

INDUSTRIAL INSTRUMENTS AND THE REGULATION OF EMPLOYMENT RELATIONS IN THE RESIDENTIAL AGED CARE SECTOR IN NSW

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Abstract

In common with most countries in the developed world, the Australian population is ageing. This phenomenon has resulted in the provision of care to the aged becoming an increasingly important economic, social and political issue. With more women engaged in paid employment, care for the aged is no longer predominantly provided by family networks. Consequently demand for residential and community care is growing. The growth in this demand has raised concerns about the sustainability of the existing aged care workforce with a number of government reports listing looming labour shortages as a significant issue facing the aged care sector. Closely related to the concerns about future labour supply is the difficulty in attracting workers to a sector which is both low in pay and low in status. Traditionally in NSW the regulation of wages and conditions has been through State awards however changes in the Australian industrial relations system have resulted in changes and variety in the types of industrial instruments used to regulate wages and conditions. This paper considers the impact of these regulatory changes on outcomes for employees in three aged care providers in NSW. Specifically, it compares the wages, conditions and attitudes to work and wages, of aged care employees working under different industrial instruments.

INTRODUCTION

The ageing of the population is capturing political and public attention with the financial implications and logistics associated with the provision of care to the expanding cohort of Australians age over 65 growing in scale and complexity. Aged care funding represented under one per cent of GDP in 2006-2007 (Productivity Commission 2008) but is estimated to exceed two per cent by 2049-2050 (Commonwealth of Australia, 2010) as the number of Australians aged over 80 is predicted to double if not triple in the next thirty years. Aged care services will need to grow in order to cater for this changing demographic. The growth in aged care services will need to be matched by an increasing supply of workers prepared to work in aged care. Concerns regarding labour supply have already been voiced by successive federal governments

(Department of Health and Ageing, 2002, 2005; Finance and Public Administration Committee, 2009).

Academic investigation into aged care in Australia has been focused on mapping the aged care workforce and quality of care and ownership issues (King & Martin, 2009; Martin & King, 2008; Meagher & Healy, 2005). While increasing government and academic attention is being paid to the composition of the workforce and supply issues, there has been scant consideration of the interaction between the regulation of aged care and the conduct of employment relations within the sector (Kaine, 2009). Notably, Braithwaite, Makkai and Braithwaite (2007) have conducted a comprehensive study of aged care regulatory frameworks in the United States, the United Kingdom and Australia. However they do not specifically explore the regulation of wages and conditions focusing instead on quality issues.

This paper explicitly acknowledges the link between the regulatory environment and employment relations outcomes in residential aged care¹, specifically investigating how this environment interacts with employee perceptions about wages and conditions. In so doing it asserts that regulation cannot be properly understood by limiting its definition to formal or legal controls. It is necessary to conceive of regulation in much broader terms allowing for the recognition of formal mechanisms such as the *Aged Care Act 1997* and labour law but also for the importance of other regulatory constraints such as social norms, geography and the market (Lessig, 1998).

The research reported on in this paper spans the period 2005-2009. It investigates three residential aged care providers: Port View Retirement Village (Port View), Christian Care (North West Lodge -NWL) and Red Gum Communities (The Manor)². 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 were located in NSW. NSW was chosen as it is the most populous state in Australia and is representative

¹ Aged care in Australia is divided into two main areas, community care and residential aged care. Residential aged care is provided to the elderly in an institutional setting in contrast to community aged care which is provided to the aged in their own homes. While the use of community care is being encouraged by the federal government, residential aged care still dominates in terms of client numbers and proportion of the aged care budget (Productivity Commission, 2008)

² These names are pseudonyms to ensure the anonymity of the organisations and individuals who agreed to participate in this study.

of the four Australian states which maintained state industrial relations systems. 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 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 exclusively for low care residents.

All of the nursing homes were of a similar size. Port View appears larger in Table 1 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.

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.

At Port View twenty interviews were conducted with management, registered nurses (RNs), enrolled nurses (ENs) and personal care assistants (PCAs). Fourteen interviews were conducted at Christian Care with managers, RNs and PCA or equivalents. Eleven interviews were conducted at Red Gum Communities, reflective of its smaller size and flatter organisational structure.

Table 1: 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

This paper is divided into five sections. Section one outlines the argument and method highlighting the role of regulation theory. Section two provides an overview of industrial instruments used in the NSW residential aged care sector and how the use of these has altered with changes to national industrial relations legislation. Section three details the types of industrial instruments used in the three case study organisations and the implications of these instruments for wages and conditions. Section four examines the attitudes of workers at Port View, NWL and The Manor given these wages and conditions and offers some suggestions for these views. Finally, section five offers some concluding observations and suggestions for the future.

ARGUMENT AND METHOD

Given the variety and scope of regulation in the aged care sector this paper argues that regulation theory provides a useful analytical tool with which to assess the importance of industrial instruments as regulators of employment relations in residential aged care. Its utility can be explained in two ways: first by adopting a broad conception of regulation this approach allows for the consideration of informal and indirect regulators (Black, 2002; Boyer, 1990). This broader definition is important in the investigation of residential aged care in which formal and direct regulation constitute only one piece of the regulatory puzzle. It acknowledges that other factors also exert regulatory force on employment relations if through less formal means. Any theoretical framework attempting to understand the regulation of employment relations in aged care needs to be able to accommodate these other influences. Consequently Lessig's (1998) regulatory framework which suggests that behaviour is determined by a combination of four regulatory constraints, the law, the market, social norms and architecture (physical environment), is particularly pertinent. The applicability of this approach to residential aged care is evident in its use by Braithwaite et al. (2007) in their comprehensive study of the regulation of aged care in the US, UK and Australia, and by Kaine (2009) in the consideration of employment relations in a community run, regionally located aged care facility. While it could be argued that these constraints might also be understood with reference to more orthodox employment relations frameworks such as Dunlop's use of contexts (Bray, Waring & Cooper, 2009; Dunlop, 1958) the use of regulation theory is more appropriate due to the extent and variety of regulation within the aged care sector and given the language and focus of the sector and the policy making community which structure policy debates around issues of regulation (Department of Health and Ageing, 2007, 2009; Hogan, 2004, 2008; Productivity Commission, 2008).

The second argument for the use of this framework is that regulation theory applied at this micro level provides a methodology for the organisation and

analysis of data. Unlike much regulation scholarship, this study does not focus on the macro-level. The approach taken in this paper reflects Treuren's (1997) description of the regulation approach as 'primarily a methodology' (p.362). The following discussion uses the ideas of Lessig (1998), Black (2002), Gahan and Brosnan (2006), Frazer (2006) (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, 2008, p. 13).

This paper argues that a variety of regulatory constraints both external and internal, formal and informal, impact on employment relations in the residential aged care sector. It is beyond the scope of this paper to provide an exposition of each of these different constraints the interaction of which results in a highly complex 'regulatory space' (Hancher & Moran, 1989). This is not to suggest that these other forms of regulation are not important in shaping the nature of employment relations in aged care. Indeed it could be argued that the operation of the *Aged Care Act 1997* creates a 'managed market'. Professor Warren Hogan, author of the 2004 federal government commissioned 'Review of Pricing Arrangements in Residential Aged Care', 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).

However, the results of the research reported on in this paper indicates that while the managed market may circumscribe the activities of aged care employers to a certain extent, employers are still able to exercise agency through the choice of industrial instrument applied in their workplaces. Issues of employer agency and decision-making, though worthy of consideration, are not the focus of this paper. Rather this paper assesses the significance of industrial instruments as regulators of employment relations in aged care. It does so by comparing the wages, conditions and attitudes to work and wages of aged care employees working under different industrial instruments. Additionally it considers the role of societal norms in moderating those attitudes.

The case study methodology has been specifically chosen because of its capacity to facilitate detailed analysis of the three organisations and because it allows for the examination of:

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: 23).

The choice of an investigative method which recognises the complexities of context is essential in this study due to the intricate regulatory environment within which employment relations in aged care transpires.

This study particularly examines the industrial instruments under which non-nurse carers are employed as they represent the largest proportion of the workforce (Martin & King, 2008). 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.

The 2004 National Institute of Labour Studies (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).

The following section examines industrial instruments applicable to these 'typical' non-nurse carers in NSW.

INDUSTRIAL INSTRUMENTS IN THE RESIDENTIAL AGED CARE SECTOR IN NSW

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 2 lists the industrial instruments covering employees in residential aged care facilities during the period of this research.

Table 2: 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 introduction of the *Work Choices* amendments to the *Workplace Relations Act 1996* in 2005 provided opportunities for alternative means of setting wages and conditions. *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, 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 Rationalisation Discussion Paper*, 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' (Australian Bureau of Statistics, 2008). 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 Health Services Union, the NSW Nurses' Association 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 have been subsumed by the federal system through the process of award 'modernisation'. However, the Labor government has made other changes to the previous government's industrial legislation, including eliminating AWAs in most circumstances.

Having provided the context of wage setting in residential aged care in NSW the following section details the industrial instruments in place in the three case study organisations and the implications of the use of those instruments for both workers and management.

AWARDS, COLLECTIVE AGREEMENTS AND AWAS AT PORT VIEW, NWL AND THE MANOR

Table 3 provides a comparison of the two main awards (known as NAPSAs during the period of this research) applicable to non-nurse carers employed in residential aged care in NSW during the period in which this research was conducted. It shows that that award for employees working in for-profit facilities (*Aged Care General Services Award*) has lower pay rates than the *Charitable, Aged and Community Services (State) Award* by nearly three and a

half per cent. It should be noted that this comparison was based on figures current as at the 8th October, 2008 (which is pertinent to this discussion due to the timing of the broader research project). However since then 2009 State Wage Case decisions have increased the minimum wages marginally in both awards, although this has not resulted in the gap between the awards being closed.

Table 3: Comparison of the two main underpinning awards (NAPSA's)

	Aged Care General Services Award	The Charitable, Aged and Community Services (State) Award
Pay Rates	PCA Grade 1: Perm.= \$15.71/hr Casual = \$17.28/hr PCA Grade 2: Perm.= \$16.01/hr Casual = \$17.61/hr	CSE Grade 1: Perm.= \$16.26/hr Casual= \$17.89/hr CSE Grade 2: Perm.= \$17.28/hr Casual = \$19.01/hr
Penalties	10% casual loading Sat: time and a half Sun: time and three quarters	10% casual loading Sat: time and a half Sun: time and three quarters

Of the three case study organisations only Port View engaged workers under the *Charitable, Aged and Community Services (State) Award*. The *Aged Care General Services Award* was not used by any of the facilities but would have applied to workers at the Manor if AWAs were not in place. Workers at Christian Care were engaged under the conditions determined by a collective agreement between Christian Care and the union representing non-nurse carers and Red Gum Communities engaged employees under AWAs. The remainder of this paper examines the impact of the type of industrial instrument on workers across the three organisations.

Table 4 provides a comparison between the different industrial instruments used by the three providers. It illustrates the similarity between the *Charitable, Aged and Community Services (State) Award* used at Port View and the Christian Care Agreement. Of particular note is that the Christian Care agreement is marginally behind the award in terms of pay suggesting that the motivation for the union engaging in bargaining was related to issues other than simply improving wage rates. This is a likely scenario given the circumstances. State awards were being phased out and registered collective

Table 4: Comparison of industrial instruments across the three cases

	Port View – Award 8/10/08	Christian Care Agreement 1/9/08	Red Gum Communities AWA
Hourly rates: CSE 2 or equivalent	Perm. = \$17.28 Casual = \$19.01	Perm. = \$17.23 Casual = \$18.95	(PCA's): Casual = \$19.05
Casual Loading	10%	10%	0%
Afternoon shift penalty	10% or 12.5%	10% or 12.5%	0%
Night shift penalty	10% or 15%	10% or 15%	3.6%
Saturday	50% (Time and a half)	Time and a half	33%
Sunday	75% (Time and three quarters)	Time and three quarters	33%
Public Holidays	150% (Double time and a half)	Double time and a half	60%

agreements provided a vehicle for the preservation of state award conditions and consequently may have been used by unions to strategically protect their members from potentially inferior federal award conditions rather than necessarily to increase wages. However it should be noted that the Christian Care agreement did contain superior leave entitlements. The most striking difference across the cases arises in the AWAs in place at Red Gum Communities. All PCAs at Red Gum Manor were employed as 'permanent casuals' meaning that they worked regular shifts but did not enjoy the conditions associated with a permanent position. In return they received a higher hourly rate compared to the award but inferior penalties for work outside of normal hours. Given these differences in the industrial instruments it is pertinent to ask: what were the attitudes of care workers to their pay and conditions at these three facilities?

ATTITUDES TO PAY AND CONDITIONS

Despite care workers at Port View 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).

These attitudes were mirrored at Christian 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 days work (Interview, CSE[1], 2008).

and at Red Gum Communities:

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).

The similarity in responses across the three organisations illustrates that wages and the industrial instruments with which they are set, are not necessarily the only or even the most significant determinants of employment relations in aged care. The results of the three case studies highlight three factors making work in aged care attractive despite its low pay. 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, Christian Care and Red Gum Communities 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.

These results identify an important societal level norm impacting on the attitudes of workers in aged care - the paid and unpaid care regime. Women, in much greater numbers than men, work in caring professions such as aged care (Richardson & Martin, 2004). The feminised nature of the aged care workforce is suggestive of what 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, Walmsley & Katz, 1998; Folbre, 1995; Himmelweit, 1995; Meagher, 2006).

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 the type of industrial instrument and other formal labour regulation did not have as great an impact on the attitudes of workers 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.

CONCLUSION

This paper has demonstrated that industrial instruments do not have as great an impact on the attitude of workers to their jobs as might be anticipated given the low levels of pay which they mandate. 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 regulation of employment relations, the results highlighted the significance of other non-labour regulators such as social norms. The case studies suggest how this social meaning of care work shapes the way in which aged care workers interact with the labour market and provides at least a partial explanation for the willingness of carers to continue employment in the sector despite its low pay and low status. This is not to say that labour regulation is not important to the working lives of aged carers and that low wages are not an issue for workers – clearly they are - but rather that in attempting to counter current labour shortages in the sector and indeed anticipate future demand, factors other than simply wage rates need to be considered and addressed.

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