



BROTHERHOOD  
of St LAURENCE

*The community expects...*

Public opinion about breach penalties for  
unemployed people

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June 2002

Published in June 2002 by the  
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## Summary

Unemployed people who fail to comply with, or breach, their activity test requirements, such as attending appointments at an employment service or attending job interviews, are penalised by having their benefits reduced. Breach penalties are increased for second and third episodes of non-compliance within a two-year period. For an unemployed single adult in June 2002, receiving \$185 per week, these amount to reductions of:

- \$863 for the first breach (18 per cent reduction of base payment for 26 weeks)
- \$1,151 for the second breach (24 per cent reduction for 26 weeks)
- \$1,476 for the third (no payment for 8 weeks).

Recent research has shown that the number of breaches has escalated dramatically since 1997 and that breaches are falling most heavily on the most disadvantaged job seekers—the homeless and people with substance abuse and mental health problems. This has resulted in greatly increased hardship, including some people being made homeless, and others turning to crime to survive.

The recent report by the Independent Review of Breaches and Penalties in the Social Security System (Pearce, Disney & Ridout 2002) recommended that, amongst other reforms, the rate and duration of breaches should be decreased to reduce the overall level of financial penalty. While the federal government agreed to implement some recommendations, it balked at reducing penalty levels, arguing that the community supported the current levels.

This study investigated whether the Australian public think the current levels of penalties for breaching are fair or not and what they think the penalties should be. To place this in context, we also explored public knowledge of levels of unemployment payments.

A telephone survey of a stratified random sample (1,200) weighted to the Australian population was conducted by Newspoll. People were asked what they thought the current level of unemployment payments were for a single adult, how much someone should be penalised for a breach, and whether the current penalties were fair.

The results clearly showed that a majority did not think the current penalties were fair. In detail, once ‘don’t know’ responses were excluded:

- Almost two-thirds of people believed that the current penalties for a first breach were unfair.
- Around 95 per cent of respondents proposed penalties lower than the current level for all breaches.
- The median total penalties proposed were \$20 for a first breach, \$50 for a second breach and \$75 for a third (the means were higher but do not reflect the opinion of the majority as the data were skewed).
- One in four people thought there should be no penalty whatsoever for a first breach.
- Six out of ten people believed the total penalty for a second breach should be \$50 or less.
- Six out of ten people believed the total penalty for a third breach should be \$100 or less.
- Women were more likely than men to think the current penalties were unfair and consistently proposed penalty levels about 40 per cent lower than men.

This survey showed that the current penalty regime is not supported by the community, and that the public would support a reduction in breach penalties. Given that the current system imposes ‘unnecessary and unjustifiable hardship’ (Pearce, Disney & Ridout 2002, p.13) on the most disadvantaged job seekers, there is a strong case for substantially reducing the current level and duration of breach penalties as the Independent Review suggested.

## Introduction

This report describes the results of a survey commissioned by the Brotherhood of St Laurence and carried out by Newspoll during 24-26 May 2002. The study assessed the level of financial penalties which members of the Australian public believe should be applied to unemployed people who fail to meet one of their unemployment payment 'activity test' requirements.

## Background

The notion that social security recipients have an obligation to seek work in return for benefits has long been part of the Australian social security system (Carney & Hanks 1986), but there have been major changes to social security policy over the last ten years.

In the early 1990s the obligation to seek work was expanded under the Working Nation program, to include activities which would increase people's chances of gaining employment, with a focus on job-skills training and vocational training. The idea of reciprocal obligation meant that the government would do more to create employment and assist unemployed people to get jobs (for example by expanding labour market programs and introducing wage subsidies), with the argument that greater efforts and obligations could therefore be expected of unemployed people (Finn 1997; Considine 2001). One feature of this system was the revamping of penalties to be applied to those in receipt of unemployment benefits if they did not meet, or breached, their obligations (Eardley & Matheson 2000).

The number and scope of requirements have been expanded under the current government with the introduction of 'mutual obligation' activities such as Work for the Dole, Job Seeker Diaries and the Preparing for Work Agreement (Moses & Sharples 2000). In 1997, the breach system was again revised, with penalties being applied at a lower rate but for a longer duration (Eardley & Matheson 2000).

## Requirements for job-seekers

In order to receive unemployment payments (Newstart), job seekers must comply with the 'activity test'. Currently, this means that someone must:

- actively look for suitable paid work
- register with at least one Job Network member
- accept suitable work offers
- attend all job interviews
- attend Centrelink offices when requested to do so
- agree to attend approved training courses or programs
- not leave a job, training course or program without sufficient reason
- correctly advise Centrelink of any income earned
- enter into and comply with a Preparing for Work Agreement
- lodge fortnightly forms
- apply for up to 10 jobs per fortnight
- participate in a 'mutual obligation' activity after a certain amount of time on benefits
- have certificates signed by employers approached about jobs, if required
- complete a Job Seeker's Diary with details of job search efforts.

## Penalties for breaches

People who fail to comply with any activity test requirement without a 'reasonable excuse' are penalised by having their benefits reduced. For the first breach in a two-year period, the penalty is a reduction of 18 per cent of the base payment rate for 26 weeks. For the second breach, the penalty is a 24 per cent reduction for 26 weeks, and for the third breach, the penalty is non-payment for 8 weeks. For an unemployed single adult in June 2002, receiving \$185 per week, these amounted to reductions of \$863 for the first breach, \$1,151 for the second breach and \$1,476 for the third.

There are also separate breach penalties for 'administrative breaches' such as failing to attend an interview at Centrelink. These entail a reduction of payments of 16% for 13 weeks, equivalent to \$383. However the difference between administrative and activity breaches appears to have become blurred due to the practice at some Centrelink offices of including administrative requirements in Preparing for Work agreements, which effectively turns administrative breaches into activity test breaches (ACOSS 2001). The Commonwealth government recently announced that it will make 'failure to attend an interview' once again an administrative rather than an activity test breach, although which interviews this covers is unclear.

Research by the Australian Council of Social Service and the National Welfare Rights Network (ACOSS 2000; ACOSS 2001) has shown that the number of breaches has risen dramatically over the last few years. The total number of breaches increased from 120,718 (60,981 activity and 59,737 administrative breaches) during 1997-98 to 302,494 (177,759 activity and 124,735 administrative breaches) for 1999-2000 (ACOSS 2001). For the full year 2000-01, there were 386,946 breaches (294,747 activity and 92,199 administrative breaches) (Senate Community Affairs Legislation Committee 2002).

As well as a staggering 220 per cent rise in breaches over this period, activity test breaches rose far more rapidly than administrative breaches, and the number and proportion of third breaches also rose. This increase occurred during a period of decreasing unemployment and the number of people receiving Newstart also diminished during the same period, suggesting that the increase was not due to an increase in the number of people receiving benefits (Moses & Sharples 2000).

Other studies suggest that the impact of breaching is falling most heavily on the most disadvantaged job seekers. For example, Hanover Welfare Services, a welfare agency which works with homeless people in Melbourne, found almost one-third of its clients had been breached in the previous 12 months (Hanover Welfare Services 2000). Similarly, the Salvation Army found that around one-quarter of its emergency relief clients had been breached. Even more concerning, it found that 11 per cent, or one in nine people, said they had to turn to crime to survive (Salvation Army 2001).

## Review of the breach system

In response to this research evidence, a group of agencies agreed to commission and fund an independent examination of the breach system. The Independent Review of Breaches and Penalties in the Social Security System reported in March 2002, finding that:

While the current system often functions in an appropriate manner, there are many occasions on which its operation in relation to particular job seekers can be reasonably described as arbitrary, unfair or excessively harsh. There are also many occasions when it diminishes people's capacity and opportunity to continue seeking work and become less dependent on social security. (Pearce, Disney & Ridout 2002, p.12).

It also concluded that breaches were imposed too frequently, and that penalties for breaches were often too severe and caused 'unnecessary and unjustifiable hardship' (Pearce, Disney & Ridout 2002, p.13).

The review team made 36 recommendations aimed at improving the penalty and breach system. Recommendation 25 proposed measures to reduce the level of financial penalties associated with breaching:

1. All penalties should be fully recoverable if the job seeker takes reasonable steps to comply with the obligation in question not later than four weeks after imposition of the breach.
2. The duration of penalties should not exceed eight weeks and the rate of reduction in allowance should not exceed 25%, except in the case of persistent serious breaches.
3. If penalties are not made fully recoverable as recommended above, the duration of penalties should not exceed eight weeks and the rate of reduction should not exceed 15%, except in the case of persistent serious breaches. (Pearce, Disney & Ridout 2002, p.83)

The last proposal would set an upper limit of \$221 on the penalty for an activity test breach for a single adult. The federal government responded to the report indicating that it had already agreed or was planning to implement many of the recommendations. However, the Minister for Family and Community Services, Senator Amanda Vanstone, rejected other recommendations including those suggesting the level of penalties be reduced. Her rationale for rejecting these was:

Such a softening of the penalty regime does not reflect the wider community's expectations. The current breach regime, which was extensively debated and passed in Parliament, is a proper reflection of the community's expectations...The penalty levels are designed to balance the need to provide a disincentive to non-compliance with the need to avoid putting people into undue hardship. (Vanstone 2002, p.2).

These comments from the Minister raise the question, 'What are the attitudes of the Australian public to the levels of penalties for a breach?' Some previous research has investigated attitudes toward unemployed people and their obligations in order to receive benefits. Eardley and Matheson (2000) found that attitudes were complex, and to some degree inconsistent. On one hand, they found 'Australians do still have sympathy for unemployed people' (p. 199), but on the other hand, 'by international standards, Australians appear to take a relatively hard line on the responsibilities of unemployed people—especially the younger unemployed—to actively seek and accept work' (p.199). The authors argued that there was a marked lack of literature concerning attitudes towards the details of activity testing.

A survey conducted for the federal government investigated these issues in some detail (Roy Morgan Research 2000). This report found support for requirements of unemployed people to seek work and to undertake activities to improve their chances of finding work. It also showed that the community believed that there should be some penalty in the form of reduction of benefits for those who did not meet these requirements, but did not attempt to quantify this amount or whether respondents thought the current levels were reasonable or fair.

Another survey of people receiving Newstart or Youth Allowance showed that most agreed that job seekers who do not meet their activity test requirements should have their payment reduced for a period of time (Wallis Consulting 2001). Respondents were also asked whether they thought the current penalties were too harsh, too lenient or about right. While the majority thought that penalties were 'about right', 38 per cent felt they were too harsh, and those who had experienced a breach were more likely to believe the penalties were too harsh (p. 39). There are, however, some caveats to these results. The way the question about breaching was posed may have confused some respondents since it listed all three levels of penalty in the one sentence. In addition it described the rate by which payments were reduced, not the actual amount of the penalty, so some people may not have realised the real amount.

None of the research cited above explored public attitudes to breach penalties in any detail. This study therefore set out to investigate whether members of the Australian public think the current levels of penalties for breaching are fair or not and what they think the penalties should be. To place this in context, we also assessed the community's knowledge of the level of unemployment payments.

## **Method**

### **Sampling**

Five questions were included on the Newspoll Omnibus Survey for the weekend of 24-26 May 2002. Over this period 1,200 Australians aged 18 years or over were contacted nationally via telephone. Lists of respondents were drawn from current telephone listings and respondents were randomly selected using the 'last birthday' screening method. Call backs and appointments were incorporated into the interviewing process to include the opinions of those who are home less frequently.

The sample was stratified by capital city and non- capital city area to capture the views of Australians from metropolitan and regional Australia. The results were weighted to reflect the Australian population, as defined by the Australian Bureau of Statistics by age, age left school, sex and geographic location.

Utilising industry approved sampling and interviewing techniques as well as weighting the data to the population provides a sound basis for extrapolating the results of this survey to the broader Australian community.

### **Questions**

Since activity test breaches carry greater financial penalties than administrative breaches and have increased more rapidly since 1998, we decided to focus only on activity test breaches. We also felt that asking respondents about both types of breaches would have been too confusing. The questions used in the survey were piloted prior to the main survey to ensure the clarity and consistency of meaning with which the questions were interpreted and answered. The final questions are shown in Appendix One. Demographic data was also collected to enable statistical analysis and comparison of responses by variables such as gender, age, socio-economic status, household income.

### **Analysis**

Statistical analyses for difference among categorical data were conducted using the Chi-square test, and of differences in means between groups using t-tests and ANOVA. The original sample data was analysed, not the weighted data. Because the distributions were highly negatively skewed, statistical analyses were conducted after excluding outliers (defined as extreme values lying outside the range of the mean plus or minus 3 standard deviations). This meant that extreme values did not bias the results.

For a sample of this size, a 95 per cent confidence interval for a population estimate of 50 per cent is 2.8 per cent. Hence, there is a 95 per cent probability that an estimate of 50 per cent would be accurate between a 47.2 per cent and 52.8 per cent range.

## Results

### Sample characteristics

The sample consisted of 1,200 people aged 18 years and over. The main demographic characteristics of the sample are shown in table 1. The post-weighted data are shown in Appendix Two.

**Table 1. Sample characteristics**

	Sample (n=1200)	Per cent
<b>Sex</b>		
Male	600	50.0
Female	600	50.0
<b>Age</b>		
18-24	88	7.3
25-34	237	19.8
35-49	374	31.2
50+	501	41.8
<b>Marital status</b>		
Married/de facto	735	61.3
Not married	465	38.8
<b>Work status</b>		
Full-time	554	46.2
Part-time	201	16.8
None	445	37.1
<b>Area</b>		
Capital city	700	58.3
Rural/regional	500	41.7
<b>Household income</b>		
Less than \$30 000	310	25.8
\$30 000 to \$59 999	363	30.3
\$60 000 plus	342	28.5
Income not stated		
<b>Socio-economic status</b>		
White collar	659	54.9
Blue collar	541	45.1

### Fairness of the current breach amounts

The responses to the questions about the fairness of the current amounts are shown in table 2. It can be seen that a majority of respondents believed that the current breach penalties were unfair—almost two-thirds for the first breach, and less for subsequent breaches.

Women were more likely than men to think the first (66% compared to 60%,  $\chi^2(1)=4.1$ ,  $p<0.05$ ) and second breaches (63% compared to 55%,  $\chi^2(1)=6.2$ ,  $p<0.05$ ) were unfair, but responses to third breaches were similar for women and men. There was no statistically significant difference in fairness ratings by age, socio-economic status, or household income of respondents.



Table 2. Ratings of fairness of current breach penalty levels

	Responses excluding 'don't knows'		Responses including 'don't knows'		
	Unfair (%)	Fair (%)	Unfair (%)	Fair (%)	Don't know (%)
First breach	61.8	38.2	57.7	36.7	5.6
Second breach	57.9	42.1	53.6	39.3	7.0
Third breach	50.8	49.2	47.1	46.3	6.6

## Proposed penalty amounts

Figures 1-3 show the total amounts which respondents thought that someone should be penalised for a first, second and third breach respectively. There were considerable proportions of 'don't know' responses—people who did not propose an amount (24 per cent for the first breach, 29 per cent for the second and 34 per cent for the third)—which are not included in the graphs or the following analysis. The range for all three penalties was zero to \$9,998 (the maximum which could be recorded). The median amounts for penalties were \$20 for the first breach, \$50 for the second breach, and \$75 for the third. The means (excluding extreme values) were \$75, \$133 and \$236. The consensus among statisticians is that when distributions are negatively skewed, the median is a more accurate indicator of central tendency or what the majority of respondents believed (Sarantakos 1998, p. 371).

The data (excluding 'don't know' responses) show that the most common response for first breaches was that there should be no penalty at all (27 per cent or one in four Australians), and that a significant proportion (around 15 per cent or one in seven Australians) believed there should be no penalty for second and third breaches. For the first breach, approximately 50 per cent believed the penalty should be less than or equal to \$20, and almost three-quarters believed it should be less than or equal to \$50. Ninety-eight per cent nominated an amount less than the current rate of \$863.

Figure 1. Proposed first breach penalties

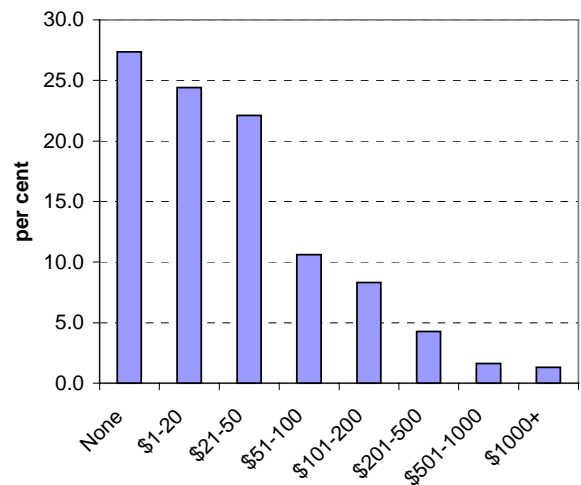
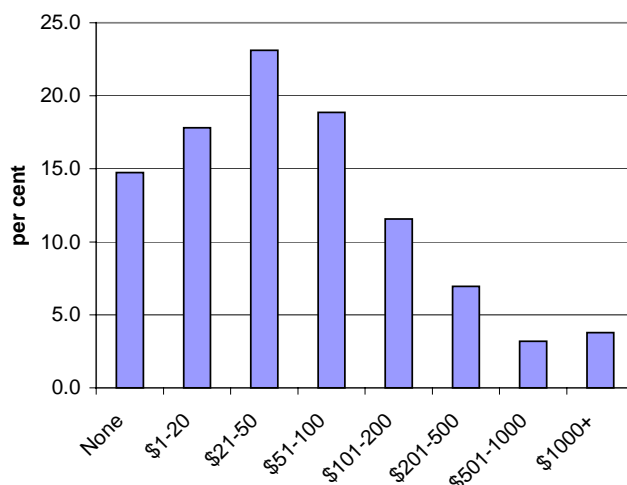


Figure 2. Proposed second breach penalties

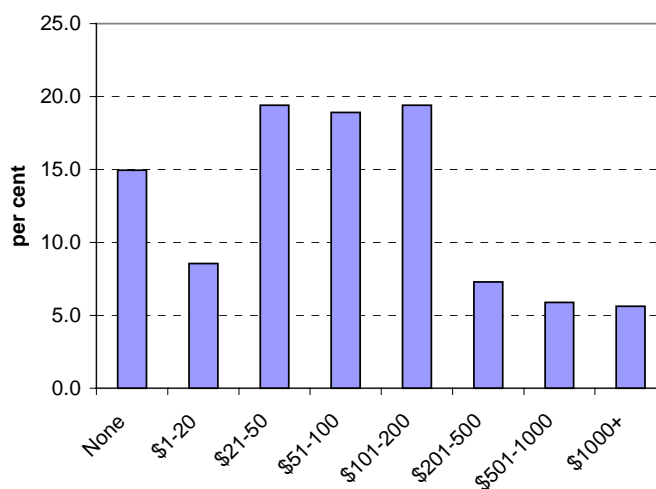


For the second breach, about 33 per cent believed the penalty should be \$20 or less, and almost 60 per cent believed it should be \$50 or less. Ninety-seven per cent nominated an amount less than the current rate of \$1,151.

For the third breach, approximately 60 per cent believed the penalty should be \$100 or less. Ninety-five per cent nominated an amount less than the current rate of \$1,476; and almost 90 per cent thought it should be substantially lower (one-third or less of the current rate).

The impact of key demographic variables on the level of breach penalty proposed was examined using t-tests for sex (male versus female) and socio-economic status (blue-collar versus white-collar) and ANOVA for age (age groups were 18-24, 25-34, 35-49 and 50+) and income (groups were annual household income below \$30,000, \$30,000 to \$59,999, and \$60,000 or above).

Figure 3. Proposed third breach penalties



For the first breach:

- The median penalty was \$20 and the mean penalty was \$75.
- There was no effect for age, income, or socio-economic status (SES).
- Women proposed a lower penalty (mean \$52) than men (mean \$95,  $t(659.0)=4.1, p<0.001$ ).

For the second breach:

- The median penalty was \$50 and the mean penalty was \$133.
- There was no effect for age, income, or SES.
- Women proposed a lower penalty (mean \$101) than men (mean \$164,  $t(662.0)=3.5, p<0.001$ ).

For the third breach:

- The median penalty was \$75 and the mean penalty was \$206.
- There was no effect for age, income, or SES.
- Women proposed a lower penalty (mean \$156) than men (mean \$252,  $t(619.1)=3.0, p<0.001$ ).

Thus the only statistically significant difference between groups was that women consistently proposed rates of penalty about 40 per cent lower than men.

## Estimates of unemployment payments

Respondents were asked how much they thought a single adult with no children received each week on unemployment payments (Newstart allowance), excluding rent assistance. After excluding outliers (8 cases which estimated the rate to be above \$725 per week), the mean for the whole sample was an estimate of \$190 per week, while the median was \$180. Men over-estimated benefits (mean \$194) compared with women who estimated the amount very accurately (\$185,  $t(918.9)=2.1, p<0.05$ ). There were no differences in estimates by age, income or SES.

## Conclusions

The study clearly showed that a majority of those surveyed did not think the current penalties for activity test breaches were fair. In detail, once 'don't know' responses were excluded:

- Almost two-thirds of people believed that the current penalties for a first breach were unfair.
- The median total penalties proposed were a total of \$20 for first breach, \$50 for a second breach and \$75 for a third;
- One in four people thought there should be no penalty whatsoever for a first breach;
- Six out of ten people believed the total penalty for a second breach should be \$50 or less;
- Six out of ten people believed the total penalty for a third breach should be \$100 or less;
- Around ninety-five per cent of respondents proposed a level for breach penalties lower than the current level for first, second and third breaches;
- Estimates of the current level of unemployment benefits for a single adult (\$185 p.w.) were quite accurate, with the average (median) estimate being \$180. Overall, women estimated the amount very accurately while men over-estimated it;
- Women were more likely than men to think the current penalties were unfair and consistently proposed a penalty level about 40 per cent lower than men.

These results suggest that a majority of the Australian community believes that, while people receiving unemployment payments should incur some financial penalty for not complying with their requirements, the current levels of penalties are unfair.

The levels of penalties proposed by those interviewed were far lower than those which currently apply. This should be seen in light of the fact that people surveyed had a remarkably accurate knowledge of the level of unemployment payments, so their views are not based on incorrect assumptions about the income of people living on social security payments.

There was no discernible difference in attitudes by age, household income and socio-economic status. However, women estimated the current income of unemployed people more accurately, were more likely than men to think the current penalties were unfair and proposed lower penalty rates overall. It may be that women are generally more sympathetic than men; but another interpretation is that women have a better understanding of the financial position of unemployed people and are more likely to understand the impact of penalty rates.

It is clear that there is significant public support for policies to require unemployed people to actively seek work, to engage in activities to improve their chances of finding work, and to be penalised financially for not doing so (Eardley 2000; Roy Morgan Research 2001). This support has led to the belief among some policy makers that the public also support the current level of penalties, and this has been suggested as a reason for not reforming the breach system. This survey shows that the current penalty regime is not supported by the community, and that the public would support a reduction in breach penalties.

Other research has found that the current penalty system imposes 'unnecessary and unjustifiable hardship' (Pearce, Disney & Ridout 2002, p.13) on the most disadvantaged job seekers such as homeless people, people with substance abuse and those with mental health problems. The present study shows that the penalties do not have the community support which has been claimed. There can be no justification for continuing the current level of penalties in the face of so much evidence to the contrary, and there is a strong case for substantially reducing them.

## Appendix One: Survey questions

1. And now some questions about unemployment benefits, also known as 'the dole' or Newstart Allowance. As far as you are aware, how much money do you think a single unemployed adult receives, **per week**, in unemployment benefits, **excluding** rent assistance?

2. Currently, a single person on unemployment benefits receives \$185 per week. People who receive unemployment benefits have to meet a number of requirements such as attending job interviews and appointments with an employment service. If they don't meet these requirements they are fined by reducing their unemployment benefits for a number of weeks... What is the **total** amount of money you think a person should be fined for their...

- A. first infringement?
- B. second infringement?
- C. third infringement?

3. I am now going to read out the actual fines for first, second and third infringements and ask you to tell me if you think they are fair or unfair.

- A. For the first infringement the fine is a total of \$863 payable over 26 weeks. Do you think this is fair or unfair?
- B. For the second infringement the fine is a total of \$1,151 payable over 26 weeks. Do you think this is fair or unfair?
- C. For the third infringement the benefit is stopped for 8 weeks, making a total fine of \$1,476. Do you think this is fair or unfair?

## Appendix Two: Post-weighted data

	Post-weighted data '000 (n=14,601,000)	Per cent
<b>Sex</b>		
Male	7186	49.2
Female	7415	50.8
<b>Age</b>		
18-24	1832	12.5
25-34	2909	19.9
35-49	4276	29.3
50+	5584	38.2
<b>Marital status</b>		
Married/de facto	8395	57.5
Not married	6206	42.5
<b>Work status</b>		
Full-time	6527	44.7
Part-time	2511	17.2
None	5563	38.1
<b>Area</b>		
Capital city	9077	62.2
Rural/regional	5524	37.8
<b>Household income</b>		
Less than \$30 000	3935	27.0
\$30 000 to \$59 999	4361	29.9
\$60 000 plus	3982	27.3
Income not stated	2323	15.9
<b>Socio-economic status</b>		
White collar	7669	52.5
Blue collar	6932	47.5

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