profit, government providers, charitable providers and community based providers) and that 'policy context, including regulation and contracting conditions, really matters' (p.17). These differences between organisations located in similar sub-sectors became evident during the course of the research presented in this thesis. While two of the three cases are not-for-profit providers, Port View Retirement Village is locally based and community run whereas Christian Care is large, centrally administered and affiliated to a religious denomination.

Complicating the analysis of the difference between for-profit aged care employers and not-for-profit employers still further is that the activities of management in the not-for-profit or third sector have not been well researched. This is of concern in an environment in which the boundaries between public and third sector activity is increasingly blurred. In an Australian context, the contracting out of public services and the process of competitive tendering have placed new pressures on not-for-profits, and have emphasised the lack of information about management in the third sector (Ramia & Carney, 2002). Similarly, in the aged care sector, increasing marketisation has meant that accountability and management processes are continuing and legitimate areas of public interest. The significance of organisational structure in this environment of blurred public and private boundaries in residential aged care will be explored in more detail in the context chapter (chapter 4) and in the study of Red Gum Communities in chapter 7. However, given the preceding discussion, it is unlikely that *structure*, in and of itself, will provide a complete explanation of the development of approaches to labour-management within the aged care sector.

The preceding discussion emphasised the value and limitations of existing industrial relations literature to understating the management of labour in the aged care sector. In particular, the discussion highlighted the valuable focus on the importance of factors such as the configuration of the labour market and the potential for conflict in the workplace. Additionally, a critique of traditional approaches to industrial relations research was useful in identifying key aspects of work and

managing labour in aged care, specifically: the gendered nature of the workforce, the complex role of the state, the need to consider the concept of employee voice in the absence of a significant union presence and the predominance of not-for-profit organisations in the aged care sector. Despite offering these insights into characteristics of the residential aged care sector, an industrial relations approach to this research is limited in terms of explaining how these features shape the development and execution of approaches to the management of labour. Consequently it is necessary to supplement the concerns of traditional industrial relations literature in order to explore the reasons *why* employers act in the way they do in residential aged care.

A logical starting point for this exploration is the link between decision-making by employers and industrial relations, provided by Kohan, Katz and McKersie. In *The Transformation of American Industrial Relations (1986)*, these authors revisit Dunlop's (1958) framework of industrial relations as a system characterised by interaction between institutions, rules, values and context, and suggest that it could be adapted to maintain relevance to modern industrial relations by explaining the decline in union power, an erosion of pluralist assumptions, increasing managerial initiative and changing roles of governments (Kochan et al., 1994). This theoretical adaptation recognises that the combination of these factors has resulted in the role and activities of management assuming greater significance than recognised by traditional industrial relations research (Kochan et al., 1994). In order to address this problem, Kochan et al integrate strategy and agency into their analysis of industrial relations arguing that:

industrial relations practices and outcomes are shaped by the interaction of environmental forces along with the strategic choices and values of... managers, union leaders, workers and public policy decision makers (p.5).

Kochan, Katz and McKersie attempted to overcome a weakness in traditional industrial relations theory which had over-emphasised the significance of environmental forces on outcomes. They developed a framework which presumes that outcomes and processes 'are determined by a continuously evolving *interaction*

of environmental pressures and organizational responses' (Kochan et al, 1994, p.13). The development of this framework was, and still is, important because it recognises that the agency of unions, employers and the state influence the "shape and pattern" of the industrial relations landscape (Kochan et al, 1994, p.227).

This approach can offer insights into residential aged care, particularly its interest in the analysis of business decisions, markets and capital arrangements and their interaction with industrial relations (Kochan et al., 1984). In a sector such as aged care which is currently undergoing a process of greater marketisation, this interplay is becoming increasingly pertinent. The significance of this model is that it expands this concept of business strategy and strategic choice to other actors in the industrial relations system, in addition to management, and in so doing, links key features of traditional industrial relations analysis with concepts associated with management and strategy literature and research (Arthur, 1992). This is relevant to the exploration of industrial relations in the residential aged care sector where employer actions are particularly affected by the decisions of government regulators. Employers within residential aged care are subject to a variety of regulations imposed by various tiers of government. This regulatory environment, to a large degree, limits the strategic choices available to employers. This type of decision-making constraint for employers is recognised by Kochan, Katz and Cappelli (1984):

Strategic decisions can only occur where the parties have discretion over their decisions; that is where environmental constraints do not severely curtail the parties' choice of alternatives. Examples of where government policies serve as environmental constraints and leave little room for strategic choices to determine the outcome would be regulations that limit new entrants and/or control prices (p.21).

The residential aged care sector is subject to exactly these kinds of constraints. Consequently it could be argued that this approach does not adequately explain labour-management methods of aged care providers which are circumscribed by regulation within the sector. However, this nuanced strategic choice approach does have some potential in the analysis of the management of labour by aged care

providers. Aged care providers in Australia are indeed 'constrained' by government regulations regarding market entry and price controls but given the low levels of collective worker representation allowing management largely unchallenged control of internal organisational regulation, there is the potential for management to exercise discretion in its approach to labour at the workplace level. The importance of both external and internal regulation to managerial decision-making in the aged care sector necessitates a closer examination of the types, sources and impact of a regulation and a framework with which to understand their relative importance. The following discussion of regulation theory attempts to do this.

Section Two: Regulation Theory

Much scholarship associated with regulation theory focuses on the macro-level and before considering the value of regulation theory to the examination of the residential aged care sector, it is necessary to consider the epistemology of regulatory theory and compare the attributes associated with the major perspectives. Two significant contributors to the development of regulatory analysis have been the French School and the Chicago School. While these schools developed contemporaneously (during the late 1960s and 1970s) the continental divide between their main proponents mirrored the ideological divide which characterised the underpinnings of their approaches. While the fundamental concern of both schools was the study of the post-war socio-economic difficulties experienced in 'welfare capitalist states' (Collins, 2000; Howe, 2006b), the French School was in essence a neo-Marxist critique of economic crisis in an era of Post-Fordist production (James & Wood, 2006) and its Chicago counterpart was based on neo-classical economic assumptions about the efficient operations of markets (Howe, 2006a).

In privileging the employment relationship and focusing on the 'accumulation regime' and the 'mode of regulation' as fundamental, the Marxist origins of the 1970s French Regulation School are easily identifiable (Grahl & Teague, 2000). The school was, however, critical of orthodox Marxism's assumption that Marx 'had established the laws governing the long-term dynamics of capitalism once and for all'

(Boyer, 1990). In fact, its relationship to Marxism was based on what it saw as the suitability of an approach which places significance on 'social relations as the starting point for social analysis [and] continues to represent one of the few alternatives to methodological individualism' (Boyer, 1990, p. 11). In assessing its ideological heritage, others have come to the conclusion that the French regulation school represents a research agenda rather than a 'doctrine' and that this is valuable because it is not limited to a 'search for economic coherence' (Grahl & Teague, 2000, p. 175) on an individual level but uses the concept of regulatory modes to consider the 'conjunction of ...mechanisms working together for social reproduction, with attention to the prevalent economic structures and social forms' (Boyer, 1990, p.20). The broadening of analysis in this way recognises that:

It is impossible to establish a dichotomy between the purely economic on the one side and the social on the other. Even perfectly competitive pure markets derive from the organisation of the social space; they are constructed on the basis of power relations and legal rules(Boyer, 1990, p.44).

This recognition of the societal context of economic regulation may explain the multi-disciplinary appeal of regulatory analysis. By accepting that economic activity is itself subject to societal pressures and constraints, this type of regulatory theory is useful to those areas of social science within which there is limited real-world applicability of classical economic assumptions.

An alternative explanation for the continuing appeal of regulatory analysis could be the Chicago School's timely advocacy of the reduction of state regulation (which argued that state regulation was an impediment to the efficient operation of markets), coming as it did at the embryonic stages of the resurgence of political conservatism (Peltzman et al., 1989) and embrace of economic neo-classicism by governments in much of the developed world.

The approach which the Chicago school developed in the late 1960s and early 1970s became known as the 'economic theory of regulation' (Posner, 1974). The

assumptions upon which it is based align closely with assumptions of neo-classical economics. That is, regulation interferes with the efficient operation of markets and is an impediment to economic development and growth (Peltzman et al., 1989). The development of the 'economic theory of regulation' came at the same time as academics in the United States were increasingly interested in 'studying existing institutions through the lens of general political disillusionment with market regulation by the state' (Murray, 2001, p. 4). This link between the economic theory of regulation and practical politics was alluded to by Peltzman when considering the contribution the theory had made. He stated that the 'most important element of this theory is its integration of the analysis of political behaviour with the larger body of economic analysis' (Peltzman et al., 1989). This connection between politics and regulation continues to preoccupy much of the regulation literature (Howe, 2006a; Murray, 2001; Shearing, 1993). It is also significant in the Australian residential aged care market. In their comprehensive overview of regulation in aged care across three continents, Braithwaite, Braithwaite and Makkai (2007) detail the influence of lobby groups for clients, providers and workers in aged care. In the case of Australia, Braithwaite et al chart the influence of these groups on the regulatory regime across time. They highlight the political connections between a high-profile anti-regulation aged care owner and the Liberal Party in the early 1990s and note that on its election in 1996 the Liberal government ended the government inspection of nursing homes (Braithwaite et al pp.183-198).

The arguments of the Chicago School have been adopted readily by governments and others seeking justification for 'deregulation'. In Australia this thesis has been vigorously advocated as the rationale for the 'deregulation' of the labour market (Collins, 2000). Those using this argument are adopting particular views about what defines 'regulation', with the emphasis often being placed on regulation imposed by the state with the 'use of legal rules backed (by often criminal) sanction' (Black, 2002, p.2). This is a narrow definition and can be attributed more to the ideological leaning of the advocate than in-depth engagement with regulation theory (Shearing, 1993).

Debate in Australia in the recent past has reflected the views of the Chicago School. The market has been favoured as the regulatory mode of choice by policy makers, and the preference for 'deregulation' was, to a large degree, aimed at the perceived failures of 'command and control' regulatory regimes (Black, 2002; Shearing, 1993). However, the characterisation of regulation in this way constrains the debate to simply being about the 'regulatory state' rather than recognising that there are many sites of regulation, that it is a 'decentred' rather than 'centred' concept (Black, 2002; Gahan, 2006; Howe, 2006a). That is, the concept of a 'regulatory state' is no longer adequate for explaining the:

intimate relations between regulation and capitalism, the diversity of governance regimes and sectoral variations, the interdependency between sectors, nations and regions, or the multilevelness of policymaking and governance (Levi-Faur, 2006, p.364)

To limit the consideration of regulation to the activities of the state does not provide a full or particularly accurate picture of the forces that shape activity, economic or otherwise. In fact in the case of residential aged care, moves to reduce state regulation by the Howard Federal government did not result in a 'deregulated' industry rather. Rather, they shifted the regulatory focus onto a system of self-assessment and accreditation (Braithwaite et al., 2007).

The 'economic theory of regulation' is used as a starting point for many who seek to understand and explain regulation but do not necessarily agree with the neo-classical assumptions underpinning the Chicago School's approach. An alternative view currently popular in labour law scholarship is supporting 'responsive', 'reflexive' or 'decentred' regulatory regimes (Cooney et al., 2006). The concept of 'responsive' regulation relies on a definition that recognises the various forms that regulation may take. This definition has the benefit of providing a means to understand complicated systems of regulation. It acknowledges other forms of control, in addition to law that may contribute to the overall regulatory regime (Howe, 2006a). It also represents the scope of regulation as explored in this thesis as captured by

Black (2002) in arguing that, 'Regulation is all mechanisms of behaviour from whatever source, whether they are intentional or not' (p.11).

The most commonly used concepts in this thesis are: direct regulation, indirect regulation and non-state regulation and are defined as follows. Direct regulation consists of 'targeted rules promulgated by the state'; indirect regulation is 'more general state-based regulation of the economy which influences a range of economic and social spheres subject to targeted regulation'; and non-state regulation includes 'all mechanisms of social control, formal, informal, state-directed or otherwise.' (Gahan & Brosnan, 2006, p.132)

These definitions are by no means exhaustive and there has been significant criticism of the ambiguity of the term 'regulation' in the discussion and development of regulatory theory (Black, 2002). Problems concerning the terminology are most likely a function of the diversity of interest in issues of regulation and regulatory analysis and its accommodation of 'theories which differ widely in their intellectual pedigrees and methodologies'(Collins, 2000, p.3).

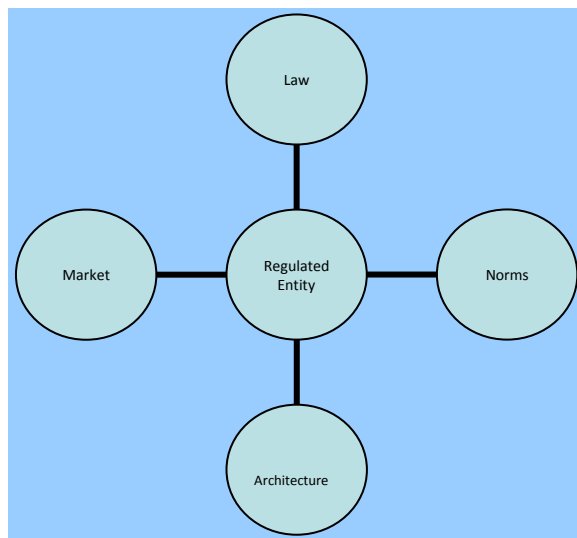
There is much debate around whether this ambiguity represents a strength or a failure of regulation theory (Gahan, 2006). In attempting to 'map' regulation and its linkages to law and other means of social control (Kingsford Smith, 2002, p. 38), Black argues that this ambiguity is useful in that it allows for the application of the differing definitions depending on 'the problem or issue that the writer is focusing on' (Black, 2002, p.13).

Lawrence Lessig, an advocate of what he labels the 'New Chicago School', relies on a 'decentred' definition as he explains regulation as four constraints upon behaviour which operating together amount to 'a sum of forces that guide an individual to behave, or act in a given way' (Lessig, 1998, p.662). These constraints being: the law, social norms, markets and architecture³ as illustrated in Figure 1 (Lessig, 1998, p.662). To some extent this echoes Boyer and the French School's recognition that markets do not operate in isolation but are influenced by 'the organisation of the

³ He defines architecture as 'features of the world whether made, or found [which] restrict and enable in a way that directs or affects behaviour'. P.662 For example the geography of a certain area.

social space', 'power relations' and 'legal rules' (Boyer, 1990, p.44). This view of regulation as larger than simply the activities of the state or the market holds explanatory promise for a sector in which the state is only one actor and the market only one type of constraint.

Figure 1:Lessig's Regulatory Constraints



While Lessig's argument focuses on the law as a meta-regulator influencing all other modes of regulation, this thesis is more concerned with how these forces interact to influence the management of labour in the residential aged care sector rather than to argue for a particular hierarchy of the regulatory modes. Consequently, Lessig's constraints are used as a framework for understanding the interaction of the regulatory features of the aged care sector.

The 'old' Chicago School's contribution in the area of public policy is easy to track through the deregulation activities of governments around the world.⁴ In Australian residential aged care, the anti-regulation agenda was vigorously pursued in the late 1980s when the Moran Group (at the time the largest private provider of residential aged care) began an aggressive campaign against the regulatory regime based on 'government inspection of nursing homes' (Braithwaite et al., 2007, p.189). The 'new' Chicago School's contribution is more subtle. It highlights the subjectivity of

⁴ For an evaluation of the success of the Chicago School's ideas see Peltzman,S., Levine,M., and Noll, R. - *The economic theory of regulation after a decade of deregulation*, Brookings Papers on Economic Activity ;1989

the discussion of regulation. Noting that depending on academic discipline, ideology or policy objective, any of the regulatory constraints could be argued as more significant than the others (Lessig, 1998; Murray, 2001). However, the applicability of Lessig's framework to the residential aged care sector is evident in the aforementioned comparative study of the regulation of aged care and its impact on the quality of care in the United Kingdom, the United States and Australia by Braithwaite et al (2007). In this study the authors not only agree with Lessig's conception of regulation particularly that 'markets are conceived as another regulatory tool for creating the external pressure to fix quality problems' but also use it as the basis for explaining the connection between 'regulatory failure and market failure' in residential aged care (Braithwaite et al., 2007, p.11).

This more nuanced approach to regulation provided by Lessig (1998) and utilised by Braithwaite et al (2007), offers a suitable approach to the analysis of the management of labour in the residential aged care sector in which the market is gaining significance but where legislation, location of services and societal expectations about the quality of care maintain regulatory significance. While the study by Braithwaite et al (2007) offers insights into the growth of regulation in an era of increasing privatisation, this thesis extends the analysis beyond these issues into a consideration of the effect of regulation on employer behaviour and its impact on the management of labour.

Residential aged care is subject to many types and levels of regulation, and it is the interaction of regulatory forms and their impact on the employment relations strategies of aged care providers that are the main focus of this research.

The aged care sector in Australia is highly regulated by the state in recognition of the vulnerability of residents and clients (Hogan, 2004) and due to the large amount of public money it attracts. Regulation extends to issues of quality of care, location and quantity of services provided and price controls stipulating the maximum a service may charge its clients (Department of Health and Ageing, 2003). In addition to these formal regulations, other factors such as the market for aged care services (discussed in more detail in chapter 4), the location of aged care facilities and social norms

about care-provision also act as constraints combining to create a complex regulatory environment within which aged care providers make decisions about labour-management. Consideration of these kinds of constraints is not the traditional focus of industrial relations research and points to the need for a broader explanatory framework. Labour regulation (for example state industrial laws, industrial instruments such as awards and agreements, and federal industrial legislation) is only one form of formal and external regulation, and in itself is complex. This thesis also considers the impact of informal and internal regulation. It is the navigation and manipulation of this 'regulatory space' (crowded by formal, informal, external and internal regulation) by employers, employees, residents and the broader community, which impact on the operation of the labour market within the sector. To use the words of Frazer (echoing Kochan et al 1984) writing about industrial institutions and regulation:

Regulation, then is the sum total of numerous intersecting and conflicting interests and value systems, each modifying or attenuating the others.

(Frazer, 2006, p.229)

If regulation is the result of the variety of interests of various actors within a 'regulatory arena' (see Frazer 2006), then regulation within the aged care sector is the result of an accommodation of the interests of residents, relatives of residents, aged care providers, workers (and their representatives within the sector) the federal government as the major funder and perhaps increasingly so, providers of private funds (such as private equity firms).⁵

This conception of regulation goes to the heart of the main research question posed by this thesis and of the case studies used to answer it. That is, it considers the forces which shape the strategies of employers in the residential aged care sector in NSW by:

⁵ The 'dynamic connection between actors and/or systems' (Black, 2002, p. p4) suggested by the concept of 'regulatory space' demonstrates a connection between this stream of regulatory analysis and systems theory.

drawing attention to the ways in which arrangements that are not necessarily intended directly to form part of formal arrangements governing labour markets, may, nonetheless, indirectly regulate aspects of labour market transactions in significant ways (Gahan, 2006, p.134).

In residential aged care such 'arrangements' include funding instruments, accreditation practices and monitoring, police checks, building code compliance, and social security programmes. Closer examination of the impact of these 'arrangements' is undertaken in the case study research which is presented in chapters 5, 6 and 7.

The use of regulation theory at this local and industry level concurs with Llewelyn's (2003) argument that 'conceptual framing' offers significant insights into qualitative research. She also argues that existing assumptions about what constitutes theory underestimate the importance of 'emergent, localized phenomena' (p.664). Llewelyn identifies five levels of theorisation: 'metaphor, differentiation, conceptualization, context-bound theorizing of settings and context-free "grand" theorizing' (p.663) and suggests that the 'conceptual' is the highest level of theory that still takes into account agency. She explains (with the assistance of Bourdieu) that:

Concepts are the primary means of theorizing practices and practices are the sites of struggle (Bourdieu, 1988). Organizational practices such as "accountability", "politics", "decision-making", "financial reporting", "human resource management" and so on are places where "agency" meets "structure" and are the primary point at which people in their everyday lives struggle to make a difference in the world – to make effective interventions in the course of history. Accomplishing more adequate conceptualizations of practice is part of this struggle (p.673).

Context-bound theorising and grand theorising are more distant from empirical data and as such are less interested in organisational practices and more concerned with 'the social conditions under which such practices are reproduced' (Llewelyn, 2003, p.675). This distinction echoes the difference between macro-level regulation theory

and regulation theory as a conceptual tool to understand an industry such as aged care. Moreover this thesis does not use regulation theory as a means to discount the agency of actors but rather attempts to understand how regulatory constraints and employer agency interact and influence each other.

The use of theory at the 'conceptual level' resonates in this research where context, organisational practices, and employer agency combine to create the regulatory environment for employment relations in residential aged care. The empirical nature and micro-level focus of this research does not fit comfortably with the generalisations of grand theory. Consequently, this study is more concerned with exploring the management of labour in the aged care sector using insights offered by a regulation approach than in attempting to reframe or refine regulation theory itself. This approach allows for employment relations in this sector, specifically the management of labour, to be understood in new and different ways.

Section Three: Conclusions

This research considers the influence of demographics, labour market characteristics, economic trends and the activities of other actors, namely the state and unions, on the labour-management approaches of aged care providers. What makes the study unique is that it takes into account the institutions, economics and organisational culture, which colour the environment in which employers make choices but does not discount the agency of employers in determining these choices. This builds on existing strategic choice literature in the field of industrial relations (Kochan et al., 1994; Walton et al., 1994) and extends it to explore the impact of regulation on the process and outcomes of this decision-making.

This chapter uses traditional industrial relations analysis to assist with the identification of significant issues associated with work and employment in residential aged care. However, its institutional emphasis does not accurately represent the fragmented industry structure and low levels of collective representation within the sector. It also discounts the agency of aged care employers to make strategic choices. While this is partly addressed by Kochan, Katz and McKersie's (1994) integration of a strategic choice perspective with traditional

industrial relations concerns, their admission that some forms of regulation limit this choice necessitates a deeper consideration of the variety and implications of regulation for aged care employers and the aged care workforce. Consequently the following chapters draw heavily on regulation theory.

Unlike much regulation scholarship, this study does not focus on the macro-level. Indeed the approach taken in this thesis reflects Treuren's (1997) description of the regulation approach as 'primarily a methodology' (p.362). The proceeding chapters use the ideas of Lessig, Black, Gahan and Brosnan, Frazer (and others) as a means, indeed, a method, to untangle and understand the regulatory web which characterises the aged care sector. The use of regulation theory in this way deliberately seeks to:

increase the consciousness of the inter-relationship between different forms of regulation and encourage more holistic analysis that will better capture the complexity of labour regulation (Bray & Waring, 2005, p. 13).

The approach adopted in this thesis simultaneously addresses the dearth of micro-level application of regulation theory and provides 'contextual insights into the development and nature of micro-level industrial relations' (Treuren, 1997, p. 362). This methodology is considered in more depth in the following chapter.

Chapter 3

Research Method and Design

As discussed in chapter 1, employment relations in the residential aged care sector has not been the subject of much academic research. While there have been numerous government commissioned reports into the sector overall (Department of Health and Ageing, 2007d, 2009c), including the recent and comprehensive Productivity Commission (2008) report, *Trends in Aged Care Services: some implications*, that report itself acknowledged the paucity of data regarding the aged care workforce. Even more limited is information about the nature of the management of labour within the sector. This thesis begins to fill that gap. The purpose of this chapter is to outline the approach taken to do so. This chapter recounts the development of this research, and the questions this thesis asks and answers. It explains the rationale and design of the research and considers the link between the methodological approach and the theoretical framework used to understand the results.

Section One: Development of the research

The research asks and begins to answer questions about law and its interaction with labour markets, organisational structure, demographics and expressions of employee voice and the significance of these interactions for the employment relations strategies pursued by residential aged care providers.

Initially, this thesis set out to explore the impact of *Work Choices* compared with that of other regulatory forces on employment relations in the residential aged care sector in NSW. As noted in chapter 1 (and further discussed in chapter 5), it was hypothesised that with labour accounting for nearly 70 per cent of operating costs for aged care providers, an opportunity to reduce such costs (through *Work Choices* AWA's) would be appealing to residential aged care employers and would influence the management of labour within the sector. Early in the data collection phase it was identified that although there were some attempts to use *Work Choices* in the

aged care sector, *Work Choices* was not generally utilised as a means to drive down wage costs. These early results prompted a reconsideration of the nature of the research. The initial research question was:

How is the management of labour in the NSW residential aged care sector influenced by changes to formal labour regulation?

As a result of this early research, the question evolved to become:

What are the regulatory forces which shape the management of labour in the NSW residential aged care sector?

This reframing of the key research question opened up the research to allow for consideration of other regulatory forces and influenced the choice of theoretical framework and the choice of cases, both of which are considered in more detail below. Both the original and the revised question necessitated an articulation of the aspects of the management of labour to be explored in the research. Broadly speaking the 'management of labour' refers to the planning, organising, leading and controlling of personnel within an organisation. In the context of this thesis, existing literature and the key research question, aspects of these four functions which are pertinent include: approaches to recruitment and retention, the choice of industrial instrument, opportunities for the expression of employee voice and the nature of managerial prerogative. These issues are significant due to their impact on the nature of employment relationships in residential aged care. In other words this thesis investigates how the employment relationship is approached and administered on an organisational level in particular, 'the formal and informal rules' and the 'social processes' (Bray et al, 2009, p.7) which influence those approaches.

Section Two: Research Questions

This thesis argues that aspects of regulation theory offer insights which assist in understanding the management of labour in the residential aged care sector. As discussed in chapter 2, regulation theory straddles a number of disciplines and has been approached from a variety of ideological positions, from neo-marxist to neo-classical, with arguments about the relative contributions to regulatory scholarship

of each being well documented (Boyer, 1990; Collins, 2000; Jessop, 1990; Peltzman et al., 1989). It was argued in chapter 2 that the characteristics of the aged care sector necessitate the use of an analytical approach which recognises the impact of the 'organisation of social space', 'power relations' and 'rules' (Boyer 1990, p.44). A strength of this approach is that it also allows a consideration of the different forms that regulation takes, including 'social norms', 'markets' and the 'physical' and 'geographical' environment within which an entity exists and functions (Lessig 1998). That regulation theory talks about these phenomena is, plainly, useful in thinking about aged care.

In light of these theoretical approaches and the literature discussed in chapter 2, the main research question (examining the regulatory forces which shape the management of labour in the NSW residential aged care sector) can be fleshed out and four supplementary questions asked. These are:

1. What are the key labour market issues in the sector and what impact do these have on how employment relations in the sector are conducted?
2. How is the management of labour affected by changes to labour law?
3. How does legal regulation of the aged care sector impact on the management of labour by employers?
4. What are the main expressions of employee 'voice' in the sector and what regulatory role does this play?

The first question is deliberately broad to allow for the examination of both traditional labour market issues such as demand and supply but also for the interaction of those issues with factors such as the location of each facility and societal expectations about the provision of care. The second and third questions are interrelated. The original research question assumed the primary importance of labour law in the management of labour in residential aged care. Although early results challenged this assumption, labour law is still indisputably a regulating force

(if not the only or most significant one) on labour management in the sector and as such is worthy of consideration. However, it is also necessary to consider other sources of legal regulation given the nature and influence of the *Aged Care Act 1997* on activities within the sector, hence question three. The final question does not simply ask for an account of the impact of manifestations of employee voice on the management of labour in the residential aged care sector. Implicit in this question is the issue of the relative importance of employee voice as such a regulator. This issue and those raised in the other questions are explored in the context chapter and the three case study chapters.

Section Three: Case Study Methodology

Three case studies were chosen in order to construct an understanding of how the various sources of regulation might look in different localised circumstances. Combined, these cases offer insight into the residential aged care sector more broadly and are discussed in more detail below. All three of the aged care facilities which are the subject of the case studies, were located in NSW. NSW was chosen as it is the most populous state in Australia and is representative of the four Australian states which maintained state industrial relations systems.

The case study methodology has been specifically chosen because of its capacity to help answer the key research questions posed by this thesis. It is particularly appropriate in light of Yin's renowned definition of the case study method as:

an empirical inquiry that investigates a contemporary phenomenon within its real-life context; when the boundaries between phenomenon and context are not entirely evident and in which multiple sources of evidence are used (Yin, 2009, p.23).

Investigating the blurred boundaries of context and phenomenon is indeed central to this thesis because the impact of contextual change, the relationships between employment relations actors in aged care and the decision-making of employers and formal regulations are inter-related. Unravelling the extent of this inter-relatedness forms a large part of the focus of this research.

Case study research has always been, and remains central to, social research generally, and employment relations in particular. As a consequence, there has been much academic attention given to case study methodology and its merit (Bryman, 2004; Eisenhardt, 1989; Michelson & Baird, 1995; Yin, 1981, 1994, 2009). With particular regard to industrial relations research, Baird (2000) contends that the case study allows for provides for acknowledgement of change and its consequences . That is, as Cooper (2002) argues, a case based method avoids merely showing a 'snapshots of events' but instead can uncover the 'processes that lead to or constrain change' (p.202) . The scope of case study research to accommodate change and its causes and consequences is essential to this thesis which explores three aged care providers in a period of contextual change between 2005 and 2009.

This thesis uses multiple case studies and is explicitly comparative to allow 'the distinguishing characteristics of two or more cases to act as a springboard for theoretical reflections about contrasting findings' (Bryman, 1988, p. 55). The comparative nature of the research requires the exploration of organisational ownership and structure across the three cases allowing for the differentiation of results based on these organisational characteristics. This is particularly important in an industry study in which other explanatory variables (in this case the managed market for aged care) are held to be constant (Bray & Waring, 2008).

While chapters 5, 6 and 7 each consider a different provider, they do not stand alone. These chapters cumulatively contribute to the argument presented in this thesis by providing a comparative analysis of the research results which is developed in the case synthesis chapter.

Section Four: Access and choice of cases

Three providers are the focus of case studies and have been chosen because of their position within the sector and because of what they uncover about 'regulation at work' in the residential aged care. More specifically, not only are the three cases representative of both for-profit and not-for-profit providers, the two not-for-profit cases investigate different types of not-for-profit organisations that are significant in the residential aged care sector: not-for-profit *community* and not-for-profit

charitable. The examination of for-profit and two different types of not-for-profit cases broadens the study and allows for the consideration of the impact and importance of ownership structure on approaches to the management of labour in residential aged care.

While the examination of three cases with three different ownership structures was deliberate, the choice of these specific cases, Port View Retirement Village (Port View), Christian Care and Red Gum Communities was also informed by practical considerations, such as the willingness on the part of the organisation (specifically key decision-makers within each organisation), to allow access to personnel and documents. As noted by Bryman (1988) and Cooper (2002), this acceptance 'can be critical to the success of the research' (p.203). Additionally the support of key decision-makers may result in them becoming more of an 'informant' than a 'respondent' (Yin, 2009). This occurred to differing degrees in all three cases. Initial contacts became the source of other interview subjects and provided permission for the accessing of supplementary sources of data.

First contact with Port View and Red Gum Communities was made through the recommendations of personal contacts. In these cases the personal contact requested an audience (on behalf of the researcher) with the key decision-maker. This subsequently resulted in agreement by the organisation to participate in the research. Of all three cases, Port View provided the easiest access. After contact being made with the chairman of the board a two-day intensive site visit was organised. This was supplemented by further telephone contact and another two-day follow-up visit a year later.

In the case of Christian Care, contact was made via formal letter to the Chief Executive Officer (CEO) with a request for a scoping interview in the early stages of the research. The views of this CEO were particularly sought because she is a leader within the not-for-profit residential aged care community and had been identified as such by other key industry informants (Interview NSWNA Aged Care Team Leader 2006). A year after that interview, a request for Christian Care to be the focus of one of these case studies was made and agreed to by the CEO. In that intervening year,

contact had been made with another large religious provider of aged care, and several scoping interviews had been conducted. However, as this provider was making a strategic retreat from residential aged care and was reluctant to provide workplace access to the researcher, it was excluded as a case study possibility.

Port View Retirement Village contained several co-located facilities including a nursing home, two hostels and self-care villas. North-West Lodge, (the Christian Care facility which is the focus of the case study) was also co-located with several other residential aged care facilities. However, access to these other Christian Care facilities was restricted due to extensive renovation work being undertaken at the time this research was being conducted. Consequently the Christian Care case focuses exclusively on North-West Lodge.

The for-profit case study proved the most difficult to identify. Several attempts were made to contact for-profit providers both formally and through informal networks. There was reluctance on the part of these providers to allow access to any staff or organisational information. Red Gum Communities was identified through a personal contact with a financial (though not hands-on managerial) stake in the organisation.

Confidentiality was a feature of all three of the cases with names of the providers changed and only job titles of participants used to ensure anonymity. In addition, any identifying information in the reference list has been taken out with an asterisk signalling the use of pseudonyms. The only exceptions to this were the supplementary interviews with industry informants who agreed to be interviewed as part of the broader research project.

Section Five: Data sources

To ensure a thorough analysis, a number of strategies were used to obtain data from different perspectives and sources, including: government reports into the aged care sector; industry-wide survey results; submissions to parliamentary inquiries and industrial tribunals into various aspects of residential aged care; internal documents and records provided by the case study organisations and interviews with key industry informants and case study participants.

Documentary evidence about the aged care sector

Extensive documentary material on the sector has been consulted to position the cases within the widest possible analytical context. In addition to publicly available government sponsored reports into the sector, the key unions and employer association granted access to documents relevant to the research. This included a survey of 1400 aged care workers commissioned by Aged and Community Services Australia, and case files of the NSW Nurses Association (NSWNA) and the Health Services Union (HSU) which detailed submissions to industrial tribunals on behalf of members working in residential aged care. Additional contextual information was gathered during attendance at the Aged Care Association Australia conference in April 2006 and the Aged and Community Services Australia conference in September 2008.

Case specific documentary evidence

Internal documents from the three aged care providers were used to assist with the 'triangulation' of data (Yin, 1994, see also Bryman 2004; Eisenhardt 1989; Yin 1981). These documents consisted of: employment policies; strategic plans; newsletters; websites; minutes of meetings; annual reports and organisational histories. The types of documentation available varied across the three case studies. Christian Care had the most publicly available information with its website providing details of its organisational structure, annual reports, financial reports and strategic plans. Details of the current enterprise agreement and reports regarding the gender composition of the workforce were obtained through the relevant government departments (both state and federal). This public information was supplemented by information provided directly to the researcher by Christian Care management, specifically, organisational charts and training calendars. During the conduct of the research, Port View did not have a comprehensive website, however, organisational information regarding the workforce, organisational structure and history were provided to the researcher in hard copy. The award in operation was sourced through the NSW Office of Industrial Relations.

Being a privately run organisation, Red Gum Communities did not make information publicly available. Information was necessarily sought and received directly from management. This included: details and diagrams regarding organisational structure; financial data which compared the performance of Red Gum Communities with similar aged care providers and the template for Australian Workplace Agreements in use since 2004.

Interviews

Initial scoping interviews with key industry informants were unstructured and were based around broad themes relevant to the research questions to gain a general sense of significant issues which informed the further development and use of more targeted research and interview formats (See Appendix 1). These interviewees were selected on the basis of their knowledge of labour-management in the residential aged care sector. Interviewees were identified through their organisational positions, through publicly available information including industry contact information and media reports, and by recommendation of colleagues and other contacts. Once identified, potential interviewees were sent a preliminary letter outlining the nature of the research and inviting them to participate in the study via an interview (See Appendix 2). A follow-up phone call provided a personal introduction with the researcher, discussed the research aims at length and answered any questions about participation. The University of Sydney's Human Ethics Committee approved this process. Fourteen interviews were subsequently conducted and are listed in Table 1.

Table 1: Supplementary Interviews

Organisation	Interviewee position	Date	Place
NSW Nurses Association	Organising Co-ordinator: Aged Care	March and August 2006	Sydney
Health Services Union	Senior Industrial Officer	June 2006	Sydney
NSW Nurses Association	General Secretary	September 2006	Sydney
Health Services Union	General Secretary	October 2006	Sydney
Not-for-profit aged care provider (Melbourne)	Board Member	May 2007	Telephone
NSW Nurses Association	2 Aged Care Organisers	May 2007	Sydney
Asian Women at Work	Personal Care Worker (not-for-profit)	July 2007	Sydney
Asian Women at Work	2 Personal Care Workers	July 2007	Sydney
Large charitable (religious) provider	HR Manager	August 2007	Sydney
Large charitable (religious) provider	Aged Care Operations Manager	August 2007	Sydney

Large charitable (religious) provider	Aged Care HR Manager	December 2007	Sydney
Aged and Community Services Australia	CEO	September 2008	Telephone

Table 2 details the interviews undertaken for the three case studies. Interviews were semi-structured around a set of issues rather than a set of uniform questions to be asked of each participant (Bryman, 1988). This allowed for more flexibility and highlighted significant issues that may have otherwise remained unexplored. Appendix 3 contains a sample interview schedule.

In total, 20 in-depth interviews were conducted at Port View's two sites between May 2007 and September 2008, with personal care assistants (PCAs), enrolled nurses (ENs), care service employees (CSEs), administration and human resource managers, registered nurses (RNs), the health services manager, the hostel manager, the CEO and the Chairman of the Board. Likewise, the fourteen interviews at Christian Care were conducted over an extended period of time, in this case between September 2006 and March 2009. A notable difference from the Port View example is that given Christian Care's larger and more complex structure, it was necessary to interview regional and head office management in addition to those based at North West Lodge. Eleven in-depth interviews were conducted with staff and management at Red Gum Communities, reflecting the smaller size and the flatter organisational structure relative to the other two cases.

Table 2: Case Study Interviews

Provider and Year	Interviewee position	Date	Place
Port View Retirement Village (2007)	Chairman of the Board	April 2007	Telephone
	Chairman of the Board	May 2007	Site 1
	Hostel Manager	May 2007	Site 1
	Enrolled Nurse 1	May 2007	Site 1
	Enrolled Nurse 2	May 2007	Site 1
	Personal Care Assistant 1	May 2007	Site 1
	Personal Care Assistant 2	May 2007	Site 1
	Registered Nurse	May 2007	Site 1
	HR Manager	May 2007	Site 1
	Health Services Manager	May 2007	Site 1
Port View Retirement Village (2008)	Administration Manager	May 2007	Site 1
	Chairman of the Board	September 2008	Site 1
	Personal Care Assistant	September 2008	Site 2
	Care Service Employee	September 2008	Site 2
	Care Service Employee	September 2008	Site 1
	Finance Manager	September 2008	Site 1
	CEO	September 2008	Site 1
	Clinical Nurse Consultant	September 2008	Site 1
Administration Manager	September 2008	Site 1	
Director of Nursing	September 2008	Site 2	
North West Lodge (Christian Care)	Christian Care CEO	September 2006	Head Office Sydney

2006	PA to the Regional Manager	October 2006	On site
	Care Manager	November 2006	On site
North West Lodge (Christian Care) 2008	Educator	November 2006	On site
	Regional Manager	June 2008	Regional Office
	Executive Care Manager	August 2008	On site
North West Lodge (Christian Care) 2009	Client Liaison Coordinator	August 2008	On site
	Care Service Employee 1	August 2008	On site
	Care Service Employee 2	August 2008	On site
	Regional HR Manager	August 2008	Regional Office
	Regional Educator	August 2008	Regional Office
	Registered Nurse	March 2009	On site
	Office Coordinator	March 2009	On site
	Christian Care HR Manager	March 2009	Regional Office
Red Gum Communities (2009)	Founding Director	February 2009	On site
	Financial Controller/HR Manager	March 2009	On site
	PCA Coordinator	March 2009	On site
	Personal Care Assistant 1	March 2009	On site
	Personal Care Assistant 2	March 2009	On site
	Registered Nurse 1	March 2009	On site
	Registered Nurse 2	March 2009	On site
	Care Manager	March 2009	On site
	3 Personal Care Assistants	March 2009	On site
		March 2009	On site

Interviewees were provided with information about the research (see Appendix 2). Interviews were transcribed and all identifying information was expunged before use in this thesis. Data and audio files were appropriately secured during the period of this research with access only available to the researcher reflecting the protocols established in consultation with the Sydney University Human Ethics Committee. In addition to the interviews, personal correspondence was entered into in all three cases with a number of the managerial interviewees to clarify interview data or provide supporting documentary details.

Section Six: Conclusion

This thesis explores the management of labour in the NSW residential aged care sector. This chapter has detailed the development of the research method explaining the use of case studies of three aged care providers (detailed in chapters 5,6 and7),to advance the understanding of the interconnectedness of regulatory constraints and managerial decision-making in a sector which is rapidly increasing in size and significance. Additionally, this chapter has outlined the data sources used to answer the key research questions, specifically: government reports; publicly available information about the aged care sector and industrial instruments in the aged care sector; organisational documentation; and interviews. Importantly, this chapter highlights that although interviews from an important part of the data collected they do not represent this research in its entirety. In particular the information collected and collated in the following context chapter (chapter 4) provides a new interpretation of existing data, in essence providing a cultural and industrial analysis prior to the case studies but central to the understanding of them. Chapters 5, 6 and 7 detail the three case study locations and present the results of the interviews and documentary evidence, revealing the importance of non-labour regulation such as industry specific legislation, the location of facilities and societal expectations about the provision of care on the labour-management approaches of aged care employers. In so doing, the next four chapters answer the key research question posed in chapter 1: What are the regulatory forces which shape the management of labour in the NSW residential aged care sector?

Chapter 4

Context

Introduction

Residential aged care is subject to a variety of regulation. However not all of the regulation within the sector can be easily understood by simply equating regulation with formal or legal obligations. To understand the residential aged care sector and the forces which shape the management of labour it is necessary to use a broader conceptualisation of regulation, one which acknowledges the importance of formal regulatory mechanisms such as the *Aged Care Act 1997* but which also allows for the regulatory role played by factors such as the market, social norms and the built and natural environment (See Lessig 1998). All these forces have the potential to alter behaviour and decision-making. In order to understand the relative importance of each of these factors in specific aged care facilities, it is necessary to examine more closely the characteristics of the residential aged care sector overall. This exploration forms the basis of this chapter.

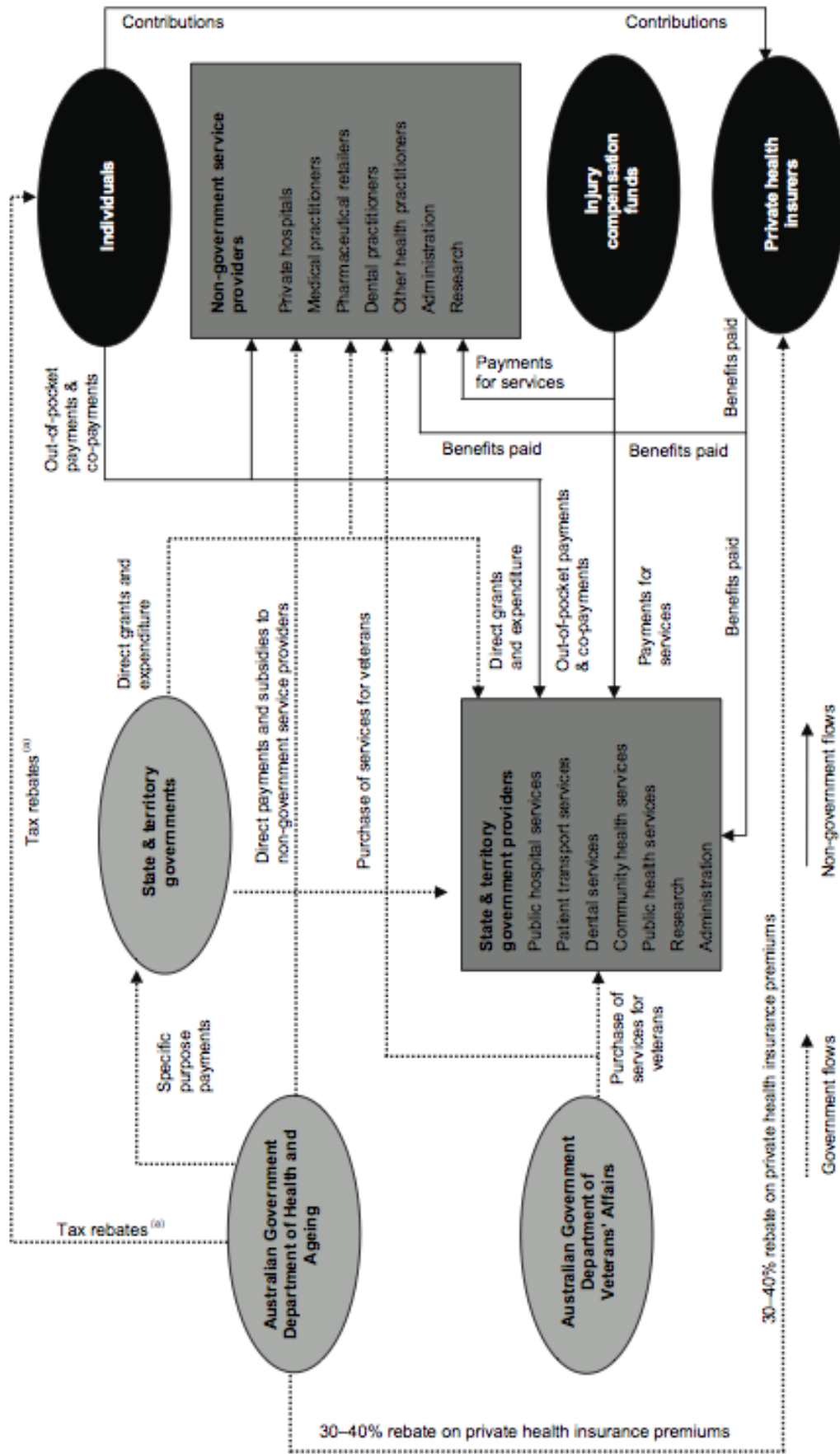
This chapter is divided into four parts. The first section locates residential aged care within the broader Australian health sector. Section two examines the characteristics of the residential age care sector more specifically. It considers the impact of demographic change, the market for aged care services, industry structure and composition and the formal regulation of the sector through the *Aged Care Act 1997*. The third section explores the features of the aged care labour market, noting in particular the predominance of women and the ongoing labour supply issues faced by aged care providers. Section three also details the industrial instruments and parties which influence the determination of wages and conditions for aged care workers. Section four offers some concluding observations not only about this context but also about the regulation of aged care in general.

Section One: The Health Sector

To understand the economic and industrial relations trends in the residential aged care it is necessary to consider the broader context of the health sector, because the provision of aged care is inextricably linked to other health services, such as acute and palliative care, and due to the significant portion of the total public health budget claimed by aged care. The health industry in Australia is a blend of public and private providers funded by a universal, national Medicare scheme administered at the State level. In 2007-2008 health represented about 9.1 per cent of Gross Domestic Product (GDP) or \$103.6 billion – an increase of 1.3 per cent in health expenditure as a proportion of GDP in the preceding decade (Australian Institute of Health and Welfare, 2009; de la Rama, 2007; Duckett, 2005). Figure 2 illustrates the flow of funds through the Australian health system.

Figure 2: The structure of the Australian health system and its flow of funds*

**Source: AIHW (2009), *Health and Welfare Expenditure*, Series No. 37, Cat.No. HWE 46, Canberra: 4*



(a) The tax rebate is not an expense of the Australian Government Department of Health and Ageing, but is a tax expenditure of the Australian Government.

The health industry has not been immune to recent trends towards the private provision of public services. Universal health provision through Medicare has come under increasing scrutiny, with a number of federal health ministers attempting to relieve the financial burden of the system by promoting private health insurance. One manifestation of this was the introduction of a thirty per cent tax rebate on private health insurance premiums by the Howard Government in 1999 (Vaithianathan, 2002), as demonstrated in Figure 2. This decision has been criticised on a number of levels. Firstly, that public and private care is not interchangeable, particularly hospital care. Private and public hospitals tend to specialise in particular areas with public hospitals offering more comprehensive care (Duckett, 2005). Secondly, it has been argued that expanding insurance coverage may lead to an increase in private sector prices (Vaithianathan, 2002) and, thirdly, the wider choice available to consumers has come at the cost of equity, with insured patients enjoying easier access services and surgery (Duckett, 2005). The current Labor government have maintained the rebate, with some exceptions to eligibility limitations for high-income earners (Roxon, 2009).

The Australian aged-care sector has faced similar pressures to privatise. Braithwaite notes that in 2000, 55 per cent of new government-funded places in nursing homes were in the private sector in contrast to the historical norm of 27 per cent. He argues that the Howard government's "neo-liberal" policies have encouraged multinational companies to enter the Australian market (Braithwaite, 2001). A range of studies reveal why this is a concern for users of aged care in Australia. Canadian (McGregor et al, 2005), American (Harrington, 2001) and Australian (Jenkins and Braithwaite, 1993) studies concur that the 'quality of care was significantly lower in profit-making nursing homes than in non-profit nursing home' (Braithwaite, 2001) due to lower staffing levels being seen as a means to reduce labour costs and increase profits in a sector in which other operating costs are largely fixed.

This method of cost reduction has serious implications for aged care in Australia, where labour accounts for about three quarters of residential care costs (Hogan, 2004a) and with revenue remaining largely fixed through regulation. Potentially, the reduction of labour costs is a means for aged care providers to seek an improvement

in the bottom line of privately run facilities, particularly given that the only legal requirement regarding staffing is that each facility maintain an 'adequate number of appropriately skilled staff' (Davies, 2004). This combination of labour costs as one of the only controllable contributors to a potential operating surplus, and the self determination of appropriate staffing levels, point to a sector with unique employment relations. These are deserving of deeper investigation.

It has been argued that until recently, employment relations in the sector had remained stable due to the traditionally centralised nature of bargaining in the Australian health industry (Braithwaite, 1997). However, there are some problems with this assertion. Firstly, it ignores the high probability of differences associated with a health system largely administered by the states. Secondly, it diminishes the significance of the complexity of the health system, characterised as it is by a number of different professions and wide variation in the type of employment relationships within public, private and community organisations. Thirdly, and most importantly in this thesis, it does not recognise that health employers, including governments, have historically pursued strategies to achieve more flexible work practices as part of efforts to contain costs. Examples of such strategies include the contracting out of services within public hospitals and the proliferation of public-private partnerships in the public health system. Local peculiarities are identified as significant in the case studies detailed in chapters 5, 6 and 7.

Section Two: Residential aged care in Australia

In order to provide an overview of the residential aged care sector in Australia, this section is divided into five parts. Part one examines demographic change in Australia and its likely impact on the provision of residential aged care. Part two describes the 'managed' market for aged care. Part three outlines the nature of aged care services, particularly differentiating residential and community care. Part four details the structure of the Australian residential aged care sector and part five explores the formal regulation of the aged care sector by the *Aged Care Act 1997*.

Demographic Change

Like most developed countries, Australia's population is ageing (Commonwealth of Australia, 2010; Hugo, 2007; OECD 2005). Demographic forecasts predict an exponential increase in the number of older people in the next few decades (Productivity Commission, 2008; Hugo, 2007). Even allowing for differences between estimates, there is broad consensus that Australia's aged population (over 65 years) will at least double if not triple in the next 20-50 years. The Productivity Commission (2005 and 2008) estimates that by 2050, close to 25 per cent of the population will be aged 65 years or older, up from current levels of 13.4 per cent or 2.8 million. Likewise the Department of Health and Ageing predicts that 6.6 million people will be aged over 65 years in 2050 (Department of Health and Ageing, 2003).

This demographic change has been brought about by a combination of lower fertility rates and increased life expectancy. Its impact has been amplified by social and cultural change which has challenged the notion that in general older people should be cared for by their family (Hugo, 2007). This change has been driven by the increasing participation of women in the paid workforce who otherwise are the dominant providers of this informal and unpaid home-based care. This has obvious implications for the health system as a whole, and the aged care sector in particular, with demand for aged care services growing. This increase in demand has ramifications for the market for such services, and for the aged care workforce which is predicted to grow by 35 per cent over the decade 2004-2014 compared to eight per cent for the labour force overall (Hogan, 2004).

The increasing significance of aged care as a public policy area is brought into sharp relief when compared to the much-discussed growth in funding for education, with education funding in Australia growing by 5.3 per cent annually, and Australian government spending on aged care growing at 6.1 per cent annually (Productivity Commission, 2008).

It is estimated that total annual aged care expenditure by state and federal governments was \$8.6 billion in 2006-07 or just over one per cent of GDP (Productivity Commission, 2008; Hogan, 2004). This is comprised of spending on

residential care subsidies (approximately \$5.3 billion), community care packages and home and community care (HACC) funding (Productivity Commission, 2008; Hogan, 2004). The population projections discussed earlier could see these costs expand to \$106.8 billion (2.3 per cent of GDP) by 2042-43 (Commonwealth of Australia, 2002; Hogan, 2004).

On the other hand predictions of the future explosion of aged care costs have been queried by some as pessimistic and unfounded (Coory, 2004; Fine & Chalmers, 2000). A comparison of Organisation for Economic Development and Co-operation (OECD) countries shows that an ageing population does not necessarily result in excessive health expenditure or reduced health outcomes. Coory (2004) lists twelve OECD countries with lower health expenditure than Australia despite having a greater proportion of their population aged 65 or over. In light of this evidence, it has been suggested that fears over health costs associated with an ageing population have been used for political purposes 'to justify significant cuts in general expenditure' (Fine & Chalmers, 2000). For example, the Federal Treasury's (2002) *Intergenerational Report* argued that the 'ageing of the population will have only a small effect on spending' (Coory, 2004) but nonetheless emphasised a need to encourage the take-up of private health insurance to mitigate against the costs of population ageing. Irrespective of whether this sceptical view of the potential blow-out of aged care costs is proven to be correct, aged care is likely to remain a significant political and social issue as increasing proportions of the Australian population become users of aged care services.

The Market for aged care services

For the last fifty years, the Australian aged care sector has been characterised by a broad variety of largely non-government agencies providing services. Saunders and Fine (1992) suggest that this mixture developed as a result of a combination of cold war politics, which saw conservative political parties align with the medical profession to oppose the 'nationalised control of any part of the economy' (p.34-35), and the interest and innovation of religious and private providers who successfully

lobbied for government funding for the provision of residential aged care services which they had identified as an emerging market and area of need.

In contrast to Saunders and Fine's focus on the growth of aged care provision largely devoid of direct government service provision, Braithwaite, Makkai and Braithwaite (2007) argue that the real harbinger of change to the 'asylum' based care (which was prevalent in the first half of the twentieth century), was the *1954 Aged or Disabled Persons Act* which provided public funding for capital investment in nursing home construction. This resulted in the rapid expansion in the number of nursing home beds (see Braithwaite et al., 2007 for a detailed history; Davis, 1993). The historical analyses of both Saunders and Fine and Braithwaite et al, although very different from each other, illustrate how policy decisions by various federal governments have influenced the development of the market for residential aged care services.

The legacy of these early funding systems continues in the operation of the market for residential aged care in Australia and, following Lessig's framework (detailed in chapter 2) within which 'the market' is a key regulatory force, this has ongoing significance for the nature of regulation in the sector. Indeed, before considering the characteristics of the residential aged care sector in more detail, it is necessary to acknowledge that the Australian aged care 'market' is significantly influenced by government activity (Hogan, 2008; Tannous & Luo, 2006). Because the government controls the number of beds and the pricing of services, the only means for providers to control profit is through minimising input costs (Tannous & Luo, 2006). Of course, this interpretation of government intervention as a 'distortion' that causes an imperfect market relies on a neo-classical definition of 'the market' and its associated assumptions. This definition is by no means uncontested, and in fact even within orthodox economic literature there is not a universally accepted definition (Rosenbaum, 2000).

For the purpose of this thesis, a more useful conception is that of a 'managed market' which is used to describe a type of market in which government involvement is the 'source of much, if not all, of the purchasing power of the users of services' (Davidson, 2009, p.43). This essentially allows the government to determine

the operation of these markets without actually providing the service and 'substantially influence the types of service provider organisations that operate in that market, including the extent to which for-profit organisations are present' (Davidson, 2009, p.43). 'Managed markets' can be explained as a governmental response to market failure. While this is not exclusive to the provision of human services, it is more likely to occur in that area where those who need to use the service may have limited capacity to pay (Davidson, 2009; Meagher & Cortis, 2009). Aged care could be characterised as such a market and indeed the continuing predominance of not-for-profit aged care providers suggests that these types of organisations established and have maintained their involvement in the sector in order to fulfil an unmet need rather than extract a profit.

Professor Warren Hogan, author of the 2004 federal government commissioned 'Review of Pricing Arrangements in Residential Aged Care', later described the impact of this 'managed market' on the management of residential aged care services:

Characteristic of residential aged care is the comprehensive control over all operations undertaken by the board and management of each entity offering aged care services...Every aspect of the work required of management and staff is laid down. These are determined by legislation and regulation of gross complexity. In this setting board and management have little scope for decision-making (Hogan, 2008, p.43).

In Lessig's terms, the fact that residential aged care is characterised by such a 'managed market' means that the market will be revealed as a constant in the case studies which follow in chapters 5, 6 and 7. That is, given that the market is largely determined by the policy, actions and funding of the federal government, the influence of the market as a regulatory force should be consistent across the three cases.

What then are the characteristics of this 'managed market' for aged care and what kind of organisations are providing the services in this market?

Aged Care Services

The aged care sector in Australia is comprised of two main segments, residential care and community care. Community Care can be divided into three main service areas: Community Aged Care Packages (CACP), Home and Community Care (HACC) and Extended Aged Care at Home (EACH). These services allow the aged to remain in their own homes to receive care and assistance including domestic assistance, nursing, personal care and transport (Department of Health and Ageing, 2003). Community care is growing in significance as government policies increasingly promote independent living options for the elderly (Bruen, 2005). According to the Productivity Commission (2008), in June 2007 there were just over three quarters of a million clients of government-funded community care services, costing the federal government \$2117 million in that year. This reflects the sector's growth as a proportion of total subsidised aged care places from two per cent in 1995 to twenty per cent in 2007 (Productivity Commission, 2008). While this expansion has important implications for workforce planning across the entire aged care sector, the community aged care sector is not included as part of this research. The workplace for community care workers is quite different from that of residential aged care workers. Community care work is generally undertaken in the client's home by a single care worker. As a consequence, concerns of community care workers are potentially different from those working in residential aged care settings and are likely to be related to disconnection from other workers and the organisation for which they work. However, recent research suggests that community care workers experience greater job satisfaction because than workers in residential aged care because:

they are able to spend the amount of time they wish with those they care for, they are under less pressure and stress, and they have more autonomy in deciding how to do their work (Martin & King, 2008).

Prior to 1997, residential aged care, (the focus of this thesis), was formally divided into high and low care with the Department of Health and Ageing describing the difference as follows:

Low level care homes (formerly known as hostels) generally provide accommodation and personal care, such as help with dressing and showering, together with occasional nursing care. High level care homes (previously known as nursing homes) care for people with a greater degree of frailty, who often need continuous nursing care (Department of Health and Ageing, 2005b).

Before 1997, when residents were reclassified from low care to high care they were often required to move from their low care hostel into a nursing home. In many cases increasingly dependent residents were allowed to stay on in hostels, resulting in what many within the sector saw as inequitable funding arrangements because by 1995 one-fifth of hostel residents required more care than those in nursing homes (Gibson et al., 2002). In short, this meant that hostels were providing levels of care for which they were not properly equipped or adequately funded. The Aged Care Act 1997, sought to overcome this anomaly by introducing a policy of 'Ageing-in-Place' which provided funding for aged care homes to offer both low-level care and high-level care, allowing residents to remain in the same home regardless of their increasing care needs (Department of Health and Ageing, 2007b) thereby ending the legislative differentiation of facilities as either low or high care (Braithwaite et al., 2007). However, the terms 'high' and 'low' care are still commonly used by workers within the sector and as such are occasionally referred to in the case study chapters.

In 2007 there were 2,782 residential aged care facilities across Australia, accommodating a total of 170,071 residents (Australian Institute of Health and Welfare, 2008). Of those, close to 70 per cent of residents were high care and just over 30 per cent were low care (Productivity Commission, 2008). Not all of these facilities offer 'ageing-in-place' with variations in uptake across states, with facilities in NSW being slower to convert places than were all other states and territories except Western Australia and Victoria (Gibson et al., 2002). The reasons for this difference are unclear, but one possible explanation is that state and local level demographics may vary across the country, resulting in slower uptake of certain types of care options. In a study of retirement migration and ageing in place in NSW, Temple (2004) notes that:

Within the Australian population, heterogeneity in the underlying demography at the regional level necessarily implies differences in the timing and speed of population ageing at the sub-national level. Indeed, commentators have suggested that the policy issues arising due to population ageing will occur more strongly at the sub-national level (Temple, 2004, p.14).

This geographical difference reinforces Lessig's view of the significance of location and environment, or in his terms the 'architecture', as potentially regulating influences.

Structure of the sector

As a result of the political disinclination for the public provision of aged care services discussed previously, residential aged care in Australia has been dominated by charitable and religious providers which have historically accounted for over 60 per cent of facilities (Braithwaite et al., 2007). This remains the case despite the growing interest of the private for-profit sector (de la Rama et al., 2008). Private for-profit providers account for close to 27 per cent of residential aged care facilities, with the remainder of the sector being government owned (Productivity Commission, 2008). Table 3 lists the location of residential aged care services across Australia by organisation type. It shows that in NSW there are relatively few government owned (either local or state) services and that a quarter of services are provided by the private sector, a significantly lower proportion than the next most populous state (Victoria).

Table 3: Residential Aged Care Services by State/Territory and Organisation Type at June 30 2007*

Organisation type	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Australia
Number									
Charitable	198	49	58	42	59	15	7	3	431
Community based	175	135	77	35	50	26	2	4	504
Local government	25	18	10	14	6	2	0	0	75
Private	231	293	109	70	59	8	3	0	773
Religious	268	126	214	90	83	27	11	8	827
State government	17	179	21	3	32	10	0	0	262
Total services	914	800	489	254	289	88	23	15	2,872
Per cent									
Charitable	21.7	6.1	11.9	16.5	20.4	17.0	30.4	20.0	15.0
Community based	19.1	16.9	15.7	13.8	17.3	29.5	8.7	26.7	17.5
Local government	2.7	2.3	2.0	5.5	2.1	2.3	0.0	0.0	2.6
Private	25.3	36.6	22.3	27.6	20.4	9.1	13.0	0.0	26.9
Religious	29.3	15.8	43.8	35.4	28.7	30.7	47.8	53.3	28.8
State government	1.9	22.4	4.3	1.2	11.1	11.4	0.0	0.0	9.1
Total services	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

(a) Refers to the location of the outlet.

*Source: AIHW. (2008). Residential aged care services in Australia 2006-07: A Statistical Overview (Vol. Cat.no. AGE 56). Canberra: Aged Care Statistics Service.

There is evidence that some consolidation is occurring within the sector with a reduction in the number of smaller facilities (those with less than 40 beds) by 19 per cent in the decade since 1998 (AIHW2008). However, Braithwaite et al (2007) note that 'only seven operators in Australia have a market share greater than 1 per cent, so consolidation has a long way to go' (p.23). Table 4 shows the size of residential aged care services by state/territory. It suggests that the sector in NSW may have experienced greater consolidation than the other states as only 5.8 per cent of facilities have 20 or fewer beds. It also shows that average service sizes varied across the states and territories with the Australian Capital Territory (ACT), NSW and Queensland (Qld) averaging the most places per service 71, 63 and 62 respectively (Australian Institute of Health and Welfare, 2008). Other data collected by the Australian Institute of Health and Welfare (2008) revealed a difference in facility size by geographical location. Regional and remote facilities across the country were generally smaller than their metropolitan counterparts. For example, 57 per cent of facilities in major metropolitan areas had 60 or fewer beds compared to 70 per cent of facilities in regional areas and 86 per cent in outer regional locations (AIHW, 2008).

Table 4: Size of Services, by State/Territory, 30 June 2007*

*Number of places	NSW	Vic	Qld	WA	SA	Tas	ACT	NT	Australia
1-20	53	70	37	17	13	15	1	7	213
21-40	217	238	110	71	95	27	1	3	762
41-60	262	271	150	78	93	23	5	5	887
61-80	179	92	86	50	41	10	11	0	469
81-100	90	65	49	20	24	3	1	0	252
101-120	49	33	30	12	8	6	2	0	140
121+	64	31	27	6	15	4	2	0	149
Total	914	800	489	254	289	88	23	15	2,872
Per cent									
1-20	5.8	8.8	7.6	6.7	4.5	17.0	4.3	46.7	7.4
21-40	23.7	29.8	22.5	28.0	32.9	30.7	4.3	20.0	26.5
41-60	28.7	33.9	30.7	30.7	32.2	26.1	21.7	33.3	30.9
61-80	19.6	11.5	17.6	19.7	14.2	11.4	47.8	0.0	16.3
81-100	9.8	8.1	10.0	7.9	8.3	3.4	4.3	0.0	8.8
101-120	5.4	4.1	6.1	4.7	2.8	6.8	8.7	0.0	4.9
121+	7.0	3.9	5.5	2.4	5.2	4.5	8.7	0.0	5.2
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

* Source: AIHW, (2008). Residential aged care services in Australia 2006-07: A Statistical Overview (Vol. Cat.no. AGE 56). Canberra: Aged Care Statistics Service.

This sectoral dispersion is a consequence of the structure of residential aged care funding and government regulation of the supply of beds. That is, inefficient operators are not forced out of the market 'because there has been no other facility for residents to enter' (Hogan, 2008). Ironically it is this protection from the vagaries of a freely operating market that has attracted some large for-profit and private equity firms to invest in the residential aged care facilities. The Hogan Review estimated that an operator required capital between \$74,000 and \$85,000 per place when considering the establishment of a residential care facility and that although the rate of return on the investment was slightly lower than in other industries, this was offset by the reduced risk associated with guaranteed government funding and the growth potential of the market (Hogan, 2004a). The attractiveness of the sector to investors is reflected in the involvement of large investors like Macquarie Bank, who admit that guaranteed levels of government subsidisation 'provide stable underlying revenue streams and predictable cash flows'. When questioned about this in an interview with *Business Review Weekly Magazine*, the CEO of Regis Group, which operates over 3,500 beds, responded:

It is recession proof...Demand is increasing, and it is a great cash-flow business. Every month, the government provides funding, there are no debtors. It is low risk, although you pay a premium to get in' (Walters, 2008).

Regis Group is the second largest for-profit provider of residential aged care in Australia, having merged with the Macquarie Capital Alliance Group's (MCAG), Retirement Care Australia (RCA) in 2007. That the Regis Group remains 46 per cent owned by MCAG is illustrative of the continuing and arguably increasing incidence of private equity investment within the sector (de la Rama et al., 2008; Walters, 2008).

Table 5 lists five of the largest for-profit providers of residential aged care in Australia and their ownership structure:

Table 5: For- Profit Residential Aged Care Providers*

Trading Names	Owners	Company Structure	Number of residential aged care facilities	Aged-care beds owned or managed
Domain Aged Care Group	Principal Healthcare Group – AMP Capital Investors	Private	58	5000
The Regis Group (merged with Retirement Care Australia in 2007)	Macquarie Capital Alliance Group – 46 % Bryan Dorman and Ian Robert -54%	Private	37	3600
Prime Life and Conform Health group	Babcock & Brown Communities Group	Public (Largest listed residential aged care provider)	29	2256
Arcare	Knowles Family and Ian Ball	Private	14	1100
Prime Trust	Prime Retirement And Aged Care Property Trust	Public	7	700

* Sources: (Walters, 2008), <http://www.primetrust.com.au/www/124/1001127/default.asp> accessed 12 December 2008, http://www.primelife.com.au/cpa/htm/htm_home.asp accessed 12 December 2008, <http://www.arcare.com.au/> accessed 12 December 2008, <http://www.bbcommunities.com/> accessed 12 December 2008, <http://www.regis.com.au/> accessed 12 December 2008, http://www.domainagedcare.com.au/component/option,com_frontpage/Itemid,1/ accessed 12 December 2008.

The continued interest of the private sector in the provision of residential aged care has added to the general debate about the appropriateness of the involvement of for-profit organisations in the delivery of care services (Meagher & Cortis, 2009). A key concern is that the provision of care by for-profit organisations necessarily means lower quality of care as those organisations are more concerned about profit-maximisation than care of residents (Braithwaite, 2001; Davis, 1993; Harrington et al., 2001; Kerrison & Pollock, 2001; McGregor et al., 2005). This debate has intensified in the wake of the collapse of ABC Learning, a large for-profit publicly listed Australian childcare provider. With similar levels of federal government

subsidisation as childcare, parallels to the residential aged care sector have been drawn. The not-for-profit peak aged care body has warned that the current funding arrangements (discussed in more detail in proceeding section) increase the likelihood of collapses such as ABC Learning in the residential aged care sector because it estimates that up to 40 per cent of 'residential aged care services are operating in the red' (Australian Ageing Agenda, 2008). Internationally, there has also been growing concern about private equity companies investing in residential aged care (Harrington, 2007). In the United States, the *New York Times* published an article in 2007 which investigated 1,200 nursing homes purchased by large private equity companies since 2000. It used nationally collected data to conclude that:

At facilities owned by private investment firms, residents on average have fared more poorly than occupants of other homes in common problems like depression, loss of mobility and loss of ability to dress and bathe themselves (Duhigg, 2007).

The article also revealed that the complicated corporate structures characteristic of private equity providers made it difficult to enforce accountability for care (Duhigg, 2007). Similar concerns about quality of care and corporate transparency have been raised with regards to private equity involvement in the Australian aged care sector (de la Rama, 2007; de la Rama et al., 2008). Not all researchers agree with this interpretation of the US data (Stevenson & Grabowski, 2008). An alternative view suggests that private equity companies have often purchased small family companies and in so doing might have prompted greater professionalisation of management within the sector as 'larger organisations can afford a professional HR function' (Interview, CEO Aged and Community Services Australia, 2008).

Given the previous discussion about the government's role in 'managing' the market for aged care, it can be argued that in an Australian context, government regulation acts as a homogenising force. This may mean that ownership is not the key determinant of the nature and quality of care. King and Martin (2009) suggest that this regulatory 'coercion' results in the residential aged care sector in Australia demonstrating 'institutional isomorphism', that being: 'a tendency for organisations

in a given field to look very similar irrespective of differences such as those of ownership' (King & Martin, 2009, p.120). The nature of ownership nonetheless merits further examination.

There is certainly one differentiating feature between for-profit and not-for-profit providers, namely the greater presence of not-for-profit providers, particularly community-run facilities in regional and remote areas (AIHW 2008). As King and Martin (2009) have argued, this pattern of location impacts on workforce issues such as recruitment and retention. This will become evident in the case studies detailed in later chapters. This reminds us of the importance of Lessig's framework, notably its recognition of the role of geography as a regulatory force.

According to research conducted by accounting and consultancy firm Grant Thornton (2008), location also impacts on the type of resident a facility attracts, and this in turn directly impacts on the profitability of that facility. Their research suggests that 'more affluent areas with minimal competition will attract low care residents with large bonds, and residents who are more likely to be seeking extra services which attract additional charges (2008). The implications of the funding arrangements and their role in regulating the market for aged care services are explained in more detail below.

The State and the Legal Regulation of Aged Care

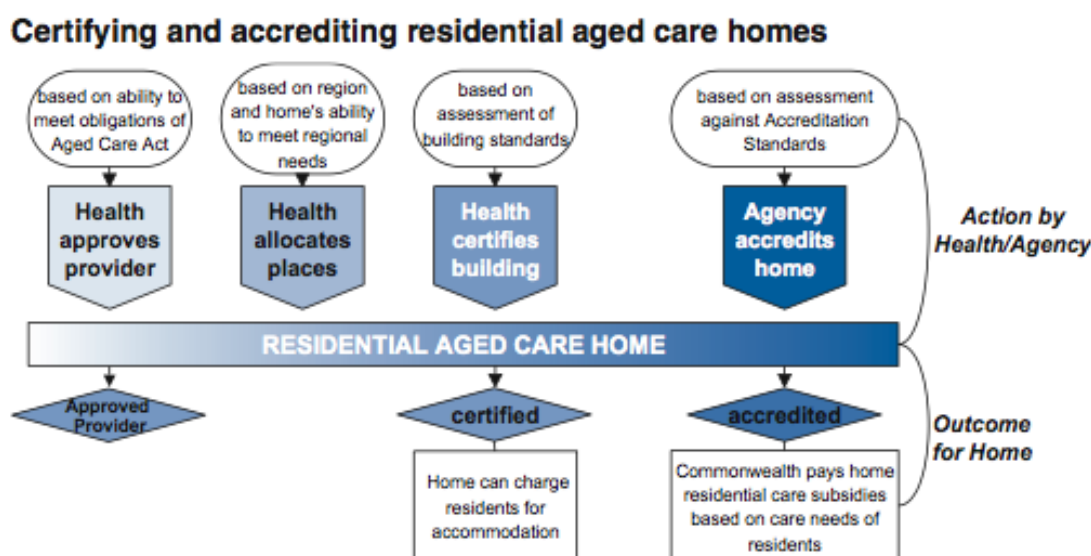
The aged care sector in Australia is highly regulated by the state in recognition of the vulnerability of residents and clients (Hogan, 2004a) and due to the large amount of public money it attracts. Formal state regulation of residential aged care is complex. It extends to quality of care, location and quantity of services provided and price controls stipulating the maximum a provider may charge its clients (Department of Health and Ageing, 2003). These regulations are largely enforced as a consequence of the need for a 'managed market' described above. A key characteristic of this managed market for aged care services in Australia is that the federal government provides the majority of funding for the provision of services within the sector, allowing it to constrain or regulate the actions of non-government (both for-profit and not-for-profit) providers by placing conditions on the granting of subsidies

(Howe, 2006b). In the case of aged care, those conditions are expressed through the *Aged Care Act 1997 (Cth)*.

The *Aged Care Act 1997* (the Act) is the over-arching legislation articulating the goals of the sector (Standing Committee on Community Standing Committee on Community Affairs, 2008), establishing the funding framework and detailing the responsibilities associated with the acceptance of such funding by service providers (Australian National Audit Office, 2003). Specifically, the Act outlines the regulatory mechanisms with which the government controls the allocation of beds, limits service prices and accommodation bond charges, allocates funding and assesses the eligibility of clients to attract subsidies (Productivity Commission, 2008). These mechanisms and their inter-relationships will be explored in more detail below.

Figure 3 illustrates the relationship between the regulations and funding. It shows the regulatory process from the initial approval of a provider by the Department of Health and Ageing, to the annual allocation of beds for which the provider applies, through to building certification and accreditation, all of which contribute to the eligibility for funding. The funding of aged care facilities is distributed through subsidies for each resident which are based on care needs.

Figure 3: Regulatory Process



Source: (Australian National Audit Australian National Audit Office, 2003) in Braithwaite et al 2007: 192

Given the direct link between the level of care required for a resident and the amount of government funding a facility attracts to care for that resident, government validation through Aged Care Assessment Teams (ACAT) occurs to ensure appropriate care levels are being declared and claimed by providers. The federal government also determines the price paid by residents for subsidised services and the cost of accommodation bonds (Productivity Commission, 2008).

The assessment process, when combined with governmental control of the supply of beds within residential aged care services, is often described as 'dual gate-keeping' and is frequently cited by providers as a source of inefficiency (Mundy, 2008; Productivity Commission, 2008). With the expansion of the aged care sector and the increasing involvement of the private sector, these regulatory arrangements have come under increasing scrutiny and criticism, most notably with the government commissioned Hogan Report (2004), *The Review of Pricing Arrangements in Residential Aged Care*, arguing that regulation in aged care was having adverse affects, namely reducing competition between providers and limiting access to the market, restricting consumer choice, discouraging innovation in service delivery and restricting investment. Dissatisfaction with regulation is particularly apparent in relation to the restrictions placed on the level and type of fees which can be levied

on residents (Standing Committee on Finance and Public Administration, 2009). An increasingly common concern being expressed within the residential aged care sector is that the current system of government funding is inadequate to meet the costs of providers (Australian Ageing Agenda, 2008; Hogan, 2007). This is despite the implementation of a new funding mechanism, the Aged Care Funding Instrument (ACFI) in early 2008 – a vital change in the nature of regulation in the period studied in this thesis.

Before considering the impact of ACFI, and in order to understand the rationale for its introduction, it is necessary to review the funding system in place prior to 2008, which consisted primarily of the Resident Classification Scheme (RCS) but was supplemented by Conditional Adjustment Payments (CAP) and Viability Payments (the latter two of which have continued alongside ACFI). The RCS was ‘a funding tool that determine[d] a subsidy according to the level of care required by the resident’ (Department of Health and Ageing, 2007c). Within the RCS there were eight funding levels, each attracting a different subsidy with higher care levels attracting greater amounts of funding. RCS levels for each resident were determined upon admission to a residential care facility and then annually or when care needs changed, with supplementary payments available for specific care needs (Department of Health and Ageing, 2007c).

In addition to the RCS, other funding available through the federal government for residential aged care included CAP and a Viability Supplement. The CAP requires providers to offer staff training opportunities and provide the Department of Health and Ageing with information regarding their workforce and the maintenance of appropriately audited financial reports. There has been some concern about the use of CAP by providers for activities outside the intentions of the scheme, and in late 2008 the CAP became the subject of a ministerial review. Of particular concern to the Australian Nursing Federation is that early government announcements regarding CAP in 2004 indicated that the payments were to assist with reducing the pay differential between aged care and the acute care sector. However, there is no evidence that this has occurred and in fact:

some providers argue it [CAP] is necessary for them to be able to offer 'extra services' such as diversional therapy and daily newspapers to residents (Australian Nursing Federation, 2008b, p.3).

The Viability Supplement is a payment which is intended to assist rural and remote aged care facilities to offset the additional costs of providing services in those locations (Department of Health and Ageing, 2007e). Capital funding is provided through specific Residential Care Grants and similar programs for which aged care providers apply. However, aged care providers generally rely on accommodation bonds, charged when low care residents are admitted, as an ongoing revenue stream for capital works.

The RCS funding arrangements were unpopular with providers who argued that 'the administration, documentation and validation requirements of the RCS place an undue burden on them' and that the RCS was 'not adequate to fund the care needs of particular residents appropriately' (Hogan, 2004a). It was also estimated that the RCS required registered nurses to spend approximately 16 per cent of their work time fulfilling documentation requirements (Productivity Commission, 2008).

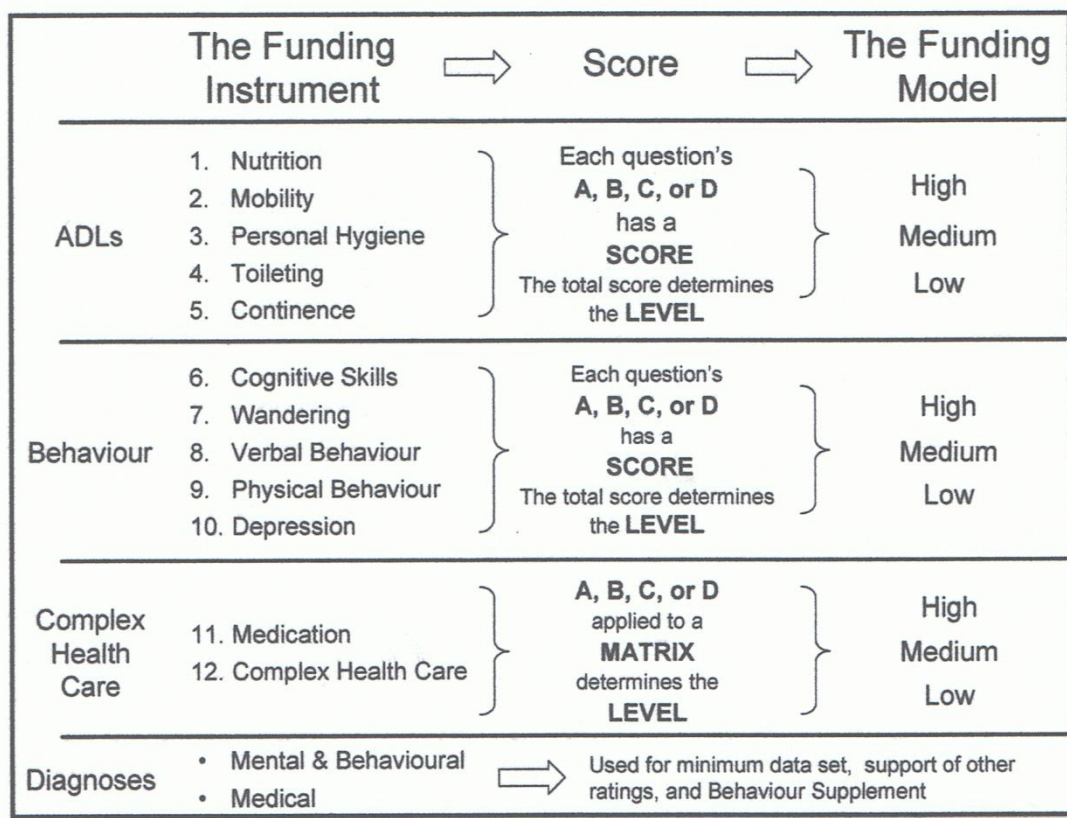
The problems with the RCS, highlighted in the Hogan *Review of Pricing Arrangements in Residential Aged Care (2004)* and the *RCS Review (2003)* prompted the development of the ACFI which replaced the RCS in March 2008 (Department of Health and Ageing, 2008b). According to the Department of Health and Ageing, the ACFI was intended to:

- better match funding to the complex care needs of residents;
- reduce the documentation created by aged care providers to justify funding; and
- achieve higher levels of agreement between aged care staff and departmental review officers in review audits (known as validation (2008c).

The ACFI differs from the RCS in that it has only three funding categories against which residents are assessed, in contrast to the RCS which had eight funding categories. For the ACFI those funding categories or domains are activities of daily living (ADLs), behaviour and complex health care. The ACFI requires answers to only twelve questions, rather than the twenty required by the RCS and it is not based on ongoing documentation nor is it connected to the care plans of residents (2008b). The answers to those twelve questions determine a resident's ACFI 'score' which is used to categorise the care needs of that resident as low, medium or high. Funding is then allocated accordingly (DHA 2008).

Figure 4 below illustrates the connection between the twelve ACFI questions and the three funding domains (2008b).

Figure 4: Relationship between ACFI questions and funding domains



Source: DHA, 'The ACFI and Aged Care Workers', www.health.gov.au.acfi, accessed 12 December 2008.

The change from the RCS to ACFI represented a substantial shift in emphasis in the justification and documentation of the care levels of residents with implications which extend to medium and longer-term investment decisions of aged care providers. In addition to simplifying the documentation requirements and liberating senior clinicians from paperwork obligations, the ACFI was intended to encourage investment in the provision of high care services (Hogan, 2007). Although at the time of writing ACFI had been in operation for less than two years, it appears to have distorted the provision of care in the residential aged care sector in ways that were not anticipated. In particular, concerns have been raised by providers regarding the ongoing availability of low care services for future residents as the ACFI allocations serve as a disincentive for facilities to admit residents with low care needs (Horin, 2008). Central to this criticism is the current system of regulation of bonds and charges which allows providers to request an accommodation bond from low care residents upon admission but not from high care residents who are charged daily fees subject to the results of asset tests (Productivity Commission, 2008).

Peak employer bodies representing not-for-profit and for-profit providers argue that with the ACFI discouraging the admission of low care residents, the amount of revenue accumulated through accommodation bonds, used to finance capital works will decline resulting in an inability of the sector to meet the demands of an ageing population into the future (Mundy & Young, 2008). While these claims are difficult to verify given the short time-frame since the introduction of ACFI, they do echo concerns expressed by large charitable providers such as UnitingCare Australia and Catholic Health Australia both of which have called for reform because:

existing regulation [are] placing a cap on potential funding streams for providers, limiting opportunities for growth at a time of increasing need (Australian Ageing Agenda 2009b).

These views will no doubt be reiterated during the review of the operation of ACFI by the federal government to report in 2010 (Department of Health and Ageing, 2009d).

While concerns about the financial sustainability of residential aged care sector have been raised in the preceding discussion, not every stakeholder in the residential aged care sector agrees that current funding levels are inadequate. A press release by the NSW Nurses' Association (NSWNA) in September 2008 argued that the increase in the sector's pre-tax income, particularly a 25 per cent increase in high care subsidies and an additional 2.9 per cent in overall funding claims, contradict the claims of aged care providers that they cannot afford to align wages with the public sector (New South Wales Nurses' Association, 2008).

This argument over capacity to pay and its connection to funding levels has been a recurring theme in the NSW aged care sector in recent years as illustrated in a 2005 decision of the full bench of the Industrial Relations Commission of NSW ("Nursing Homes &c, Nurses' (State) Award, Re (No4), NSWIRComm 88," 2005). In response to an application by the NSWNA seeking to realign pay rates in the aged care sector with the public hospital system, the full-bench concluded that the evidence tendered in employer arguments about their capacity to pay wage increases was inconclusive. Specifically the Commission said that the employer argument was biased towards small regional providers. The Commission concluded that the employer case did not take into account the experiences of large for-profit providers; that a survey conducted of not-for-profit providers tendered as evidence was methodologically flawed and that 'the purpose of the survey was not to reflect an objective analysis of the industry's capacity to pay...but rather set out to portray a negative picture in that regard', further, 'As for the sector of the industry represented by the capacity to pay evidence, we did not find it wholly convincing' ([2005] NSWIRComm 88). Despite this resounding industrial defeat for the aged care employers, the capacity to pay argument was again a key issue raised by employer advocates in submissions during award modernisation negotiations in 2009 (Aged Care Industry Employer Associations, 2009).

While the economic arguments continue and many providers seek a freer market, pressure to tighten regulation in the sector is being brought to bear by community groups reacting to recent incidents of mistreatment and abuse of residents in aged care facilities (www.agedcarecrisis.com, 2009). In the current climate of community

concern it is unlikely that the relaxation of economic regulation of the sector would be palatable unless matched by an increase in requirements for the provision of quality care. Nationally, the quality of care provided by aged care services, like the quantity and price of services, is regulated through the accreditation process stipulated in the *Aged Care Act 1997*. However accreditation is also subject to regulation through a number of other legislative instruments including:

- Accountability Principles 1998
- Accreditation Grant Principles 1999
- Certification Principles 1997
- Information Principles 1997
- Investigation Principles 2007
- Quality of Care Principles 1997 (including the Accreditation Standards)
- Records Principles 1997
- Sanctions Principles 1997
- User Rights Principles 1997 (Aged Care Standards and Accreditation Aged Care Standards and Accreditation Agency, 2008).

Accreditation is one of the most significant (and some providers argue, most onerous) (Standing Committee on Finance and Public Administration, 2009) formal regulatory processes with which aged care providers must comply. It is the process by which standards of care are assessed by the Aged Care Standards and Accreditation Agency, an independent company owned by the Commonwealth government. During accreditation, assessors from the Aged Care Standards and Accreditation Agency 'review documents, interview staff, residents, relatives and other relevant people' (Australian National Audit Office 2003). Receipt of

government subsidies is dependent on all four Accreditation Standards (as established in the 1997 Quality of Care Principles), and their associated 44 outcomes being met (Department of Health and Ageing, 2007a). The four broad areas covered by the Accreditation Standards are: Management systems, staffing and organizational development, Health and personal care, Resident lifestyle and Physical environment and safe systems (Australian National Audit Office, 2003). Failure to comply with the standards potentially results in the issuing of a notice revoking the approved provider status of the home thereby terminating federal government subsidies or the 'suspension of government funding support on new admissions' (Braithwaite et al., 2007). Accreditation and possible sanctions for non-compliance loom large in the minds of aged care administrators as evidenced in the results of the case studies reported on in chapters 5, 6 and 7.

In addition to federal government regulation relating to the provision of funding and quality of care, the aged care sector is also subject to legal regulation emanating from state and local governments. This regulation covers diverse areas of residential aged care operations and in NSW these include the *NSW Occupational Health & Safety Act 2000*, *NSW Food Act 2003 (and associated regulations)*, *Privacy Act 1988(Cth)* and State and local building codes in addition to the building certification arrangements of the federal government (see Figure 4 above).

While these regulatory forms are not directly associated with the management of labour in residential aged care, they do impact on the decision-making environment for employers in the sector. This was illustrated in 2004 when the Salvation Army sold fifteen aged-care facilities to private for-profit operators in response to \$100 million worth of capital upgrades it would be required to undertake to improve its aged care facilities to comply with changes to the building accreditation within the sector to take effect in 2008 (Eakin, 2004).

Regulation of aged care extends beyond the *Aged Care Act 1997* and the other regulatory instruments outlined above – as important as they are. This thesis argues that it is necessary to consider all aspects of regulation which impact on the management of labour in aged care. Most obviously this web of regulation includes

legal mechanisms such as labour law but also social and geographical factors that exert pressure on the aged care labour market. Before considering labour law, it is necessary to first understand the aged care workforce and this itself requires an appreciation of the 'social norms' and 'architecture' (specifically location) (Lessig 1998) which shape the labour market for aged care.

Section Three: The residential aged care labour market

This section is divided into three parts each of which examine a key characteristic of the aged care labour market. Part one explores the occupational and demographic features of the aged care workforce with particular emphasis on the gendered nature of work in the sector. In addition, it considers labour supply issues experienced by aged care providers. Part two details the industrial instruments which formally regulate the pay and conditions of aged care workers and the parties which influence the determination of these instruments. The final part of this section examines wages in the sector concluding with observations about the satisfaction levels of aged care workers given existing levels of remuneration.

The aged care workforce

The size and composition of the Australian aged care workforce is coming under increasing scrutiny as concerns grow about the ongoing sustainability of the sector given the growth of the aged population (Department of Health and Ageing, 2005b; Productivity Commission, 2008). The scope of this labour supply challenge and the features of the aged care workforce which may exacerbate this are discussed below.

The diversity of services within aged care is reflected in the variety of jobs and work arrangements, and adds to the complexity of research into employment relations in the sector. The workforce in residential aged care is divided into direct care staff and non-direct care staff. The main occupational categories within direct care staff are PCAs, RNs and ENs. The key differences within this direct care workforce are related to qualifications. Registered nurses are university trained and are usually the most senior clinicians permanently and directly engaged by residential aged care

facilities. Enrolled nurses are trained through Technical and Further Education (TAFE) Colleges and complete a Certificate IV in aged care. Personal care workers train through TAFE colleges or other nationally recognised trainers and complete a Certificate III in aged care. Each of these three qualifications has a practical workplace based component. Registered nurses and enrolled nurses are required to register with the Nurses Registration authorities (Productivity Commission 2008). Personal carers are the only unlicensed workers providing direct care to residents and are by far the largest occupational category, accounting for nearly 64 per cent of the direct care workforce (Martin & King, 2008). Non-direct care staff are employed in services such as housekeeping, administration and maintenance.

Data regarding the workforce in aged care was scarce until the National Institute of Labour Studies (NILS) 2004 report commissioned by the Commonwealth Department of Health and Ageing (Richardson & Martin, 2004). It was estimated that the residential aged care sector employed 1.6 per cent of the Australian workforce in 2000, making it the ninth largest employing sector (Department of Health and Ageing, 2005b). The NILS research allowed for the disaggregation of those figures and its survey of all residential care facilities and 6,199 of the direct care workers they employ, provided the first detailed portrait of the workforce (Richardson & Martin, 2004).

The NILS survey found that there were about 156,000 employees in Australian aged care facilities in 2003 with 116,000 being direct care workers (Richardson & Martin, 2004). This latter figure consisted of 25,000 registered nurses, 15,000 enrolled nurses, 67,000 personal carers and 9,000 allied health workers (Richardson & Martin, 2004). The vast majority (94 per cent) of workers in the sector were women and 57 per cent of the workforce was over 45 years of age. These figures have contributed to the construction of the profile of a typical worker in residential aged care as:

female, Australian born, aged about 50, married, in good health, has at least 12 years of schooling and some relevant post school qualifications and works 16-34 hours per week. She is likely to be a Personal Carer, working a regular daytime shift (Richardson & Martin, 2004, p.3).

This profile is indicative of the impact of the societal construction of care on the aged care workforce. Building on a wealth of feminist research, Meagher has argued that because much 'care work is still unpaid, and carried out within family relationships and local communities' (Meagher, 2006, p.36), expectations of paid care are permeated with the 'familial ideals' associated with caring which takes place within the bonds of family relationships. This in turn has resulted in:

the social undervaluation of the skills of care work and to other, less tangible forms of exploitation of care workers. Because their skills are 'naturalized' as feminine attributes typically exercised in the private domain, care workers, the vast majority of whom are female, receive lower pay than their skills and task warrant (Meagher, 2006, p.37).

A follow up NLS study conducted in 2007 (Martin & King, 2008) shows how employment in the residential aged care sector has grown and changed. While the gendered nature of care provision remained constant, the new study revealed that employment in the residential aged care sector was increasing steadily with growth of just under twenty thousand jobs since 2003.

The occupational composition of the care workforce underwent change between 2003 and 2007 with the total number of RNs reduced by around 6 per cent while the total numbers of personal carers employed grew by 26 per cent. This change suggests that the provision of care in residential aged care is also changing. Intuitively the provision of care by lower-skilled workers would suggest a reduction in the quality of clinical care received by residents, particularly given the policy emphasis of successive governments which has seen the aged, having stayed at home longer being admitted to residential facilities with much higher and more complex care needs (see earlier discussion of 'ageing-in-place'). While these developments are relatively recent and little research has been done to test this assumption, it would seem logical that a combination of workers with fewer clinical skills responsible for residents with greater care needs will indeed result in a reduction in the quality of clinical care available in aged care facilities.

The 2003NILS demographic profile is still largely reflective of the aged care sector as a whole, with the only notable difference (shown in Table 6) being that since 2003 the number of residential aged care workers born outside Australia has increased substantially from 25 per cent of the workforce in 2003 to 33 per cent of the workforce in 2007 (Martin & King, 2008).

Table 6: Changes in the Residential Aged Care Workforce Between 2003-2007*

	2003	2007
Total employees	156,823	174,866
Total direct care employees	115,660	133,314
Total Registered Nurses	24,019	22,399
Total Personal Carers	67,143	84,746
Proportion of direct-care workforce born outside Australia	25%	33%

*Source: (Martin & King, 2008)

The 2004 NILS study refuted suggestions of a crisis in the aged care labour market, citing high levels of job satisfaction among staff and little reliance on temporary staff. Three quarters of staff expected they would still be employed in the sector in three years time (Richardson & Martin, 2004). However, the study also showed that turnover is a major issue facing employers, with 25 per cent of personal carers and 20 per cent of nurses having to be replaced annually (Richardson & Martin, 2004).

The staff survey results also revealed only 13 per cent of nurses and 21 per cent of personal carers believed that 'they have enough time to do the job for which they are employed' (Richardson & Martin, 2004, p. 33). According to the 2007 research both turnover and time pressures on care staff have remained relatively constant. However, the results of the 2007 study do not necessarily reveal a causal link between the two. When asked to nominate the most important reason for leaving their previous aged care job, under two per cent of respondents indicated that they had left their last job because they were 'not able to spend sufficient time with residents' (Martin & King, 2008, p.25). The most common reasons given for leaving aged care jobs reveals the impact of 'architecture' (Lessig 1998), namely location of facilities, on the composition of and change in the aged care labour market, with 16.3 per cent of care workers surveyed answering that the most important reason for leaving was that they relocated, moved or migrated and a further 16 per cent left 'to be closer to home' (Martin & King, 2008, p.25). The significance of the proximity of care workers to their workplace will be considered in more detail in the case study chapters.

While the 2004 NILS study found high levels of job satisfaction among aged care workers, this does not in itself ensure a healthy labour market, as evidenced by the turnover figures. Other analyses of the aged care sector have not been so optimistic. The Hogan Report (2004) contained its own analysis of the issues regarding the aged care workforce. In summary, it listed the following areas as of concern: a general shortage of trained staff, the ageing of the aged care workforce, the lack of wage parity with other sectors in the health industry, and recruitment and retention of nursing staff (Hogan, 2004a). This analysis contradicts the findings of the NILS report, discussed above which downplayed labour supply and recruitment and retention issues. The National Aged Care Workforce Strategy (NACWS) 2005 echoed Hogan's concerns and articulated a range of objectives intended to 'bring together supply and demand through impacting on both the structural issues in the sector and those additional factors which affect the personal decisions of potential and current workforce members' (Department of Health and Ageing, 2005b, p.4). With studies showing that wages and working conditions are the chief motivator for the

attraction and retention of nursing staff (Cheek et al., 2003), it is difficult to see how the objectives of the NACWS can be met without addressing wage determination in the sector.

Industrial Instruments and Parties

At the time of writing, significant changes to the national system of wage determination are underway prompted by a change of federal government in 2007. The following discussion considers the impact of these changes on the aged care sector. Before such a consideration is undertaken it is important to contextualise these changes. As remuneration and its impact on retention and attraction of staff in the aged care sector again emerge as a significant issue (see the Productivity Commission 2008), it is necessary to ask: what are the regulatory arrangements through which wages in the sector have been set?

The formal industrial regulation of residential aged care in NSW has traditionally been through the state industrial relations system. This regulation has taken the form of state awards which contain minimum conditions and are known as 'common rule awards', meaning that all employers within an industry are bound to comply, not just those organisations involved in the negotiation of the award.

The first award for nurses specifically employed in aged care in NSW was the *Voluntary Geriatric Association Nursing Home Nurses' (State) Award*, which was gazetted in 1973, followed by the *Nursing Homes (Voluntary Care Association) Nurses' (State) Award* gazetted in 1979. Until the 1980s the main award (applicable to non-nurses) in the NSW residential aged care sector was the *Private Hospital and Nursing Home Employees (State) Award*. In NSW as recently as 1982, there was no separate award for non-professional workers employed in not-for profit residential aged care facilities (by far the largest part of the sector). In that year, the *Retirement Village, Nursing Home and Hostel, Voluntary Care Association Employees (State) Award*, was created. This is illustrative of the relative newness of aged care as a recognised 'industry'. Therefore, while funding changes by the federal government,

through the middle decades of the twentieth century, resulted in rapid growth in the number of nursing homes and the number of beds (Saunders & Fine, 1992), industrial regulation of the sector in NSW lagged. Until the mid 2000s, aside from some minor consolidation, the state award system and, as a consequence industrial regulation within the sector, remained stable and largely award reliant. Table 7 lists the industrial instruments covering employees in residential aged care facilities during the period of this research.

Table 7: NSW Industrial Instruments Aged Care*

Industrial Instruments
Aged Care General Services (State) Award 2006
Private Hospitals Employees (State) Award
Charitable Sector, Aged and Disability Care Services (State) Award 2003
Aged Care General State Award (NAPSA**)
Nursing Homes Nurses State Award (NAPSA)
Charitable Sector, Aged and Disability Care Services State Award (NAPSA).
Australian Fair Pay Commission Standards

*Source: Australian Government Workplace Ombudsman - National Human Services Campaign <http://www.wo.gov.au/asp/index.asp?sid=7407&page=audits-campaigns-results-view&cid=5387&id=1147>, accessed 10 February 2009

** Notional Agreement Preserving a State Award (NAPSA)

The main parties to these awards and agreements representing employees are the HSU, the NSWNA and, representing employers, Aged and Community Services Association of NSW & ACT (ACS) and the Aged Care Association of Australia (ACAA).

The NSWNA represents registered nurses, registered midwives, nurse educators, student nurses, enrolled nurses, trainee enrolled nurses, and assistants in nursing or assistants in midwifery (NSW Industrial Registry, 2009). It has been affiliated to the national body, the Australian Nursing Federation since 1988 and has a membership of 51,000 (New South Wales Nurses' Association, 2007). The HSU represents all non-nurse employees in the health sector including general staff, administrative staff, personal care assistants, all other domestic staff (laundry, kitchen, housekeeping) and allied health professionals including radiologists, pathologists, physiotherapists, audiologists, and those providing dialysis services (NSW Industrial Registry, 2009). It is affiliated to the Health Services Union of Australia with an estimated national membership of 70,000 (Health Services Union, 2006). It is difficult to estimate union density in residential aged care due to the nature of data published by the Australian Bureau of Statistics which includes union membership for residential aged care in the broad category of 'health care and social assistance'. Figures for 2006 show that unionisation in this sector in total was 27.5 per cent, and that women in the sector were slightly more likely to be in a union with 28.5 per cent unionised compared to 23.5 per cent of men (ABS 6310.0, 2006b). Bray and Waring (2008) considered more detailed data for the same period and in the same catalogue (ABS 6310.0) and found that in a sub-category of 'hospitals and nursing homes', union density was 40 per cent. While better targeted, this sub-category still does not give a fully detailed picture of union density in residential aged care because union density in hospitals, particularly public hospitals, is much higher than in other sectors of health (Bray & White, 2003).

An indication of the status of aged care membership within the HSU and the NSWNA are the number of aged care members on their governing bodies. The HSU has a branch council comprised of 27 members of whom two are aged care workers. Above the council the HSU has an executive committee consisting of the president, two vice-presidents, the general secretary and the assistant secretary and five members of the union council. At the time of thesis preparation and submission, none of the executive were from the aged care sector (Personal Correspondence, HSU 2009). The NSWNA has a branch council made up of 21 members and an

executive committee which mirrors that of the HSU. There are two aged care members represented on its council and none on its executive committee. Whilst the data are not conclusive, the low level of representation of aged care members in the state branch structures of both the HSU and the NSWNA suggests that the membership density in those areas is significantly lower than other areas of health. The potential for significant membership gains in the aged care sector has seen the NSWNA and the HSU undertake campaigns in the aged care sector in recent years. In 2003, the NSWNA waged an intensive campaign around its wage case. Through this case the NSWNA sought to vary the Nursing Homes Nurses' (State) Award by increasing rates of pay to a level required to 'catch-up with public hospital wages and provision for the next round of wage rises for public hospitals' (New South Wales Nurses' Association, 2004).

Historically the relationship between the HSU and the NSWNA has been uncomfortable due to differences of opinion over the classification of employees involved in the provision of direct care to patients (Health Services Union, 2005). However in 2007, galvanised by the *Work Choices* legislation, the unions undertook some joint organising activities within the sector and negotiated joint agreements with providers of residential aged care in NSW. The likely trajectory of that relationship, post *Work Choices*, is discussed below.

Aged and Community Services Association of NSW & ACT (ACS) is the employer association which represents not-for-profit, charitable providers of aged care services. It was founded in the mid 1960s (when it was known as the Association of Voluntary Geriatric Agencies (NSW) with initial members being mostly large, church based organisations). It sought to determine an industry position on pay and conditions for workers in the residential aged care sector. Since its inception the organisation has undergone various name-changes with its current name adopted to acknowledge the increasing significance of the community provision of aged care services by its members (ACS 2008). The peak national body to which ACS is affiliated is Aged and Community Services Australia (ACSA). The Aged Care Association Australia (ACAA) draws its membership from for-profit providers. The

ACS and ACAA are the only employer representatives in aged care registered as industrial organisations. Combined, they represent over 90 per cent of aged care providers in NSW and the ACT (ACS 2006). The two organisations developed a close working relationship throughout the *Work Choices* period as evident through their joint submission to the Award Review Taskforce (established in an attempt to reduce the number of awards) (ACS 2006) arguing for an industry award specific to aged care. This close association has continued post-*Work Choices* with aged care employer associations authoring joint submissions during the award modernisation process and jointly criticising the outcome which saw nurses granted an occupational award (considered in more detail in a later section).

In addition to providing opportunities for employer groups to coalesce around industrial issues, the introduction of the *Work Choices* amendments to the *Workplace Relations Act 1996* in 2005 provided opportunities for alternative means of setting wages and conditions. As discussed earlier in this chapter *Work Choices* represented a fundamental recasting of industrial regulation in Australia with the emphasis being placed on creating a unified national system. In effect, this meant that state industrial relations tribunals were undermined and many state awards became Notional Agreements Preserving State Awards (NAPSAs). NAPSA was the name given to state awards which had come into effect before *Work Choices* and applying to organisations which were constitutional corporations. These transitional agreements were to be operational for three years after which time if the employers and employees had not reached agreement on either collective or individual agreements under the new provisions, then parties would be bound by a new 'rationalised' federal award. Rationalised awards were described by the federal government's Award Review Taskforce as being 'simple and up to date minimum safety net[s]' which will cover a 'narrower range of issues' than existing awards (Award Review Taskforce, 2005).

As a consequence of these transitional arrangements, *Work Choices* resulted in other forms of industrial agreement, particularly federally registered enterprise agreements, becoming more common in the residential aged care sector in NSW.

The general paucity of information regarding the spread of Australian Workplace Agreements (AWAs) (Peetz & Preston, 2007) makes it difficult to ascertain the extent of their use in residential aged care in NSW. It is also difficult to determine exactly how many collective agreements were operational in residential aged care prior to *Work Choices* as the Australian Bureau of Statistics data on methods of pay setting combines 'nursing homes', with 'hospitals' (ABS 6306.0, 2008b). However, an examination of the collective agreement database of the federal Workplace Authority reveals that between March and November 2007, 27 union collective agreements covering residential aged care facilities in NSW were registered compared with only two pre-2006 agreements (Workplace Authority, 2008). The 27 agreements have either the NSW branch of the HSU, the NSWNA or both of these unions listed as parties to the agreements. In contrast there were two post-March 2006, non-union collective agreements listed in the Workplace Authority database. One of these was for a dementia-specific facility owned by a religious provider, the other for a facility owned by a large for-profit provider.

A random sample of the union collective agreements suggests that they were based on a template agreement as they appear to be similar in content and structure to each other. That these agreements were so similar and all related to not-for-profit providers also suggests that the employers' association for the not-for-profit sector was, if not supportive, at least not opposed to the union template agreement. This corresponds with interview data collected as part of one of the case studies, in which the Chairman noted that his organisation was considering the adoption of a template collective agreement provided by ACS, which he believed to be consistent with union negotiated arrangements (Interview, Chairman Port View, 2007).

After the election of November 2007, the change in federal government did not lead to the reinstatement of the state-based system of industrial regulation. The new federal Labor government has continued the previous government's pursuit of a 'national' system of industrial regulation. This approach has meant that many state awards will be subsumed by the federal system through the process of award 'modernisation'. However, the Labour government has made other changes to the previous government's industrial legislation, including eliminating AWA's in most

circumstances. Award modernisation has proven to be a contentious process, not only between employers and unions but amongst unions themselves. While the collective agreements (discussed above) negotiated jointly by the NSW HSU and NSWNA suggested that the relationship between the two was harmonious, the award modernization process re-ignited historical differences regarding the role and representation of enrolled nurses and assistants in nursing. The ANF, the federal body to which the NSWNA is affiliated, contended that nurses working in residential aged care should not be employed under an aged care specific award but under an occupational award (Australian Nursing Australian Nursing Federation, 2008a). In a submission to the Australian Industrial Relations Commission (AIRC), the ANF argued that:

There is no feature of the nursing workforce that is currently demarcated on the business of the employer. Educational, clinical, registration and training standards are consistent wherever nurses may be employed. The agreement of the commonwealth and all state and territory governments for national nursing registration in 2010 is characteristic of community and industry views that “a nurse is a nurse is a nurse (Australian Nursing Federation, 2008a, p.4).

The Liquor, Hospitality and Miscellaneous Workers’ Union (LHMU), and the Australian Workers Union (AWU), both of which represent residential aged care workers outside NSW, joined with the HSU in opposition to the ANF proposal on the basis that the award modernization process was meant to ‘establish a single award across an industry’ (Health Services Union, 2008;Liquor Hospitality and Miscellaneous Union, 2008) and that to accept an occupational award for nurses would result in:

Assistants in Nursing and Personal Care Workers [being] covered by separate awards...that would create an unworkable position because:

- a. Those classes of workers are amongst the most numerous in the industry, and in particular, in the aged care sector...

- b. There is no clear distinction between the roles (Health Services Union, 2008, p.2).

The ANF appears to have won the argument, with the AIRC agreeing to an occupational award for nurses the *Nurses' Award 2010* and a general award, the *Aged Care Award 2010*, for all non-nurse employees (Frize, 2009). The impact of this decision in NSW is complicated by the fact that providers which are not defined as 'constitutional corporations' will continue to be covered by the appropriate state award (Australian Nursing Federation, 2009). This may limit the potential for new modernised awards in the aged care sector to close the wages gap between aged care and other areas of health in NSW. This disparity between wage rates in the residential aged care sector and other areas of health has recruitment and retention implications for a sector already experiencing labour supply issues. The influence of these new industrial instruments on the management of labour by aged care providers is examined in the case studies which are considered in following chapters.

Wages

The implications of an ageing population for the aged care workforce have been afforded recent policy attention (Department of Health and Ageing, 2005b; Productivity Commission, 2005, 2008), reflecting concerns that the already tight aged care labour market will worsen with the ageing of the workforce. Significantly, while the federal government's recent National Aged Care Workforce Strategy (NACWS) recognised that 'wage disparity compared with other sectors is a factor for many workers in aged care' (Department of Health and Ageing, 2005b) the state has not initiated any attempts to address that disparity through public funding. In comparison to the acute health sector, pay in the residential aged care sector lags by about 10 per cent on award wages (see Tables 8 and 9 for comparative data).

Table 8: Wages for Non-Nurse Carers in Residential Aged Care compared to Public Hospitals in NSW

Wages for Non-Nurse Carers (Fulltime) in Not-for-profit aged care facilities <i>Charitable Sector, Aged and Disability Care Services (State) Award 2003</i> (Rates effective from 17 October 2007)	\$	Wages for Non-Nurse Carers/Hospital Assistants (Fulltime) in Public Hospitals <i>Health Employees' (State) Award</i> (Rates effective from 1 July 2007)	\$	% difference between wage rates
Care Service Employee Grade 1(Junior):	508.9	Hospital Assistant Grade 1 (Junior):	568.90	10.55
Care Service Employee Grade 1:	594.00	Hospital Assistant Grade 1:	667.80	11.05
Care Service Employee Grade 2:	631.30	Hospital Assistant Grade 2:	683.10	7.58
Care Service Employee Grade 3:	669.10	Hospital Assistant Grade 3:	693.80	3.56
Care Service Employee Grade 4/1:	703.97			
Care Service Employee Grade 4/2:	764.00			
Care Service Employee Grade 5:	815.00 to 1204.1			

**Table 9: Public Hospital and Private Aged Care Comparative Wage Information
NSW***

PUBLIC SECTOR			PRIVATE SECTOR				
The Public Health System Nurses' & Midwives (State) Award contains increase in the rates of pay for nurses as follows: 3.9% 01.07.2008 3.9% 01.07.2009			A Full Bench of the NSW Industrial Relations Commission awarded a 6% increase effective 30 March 2006 in addition to the two interim increases awarded previously of 6% in August 2003 and 5% in August 2004. 6.0% 27.08.2003 5.0% 27.08.2004 6.0% 30.03.2005 6.0% 30.03.2006				
Disparity in Rates							
RN Level 1 highest weekly rate in the level 1 structure	Public sector agreement rates ⁶	Federal system prior to <i>Work Choices</i>		State system prior to <i>Work Choices</i>		Aged care collective agreement rates	% difference between public sector agreement and aged care collective agreement rates
		Aged care employer 'constitutional corporation'	Aged care employer non 'constitutional corporation'	Aged care employer 'constitutional corporation'	Aged care employer non 'constitutional corporation'		
		APCS (shown as weekly rate) ⁷	Transitional award	APCS (shown as weekly rate) ⁸	State industrial relations commission adjustment		
Effective date		Employees covered by state award prior to <i>Work Choices</i>				See footnote ⁹	
01.07.05	1139.60			30.03.06 1088.50	1088.50		4.7
01.07.06	1185.20			30.03.06 1088.50			8.9
01.07.07	1232.60			01.12.06 1110.54			6.7
01.07.08	1280.70			1110.54			11.0
				01.10.07 1115.68			14.8
01.07.09	1330.60			01.10.08 1137.34			10.5
							12.6
							17.0

⁶ Rates for 2005-2008 from the Public Hospital Nurses (State) Award based on NSW IRC binding recommendation. Matter No. IRC 2247 of 2005.

Rates from 2008 from the Public Hospital Nurses (State) Award pending ratification

⁷ APCS (Australian Pay and Classification Scale).

Includes Australian Fair Pay Commission Determination No 1/2006 providing for an increase of \$27.36 per week for weekly rates up to and including \$700 per week and \$22.04 per week for weekly rates above \$700 per week effective 1 December 2006.

AFPC decision 5/2007 provides for a \$10.26 per week increase for weekly rates up to \$700 per week and a \$5.30 per week increase for weekly rates above \$700 per week effective 1 October 2007. AFPC Wage-Setting Decision 2/2008 provides for a \$21.66 per week increase effective 1 October 2008.

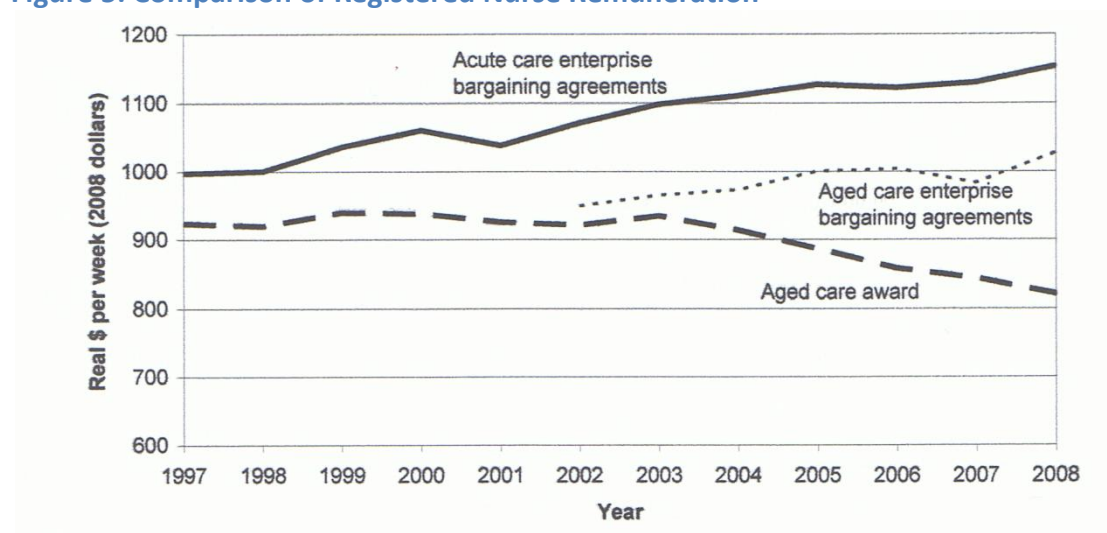
⁸ Rates from the Nursing homes & C., Nurses' (State) Award (NAPSA)

⁹ Rates in the State award (with and without the AFPC adjustment) are the relevant rates at this stage

*Source: Australian Nursing Federation (2009), *Nurses' Paycheck: A comprehensive analysis of nurses' wages*, December 2009 –February 2010, Vol. 9, No.1 , 38

Figure 5 (Productivity Commission 2008, 144), shows that despite the flurry of activity regarding the registration of union enterprise agreements from 2007, the wage differential for registered nurses remains around 10 per cent (table 9 suggests this differential is 17 per cent in NSW), even for those workers in aged care not reliant solely on the award or NAPSA.

Figure 5: Comparison of Registered Nurse Remuneration



*Median national Registered Nurse (Level 1, year 8) wage in January of each year. Reproduced from 'Trends in Aged Care Services', Productivity Commission 2008, p.144

There are two main underpinning awards for non-nursing staff in the NSW Residential aged care sector, the *Aged Care General Services Award* and the *Charitable Sector, Aged and Disability Care Services (State) Award*. The former applies to for-profit providers and the latter to not-for-profit providers. A comparison of these awards reveals that the *Aged Care General Services Award* is inferior to the not-for-profit equivalent. Table 10 compares the pay rates in each

award for equivalent entry-level non-nurse care staff. This slightly underestimates the difference between the two because, at the time of thesis preparation and submission, the *Aged Care General Services Award* had incorporated the 2009 State Wage Case increase of 2.8 per cent, whereas the *Charitable Sector, Aged and Disability Care Services (State) Award* had not.

Table 10: Comparison of wage rates in the *Aged Care General Services Award* and *Charitable Sector, Aged and Disability Care Services (State) Award**

Aged Care General Services Award	Pay Rates	The Charitable, Aged and Community Services Award	Pay Rates
PCA Grade 1(Permanent)	\$15.71/hr	CSE Grade 1 (Permanent)	\$16.26/hr
PCA Grade 1 (Casual)	\$17.28/hr	CSE Grade 1 (Casual)	\$17.89/hr
PCA Grade 2 (Permanent)	\$16.01/hr	CSE Grade 2 (Permanent)	\$17.28/hr
PCA Grade 2 (Casual)	\$17.61/hr	CSE Grade 2 (Casual)	\$19.01/hr

*Comparison of rates effective from the 8/10/08.

The pay differential between aged care and the acute care sector (hospitals), may in part be explained by the lack of union presence among aged care workers the pay differential. Unionisation rates in the acute care sector, are significantly higher (ABS 6310.0, 2006b;Bray & White, 2003) and the pay differential between unionised and non-unionised women in Australia in 2006 is shown in Table 11.

Table 11: Employees in Main Job, Mean weekly earnings for women - by union membership *

Fulltime employees	Mean weekly earnings \$	Part-time employees \$	Mean weekly earnings \$	Total employees \$	Mean weekly earnings \$
Union member	986	Union member	541	Union member	804
Non-member	942	Non-member	392	Non-member	688
<i>Difference</i>	<i>44</i>		<i>149</i>		<i>116</i>

*ABS 6310.0 August 2006 – Employee Earnings, Benefits and Trade Union Membership

Another indicator of the lack of union regulation of wages and conditions within the aged care sector are the results of an audit by the Workplace Ombudsman of compliance with industrial agreements in the aged care sector, undertaken in September 2008. The audit found that 21 per cent of employers audited in NSW breached their industrial agreements. The breaches most commonly related to:

The casual conversion clause..., introduction letters for employees not correctly defin[ing] the full name of the NAPSA, failure to include the 10% loading when applying the shift penalty for casual employees, non payment of overtime rates, some AWAs not clearly indicat[ing] the agreement commencement date including the nominal expiry date and employers us[ing] their own codes to define the corresponding award classification titles (Workplace Ombudsman, 2008).

While low union density at the workplace level may have contributed to lower wages and the prevalence of breaches like those mentioned above, part of the explanation may also be attributed to the gendered nature of caring work. In aged care the majority of workers providing direct-care are unskilled women carrying out the kind of work that has been, until recently carried out in the private sphere of the family

home and as a consequence not accorded economic value (see discussion in chapter 2). This suggests that the gendered nature of care giving may itself act as a regulating force in employment relations in aged care. This will be explored in more detail in the chapters 5, 6 and 7.

This undervaluation of work is keenly felt by those working in aged care and by those considering entering the aged care workforce (Price et al, 2004). In a survey of 1,042 aged care employees conducted in 2008 by ACSA, when asked what they disliked about working in the aged care industry, two-thirds of respondents answered, 'the rates of pay', with respondents frequently describing themselves as 'over-worked, under-paid and under-valued' and the industry as 'under resourced, under funded and over regulated' (McGregor Tan Research, 2008, p. 6). Despite this, overall job satisfaction was high with over 70 per cent of respondents indicating that they were either quite satisfied or very satisfied (p33). This counterintuitive finding reflects the results of the NILS studies discussed earlier. The 'money versus care' tension, evident through the results of the ACSA survey, and the perception of the industry as under funded and over regulated are explored in more depth in the case study chapters.

Section Four: Conclusion

This chapter has examined the nature of the Australian residential aged care sector. It has done so through positioning aged care within the broader health sector, detailing the structure and features of the 'managed' market for aged care and the significance of the *Aged Care Act 1997* as a formal regulator of this market. The chapter also investigated the characteristics of the aged care workforce, with particular emphasis on the changing demographics of the workforce and the regulatory influence of societal expectations of care giving on that demographic. Finally, labour regulation in the aged care sector was considered. Industrial instruments, parties which influenced wages and conditions and the implications of low levels of unionisation on wage levels, were each explored.

The discussion revealed that providers of residential aged care operate in a congested regulatory environment in which formal regulation through the *Aged Care*

Act and labour law exert pressure on labour-management decisions, but that these regulators are supplemented by informal and indirect constraints such as geography and societal customs and expectations of care provision. The specific impacts of these constraints are explored more thoroughly through the case studies which are the subject of the next three chapters.

Chapter 5

Port View Retirement Village

Introduction

This chapter investigates the management of labour at Port View Retirement Village (Port View) from the beginning of 2005 until October 2008. In particular, it describes and explains how the management of labour was shaped by regulatory changes within the residential aged care sector, changes to labour law and organisational changes at Port View.

During these years, Port View's management and staff had to contend with a range of internal and external changes that impacted on nearly every facet of the organisation. To a large degree, the regulatory change with which Port View had to contend was external, in that it was imposed by changes to the legislative and funding framework determined by the state. The most significant of these changes was the implementation of the ACFI, which dramatically altered the funding criteria for individual residents, and, to a lesser extent, the enactment of *Work Choices* which initiated historic changes to labour legislation. Internally, change came in the form of corporate governance with a new Chairman and Board members, new senior management appointments and an organisational restructure.

This chapter develops the argument from chapter 2 that Lessig's regulatory framework is helpful in understanding labour-management in the aged care sector in general and in specific organisations. In this view, regulation is best conceived as four constraints upon behaviour which operating together, determine behaviour. To recap, those four constraints are the law, the market, societal norms and the natural or built environment (Lessig, 1998, p. 662). This framework begins to provide an explanation as to why, although *Work Choices* caused the re-evaluation of existing procedures for wage setting at Port View, it did not result in a change to the existing award-based practices. There were changes to labour-management but these were

not driven by changes to labour law. Other regulatory forces were more significant in determining employment relations practices at Port View than industrial legislation.

This chapter is divided into seven sections. The first section examines the particular organisational context of Port View, including its history, location, and organisational structure. Section two provides an analysis of the workforce and the local labour market, highlighting the predominance of women in care-giving roles, and the significance of Port View's regional location. The next two sections, examine the impact of legal regulation on the management of labour at Port View. Section three focuses on labour law and section four explores the *Aged Care Act 1997* and its role in shaping labour-management decisions. Section five considers the impact of regulatory change at Port View since 2006. It describes the employment relations environment at Port View in 2006 prior to the changes taking effect; the organisational change which in turn supported cultural change; and the impact of broader regulatory change in the residential aged care sector on Port View. In particular, it examines the significance of the ACFI to the care workforce and the level of care provided by them. Section six considers how the internal and external changes were interrelated; that is, how some of the external regulatory changes impacted on the decisions of local managers prompting them to pursue organisational change. Section seven presents the conclusions to the chapter.

Section One: Organisational Context

Location and History

Port View Retirement Village is located on the mid-north coast of NSW. The local government area in which it is situated covers around 1000 square kilometres largely bounded by coastline and rivers and has a population of just over 60,000, of whom 30 per cent are 55 years or older (6 per cent higher than the national average (ABS 2006a). The population of the area is mostly Australian born; in fact the percentage of people born overseas is more than 10 per cent below the national average (ABS 2006a).

At the time of writing, approximately two thirds of residents in Port View's various facilities were categorised as being members of the Australian defence force veteran community, meaning they were veterans themselves or were the dependents and carers of veterans. The defence forces have had a significant presence in this region since the Second World War and continue to be a major employer. The significance of the armed services to the local community was evident in the development of Port View. The Port View Retirement Village residential aged care facilities were born out of a need identified by the local Retired Servicemen's League (RSL) Memorial Club 'Meals on Wheels' volunteers in the mid-1980s. Those volunteers were finding an increasing proportion of their clients, including a large number of war veterans, struggling with the 'many domestic tasks associated with normal urban living' (Author withheld, 2007). The clients were relying on a range of charitable services including meals on wheels, rental assistance and social and community services, while living in sub-standard accommodation. Working with a committee from the local community, the RSL Memorial Club decided to co-ordinate the building and development of a hostel for needy aged residents of the area. This necessitated the building of a number of self-care villas as the sale of those would partially fund the establishment of the hostel and nursing home. Additional financial support was sought and received from the RSL, the local council, the federal government and a land grant from the NSW government (Author withheld, 2007). The result was a community based, not-for profit retirement village with facilities for residents to move between independent living, hostel and nursing home care depending on their changing needs.

Since its establishment, Port View has been a community-run organisation providing residential aged care services ranging from independent living accommodation through to hostel, nursing home and dementia care. Port View grew to be dispersed across two sites. At the time of writing, a third site was under construction in a neighbouring town which was to consist of 100 self-care units and, as with the other self-care villas within the organisation, would continue to provide the majority of the future residents of the hostels and nursing home. The two established sites (hereafter referred to as Site 1 and Site 2) of Port View Retirement Village are

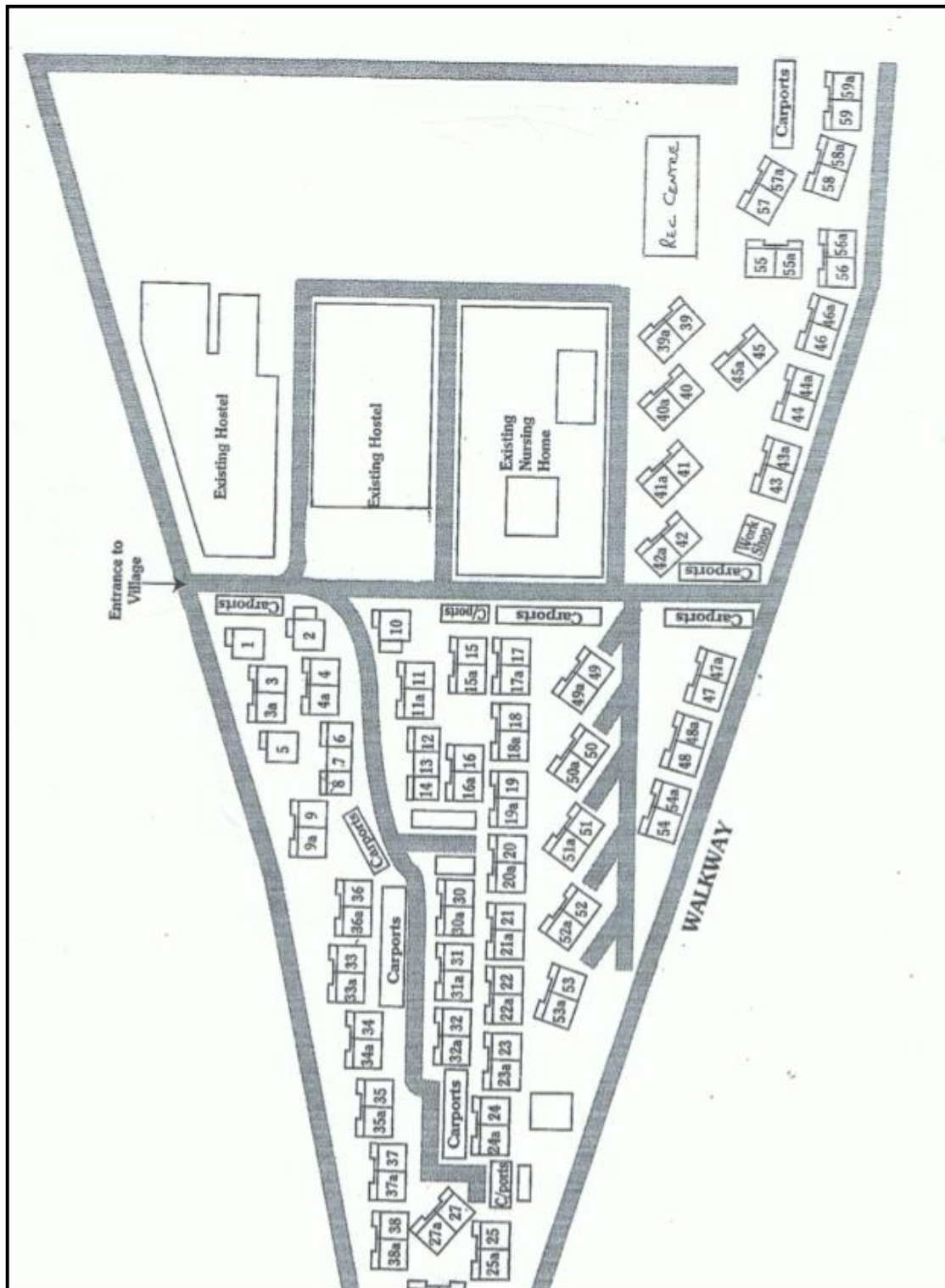
situated in two separate but adjoining coastal towns. The facilities on Site 1 were developed first and include self-care villas, two hostels and a nursing home accommodating a total of 800 residents. Site 2 was opened in 2001 as an ageing-in-place facility amidst another 103 self-care villas. 'Ageing-in-Place', as discussed in chapter 4, was a policy initiative of the federal government initiated in the late 1990s implemented through the commonwealth *Aged Care Act 1997* which allowed for low care residents to remain in hostels as their care needs intensified rather than being moved into a nursing home specifically catering for high-needs residents. The intention of the ageing in place provisions was to minimise disruption to residents as their care needs changed over time (Gibson et al., 2002). In the case of Port View, the ageing-in-place provisions have resulted in significant differences between Site 1 and Site 2 both as residential care facilities and workplaces. Figure 6 provides a map of Site 1 shows that Site 1 is clearly dominated by the two hostels and nursing home. This contrasts with the Site 2 in which the smaller ageing-in-place facility is situated more discreetly among self-care villas.

Site 1 was the first to be acquired and developed and consequently houses the administration and management of Port View, including the offices of the CEO, Chairman and HR Manager in the hostel buildings. In total Site 1 consists of 154 self-care villas, a recreation centre, a 38 bed hostel, a 51 bed hostel and a 68 bed nursing home. Despite containing the largest number of residents, the self-care villas of Port View require the least amount of administrative and physical support from the organisation and as such are not specifically considered in this research. The limited organisational support is largely due to the relative independence of the residents and consequently the limited reliance on care staff. Most commonly the contact between staff and residents of the villas is for maintenance purposes, for transport assistance or at times when the health of the resident may require that they spend some time in respite care in the one of the co-located hostels. It should be noted that Port View does not receive any government funding for self-care residents. Rather, when residents enter a villa they sign a loan agreement with Port View. The agreement includes an ingoing contribution made up of two parts, a refundable interest free loan to Port View and a non-refundable deposit.

Combined, the hostels have the capacity to house 89 residents. They are medium to low care facilities meaning that residents require less hands-on nursing care than those in the nursing home and that each resident attracts less funding than those classified as high care. There are 23 care staff, overseen by a Hostel Care Co-ordinator. The care staff consists exclusively of PCAs. PCAs need to request the assistance of ENs or RNs from the nursing home should they need clinical advice or assistance.

The nursing home is a high care facility accommodating 68 residents. High care facilities cater for residents whose care needs require more constant clinical supervision than is provided in low care facilities and consequently attract more government funding. During the day there are twelve care staff, five domestic staff and two activity officers. The majority of care staff are assistants in nursing (AINs) or PCAs although there are 3 ENs shared across various shifts. The nursing home is divided into two sections overseen by two RNs except during the 10-hour night shift during which one RN is responsible for all 68 residents. Due to its age, size and being the home of the organisation's administrative and management functions, Site 1 is indisputably the hub of Port View's activities.

Figure 6: Port View Retirement Village - Map Site 1



Site 2 consists of 103 self-care villas and a 47 bed aged care facility. Like Site 1, the independent living section is relatively autonomous as a consequence of the independence of the residents (defined as those residents who do not require assistance with activities associated with daily living). The Site 2 ageing-in-place facility was opened in 2001 and its 47 staff care for both high and low care residents. This combination of varying care levels in the one facility is a consequence of the conditions associated with ageing-in-place funding from the federal government, with which the facility was built. This funding was provided on the basis that the facility was constructed to enable low care residents to transition to high care but remain within the one facility.

The combination of the physical separation of Sites 1 and 2, the difference in the number and care needs of residents, and the location of management at Site 1, has resulted in an organisational distance between the two sites. Staff at Site 2 feel particularly connected to their facility rather than Port View as an organisation (Interview CSE Site 2, 2008). This had implications for labour-management, with turnover among management staff at Site 2 being higher and more conflictual in nature (Interview, Clinical Care Consultant, 2008). Organisational culture will be dealt with in greater detail in section five of this chapter. Before doing so, it is necessary to examine the organisational structure of Port View in greater depth.

Organisational Structure

Incorporated in 1981, the stated objectives of Port View Retirement Village included the following:

To establish, conduct and carry on suitable homes, hostels and other residential accommodation for persons irrespective of creed, call or colour who are aged as defined in the Aged or Disabled Persons homes Act, or who are elderly persons or who are physically or mentally disabled.

To establish, conduct and carry on lands, building and facilities of every kind providing physical and mental recreation for persons irrespective of creed,

class or colour, who are aged, or who are elderly or who are physically or mentally disabled.

To provide medical, surgical, pharmaceutical, hospital and nursing services and facilities of every kind.

To establish, conduct and carry on aforesaid homes, hostels, night shelters and other refuges for the poor, infirm or needy and to generally promote the welfare of the poor, infirm or needy and the relief of distress and sickness by social, financial and spiritual agencies(Author withheld, 2007).

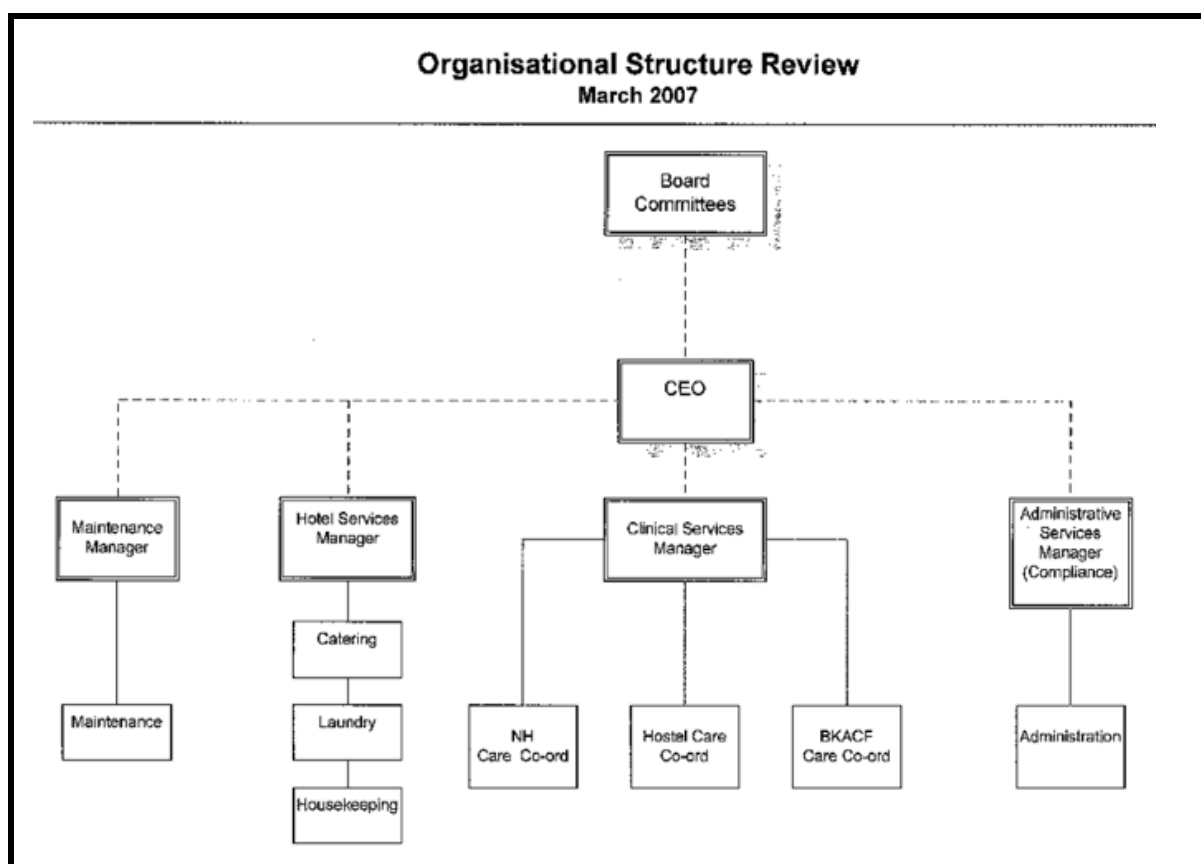
Port View is a limited company which has 93 members, drawn from the local community, who pay a token membership fee and participate in the organisation through the Annual General Meeting and through voluntary service. Members of the company are prohibited from receiving any financial benefit from their membership and are excluded from company contracts, tenders and employment. In accordance with these restrictions the twelve directors of the company board are all volunteers elected by the membership, as is the Chairman and company Secretary who are themselves elected by the directors. In the *Annual Report* for 2005-2006, the occupations of board members were listed as: retired magistrate, plumber, retired real estate business person, retired industrial union representative, retired businesswoman, builder, retired senior school assistant, businessman, retiree, finance manager, retired teacher and retired painter and decorator (PortView Retirement Village Aged Care Ltd*, 2006). The Chief Executive Officer (CEO) is appointed by, and reports to, the board of directors, and is responsible for the management of all of the services provided across Port View's three sites. The members of the board, resident representatives and the CEO comprise the committee of management which meets monthly (Author withheld, 2007).

Until 2007, the structure under CEO level was organised around each facility. This effectively resulted in managers of Site1's two hostels and nursing home and Site 2's ageing-in-place facility each being responsible for their own staffing and rostering for all direct care staff, those being RNs, ENs, AINs and PCAs, as well as care service

employees (CSEs) performing cleaning, catering and laundry duties (Interview, Care Coordinator – Hostels, 2007).

Prior to the election of a new Chairman in 2007, the board of directors had adopted an interventionist approach. Despite controlling the appointment of the CEO and senior management, the directors and the Chairman frequently became involved in day-to-day operational matters (Interview, Administration Manager). This changed in 2007 when the new Chairman initiated an organisational restructure which coincided with his attempts to 'expedite the process of the devolution of operational duties from the Board to Management' (Port View Retirement Village Aged Care Ltd*, 2008 p.7). The restructure was an attempt to create clearer lines of responsibility and accountability and discrete departments operating across the whole organisation (Correspondence, Administration Manager, 2007). These departments were Administration, Clinical Care, Hotel Services (catering /cleaning) and Maintenance. Each department has a Manager who is answerable to the CEO. The restructure was essentially an attempt to achieve economies of scale by eliminating the duplication of some management functions and services across all of Port View's facilities. Prior to the restructure the Hostels and Nursing Home, each had its own team responsible for all of these functions. Figure 7 illustrates the structure of Port View following the restructure.

Figure 7: Organisational Structure of Port View



An additional motivation for the restructure was the increasingly complex environment within which residential aged care providers were operating. According to two management interviewees, the restructure reflected the pressure on providers in the sector to professionalise the management and administration of residential aged care facilities (Interviews, Administration Manager and Health Services Manager, 2007). This pressure was the result of a combination of changes within the wider aged care sector. Firstly, as discussed in chapters 2 and 4, the increasing marketisation of aged care through the greater involvement of for-profit providers exposed not-for-profit, community and charitable providers in the sector to greater competition with organisations such as private equity firms like Macquarie Bank and the AMP- owned Principal Care (de la Rama, 2006). This resulted in greater competition for the limited quantum of funding within the sector, and is illustrative of the impact of the market as a regulator of the broad characteristics of the sector and also in this case, a force shaping management behaviour and prompting

organisational change (Lessig, 1998). Secondly, the extensive administration and monitoring required to ensure compliance with accreditation standards and funding protocols has also been an important contributor to this professionalisation. This was highlighted by the Health Services Manager who was initially engaged as a consultant by Port View during the previous accreditation process in 2005 to ensure that the nursing home was compliant with the 44 accreditation outcomes (Interview, Health Services Manager, 2007). Ongoing concerns about ensuring compliance with the accreditation standards in the wake of the organisational restructure prompted the board to offer the consultant the position of Health Services Manager. This reflects an increasingly common trend across residential aged care to engage consultants to monitor and measure practice and performance against accreditation criteria (Braithwaite et al., 2007).

Section Two: Port View and the aged care labour market

Just as at an organisational level the history of Port View's development continues to influence the type of services it offers and to some degree its structure, the composition of the workforce and local labour market conditions influence the nature and conduct of Port View's employment relations.

Many characteristics of the workforce at Port View reflect the features of the aged care sector, including the predominance of women in part-time and casual jobs and the ageing demographic of the workforce, particularly those in caring roles. Table 12 provides the profile of the total Port View workforce. It shows that in 2006 the combined number of employees at all of the Port View facilities was 205. Of these, 33 were fulltime, 121 were part-time and 51 were casual. There were 22 RNs, of whom three were fulltime, 10 were part-time and nine were employed on a casual basis. In contrast all six of the ENs were permanent part-time employees. All of the RNs and ENs were women as were all ten of the administration staff.

There were 79 non-nurse care staff, that is, PCAs and AINs, by far the largest occupational category employed by Port View. This figure reflects the national aged care workforce in which PCAs are the largest occupational category (Martin & King, 2008). Over 88 per cent of these were women which is perhaps unsurprising given

that the aged care sector, like the care sector more broadly, displays a high degree of gender segmentation with women predominating in positions associated with the provision of care (Richardson & Martin, 2004). Those employees with nursing qualifications (RNs and ENs) work in the nursing home, while the caring staff in the hostels are AINs and PCAs. There are no RNs employed in the hostels where routine clinical tasks are undertaken by Certificate III trained carers (see chapter 4) who can request assistance from the RNs in the nursing home during the day and during the night rely on telephone access to RNs and contact with the local hospital for advice (Interview, Hostel Care Co-ordinator, 2007).

The second largest occupational category was that of Care Service Employees (previously known as domestic staff). There were 49 CSEs of whom over 90 per cent were women. CSEs performed cleaning, housekeeping and laundry duties but these duties did not extend to the kitchen as there were 16 staff employed specifically in the kitchen and servery, of which 75 per cent were women, two fulltime, ten part-time and four casual. There were five employees classified as leisure or lifestyle staff. They had responsibility for the organisation and co-ordination of activities for the residents. Within this category there were two women and three men. There was one part-time female physiotherapist, making this the smallest occupational category within the organisation. Of the management staff, four of the seven were women, including the CEO. The only occupational category in which men predominated was maintenance, with all ten positions being filled by men.

Table 12 shows that the majority of caring staff were employed on a permanent part-time basis. While the Chairman indicated that he felt this suited many of the staff, a contrary explanation was offered by a Care Co-ordinator who said that 'most staff would like more work, more hours' but working 'just short of full-time hours... prevent[s] RDOs' (Interview, Care Co-ordinator, 2007). This difference of opinion about staff preferences is noteworthy because while the Care Coordinator was responsible for rostering, the Chairman was more involved in higher level planning and decision-making, particularly with regard to the determination of wages and conditions (Interview, Chairman, 2007).

In common with the wider aged care sector, the age of the nursing staff was a potential problem. The Chairman of Port View's Board commented that:

We need younger people, there's no doubt about it. The age is probably, I'd say, within the industry standards, more over 40s or 50s. Probably some of our really experienced nurses are probably retirement age. They're getting on (Interview, Chairman of the Board, 2007).

While the demographics of the Port View Workforce largely mirror sectoral norms, there are also peculiarities of the local labour market that impact on the composition of Port View's workforce and on labour management. Sites 1 and 2 and the third site under construction are located in a coastal area, three hours drive from Sydney. Thus the local labour market is more regional than metropolitan. The most significant regional industries in terms of employment are: defence forces, cafes, restaurants and takeaway food services, school education, retail and accommodation services (ABS2006a). The unemployment rate is two per cent higher than the national average and the median weekly household income is \$197 less than the national average.

Occupation	Full Time Female	Full Time Male	Full Time Female %	Part Time Female	Part Time Male	Part Time Female %	Casual Female	Casual Male	Casual Female %	Total No. Female	Total No. Male	Total Male & Female	Total % Female
Registered Nurses	3	0	100.00	10	0	100.00	9	0	100.00	22	0	22	100.00
Enrolled Nurses	0	0	0.00	6	0	100.00	0	0	0.00	6	0	6	100.00
Personal Care Assistants/Assistants In Nursing	3	0	100.00	44	8	84.62	23	1	95.83	70	9	79	88.61
Leisure/Lifestyle Officers	1	1	100.00	2	1	66.67	0	0	0.00	3	2	5	60.00
Maintenance	0	9	0.00	0	1	0.00	0	0	0.00	0	10	10	0.00
Administration	6	0	100.00	3	0	100.00	1	0	0.00	10	0	10	100.00
Management	2	2	50.00	2	1	0.00	0	0	0.00	4	3	7	57.14
Kitchen	1	1	50.00	8	2	80.00	3	1	75.00	12	4	16	75.00
Care Service Employees (DOMESTIC)	4	0	100.00	30	2	93.75	12	1	92.31	46	3	49	93.88
Physiotherapist	0	0	0.00	1	0	100.00	0	0	0.00	1	0	1	100.00
TOTAL	20	13	60.61	106	15	87.60	48	3	94.12	174	31	205	84.88

Table 12: Port View Workplace Profile March 2006

These geographical characteristics have implications for the local labour market (Ellem & Shields, 1999; Paulet, 2008). The combination of higher unemployment, limited occupational choice and lower household income may contribute to employment in residential aged care being more attractive in the regional than in a metropolitan context. Despite this, the human resource manager noted that Port View's location and small population meant that the organisation was only able to access a shallow pool of potential labour. However she also acknowledged that the aged care course offered by the local community college provided 'a lot of staff' and that the practical component of the training which they often undertook as work experience at Port View 'gives them a chance to see how we work and if they like it, and it gives us a chance to see how they are' (Interview, HR Manager, 2007).

Port View's regional location impacts on the mobility of staff, limiting access to other, better paying sectors of health such as acute care, as there is only one small (14 bed) public hospital within the area. Wages in residential aged care for non-nurse carers are comparable with wages in the retail and hospitality sectors and as retail and hospitality services are significant employers in the region and these sectors potentially provide alternative sources of employment for the Port View workforce. While this pay comparison has obvious implications for attracting and retaining staff, it also has implications for management in terms of the motivation and reward of staff who choose to remain in aged care despite its relatively low pay. Nonetheless, in the case of Port View, the mobility (or perceived mobility) of staff between jobs appears to be mitigated by geographically specific features of the local labour market (Peck, 1996), such as an unemployment rate higher than the national average combined with household income significantly less than the national average.

In other words, and put more broadly, the architecture associated with Port View, most significantly its regional location, exerts conflicting regulatory pressures. On the one hand, it limits the dimensions of the potential labour force from which Port View can draw its staff, but, on the other hand, it may assist in the retention of staff due to limited employment alternatives.

While Port View(employing over 200 people), is a medium to large employer in the geographical area, the Chairman indicated that, in addition to its size, Port View is significant because it offers types of employment which may be attractive to those attempting to balance family or other caring responsibilities with paid work:

it's really the only type of job that is available to a lot of the people and particularly the nature of casual [work] – people can work for four hours or eight hours, or three days a week. That suits a lot of them (Interview, Chairman of the Board, 2007).

Chapters 1 and 4 considered the looming 'crisis' in the provision of aged care services resulting from a combination of an ageing population, difficulties in attracting and retaining aged care staff, particularly RNs and the ageing demographic of the existing aged care workforce (Department of Health and Ageing, 2002, 2005a;Richardson & Martin, 2004). These demographic issues resonate in the Port View case as highlighted above. However, being regionally situated means that alternative employment options for Port View's current and potential workers are more limited than would be the case for aged care workers in a metropolitan location. This shields Port View from the intensity of labour supply shortages experienced by aged care providers in other geographical areas. The impact of location on Port View reinforces the importance of Lessig's (1998) framework in which the natural and built environment - the 'architecture' – form one of four key constraints on behaviour.

This contrasts with Port View's difficulties in obtaining and extending the services of Medical Doctors, which according to the Health Services Manager, were exacerbated by the regional location of the facilities. He outlined the difficulties associated with getting local doctors to accept new residents onto 'their books' (Interview, Health Services Manager, 2007). Nursing staff also emphasised the seriousness of the situation, with an RN commenting:

The local GPs are so overloaded. We're bringing people in from other areas that none of us have a clue about... trying to beg a doctor to help us...They

have said no a couple of times and we've begged, and we've then had to hand it back to families to ring around and see if they can get a doctor...Because they're all just saying we can't fit in any more (Interview, RN, 2007).

The lack of General Practitioners (GPs) in regional areas has significant implications for staff involved in the delivery of aged care in non-metropolitan residential facilities. It means that by necessity clinical decision-making is undertaken by nursing staff. This unmet demand for GP services is reflected across all areas of health in regional NSW and is fuelling national debate about the potential for specialised Nurse Practitioners to provide a range of services traditionally the domain of GP's (Dias, 2008;Roxon, 2008).

At Port View, the regulatory pressures exerted by social norms and architecture assist in understanding the management of labour, specifically workforce planning. Both the composition of Port View's workforce and the local labour market conditions described above demonstrate the usefulness of Lessig's regulatory framework that specifically recognises social norms and architecture¹⁰ as well as the market and the law as the four main regulatory pressures on an organisation (Lessig, 1998). The predominance of women in the provision of care at Port View is consistent with societal norms about the provision of care, both paid and unpaid by women (Folbre, 2008;Lee-Adams & Geller, 2006). In other words, societal norms about the gendered provision of care impose a behavioural constraint on the aged care labour market. This also echoes Boyer's assertions that power relations and social organisation impact on the operation of markets (Boyer, 1990), in this case the market for labour in aged care.

While architecture and social norms remained significant but constant throughout the duration of the research, as did the market for residential aged care in the local area, legal regulation in the form of labour law and funding mechanisms did not. The implications of this form of regulatory change for Port View's workforce and

¹⁰ 'features of the world whether made, or found [which] restrict and enable in a way that directs or affects behaviour' (Lessig 1998: 662)

management are the focus of section two. However, before considering the impact of such change it is necessary to contextualise the role of labour law and non-labour regulation including funding mechanisms, by examining their function in Port View's operations.

Section Three: Labour law and industrial instruments

Port View's historical reliance on centralised industrial instruments is representative of common practice within the aged care sector. For the last twenty-five years, employees of Port View have been engaged under the relevant NSW State Awards, the most recent manifestation of this for non-nurse staff being the *Charitable, Aged and Disabilities Care Services State Award* and for nursing staff the *Nursing Homes &c. Nurses (State) Award 2006* (see chapter 4 for details of award coverage and history). However, with the inception of *Work Choices* (the 2005 amendment to the federal *Workplace Relations Act 1996*), management began to consider initiating bargaining for a collective agreement based on a template agreement developed by their employer association, ACS.¹¹

As discussed in chapter 4, the main unions with coverage of residential aged care in NSW are the NSWNA and the HSU. The NSWNA represents RNs, ENs and AINs with the HSU representing PCAs, CSEs and all other domestic staff (laundry, kitchen, housekeeping).

There was evidence that both unions have had some limited contact with workers in the various facilities at Port View:

¹¹ ACS is the employer association which represents not-for-profit, charitable providers of aged care services (see chapter 4). Port View's administration manager noted that the ACS services Port View most used were 'information for education' and to keep abreast of developments in similar facilities for 'benchmarking' of clinical and organisational practices (Interview, Administration Manager, 2007).

We used to have a union member [sic] that came to talk there at one stage, but since what's his name, Howard, brought in these IR laws and all that sort of stuff, we don't – they send us messages about direct debiting, you know, the union and that sort of thing, but I haven't yet because it's still taken out of our wages, so I'm happy with that. But, yeah, not for a while, no. At least a couple of years, yeah, we haven't had a union delegate here...an RN in the nursing home, she's now the delegate for the union (Interview, PCA, 2007).

However, union activity has not been a characteristic of employment relations within the organisation. Management was aware that within the organisation there were 'small pockets' of unionisation but that this did not have much impact on day-to-day operations (Interview, Administration Manager, 2007). This is consistent with the broader sector in NSW in which union activity is not the norm (discussed in more detail in chapter 4). Therefore at Port View and throughout residential aged care more generally, unions do not exert an obvious or consistent regulatory pressure on employer decision-making. The lack of formal collective representation within the sector may in part explain the pay differential discussed in more detail in the chapter 4, between aged care and the acute health sector. In the case of Port View many interviewees described their pay as inadequate for the work performed:

Money. That comes through loud and clear that the money is pretty terrible... Nobody believes they're paid enough money in aged care(Interview, Care Coordinator, 2007).

To be honest they don't get paid enough, especially if you look at personal care attendants and AINs (Interview, Administration Manager, 2007).

It's an industry where it's very lowly paid (Interview, Chairman, 2007).

Management at Port View were clearly of the view that pay was a significant issue of concern to their workforce as evidenced through the quotes highlighted above. There was understanding by management that the work performed by care staff was undervalued (Interviews Administration Manager, Care Coordinator, CEO 2007, 2008).

Despite care workers acknowledging the relatively low pay they received in comparison to workers in other areas of the health sector, they expressed a willingness to continue working in aged care and Port View in particular, because of their commitment to the residents:

It's not all about the money, Sarah (Interview, RN, 2007).

I don't care whether they get more money than me. I'm not doing it purely for the money. I'm doing it because I love my job; I love the residents also (Interview, EN, 2007).

We're here for the residents, not for the money. If you're after money, we wouldn't be in this profession, put it that way (Interview, PCA, 2007).

This demonstrates a subtle difference in emphasis in response to the question of pay by management and care staff: managers focused on the relatively low wages whereas care staff acknowledged the low pay but downplayed its significance to their job satisfaction. The difference in response may be a consequence of Port View's formal consultative processes excluding the issue of pay, therefore resulting in management not being fully cognisant of the complicated motivational drivers of their employees. The reactions of the care staff reflect a common theme in the research into and commentary about the paid care sector. That is, the relationship between intrinsic and external motivation in the performance of caring work (Adams 2006, Frey 2001, Nelson 1999).

Section Four: The Aged Care Act and the management of labour

Like any organisation, operating facilities in the residential aged care sector, Port View is subject to regulation in many forms and from a variety of jurisdictions. In addition to regulation which is explicitly aimed at aged care, there is, as chapter 4 showed, a wide range of regulation originating from a variety of jurisdictions with which organisations like Port View are required to comply. Some of these include the *NSW OH&S Act 2000*, *NSW Food Act 2003 (and associated regulations)*, *Privacy Act 1988(Cth)* and State and local building codes.

While not necessarily being targeted at the aged care sector, changes to federal government regulation of welfare affected the aged care labour market. One PCA interviewed noted that a motivator for entry into the aged care labour market was the changes she was facing regarding welfare eligibility:

You know, my youngest was heading towards 16 and after that they put you on – you know, they make you get out and work anyway, put you on the dole (Interview, PCA, 2007).

Management also acknowledged the connection in the context of attempting to attract and retain staff:

A lot of places are funded, like the local college...last year for 30 care staff. We employed 11 of them. The only reason they undertook the course was because they were told the dole would be cut if they didn't do the course (Interview, Health Services Manager, 2007).

Both of these Port View examples are illustrative of what Howe describes more broadly as state regulation of the labour market through 'money and favours' which he defines as 'government deployment of wealth to promote desired labour relations practices' (Howe, 2006a).

Interviews with those in management roles revealed a level of frustration about the extent of regulation and jurisdictional issues:

It's the regulation mainly because everything you've got to deal with, if you want to build something, you've got local councils. I'm not saying that a lot of that doesn't have to be done. But there are areas where bureaucracy is totally out of kilter and to get access to people on that is very, very hard. I mean, one of the big problems is the [federal] funding for aged care and the states don't worry about it, but a lot of the regulations come up in the states (Interview, Chairman, 2007).

The aged care sector's biggest problem is that we are overregulated. We are the most regulated industry in Australia. Federal Government won't accept

that. They have deregulated, well they say they have deregulated the industry but it is over regulated. They are trying to make people work with their hands tied behind their backs (Interview, Health Services Manager, 2007).

The opinions of the Health Services Manager and the Chairman expressed above demonstrate the significance of regulation, in its many manifestations, to management. These comments imply that management at Port View were aware of the contribution regulation makes in shaping their decision-making. These responses illustrated two significant issues related to the regulation of aged care. Firstly, that the multi-jurisdictional nature of regulation in aged care contributes to a 'crowding' of the regulatory space (Hancher & Moran, 1989) which aged care providers are required to navigate. Secondly, despite the reforms of 1996 which saw the deregulation of residential aged care from 'standards monitoring and state enforcement' to 'an accreditation model' (Braithwaite et al., 2007, p. 189), the perception at the workplace level is that the regulatory requirements do impact on the effective provision of care.

The administration of the RCS and subsequently the ACFI exemplify the non-labour regulation that directly influences the daily work of caring staff.

Prior to April 2008 within the residential aged care system residents were assessed to determine whether they require low, medium or high care. Both sites of Port View catered for all three care levels in addition to onsite independent living options. The care level for a resident was determined by the RCS. Higher care levels attracted greater amounts of funding. As discussed in chapter 4, this characteristic of the funding system not only remains under ACFI but has become more pronounced, with low care residents admitted since the inception of the ACFI attracting little or no funding (Interview, Finance Manager, 2008).

Given the direct link between the level of care required for a resident and the amount of government funding a facility attracts to care for that resident, government validation through the ACAT occurs to ensure appropriate care levels

are being declared. In addition to the RCS or subsequently the ACFI, the ACAT require care plans to be written and maintained detailing how the care needs of each resident need to be met. According to care staff at Port View, the administration associated with the RCS and ACAT validations was onerous:

If you get knocked down by a car and go into an acute hospital they fill out four pages of paperwork. If you get admitted to an aged care facility they fill out 112 pages of paperwork; that is just for an admission. To me, that is just ludicrous (Interview, Health Services Manager, 2007).

Others expressed a concern about administrative tasks compromising the quality of care. Personal Care Assistant's appeared particularly torn between their role as hands-on caregiver and official record keeper:

So what do you do? Is paperwork more important? Okay, forego that shower and catch up with the paperwork, or you know, do we do that shower and let the paperwork go and maybe scribble a little bit... because the paperwork does represent a funding, I'm sorry, but that work comes first. So sometimes they really don't get the care they need or they should be getting because of the bog [sic] down by paperwork (Interview, Personal Care Assistant, Hostel, 2007).

During interviews conducted in mid-2007 there appeared to be an understanding amongst management that the changes to the funding instruments to occur in early 2008 were largely a response to concerns about the administrative burden. However there was scepticism about whether the situation would be improved by the changes. One interviewee expressed the concern that while the new funding system appears to be reducing paperwork in one area it is increasing requirements in other areas, particularly palliative care (Interview, Health Services Manager 2007). This potential shift in the reporting burden will require management to reconsider staffing requirements and is illustrative of the pressure that regulation (seemingly unrelated to employment relations) can exert on management strategy and decision-making regarding its workforce. Another such pressure is accreditation.

Every three years, residential aged care facilities are subjected to full organisational accreditation. This means that an assessment team from the Aged Care Standards and Accreditation Agency (from within the Commonwealth Department of Health and Ageing) visits the facility and over a number of days investigates whether the systems in place within the organisation are acceptable across four standards. These are: management systems, staffing and organisational development, health and personal care, resident lifestyle and physical environment and safe systems. The facility must comply with these standards and the forty-four associated expected outcomes, in order to retain federal government funding and be allowed to continue to accept residents (see chapter 4).

In the case of Port View, non-compliance with accreditation standards in 2005 led to the hiring of an outside consultant to establish protocols and procedures to ensure future and ongoing compliance. The consultant subsequently took on the role as Health Services Manager and as such has direct responsibility for all of the caring staff across the hostels and nursing home. He has developed an in-house competency system for caring staff to identify skills gaps and address these in order to limit possible lapses in the standard of care and also to avoid non-compliance with accreditation standards (Interview, Health Services Manager, 2007).

Importantly for the argument in this thesis, the accreditation process has implications beyond simply the adherence to a set of standards. The accreditation process and the ongoing compliance with the standards have a tangible effect on residential aged care facilities as workplaces. The Accreditation Agency has the power to inspect facilities with no prior warning and part of the accreditation process requires the ad hoc questioning of staff as they perform their normal duties. During the interviews staff questioned the appropriateness of this process:

You might be accredited for three years but then they could do spot visits and you're answerable to your care. Sometimes I think if they didn't rely on so much actual paperwork and go and have a look at the residents. Do they look clean and if they're looked after, if they're happy, why do we have to

keep proving we're doing the right thing. You know what I mean? (Interview, Enrolled Nurse, 2007).

In considering the effect of accreditation the Administration Manager commented that:

How it affects us as an organisation? Well basically, all our care is geared to that (Interview, Administration Manager, 2007).

She also noted that, despite her personal view that accreditation is an overall positive process as it forced improvements in the delivery of care, 'to staff it is quite intimidating' (Interview, Administration Manager, 2007). This has implications for the employment relations atmosphere at Port View and in residential aged care more broadly. It could be argued that in an environment where carers are relatively low-paid and with many remaining in their job because of the enjoyment and satisfaction they derive from interacting with the residents (Interviews, PCAs 1 and 2, Enrolled Nurse 1 and RN 2007), any factor which detracts from that enjoyment, such as the additional stress associated with accreditation, has the potential to destabilise that motivational balance and prompt a move out of aged care.

The Port View experience confirms that a variety of regulatory instruments, outside traditional industrial instruments, influenced the conduct of employment relations throughout the organisation. While aged care specific accreditation and funding requirements to a certain degree determined the level of direct patient care provided by nurse and non-nurse caring staff, government activity outside the aged care sector also influenced the aged care labour market and the management of labour.

Section Five: Work and Regulation in 2005

Sections one to four outlined the industry and organisational contexts and in so doing also examined aspects of both formal and informal regulatory forces which combine to construct the 'regulatory space' within which Port View operates. This section explores the impact of changes to industrial regulation and funding frameworks, which occurred in the period which is the subject of this research (that

is between 2005 and 2008) on that regulatory space and consequently on the management of labour at Port View.

The approach to labour-management at Port View in 2005 contributed to an environment characterised by fear, intimidation and uncertainty (Interviews CEO, Care Coordinator; Clinical Nurse Consultant, 2008). This environment was in large part the result of a board of directors that frequently intervened, not only in the administration of the facility but also in day-to-day operational management including grievances between individual staff members and management. The interventions had, on more than one occasion, resulted in the dismissal of employees by board members and the chairman (Interview, Care Coordinator Site 2, 2008). A clinical nurse consultant colourfully described the approach of the board as:

A regime similar to Pinochet....It was autocratic and dictatorial and if you fell [out of favour] then you ended up in the stadium of unemployment (Interview, Clinical Nurse Consultant, 2008).

The effect of this particular type of interventionist approach was the development of a workplace culture of bullying and intimidation (Interview, CEO, 2008). According to interviews with more recent management personnel this negatively impacted on Port View's reputation within the local community (Interviews, CEO and Clinical Nurse Consultant, 2008) but to the surprise of the new CEO this had not resulted in a long-term turnover problem. She attributed this stability to the local labour market characteristics outlined in section two, specifically the attraction for staff of working close to home (Interview, CEO, 2008).

Compounding this situation was an underdeveloped communication process between staff and management. In the second half of 2006 a Continuous Quality Improvement (CQI) process was established in which staff were encouraged to submit issues of concern in writing to the Health Services Manager, but the process was more particularly targeted at care and resident issues rather than workplace issues (Interview, EN, 2007). Employees thus had few opportunities for raising

concerns about issues such as rostering, hours, pay and staffing other than directly and individually confronting supervisors or more senior management. Given the prevailing culture described above, it is likely that many employees at Port View were reluctant to talk about such matters. While the NSWNA and HSU both had members at Port View, co-ordinated union activity had never been a feature of Port View's employment relation's landscape, contributing to the lack of opportunities for the expression of 'voice' by employees.

The underdeveloped communication process may explain the confusion over the timing and quantum of pay rises which was evident through the interviews. Several interviewees across a number of classifications (including an RN, ENs and PCAs) were unable to accurately pinpoint when their last wage variation had occurred. Typical responses to the question of when variations to pay may occur in the future were 'I wouldn't have a clue' and 'No. It's just when they kind of like gazette [it]' (Interviews, RN and PCA, 2007). These responses are further evidence of wages not necessarily the key motivator for care workers at Port View.

Undoubtedly also contributing to an uncertain environment for the Port View workforce was the Howard government's *Work Choices* changes. PCAs and ENs expressed a general anxiety about what might happen to their wages and conditions in the future given this legislative change. The changes to the industrial relations system brought about by the *Work Choices* amendments were raised in the context of discussions about issues of concern to staff. There appeared to be some concern about future changes to pay and conditions as a result of the new laws. When asked about what she considered the biggest issue for staff one EN answered:

The unrest I guess about people's jobs I'd say. It's not personally for me, but that's the way I feel with what's happening on TV and in politics (Interview, EN, 2007).

Prior to 2007, there had been no suggestion that management was intending to move away from its reliance on state awards which had determined wages and conditions since Port View's establishment 25 years earlier. However workers were

responding to broader community concern and the anti-*Work Choices* media campaign. As outlined in chapter 1, *Work Choices* was initially central to this research. It informed the choice of time frame based on the hypothesis that in a labour intensive industry such as residential aged care where labour accounts for close to 66 per cent (Hogan, 2008) of operating costs, then provisions aimed at reducing the cost of labour would be attractive for residential aged care employers and would influence the management of labour within the sector. Although there were some attempts to use *Work Choices*, particularly its provisions concerning greenfield sites (Interview, Organisers NSWNA, 2007), interviews with key industry stakeholders and ABS data showing low rates of take up of individual agreements available prior to *Work Choices* (ABS 6306.0, 2008) suggest that *Work Choices* was not generally utilised as a means to drive down wage costs. At least two sets of reasons lie behind this. First, low wages were already leading to increased recruitment and retention difficulties in the sector (Interview, CEO NSW Charitable Aged Care Provider, 2007). Second, the constitutional reliance of *Work Choices* on the Corporations Power limited its use for many aged care providers.

At Port View, *Work Choices* at most prompted a consideration by management of the possibility of negotiating a collective agreement with staff, underpinned by the existing awards and based on a template their industry association had implemented in agreement with the relevant unions across a number of not-for-profit providers. However, management also recognised that the change from awards to an agreement could present some challenges due to the unfamiliarity of the workforce with the bargaining process:

That whole collective agreement, that is going to be a huge thing because they have always worked under an Award. For them to actually have to stop and think about what can we bring to the table and what management going to do and things like that. I think that will be really big (Interview, Administration Manager, 2007).

Negotiation for a collective agreement did not eventuate despite the interest of the board and management at Port View. The lack of progress on the collective

agreement suggests that *Work Choices* and labour law more generally were less significant than other sources of legal regulation. This suggests that Lessig's framework with its generalised category of law as a regulating constraint, needs to be supplemented by a more nuanced explanation capable of identifying the relative importance of a range of legal regulation. This matter will be discussed more fully in chapter 8.

As illustrated in the interviews mentioned above, there was concern about the broader industrial relations environment. However, direct care staff were experiencing more immediate pressure. This pressure was evident through the tension created by their need to perform hands-on care duties for residents while also ensuring that they completed the large amount of documentation required to ensure that Port View continued to receive funding through the RCS. PCAs working in the hostels particularly felt the pressure. PCAs with only six weeks training were responsible for overseeing the direct care of over forty residents and maintaining RCS records which required detailed clinical notes with access to registered nurses being via phone only. As discussed in section four, this situation meant that PCAs had to manage the tension between care and paperwork and also take responsibility for assessing the day-to-day clinical needs of residents.

Since 2006, Port View has undergone significant organisational, regulatory and technical change. This begs the question: were the changes precipitated by changes to aged care regulation or were they the result of internal management decisions?

Section Six: Regulation and Change since 2006

Change began at Port View in early 2007 and was not precipitated by labour regulation or changes to it but by internal change when a new chairman of the board was elected. The election signalled a change to the interventionist approach which had been favoured by the previous chairman. But organisational change was not reserved just for the board level. The new chairman oversaw the recruitment and appointment of three new senior managers including the CEO, quality, risk and compliance manager and business manager for assisted living. In addition in mid-2007, a restructure was initiated which saw the structure of management and lines

of responsibility alter considerably. Previously each of Port View's four residential care facilities had been responsible for its own clinical care and hotel services (catering and cleaning). As outlined in the previous section, the restructure saw those functions, along with maintenance and administration, reorganised into four centralised business units (clinical care, hotel services, maintenance and administration), which became responsible for these functions across all of the facilities and with the managers of each department answering to the CEO.

The rationale for this restructure was to clarify roles and lines of accountability (Interview, CEO, 2008). An additional motivation for the restructure was to deal more effectively with the increasingly complex environment within which residential aged care providers operate. According to two management interviewees, the restructure reflects the pressure on providers to professionalise the administration and management of residential aged care facilities. The restructure also represented a tangible shift away from the interventionist preference of the previous board and Chairman and was used as an instrument to drive cultural change within the organisation.

The results of this change for staff have been mixed. Among the direct care staff who were interviewed (including RNs and PCAs), there was a strong indication that the combination of these changes had indeed resulted in cultural change with a more open employment relations environment as a consequence. However, CSEs (those workers providing hotel and domestic services such as laundry and cleaning staff) were not as enamoured by the changes which have resulted in some changes to shift arrangements and workload. In particular CSEs engaged in laundry duties experienced an increased workload due to the centralisation of duties which previously were carried out within each facility. When questioned about the impact of the organisational restructure, one CSE based in the Site 1 hostels remarked: 'There is a lot more involved and you have less hours to do everything' (Interview, CSE Site 1, 2008).

The response of mid-level managers to the changes varied depending on their roles. For example when asked whether this change had made her job easier Site 1's hostel

care coordinator emphatically replied: 'Yes, absolutely. It was huge' (Interview, Care Coordinator, 2007). Yet the clinical nurse consultant was more circumspect in her assessment of the impact of the changes:

I don't know. I think it might be too early to tell. I think the managers now have a better idea of where they're placed and their responsibilities but I think it just needs probably 12 months for everybody to get right into their roles because everybody is really manic at the moment with the workload in what we're trying to do but once we've done it and we've got it organised then it should be smooth sailing (Interview, Clinical Nurse Consultant, 2008).

The reaction of the clinical nurse consultant illustrates that while there was a variety of responses to the organisational change it is difficult to isolate these reactions from responses to external changes. Port View has also been subject to developments occurring in the residential aged care industry demonstrating the difficulties in untangling and determining the relative weight of various regulatory pressures.

In particular the changes to aged care funding arrangements from the RCS to the ACFI which occurred in March 2008 required Port View to reassess its clinical care practices. It is this reassessment and associated changes in practice that constitute 'the workload' referred to in the quote above. Essentially this new funding regime shifted the emphasis in the delivery of residential aged care from low care (hostel residents) to high care residents (nursing home residents). For an organisation like Port View, with a significant proportion of low care beds, this necessitated a re-evaluation of its processes for the admittance of new residents in low care as this may no longer attract enough public funding to cover the costs of their care.

The implementation of the ACFI has not been a challenge to management alone. Care staff have also been required to adapt to the reporting requirements associated with the new funding tool. In practice ACFI required change in how care staff record the care needs of individual residents. While the tracking of care needs is obviously important, record keeping by care staff has a broader organisational significance as

the accuracy and appropriateness of the records determines the amount of funding received by Port View. In many ways this aspect of direct care work has not changed. As with the RCS, the ACFI requires care staff to manage the tension between their direct care responsibilities and completing paperwork.

However, the implementation of the ACFI at Port View has led to changes to the management of labour. Management have attempted to change work routines to allow more senior care staff such as enrolled and registered nurses to take primary responsibility for ACFI documentation. This development is not simply the result of the change in the nature of the funding mechanism. It also reflects a shift encouraged by the new CEO, who believes that more senior clinical staff are the most appropriate judges of the clinical needs of residents and to express those needs through the funding documents (Interview, CEO, 2008). This shift in responsibilities exemplifies the interconnection of external regulatory change and internal management decision-making. That is, the organisational changes required for the implementation of the ACFI provided an opportunity for a shift in culture and practice at the workplace level.

In addition, in order to improve compliance with the ACFI reporting requirements and save time and resources, Port View management has initiated the use of *iCare*, the electronic management of care plans by care staff which will ultimately form the basis of online ACFI claims to the Department of Health and Ageing. The implementation of *iCare* has required care staff, many of whom are in their late forties and fifties to undergo computer proficiency training. Some staff were reportedly worried about their ability to acquire the skills necessary to use *iCare*, and in response an on-the-job training program was implemented. It required initial familiarisation with the hardware followed by progression to using the software to keep case notes for residents before finally using the system as the basis for online ACFI claims (Interview, Clinical Nurse Consultant, 2008). This development provides a further example of how, in response to changes to the funding instrument, management initiated significant technological change which in turn will greatly alter the manner in which staff work.

Financially, the impact of the internal organisational change and external changes to funding mechanisms dramatically affected Port View. When asked about the \$4 million dollar increase in cash at bank between December 2007 and August 2008 (from \$12 million to \$16 million) the CEO explained that:

It is registered nurses doing the documentation properly and efficiencies within some catering and cleaning strategies...It is from a culture that is not based on bullying and harassment and therefore sick leave comes down (Interview, CEO, 2008).

The CEO noted that, with an increase in income, the budget for the following year included provision for a wage increase for staff. The management approach favoured by the new CEO had an obvious impact, demonstrated by the \$10 million increase in income since she started at Port View (Interview, Chairman, 2008). But responsibility for these improvements could also be attributed to the board. The CEO was hired by a board cognisant of the changing market for residential aged care and responding to the pressure to professionalise the management of its facilities in order to equip the organisation to comply with increasingly complex regulatory requirements. Such foresight not only vividly demonstrates the point made earlier, that non-labour regulation has a great impact on workplace conditions and wages at Port View, but also highlights the difficulties associated with attempting to attribute outcomes at the workplace level to particular regulatory change whether internal or external.

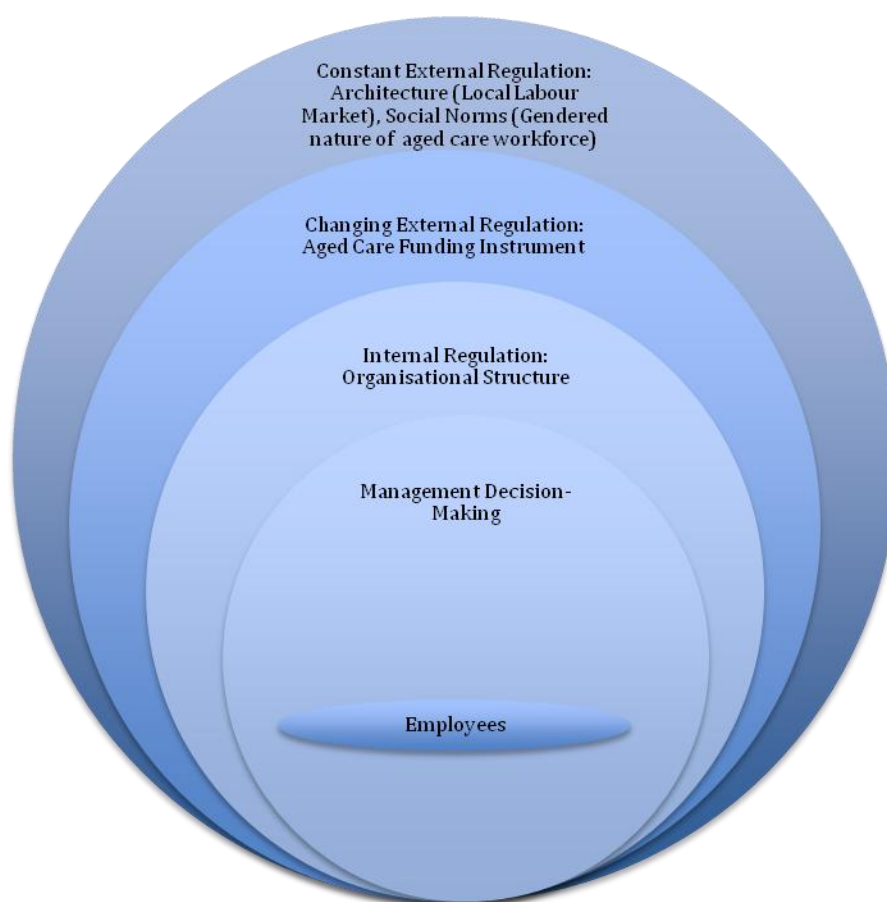
Section Seven: Conclusion

The combination of external regulatory change and ongoing internal management decision-making illustrates the difficulty in viewing the changes that have taken place at Port View since 2006 as a neat linear progression or as mono-causal. A more useful conception recognises that the changes and their impacts are interrelated (as illustrated in Figure 8). Broader change to the entire aged care sector has influenced the decisions of management while organisational change such as a new board and CEO has also resulted in a change in the style and manner of response to external developments. In turn, these sometimes simultaneous

pressures have impacted on the working lives of staff at Port View through the resultant organisational, cultural, and technological change.

Figure 8 illustrates the relative pressures of various regulatory forces on employment relations at Port View. The largest circle in Figure 8 is representative of external regulatory forces which have influenced the management of labour at Port View, but have remained constant. These include the local labour market and the gendered nature of the aged care workforce or, in Lessig's terms, the 'architecture' and prevailing 'social norms'. The second largest circle represents the changes to the external regulatory environment experienced by Port View. The third circle denotes the internal regulation of Port View through factors such as organisational structure and, in the last circle, management decision-making.

Figure 8: Regulatory Pressures on Employment Relations at Port View



Employees at Port View are represented in an ellipse to illustrate their relative lack of regulatory importance in the Port View case. That is, the regulatory pressure is all directed inwards without corresponding 'push back' pressure emanating from Port View's workforce. There were no effective means for the expression of employee voice, particularly collective voice mechanisms, which would allow the workforce to resist the compounding pressures expressed through the circles in Figure 8.

This chapter considered the regulatory pressures that influenced the decisions taken by management at Port View. Changes to industrial legislation, even changes as dramatic as those included in *Work Choices*, were not key determinants of labour management. *Work Choices* was not the key regulatory change in the period of research. Neither were other traditional means of industrial relations regulation such as collective employee representation at the workplace. While staff at Port View

generally supported the changes made by management, it is conceivable that in other workplaces this lack of opportunity for the expression of collective employee voice may allow management to respond to external regulatory pressures without a counterbalancing pressure being exerted from the workforce, and that employees may be subject to changes with which they disagree but cannot influence. This possibility is also considered in the case studies detailed in chapters 6 and 7 and will form part of the analysis in chapter 8.

Chapter 6

Christian Care

Introduction

This chapter examines employment relations at North-West Lodge (NWL), an ageing-in-place facility situated in northwestern Sydney and owned and operated by Christian Care, a large charitable provider of aged care services in NSW. It describes the response of this large, not-for-profit aged care provider to structural features of the aged care labour market, particularly labour undersupply, between 2006 and 2009. It does so by explaining how regulatory constraints, both external and internal, influenced Christian Care's reaction to labour shortages within the residential aged care sector. Here Lessig's regulatory framework (1998) is used to examine the particular importance of 'social norms' within the organisation, namely the regulatory influence of the organisation's Christian mission.

During the conduct of this research, Christian Care was grappling with labour-management issues resulting from the structure of the aged care labour market. More specifically, management was experiencing difficulties with the recruitment and retention of non-nurse carers and registered nurses (in common with much of the sector, as discussed in chapter 4). This chapter explores the common view of management at Christian Care (of varying seniority) that these difficulties were the result of the low wages paid in the residential aged care sector. Low wages were in turn blamed on insufficient funding by the federal government. Despite the importance placed by management on pay as a motivator for potential employees, Christian Care did not choose to direct operational surpluses into improving the wages of its aged care staff.

In contrast to Port View, Christian Care is more a tale of continuity than change, although it is still a story about the impact of regulation on the management of labour. The Port View example reveals how labour-management decisions in a community-run organisation are altered by *formal* external and internal regulatory

change. However, the continuity of approach to the management of labour at Christian Care was in large part due to *informal* internal and external regulators in the form of its organisational mission, workforce age, culture and location.

This chapter is divided into seven parts. Section one considers the organisational context, history, and financial significance of aged care services to Christian Care. Section two examines the labour market within which Christian Care is located, particularly the demographic profile of the workforce and the impact of NWL's location on recruitment. Section three discusses labour regulation, industrial instruments and the role of unions and employer associations at Christian Care. Section four investigates the impact of the funding and accreditation provisions of the *Aged Care Act* on labour-management at NWL. Section five considers the regulatory role played by Christian Care's organisational mission. Section six discusses the impact of regulatory change on NWL and section seven provides the conclusion to the chapter.

Section One: Organisational Context

Location and History

NWL is located in the northwestern suburbs of Sydney in NSW in a local government area with a population of just under 97,000, in which the proportion aged 55 years or older is 24 per cent (0.5 per cent higher than the national average) (ABS 2006a). The background of local residents is diverse, with over 37.5 per cent of the local population born outside of Australia, 15.5 per cent higher than the national average (ABS 2006a). Only 58 per cent of residents in the area list English as the only language spoken at home. This provides an immediate and significant contrast with the demographics of the local government area within which Port View Retirement Village was situated, where the proportion of overseas-born residents was lower than the national average. The potential impact of these demographic characteristics on the management of labour at this Christian Care facility will be explored in greater depth in later sections of this chapter with a more detailed comparison of the case studies presented in chapter 8.

Early incarnations of what would later become Christian Care were born out of the changing attitudes of key leaders within the clergy and laity (of the denomination with which Christian Care is associated) in Sydney in the late 1930s and early 1940s. There had been an historical reluctance of this group to engage with 'social work' or 'community service', as such activity was believed to distract from 'biblical evangelism'. However, the combination of pressing social and economic issues and the influence of the writings of English Christian Socialists resulted in significant change to this attitude and saw 'social action become part of the life and thinking' among this group (Authors withheld, 2004). Funding for this social action was provided by aggressive fundraising activities amongst church congregations of this denomination. This change to a more practical expression of Christian ideals resulted in the formation of NSW Homes Trust in the mid 1940s and the opening of its first aged care home in 1953 (Christian Care*, 2008a). This was followed three years later by the establishment of a children's home. This marked the beginning of twenty years of rapid expansion ultimately resulting in extension into other services in the 1980s including counselling and family services (Christian Care*, 2008a).

The early motivation for engaging in the provision of community services, that is, as a practical expression of Christian beliefs, is still identified as the key mission of Christian Care. Their current mission statement is 'to express Christ's love as we serve individuals, families and people in the community who have unmet spiritual, emotional or physical needs' to be achieved 'through recognition of the inherent worth of each individual in God's sight' (Christian Care*, 2007b). This philosophy has implications for workers and managers employed by Christian Care, with the regulatory role of the organisational mission being explored in more depth in a later section.

By 2008, Christian Care had 24 residential aged care facilities operating across NSW and the Australian Capital Territory (ACT). In addition, in NSW in 2008 Christian Care provided 381 CACP's which are care services provided to the aged in their own homes and had 131 Extended Aged Care at Home (EACH) clients who require higher-level care than those receiving CACP (www.agedcareguide.com.au accessed 12 May 2009). In addition to residential and aged care services, Christian Care also provides

what it calls 'LifeCare Services'. LifeCare Services include community development and housing, youth and children's services, pastoral care and counselling and family services, each of which is administered separately (Christian Care*, 2007a). While these services do not relate directly to this case study, it is necessary to include them in order to understand the broader organisational structure of Christian Care (see Figure 9).

The Christian Care site in which NWL is located accommodates a number of residential aged care facilities in four residential facilities: the village, which consists of 136 self-care units and cottages; the hostel, which accommodates 67 low care residents; an ageing-in-place facility, which has 32 'extra service' single rooms, 30 double rooms for high care residents and 63 dementia care rooms –around half of which are 'extra service' (meaning that residents pay a greater bond and daily fees for hotel style services); and NWL, which caters for 64 low care and 11 dementia care residents. The Christian Care Northern Sydney Regional Office is also located on this site.

Initially, interviews were undertaken with staff in other facilities on the same site. However, NWL was chosen as the focus of this case study as at the time the research was undertaken, extensive renovation was being undertaken which affected access to staff in the other facilities.

Organisational Structure

Christian Care is a public company with tax-exempt charitable status. Members of affiliated churches are eligible to join the company as individuals and additionally each church is permitted to nominate a representative member. The CEO is answerable to a board of twelve directors elected annually by the membership. Five members of the current board are women and at the time of writing all board members were from affiliated churches in the northwest and south of Sydney (Annual Report, 2007-08; Authors withheld, 2004).

The organisational structure of Christian Care below board level is illustrated in Figure 9. It shows the overarching functional divisions of Christian Care and more

specifically the geographical divisions of the 'Aged and Community Care' services. Figure 10 details the management structure of the Northern Sydney Region, within which NWL is located. This structure is relatively new. At the outset of the research, aged and community care services were structured around two regional divisions, Aged and Community Care West and Aged and Community Care North, which were further broken down into four service 'hubs'. 'Hub' managers were located at facilities while divisional managers were located at Christian Care head office (Interview, Personal Assistant to the Regional Manager, 2006; Authors withheld 2004). The restructure which occurred in July 2006 transformed the eight service 'hubs' into five regions and was the result of the strategic planning process undertaken annually by various levels of management. The five regions became Northern Rivers, Southern Region, North Sydney and two Sydney metropolitan regions, one covering the west and the other the coast. Each region has a budget of around forty million dollars (Interview, Regional Manager, 2008). According to the NWL Executive Care Manager, the changes were an attempt to consolidate resources between facilities, particularly those which were co-located (Interview, Executive Care Manager, 2008).

Figure 9: Organisational Structure Christian Care

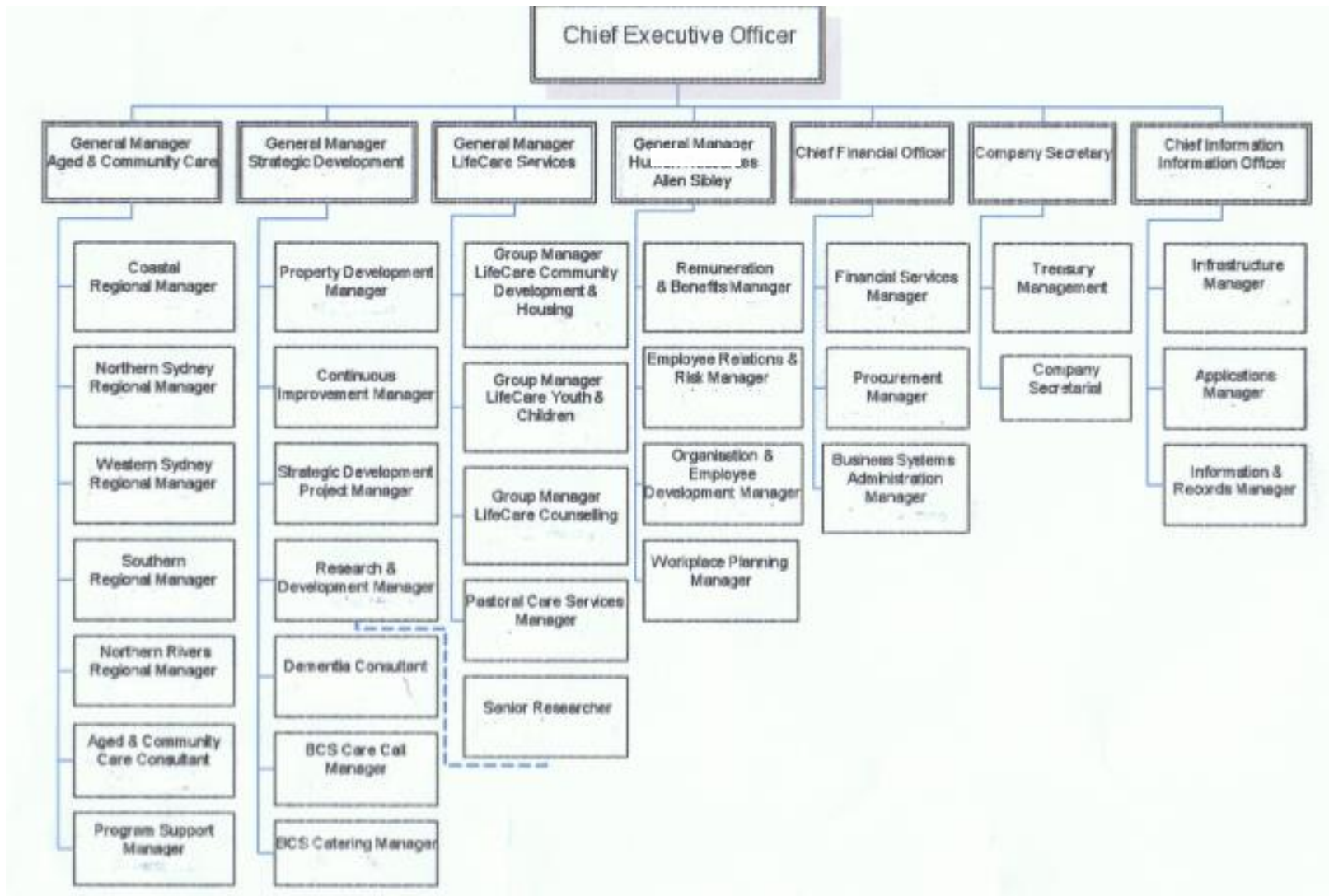
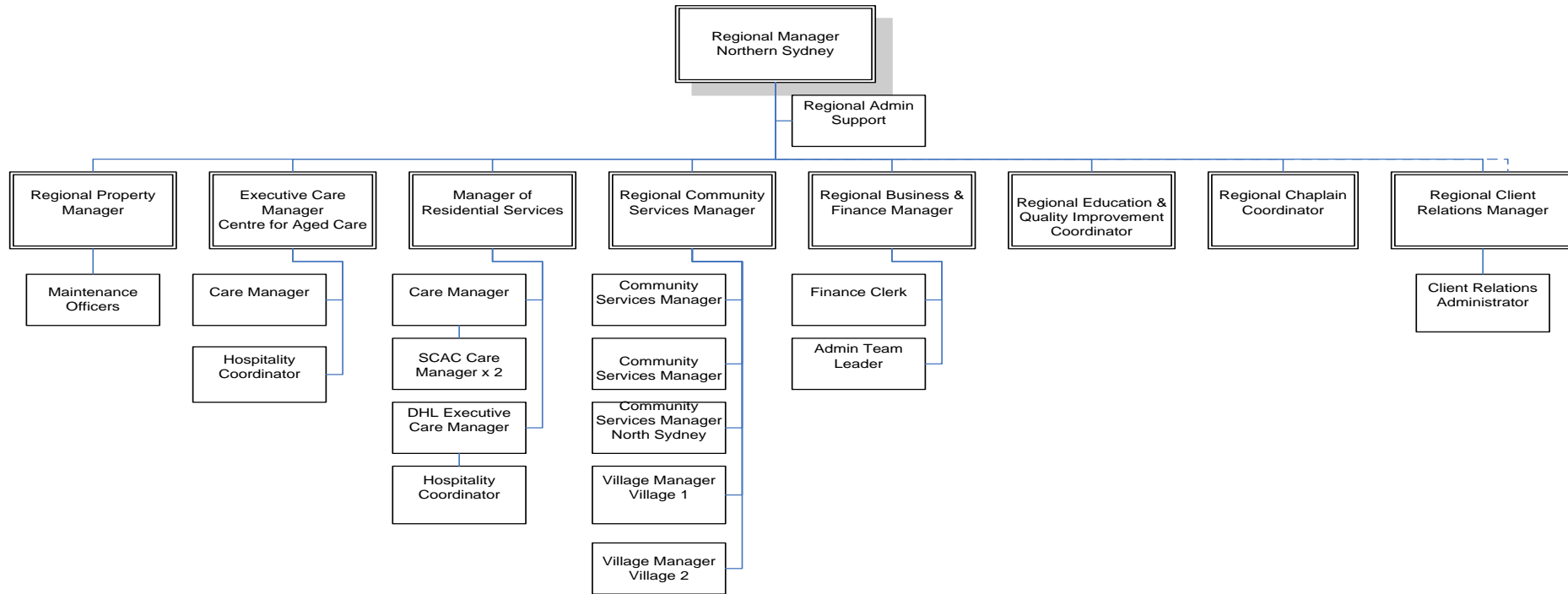


Figure 10: Organisational Structure Christian Care Northern Sydney Region

Northern Sydney Region

Thursday, May 01, 2008



In addition to the establishment of the regions, the re-organisation also changed the management of individual aged care facilities. While generally 'executive care managers' (ECMs) at each facility were replaced by 'care managers' answerable to a regional manager of residential services, this was not the case at NWL where the executive care manager retained her title. However, she acknowledged that:

I'm not considered an ECM in the – as far as the flow chart goes, and the organisational chart goes, I sit now with care managers (Interview, Executive Care Manager, 2008).

This suggests that the organisational restructure was more important to senior levels of management and did not have a significant impact on the operation of NWL.

The restructure also altered the organisational location of maintenance and property services. These sections which had previously been the responsibility of executive care managers, came under the auspices of a 'Regional Property Manager' and hospitality (kitchen and laundry) services became the responsibility of a 'Hospitality Co-ordinator' shared between facilities located on the same site. Another significant change in hospitality services was the outsourcing of kitchen duties. There is a sense at Christian Care that the organisational changes reflect a broader trend – the professionalisation of management across the aged care sector. It was the opinion of the Regional Human Resource Manager that:

it's definitely professionalising and I think that's why we have so much difficulty in recruiting in senior positions to get the type of people we need because we need the technical qualifications....The managerial qualifications, we need people with leadership skills, change management skills, because we're growing and developing all the time (Interview, Regional Human Resource Manager, 2008).

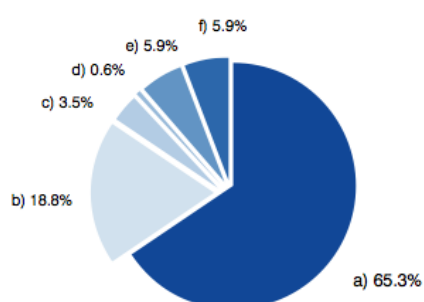
This is consistent with the Port View case where an organisational restructure was initiated on the basis of attempting to maximise economies of scale and reduce the duplication of some management and front-line services. The professionalisation of management across the sector was also acknowledged in a supplementary interview

conducted with the CEO of ACSA, the national peak body for not-for-profit aged care providers who noted that the professionalisation had been underway since the mid 1990's:

In the not-for-profit sector it actually goes back a lot further. Back in 1995, the Industries Commission published a report on charities. It was a major inquiry, big news at the time, it was a long time ago. And they said this is a multi-billion dollar business, it needs to be more professionally managed, blah, blah. And they were probably right.... the charity sector has been professionalising its management cadre at least as far back as that (Interview, CEO ACSA, 2008).

The necessity of attracting appropriately qualified managers is underlined by the scale of Christian Care operations (see Figures 9 and 10) and the size of its annual income, which in the 2007-08 financial year was \$170 million. A little over 65 per cent of Christian Care's income in 2007-2008 came from government subsidies, compared with 18.8 per cent of income generated through fees charged to clients and residents (see Figure 11).

Figure 11: Christian Care Income 2007/2008



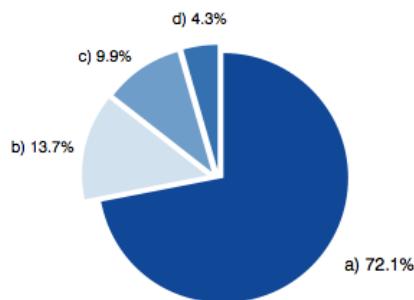
Income	\$ millions	
	2007/08	2006/07
a) Government Subsidies	111	100
b) Fees from Residents & Clients	32	30
c) Retention Income	6	5
d) Donations & Legacies	1	1
e) Other Income	10	11
Total Revenue	160	147
f) Financing Income	10	8
Total Income	170	155

Source: Christian Care Annual Report 2008: 31

The most significant expense incurred by Christian Care in the same time period was staffing costs, which represented over 72 per cent of overall expenditure (see Figure

12). This broadly matches sector-wide estimates of labour representing three quarters of operating costs in residential aged care (Hogan, 2004a, 2008).

Figure 12: Christian Care Expenditure 2007/2008



Expenditure	\$ millions	
	2007/08	2006/07
a) Staff Costs	116	106
b) Property Expenses (Inc Depreciation)	22	18
c) Catering & Housekeeping Expenses	16	15
d) Other Expense (Inc Asset Disposals)	7	9
Total Expenditure	161	148

Source: Christian Care Annual Report 2008: 31

In addition to providing insight into the financial status of Christian Care overall, the 2008 Annual Report also reveals the importance of aged care services to the broader organisation. Figure 13 shows that of Christian Care’s \$170 million income, \$161 million was generated through aged care services. Figure 14 reveals that aged care services accounted for \$149 million of total \$161 million expenditure in 2007-2008.

Figure 13: Christian Care Income by Service

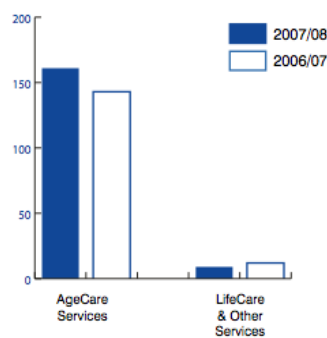
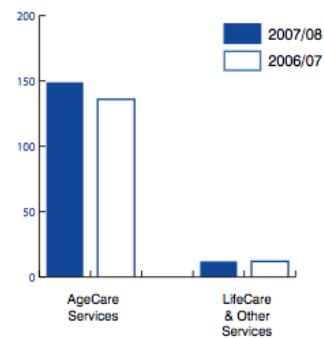


Figure 14: Christian Care Expenditure by Service



Income Parts	\$ millions	
	2007/08	2006/07
AgeCare Services (Residential & In-home)	161	143
LifeCare & Other Services	9	12
Total Income	170	155

Expenditure Parts	\$ millions	
	2007/08	2006/07
AgeCare Services (Residential & In-home)	149	136
LifeCare & Other Services	12	12
Total Expenditure	161	148

Source: Christian Care Annual Report 2008: 32

Figures 13 and 14 also illustrate the extent to which aged care services subsidise the other services provided by Christian Care. That is, income generated by aged care services (largely provided by government subsidies – see Figure 11) not only covered the costs of the provision of aged care services but also covered the shortfall of \$3 million in ‘Lifecare & Other services’ and was the source of an operating surplus.

The income and expenditure outlined above show that despite being a not-for-profit, charitable organisation, in 2007-2008 Christian Care generated an operating surplus of \$9 million. This was an increase of \$2 million since 2006-2007 and built on a \$1 million dollar surplus in 2005-2006 (Christian Care*, 2007a, 2008b). An introduction to the financial report in 2007 explains how Christian Care reconciles its increasing operating surplus with its organisational mission:

Organisations need to generate a surplus (or profit) in order to remain financially viable. At the very least, the existing income generating assets will have to be replaced in the future at substantially increased prices. An expanding organisation also needs an increased and more efficient asset base as well as investment into better systems and resources to ensure its future. The pressures translate into a heightened need to deliver surpluses from some of its activities (Christian Care*, 2007a).

However, a tension between the organisational mission and the need to operate Christian Care as an effective business was evident throughout the interviews. The role of the ‘mission’ in the regulation of employment relations at NWL will therefore be discussed in more detail in a later section.

Section Two: Christian Care and the aged care labour market

As was outlined in introducing the thesis and was evident in the Port View case, factors such as the composition of the workforce and local labour market conditions influence the nature and conduct of employment relations. The examination of these factors in the case of NWL forms the basis of this section.

The aged care workforce at Christian Care and NWL in particular reflects the demographic characteristics apparent in the broader residential aged care sector (Martin & King, 2008). In 2008, 84 per cent of Christian Care staff were women (Christian Care*, 2008b). Table 13 shows a more detailed workforce profile provided as part of a 2005 report to the Equal Opportunity for Women in the Workplace Agency (EOWA).

Table 13: Christian Care Workforce Profile*

WORKPLACE PROFILE 1st APRIL 2005

Occupational Category	Full Time		Part Time		Casual		Total Number			%	
	Women	Men	Women	Men	Women	Men	Women	Men	Women and Men	Women	Men
Care:											
Managers	37	10	8	1	0	0	45	11	56	80%	20%
Professional	13	3	26	2	11	0	50	5	55	91%	9%
Direct/Elementary	70	10	1103	95	530	94	1703	199	1902	90%	10%
Total	120	23	1137	98	541	94	1798	215	2013	89%	11%
Administration:											
Executive Leadership Team	3	3	0	0	0	0	2	3	5	50%	50%
Managers	8	16	1	1	0	0	9	17	26	35%	65%
Supervisor/Consultants	73	25	32	1	1	0	106	26	132	80%	20%
Elementary	40	4	75	1	18	2	133	7	140	95%	5%
Total	123	48	108	3	19	2	250	53	303	83%	17%
Maintenance/Trade/Ancillary:											
Managers	1	4	0	0	0	1	1	5	6	17%	83%
Other	18	45	144	50	47	51	209	146	355	59%	41%
Total	19	49	144	50	47	52	210	151	361	58%	42%
Professionals	7	4	44	18	8	1	59	23	82	72%	28%
Total	270	124	1433	169	615	149	2318	442	2760	84%	16%

*Source: Christian Care EOWA Report 2004-2005

The 2005 report noted that just under 90 per cent of workers involved in direct care roles were women. In 2007 and 2008 Christian Care was awarded status as an ‘Employer of Choice for Women’ by the EOWA and consequently has been exempted from submitting another report until 2010. Since 2007 organisations which achieve Employer of Choice for Women status do so on the basis that they ‘recognise and advance their female workforce’ and implement policies which include paid maternity leave and sex-based harassment training. The organisation must also show that the wages gap between men and women across the organisation is lower than the national average and be able to demonstrate that more than a quarter of managers are women (EOWA2009). That Christian Care was able to comply with these pre-requisites demonstrates that management was cognisant of the significance of women to the organisation, but it is also suggestive of a labour-management approach which attempts to use non-monetary incentives to appeal to current and potential employees.

Given that the provision of aged care services represents the overwhelming majority of Christian Care's activities, it is reasonable to assume that the aggregate Christian Care workforce figures are broadly representative of its aged care workforce. This assumption was supported by the Human Resource Manager, who commented on the gendered nature of the aged care workforce at Christian Care by suggesting that:

aged care particularly suits ...women who want to work part time, so therefore we're looking at women returning to work after having children or women working whilst they've had young children or women who at the moment may be at a later stage in life want to do something different, something in the care professions of life rather than whatever it is they used to do before (Interview, Christian Care Human Resource Manager, 2009).

As at Port View, and again consistent with the residential aged care sector generally, staff at NWL are mostly employed on part-time basis.

Table 14 provides the profile of the NWL workforce. It shows that in 2009, out of a total of 49 staff, only the Executive Care Manager and one of the administration officers were employed on a full-time basis. Staff providing direct care were all employed on a part-time basis. During the day shift (6.30am to 3pm) five CSEs have responsibility for one of the five wings within NWL which house between nine and fourteen residents. During the afternoon shift (3pm to 10pm) two carers have responsibility for two and a half wings each, with another carer on a shorter shift (4pm to 8pm) to assist with meals. In addition, there is an RN for both the day and afternoon shifts. Night shifts (10pm to 7am) are covered by two carers (CSEs) who, like the afternoon shift, each have responsibility for two and half wings. However, to ensure a fairer distribution of work, CSEs swap sections mid way through the night shift as one section includes the more labour intensive dementia wing (Interviews CSE 2 and Care Manager 2008).

Table 14: NWL Workforce Profile

Occupational Category	Full-time	Part-time
Executive Care Manager	1	0
Educator/ACFI co-ordinator	0	1
RN	0	6
PCA/CSE	0	22
Recreation Officer	0	4
Physio	0	1
Physio Aid	0	1
Admin	1	1
Kitchen (CHRISTIAN CARE Catering Services)	0	6-10
Cleaners	0	2
Maintenance	0	1
Totals	2	47

The NWL office coordinator noted that there were also four casual CSEs but that they were not involved in care provision but catering and cleaning (see Table 14 – kitchen) (Interview, Office Coordinator 2009). The general preference for permanent part-time as opposed to casual arrangements was described by the Regional

Manager in terms of Christian Care's commitment to continuity of care for residents (Interview, Regional Manager 2008) but the Care Manager (of a co-located facility) indicated that the costs of casual workers made their greater use prohibitive despite the potential flexibilities offered by casual work (Interview, Care Manager 2006). She also believed that the reason for the majority of workers being employed part-time is that they:

have a second-job. They actually want to work more, but becausewe try to limit the overtime, they go elsewhere to work.....then some people might work both part-time – 30 hours up to 60 hours (Interview, Care Manager 2006).

An alternative explanation for the preference for part-time work was offered by the NWL Educator. She suggested that 'working full-time in high care is very heavy' and that this was a particular concern given the age of the care workforce (Interview, NWL Educator, 2006). This explanation highlights the fact that in addition to its gendered nature and the prevalence of part-time work, the aged care workforce at Christian Care and NWL in particular, also reflect broader industry trends regarding the age of the workforce, specifically the ageing of the care workforce (Richardson and Martin 2004). These demographic characteristics lie at the heart of provider and government concerns about the long-term viability of the residential aged care sector within which demand for labour is expected to continue to grow, exacerbating existing labour supply shortages (Productivity Commission, 2008).

As at Port View, the ageing of the care workforce is an issue assuming increasing importance to management at Christian Care. The regional manager identified the age of the workforce as a significant component of the overall larger issue of staffing, noting that the average age of staff was approximately 54 years. She reflected that this cohort of workers was 'not necessarily fit and healthy' and that this had prompted Christian Care to review its approach to occupational health and safety and emphasise personal health tips and fitness and health plans for staff (Interview, Regional Manager 2008).

The age distribution of the care workforce at NWL was a concern for management and the direct-care workforce. Differences between generations within the workforce were identified as impacting on the retention of older care staff, particularly RNs. The Regional Educator explained why older RNs often felt as if 'they didn't have staff like they used to':

'Older women like myself and these people are from the old school of nursing. Task focused, matriarchal type of environment ... and disciplined management styles. We're now dealing with a group of Y generation and younger, and these people don't respond positively in that environment.....It's you do what you're told. That's exactly the way it is. The Y generation say - why?' (Interview, Regional Educator 2008)

These extracts from interviews illustrate that in the case of the NWL workforce age was an issue which influenced the conduct of employment relations. Specifically, the differences in approaches to care between generations, summarised by the regional nurse educator as 'the medical versus hospitality approach', suggest that variations in the 'social norms' of each group potentially alienated the other. In turn, this impacted on the quality of experiences of work and the employment relations environment at NWL for some staff. An example of this was given by an RN at NWL when questioned about the consequences of leaving work unfinished for the next shift:

RN: It's just me, and one other of my workmates. We both – probably it's the era we were trained in, when we never went off duty until you had finished your work, didn't matter what time it was. Right? This is the way that I function.

Facilitator: That's not – you wouldn't say that was a universal approach?

RN: No, I wouldn't, no, definitely not (Interview, 2009).

The above exchange implies that the RN perceived a disparity between performance expectations among different age groups, that the 'social norms' of different age

cohorts shaped not only their philosophy of care but also the practical execution of that care.

As described above, the challenges associated with generational conflict were particularly pertinent to both of the RNs interviewed and potentially resulted in RNs leaving aged care. According to the Regional Educator within the residential aged care sector 'there's a lot of confusion creating conflict [and]... many of my contemporaries ... leave because they've lost the satisfaction' (Interview 2008). The ageing of the workforce combined with intergenerational misunderstanding amongst RNs are significant issues in a sector which struggles to attract skilled care workers. While the Regional Human Resource Manager acknowledged workforce ageing as an issue she saw the 'staffing' problem differently and suggested that difficulties in recruitment were the result of aged care being:

in some way...stigmatized. Well I think a lot of people see aged care as sort of dreadful little old nursing homes where elderly people sort of sit in bed all day sort of dribbling and just sort of waiting to die (Interview, Regional Human Resource Manager 2008).

As a consequence she felt that aged care was not able to attract young people, that 'even more skilled staff such as the nurses ... don't see it as a career opportunity' and that the combination of these factors meant that Christian Care was forced to recruit from what she termed the 'secondary labour market'. She identified characteristics of workers in this 'secondary labour market' as being low-skilled, typically from a non-English speaking background and often with limited knowledge of minimum conditions and rights (Interview, Regional Human Resource Manager, 2008).

This highlights a significant difference between Christian Care and Port View. While overall the care workforce at Port View also possessed minimal qualifications (as evidenced by the predominance of PCAs and CSEs), it was culturally homogenous, matching the demographics of the community within which it was located. NWLs location in the suburbs of Sydney means that the nature of the labour market is quite different to that of Port View. The contrasts in terms of demographics in the

local government area have been outlined above. The impact of these on the demographics of the workforce and potential workforce of NWL became evident through the course of this research.

The cultural diversity of the NWL workforce was a recurring theme. A number of the interviewees commented on the implications of this, not only with regards to its impact on the management of labour (considered below), but also for the delivery of care to residents (Interviews, Care Manager 2006; Regional Human Resource Manager 2008):

Clients have got sets of values that are very immersed in deep Anglo-Saxon values from a white Australia background. Our staff base tends to be from different cultures, not necessarily white Anglo-Saxon. So we've got a cultural – big cultural- issues (Interview, Regional Educator 2008).

The Regional Educator felt that these 'cultural issues' were a 'big organisational challenge' because of the potential conflict resulting from the suspicion of some residents towards staff born outside of Australia (Interview 2008).

The Executive Care Manager explicitly linked the cultural diversity of the workforce with the location. She reflected that 'Australians would be the minority in this facility' and went on to explain that this was because of the proximity of NWL to a large metropolitan university which attracted a significant proportion of overseas students and their families to the local area (Interview, Executive Care Manager, 2008). However, she also distinguished between classifications (Interview, Educator NWL, 2006), with the key difference being RNs:

RNs are different. You've got your Anglo-Saxons. In my RNs I've only got one Asian (Interview, Executive Care Manager, 2008).

This is not necessarily reflective of Christian Care overall. In 2006, the CEO indicated that Christian Care had begun recruiting overseas-qualified RNs to overcome difficulties in attracting locally qualified staff (Interview, CEO, 2006).

The changing ethnic mix of the workforce in terms of cultural background mirrors recent research by Martin and King (2008), which showed that between 2003 and 2007, while the residential aged care workforce remained largely constant in terms of age and gender, a significant change had occurred in the country of birth of residential aged care workers. The proportion born outside Australia had increased substantially from 25 per cent of the workforce in 2003 to 33 per cent of the workforce in 2007 (Martin & King, 2008). In the case of NWL, countries represented amongst its workforce included India, Sri Lanka, the Philippines, China, Singapore, Afghanistan and Iran.

The increasing proportion of NESB workers was not necessarily viewed as a disadvantage by all managers, despite concerns about potential cultural misunderstanding between staff and residents evident in an earlier quote. The Regional Human Resource Manager saw the increase in NESB workers as an opportunity to improve workforce retention. She felt that among this group of workers, the initial difficulties of NESB workers in securing work combined with the training opportunities provided by Christian Care, resulted in 'people from minority groups when they find permanent ongoing stable work ...becom[ing] a more stable workforce' (Interview, Regional Human Resource Manager 2008). There was also a sense that while the qualifications of some NESB doctors and RNs working at NWL were not recognised in Australia (meaning that they accepted jobs as CSEs), the skills associated with their qualifications enhanced the delivery of care to residents (Interviews, Care Manager 2006; Educator NWL, 2006).

'Word of mouth' recruitment provided by members of particular ethnic groups was another benefit of the cultural diversity in the NWL workforce, with attraction and retention of staff identified as a priority concern for management (Interviews, Regional Manager and Christian Care Human Resource Manager, 2008). This was illustrated by a CSE who described how she was recruited:

I was recommended by a friend of mine who works here in the kitchen, she works in the kitchen and she recommended me right away to work here because it was an ASAP, that they needed a cleaner straight away because

there was a vacant position at the time. The man who used to be a cleaner left and so they needed somebody right away to fill in the position (Interview, CSE [1], 2008).

Like age, cultural background influenced 'social norms' at NWL. The nurse educator, whose responsibilities also included the oversight of the continuous improvement program at NWL, drew attention to the infrequency of comments and complaints by staff and suggested that this might reflect a 'cultural issue' with non-English speaking background staff 'just go[ing] along' with things, in contrast to the 'outspoken ones...[from an] Australian background' (Interview, Educator NWL, 2006). This possibility has implications for the broader expression of 'voice'. This 'cultural' influence is suggestive of a concept of regulation which recognises not only the regulatory influence of 'internal labour market arrangements ...at the workplace level' but also 'social norms more broadly which shape the nature and quality of people's relationships with paid labour' (Gahan & Brosnan, 2006, p.136). This will be considered in more detail in the following section.

According to senior management, staffing was the biggest problem facing aged care services at Christian Care. In the case of NWL, location exacerbated this difficulty. At Port View the local labour market was a relatively stable regulatory force and Port View was seen as a relatively attractive employment option in the local area. However, for NWL and Christian Care more generally, the local labour market represented a continuing source of organisational uncertainty and consequently a significant proportion of managerial effort was exerted to minimise the impact of labour market fluctuations on Christian Care and NWL (Interviews, Christian Care Human Resource Manager, 2009 and Regional Human Resource Manager, 2008). This illustrates that Christian Care management were constrained in different ways to management at Port View. A comparison of unemployment rates supports this observation. In the Port View local government area, the unemployment rate was two per cent higher than the national average, whereas in the local government area within which NWL was located, the unemployment rate was half a per cent lower than the national average (Australian Bureau of Statistics, 2006a). Additionally, the median weekly household income in the area surrounding NWL was \$131 more than

the national average (Australian Bureau of Statistics, 2006a). According to Christian Care management, this had implications for turnover and retention of care staff. That is, as noted by the Human Resource Manager, due to its metropolitan location, workers at NWL had more alternative employment opportunities:

I think there are more options for work, yeah. Sydney in particular. You know, there's so many different – well, you can do almost anything, can't you?(Interview, Christian Care Human Resource Manager, 2009).

While the availability of alternative employment options was seen as central to the turnover of staff at Christian Care, it was also acknowledged that comparatively low rates of pay were also impacting on retention:

It's also one of the reasons why retention is such a problem for us, because people can earn more money working at a checkout on the weekend at Woolworths than they're making as a Certificate III in Aged Care, for example (Interview, Christian Care Human Resource Manager, 2009).

The CEO described her concerns about recruitment and retention of staff in the context of the broader Australian labour market. She predicted that potential workforce shortages in the future (precipitated by an ageing population) would result in 'those same women who are attractive to us, but less attractive to other industries ... suddenly becom[ing] a very valuable resource to them' (Interview, CEO, 2006). However, while the CEO identified Christian Care initiatives such as training and family-friendly policies as a means of compensating for comparatively low pay and addressing recruitment and retention issues, her comments were made in mid-2006, and in 2009 turnover was still at 27 per cent and identified by management as a critical issue (Interview, Christian Care Human Resource Manager, 2009).

In contrast to the opinions of Christian Care regional and head office management regarding the prevalence of turnover, the impression of the direct care workforce and management at NWL was noticeably different. The Executive Care Manager indicated that over 50 per cent of the NWL workforce had between five and fifteen years of service and a CSE noted that between seven and nine CSEs had been

employed at NWL for more than ten years (Interviews, Executive Care Manager and CSE[2], 2008). While this does seem at odds with more senior management's concern about the extent of staff turnover, it does accord with an observation by the Regional Human Resource Manager that 'if we can keep them for 12 months then we can usually keep them for longer' (Interview, Regional Human Resource Manager, 2008).

While Christian Care management highlighted training as a means to improve retention, interviews with two CSEs at NWL revealed reluctance to either acquire or use qualifications beyond Certificate III in aged care:

I want to do like everything perfect and ...I don't like that responsible....I want more with the residents, I want involved with the residents more... The other one [Certificate IV] is the paperwork and everything, yeah (Interview, CSE[2] 2008).

Yes and I had an experience for about six months doing AIN and after that I applied for a cleaning job because I wasn't much, what do you call it, I wasn't meant to be ...like an AIN so I just took a cleaning job instead.It's not that I don't like it, I love helping the people, I love helping the elderly and all that, it's just that it's a lot of responsibility and I think you have to be really meant for that kind of work. People think it's an easy job, it's not, it's a very difficult job and it takes a lot of responsibility to do this job (Interview, CSE[1], 2009).

Despite the fact that Certificate IV employees may be entitled to more pay (subject to completion of a certain number of supervisory shifts) than Certificate III employees, in the eyes of these CSEs, the prospect of increased pay did not compensate for what they saw as a reduction in hands-on caring time with residents in exchange for 'a lot of responsibility' and 'the paperwork and everything'.

This suggests that Christian Care management may be misinterpreting the 'staffing' issue as a consequence of the comparative wage rates outlined in earlier quotes. Specifically, management had not clearly identified the fact that pay was not an effective incentive for care staff (Interviews CEO, 2006, Regional Manager 2008,

Christian Care Human Resource Manager, 2009). Like the carers at Port View, two CSEs at NWL echoed similar non-monetary motivations for their work in aged care:

I get the satisfaction, I care about the residents (Interview, CSE[2], 2008).

I love helping the residents knowing that they are unable to do it themselves, cleaning the rooms and helping them gives me a rewarding experience. It is just that I feel I have done a good job after a day's work (Interview, CSE[1], 2008).

An RN at NWL also expressed non-monetary motivations for continuing to work in residential aged care:

I mean, I'm getting to the stage where I'm looking at retirement anyway, myself. I just can't afford it at the moment. But I do shift – I do every Saturday, and I do one evening shift a fortnight. Now, with those two shifts, when I first came here, it meant I worked less time, I could become part time, picking up those two shifts, rather than doing full time (Interview, 2009).

This difference in management's assessment of potential incentives for staff and the opinions expressed by staff members themselves mirrors the Port View case. In the case of NWL, however, this difference was unexpected given the amount of time and resources invested by management in gauging employee sentiment through a staff survey conducted every eighteen months. Interview results in both cases suggest that reasons for seeking employment in the paid care sector defy simple explanation. Rather, they are a function of a complex combination of motives including financial rewards, intrinsic rewards, convenience of workplace and the suitability of shift arrangements. This fits with an approach to regulation which recognises the importance of factors outside traditional labour regulation (such as minimum pay rates), including the location of the workplace and societal expectations about paid care.

This section examined the composition of the workforce at NWL. It revealed a close similarity between its characteristics and industry-wide trends with regard to gender

age and ethnicity. These demographic characteristics shaped the approach to the management of labour adopted by Christian Care in an attempt to deal with what they identified as their biggest problem –staffing. This demonstrates that labour-management at NWL was influenced by the composition of the local labour market.

The following sections explore the role of instruments of labour regulation before considering the impact of other formal regulations (such as funding processes and accreditation) and informal regulators on the conduct of employment relations at NWL.

Section Three: Labour law and industrial instruments

For much of its history Christian Care had been reliant on centralised industrial instruments to determine the wages and conditions of its workforce. Like Port View, this is reflective of the industry norm (see chapter 4 for a more detailed discussion). For non-nurse employees this largely meant pay and conditions were determined by the *Charitable, Aged and Community Services State Award* and for nurses the *Nursing Homes &c. Nurses' (State) Award*. This situation began to change in the early 2000's. In 2002, two Christian Care facilities based in the ACT signed a federally registered enterprise agreement with the Australian Nursing Federation. An agreement negotiated between the HSU and Christian Care - the *Christian Care Aged Care Facilities Certified Agreement 2003* followed a year later and was registered under the *NSW Industrial Relations Act 1996*. It had an expiration date of 31 July 2006, and applied to workers at one of the facilities co-located with NWL but not NWL itself. In 2006, the HSU and Christian Care negotiated a state-wide, but federally registered, agreement which in many ways mirrored the earlier NSW certified agreement. Being state-wide, this agreement did cover non-nurse workers at all facilities including NWL. Similarly, in 2007, the NSWNA entered into a federally registered agreement with Christian Care applying to all nurses working for Christian Care in both residential and community care.

The negotiation and registration of these agreements, representing as they did a significant change in labour regulation for Christian Care, begs the question: what precipitated this shift? According to both staff and management, unions

(particularly for non-nurse employees) had not played an obvious regulatory role at a workplace level either prior to the agreements:

Very few girls are in that union. I think maybe a few are there, I'm not sure, but I think, I don't think we do anything with that (Interview, CSE[2], 2008)

during their negotiation;

Care Manager: Christian Care, they consulted with the union and they drafted one, and then they sent it down to us, so we tabled on the various meetings, put a memo out, displayed it in the staff room and then they have the right to vote against it or not. Apparently more than 75 per cent say yes, go ahead.

Facilitator: You said it was in consultation with the union, did the union come out here at all?

Care Manager: No, they went to the Christian Care Office. I think they came here once, but no one really bothered to attend it (Interview, Care Manager, 2006).

or since the agreements have been in operation;

I've never seen a health services union delegate, even the care workers who are employed under the Christian Care-HSU agreement when they're going through disciplinary they always seem to have someone from the nurses association with them (Interview, Regional Human Resource Manager, 2008).

This lack of union activity might relate to the issue of cultural expressions of 'voice' mentioned earlier. It is also possible that unions have difficulty accessing the NWL workforce – particularly in light of comments by the Executive Care Manager who admitted that union membership was:

not something I encourage here. It was pushed and they ended up having a member at the facility I worked at prior to this one and oh she was just

disastrous. It was like she was the Gestapo. So it's not something I would encourage, as long as they had the contact, which was fine, but not actually having a member of staff, very undermining (Interview, Executive Care Manager, 2008).

However, while there was not a significant workplace presence, the negotiation of the 2006 and 2007 agreements, coincided with an industry-wide campaign by both the NSWNA and the HSU in response to the changing legal processes in the broader Australian industrial relations system (see chapters 1 and 4). Specifically, with *Work Choices* undermining the state award system and with the impending expiration of the Notional Agreement Preserving a State Award (NAPSA), both of the unions sought to secure existing conditions by federally registering agreements negotiated with a number of key providers in the aged care sector in NSW.

The timeline associated with this regulatory change combined with low union density across the aged care sector to some extent explains the 'top-down' nature of the negotiation process described above. It is also illustrative of Gahan and Brosnan's (2006, p.136) description of unions as an example of social actors with dual roles in regulation. That is they are 'subject' to regulation, in this case *Work Choices*, and also 'sources of regulatory practice', through the registered collective agreements described above. Nonetheless, unions had a very limited workplace role in this case.

The changes to the industrial relations legislative framework did provide an impetus for the unions to pursue collective agreements and did ultimately result in changes to the regulation of employment relations at Christian Care. However, according to a senior industrial officer at the HSU, interest in pursuing a collective agreement was two-way. He suggested the reason for this was that Christian Care wanted to 'push the training regime' and reconsider the 'competency and qualifications' of care staff (Interview, Senior Industrial Officer HSU, 2006). This broadly fits with what he saw as an increasing interest in collective agreements across the sector. That is, aged care providers and their peak bodies were attempting to overcome the shortage and

cost of RNs by reconsidering and renegotiating the roles of non-nurse carers with the HSU.

That Christian Care sought to negotiate collective agreements is not reflective of workplace union activism (as evidenced in earlier quotes). In fact the Human Resource Manager observed that:

our workforce despite being covered by enterprise agreements which have been negotiated with union involvement, you know, we have a very low union membership. I think it's about 15 per cent of our employees are actually union members and there's a, I think, a generalised disinterest, to be honest (Interview, Christian Care Human Resource Manager, 2009).

This illustrates that there was little need for Christian Care to engage in aggressive union avoidance as union activity was already minimal. This also suggests that Christian Care may have been able to negotiate a non-union collective agreement directly with its workforce. One possible explanation for the decision not to pursue this option is that Christian Care management did not want to damage what it perceives as Christian Care's reputation as an innovative industry leader:

Well, we think we're very highly regarded. Yeah, it is perception as you say, but because of our profile in the industry, both as an organisation and also because of the word of mouth referrals that we get, our perception is that we are highly regarded (Interview, Christian Care Human Resource Manager, 2009).

Associated with the maintenance of this reputation is the role that Christian Care plays within ACS and also its self-promotion as 'an employer of choice' (Christian Care 2007a; Christian Care 2008). A number of senior Christian Care managers are involved in ACS committees. The Human Resource Manager sits on the industrial relations committee and the CEO is the chairperson of the NSW division of ACS. Given its prominence within the industry, its leadership role within the employer association and the promotion of itself as a desirable employer, it seems unlikely that Christian Care would have attempted to by-pass unions in the pursuit of a

collective agreement in an environment in which employers who did so were potentially embroiled in a much larger political campaign regarding the validity of *Work Choices*. The CEO was aware of this, commenting that Christian Care had 'been accused [by health unions] of using the industrial laws' (that is, *Work Choices*) to make organisational changes but maintained that in the case of Christian Care the two were unrelated (Interview, CEO, 2006).

In addition, according to interviews with the human resource managers at both the regional and head office level, the management of labour by Christian Care was influenced by the Christian mission of the organisation (Interviews 2008, 2009). This is reinforced in the 2009-13 Strategic Plan which, as the first of its five 'Strategic Foundations', states:

Christian Care is an overtly Christian organisation. We were founded with a Christian mandate and this remains at our core today. We exist to serve people in Christ's name and we want to grow as an organisation that is seen and respected as being overtly Christian and true to our mission and values (Christian Care*, 2007c, p.14)

While there was no explicit recognition that management saw the involvement of unions as consistent with their organisational mission, when asked about the main characteristics of employment relations and Christian Care, the regional manager did list the 'notification of unions' concerning organisational change and the involvement of unions in negotiated agreements' (Interview, Regional Manager 2008).

The significance of the organisational mission in shaping employment relations is considered in greater detail in the following section which explores the effect of non-labour regulation on employment relations at NWL.

Section Four: The Aged Care Act and the management of labour

Chapter 4 detailed the relationship between government regulation of the aged care sector and the distribution of funding determined by the *Aged Care Act 1997 (Cth)*. It examined the specific regulations listed in the Act including the control of the

supply of beds, price caps, accommodation bond charges, accreditation and funding mechanisms. As at Port View, staff and management at NWL identified funding mechanisms and accreditation as impacting on the day-to-day work of care staff (Interviews, Office Co-ordinator 2009, Executive Care Manager 2008, RN 2009, CSE [2] 2008). When asked how long she spent on the 'paperwork' associated with her caring role a CSE answered:

Half an hour to one hour. Because we don't have time we have to rush and finish it because we have to do the other work. So we have to finish this also we can't take much time because we have the other work to do, but anyway we have to finish it ...Some people they finish it at the end of their shift because most of the day we are busy with the work so we do after that (Interview, CSE [2], 2008).

While staff at NWL expressed concern about the amount of time spent on the documentation required to support funding claims, in contrast to Port View, there did not seem to be as much understanding of funding mechanisms or the link between the documentation required by non-nurse care staff and the amount of funding received by Christian Care. An RN explained that part of the problem was that CSEs were not able to identify which elements of a resident's physical and mental condition needed to be included in reports:

It's hard for them to fathom out what's necessary to report and what isn't. By that I say they're dealing with the residents every day, and they're inclined to think, okay, because Mrs So and So gets lost around the place, or can't do things, they are so used to it happening every day, that it becomes a normality (Interview, RN, 2008).

A possible explanation for the difference in the understanding between the two cases is that at Port View, PCAs (equivalent to CSEs at NWL) in the hostels had primary responsibility for completion of documentation required for funding claims. At NWL that responsibility fell to the RNs. The Executive Care Manager who, not only appreciated the connection between documentation and funding, but expressed

serious concerns about the medium to long-term impact of the implementation of the ACFI. Specifically she was concerned with her ability to accept residents who do not fit the ACFI criteria and consequently do not attract enough money to cover the costs of their care:

Now when you look at an ACFI if you've got someone that's not ticked for wandering or not ticked for depression or ticked for having any sort of problems with their short-term memory, you're thinking well, I'm not going to score anything. And are they – oh they're continent, great, okay. And oh, they're independent with their medications. You can't claim..... So you can't take them. And you have to say no, this person's not going to give me any money (Interview, Executive Care Manager 2008).

This concern about the impact of ACFI echoes those expressed by others in the industry (as discussed in chapter 4).

It also raises questions about the affect of this potential decrease in funding on staff. The Executive Care Manager and the Human Resource Manager articulated a clear connection between the funding arrangements and the management of labour, specifically the capacity to pay for wage increases for existing staff or for more skilled staff:

It's funding. You know, in this industry, salaries and wages represent approximately 70 per cent of our total costs ... and then you have to do everything else: build buildings and feed people and et cetera, et cetera, et cetera, out of the other 30 per cent. So you cannot afford that 70 per cent to grow. Your income is predicated by government policy, government funding arrangements, so therefore what you can afford to pay staff is directly linked to your funding (Interview, Christian Care Human Resource Manager, 2009).

At NWL the executive care manager revealed an acute awareness of this relationship when describing her efforts to maintain seven day per week RN coverage as evident in the exchange below:

ECM: I have fought to keep it that way but I don't know how long I'll be allowed to keep that.

Facilitator: Because of funding pressures?

ECM: Funding pressures, yes, and you know this next financial year is going to be crucial in that area because if I go backwards in my income that's the first area they'll pick on. You've got 15 hours a day of RN coverage.... I think you need to cut that 'cause you're this far under in your income, and they're the highest paid (Interview 2008).

The accreditation process is closely associated with funding. The receipt of subsidies is subject to compliance with all four Accreditation Standards and their 44 associated outcomes. As discussed in chapters 4 and 5, residential aged care facilities are required to undergo accreditation every three years. Given the possible sanctions including the withdrawal of funding that may be imposed if accreditation standards are not met, it is unsurprising that accreditation may be viewed by staff as a stressful process¹². This was the case at NWL. While NWL complied with all standards in its 2009 accreditation, staff did report feeling increased pressure in preparing for the inspections. When asked about the impact of accreditation an RN commented that:

Theoretically, it shouldn't make any difference, but it does because there's the stress of just knowing they're going to be watching you, and they're going to ask you questions and you hope you answer them correctly. Nerves play a big part in it both for – well, for the RNs and for the carers, particularly here when we don't have all English speaking backgrounds (Interview 2009).

She also reflected that part of the anxiety was a result of the increased workload associated with proving compliance with the standards:

I mean, for us, for the RNs, it means a lot of extra work inasmuch as doing – bringing care plans updated and keeping them sort of reviewed every three

¹² Braithwaite et al (2007: 190-195) consider the extent of non-compliance and the imposition of sanctions as well as the implications of non-compliance for aged care providers.

months, because of all the other workload you've got. That's just one thing that I can think of, off hand. There's a lot of paperwork (Interview 2009).

The Office Coordinator with responsibility for NWL's rosters revealed that in the days leading up to visits by assessors from the Aged Care Standards and Accreditation Agency, 'everyone just want[ed] to run away and not accept a shift...they were stressed' (Interview 2009). As at Port View, the concerns of some staff about participating in the accreditation process demonstrate how non-labour regulation can directly impact on the employment relations environment. More generally the above discussion illustrates that funding mechanisms (like ACFI), and compliance with mandated standards (through accreditation), determine to a significant degree how direct-care to residents is delivered and labour is managed.

Section Five: Organisational norms at NWL

While care giving was gendered at both Port View and NWL, there was a particular norm shaping the management of labour at NWL, that being the Christian Mission of Christian Care. As noted earlier, the mission of Christian Care is 'to express Christ's love as we serve individuals, families and people in the community who have unmet spiritual, emotional or physical needs' to be achieved 'through recognition of the inherent worth of each individual in God's sight' (Christian Care*, 2007b).

During the course of this research it became apparent that while the mission was interpreted in subtly different ways depending on position within the organisation, it was nonetheless recognised as an important influence on behaviour at Christian Care. The Human Resource Manager commented that management at Christian Care attempted to treat staff 'consistent with our mission and values' and that this approach differentiated Christian Care from other aged care providers:

So whilst our industrial relations environment is probably not dissimilar to many other providers, within that context we strive to ensure that when it comes to managing people and developing people we have great consistency in our values: treating people with fairness and respect; seeking to develop

people and grow them, not just in terms of their knowledge and skill but also in terms of their personal development as a human being (Interview 2009).

The influence of the mission on staff and management resonates with Gahan and Brosnan's (2006) proposal that broad definitions of regulation should include:

any non-state mechanism which has a regulative effect, norms and conventions ("custom and practice") which shape the conduct of employment relations at the workplace level (p.136).

The Human Resource Manager acknowledged the significance of the mission with regards to recruitment:

The other strong element for us is our mission and our values. As a Christian organisation we have strong mission statements and a strong set of values. That's very important to a lot of our employees. They see it as an opportunity for service consistent with their personal beliefs and values (Interview HR Manager 2009).

The CEO noted that while employees were not necessarily Christians, they were required to agree to the principles of the mission and act accordingly. In contrast, the CEO pointed out that at 'higher levels [of management] they've got to be active members of a Christian church' (Interview 2006). This was reinforced by the comments of the Regional Human Resource Manager:

For more senior level positions we like to have people who are practising Christians, I think the term is, actively involved in a local Christian church, it doesn't need to be any particular denomination (Interview 2008).

This is consistent with statements in the 2008 Annual Report and the 2009-2013 Strategic Plan both of which state that:

In being overtly Christian we value the vital importance of Christian leadership in our organisation, keeping our mission and our values at the forefront of our staff and volunteers (Christian Care*, 2008b, p.10).

According to the Regional Human Resource Manager this commitment had ramifications for recruitment. She expressed a concern that it posed difficulties in attracting staff at more senior levels:

I think that makes it a little bit difficult in that not only do you need the skill set, you need the experience and all of that but that just puts in another component that adds that extra dynamic that perhaps sort of other organisations that would be a full profit organisation may not have (Interview Regional HR Manager 2008).

Senior managers (Interviews, CEO 2006, Regional Manager, 2008, Regional Human Resource Manager 2008, Christian Care Human Resource Manager 2009) understood and were committed to the organisational mission, but other staff interpreted and articulated this in more qualified ways. For example a CSE recognised that Christian Care:

have this policy, you know the religious thing, to take care of them and look after them, give them proper care and help, support to the aged and during their illnesses also (interview, CSE [1], 2008).

When asked about the importance of the organisational mission the NWL educator reflected that she was unsure about how 'obvious' the mission was to others and that her awareness of it was probably due to 'what I seek inside'. Despite the personal value she placed on the mission, the NWL educator also acknowledged that most people working in aged care (for either charitable or for-profit providers) did so because of a commitment to providing quality care as it 'is not an industry where people stay, especially at the care level, if they don't like it' (Interview Educator, 2006).

The regional manager also acknowledged the impact of the organisational mission and noted that there existed a definite tension between the mission and the operation of Christian Care as a business commenting that, 'We have to turn a surplus to rebuild...it's *mission versus margin*' (Interview Regional Manager, 2008). The financial data outlined in an earlier section highlights this dilemma (see Figures

13 and 14). It revealed that the income from aged care subsidised a quarter of the costs associated with the provision of Christian Care's other services. This is suggestive of an internal organisational imperative to ensure that aged care continues to generate a surplus. This tension, and the preceding discussion about the impact of the mission within Christian Care, reinforce the analytical utility of a regulatory framework which explicitly acknowledges the role of social norms (emanating from society more broadly and the workplace more specifically) on the development of employment relations.

Section Six: The Impact of Regulatory Change at NWL

While the previous sections examined both the industry and the organisational contexts, this section considers the impact of external and internal regulatory change since 2006 on the conduct of employment relations at NWL. External regulatory changes with which management and workers had to contend included changes to the labour law (through *Work Choices*), and significant alterations to the residential aged care funding system (from the RCS to ACFI) and the consequent changes to associated documentation requirements for the direct-care workforce. In addition, as with the Port View example explored in the previous chapter, these external regulatory changes were matched by internal regulatory change, namely, an organisational restructure. Like Port View, there is not a simple chronological explanation of the impact of these changes on each other. It is tempting to explain the internal organisational restructuring as a consequence of changes to the external regulatory environment. However, due to the almost simultaneous development of the external and internal changes there does not appear to be a direct causal link between them.

As with Port View, interviews at Christian Care did not reveal any significant change directly associated with the implementation of *Work Choices* despite new agreements being made for nurses and non-nurse employees. The Human Resource Manager summarised its effects as follows:

I wouldn't say that *Work Choices* had caused enormous change. I think it obviously gave us a bit more flexibility in certain areas, particularly when it

came to terminating people who either turned out not to be suitable, you know, within that six month period or who we needed to terminate for other reasons. So yes, I think it had some impact but not significant (Interview 2009).

In contrast managers identified non-labour regulatory change as having a significant impact on the operation of Christian Care's residential aged care facilities. While change to the funding regime did not necessarily change how the day-to-day relations with staff were conducted, it did make existing challenges more difficult. For example, turnover and retention were identified as big issues, with a recurring theme being the difficulty of wage competition experienced in a metropolitan area. With no extra funding to increase wages (and indeed some constraints to existing sources of funding due to ACFI changes and the drop in interest rates), management was finding it increasingly difficult to recruit. Christian Care was attempting to overcome some of its recruitment problems by implementing innovative recruitment methods such as the 'employee referral program' which meant that if:

you recruited someone like a carer level or field worker level it was I think \$100 or \$200 and ...If you recruited someone who was a coordinator, a community coordinator or an RN for example, it was about \$500. If you recruited, referred a manager it was about \$2,000 (Interview, Regional Human Resource Manager, 2008).

Despite these attempts and efforts of Christian Care to develop its attractiveness as an employer through training and family-friendly practices (Christian Care*, 2007a, 2008b), managers conceded that recruitment and retention were affected by the inability of Christian Care to differentiate itself through pay (Interviews CEO 2006, Regional Manager 2008, Christian Care Human Resource Manager 2009). The Human Resource Manager articulated a concern that the award modernisation process (detailed in chapter 4) potentially exacerbated capacity to pay issues for Christian Care and other aged care providers:

it could create a scenario where the occupational award for nurses might be just simply uncompetitive or unaffordable given the funding arrangements within the aged care industry...the fundamental problem is it ...has the potential to disconnect the rates of pay for nurses from the industry funding. When those two are disconnected then we can get some very difficult situations (Interview 2009).

The Regional Manager characterised this funding-wages nexus as a function of the restrictions on fees charged to residents (Interview 2008). This reflects industry-wide concerns about the ongoing viability of current funding arrangements prompting the Senate's Finance and Public Administration Committee to make recommendations for 'radical changes' (Australian Ageing Agenda, 2009d) to the regulation of the sector (Finance and Public Administration Committee, 2009). An associated concern in the Christian Care case was the external economic environment and the onset of the Global Economic Crisis. The Human Resource Manager predicted that:

Staying profitable throughout all our investments over the next five to ten years will be very challenging. In the current economic climate we've lost, or about to lose, a very significant income through the actual interest rates and that's going to put a lot of pressure on the organisation to cut costs (Interview, Christian Care Human Resource Manager 2009).¹³

The recent change in the economic environment and its potential impact on Christian Care represents an external regulatory constraint which was not present in the Port View case.

The changes to funding arrangements and the economic environment were accompanied by (though not necessarily caused by) internal change at NWL in the form of an organisational restructure. Given the concerns raised by care staff at Port View about such a restructure, it might be anticipated that such a change would also negatively impact on the employment relations environment at Christian Care. Yet

¹³ Residential aged care providers draw on the interest from accommodation bonds charged to low care residents to fund capital works.

the impacts of these changes for workers at NWL differed markedly from those in the Port View case. The organisational restructure did not seem to have a direct impact on care workers. It was largely a re-organisation of the management structure of Christian Care more broadly:

I don't think it is directly affecting the residential area much, to be honest with you. I think perhaps senior management level ... [but] ... others very much. Especially the care staff, they are really not really worried at all (Interview, Care Manager 2007).

However, there was some indication that workers whose responsibilities overlapped with the kitchen were affected by the organisational change. In 2007 Christian Care began to outsource its catering (to a separate division of Christian Care see Figure 9) and this was implemented at NWL in 2008 at which time a Care Service Worker reflected that 'no-one wanted this change' (Interview, Care Service Worker 2, 2008). Despite this claim, interviews with other employees conducted around the same time (CSE [1]; RN, Office Coordinator) did not reveal any concerns about the new catering arrangements. More common concerns were issues arising from generational and cultural change in the workforce. The registered nurse and the regional educator (also an RN) both identified the age composition of the workforce as a major challenge both for the organisation and for individual employees:

And we've got the X generation, Y generation in the employment staff bases. So we've got our senior staff are X generations, our junior staff are the Y generation. Totally different. I think there's a lot of challenges now. More than when I first started nursing which is obviously X generation, baby boomer area.....It is a big organisational challenge. It's a challenge to the residents though also, because they've got a group of people that they don't understand and they don't necessarily like (Interview, Regional Educator, 2008).

The impact of cultural change within the workforce was not limited to age but was also a matter of ethnicity. A CSE expressed the view that the changes in workforce

demographics had resulted in a breakdown in 'teamwork' due to the 'different culture and different no manners and everything' (Interview 2008). An RN reflected that language difficulties impacted on levels of understanding about the significance of documentation 'it's a level of understanding, and I think the lack of English language has a lot to do with it' (Interview 2009). The regional educator identified cultural differences as a source of misunderstanding between staff and residents:

I think our staff pool base has changed dramatically...We've got a lot of cultural influences that underpin attitudes and values in staff, and not necessarily the same as the underpinning values of the clients if you follow me (Regional Educator).

The above quotes demonstrate that for staff of Christian Care, the changes that concerned them were those that related to cultural change at the workplace level. Indeed there appeared to be a consistency about other aspects of working for Christian Care generally and at NWL in particular. At Port View the changes to the funding mechanisms from the RCS to the ACFI were intricately linked to changes in organisational culture and practice. Likewise at NWL there were undoubtedly adjustments to be made as documentation changed but of greater concern to staff was the consistent frustration concerning the lack of time to spend on the direct care of residents (Interviews RN 2009, CSE [1] 2008, Care Manager 2006).

Section Seven: Conclusion

The period within which this research was conducted was punctuated by significant formal regulatory change in labour legislation and the funding mechanisms upon which aged care providers rely. In both the Port View and Christian Care cases, management embarked on organisational restructures in order to better equip their organisations to deal with the changes. As in chapter 5, the discussion in this chapter addresses the question of the relative importance of these external and internal regulatory changes on the management of labour in this case. More specifically, which regulatory forces shaped the approach to the management of labour at NWL? Given the discussion above, this may not be the right question to ask in the case of NWL. The texture of the regulation experienced by Christian Care contrasted

markedly to Port View. That is, regulatory change, whether internal or external, did not result in significant changes to employment relations at NWL. Rather, the regulatory forces which most influenced the management of labour at NWL, were either constant or slow-changing, often informal, regulators such as workforce aged, culture and location.

In the case of Christian Care, given that changes to formal regulation, both external and internal, did not result in substantial change to labour management, the regulatory forces which more directly influenced management decision-making and strategy development (through the annual review of the strategic plan) were, in terms of Lessig's broader theoretical framework, the architecture and social norms. The architecture in this case was the location of the facility, particularly its proximity to a large university campus, the demographic make-up of the local community and the availability of easily accessible alternative employment opportunities. Social norms, which exerted pressure on both management decision-making and the perception of employment relations for employees, were the gendered nature of the workforce, the culture of the workforce and the organisational mission, albeit that pressure manifested itself differently for employees and management. In this case, architecture impacted on social norms and was illustrative of the intricate entanglement of the various types of informal regulation. For example, the location of NWL in a multi-cultural local council area influenced the demographics of the NWL workforce. In turn the cultural understandings and behaviour amongst the workforce may regulate the likelihood of employees to 'voice' concerns and workforce planning as 'word of mouth' recruitment amongst particular local communities was a significant source of new staff. In addition, the metropolitan location of the facility may have contributed to turnover as employees could more readily 'exit' and gain employment elsewhere.

In common with Port View, for management and workers at NWL, changes to labour law, through *Work Choices*, did not exert a significant influence on management decision-making. In this case, the issue was not regulatory changes (labour or non-labour) in isolation but how those changes interacted with, and impacted on, the main organisational regulating constraint – that is the mission. A real tension was

evident between the operation of the business and organisational values described by the Regional Manager as 'mission versus margin' (Interview 2008). This organisational dilemma could also be expressed in terms of competing regulatory forces: social norm (Christian mission) versus legal and market regulation (funding and broader economic circumstances). The navigation and accommodation of these forces to a large extent informed the approach to labour-management at Christian Care. That is, managerial decision-making required consideration of how to honour the care commitment to residents and the equivalent commitment in the treatment of staff. However, this aim did not result in better wages for workers. While the periodic staff survey allowed more individual opportunities for the expression of employee voice at NWL than Port View, the lack of collective voice meant that Christian Care management was free to make 'strategic choices' (Kochan et al., 1994), unfettered by coordinated pressure from the workforce. In practice this meant that the operational surplus generated by Christian Care's aged care services was not invested in improving the wages of its aged care workforce but redirected to other services deemed to be of import to its Christian mission. Instead, management at Christian Care attempted to overcome perceived wage constraints by adopting employment relations initiatives which emphasised 'family friendly' conditions and attempted to attract employees sympathetic to its organisational aims.

This chapter examined the regulatory pressures which impacted on management decision-making at Christian Care and the effect of this on employment relations at NWL. The Christian mission of the organisation was a key regulatory constraint within which the employment relationship was conducted. In Lessig's terms, it represented a social norm in the context of the larger organisation. Like Port View, some of the regulatory constraints (though important) were held constant: these included the gendered nature of care-giving and the managed market for aged care services. As with the study of Port View, this chapter concludes that the minimal collective expression of employee voice and the absence of coordinated dissent regarding pay and conditions enabled Christian Care to channel these operating surpluses away from aged care towards other activities and services which, in this case, were considered to be more important in the pursuit of its Christian mission.

This approach prioritised the broader organisational mission over improvements to the wages of its aged care staff.

Chapter 7

Red Gum Retirement Village

Introduction

This chapter explores employment relations at Red Gum Manor, a privately owned low-care facility situated within the Red Gum Retirement Village in the southwestern suburbs of Sydney. Discussion and analysis in this chapter is shaped by the comparative case study methodology, using the two previous cases as reference points and developing arguments introduced in chapter 4.

As with the Port View and Christian Care examples (discussed in chapters 5 and 6), this chapter assesses the impact of labour regulation and the implementation of new regulatory arrangements for aged care providers on the management of labour. However, this case differs from the previous examples in two significant ways. First, Red Gum is a for-profit provider and this chapter examines the importance of this as a modifier of employment relations within the organisation. In particular, consideration is given to how profit, as an organisational motivator, fits within Lessig's (1998) model of regulatory constraints. Second, the 'Manor' opened in 2004 with its employees engaged on agreements made under the *Workplace Relations Act 1996*. The status of these agreements did not change with the enactment of *Work Choices*. As a consequence, while this chapter examines the impact of labour law on labour-management, unlike the previous cases, it does not consider the impact of changes to labour law.

This chapter is divided into six parts. Section one explores the organisational context of Red Gum Manor, particularly its location, history and organisational structure. Section two examines the characteristics of the workforce employed at the Manor and considers the impact of location and social norms on these characteristics. Section three considers the regulatory role of labour law and industrial instruments including AWAs. Section four analyses the impact of the *Aged Care Act 1997 (Cth)*, specifically regarding funding and accreditation, on labour-management at the

Manor. Section five suggests that formal labour regulation was not a priority concern for management because management had already determined wages and conditions in a way that suited them. The final section provides a conclusion to the chapter and in doing so considers the influence of ownership structure on the management of labour at Red Gum Manor.

Section One: Organisational Context

Location and History

Located in the south western suburbs of Sydney, Red Gum Retirement Village is situated in an area of rapid economic and population expansion. Its Local Government Area has a population of just over 164,603 (ABS, 2006a) and is predicted to increase to close to 280,000 by 2026 (Office of the Minister for Western Office of the Minister for Western Sydney, 2009). The population of the area is culturally diverse with approximately 38 per cent of residents born outside of Australia, 15.6 per cent greater than the national average (ABS, 2006a). This bears a striking similarity to the Local Government Area within which NWL is situated (see chapter 6). The regulatory implications of this demographic similarity will be considered in greater detail in a later section and in chapter 8.

Red Gum Retirement Village ('the Village') was developed by Red Gum Communities in partnership with a company specialising in residential, commercial and light industrial property development. The Village consists of 152 independent self-care villas. Constructed in 1998, Red Gum Retirement Village was the first development of Red Gum Communities and was built on land previously used as a market garden by the founder's grandfather. This family connection with the local area and the involvement of the founder in local service clubs is marketed as evidence of the commitment of Red Gum Communities to the local community.

Red Gum Manor ('the Manor'), the low care facility upon which this chapter is based, did not open until 2003. Originally the Manor was conceived as a block of serviced apartments for aged residents set in the grounds of Red Gum Retirement Village. However, upon further investigation during the development process, the founding

Director identified a desire among the existing Village residents to stay on-site when their care needs intensified. This desire, combined with the potential of accessing government funding, resulted in Red Gum Communities developing the Manor as a 67 bed low care residential aged care facility (Interview, founding Director – Seniors Living Operations Manager [SLOM] 2009). The decision to opt for low-care was governed by fee and funding structures. Under the *Aged Care Act 1997 (Cth)*, accommodation bonds may only be charged for residents entering low-care facilities. Consequently, in order to receive assistance with the \$8 million cost of construction, the Manor needed to attract residents whose accommodation bonds could be used to contribute to the capital costs¹⁴ (Interview, founding Director – SLOM 2009). While upon entry residents are deemed to be low care, the Manor is an ageing-in-place facility. This means that as residents' care needs become more complex, they are able to remain at the Manor and attract greater government subsidies to cover the increasing costs of their care (see chapter 4).

Since 2004 and the opening of the Manor, Red Gum Communities has sought to expand. In 2008 it opened a 23 bed extra service facility located twenty minutes further west of the Village. Additionally, in 2008 application was made for funding to provide community aged care services. As a result Red Gum Communities received approval for ten CACPs which provide 'planned and managed care' for the aged who 'have complex needs and would like to remain in [their] own home' (Department of Health and Ageing, 2009b). In this case, then, the very origin and expansion of the organisation were shaped by federal government regulation of the sector.

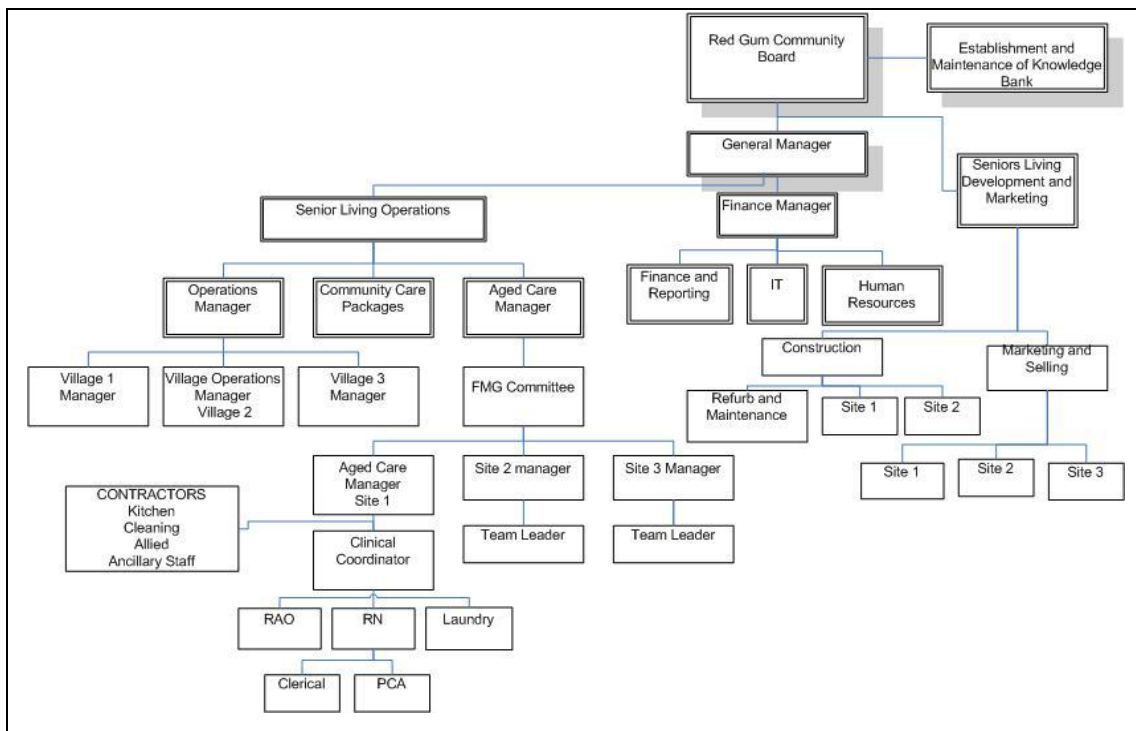
Organisational Structure

Red Gum Communities' organisational structure is shown in Figure 15. Red Gum Communities is governed by a board of three directors, two of whom have an ongoing role in the management of the Village, the Manor and a newly developed extra service facility. Specifically, these roles are 'Seniors Living Operations' and 'Seniors Living Development and Marketing'. During the conduct of this research it

¹⁴ The proportion of the accommodation bond that providers may keep is determined by agreement between the resident and the provider. However, the maximum amount per month is capped by the federal government

was indicated that with the expansion of facilities across multiple sites and a move into the provision of CACPs, it was the intention of the board to appoint a General Manager to coordinate all facilities and services of the company (Interview, founding Director - SLOM 2009).

Figure 15: Organisational Structure of Red Gum Communities



Significantly for employment relations at the Manor, the Finance and Administration Manager also had senior managerial responsibility for Human Resources. However, in reality this function was very ad hoc and the role of this manager was seen as budgeting for staff and assisting facilities managers to stay within that budget:

They will say well this is what my shifts are, this is the type of people I want to have on the shift. I will then go and cost them out and then say okay, on costs this is what it comes down to (Interview, Finance and HR Manager 2009).

The Finance Manager further noted the flat management structure within Red Gum Communities. She identified this lack of 'bureaucracy' as a strength because it meant that it was 'quite easy to change something if required' (Interview, Finance and Human Resource Manager 2009).

This approach to human resource management contrasts with the Port View and Christian Care examples. In both of these cases, a professionalisation of management was apparent through the rationalisation of organisational structures. At Port View, the process was assisted by the use of expert consultants who then became permanent staff and by the recruitment of a CEO with experience in the broader health sector. With Christian Care being larger and providing a greater range of facilities and services, the professional management of human resources had been a feature of the organisation for some time as evident through its leading role within the not-for-profit employer association, ACS. This corresponds with the views of the ACS CEO:

larger organisations can afford a professional HR function, which will give you more reliable high quality staff supervision and so on, than a typical family firm structure would. Now, there'll be cases where a small family firm is for the better, but not as reliably so (Interview, ACS CEO 2008).

The intention of the Red Gum Communities board to appoint a General Manager given their expansion supports this position that professionalisation is often proportional to size. However, during the conduct of this research such a professionalisation was not evident and management decision-making, particularly with regard to the management of labour, was largely unplanned and improvised.

Although Red Gum Communities had an ad hoc approach to human resource management, this did not have an obviously negative impact on their profitability. A 2008 survey by aged care accounting specialists Stewart-Brown Business Solutions, comparing the financial performance of the Manor with 34 low care facilities of similar size revealed that staff costs associated with the provision of resident care were approximately 17 per cent less (at the Manor) than the average (Stewart-

Brown Business Stewart-Brown Business Solutions, 2008). This result is based on the cost of registered nurses (RNs) which for the Manor was \$1.94 per resident per day less than the average (of the 34 comparable facilities) and \$7.55 per resident per day less for other direct care staff.

Labour costs at the Manor accounted for the largest proportion of daily expenditure at just over 55 per cent. This is significantly lower than the average for the sector (Hogan, 2008) and the average for the comparable sized facilities in the Stewart-Brown survey (approximately 66 per cent). The lower result for the Manor may in part be explained by the omission of catering and cleaning from the overall calculation of staff costs as those services were provided by external contractors. However, it is likely that the Manor still performs better on staff costs than the survey average as its daily operating result (as at 31 December 2008) was \$6 per day per resident higher than the 34 similar sized low care facilities (Stewart-Brown Business Solutions 2008).

Section Two: Red Gum Manor and the aged care labour market

Red Gum Manor is situated in outer metropolitan Sydney. As in the Christian Care case, location has implications for the demographic mix of the workforce and for the recruitment and retention of employees and highlights the difference between these two examples and that of Port View. This difference will be examined in greater detail in chapter 8.

Table 15 illustrates that the majority of workers are PCAs, reflective of the broader aged care sector in which PCAs account for over two-thirds of the direct care workforce (Martin & King, 2008). The Manor is organised into five sections and during the day shift (between 6am and 2.30pm) each of the sections is allocated a PCA to provide care to approximately 13 residents (Interview, RN1 2009). The morning shift has the highest PCA to resident ratio to ensure that the physical and administrative tasks (such as daily progress notes) associated with the higher care residents are met (Interview PCA1 2009). While progress notes are also required for lower care residents, these are only necessary two or three times per week. During the afternoon shift (between 2.30pm and 10.30pm) there are only three PCAs

responsible for the five sections and during the night (between 10.30pm and 6am), there are only two PCAs on shift for the whole facility (PCA Focus Group 2009). The responsibilities of all the PCAs include: giving medication (via pre-prepared 'Webster' packs), assistance with personal hygiene including showering and toileting, assistance with feeding and occasional wound dressing.

On weekdays in addition to the PCAs, there is an RN rostered during each of the shifts (Personal Correspondence, Care Manager 2009) and there is one endorsed enrolled nurse (EEN) to assist the RNs with medications. On Saturdays and Sundays one RN works between 7.30am and 4.30pm. RNs are the senior clinicians and as such they are responsible for the clinical needs of residents, dressing and wound treatments, attendance during doctor's rounds, checking medications and liaising with the pharmacy when medications change (Interview RN1 2009). A large part of the RN's role is the supervision of PCAs with the permanent RNs, the Care Manager and the PCA co-ordinator constituting the Manor's management team (Interview RN2 2009).

In contrast to Port View and Christian Care there was a significant difference in the treatment of RNs and PCAs working at the Manor by Red Gum Communities. RNs were generally employed on a permanent basis (see Table 15) with their wages and conditions underpinned by the *Nursing Homes, Nurses (State) Award*. PCAs, on the other hand, were employed as 'permanent casuals' (Interview PCA 2, Care Manager, Financial Controller 2009) with wages and conditions set by AWAs. In effect this meant that PCAs were not entitled to sick pay or annual leave but had a regular roster of shifts. The implications of this difference are explored later in this section.

Table 15: Red Gum Manor Workforce Profile

Occupational Category	Permanent	Casual
Care Manager	1	0
RN	5	1
EEN	0	1
PCA	0	26
Totals	6	28

A similarity across all three cases is the gendered nature of the care workforce. At the Manor, as at Port View and Christian Care, direct care employees were predominantly women. Of the 33 regular employees, three were men - two Personal Care Assistants (PCAs) and one RN. The 90 per cent female care workforce was explained by the Care Manager as being the result of ‘fellas think[ing] that it is a female job’ and also because:

for PCAs it’s a lot of the time mothers are returning back to work, young girls that have finished school and trying to fill in the void before they get married and settle down. The shifts are suited to the mothers that work around the families’ (Interview, Care Manager 2009).

When asked why they had chosen to work in aged care, the overwhelming response of care staff at the Manor related to the ability to combine work which suited their existing skills with enough flexibility to accommodate for their role as primary carers within their own families:

It is just the flexibility I can say. It’s sort of like, you can work around if you have a family life as well, like your kids and everything (Interview, RN 2 2009).

And at that time it suited me and my family because I was starting to have a young family and aged care, especially in nursing homes, you had your set shift, it wasn't rotating (Interview, Care Manager 2009).

I raised my kids - I got married and I was at home for 13 years and I actually never studied. I guess from friends and people that I met and I came across and they said oh you should do the immediate (sic) certificate because you can actually get a job pretty easily to get into the workforce ... I thought oh why not give it a go. So then when my youngest started pre-school I did certificate three and I did it part time while he was going to school (Interview, PCA Coordinator 2009).

Me? After raising seven children I decided to do something for myself and I've always liked looking after – whether it's little kids or older people. Especially having to look after my elderly mother as well, so I decided to do something for myself (PCA Focus Group, 2009).

These comments not only reveal a pervasive societal expectation that women are considered to be responsible for the primary care needs within families but significantly, how this social norm shapes interactions within the labour market.

However, the prevalence of women in aged care cannot simply be explained by reference to a need for work which allows for suitably 'family-friendly' arrangements. Arguably, jobs in other sectors could offer similar arrangements. Other reasons for the continuing gendered nature of the aged care workforce will be considered in more detail in chapter 8.

Also evident in the responses (above) of care workers at the Manor was a compounding effect of social norms about the provision of care. That is to say, women were primary carers in the home and felt skilled in the giving of care and as a consequence sought work utilising those skills.

This is not to suggest that other regulatory pressures do not impact on decisions by women to work in aged care. As in the Port View case, an explicit link was made by a

PCA working at the Manor, between the revision of welfare arrangements once her children were school-age and entry into the aged care labour market:

Well yeah, they were at school. Centrelink have mentioned to me, now that they're back at school, did you want to re-enter, because we can help re-enter the workforce. She said yeah, what are you interested in? I told you. She said it's funny you say that. The next day I was in the course. They had a position. So it happened so quick, yeah (Interview, PCA 1 2009).

Such an example reinforces the impact of non-labour regulation by different sections of the state on labour market outcomes whether intentionally or inadvertently. It also illustrates that different regulatory forces (in this case law regarding the receipt of welfare and social norms) 'frequently reinforce each other by obligating the same behaviour' (McAdams, 1997), in this case engaging in care work.

These quotes from staff with childcare responsibilities suggest that while the care workforce at the Manor might be influenced by broader social norms about the gendered provision of care, the age profile of the Manor workforce is younger than the sector more broadly. As discussed in chapter 4, the 'typical' aged care worker is 'around 50' (Richardson & Martin, 2004). This difference could in part be explained by the location of the Manor within a Local Government Area in which the proportion of people aged 55 or over is nearly eight per cent less than the national average. By way of contrast, Port View was situated in a local government area with 30 per cent of the population aged 55 or over, a full six per cent above the average and NWL in which the proportion of the community aged 55 and over was 24.4 per cent, equivalent to the national average (ABS, 2006a). The connection between location and the age of the workforce evokes Lessig's framework by highlighting that the spatial dimension of work ('architecture') is one factor influencing employment relations (Braithwaite et al., 2007; Lessig, 1998).

Location further impacted on the demographics of the Manor's workforce with regard to cultural diversity. During a focus group conducted with three PCAs at the Manor it was noted that 'Anglo's would be in the minority'. It was also observed

that over the preceding eighteen months there had been a change in workforce composition:

There was a lot more – I don't mean to be rude, but white people than what there was like the Asians and the Africans and stuff like that. Where now we've got a lot more different races here (Focus group, PCAs 2009).

One result of this increasing diversity was tension between staff from non-English speaking backgrounds and Anglo-Australian residents. The care manager with responsibility for hiring staff at the manor acknowledged that managing cultural tensions between staff and residents was difficult:

But a lot of the time they [the residents] don't like black people. There's something – it goes back to that white and black, you know, white being the superiority ... it's not like I purposely hire those colours, it's whatever comes through my door and whatever fits the criteria. I'm not going to judge them by their colour. It just happens to be that those people are the ones that go for job. My residents have to, you know, love it or leave it.

And it comes up time and time again ... it's very upsetting to them as you can see, but I just have to say look grin and bear it, I really do understand and I try and work around their issues that they might have. Culture-wise it's very difficult because some cultures, say the South Africans, they're very abrupt and forceful, that's just – I'm not saying that they are abrupt but that's just the way they come across. They just come across very arrogant as well, but they're not' (Interview, Care Manager 2009).

A PCA also acknowledged the impact of this tension as the largely Anglo-Australian resident population felt they could confide in her and not other care staff because 'I'm an Aussie, yeah' although she did hasten to add: 'I don't mean that in a bad way' (Interview, PCA 1 2009).

As with Christian Care this mirrors trends witnessed in the sector over the past five years in which time the proportion of residential aged care workers born outside of

Australia grew by eight per cent (Martin & King, 2008). Reflecting on the cultural mix of the care workforce at the Manor, the Care Manager suggested that the lower-skilled caring roles were filled by people for whom there were fewer employment options:

If they've had a bit of education they wouldn't be doing PCA work, which is assistant nursing work. It's not that – you're definitely not doing it for the money because the money is not there. So you're looking at the lower socio-economics, the migrants... the non-English speaking background people, things like that... This is the job that they can find whereas I'm in luck with my RNs, you know, they choose to be here (Interview, Care Manager 2009).

This echoes the sentiments of Christian Care's Regional Human Resource Manager who characterised the residential aged care workforce as being part of a secondary labour market in which employees were low-skilled, typically from a non-English speaking background and often with limited knowledge of minimum conditions and rights. Also in common with the Christian Care case was the 'word of mouth' recruitment among particular communities as noted by the Chairman when asked about workforce demographics, 'the workers [are] mixed ... there's people from Africa ...we had a Care Manager here that was African (Interview, Chairman 2009).

With recruitment, particularly of RNs, identified as a significant concern for both the Manor (Interview, Care Manager 2009) and Red Gum Communities more generally (Interview, Financial Controller 2009), 'word of mouth' recruitment was a positive by-product of a culturally diverse workforce. However, the Care Manager also identified this diversity as having implications for compliance with reporting requirements for funding and accreditation preparation:

I have to always remember that these girls come from – have limited education. They're migrants, they've come over and they can barely speak English ... So now I'm asking them to write a legal document and expect them to make sense (Interview, Care Manager 2009).

This potentially impacts on the job satisfaction of care staff. The care manager used the completion of care plans¹⁵ as an example, explaining that the majority of care staff 'hate that care plan' and equating her efforts to make sure the plans were completed and updated as 'like a dentist pulling out a rotten tooth – it's difficult' (Interview, 2009). This dislike of an integral part of the job of care staff has implications for retention. As in the Port View and Christian Care case, reasons for working at the Manor often had little to do with financial reward and more to do with job satisfaction particularly for those in more senior clinical or supervisory roles:

I can certainly say that even throughout my whole nursing career money is not a factor. And aged care especially we're very low paid. ...But if you love something, if you really love something that you do money shouldn't be a factor... No, I've never taken money into consideration (Interview, Care Manager 2009).

Yes, it really never mattered to me, like the pay difference (Interview, RN 2 2009).

I enjoy the residents' company. I enjoy helping them...I think one day I'm going to be that age and I would probably like somebody like myself - do you know what I mean? (Interview, PCA Coordinator 2009).

In contrast to the sentiments expressed in the quotes above, wages and conditions appeared to be a serious concern for PCAs. The difference between the attitude of RNs and PCAs is at least partially attributable to the disparity in wages and conditions received by the two groups of workers described earlier. During interviews with PCAs and RNs it was suggested that pay and permanency were the biggest issues for non-nurse care staff and that these were frequently raised at staff meetings (Interviews, PCA 1, PCA Coordinator and RN 1, PCA Focus Group 2009).

¹⁵ 'A care plan is a plan of care which is developed by you and the people providing your care (and a friend or family member if you wish). The plan will outline your care needs and will provide instructions as to how your care needs will be met' (Department of Health and Ageing, 2009a).

The following exchange between two PCAs revealed that management had undertaken to review pay and conditions but that it had yet to occur:

Interviewee 1: So we've had four care managers since it opened and everyone has said

Interviewee 2: Everyone said yes we'll get holidays and we'll get sick pay...

Interviewee 1: We're going to get it but it never happened (PCA Focus Group, 2009).

The continuing dissatisfaction with pay and conditions was explicitly linked to turnover:

a few people that have left like the one that wanted the holidays' (PCA Focus Group, 2009).

'Over the last 12 to 18 months, we've had a few come and go. But it could come back to the pay thing. Who knows? The pay. You know, no holiday pay (Interview, PCA 1 2009).

And at the moment the biggest issue would be the fact that they're on a contract and there's entitlements, so they're permanent casual. Does that make sense? And that's where I get a lot of staff, high staff turnover because permanent casual they're not entitled to sickies or holidays. So, you know, it doesn't really tie them over to us. They can just come and go (Interview, Care Manager 2009).

While management at the Manor identified a connection between the entitlements of the workforce and the level of staff turnover, management within Red Gum Communities did not share the concern. The Financial Controller with senior management responsibility for human resources reflected that she 'hadn't thought' to keep figures to track employee turnover and she thought it was 'something that the care managers might do' (Interview, Financial Controller 2009). However, she did acknowledge that recruitment, particularly of RNs, was a significant problem.

Despite this and her admission that it had taken eight months to fill the Care Manager's position at Red Gum Communities nearby extra service facility, she maintained that the owners of the business valued the staff and that this was adequately expressed through the rate of pay offered to employees:

So we also try and pay slightly higher than what the minimum market is paying ... To give the care managers a slight edge in such a tough market (Interview, Financial Controller 2009).

However there was little evidence that over-award payments were actually being paid to RNs who expressed a belief that they were paid in accordance with the award (Interviews, RN1 and RN 2). Although PCAs were initially paid a higher hourly rate than the award, this was eroded over time due to the failure of their individual contracts to keep pace with award increases and was further mitigated by lower shift penalties (discussed in more detail in the following section).

The Chairman also had a different perspective on turnover and recruitment than the care manager, asserting that:

It's [turnover] not that high, actually we have people waiting at the door to come to work here, and if anybody leaves there's somebody to step in (Interview, Chairman 2009).

The stark difference in the views of the Care Manager and more senior management suggest a problem with communication or at least misunderstanding between management at the Manor and the larger organisation. Differences of opinion between levels management with regards to staff turnover were also evident at Christian Care, prompting the more general question of how well aged care providers understand and are equipped to address the turnover issue.

Communication between workers and management at the Manor, had at times been characterised less by misunderstanding and more by unwillingness on the part of managers to listen and respond to the concerns of employees. Two PCAs

remembered an incident concerning a co-worker who repeatedly asked about holiday and sick pay at staff meetings recalling that:

The [previous] care manager got furious ... [the PCA] got told 'I don't want to hear about it anymore! You started on a contract, you signed it. That's it, don't ask me anymore (PCA Focus Group, 2009).

The inability of that PCA to express her concerns and receive an appropriate answer resulted in her leaving the Manor (PCA Focus Group 2009). This example clearly illustrates that the link between rates of pay and turnover was not one-dimensional but that turnover was exacerbated by management responses to employees' attempts at voicing concerns. As at Port View, employee voice does not seem to have had an impact on management's approach to employment relations. The disregard of employee attempts to express concerns did however impact on the employment relations environment at the Manor. It created an atmosphere in which PCAs became increasingly cynical about the sincerity of undertakings made by management particularly regarding the issues of holiday and sick pay:

And they said maybe after some years we're going to review. So we've been waiting for them to review. Yeah, since the beginning. Yeah, even today we had a meeting and they were still talking about reviewing the sick leave and holidays' (Interview PCA 2, 2009).

'Well, we're all hoping. I mean it has been said for every team manager I've know, that yeah, they're looking into it (Interview, PCA1 2009).

Further evidence of a poorly developed system for the expression of employee voice and a 'take it or leave it' approach by management was provided by a PCA who was threatened with dismissal for refusing to sign an AWA when she was first employed at the Manor (Interviewee 2 PCA Focus Group 2009). That this PCA did not sign the AWA and was not 'sacked' and the continuing requests by PCAs for the review of their wages and conditions (Interview PCA 1 2009) suggest that while the employment relations environment at the Manor may have been characterised by

scepticism bordering on contempt (at least on the part of some PCAs), it was not permeated by fear and intimidation as had been the case at Port View.

While mechanisms for the expression of employee voice were underdeveloped at both the Manor and Port View, the implications differed markedly for each organisation. In the case of the Manor, the lack of 'voice' resulted in the 'exit' of employees. However at Port View turnover remained relatively low despite dissatisfaction and weak communication channels between management and staff. This difference again highlights the importance of location and local labour market conditions on how particular organisations experience and conduct employment relations. The local labour market at Port View was much tighter, with higher levels of unemployment and fewer job opportunities meaning that 'exit' (even in the absence of 'voice') was a less palatable alternative whereas the metropolitan location of the Manor meant that there were more alternative employment opportunities for staff who did chose to leave.

This section has provided an examination of the organisational structure of Red Gum Communities and the workforce at the Manor. Specifically it has shown that while the workforce reflects sector-wide characteristics in terms of gender and cultural background, its age demographic is younger than the sectoral average. This is due to the demographic profile of the area in which it is located and as such reinforces the significance of geography as a determinant of employment relations. Location was also found to have an important role in exacerbating a key problem for management at the Manor – staff turnover.

Section Three: Labour Law and industrial instruments

Between January 2004 and March 2009, the wages and condition of non-nurse staff at the Manor were determined by Australian Workplace Agreements (AWAs). While the AWAs were accepted by employees on an individual basis, the content of the agreements was standard. The AWAs differed from the common rule *Aged Care General Services (State) Award* which would have applied in the absence of individual agreements. The main differences between the AWA and the award were pay rates, employment on a casual basis, non-payment of overtime, unpaid annual

leave and the absence of allowances. The AWAs made provision for two per cent increases in remuneration annually, whereas rates in the Aged Care General Services Award moved in accordance with State Wage Cases – those being: \$19.00 in 2004 (State Wage Case 2004 NSWIR Comm 148), \$17.00 in 2005 (State Wage Case 2005 NSWIR Comm 212), \$20 in 2006 (State Wage Case 2006 NSWIR Comm 208), \$20 in 2007 (State Wage Case 2007 NSWIR Comm 118) and four per cent in 2008 (State Wage Case 2008 NSWIR Comm 103).¹⁶ By 2008 the ordinary hourly award rate for casual PCAs¹⁷ was \$19.01 compared with \$19.05 in the AWA (adjusted for annual wage increases).

The AWAs included penalty rates for night shifts, weekend and public holiday shifts but not afternoon shifts as per the award. The penalty rates contained in the AWAs amounted to an additional 3.6 per cent for night shift compared to the minimum of ten per cent stipulated in the award. Table 16 illustrates the differences between penalty rates received by non-RN staff at the Manor and the penalty rates which would have been payable under the relevant award.

¹⁶ At the time of writing the 2.8% 2009 increase had yet to be applied to the Aged Care General Services Award.

¹⁷ Personal Care Assistants Grade 2 may be required to provide assistance to such residents which may include the following duties: supervising daily hygiene; assisting with bathing or showering; laying out clothes and assisting with dressing; shaving; shampooing; cutting nails; bed-making; assisting with meals; and cleaning wardrobes' Aged Care General Services Award Clause 2 - Definitions.

Table 16: Comparison between Red Gum Manor AWA and Aged Care General Services Award

Penalty Rates	AWA (expressed as % received in addition to ordinary rate)	Aged Care General Services Award (expressed as % received in addition to ordinary rate)
Afternoon shift	0%	10% (commencing at or after 10am) 12.5%(commencing at or after 1pm and before 4pm)
Night shift	3.6%	15% (commencing at or after 4pm) 10% (commencing at or after 4am and before 5.30am)
Saturday	33.1%	50% (time and one half)
Sunday	33.1%	75% (time and three-quarters)
Public Holiday	60%	150% (double time and one half)

*Sources: Red Gum Manor AWA, Interview founding Director 2009, Interview PCA 1 2009, Aged Care General Services (State) Award.

The results outlined in Table 16 demonstrate that even though the AWAs contained above-award rates for ordinary hours, this did not necessarily compensate for the considerable loss of penalty rates.

The earlier example of the PCA who refused to sign an AWA shows that despite the insistence of management that signing the agreements was a condition of employment at the Manor, it was not enforced. Although the PCA did not sign the

AWA, her wages and conditions were still determined by its content and did not revert to the award as required under the *Workplace Relations Act 1996* (Interviewee 2, PCA Focus Group 2009).

While it would be easy to blame the non-compliance with labour regulation on ignorance on the part of management within a small organisation such as Red Gum Communities, this was not, in fact, the case. The CEO detailed the rationale behind the use of individual agreements and revealed that he had educated himself about the operation of the appropriate award and had deliberately decided to devise an alternative:

So, I did a study, not a study, more of a gut thing where you go around, talk to other operators both in the non-for-profits and the profits. The biggest bugbear to me was the award, right, it was a state award and there was penalty rates, there was clothes rates, there was, I don't know, rates for rates, and rates for this and that. To the point where it just got mind boggling ... So... I tried to keep away from the awards. It didn't affect the staff (Interview founding Director - SLOM 2009).

Despite asserting that staff were not affected by the decision to pursue individual agreements, the founding Director did concede that staff did have difficulty understanding the non-award arrangement. In particular he noted that some of the staff have had 'problems...dealing with [the fact] that they don't have leave' (Interview founding Director - SLOM 2009). That the founding Director recognised the importance of leave entitlements to employees but had not acted on the issue in five years illustrates that while management was aware of the concerns of the workforce, employees did not appear to possess the capacity to force a change in practice. The continuing disregard of the concerns of the workforce was a logical extension of the process undertaken for the development of wages and conditions at the Manor described by the founding Director in the following terms:

So, what we did here, rather than get people involved I said to everybody right - I didn't even know workplace agreements were going to happen or

whatever - I said we're going to come up with a rate of pay that is a casual rate... we decided to simplify it ... I suppose you'd call it a workplace agreement (Interview founding Director-SLOM 2009).

The reluctance of the founding Director to 'get people involved' is an example of the attitude of Red Gum Communities to the expression of employee voice.

Furthermore, the agreements were not substantively 'individual'. In fact the agreements for PCAs were identical suggesting that management initially used the AWAs to avoid negotiating with the workforce collectively rather than to take advantage of any flexibility which may have resulted from the differentiation of conditions among employees. Wooden, commenting on the results of a survey of union wage effects (Peetz, 2006) described this process as follows:

only rarely does individual agreement making involve the substantive differentiation of terms and conditions between different workers. Instead, individual agreements more often than not involve standardised packages...[I]t could be argued that the only distinction of importance between individual agreement making and collective agreement making is the absence of any role for trade unions in the negotiation of the former (p.11)

These examples of unilateral decision-making demonstrate that managerial prerogative acted as a strong source of regulation at Red Gum Communities thus reinforcing the importance of internal and informal regulators. This type of regulatory constraint was evident at Port View through the prevailing organisational culture and at Christian Care, the Christian mission. It also highlights the role of age care providers as regulators of labour in their own right, not just the subjects of regulation which influence their labour-management decisions.

One interpretation of the development of employment conditions (as described by the founding Director above) at the Manor is that management of Red Gum Communities were not following an articulated strategy when it came to employment relations. Further evidence of this was the ad hoc use of an outside

consultant to advise on human resource issues (Interview Financial Controller 2009). However, the fact that RNs were treated differently to PCAs suggests that there was a conscious attempt by management to address sector-wide difficulties in the recruitment and retention of RNs. Apart from one RN on night shift, RNs were employed on a permanent basis and enjoyed annual leave and sick leave and according to one RN were paid above award wages (Interview RN 1 2009). Consequently, as illustrated earlier, RNs expressed less concern about wages and conditions than the PCAs with whom they worked. Another point of difference between RNs and PCAs was awareness of unions. None of the PCAs interviewed admitted to membership of the HSU and when the union's most recent visit was raised it was suggested that it was more a recruitment exercise than an opportunity to address workplace issues:

Interviewee 1: I think they wanted people to join up and that.

Interviewee 2: Well I don't even think no-one come (sic) to see them either (PCA Focus Group 2009).

In contrast, the RNs interviewed were members of the NSWNA:

Yeah. I've been a member of the union. Some of them doesn't (sic), when they join they don't get anything, but it's tax deductible, and you're safe because you've got your professional support (Interview, RN 1 2009).

I'm basically a member just so I have a backup, just to cover myself. So I've got somebody I can consult if I'm in need of help (Interview, RN 2 2009).

The above quotes demonstrate that like the PCAs, the RNs did not see a role for their union in the proactive pursuit of collective workplace issues. Rather, union membership was viewed by RNs as a means of obtaining individual assistance or information. As a consequence, the potential for unions to participate in regulation of the workplace was limited.

According to Freeman and Medoff (1984), collective opportunities for the expression of employee voice are necessary to provide a real alternative to 'exit' as employees

may feel intimidated or worry about repercussions if they speak out individually. It is plausible that the low levels of union activity at the Manor contributed to high levels of turnover as dissatisfied workers have no collective mechanism for the expression of grievances. The use of AWAs for PCAs reveals a preference by management to avoid opportunities for collective negotiation with employees. This preference may be inadvertently exacerbating staff turnover.

Since its opening in 2004, Red Gum Communities has not demonstrated a coherent approach to the management of labour. This was evident in the three examples given above: the pressure exerted on employees to sign AWAs but the absence of enforcement or consequence if this was refused; the founding Director's desire to avoid 'get[ting] anyone involved' in determining the content of the AWAs but then a subsequent vote by PCAs regarding pay rates; and the difference in treatment of RNs and PCAs despite the Care Manager and the Financial Controller acknowledging the increasing difficulties in the recruitment and retention of PCAs as well as RNs.

The regulatory changes associated with *Work Choices* did not play a significant part in the determining the approach to labour-management at the Manor although for different reasons than seen in either the Port View or Christian Care cases. In the case of the Manor the use of AWAs predated *Work Choices*. The founding Director indicated that he was going to work around existing labour regulation to suit what he saw as the best interests of the business and was contemplating individual contracts for employees before being aware that they were permissible under the *Workplace Relations Act 1996* (Interview founding Director – SLOM 2009). In essence, the founding Director legitimised his approach after the fact. He developed arrangements outside the scope of the existing award and subsequently found he could legitimise those arrangements, thus demonstrating that labour regulation was not the determinant of his approach to employment relations but rather could be coopted to suit managerial preferences. This approach was further demonstrated by the founding Director when he noted that the opening of another facility close by (not changes to labour regulation such as the *Fair Work Act*) required the organisation to 'come up with a better industrial system' that provided incentives and that 'help[s] them over this annual leave, [because] it seems to be a bit of an

issue with some of the staff' (Interview founding Director – SLOM 2009). Yet the determination of wages and conditions in the past had been undertaken parallel to labour law rather than within it and, given that this method had remained largely unchallenged, it is likely that 'com[ing] up with a better system' would again be an exercise of managerial prerogative.

Section Four: The Aged Care Act and the management of labour at Red Gum Manor

As in the Port View and Christian Care cases, labour regulation was not the only or necessarily the most significant determinant of employment relations at the Manor. Non-labour regulation both formal (funding mechanisms and accreditation) and informal (social norms) also shaped the employment relations environment and will be the focus of this section.

At the Manor, as at Port View and Christian Care, regulatory requirements stipulated by the *Aged Care Act 1997 (Cth)* significantly influenced the activities of management. While this 'managed market' for aged care (which was considered in detail in chapter 4), has implications for residential aged care providers in terms of profit making, the operation of the Act in practice also impacts upon the workload and work organisation of the direct care workforce. In particular, the documentation associated with funding mechanisms and accreditation have been identified by care staff across all three case studies as detracting from hands-on caring activities. In describing her duties, one PCA noted that while the role included 'as much one-on-one interaction as we possibly can, 'it isn't as much as we want' and it includes 'lots of progress notes' (Interview PCA 1, 2009). At the Manor one PCA described completing documentation as one of the time pressures which contributed to her shifts being:

all rush, rush, because you've got x amount of time to do it. Not as much as you'd like, to just sit and chat. There's just not enough hours (Interview PCA1 2009).

However, there was a difference in opinion among care staff at the Manor regarding the impact of the new funding regime implemented by the federal government in 2008. Prior to March 2008 funding for residential aged care was determined using the RCS. The RCS consisted of eight funding categories, each associated with differing levels of care. Once determined, the subsidies for each resident were forwarded to the provider and were subject to an annual review. In contrast the new funding tool, the ACFI had three funding categories (or domains) and broke the connection between funding and care plans (see chapter 4). Essentially the ACFI was meant to reduce the paperwork burden on aged care providers and their employees (Department of Health and Ageing, 2008b). However, a year after its implementation, ACFI was still prompting mixed reactions by staff and management at the Manor and Red Gum Communities. In particular the responses of two RNs (when asked to compare the ACFI and RCS) illustrate the difficulty in determining the impact of the regulatory change on workload. The RN quoted below expressed a preference for RCS:

I prefer RCS probably because I'm used to it. For RCS I would say documentation ... [is] like two to three hours [per shift], depending on number of residents.

RN 1: With ACFI, less.

Facilitator: But still you prefer RCS because?

RN 1: Yeah, it's more... applicable to the patient (Interview, RN 1 2009).

A second RN preferred the ACFI despite feeling that 'it's more time consuming' due to the involvement of multiple staff. This preference was based on the belief that 'ACFI is better if you look at the residents, because it is more individualised' (Interview, RN 2 2009). These differing views expose the difficulty in attempting to measure the impact of regulatory change on employment relations as these quotes show that impact may be subjectively determined.

In the opinion of the care manager, the RNs were 'loving' the ACFI because:

they're not sitting there continuously writing reports, trying to come up with different ways to write about the same thing three times a day, and constantly their report, which is so time consuming (Interview, Care Manager 2009).

The dissonance between the views of management and staff regarding ACFI, may have been a function of the previously discussed absence of mechanisms for the expression of voice by staff.

The contradictory assessment of the operation of the ACFI was also evident amongst PCAs. Focus group discussion with PCAs suggested that despite being told otherwise when it was introduced, the ACFI was actually 'a lot more paperwork' requiring daily documentation for high care residents (Interviewees 1 and 2, PCA Focus Group, 2009). This contrasted with the response of another PCA who explained that most of the ACFI documentation was completed by RNs and that she was required to complete 'just a little bit of paperwork for ACFI' (Interview, PCA 2 2009).

The differences in opinion evident amongst the PCAs suggest an inconsistent understanding of the function of documentation. Unlike the Port View case in which PCAs expressed a sophisticated understanding of the links between documentation and the level of subsidies received, at the Manor there was less evidence of that understanding, with PCAs instead emphasising the importance of paperwork to internal staff communication (PCA Focus Group, 2009).

While the link between documentation and the operating budget of the organisation was not explicitly made, there was some recognition of the broader connection between funding levels, staffing and time spent on resident care, with one PCA commenting that:

If funding wasn't such a problem, time wouldn't be a problem because we could have another PCA (Interviewee 3, PCA Focus Group, 2009).

The importance of funding and the implications of the change from the RCS to ACFI were not lost on management. The Financial Controller was particularly cognisant of

the potential budgetary impact of the new arrangements. She felt the ACFI was 'very messy' compared to the RCS because of determination of the ACFI score (see chapter 4) and as a consequence reflected that 'when I come to do the budget for next year, it's going to be very difficult'. Despite this predicted difficulty the financial controller acknowledged that with ACFI 'the sicker you are the more money you get' and that this suited the Manor as longer term residents began to require higher levels of care thus attracting more funding (Interview, Financial Controller 2009). This prediction did not extend to a consideration of how the increasing care needs of residents would impact on staffing needs or labour costs, nor was the suggestion made that increased funding might allow for increased wages or funding of entitlements to address turnover issues at the Manor. The fact that the Financial Controller also had responsibility for human resources and the absence of such consideration could be interpreted as either an illustration of the underdeveloped human resource function within Red Gum Communities or a signal that potential funding increases would be diverted to other areas or taken as profit.

At the time this research was conducted, the Manor had not yet undergone a complete accreditation process (unlike Port View and Christian Care). However, the prospect of accreditation still influenced management and employment relations at the Manor. The care manager was aware that with accreditation scheduled for the following year the Manor needed to review policy and documentation and 'mak[e] sure we cross our t's and dot our i's' to avoid her running around 'like a headless chook' two months before accreditation (Interview, Care Manager 2009). The care manager reflected on her experience of accreditation in other facilities as stressful for all staff:

[it] is just so overwhelming from everybody, from the lowest person right up on top. Because I feel it's like – I don't know, it's like your mother-in-law coming over ... and she will pick on every single thing (Interview, Care Manager 2009).

While the Manor had not yet undergone accreditation (apart from the original accreditation it received prior to opening) it had been subject to three unannounced

'support' visits by the Aged Care Standards and Accreditation Agency. According to the Agency these visits are 'an opportunity for the residential aged care home to demonstrate compliance with the Accreditation Standards, and therefore involvement of management and staff is essential' (ACSAAL2009). According to the Financial Controller, these 'support visits' were significant because compliance with these regulations was 'such an integral part of the business' as non-compliance may result in the loss of 'part of your funding and then you can't run your business' (Interview, Financial Controller 2009). She also noted that because of the potential impact on the business any communication with the Agency elicited feelings of concern:

whenever you get a phone call from the government about those types of things, everyone sort of goes oh my God, what do we do, what's going on? (Interview Financial Controller 2009).

This emotional response to accreditation and associated processes echoes the explanation of the deterrence effect of regulation by Braithwaite et al (2007) which suggests that:

Voluntary compliance is underwritten by deterrence, but not in a way that often leads the nursing home operator to calculate about the actual levels and probabilities of deterrent threats. Because of this, even when these actual levels and probabilities are zero, orchestration of an appearance that they are non-zero will often be enough to do the job (p129).

The deterrence effect resonates with interpretations of regulation which are not limited by a 'search for economic coherence' (Grahl & Teague, 2000, p. 175) or which recognise that regulation can function as a 'subjective constraint' (Lessig 1998: 677-80). That is, the unfounded concern about accreditation outcomes reinforces that regulatory constraints are not confined to those mechanisms which have a formal, legal or institutional basis, but can be the result of individual interpretations of circumstances.

While the Manor had yet to undergo a full accreditation process, the anticipation and preparation for accreditation acted as a consistent regulatory pressure on staff and management at the Manor. The following section considers constant (though still important) regulatory influences on labour-management at the Manor.

Section Five: Continuity and Change at the Manor

Unlike Port View and Christian Care, the problem to be explained at the Manor is one of continuity rather than change. While formal regulatory change occurred (both in funding mechanisms and in labour law), there was a consistency in the approach to the management of labour at the Manor - borne out of the largely unchallenged exercise of managerial prerogative.

As was the case at Port View and Christian Care, changing labour regulation, through the introduction of *Work Choices* was not a significant determinant of the approach to labour-management at the Manor – but for different reasons. Although workers at the Manor were employed on AWAs, these preceded *Work Choices* and were maintained throughout the period in which *Work Choices* was operational. As such it could be argued that these individual agreements provided certainty with regards to wages and conditions during a time of regulatory uncertainty. So although *changes* in labour regulation did not have a significant impact on employment relations at the Manor, formal labour regulation (via AWAs) did shape the employment relations environment and the response of employees to that environment. Specifically, AWAs did impact on the satisfaction of PCAs and exacerbated staffing problems as PCAs dissatisfied with the terms of the agreements, left the Manor and sought other employment. There was also a sense among staff and management that while *Work Choices* had not greatly altered employment relations at the Manor, further change to labour law precipitated by a change in federal government in 2007 could potentially have an impact in the future:

I didn't sign an agreement and with the new government coming in I think we're all hoping that we're going to see a benefit of that and get our holiday pay and sick pay because we're all casuals. Even the girls that have been here five years (PCA Focus Group, 2009).

So at the moment I'm working with a lady to look at redoing our agreements for all three businesses basically, now that it looks like it's settled a bit and there's a bit of certainty. We were all set to embark on it last year and then we had the election and it changed (Interview, Financial Controller 2009).

During the course of this research, then, changes to formal labour regulation had not exerted significant influence over the labour-management approaches of Red Gum Communities.

In contrast, the regulatory influence of social norms was evident though the gendered nature of the workforce and the availability of alternative forms of employment and the cultural diversity of employees were obviously related to the location of the Manor. However, senior management did not demonstrate an understanding about how these regulators shaped their approach to the management of labour. This was in large part a result of the underdeveloped human resource function within the organisation. The unsophisticated approach to HR was evident in the lack of analysis of staff turnover (despite it being a significant problem for local management), and the reliance of the founding Director on a 'gut feeling' (Interview founding Director 2009) to determine the industrial instrument under which to employ staff as well as the admission by the Financial Controller/HR Manager that:

My role just evolves. It's not very defined. It's a bit like whatever needs to be [done] – my background is finance (Interview, Financial Controller 2009).

Additionally, although there was pressure for the organisation to comply with regulatory mechanisms associated with aged care funding in order to receive ongoing subsidies such as 'prudential requirements', 'trading statements', 'financial auditing' (Interview, Financial Controller 2009), this did not seem to extend to concern about compliance with labour law.

The major concern relating to labour-management at the Manor was recruitment and retention while for staff it was pay and conditions. Although the care manager recognised the link between the two, this understanding was not replicated in more

senior management. An explanation of this misunderstanding may be found in the tension between pay and profit in a for-profit provider of aged care. Specifically, an acknowledgement by senior management about the relationship between pay and staff turnover would require a reconsideration of the wages-profit distribution within the organisation.

Section Six: Conclusion

A distinction between this case and the previous two (Port View and Christian Care), is that Red Gum Communities is a for-profit provider of aged care. It could therefore be assumed that the motivators of management behaviour are different - as the creation and extraction of profit displaces the social goals pursued by not-for-profit providers (as discussed in chapter 2). With the residential aged care sector being a 'managed market' in which the quantity of services (bed numbers) and the prices of those services (bonds and fees) being determined by federal government regulation, the only way to extract more profit is to limit input costs. This was evident in the case of the Manor where PCAs noted the pressure on resources:

And there was a stage where they got one roll of toilet paper a week... Those kind of things are a big issue actually. Bandages. But I don't know whether that's unique to here. I just think everyone is trying to save money (PCA Focus Group, 2009).

As labour is by far the largest cost (Hogan, 2004a) then reducing the price of labour is key to extracting greater profits and explains the use of individual agreements to limit wages and maintain the majority of the workforce as 'permanent casuals' with few entitlements.

The founding Director explicitly acknowledged the profit motive and how it influenced organisational decision-making:

What I tell my staff is, and ... I even tell the residents and they know this, if we don't make a profit then we've got to start cutting back on services. So it's in their interests that we make a profit for the staff and the residents, as long as it's not a ridiculous profit or anything (Interview, Chairman 2009).

This link between the pursuit of profit and managerial decision-making, including labour management is reminiscent of Kochan, Katz and McKersie's consideration of the relationship between business policies and the industrial relations systems used by firms. This approach recognises that outcomes and processes are 'determined by a continuously evolving *interaction* of environmental pressures and organizational responses' (p.13). In terms of Lessig's model, the market in this case is acting as an influential regulatory constraint in a very particular way given that the market is itself circumscribed by legislation. These circumstances highlight the intersection of regulatory forces and illustrate how such constraints have 'a direct and indirect regulatory effect on the other' and how government activity (in the form of price and supply constraints in the aged care example) can impact 'both directly and indirectly [on] the behaviour being regulated' (Lessig 1998, p.685).

The ownership structure provides a rationale for the approach to employment relations adopted by management at Red Gum Communities (that is profit-making), evident in the use of AWAs. However, when the outcomes of this approach for workers are considered, there is a surprising similarity between the opinions of staff at the Manor, Port View and Christian Care, despite the obvious difference in conditions associated with the use of AWAs. In each of these cases, PCAs in particular expressed dissatisfaction with pay but a commitment to the residents in their care. A further similarity between Red Gum Communities and the two other cases was the lack of opportunities for the expression for employee voice, especially through collective means (to be considered in more detail in chapter 8). The implication of such similarity is that while organisational structure (in the context of this research meaning for-profit or not-for-profit) may impact on management decision-making it does not necessarily impact on the experience of employment relations by employees.

The research findings at Red Gum Communities, Port View and Christian Care accord with King and Martin's analysis of 2003 data on the aged care sector (see chapter 4) which concluded that while the structure of the workforce differed depending on for-profit or not-for-profit status of a facility, there was no significant variation in job satisfaction between employees at either type of facility. Organisational structure

can influence the development and execution of employer strategy in residential aged care but not necessarily result in as substantial difference in the outcome (job satisfaction) for workers. In other words there is a difference between process and outcomes.

This chapter considered the ways in which labour management at Red Gum Communities generally, and the Manor more specifically, was shaped by the regulatory context within which it operated. As in the Port View and Christian Care cases, that context was comprised of formal and informal regulation derived from sources both internal and external to the organisation. In terms of Lessig's regulatory framework, the difference in this case was the significance of the interaction of the market with other more formal modes of regulation. That is, the federal government's regulation of residential aged care determined (through the RCS and then ACFI), the manner in which Red Gum Communities could make profit – that being through the minimisation of costs, particularly labour costs. Furthermore, the prevailing workplace norms at the Manor did not include union activity or other collective mechanisms for the expression of employee voice and as such workers could not impose any countervailing regulatory pressure on Red Gum Communities. As a consequence, dissatisfied staff often chose to exit the organisation.

Chapter 8

Case Synthesis

Introduction

This chapter recounts the importance of external and internal, formal and informal regulation of aged care on the three providers that are the subject of the case studies detailed in chapters 5, 6 and 7. It uses Lessig's four regulatory constraints, the law, the market, social norms and architecture, to provide a loose but useful rationale for the organisation of a more general discussion of the case study results noting regulatory influences which remained constant through the period of the research and examining those which changed.

The three case studies reveal the differing significance of these four modalities of regulation on employment relations in different organisational contexts. At Port View, legal regulation through various parts of the *Aged Care Act* (specifically the funding instruments and accreditation processes) and the geographical location of the facility exerted the most obvious pressure on employment relations. At Christian Care, social norms, or more correctly, organisational norms as expressed through the organisational mission and the metropolitan location, were significant in shaping the employment relations environment. The management of labour at Red Gum Manor was regulated in large part by the ownership structure of the organisation and social norms about provision of care, both paid and unpaid.

This chapter is divided into three sections. The first section compares the role of Lessig's four regulators in the management of labour in the three cases. The second assesses the importance of external and internal sources of regulation and the complexity of their interactions. The last section provides the conclusion to the chapter emphasising the agency of management in these cases, despite regulatory constraints.

Section One: Regulation

Before embarking on a discussion of the different forms of regulation and their relative importance to employment relations in the three case studies, it is necessary to reiterate the meanings (as used in this thesis) of direct and indirect and external and internal regulation. The concept of 'direct regulation' was defined in chapter 2, as 'targeted rules promulgated by the state', indirect regulation being 'more general state-based regulation of the economy which influences a range of economic and social spheres subject to targeted regulation' and non-state regulation including 'all mechanisms of social control, formal, informal, state-directed or otherwise' (Gahan & Brosnan, 2006, p. 132). In the context of this thesis, external regulation refers to regulation emanating from sources outside of the organisation, either direct or indirect. Internal regulation means regulation originating from within the organisation.

This section will compare the role of the market, the law, social norms and geography as external regulators of employment relations in the three aged care providers which were the subject of the case studies. Another dimension will be added to this explanatory framework, namely, the impact of internal regulation on employment relations in the three cases.

The Managed Market

It was suggested in chapter 4 that, given the 'managed' nature of the market for residential aged care, the market would act as a consistent regulatory constraint across the three case studies. The results of the case studies found the managed nature of the market to be a consistent and significant, (albeit indirect), influence on the management of labour at Port View, Christian Care and Red Gum Communities. This phenomenon is discussed in greater detail below.

The Australian government's management of the aged care market, through the regulation of minimum standards of care, location and quantity of services provided and prices providers may charge clients (Department of Health and Ageing, 2003), influences the conduct of employment relations within the sector. It does so in two

significant ways. First, its dual regulation of the scope of services (in residential aged care this means the number of beds in a facility) and the prices charged for those services, restricts the means of generating operating surpluses. Management at Christian Care and Red Gum Manor identified this funding arrangement as a barrier to improving the pay and conditions of their staff (Interviews, Christian Care HR Manager 2009, Red Gum Communities founding Director 2009). Second, the documentation required to comply with the funding tools through which subsidies are determined and distributed, impacted on the workload and responsibilities of care staff. This connection between the funding tools and the work performed by care staff was apparent in all three cases and points to the interconnectedness of the 'market' and the 'law' as regulatory constraints in the context of residential aged care. That is, the law – the *Aged Care Act 1997* - is the means through which the federal government manages the market for aged care services. Consequently the law, like the market, can be seen as a constant regulatory constraint across all aged care providers, despite changes to how that constraint operated during the course of this research (most importantly, from subsidy determination through the Resident Classification Scale to the Aged Care Funding Instrument outlined in chapter 4). The case studies revealed that, while the constraint itself was a constant, the responses of management and the impact on workers were not. Managers in each of the cases organised their workforce in different ways to fulfil the same legal obligations with regards funding and documentation requirements.

Differences in the exercise of managerial discretion were evident between the Port View and Christian Care cases regarding the handling of documentation by care staff. At Port View 'paperwork' (largely in the form of documentation required for ongoing funding) and the responsibilities associated with it, were a part of the daily duties undertaken by the Certificate III trained Personal Care Assistants (PCAs) in the low care facilities. However, the new Port View CEO intended to change that practice, and initial attempts to do so had resulted in an increase in the subsidies received by up to \$20 per day for some residents (Interview, Port View CEO, 2008). Moreover, the CEO at Port View felt that, with their more advanced clinical skills, the RNs would allow them to maximise subsidy claims by more closely matching care needs with

funding opportunities with the view to improving the overall financial performance of the organisation. In contrast, Christian Care was looking to minimise costs by replacing some RN hours with those of PCAs. Internal regulation through managerial decision-making challenges Hogan's (2008) assertion, noted in chapter 4, that the governmental regulation of residential aged care results in 'every aspect of the work required of management and staff [being] laid down ... board and management have little scope for decision-making' (p43).

The reverse appeared to be the case at NWL (Christian Care). While RNs had been responsible for the completion and upkeep of documentation required for funding, there was increasing pressure to reduce the reliance on RNs. This had implications for local management at NWL with the Executive Care Manager noting that PCAs get paid '\$10 less an hour' and that as a consequence she was aware of pressure to reduce the number of hours for RNs.

This difference in approach demonstrates that, despite funding and reporting constraints being constant across the sector, there is scope for management to determine a response to those constraints, specific to their organisation or managerial style. The freedom of management in these cases to pursue alternative approaches is also a function of the lack of an alternative regulating presence within the organisation such as a collectively organised workforce. The implications of this for the management of labour within the sector will be explored in a later section of this chapter.

Labour Law

While the previous section considered the indirect but noteworthy impact of laws specific to aged care on the management of labour within the sector, this section examines a more direct regulatory influence on employment relations; labour law. As with the *Aged Care Act 1997*, labour law is a constant constraint as it applies across all of the providers and also, like the *Aged Care Act*, changes to labour law were evident during the research undertaken for this study. At the outset of this research the *Work Choices* changes had been in effect for little over a year. These changes (outlined in chapter 2) represented a fundamental shift in emphasis in

Australian labour regulation favouring individual contracts of employment, the construction of a national system of labour regulation and the reduction of the power of industrial tribunals. However, the election of a federal Labor government in November 2007 signalled further change. Parts of the resultant *Fair Work Act 2009* became operational during the course of this research. This raises the question as to the impact of these changes on the management of labour across the three case studies.

A key point of difference between the cases was the industrial instrument used to determine wages and conditions of care staff. Port View relied upon the *Charitable, Aged and Disabilities Care Services (State) Award* (at the time known as a NAPSA; see chapter 4 for more detail). At NWL an enterprise agreement overrode that state award. Care workers at The Manor were employed under individual contracts, AWAs. It is clear that the management of each organisation favoured a different industrial instrument. This, once again, shows the significance of managerial discretion in the pursuit of different labour management strategies despite being subject to common legal regulation.

It might be expected that these differences in the industrial instruments would result in differences in the wages and conditions of staff between the three organisations, otherwise there would be little to gain by employers relying on anything other than a uniform set of wages and conditions – as represented by the state award. Wage differences were seen across the three case studies. At the Manor by 2008, PCAs on AWAs were behind in hourly rates and received inferior penalty rates to those at Christian Care and Port View. Pay rates at Port View lagged behind Christian Care by about three per cent (Interview, Port View CEO, 2008).

While there were variations in the wages and conditions of employees working at Port View, Christian Care and the Manor, there was a consistency in the responses of workers to the issue of pay. PCAs at Port View, NWL and the Manor believed that their pay was inadequate and unfair, considering the responsibilities with which they were charged and the skill and discretion they were asked to exercise. This view subtly contrasts with that of management. For management at the metropolitan

facilities, NWL (Christian Care) and the Manor, recruitment and retention of staff was the biggest issue. However, management at both of these facilities recognised that recruitment and retention were related to pay and conditions. The Christian Care Human Resources Manager noted that low pay rates were:

one of the reasons why retention is such a problem for us, because if people can earn more money working at a checkout on the weekend at Woolworths than they're making as a Certificate III in Aged Care, for example (Interview 2009).

Despite acknowledgment of the pay-retention nexus, management at Christian Care did not choose to address the problem by significantly improving wages and conditions. Instead they sought to improve retention by initiating 'family-friendly' policies including extended family leave and additional annual leave (Christian Care*, 2008b). However, according to the Human Resource Manager, turnover in 2008 was still 27 per cent.

Management at the Manor did not explicitly make the connection between pay and recruitment and retention. However the use of AWAs for non-nurse staff and the state award for RNs suggests that there was an understanding that moving pay and conditions away from industry norms (that is from the award to AWAs) for RNs may exacerbate the existing 'challenge ... of finding nurses or a registered nurse to fill a particular shift' (Interview, Financial Controller, 2009).

Access to alternative employment opportunities for PCAs and scarcity of RNs explains why the opportunities presented by *Work Choices* to undermine existing wages and conditions were not exploited further in these cases. Even in the case of Red Gum Communities (the Manor), the individual contracts preceded *Work Choices* and were not altered to further reduce pay and conditions.

Architecture/Location

Lessig (1998) defines architecture as 'features of the world whether made, or found' which 'restrict or enable in a way that directs or affects behaviour' (p.663). In this sense, he includes architecture in its strict sense, such as buildings and man-made

infrastructure, but also natural or geographical features. In this thesis, geographical location has largely been used as a proxy for 'architecture'. Location has specifically been considered in relation to the construction of the local labour markets within which each of the three facilities operated. While the influence of the physical workplace on employment relations in residential aged care was not a particular focus of these case studies, this is not to suggest that buildings and other built infrastructure do not impact on residential aged care providers. Indeed, Braithwaite et al (2007) explicitly refer to the prevalence of 'panoptic design' (p.8) and its effect on the quality of nursing home care in the United States.

Location was an important determinant of the employment relations environment in each of the three cases but in different ways. Christian Care and the Manor operated in metropolitan Sydney in contrast to Port View which was situated three hours away from Sydney. The geographical difference resulted in Port View operating within a substantially different local labour market to the metropolitan facilities. It was argued in chapter 5 that higher than average unemployment rates, lower than average household incomes and fewer alternative employment opportunities in Port View's local government area combined to make work in residential aged care a more attractive proposition than in metropolitan areas. Port View's management recognised these local characteristics which meant that improving wages and conditions did not have to be prioritised in order to retain staff. The CEO recounted a typical exchange between her and the managers of facilities located in metropolitan areas about the low turnover rates experienced by Port View:

They say: "What are you doing, are you paying above the award wages, what are you doing?" I think it [low turnover] is mainly because people want to work and live, not be travelling down to [the closest major regional centre]. Not because we would be a model employer (Interview 2008).

This emphasises the importance of location as a regulating influence on employment relations. At Port View, it was not necessary to pay higher wages to attract and retain staff because its location in a regional area meant that alternative local

employment opportunities were fewer. The Manor and NWL examples provide a stark contrast.

As mentioned above, there were some differences in pay and conditions between the three cases, most obvious in the AWAs at the Manor. However this disparity did not result in significantly different outcomes for management at Christian Care and the Manor. Both organisations experienced similar recruitment and retention difficulties. These similarities may be attributable to the location of NWL and the Manor. The metropolitan labour markets within which they were situated provided more alternative work opportunities for employees and potential employees than were available in the Port View case.

Geography also impacted on the ethnicity of local labour markets. A similarity between the Manor and NWL was the cultural and ethnic diversity of the population of their local areas which was reflected in the diversity of their workforces. Management at both of these facilities expressed the view that migrant workers formed part of a 'secondary labour market' (Regional HR Manager Christian Care 2008) characterised by low-skills, English literacy deficiencies and little knowledge about minimum employment conditions. Management at the Manor and NWL recognised that these characteristics had implications for the provision of care and the conduct of employment relations in their worksites. Specifically, misunderstandings between migrant care staff and residents as a result of different cultural sensitivities were cited as a continuing concern of managers. This situation was exacerbated by the increasing numbers of care workers born outside of Australia and the continuing predominance of Australian-born residents. This illustrates the interconnectedness of the regulatory constraints used to inform this analysis. The location of each of the facilities influenced the likely demographic of its workforce which in turn affected the social norms of the workforce. The Christian Care case revealed another intersection of location and social norms as generational change within the workforce (discussed in more detail in chapter 6).

Social norms

The most important societal level norm identified in this thesis was the paid and unpaid care regime. That women, in much greater numbers than men, work in caring professions such as aged care is suggestive of what Lessig (Lessig, 1996) describes as the constraints imposed by 'social meaning'. While social norms refer to 'what a community does' (Lessig 1996, p.2182), the regulatory impact of norms is not a result of 'something physical or behavioural' but rather 'the regulatory effect comes from something interpretive' (Lessig 1998, p.680). In other words, it is not possible to understand the impact of social norms without understanding the context within which those norms operate (McAdams, 1997). Therefore in order to understand why caring professions are feminised, it is necessary to understand how 'caring-work' is interpreted. Feminist scholars have long recognised that both paid and unpaid caring work has historically been linked to notions of appropriate 'womanhood' and femininity. This being the case, individual decisions to undertake caring roles, whether in the private sphere or in the public world of work may reflect sensitivity to the 'meaning' associated with deviating from the norm that women are 'natural carers'. That is, for a woman to choose *not* to be primary carer may be interpreted as not 'womanly'. Conversely for a man to engage in caring work may be viewed as emasculating (Brechtin et al., 1998; Folbre, 1995; Himmelweit, 1995; Meagher, 2006).

The case studies suggest how this social meaning of care work shapes the way in which aged care workers interact with the labour market. An example is provided in the responses of care workers to the low rates of pay in aged care. While workers, particularly PCAs, expressed concern about wages across all three providers, they qualified these comments noting that in addition to pay, the desire to work in aged care was also derived from other sources.

The results of the three case studies highlight three factors which make work in aged care attractive. First, PCAs and RNs in each of the cases identified the emotional attachment to residents as a key factor in their decision to work or continue to work in residential aged care. Second, many of the women interviewed were or had been

primary carers in the home and felt skilled in the giving of care. As a consequence, they had consciously sought work utilising those caring skills. This sentiment was echoed in supplementary interviews conducted with a focus group of members of Sydney based community group, Asian Women at Work, in which it was suggested that aged care was a good alternative to home-based garment work because it used caring skills which the women felt they already possessed as a result of their caring responsibilities for an (often extended) family (Asian Women at Work, Focus Group, 2007). The remaining factor identified by carers at Port View, NWL and the Manor influencing their choice of workplace was the availability of jobs in the sector which were close to the other site of their caring identity – the home.

The acknowledgement of the non-monetary appeal of aged care by workers does not mean that wages and conditions are unimportant to them, or that the regime of labour regulation does not have an impact on workers in aged care or potentially in other low-paid industries. However, in these three cases *Work Choices* and other formal labour regulation did not have as great an impact on the management of labour as might have been expected. Labour law was mitigated by other regulators such as social norms about the provision of care and the physical proximity of the workplace to home.

Organisational norms

Gahan and Brosnan's explanation of non-state regulation of labour market transactions, discussed in chapter 6, highlights the role of 'norms and conventions' (2006, p.136). Their parenthetical definition of 'norms and conventions' as 'custom and practice' suggest recognition of the importance of norms at a workplace level. The case studies support this, by illustrating that, in addition to broader societal norms about the provision of care, more local organisational norms were also seen to influence the management of labour across the three cases. The most obvious example was at NWL. According to management at Christian Care, the organisational mission was a key determinant of the approach taken to the treatment of both staff and clients (Interview, Christian Care, Human Resource Manager 2008). However, it was acknowledged that acting in ways which were seen as being consistent with the

Christian mission was made more difficult by the seemingly dissonant organisational imperative to generate organisational surpluses.

The lack of collective representation at Port View, Christian Care and the Manor is illustrated that some features of employment relations in aged care straddle both societal norms and organisational norms. The combination of a societal decline in unionisation and the dynamics of specific organisations, demonstrates the interrelationships between these factors. Aged care in Australia is not an industry with high rates of unionisation. As discussed in chapter 4, it is an industry with characteristics which place it at the periphery of traditional concerns of unions in Australia. This was identified in the three case studies. While there were union members in all three of the facilities, there was little or no evidence of either union or non-union collective activity among the workforce. Additionally, the case studies showed that management at each of the facilities did not foster collectivism. At NWL the Executive care manager revealed that she actively discouraged union membership on the basis that it was 'very undermining' (Interview, 2008) to her decision-making. The founding Director of Red Gum Communities admitted that in determining the content of the AWAs, he did not get 'people involved' but rather came up with a rate of pay and conditions which he thought would 'simplify' existing arrangements (Interview founding Director 2009). At Port View, despite suggestions over three years that staff would be involved in the negotiation of a collective agreement, the CEO acknowledged that it had been delayed because she felt there were more 'pressing' issues 'to get on top of' (Interview 2008). This unilateral decision-making again demonstrates that, although organisational norms are constructed through external and internal influences, the lack of voice mechanisms in each case meant that employees did not collectively contribute to the organisational norms.

Ownership structure

Organisational norms were not the only internal influence on the management of labour. The case studies revealed that ownership structure was another organisationally specific characteristic which shaped the approach to the

management of labour. However, as was the case with societal norms, there are also external constraints which themselves influence the types of organisations entering the market for aged care. According to Hogan (2008) the 'comprehensive control' of the residential aged care market by the federal government, results in the preservation of a 'cottage industry' in which poor quality providers are unlikely to be allowed to fail due to the inability of their residents to be quickly and easily accommodated elsewhere (pp 43 and 55).

The view that reducing labour costs increases profitability goes some way to explaining the approach taken by management at Red Gum Communities, the for-profit provider examined in chapter 7. This case, once more, highlights the argument that the relationship between regulatory constraints (organisational norms and ownership structure) is often close and complex. Management (who were also the owners) at Red Gum Communities could act without the limitations being imposed by a religious mission (Christian Care) or a board of local community members (Port View) and could more easily pursue a strategy of minimising labour costs through the use of AWAs.

While ownership structure influenced the 'mission' and approach to labour-management by the three providers, this difference was not necessarily reflected in the attitudes of workers to their work and wages. As discussed above, there was a similarity in the responses of care staff regardless of the nature of the organisation for which they worked. This mirrors King and Martin's (2008) findings reported on in chapter 2 which showed that ownership structure did not impact on the satisfaction levels of workers, reinforcing the importance of other influences such as the social norms analysed in this thesis.

This section has considered the importance of external regulation in the form of the market, the law, social norms and geography (and internal regulation in the form of managerial decision-making) on the management of labour in residential aged care sector. However, of themselves, these factors are limited in their explanatory potential. Further consideration needs to be given to the interaction of these factors and the relative importance of each.

Section Two: Assessing the importance of external and internal regulation

While the market, the law, social norms and location provide a structure within which to organise the results of the case studies they do not of themselves offer insights into the relative significance of each of the regulatory constraints to the three cases described in chapters 5, 6 and 7. The non-linear nature of the types of regulation considered in the previous section makes untangling and deciphering the importance of the various constraints difficult.

In their examination of the globalisation of regulation, Braithwaite and Drahos recognise that regulation is a 'messy process' which results from 'the interaction between mechanisms, principles and actors in each domain' (Braithwaite & Drahos, 2000, p.23). In order to understand the regulatory space that constitutes the environment for the management of labour in residential aged care, it is necessary to convey the 'messiness' of those interactions in the context of the three case studies.

A comparison of external and internal regulation

The earlier discussion in this chapter illustrated that external regulatory forces such as the managed market for aged care services, location and social norms, were to a large degree outside the influence of management and were consistently important across all three cases albeit in different ways. While each of the organisations experienced similar external regulatory pressures, the internal constraints differed. It is pertinent here to reiterate the non-linear relationship between the sources of regulation which was discussed above and in earlier chapters. While external regulators shaped the characteristics of the aged care sector (discussed in the previous section), there was little evidence from the case studies of a causal link between changes to the external constraints, specifically changes to labour law, and changes to internal regulation. In other words, while the three employers were constrained by regulation both formal and informal, external and internal, they were still able to display agency.

This finding contradicts Hogan's (2008) view that in the current regulatory environment 'board and management have little scope for decision-making' (p.43), at least when it comes to the management of labour. The case studies also revealed that these providers chose to manipulate differing modes of internal regulation. It was shown that Port View underwent a significant organisational restructure and initiated changes to key management and board level personnel in order to facilitate cultural change. Christian Care chose to prioritise its Christian mission and, in so doing, circumscribed its approach to staff and service delivery, while at Red Gum Communities size and ownership structure meant that decision-making was heavily influenced by the owners who retained a role in managing the organisation. These findings suggest that while external regulators such as the law and the 'managed market' may lead aged care providers to similar ends; managers are still able to choose different processes and paths to arriving there. Internal regulation is important. This is particularly the case in the management of labour.

In each of the cases, the workers had little opportunity to exert any countervailing regulatory pressure through collective organisation or the expression of voice and were unable to effectively oppose the exercise of managerial prerogative. This had similar implications across all three organisations, namely that each of the employers was free to use operational surpluses without any challenge from the workforce about management's assumptions about how such surpluses should be spent. At Port View this meant that, despite provision being made in the budget, the CEO withheld wage rises until 'more pressing issues' were dealt with (Interview, Port View 2008). Similarly at Christian Care, while residential aged care was generating a surplus, this was directed to the provision of services prioritised according to the organisational mission, not toward improving wages of care workers. This was despite the Human Resource Manager recognising that low wages were linked to recruitment and retention difficulties (Interview, Christian Care Human Resource Manager 2008). Perhaps the most obvious example of the unfettered expression of managerial prerogative and its impact on workers was the continuing engagement of PCAs as 'permanent casuals' by management at Red Gum Communities, despite the concerns expressed by staff about the associated lack of entitlements and the

founding Director's explanation that he had decided on this approach on the basis of a 'gut' feeling (Interview Founding Director 2009).

Section Three: Conclusion

The case studies examining three residential aged care providers in NSW reveal the intricate web of internal and external, direct and indirect and formal and informal regulation which impacts on the management of labour within the sector. In so doing, they suggest a counterintuitive answer to the question of the impact of changes to labour regulation on managers and workers. While the time-frame for this research was deliberately chosen to coincide with major changes to labour law (namely, *Work Choices*), the results show that these changes did not have as much of an impact on employment relations in residential aged care as might have been anticipated given the labour intensive nature of the sector. This was due to the importance of other modes of regulation competing within the same 'regulatory space'.

Aside from law (specifically labour law), other modes of regulation or regulatory constraints which shaped the management of labour included: social norms, location and the market (though managed *through* law in the form of the *Aged Care Act 1996*). Another important dimension to this regulatory web witnessed in these cases was that of internal regulation. This echoes Mitchell and Arup's (2006) observation that 'so much critical regulation is buried in human resource management policies and procedures that vary from one organisation to another'(p.18).

It was this variation of internal regulation that differentiates the three cases and highlights that while the agency of employers was constrained through a variety of regulation, both formal and informal, there was still opportunity for employers to express agency through internal organisational regulation as in all three cases there was no countervailing regulatory pressure being imposed by workers in the form of unions or other methods for the expression of collective voice. In effect, this meant that there were no mechanisms for employees to challenge management assumptions about how operational surpluses were used. This meant that, despite

management in each of the cases identifying low pay as an issue of concern for employees, no actions were taken to improve this by increasing pay rates.

Chapter 9

Summary and findings

Introduction

Aged care is an increasingly important public policy issue. It is claiming more of the federal health budget, and will continue to do so given the ageing of the Australian population (Commonwealth of Australia, 2010). The growing significance of the sector raises questions about many aspects of care, the size of the labour force and employment relations. With demand for labour in the sector already outstripping supply and with the size of the workforce likely to increase substantially, this shortage of workers and its implications for the sector in the future has been the subject of a number of studies and government reports (Finance and Public Administration Committee, 2009; Productivity Commission, 2008; Richardson & Martin, 2004). While these studies have begun to construct a more detailed picture of the issues facing aged care workers and employers, they have not explicitly explored approaches to the management of labour or the importance of labour law in determining these approaches.

The results of the three case studies in this thesis suggest that labour law has not been the most important determinant of labour-management in the residential aged care sector, that employment relations has been shaped by a number of intersecting regulatory constraints. These results have been analysed (using a broad interpretation of what constitutes regulation) to answer the key research question posed in chapter 1 making this research distinctive. That research question was:

What are the regulatory forces which shape the management of labour in the NSW residential aged care sector?

In order to adequately address this overarching question, a subset of research questions was considered. These questions were:

- What are the key labour market issues in the sector and what impact do these have on how employment relations in the sector are conducted?
- How does the for-profit or not-for-profit status of residential aged care provider's impact on the management of labour?
- What are the main expressions of employee 'voice' in the sector and what regulatory role does this play?
- How is the management of labour affected by changes to the labour law?
- How does legal regulation of the aged care sector impact on the management of labour by employers?

While these questions have been answered in the previous chapters, the purpose of this concluding chapter is to more closely marry the findings of the study (detailed in chapters 5, 6 and 7 and 8) to both the contextual and theoretical frameworks (outlined in chapters 2, 3 and 4).

This chapter is divided into five sections. These sections reiterate the key features of the aged care sector, justify the choice of theoretical framework, consolidate the findings of the cases studies and explore the implications for future research. Section one revisits the key characteristics and significance of the residential aged care sector. In particular, it emphasises the importance of the *Aged Care Act 1997* in constructing a 'managed market' for residential aged care. The second section returns to the literature review and restates the reasoning behind the use of regulation theory as the framework for understanding the case studies. It specifically explains the utility of regulation theory at a micro-level of analysis, rather than the macro-level with which many variants of the approach are associated. Section three provides an overview of the three case studies, highlighting common issues and themes relating to the management of labour as identified in chapters 5, 6 and 7 and considered in greater depth in chapter 8. Section four offers suggestions

about future research. With labour regulation becoming increasingly 'decentred', regulation theory might now be applied to other kinds of workplaces to build a better understanding of, among other things, internal regulation which often takes the form of human resource policies and organisational practices. The final section outlines the major contributions of this thesis to understanding the forces shaping the management of labour in the NSW residential aged care sector.

Section One: Theoretical framework

Chapter 2 began by outlining the lack of industrial relations research into aged care and the potential problems associated with attempting to apply a traditional industrial relations approach to research into the sector. Specifically, the feminised nature of the workforce and the involvement of a complex and moving state do not sit comfortably within a paradigm dominated by the study of blue-collar, full-time, masculine work. Adopting a critical approach to this literature does allow for some exploration of the gendered nature of work, the multi-faceted role of the state and the characteristics of employee voice within the aged care sector. Additionally the interaction between industrial relations and management decision-making was considered and highlighted the significance of environmental constraints on managerial decision-making. Kochan, Katz and McKersie's (1994) recognition of the importance of organisational structure, strategic choices of actors *and* environmental forces comes closer to explaining approaches to managing labour and industrial relations outcomes in residential aged care. However the nature of those 'environmental forces' also needs to be examined. In the context of the Australian residential aged care sector a significant environmental pressure is government regulation necessitating a closer examination of its nature and impact on aged care providers and their labour-management decisions. Consequently this consideration of environmental forces was expanded and explored through the prism of regulation theory.

Aged care is often described as 'heavily regulated' (Hogan, 2004a). Most commonly this reference to 'regulation' refers only to formal or legal regulation imposed by government or state institutions. This usage was reflected in interviews conducted

for the three case studies reported on in chapters 5, 6 and 7. However, regulation of this sort is only part of the regulatory 'story' in residential aged care. Other factors also exert regulatory force on employment relations albeit through less formal means. Societal norms which reinforce gendered notions of care, result in a feminised workforce and the geographical constraints of each aged care facility, mean that each facility operates within a locally specific labour market. Consequently it is argued in chapter 2 that any theoretical framework attempting to understand the regulation of employment relations in aged care needs to be able to accommodate these other influences.

In their comprehensive study of regulation of aged care in the US, UK and Australia, Braithwaite, Braithwaite and Makkai (2007) consider the different forms regulation may take and note Lessig's 'typology of regulatory mechanisms' (p.8). The regulatory mechanisms are described as being the law, social norms, the market and architecture (physical constraints) (Lessig 1998). They also note 'the different levels of generality at which the concept of regulation may be conceived' and agree with Black (2001) that 'different levels are appropriate for different levels of analysis' (Braithwaite et al 2007:8). This is echoed by Simpkin (2006) in her New Zealand study of negotiations between teachers and the state in the late 1980s. She noted that regulation theory provided a 'powerful tool for teasing out the complexities and allowing the interweaving of different levels of analysis to arrive at a necessary and robust explanation of events at that time' (p.2).

This thesis demonstrates that the combination of the broad conception of regulation (detailed in chapter 2) and its applicability, at a sectoral and workplace level, provide a useful rationale for the explanation of the management of labour in residential aged care.

Section Two: The residential aged care sector

The significance of the sector is evident not only through its share of the public resources, with federal government in funding of more than \$5 billion per year (Department of Health and Ageing, 2008a), but through the growing number of people it employs - estimated to be 174,866 in 2007 (Martin & King, 2008). As

discussed in chapter 1, employment growth in the sector is predicted to continue to keep pace with the ageing population and will claim an even larger share of employment. This expansion in demand has fuelled concerns about the availability of labour to staff increasing numbers of aged care services (Department of Health and Ageing, 2005b). As discussed in chapter 4, most of this concern has focused on the shortage of registered nurses and general practitioners and has prompted calls to reconsider the roles of registered nurses and personal care assistants in residential aged care facilities (Productivity Commission 2008).

The sector is highly regulated and this regulation is largely expressed through the *Aged Care Act 1997*. The Act limits (through 'bed licenses') the number of beds available to providers taking into account the location of their facility, establishes the funding mechanisms for the payment of subsidies and sets maximum prices for services provided by aged care facilities (Productivity Commission, 2008). The practical operation of the *Aged Care Act* works to constrain the operation of the market for residential aged care.

While it is arguable that this 'managed market' is necessary in a sector with such vulnerable clients, the characteristics of the *Aged Care Act* listed above regulate in a specific way which impacts on many aspects of management in residential aged care, including the management of labour. In particular, the restrictions in the supply of services combined with price controls place boundaries upon the activities of aged care providers who are not able to expand service provision without approval and whose overall budgets are largely determined by the quantum of subsidies attracted by their residents.

It was suggested in chapter 4 that the 'managed market' for aged care would be an important and universal regulator throughout this research. This was indeed the case. For Port View Retirement Village, Christian Care and Red Gum Communities the market for aged care was a common constraint, delimiting the operations of each organisation. However, the changes to the funding mechanisms associated with the *Aged Care Act* (from RCS to the ACFI) were interpreted in different ways by each organisation. This difference illustrated the capacity for internal managerial

discretion in response to external constraints which was mirrored in the different approaches to the management of labour (particularly through the choice of industrial instrument).

Section Three: Overview of the case studies

Table 17 provides an overview of the key features of the three case studies which were the subjects of chapters 5, 6 and 7 and synthesised in chapter 8. It compares the three residential aged care providers in terms of ownership structure, types of services offered, size, location and the main industrial instrument determining wages and conditions of the care workforce.

As shown in Table 17, two of the facilities were not-for-profit. However these could be further differentiated for closer analysis. Port View was community run, and did not provide services other than aged care, whereas North West Lodge (NWL) was run by Christian Care, a medium-sized religious organisation which also provided other social welfare services. Red Gum Communities was a small for-profit organisation. Each of the facilities had a nursing home co-located with independent living accommodation. NWL and the Manor were ageing-in-place facilities, as was one of the Port View nursing homes; however, Port View also had two hostels which were exclusively for low care residents.

Table 17: Case Study Overview

+ **Overview of 3 Cases**

	Port View Retirement Village	Christian Care: The Lodge	Red Gum Communities: The Manor
Ownership	Not-for-profit: community	Not-for-profit: religious/charitable	For-profit
Type of Service	2 Hostels and 2 Nursing Homes (2 sites - co-located with independent living)	Nursing Home (co-located with extra service facility and independent living)	1 Nursing Home (co-located with independent living)
Size	Residents: 204 Staff: 205 (107 direct care)	Residents: 77 low care & dementia Staff: 30 (direct care)	Residents: 67 Staff: 28
Location	Coastal – 3 hours north of Sydney	North-western suburbs of Sydney	South-western suburbs of Sydney
Industrial Instrument	State Award (NAPSA)	Enterprise Agreement	AWA's

All of the nursing homes were of a similar size. Port View appears larger in Table 17 due to the inclusion of several of its facilities (see Type of Service) in the case study. This was due to greater access opportunities than in the other cases and which were considered in more detail in the methodology chapter (chapter 3).

NWL and the Manor were located in metropolitan Sydney, whilst Port View was a regional facility situated on the coast three hours drive to the north of Sydney. The significance of location to each of the cases forms part of the discussion in chapters 5, 6, 7 and 8.

A common, if surprising, finding from the three cases was how unimportant labour law was (relative to other regulators) to both the management of labour and the decisions of individuals to work in aged care. This result was unexpected given the use or choice of different industrial instruments. Though counterintuitive in a study of the management of labour, the results highlighted the significance of other non-labour regulators. These non-labour regulators included geography (the location of each facility), social norms (particularly about care giving and collective

representation) and internal regulation, most notably in the form of organisational norms.

Specifically, location was an important regulatory influence in all three cases, albeit for different reasons. Port View's regional location resulted in a labour market in which alternative employment opportunities for staff were more limited compared with the labour market in which Christian Care and Red Gum Communities operated. The demographics of the workforce at each facility were also affected by location with the metropolitan position of Christian Care and Red Gum Communities resulting in greater cultural diversity amongst staff.

The gendered nature of the workforce, consistent across the three cases, reflected the regulatory influence of social norms about the provision of care. Another norm constant across the cases was the lack of collective representation. Neither unionism nor any other form of collective representation was a feature of any of the providers. This was not only a result of broader societal decline in collectivism (external norm) but also, as the case studies showed, the active discouragement of union membership by managers (internal organisational norm).

The case studies emphasised the significance of internal regulation to the management of labour. However there was a difference in how internal organisational norms impacted on each provider. Christian Care's organisational mission functioned as a regulatory constraint upon how labour was managed. Internal organisational norms at Red Gum Communities were influenced by its ownership structure. Its for-profit status and flat managerial structure meant that labour costs could be minimised through the use of less conventional (and more controversial) industrial instruments – AWAs – without needing to comply with a 'Christian mission' (Christian Care) or gaining the approval of a board of local community members (Port View). The connection between ownership structure and approach to the management of labour is reminiscent of the structure and strategy literature considered in chapter 2.

The combination of external norms and internal organisational norms (outlined above and detailed in the case chapters and the case synthesis chapter) is illustrative of the intricacy of the regulatory web being examined in this thesis. Not only are do various forms of regulation interact with one another (law, market, social norms, architecture) but they can, and do, interact at different levels.

Section Four: Implications for future research

This research and its results are suggestive of a number of areas for future research in the areas of public policy, funding of aged care and union activity in the sector which will be outlined in this section. In particular consideration will be given to: the importance of labour regulation emanating from within the organisation; a review of operation of the ACFI and its impact on demand for and demands on care staff; an assessment of union organising campaigns being undertaken amongst aged care workers; and studies to evaluate the effect of the Fair Work Act on the residential aged care sector.

Human resource management policies and other organisationally specific plans and guidelines are an increasingly important source of labour regulation. This is explicitly acknowledged by Arup and Mitchell (2006), but can also be recognised in the work of other scholars writing in the area of labour law and labour regulation in Australia (see Arup et al 2006). This recognition is a consequence of the need to reconceptualise the regulation of labour in Australia given the decline of the conciliation and arbitration system over the past two decades. With the Australian system being dominated for so long by centralised and institutional actors and instruments, labour regulation has most often been considered at a macro level. With the demise of these actors and instruments, it is becoming increasingly important to supplement considerations of macro-level labour regulation with study of industry and workplace level regulation. Further research across a range of industries and workplaces should examine the import of workplace or organisational policies on approaches to the management of labour. Additionally, as formal and direct labour regulation has become more fragmented there is a growing need to

explore the impact of informal and indirect regulation of employment relations. This too should be the focus of future study.

Reforms to the funding of residential aged care were analysed in chapter 4 and in the ensuing case study chapters. The newness of the changes which occurred during the research made an assessment of the outcomes beyond the scope of this thesis. The change from the RCS to the ACFI represented a shift in funding priority from low care residents to high care residents. This has potentially serious and, as yet, poorly understood implications for the delivery of care by providers and the work of paid and unpaid carers. As ACFI funding provides greater subsidisation of residents requiring higher levels of care, it is likely over time that aged care providers will be less inclined to admit lower-care residents, as they do not attract as much funding. Aged care providers may no longer be able to accept residents with lower care needs. This potential was recognised by interviewees and reported on in the case chapters and the decline in low care funding has been the source of much industry concern (Australian Ageing Agenda, 2009a). The increase in residents requiring higher levels of care has implications for the workload of care staff. This change requires further investigation particularly in light of existing labour supply issues.

This research was specific to the NSW residential aged care sector, and as such did not consider the activities of the Australian Nurses Federation (ANF) and the Liquor, Hospitality and Miscellaneous Worker's Union (LHMU) who have been engaged in organising campaigns in the sector in other states of Australia. A comparison of the characteristics of collective representation in aged care in NSW and those states which have had more focused union campaigning in the sector may reveal opportunities for increasing unionisation, and thus the voice of aged care workers, in aged care in NSW.

This study considered the impact of changes to labour law, namely *Work Choices*, on the management of labour by residential aged care providers. Despite the results indicating that this change was not as significant as might have been expected, there is still a need to consider the impact of change to the labour law in aged care. There are particular aspects of the new *Fair Work Act* that have potentially important

ramifications for workers and employers in residential aged care and as such warrant further investigation. Firstly, the process of award modernisation has resulted in an occupational award for nurses working in aged care (in organisations which fall under the scope of the Act) raising concerns by providers that labour costs will increase and flexibility will be reduced (Australian Ageing Agenda, 2009c). Second, the low wages received by care staff in aged care may provide an opportunity for unions within the sector to apply for the inclusion of aged care in the 'Low Paid Bargaining Stream' which is a new and, at the time of writing, untested feature of the legislative changes embodied in the *Fair Work Act* (Cooper & Ellem, 2009).

Section Five: Conclusions

This thesis presented a study of the regulatory complexity within which three providers of residential aged care made decisions regarding the management of labour. This was driven by the main research question:

What are the regulatory forces which shape the management of labour in the NSW residential aged care sector?

The study found that labour law was not the primary determinant of approaches to labour management. Indeed, it was a second order consideration for aged care providers struggling with what they saw as insufficient funding, onerous paperwork and recruitment and retention difficulties. These findings required the use of an explanatory framework which recognised that these issues were the result of other types of regulatory constraints not traditionally associated with the direct legal regulation of employment relations. Consequently, a regulatory approach that explicitly acknowledged the import of non-legal, informal and indirect regulation was adopted to organise and understand the research results.

Specifically, this thesis used regulation theory at a micro-level, using it as a tool to understand employment relations within three residential aged care providers, rather than addressing the more common macro-level interests of regulation theorists (Jessop, 1997; Levi-Faur, 2006; Treuren, 1997). It was influenced by the current debate in Australia about labour law and labour market regulation,

epitomised by the edited collection of essays of the same name (Arup et al., 2006). That collection emphasised that the 'continuing role of non-state and supra-state actors, mixed with the sheer diversity of social norms and control mechanisms...suggest that the nature and the direction of labour market regulation remain unpredictable' (Mitchell & Arup, 2006). In attempting to reconceptualise the field of labour law and labour market regulation, these authors have highlighted the need for research which recognises that regulatory power increasingly resides with non-state actors and institutions and is expressed through non-legislative management such as 'human resource management policies' (p.18). It is this type of research, at a workplace level (organised with reference to Lessig's four regulatory constraints), which has informed the three case studies of residential aged care facilities which were the empirical focus of this thesis. These four constraints are the law, the market, social norms and architecture (in this study mostly referring to the geographical location of the facilities). Depending on the context any of these constraints may be more significant than the others (Lessig 1998, p.664). This was markedly evident and closely examined in the three cases.

This thesis has shown that while each of the case study organisations faced similar external pressures in the form of government regulation, societal norms about the delivery of care, and local labour markets, the importance of these pressures to the approach to labour management differed across the cases. It also highlighted the impact of regulation emanating from within each organisation. This internal regulation was expressed through the exercise of managerial prerogative, which took different forms in each case. At Port View, it was expressed through an organisational restructure and the withholding of budgeted wage increases. At Christian Care, it was evident through the prioritisation of the organisational mission and, at Red Gum Communities, it was obvious through the unilateral decision-making of management in determining the wages and conditions of care staff. Conversely, a consistent finding of this study is that there is an obvious lack of regulatory power held by employees. Exacerbated by the lack of collective voice mechanisms, employees in each of the cases were not regulators but regulated.

In exposing the complicated regulatory space within which providers of aged care operate, this thesis has highlighted a new way to explain and understand the management of labour in a sector growing exponentially in economic and social significance.

Appendices

Appendix 1: Interview Topics

Interview Topics for Research into the Management of labour in Residential Aged Care

Organisational Issues

- Overview of organisation's aged care services
- Given the demands on the sector and its growth potential what are the major public policy challenges it faces?
- How would you describe as your organisation's position in the residential aged care sector?
- To what extent is organisation involved in peak employer groups?
- Where does aged care fit in strategic planning?
- What is the organisational structure?
- What is the structure of the aged care division/section?
- Who has responsibility for workforce issues? Is HR centralised or are decision made at each facility?
- If HR/workforce decisions occur at a number of organisational levels, describe/give examples of the types of issues dealt with at each level.
- What would you describe as the greatest issue facing aged care for your organisation?

Workforce Issues

- Description of aged care workforce: main job classifications, demographics.

- Does the feminised nature of the workforce require particular HR approaches?
- Under which industrial instruments are aged care workers employed and relevance of each; Awards, Enterprise Bargaining Agreements and Australian Workplace Agreement's?
- What would you identify as the biggest differences between the aged care workforce of your organisation and other aged care providers?
- What are the most significant workplace issues for the workforce?
- Could you describe any formalised form of employee participation? Eg. Committees, opinion surveys, performance reviews, suggestion forums

Further questions for consideration

- Impact of various government regulation
- Other industry leaders – potential interviewees
- Individuals with particular expertise
- Directions in terms of case studies
- Source material

Appendix 2: Information for participants

**Work and
Organisational
Studies**

School of Business

Faculty of Economics & Business

Sarah Kaine

PhD Student

Institute Building, HO3

The University of Sydney, NSW 2006

Telephone: 0425 334 579

s.kaine@econ.usyd.edu.au

24 November 2006

Research Study on Employer Strategy in Aged Care

Information for Participants

Aim and purpose of the study

I am undertaking research on employer strategy in the residential aged care sector in NSW. It is for my PhD under the supervision of Associate Professor Bradon Ellem. The study addresses the four key research questions:

- What are the key labour market issues in the sector and what impact do these have on how employment relations in the residential aged care sector are conducted?
- How does the for-profit or not-for-profit status of residential aged care providers impact on employment relations?
- What are the main expressions of employee 'voice' in the sector?
- How is employer strategy affected by changes to the regulation of employment relations?

This is the first academic study of its kind in Australia.

I am writing to invite you as an employment relations practitioner with specialist knowledge in this area to participate in the research for this project.

What will be involved?

- An interview about employer strategies in the residential aged care sector. The interview will include questions on such things as: labour supply, staff retention and organisational decision-making structures and processes
- The interview will last for between 40 minutes and one hour and, with your permission, it will be audio taped.
- The entire transcript of the interview will not be used in any publications, and will only be seen by the researchers working on this project. However, selected quotations will be used in publications. Your comments would be anonymous and any details in quotes which may identify you or your organisation will be removed.
- You will be sent a copy of the interview transcript for your own records; you will also be sent a copy of the written report detailing this research.
- You have the right to withdraw from the research study and the interview process, if the need arises, at any stage and without any repercussions.

I am a PhD student at the University of Sydney. Please feel free to contact me at any time with questions about this research project. My telephone number is 0425 334 579 and email: s.kaine@econ.usyd.edu.au.

I look forward to meeting with you soon, and will ring your office in the next two weeks to negotiate a date for an interview.

Sarah Kaine

Appendix 3: Interview Schedule

INTERVIEW SCHEDULE: Aged Care – Nursing and Care Staff

Chosen Pseudonym.....Real first
name.....

Interview No.DSS file name.....(as emailed to p.o.s)

Date:.....Interviewer:.....

Interview Questions and Notes (*these are guidelines only; pursue interesting issues where they arise. Skip questions already covered in earlier answers.*)

Introduction:

1. Read information sheet about project.
2. Do you have any questions about the research?
3. Read consent form – yes or no: clear recorded response required.
4. This can take from 30 minutes to an hour – is that OK? Please feel free to stop the interview at any time if you need to, for any reason at all.
5. Would you like to choose another name so that we can use it in place of your real name which we want to keep confidential?

Interview Questions

1. Could you tell me about the organisation you work for?

Cover the following:

- Overview of its aged care services
- Organisational structure
- Structure of facility/section/division you work for

- Perception of organisation's position in the residential aged care sector

2. *Could you tell me about your job?*

Cover the following:

Role

- Classification
- Duties
- Length of time in role

Hours

- Hours of work
- Shift arrangements
- Rostering

Are your hours predictable?

Do you have any control over your working hours?

Do these hours suit your needs?

How comfortable would you feel to ask to change your hours or pattern of work?

3. *Who has responsibility for workforce issues?*

Cover the following:

- Is HR centralised or decentralised?
- If HR/workforce decisions occur at a number of organizational levels describe/give examples of the types of issues dealt with at each level.
-

4. *Could you identify key characteristics of the workforce engaged in the direct provision of aged care services within your organisation?*

Cover the following:

- Main job classifications
- Demographics – age, ethnicity, gender
- Do demographics impact on HR practices? Eg prevalence of women
- Why do you think the sector attracts particular groups of workers?

5. Under what type of industrial instrument are you employed?

Cover the following:

- AWA, EB, AWARD, Other
- When was it last varied?
- Do you know when next variation is due?

6. Have you been involved in any consultative processes regarding your wages and conditions?

Cover the following:

- Consultative Committees
- Opinion surveys
- Performance reviews
- Union bargaining committees

7. If you had an issue regarding the workplace how would you go about raising it with management?

Cover the following:

- What level of management would you approach?
- Do you have employee representatives to discuss concerns with?
- Any other methods of getting issues/concerns heard and dealt with.

How would you characterise the relationship between staff and management?

Cover the following:

- Fair, open, respectful?

7. What do you like most about your job?

Cover the following:

- Initial motivation for entering aged care sector
- Continuing motivation?

8. What do you like least about your job?

9. What are the most significant workplace issues in your workplace?

10. In your opinion what are the most significant challenges facing the sector?

Cover the following:

- Challenges for organisation
- Challenges for staff
- Challenges for clients

List of Statutes

Constitution

s 51(xx)

s 51 (xxxv)

Commonwealth

Aged and Disabled Persons Care Act 1954

Aged Care Act 1997

Fair Work Act 2009

Privacy Act 1988

Workplace Relations Act 1996

Workplace Relations Amendment (Work Choices) Act 2005

Privacy Act 1988

New South Wales

Food Act 2003

Industrial Relations Act 1996

Occupational Health and Safety Act 2000

List of Cases

State Wage Case [2004] NSWIRComm 148

State Wage Case [2005] NSWIRComm 212

State Wage Case [2006] NSWIRComm 208

State Wage Case [2007] NSWIRComm 118

State Wage Case [2008] NSWIRComm 103

References*

- Adams, V. (2007). *Fair Enough? Undervaluing nurses' work in residential aged care*. Paper presented at the Our Work Our Lives.
- Administration on Aging. (2009). Retrieved 16 February, 2010, from http://www.aoa.gov/aoaroot/aging_statistics/future_growth/future_growth.aspx
- Aged and Community Services Association. (2006). Joint submission on the award review taskforce discussion papers on award rationalisation and rationalisation of award wage and classification structures.
- Aged and Community Services Association of NSW and ACT. (2008). *Aged and Community Services History*.
- Aged Care Industry Employer Associations. (2009). Reply submissions by aged care industry employer associations re: transitional provisions, *Award Modernisation Health and Welfare Services Matter Numbers: AM 2008/13*: Australian Industrial Relations Commission.
- Aged Care Standards and Accreditation Agency. (2008). Legislation. Retrieved 22 December, 2008, from <http://www.accreditation.org.au/accreditation/legislation/>
- Aged Care Standards and Accreditation Agency Limited. (2009). Support Contacts. Retrieved 29 August, 2009, from <http://www.accreditation.org.au/accreditation/supportcontactsoverview/>
- Allen, C. & Lovell, K. (2003). The Effects of High Performance Work Systems on Employees in Aged Care, *Labour & Industry*, 13(3), 1-17.
- Arthur, J. (1992). The link between business strategy and industrial relations systems in American steel minimills. *Industrial and Labor Relations Review*, 45(3), 488-506.
- Arup, C., Gahan, P., Howe, J., Johnstone, R., Mitchell, R., & O'Donnell, A. (2006). *Labour Law and Labour Market Regulation: Essays on the Construction, Constitution and Regulation of Labour Markets and Work Relationships*. Sydney: Federation Press.
- Australian Ageing Agenda. (2008). ACSA calls for action to prevent aged care becoming the next ABC [Electronic Version]. Retrieved 18 November 2008, from www.australianageingagenda.com.au
- Australian Ageing Agenda. (2009a). ACFI has not secured the future. Retrieved 30 November, 2009 from <http://www.australianageingagenda.com.au/news>
- Australian Ageing Agenda. (2009b). CHA proposes freer aged care market [Electronic Version], from <http://www.australianageingagenda.com.au/news/article/ZNXEEBOIQF>
- Australian Ageing Agenda. (2009c). Industry Disappointed by Separate Nursing Award. Retrieved 30 November, 2009, www.australianageingagenda.com.au
- Australian Ageing Agenda. (2009d). Industry disappointed with Stop-Gap Budget Measures. Retrieved 26 June, 2009, from <http://www.australianageingagenda.com.au/news/article/CIHVQVRNQH.htm>
- Australian Bureau of Statistics. (2006a). 2006 Census Quickstats: Australian Bureau of Statistics.

- Australian Bureau of Statistics. (2006b). Employee Earnings, benefits and trade union membership 6310.0.
- Australian Bureau of Statistics. (2008). Employee Hours and Earnings Survey, Catalogue no. 6306.0.
- Australian Institute of Health and Welfare. (2008). Residential aged care services in Australia 2006-07: A Statistical Overview (Vol. Cat.no. AGE 56). Canberra: Aged Care Statistics Service.
- Australian Institute of Health and Welfare. (2009). *Health and Welfare Expenditure, Cat.no. HWE 46*: Australian Institute of Health and Welfare. Document Number)
- Australian National Audit Office. (2003). *Managing Residential Aged Care Accreditation: The Aged Care Standards and Accreditation Agency Ltd*, Audit Report No.42, 2002-2003.
- Australian Nursing Federation. (2008a). Award Modernisation Report. Melbourne.
- Australian Nursing Federation. (2008b). Review of the conditional adjustment payment. Melbourne.
- Australian Nursing Federation. (2009). Nurses' Paycheck: A comprehensive analysis of nurses' wages (Vol. 9, No.1).
- Author withheld. (2007). *Port View*: 25 Years Celebration*. Sydney.
- Authors withheld. (2004). *The history of Christian Care**: Christian Care.
- Baird, M. (2000). *Transforming Industrial Relations*. Unpublished PhD, University of Sydney, Sydney.
- Baird, M. (2003). Re-conceiving industrial relations: 2003 AIRAANZ presidential address. *Labour and Industry*, 14(1), 107-110.
- Baird, M., Cooper, R., & Ellem, B. (2009). Low-paid women: the impact of regulatory change in Australia. *Industrial Relations Journal*, 40(5), pp.393-407.
- Benson, J. (2000). Employee Voice in Union and Non-union Australian Workplaces. *British Journal of Industrial Relations*, 38(3), 453-459.
- Black, J. (2001). Rules and Regulators. *Oxford Journal of Legal Studies*, 20(4), 597-614.
- Black, J. (2002). Critical Reflections on Regulation. *Australian Journal of Legal Philosophy*, 27, 1-35.
- Blanchflower, D., & Bryson, A. (2004). What effect do unions have on wages now and would Freeman and Medoff be surprised? *Journal of Labor Research*, XXV(3), 383-414.
- Bourdieu, P. (1988). 'Vive la crise'!: for heterodoxy in the social sciences. *Theory and Society*, 17, 773-787.
- Boyer, R. (1990). *The Regulation School: A Critical Introduction*. New York: Columbia University Press.
- Braithwaite, J. (1997). Workplace Industrial Relations in the Australian Hospital Sector. Sydney: School of Health Services Management University of NSW.
- Braithwaite, J. (2001). Regulating nursing homes: the challenge of regulating care for older people in Australia. *British Medical Journal*, 323, 443-446.
- Braithwaite, J., & Drahos, P. (2000). *Global Business Regulation*. Melbourne: Cambridge University Press.
- Braithwaite, J., Makkai, T., & Braithwaite, V. (2007). *Regulating Aged Care*. Cheltenham: Edward Elgar.

- Bray, M., Waring, P. & Cooper, R. (2009). *Employment Relations: Theory and Practice*. Sydney, McGraw-Hill.
- Bray, M., Deery, S., Walsh, J., & Waring, P. (2005). *Industrial Relations: A contemporary approach*. North-Ryde, Sydney: McGraw-Hill
- Bray, M., & Waring, P. (2008). The (continuing) importance of Industry Studies in Industrial Relations: in Stanton, P. and Young, S. (eds), *Workers, Corporations and Community: Proceedings of the 22nd AIRAANZ conference-volume 1: Refereed Paper*, Melbourne.
- Bray, M., Waring, P., Macdonald, D., & Le Queux, S. (2001). The 'representation gap' in Australia. *Labour & Industry*, 12(2), 1(31).
- Bray, M., & White, N. (2003). A system under pressure: Industrial relations in New South Wales public hospitals. *New Zealand Journal of Industrial Relations*, 27(193), 193-220.
- Brechin, A., Walmsley, J., & Katz, J. (1998). *Care matters: concepts, practice and research in health and social care*. London: Sage.
- Bruen, W. (2005). Policy Update - Aged Care in Australia; Past, Present and Future. *Australasian Journal of Ageing*, 24(3), 130-133.
- Bryman, A. (1988). *Doing Research in Organisations*. London: Routledge.
- Bryman, A. (2004). *Social Research Methods*. Oxford: Oxford University Press.
- Buchanan, J., & Considine, G. (2002). 'Stop telling us to cope!' *NSW Nurses Explain Why they are Leaving the Profession*. Sydney: The Australian Centre for Industrial Relations Research and Training, The University of Sydney.
- Carter, B., & Cooper, R. (2002). The Organizing Model and the Management of Change - A comparative study of Unions in Australia and Britain. *Relations Industrielles/Industrial Relations*, 57(4), 712-742.
- Charlwood, A., & Terry, M. (2007). 21st Century Models of Employee Representation: Structures, Processes and Outcomes. *Industrial Relations Journal*, 38(4), 320-337.
- Cheek, J., CBallantyne, A., Jones, J., Roder-Allen, G., & Kitto, S. (2003). Ensuring excellence: investigation of the issues that impact on the registered nurse providing residential care to older Australians. *International Journal of Nursing Practice*, 9, 103-111.
- Christian Care*. (2007a). *Annual Report 2007: Christian Care*. Document Number)
- Christian Care*. (2007b). Mission and Values Statement. Christian Care Services.
- Christian Care*. (2007c). Strategic Plan 2009-2013. Sydney: Christian Care
- Christian Care*. (2008a). About CC - History. Retrieved 5/05/09, 2009
- Christian Care*. (2008b). Annual Report 2008: Christian Care* - NSW & ACT.
- Collins, H. (2000). Justifications and Techniques of Legal Regulation of the Employment Relation. In P. Davies, R. Rideout & H. Collins (Eds.), *Legal Regulation of the Employment Relation* (pp. 3-27). London: Kluwer.
- Commonwealth of Australia. (2002). *Budget Paper No.5 - Intergenerational Report*.
- Commonwealth of Australia. (2010). *Australia to 2050: Future Challenges*. Retrieved 16/2/10. from <http://www.treasury.gov.au/igr/igr2010/>.
- Comondore, V., Devereaux, P., Zhou, Q., Stone, S., Busse, J., Ravindran, N., et al. (2009). Quality of care in for-profit and not-for-profit nursing homes: systemic review and meta-analysis. *BMJ*, 339:b2732, from http://www.bmj.com/cgi/reprint/339/aug04_2/b2732?maxtoshow=&hits=10

[&RESULTFORMAT=1&author1=comondore&andorexacttitle=and&andorexacttitleabs=and&andorexactfulltext=and&searchid=1&FIRSTINDEX=0&sortspec=date&fdate=1/1/2008&resourcetype=HWCIT](#)

- Cooney, S., Howe, J., & Murray, J. (2006). Time and Money Under WorkChoices: Understanding the New *Workplace Relations Act* as a Scheme of Regulation. *University of New South Wales Law Journal*, 29, 215-241.
- Cooper, R. (2002). *Organising at Work: Growth strategies in Australian white collar unions, 1996-2000*. University of Sydney, Sydney.
- Cooper, R., & Ellem, B. (2009). Fair Work and the Re-regulation of Collective Bargaining. *Australian Journal of Labour Law*, 22(3), 284-305.
- Coory, M. (2004). Ageing and healthcare costs in Australia: a case of policy-based evidence? *Medical Journal of Australia*, 180, 581-583.
- Council of Social Services NSW. (2006). Submission to Standing Committee on Social Issues Inquiry into the Impact of Commonwealth Work Choices Legislation.
- Creighton, B. (1997). The Role of the State in Regulating Employment Relations: an Australian Perspective. *Flinders Journal of Law Reform*, 103(2), 103-129.
- Dabscheck, B. (1994). A general theory of (Australian) industrial relations. *Journal of Industrial Relations*, 36(1), 3-17.
- Davidson, B. (2009). For-Profit Organisation in Managed Markets for Human Services. In D. King & G. Meagher (Eds.), *Paid Care in Australia: Politics, Profits, Practices*. Sydney: Sydney University Press.
- Davies, J. (2004, 11/08/2004). How aged care is falling apart. *The Bulletin Magazine*, August.
- Davis, M. (1993). Nursing Home Ownership Revisited: Market, cost and quality relationships. *Medical Care*, 31, 1062-1068.
- de la Rama, M. (2006). Submission to the Inquiry into Private Equity Investment and its Effects on the Capital Markets and the Australian Economy. Sydney: UTS Centre for Corporate Governance
- de la Rama, M. (2007). Private Equity, Subsidies and the Care Sector [Electronic Version]. *agedcarecrisis.com*. Retrieved 26 August 2008.
- de la Rama, M., Edwards, M., & Dalton, B. (2008). Submission into Aged Care Amendment (2008 Measures No.2) Bill 2008. Sydney: UTS Centre for Corporate Governance.
- Department of Health and Ageing. (2002). Recruitment and Retention of Nurses in Residential Aged Care. Canberra: Department of Health and Ageing.
- Department of Health and Ageing. (2003). Aged Care in Australia. In D. o. H. a. Ageing (Ed.): Commonwealth of Australia.
- Department of Health and Ageing. (2005a, 31 December 2005). About the 10 Year Forward Plan for Improving Building Quality and Safety. Retrieved 13 December 2006, 2006, from <http://www.aodgp.gov.au/internet/wcms/publishing.nsf/Content/ageing-certification-buildqual.htm~ageing-certification-buildqual03.htm>
- Department of Health and Ageing. (2005b). National Aged Care Workforce Strategy: Commonwealth of Australia.
- Department of Health and Ageing. (2007a, 12 September). Accreditation. *Aged Care Australia* Retrieved 22 December, 2008, from

- <http://www.agedcareaustralia.gov.au/internet/agedcare/publishing.nsf/content/accreditation>
- Department of Health and Ageing. (2007b). Aged Care in Australia - help with aged care homes - Ageing in Place. Retrieved 11 December 2008, 2008, from <http://www.agedcareaustralia.gov.au/internet/agedcare/publishing.nsf/content/ageing+in+place>
- Department of Health and Ageing. (2007c). New Funding Model for residential Aged Care. Retrieved 17 November 2007, from <http://www.health.gov.au/internet/wcms/publishing.nsf/Content/ageing-acfi-aboutacfi.htm>
- Department of Health and Ageing. (2007d). Report on the Aged Care Act 1997. Canberra: Department of Health and Ageing.
- Department of Health and Ageing. (2007e). Report on the operation of the Aged Care Act 1997. Canberra: Department of Health and Ageing.
- Department of Health and Ageing. (2008a). About the Aged Care Funding Instrument (ACFI). Retrieved 17 December 2008, from <http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-acfi-aboutacfi.htm>
- Department of Health and Ageing. (2008b). *The ACFI and Aged Care Workers*. Retrieved 22/12/08. from http://www.agedcare.org.au/AGED-CARE-NEWS/ACFI-docs/03_The_ACFI_and_Aged_Care_Workers.pdf.
- Department of Health and Ageing. (2009a, 9 July 2009). agedcareAustralia: Glossary. Retrieved 9 July, 2009, from <http://www.agedcareaustralia.gov.au/internet/agedcare/publishing.nsf/Content/Glossary+Index+C>
- Department of Health and Ageing. (2009b, 12 September 2007). Community Aged Care Packages. Retrieved 30 June, 2009, from <http://www.health.gov.au/internet/main/publishing.nsf/Content/ageing-commcare-cacp.htm>
- Department of Health and Ageing. (2009c). *Report on the operation of the Aged Care Act 1 July 2008 -30 June 2009*. Retrieved. from.
- Department of Health and Ageing. (2009d). *Review of the Aged Care Funding Instrument: Terms of reference*. Retrieved 9/12/09. from <http://www.health.gov.au/internet/ministers/publishing.nsf/Content/mr-yr09-je-je126.htm>.
- Dias, B. (2008). A case for expanded roles for NPs in aged care. *Australian Nursing Journal*, 15(7), 39(31).
- Duckett, S., J. (2005). Living in the parallel universe in Australia: public Medicare and private hospitals. *Canadian Medical Association Journal*, 173(7), 745-748.
- Duhigg, C. (2007, 23 September 2007). At Many Homes, More Profit and Less Nursing. *The New York Times*,
- Dundon, T., Wilkinson, A., Marchington, M., & Ackers, P. (2005). The management of voice in non-union organisations: managers' perspectives. *Employee Relations*, 27(3), 307-319.
- Dunlop, J. (1958). *Industrial Relations Systems*. New York: Holt, Rinehart and Winston.

- Eakin, J. (2004, 12 February 2004). Sallies selling old peoples homes, \$250m-plus tipped. *Sydney Morning Herald*,
- Edwards, P. (1995). From Industrial Relations to the Employment Relationship. *Relations Industrielles/Industrial Relations*, 50(1), 39-63.
- Eisenhardt, K. (1989). Building Theories from Case Study Research. *Academy of Management Review*, 14(4), 552-550.
- Ellem, B. (1989). *In women's hands? A history of Clothing Trades Unionism in Australia*. Kensington: NSW University Press.
- Ellem, B., Baird, M., Cooper, R., & Lansbury, R. (2005). Workchoices, myth-making at work. *Journal of Australian Political Economy*(56), 13 -31.
- Ellem, B., & Shields, J. (1999). Rethinking 'Regional Industrial Relations': Space, Place and the Social Relations of Work. *Journal of Industrial Relations*, 41(4), 536-560.
- Ellis, N. (2008). Stress Busters - Swan Care. from http://www.abc.net.au/tv/stressbuster/episodes/casenotes/swancare_final_report.pdf
- Elton, J., Bailey, J., Baird, M., Charlesworth, S., Cooper, R., Ellem, B., et al. (2007). Women and WorkChoices: Impacts on the low pay sector. Adelaide.
- Equal Opportunity for Women in the Workplace Agency. (2009). EOWA Employer of Choice for Women. Retrieved 7 August, 2009, from http://www.eowa.gov.au/EOWA_Employer_Of_Choice_For_Women.asp
- Finance and Public Administration Committee. (2009). Inquiry into residential and community aged care. In F. Senate (Ed.). Canberra.
- Fine, M., & Chalmers, J. (2000). 'User pays' and other approaches to the funding of long-term care for older people in Australia. *Ageing and Society*, 20, 5-32.
- Folbre, N. (1995). Holding hands at midnight: The paradox of caring labor. *Feminist Economics*, 1(1), 75-92.
- Folbre, N. (2008). Reforming Care. *Politics and Society*, 36(3), 373-387.
- Forsyth, A., & Stewart, A. (2009). The Journey from Work Choices to Fair Work. In A. Forsyth & A. Stewart (Eds.), *Fair Work: The New Workplace Laws and the Work Choices Legacy*. Sydney: The Federation Press.
- Frazer, A. (2006). Industrial Tribunals and the Regulation of Bargaining. In C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell & A. O'Donnell (Eds.), *Labour Law and Labour Market Regulation* (pp. 223-242). Sydney: The Federation Press.
- Freeman, R., & Medoff, J. (1984). *What Do Unions Do?* New York: Basic Books.
- Freeman, R., & Rogers, J. (1993). Who Speaks for Us? Employee Representation in a Non-union Labor Market. In B. Kaufman & M. Kleiner (Eds.), *Employee Representation: Alternatives and Future Directions* (pp. 13-80). Madison: Industrial Relations Research Association.
- Frey, B. S., & Jegen, R. (2001). Motivation Crowding Theory. *Journal of Economic Surveys*, 15(5), 589.
- Frize, C. (2009). Award Modernization. ACS Update October 2009: ACS NSW & ACT.
- Gahan, P. (2006). Trade Unions as Regulators: Theoretical and Empirical Perspectives. In C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell & A. O'Donnell (Eds.), *Labour Law and Labour Market Regulation*. Sydney: The Federation Press.

- Gahan, P., & Brosnan, P. (2006). The Repertoires of Labour Market Regulation. In C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell & A. O'Donnell (Eds.), *Labour Law and Labour Market Regulation* (pp. 127-147). Sydney: Federation Press.
- Gibson, D., Rowland, F., Braun, p., & Angus, P. (2002). Ageing in Place: Before and after the 1997 aged care reforms. Canberra: Australian Institute of Health and Welfare.
- Gollan, P. (2005). High Involvement Management and Human Resource Sustainability: The Challenges and Opportunities. *Asia Pacific Journal of Human Resources*, 43(1), 18-33.
- Grahl, J., & Teague, P. (2000). The Regulation School, the employment relation and financialization. *Economy and Society*, 29(1), 160-178.
- Grant Thornton Australia. (2008). *Industry Intelligence Unit: Aged Care, Third Edition: Grant Thornton Australia*. Document Number)
- Hancher, L., & Moran, M. (1989). *Capitalism, Culture and Economic Regulation*. New York: Oxford University Press.
- Harley, B., Allen, B. & Sargent, L. (2007). High Performance Work Systems and Employee Experience of Work in the Service Sector: The Case of Aged Care. *British Journal of Industrial Relations*, 45(3), 607-633.
- Harrington, C. (2007). Trends in Nursing Home Ownership and Quality, *US House of Representatives Committee on Ways and Means, Subcommittee on Health*.
- Harrington, C., Woolhandler, S., Mullan, J., Carrillo, H., & Himmelstein, D. (2001). Does investor ownership of nursing homes compromise the quality of care? *American Journal of Public Health*, 91(9).
- Health Services Union. (2005). Brief History of the Union. Retrieved 13 February 2009, from <http://www.hsu.asn.au>
- Health Services Union. (2008). Supplementary submission of the Health Services Union to the Award Modernisation Review.
- Heery, E. (2009). The representation gap and the future of worker representation. *Industrial Relations Journal*, 40(4), 324-336.
- Heyes, A. (2005). The economics of vocation or 'why is a badly paid nurse a good nurse?'. *Journal of Health Economics*, 24, 561-569.
- Himmelweit, S. (1995). The discovery of "unpaid work": the social consequences of the expansion of work. *Feminist Economics*, 1(2), 1-19.
- Hirschman, A. (1970). *Exit, Voice, Loyalty: Response to decline in firms, organizations and states*. Cambridge MA: Harvard University Press.
- Hogan, W. (2004) Review of Pricing Arrangements in Residential Aged Care: Summary of the Report. Sydney: University of Technology.
- Hogan, W. (2007). Policy Update: Outcomes form the Aged Care Review. *Australasian Journal of Ageing*, 26(3), 104-108.
- Hogan, W. (2008). Economic and financial themes in Australian aged care. *Research in International Business and Finance*(22), 40-55.
- Holland, P., Pyman, A., Cooper, B., & Teicher, J. (2009). The Development of Alternative Voice Mechanisms: The Case of Joint Consultation. *Economic and Industrial Democracy*, 30(1), 67-92.
- Horin, A. (2008, 9 August 2008). Funding change forces hostels to refuse elderly. *The Sydney Morning Herald*,

- Howe, J. (2006a). "Deregulation" of Labour Relations in Australia: Towards a More "Centred" Command and Control Model. In C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell & A. O'Donnell (Eds.), *Labour Law and Labour Market Regulation* (pp. 147-167). Sydney: The Federation Press.
- Howe, J. (2006b). "Money and Favours": Government Deployment of Public Wealth as an Instrument of Labour Regulation. In C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell & A. O'Donnell (Eds.), *Labour Law and Labour Market Regulation*. Sydney: Federation Press.
- Hugo, G. (2007). Contextualising the 'Crisis in Aged Care' in Australia: A Demographic Perspective. *Australian Journal of Social Issues*, 42(2), 169-183.
- Hyman, R. (1989). *Why Industrial Relations?* Basingstoke: MacMillan.
- James, P., & Wood, G. (2006). Introduction Institutions, Regulation and Practice: Traditions and Modes of Understanding. In P. James & G. Wood (Eds.), *Institutions, Production and Working Life* (pp. 1-13). New York: Oxford University Press.
- Jessop, B. (1990). Regulation theories in retrospect and prospect. *Economy and Society*, 19(2), 153 - 216.
- Jessop, B. (1997). Survey Article: The Regulation Approach. *The Journal of Political Philosophy*, 5(3), 287-326.
- Kaufman, B. (1993). *The Origins and Evolution of the Field of Industrial Relations*. Ithaca: ILR Press.
- Keller, B. (1990). The state as Corporate Actor in Industrial Relations systems. *Journal of Industrial Relations*, 32(2), 254-268.
- Kerrison, S., H., & Pollock, A., M. (2001). Regulating nursing homes; Caring for older people in the private sector in England. *British Medical Journal*, 323, 566-569.
- King, D., & Martin, B. (2009). Caring for-profit: The impact of for-profit providers on the quality of employment in paid care. In G. Meagher & D. King (Eds.), *Paid Care in Australia: Politics, Profits and Practices*. Sydney: University of Sydney Press.
- Kingsford Smith, D. (2002). What is Regulation? A reply to Julia Black. *Australian Journal of Legal Philosophy*, 27, 37-46.
- Kochan, T., Katz, H., & McKersie, R. (1994). *The Transformation of American Industrial Relations*. New York: Cornell University Press.
- Kochan, T., McKersie, R., & Cappelli, P. (1984). Strategic Choice and Industrial Relations Theory. *Industrial Relations* 23(1), 16-39.
- Lansbury, R., & Westcott, M. (1992). Researching Australian Industrial Relations' Dawn or Twilight of a Golden Age. *Journal of industrial Relations*, 34(3), 369-419.
- Lee-Adams, K., & Geller, C. (2006). Regulating at the Work-Life Boundary: Towards Re-Integrating the Household in to Labour Market Policy. In C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell & A. O'Donnell (Eds.), *Labour Law and Labour Market Regulation*. Leichardt: The Federation Press.
- Lessig, L. (1996). Social Meaning and Social Norms. *University of Pennsylvania Law Review*, 144(5), 2181-2189.
- Lessig, L. (1998). The New Chicago School. *The Journal of Legal Studies*, 27(2), 661-691.

- Levi-Faur, D. (2006). Varieties of Regulatory Capitalism: Sectors and Nations in the Making of a New Global Order. *Governance*, 19(3), 363-366.
- Liquor Hospitality and Miscellaneous Union. (2008). Preliminary submissions of the Liquor Hospitality and Miscellaneous Union to the Award Modernisation Review.
- Llewelyn, S. (2003). What counts as 'theory' in qualitative management and accounting research? *Accounting, Auditing and Accountability Journal*, 16(4), 662-708.
- Mackay, H. (1999). *Generations*. Sydney: Pan Macmillan.
- Markey, R. (2007). Non-Union Employee Representation in Australia: A Case Study of the Suncorp Metway Employee Council Inc. *Journal of Industrial Relations*, 49(2), 187-210.
- Martin, B. (2005). Residential Aged Care Facilities and Their Workers: How Staffing Patterns and Work Experience vary with Facility Characteristics. Adelaide: National Institute of Labour Studies.
- Martin, B., & King, D. (2008). Who Cares for Older Australians? Adelaide: National Institute of Labour Studies.
- McAdams, R. (1997). The Origin, Development and Regulation of Norms. *Michigan Law Review*, 96, 338-433.
- McGregor, M. J., Cohen, M., McGrail, K., Breomeling, A. M., Adler, R., Schulzer, M., et al. (2005). Staffing levels in not-for-profit and for-profit long-term care facilities: Does type of ownership matter? *Canadian Medical Association Journal*, 172(5), 645-649.
- McGregor Tan Research. (2008). Aged and Community Services Australia - Employee Survey. Melbourne.
- Meagher, G. (2006). What can we expect from Paid Carers? *Politics and Society*, 34(1).
- Meagher, G., & Cortis, N. (2009). The Political Economy of For-Profit Paid Care: Theory and Evidence. In D. King & G. Meagher (Eds.), *Paid Care in Australia: Politics, Profits, Practices*. Sydney: Sydney University Press.
- Meagher, G., & Healy, K. (2005). Who Cares, Volume 1: A Profile of care Workers in Australia's Community Service Industries. Strawberry Hills: Australian Council of Social Service.
- Megalogenis, G. (2009). When the baby boomers turn 70. *The Australian - 'Inquirer'*.
- Michelson, G., & Baird, M. (1995). Conference Report: Case study research in industrial relations. *Labour and Industry*, 6(3), 127-133.
- Michelson, G., & Westcott, M. (2001). Heading into Orbit? Braham Dabscheck and Industrial Relations Theory. *Journal of Industrial Relations*, 43(3), 308-329.
- Misra, J. (2003). Caring about Care. *Feminist Studies*, 29(2), 387-401.
- Mitchell, R., & Arup, C. (2006). Labour Law and Labour Market Regulation. In C. Arup, P. Gahan, J. Howe, R. Johnstone, R. Mitchell & A. O'Donnell (Eds.), *Labour Law and Labour Market Regulation* (pp. 3-20). Leichhardt: The Federation Press.
- Mundy, G. (2008, 28 September - 1 October). *Address to Aged and Community Services Australia Conference*. Paper presented at the Aged Care in the Fastlane, Adelaide.

- Mundy, G., & Young, R. (2008). Nursing Homes of the Future Won't be Built: Aged Care Industry Council - Media Release.
- Munro, A. (1999). *Women, work and trade unions*. London: Mansell.
- Murray, J. (2001). The Sound of One Hand Clapping? The 'Ratcheting Labour Standards' Proposal and International Labour Law. *Australian Journal of Labour Law*, 14, 306-332.
- Nelson, J. (1999). Of Markets and Martyrs: Is it OK to pay well for care? *Feminist Economics*, 5(3), 43-59.
- New South Wales Nurses' Association. (2004). NSW Aged Care Nurses - Wages and Conditions Case Update, Press Release.
- New South Wales Nurses' Association. (2007). Your Union. Retrieved 13 February 2009, 2009, from <http://www.nswnurses.asn.au/topics/2696.html>
- New South Wales Nurses' Association. (2008). Aged Care Sector Growth Leaves Nurses Behind - Press Release, September 2.
- NSW Industrial Registry. (2009, 13 February 2009). Registered Industrial Organisations & Peak Councils. from http://www.lawlink.nsw.gov.au/lawlink/irc/ll_irc.nsf/pages/IRC_procedures_legislation_indorgcontact#EE23
- Nursing Homes &c, Nurses' (State) Award, Re (No4), NSWIRComm 88 (NSW Industrial Relations Commission 2005).
- Nutt, P. (1999). Public-Private Differences and the Assessment of Alternatives for Decision Making. *Journal of Public Administration Research and theory*, 9(1), 305-349.
- O'Neil, C., Harrington, C., Kitchener, M., & Saliba, D. (2003). An Analysis of the Relationships among Profit, Quality, and Ownership. *Medical Care*, 41, 1318-1330.
- Office of the Minister for Western Sydney. (2009). Local Government Area Profile: Liverpool.
- Organisation for Economic Co-operation and Development. (2005). *Ageing Populations: High Time for Action*: OECD.
- Organisation for Economic Co-operation and Development. (2008). *Annual Report*. Retrieved 16/2/10. from <http://www.oecd.org/dataoecd/39/19/40556222.pdf>.
- Patmore, G. (1990). *History and Industrial Relations: An Overview*. Sydney: ACCIRT.
- Paulet, R. (2008). Location Matters: The Impact of Place on Call Centres. *Journal of Industrial Relations*, 50(2), 305-318.
- Peck, J. (1996). *Work-place: the social regulation of labour markets*. New York: The Guildford Press.
- Peetz, D. (2006). *Brave New Workplace: How individual contracts are changing our jobs*. Sydney: Allen and Unwin.
- Peetz, D., & Preston, A. (2007). *AWA's, Collective Agreements and Earnings: Beneath the aggregate data*. Melbourne: Department of Innovation, Industry and Regional Development. Document Number)
- Peltzman, S., Levine, M. E., & Noll, R. G. (1989). The economic theory of regulation after a decade of deregulation. *Brookings Papers on Economic Activity*, p1(59).

- Pocock, B. (1997). *Strife: Sex and Politics in Labour Unions*. St Leonards: Allen and Unwin.
- Port View Retirement Village Aged Care Ltd*. (2008). *Annual Report 2007-2008*: Port View Retirement Village Aged Care Ltd. Document Number)
- PortView Retirement Village Aged Care Ltd*. (2006). *Annual Report 2005-2006*: Port View Retirement Village Aged Care Ltd. Document Number)
- Posner, R. (1974). Theories of Economic Regulation. *Bell Journal of Economics and Management Science*, 5, 335-350.
- Price, K., Alde, P., Provis, C., Harris, R. & Stack, S. (2004). What hinders and what helps? Searching for solutions to mature aged unemployment and the residential aged care workforce crisis. *Australasian Journal of Ageing*, 23(4), 177-183.
- Productivity Commission. (2005). *Economic Implications of an Ageing Australia*. Canberra. Document Number)
- Productivity Commission. (2008). Trends in Aged Care Services: some implications. Canberra: Commission Research Paper.
- Provis, C. & Stack, S. (2004). Caring Work, Personal Obligation and Collective Responsibility. *Nursing Ethics*, 11(1), 6-15.
- Ramia, G., & Carney, T. (2002). *Public Management, Organisational Change and Non-Profit Strategy: A Network Perspective*. Paper presented at the Academy of Management Conference: Building Effective Networks.
- Richardson, S., & Martin, W. (2004). The Care of Older Australians: A Picture of the Residential Aged Care Workforce. Adelaide: National Institute of Labour Studies.
- Riley, J. (2006). A fair deal for the entrepreneurial worker? Self-employment and independent contracting post-Work Choices. *Australian Journal of Labour Law*, 19, 246-262.
- Rosenbaum, E. (2000). What is a market? On the methodology of a contested concept. *Review of Social Economy*, 58(4), 455-481.
- Roxon, N. (2008). *Nurse Practitioners - their role in a modern health system*. Paper presented at the Australian Nurse Practitioners Conference.
- Roxon, N. (2009). *Keynote Address*. Paper presented at the Australian Health Insurance Industry Association, Melbourne, 11th November.
- Saunders, P., & Fine, M. (1992). The Mixed Economy of Support for the Aged in Australia: Lessons for Privatisation. *The Economic and Labour Relations Review*, 3(2), 18-42.
- Shearing, C. (1993). A Constitutive Conception of Regulation. In P. Grabosky & J. Braithwaite (Eds.), *Business Regulation and Australia's Future* (pp. 67-81). Canberra: Institute of Criminology.
- Simpkin, G. (2006). Putting Regulation Theory to Work in Industrial Relations. *New Zealand Journal of Employment Relations*, 31(2), 1-16.
- Stack, S. (2003). Beyond performance indicators: a case study in aged care. *Australian Bulletin of Labour*, 29(2), 143(119).
- Standing Committee on Community Affairs. (2008). *Aged Care Amendment (2008 Measures No. 2) Bill 2008 [Provisions]*. Retrieved. from http://www.aph.gov.au/SENATE/committee/clac_ctte/aged_care_amend_2008_measures_no2/report/c01.pdf.

- Standing Committee on Finance and Public Administration. (2009). *Residential and Community Care in Australia*. Retrieved from http://www.aph.gov.au/Senate/committee/fapa_ctte/aged_care/report/report.pdf.
- Stevenson, D., & Grabowski, D. (2008). Market Watch- Private Equity Investment And Nursing Home Care: Is It A Big Deal? *Health Affairs*, 27(5), 1399-1408.
- Stewart, A., & Williams, G. (2007). *Work Choices: What the High Court Said*. Sydney: The Federation Press.
- Stewart-Brown Business Solutions. (2008). Detailed Financial Comparison, *Aged Care Performance Survey: Facilities Report Year to date 31 December 2008*.
- Tannous, K., & Luo, K. (2006). Ownership of Residential Aged Care Facilities in Australia, *Macquarie Economics Research Papers*: Macquarie University.
- Taskforce, A. R. (2005). *Award Rationalisation Discussion Paper*. Retrieved from.
- Temple, J. (2004). *Understanding population ageing in NSW: What is the effect of retirement migration and ageing in place?* Deakin. Document Number)
- Treuren, G. (1997). *Regulation Theory and Australian Theorising of Institutional Change in Industrial Regulation*. Paper presented at the Association of Industrial Relations Academics of Australian and New Zealand
- Treuren, G. (1999). The Government, the State and Industrial Relations: The Case of the Australian Waterfront Dispute of 1997/8. *International Employment Relations Review*, 5(2), 107-124.
- Treuren, G. (2000). The Concept Of The State In Australian Industrial Relations Theory. *Labour and Industry*, 11(2), 75-98.
- United Nations China Office. (2008). *Population and Ageing in China*. Retrieved 20/2/10. from <http://www.un.org.cn/public/resource/e7102d15216f85e5c2e4d2e33784b72f.pdf>.
- Vaithianathan, R. (2002). Will Subsidising Private Health Insurance Help the Public Health System. *The Economic record*, 78(242), 277-283.
- Vaughn, G. (2006F). Information relating to the community services workforce. Canberra: Australian Institute of Health and Welfare.
- Wajcman, J. (2000). Feminism Facing Industrial Relations in Britain. *British Journal of Industrial Relations*, 38(2), 183-201.
- Walters, K. (2008, 24-30 July). I'm old and I can make you rich. *Business Review Weekly*, 24-29.
- Walton, R., Cutcher-Gershenfeld, J., & McKersie, R. (1994). *Strategic Negotiations: A Theory of Change in Labor-Management Relations*. Boston: Harvard Business School Press.
- Wilkinson, A., Dundon, T., Marchington, M., & Ackers, P. (2004). Changing Patterns of Employee Voice: Case Studies from the UK and the Republic of Ireland. *Journal of Industrial Relations*, 46(3), 298-322.
- Workplace Authority. (2008). Collective agreements. from www.workplaceauthority.gov.au/graphics.asp?showdoc=/payandconditions/cas_search/search.asp
- Wright, C. (1995). *The Management of Labour: A History of Australian Employers*. Melbourne: Oxford University Press.

- www.agedcarecrisis.com. (2009). Families slam conditions at nursing home.
Retrieved 11 February 2009, 2009, from <http://www.agedcarecrisis.com/>
- Yin, R. (1981). The Case Study Crisis. *Administrative Science Quarterly*, 26(March), 58-65.
- Yin, R. (1994). *Case Study Research, Design and Methods*. Beverly Hills: Sage.
- Yin, R. (2009). *Case Study Research: Design and Methods, Fourth Edition*. Los Angeles: SAGE.

* Denotes a reference which has been changed to disguise the identity of the case study organisation