

# CORRECTED VERSION

## ECONOMIC DEVELOPMENT COMMITTEE

### Inquiry into Labour Hire Employment in Victoria

Melbourne – 27 July 2004

#### Members

Mr B. N. Atkinson  
Mr R. H. Bowden  
Mr H. F. Delahunty  
Mr B. J. Jenkins

Ms M. V. Morand  
Mr N. F. Pullen  
Mr A. G. Robinson

Chair: Mr A. G. Robinson  
Deputy Chair: Mr B. N. Atkinson

#### Staff

Research Officer: Ms K. Newitt

#### Witnesses

Mr R. Van Stokrom, President;  
Mr B. Morison, Executive Officer;  
Mr N. Wakeling, Industrial Relations Manager, Adecco;  
Mr C. Cameron, Consultant, Stratecom; and  
Mr J. Wilson, Director, Business Development, Austrahealth International,  
Recruitment and Consulting Services Association

**The CHAIR** — We are welcoming Robert Van Stokrom, Brian Morison, Nick Wakeling and Charles Cameron who are all representing different parts of the Recruitment and Consulting Services Association, the RCSA.

As you would be aware we as the Economic Development Committee have been given a reference by the government to investigate labour hire, and you would have seen a copy of the terms of reference. Our job is to report on that reference by the end of the year. This is an all-party committee of the Parliament. We are given references on all sorts of things. We have received about 30 submissions so far. We have spoken to a number of people both in Melbourne and Canberra. We are now proceeding with some public hearings over the next couple of days, and we will continue them over the next two months.

The proceedings today are being recorded by Hansard, and we will make sure that a copy of your evidence is sent back to you so that you can check it for accuracy. Anything you say in these proceedings today is covered by parliamentary privilege. That does not extend once you go out the door though, so just bear that in mind. I do not think you will need to worry too much about that but we do need to mention it to you.

We did receive a very detailed submission from you, and we are grateful for that. I notice at the back you have put in quite a bit on some RMIT work which was done which is very useful to us. Before I invite some comments I just want to say two things that might help the context of today's proceedings. Early on I gained the impression from your submission that you are concerned that the committee goes into the inquiry with a jaundiced view. You pointed to the reference and you pointed to some of the claims that are made about labour hire per se. Let me assure you that the committee on this inquiry, as with other inquiries generally, starts with a blank sheet of paper. We receive submissions. As I said, we received them from about 30 groups. We go out and check those submissions out against other sources of evidence. We do our own research. When we receive claims that are effectively mutually exclusive, it is up to the committee to draw its own conclusions and make recommendations based on those and that is exactly what we will do in this instance.

Secondly, early on in your submission you spend considerable amount of time drawing our attention to the language of labour hiring. You are actually not in favour of the language that is commonly used. I think I accept that there can be some confusion with the terms, but I do not want to get into a very detailed and intricate discussion over the terms we use and you use or that you would require us to use or would like to see us using today. I think I am right in saying that the truth of the matter is that in all the other submissions we have received, no one seems to have difficulties with the language. Certainly in the discussion that we have had face to face we have used what you might consider to be inappropriate language but no one has had difficulty understanding that. I think that for the purpose of today we will probably continue using the language that we are familiar with. We might say, 'host employer' and you might say, 'client', but as long as we understand what it is that we are talking about then we will be fine. I might invite you to open up with some comments if you like, to speak to your paper and then we will get into a good solid hour of questions and answers.

**Mr CAMERON** — I would like to hit off, Chair. We would like to thank the committee very much for inviting us to submit and I guess provide further evidence if necessary on obviously a topic and an issue that is very true and dear to our heart. The Recruitment and Consulting Services Association, I would like to add, is endeavouring to present itself as a highly professional organisation providing some level of certainty and precision in terms of the debate. We have seen a number of inquiries that are both indirect and direct broaching the issue that we will term 'on-hired employee services' and of course we are quite happy to use the term 'Labour hire'. I might just quickly touch upon that. That principally relates to the need for precision in the debate, and while many other organisations continue to use the terminology 'Labour hire' we feel it has now come of age to the point where there is a clear need to define differences between on-hired employees and what you might otherwise term as 'independent contractors', who are subcontracted or otherwise on hired to a party; and furthermore areas of engagement that might more appropriately be defined as 'Managed Project/Contract Services', where in fact there is actually no on-hired arrangement occurring and they are simply performing work under the direct control and supervision of a member of the same employer, and may all be in different workplaces.

As we say, we certainly invite debate and discussion on this topic on the grounds that while we certainly were not levelling any certain expectations of bias from the committee's point, I guess we have had experiences of a lot of rhetoric and anecdotal information being provided with regard to the provision of on-hired employee services and contracting services through Australia. To that extent we simply seek to have an informed debate and one that relies on statistical information rather than select personal experiences. To that end, the RCSA is the peak industry body

representing on-hired employee services or labour hire. There are some 347 corporate members in Victoria. We have provided you with an outline of some of these points and a three-page document you should have before you now. We estimate that within Victoria we provide some 80 per cent of on-hired employee service industry turnover. So whilst we may not represent 80 per cent of the providers within the state, we certainly feel we have a clear majority of the turnover covered. To that extent I think we are confident in saying that the top 20 providers of on-hired employee services within Victoria are members of the RCSA. To that end, and as I say I will not labour the point, but if I refer to on-hired employee services it is quite clear what I am referring to, and also when we refer to contracting services.

Of course we have also provided you with a diagram which attempts to define the types of services RCSA members provide in the state of Victoria. Our level of interest will be focused on categories 1 and 2. Of course in categories 3 and 4 there is no on-hired or unnecessary relevant employment arrangement to be considered.

The Recruitment and Consulting Services Association (RCSA) believes that the growth of on-hired employee services is very much a response to changing business and economic needs as much as it is also for the changing needs of individuals. We feel that there is certainly a recognition of the new forms of work and engagement. Nick will touch upon in a moment what we see as being the transition from what may well have been a focus on on-hiring, for want of better terminology, of independent contractors. There has been a clear shift back to the engagement, and appropriately we might add, to parties being employed as employees. To that end we feel that it is important to understand the wider context of the provision of these services. We do not, we say at the outset, believe that we are the catalyst for casualisation, again for want of better terminology. We feel that in many regards we are responding to the greater needs of business and to that end we hope to do so in a sustainable manner.

I might quickly ask Nick to give a bit of an overview in terms of making reference to the terms of reference and understanding as to where we see on-hired employee services, and to that extent contracting services, in 2004 rather than what may have been perceptions of others as to what may have been prevalent 10, 15 or 20 years ago.

**The CHAIR** — Just before we do that, I want to throw one question at you. The RCSA can obviously speak for its 340 corporate members, but I guess one of the things that this committee would be interested in is your view on what might characterise those companies that choose not to be members of the RCSA, the smaller operators, like people who come in and out — do you have a view on those operators?

**Mr CAMERON** — We have the secretary of the Victorian-Tasmanian division of the RCSA, so it might be more appropriate for Brian Morison to answer that question.

**The CHAIR** — Brian, could we get an answer from you before we go over to that?

**Mr MORISON** — Certainly. It would be fair to say that those that are not members of the RCSA would be at the very small end of the scale. There is no registration system in Victoria so it is not possible to point to precisely how many people might effectively operate out in that particular area. Clearly it would be made up of the small and some medium-sized members. If you look at the industry overall in terms of turnover, particularly in relation to RCSA members, we would have the lion's share of the marketplace because we have all the very large and also the medium-sized enterprises, apart from small as well. So you have got a pyramid shape: you have the very significant ones at the top end, the middle structure of small and medium-sized enterprises, and then the very small. Clearly we would have the overriding majority of members who are out there and who have established quite significant businesses in their own right.

**The CHAIR** — Brian, to throw this question at you at an early stage of our public hearings, we do get advice both in the written submissions and from people we meet that there are some shonks in the industry. Would it be right to assume that they might be located more at the lower end, the smaller operators? I mean you must have some experiences and association with these claims that are made, and not everyone is an angel. Is that the area that we should be looking at for the shonks?

**Mr MORISON** — Anecdotally, and that is about all one can say, there would be some concerns in that general area. I think that those organisations that do not belong to an industry tend to obviously not be up to date and not to have a thorough understanding of compliance requirements, and obviously do not have the infrastructure support. So the answer to that is yes. One of the difficulties is that when we have looked at, say, issues like occupational health and safety, it is very difficult to get hold of transparent — and I mean that not in the cynical sense — statistical data which backs up those sort of anecdotal statements. The answer is yes it would be fair to say

that it would be the fringe dwellers who inadvertently or quite advertently will be the ones who will potentially bring this industry into disrepute.

**The CHAIR** — Thank you for that.

**Mr VAN STOKROM** — If I could just add to that, obviously the barriers to entry for this particular industry are quite low. However, I believe that there are no more or no less shonks in this industry than in any other industry that you may want to examine. We do not have our higher proportion of shonks, but also to that end we do have quite a comprehensive RCSA code of professional conduct which we could make available. It indicates the guidelines under which we would like our industry to behave.

**The CHAIR** — That is fine.

**Mr CAMERON** — It is worth mentioning that Robert is the president of the RCSA Victoria and to that extent our code is provided as part of our submission as an annexure.

**Mr WAKELING** — Thank you, Chair and members. Not only in my guise here in terms of the RCSA, but as I have been employed for the last five years with Adecco, which is one of the largest labour hire companies within Victoria in an industrial relations capacity, in terms of this issue I believe I bring to these proceedings today an understanding of the issues that are quite pertinent.

I would like to deal with the broad issue in terms of the way people have been traditionally engaged in this industry, and I think it would be fair to say that 20 years ago our industry was noted for on-hiring people who were independent contractors and I would like to believe today that that is really not the case. In fact the vast majority of people who are on-hired — that is, someone who is engaged directly by an organisation and on-hired to a host employer or a client — are employees of the labour hire company. That is a direct employee in the form of any other employee within Australia, and that is with deeming provisions, superannuation requirements, workers compensation et cetera, which has made it much clearer for our industry to understand its responsibilities in terms of employment relationships.

The vast majority of people who work in this industry are in fact employees. You would find now that primarily those who are engaged as independent contractors would be at the upper end; senior executives, IT professionals and providers of technical expertise such as engineers may well be doing so through an independent contractual arrangement. Primarily the people who are vastly engaged in the clerical area as white collar employees or as blue-collar workers would be engaged on an employee-employer relationship. In my own organisation — I do not have the figures with me today in terms of a Victorian breakdown — we would have at any one time about 13 000 that we on-hire, and those people would be employees of our organisation. That was just to give you a bit of an understanding of the background of the way this industry is now shaped compared with the situation of 20 years ago, which would have been vastly different.

**The CHAIR** — Does anyone else want to speak briefly?

**Mr CAMERON** — We are going to cover obviously a number of issues that we would like to focus on and if you feel that the time would be more appropriately addressed in terms of asking us questions we would have to accommodate that.

**The CHAIR** — I do not have any burning questions at the moment. Does anyone else?

**Ms MORAND** — I will wait until the end.

**Mr CAMERON** — The only thing I would like to add is just in terms of shaping your level of understanding, and no doubt you have read our submission — that a large number of on-hired employees throughout Australia and including Victoria are now engaged as permanent on-hired employees. The notion that on-hired employees are purely casual is a misleading one. From our statistics approximately 30 per cent of on-hired employees in Australia are employed on a non-casual basis, so to link on-hired employee services to the notion of casualisation is somewhat dangerous in our opinion.

**The CHAIR** — Could I at this point, Charles, say to you that we have an open mind on that because we think that the statistical data is very poor. We spoke directly to the Commonwealth Department of Employment and Workplace Relations only a few weeks ago. They had given us some data based on a survey that was nine years

old — a workplace survey — and we said to them that it was rather puzzling that the lead agency in the country would be working from data that was almost a decade old. They then shrugged their shoulders and said, ‘Oh well, we have not had the money to do another one’. It alarms us in the sense that they would be making such strident statements of policy on research that was so out of date. I do not want to accuse anyone of trying to doctor figures here, but I think the committees — those of us who are in Canberra at least — are scratching our heads and thinking, ‘There ought to be, for a subject that is discussed as often as this is, some more up to date statistical data to work from’.

**Mr CAMERON** — That is why we commissioned RMIT to conduct the recent survey, and the statistics that we rely upon are drawn from the RMIT survey. We have also, I should add, been working and most recently had a meeting with representatives of the Australian Bureau of Statistics (ABS) in order to get some better descriptions and definitions in the first instance, and obviously that will ultimately lead to better data and greater clarity. We feel very confident, not only from surveys conducted, of understanding our members. There is a large engagement of on-hired permanent employees whether that be on a fixed term, seasonal basis, fixed task basis, or otherwise. We simply wanted to dispel the notion that all on-hired employees are casual, and to that end I guess we can go down a path of statistics.

**The CHAIR** — I do not think that there is any problem about accepting that the actual extent of casualisation is something that a number of parties are going to have very different views on. We may make no finding conclusively as to what the proportions are.

**Mr DELAHUNTY** — Can I expand a little bit further on that because that was one of the questions I had. You have given us the number of on-hired employment services and you have the employment categories, have you any statistical data from your membership of what percentages are under fixed terms, seasonal, limited tenure and casual?

**Mr CAMERON** — We have not at this stage broken it down to such levels, and again the RMIT survey was the first major survey that we undertook last year. We went to the extent of examining permanents and non-permanents, so unfortunately at this stage we do not. We certainly have a large range of additional questions that will be asked in the next survey.

**Mr DELAHUNTY** — I ask as a member from rural and regional Victoria, does your membership have many from rural and regional Victoria?

**Mr MORISON** — Yes it does. It is not significant but certainly we do have members right throughout the whole of regional Victoria. There may be 3 to half a dozen in some of the major centres ranging up to say 12, for example, then upwards to 20 or 25. There is a representative example right throughout the whole of regional Victoria.

**Mr DELAHUNTY** — I am trying to get more understanding of the organisation. In relation to the industries you have got in the membership for the 347 members, what do those members mainly fit into and what category of industry are we talking about?

**Mr CAMERON** — The RMIT survey actually goes to that issue in terms of the industries that supplied to, but interestingly enough, and without wanting to go through because I am sure you can read through that at a later point in time, one of the largest if not the largest industry supplied to is related to health and medical. I will be honest in stating that having a background representing the Victorian Farmers Federation I can say that the prevalence of on-hired employees in regional and agricultural industries is predominantly focused in the wine industry. Some of the occupational health and safety issues that arise in terms of controlling risks associated with on-hired employees in the agricultural industry create a significant barrier there. It is not a predominant industry that on-hired employees are supplied in. There is certainly a split, when we have asked, between white, blue and There is quite an interesting and even split amongst the three of them, so we are certainly not a predominant supplier to only blue-collar or industrial-style industries, and I think in many regards it is an interesting point to raise. A lot of the debate and discussion has tended to focus on those areas such as blue-collar and industrial-style industry activity.

**Mr VAN STOKROM** — Could I just add some numbers to the debate that we were having a couple of minutes ago, and that is Charles stated that 30 per cent of employees of the on-hired service industry are full time, which obviously leaves 70 per cent that would be casual. The Australian Bureau of Statistics 2001–02, if you look

at those numbers, would indicate that 16 per cent of all casual labour is conducted through labour hire companies. If you deduct from the 30 per cent reduction of the 16 per cent, that means 9 per cent of total casual labour in this country is conducted through our industry. The remaining 91 per cent is direct to the employer. It is a very important number.

**The CHAIR** — I think you had one more parting presentation?

**Mr CAMERON** — No, to that extent; I might just with two further points preface the discussion by saying that Nick was going to touch upon some issues re compliance, and of course some suggestions and innuendo that our industry has systematic non-compliance — we would certainly argue that that is not the case. We are currently bound equally by Schedule 1A of the Workplace Relations Act in Victoria and we do everything within our capacity to let everybody understand their obligations there. Equally many members are bound by federal awards; we have statistics on that. Many members have certified agreements. Some members have Australian Workplace Agreements. Our levels of compliance, we believe, would not be inconsistent with the levels of compliance of traditional direct employment arrangements.

**The CHAIR** — On that point Charles, and I asked this of previous witnesses, is there anything in the RCSA's code of practice I think you said you had, that can more or less guarantee in every case steps are taken to ensure that the entitlements to a direct employee of one of your members who is placed with clients, are up to scratch?

**Mr CAMERON** — It is a broad obligation under the code at this point in time. The things we are currently examining are whether it is appropriate to insert schedules to the code that specifically deal with areas of occupational health and safety, equal employment opportunity and workplace relations. We are currently working very closely with the Equal Opportunity Commission of Victoria to consider the appropriateness of the development and importation into the code of specific information in terms of Equal Opportunity Act compliance. It is one of these areas that again, as you can understand probably even greater than we can, is very expensive to self-regulate. We need to ensure that whatever we develop is sustainable and deliverable. We do not want to be seen to simply say 'Yes, we will self-regulate' for the sake of saying it. To that end and moving very much from a predominantly volunteer-based organisation to an organisation that is taking on far wider responsibilities and therefore needs further resources. That is very high on the agenda in terms of expanding those particular obligations. There is a specific reference to compliance with legislative obligations in the code.

**The CHAIR** — Do you want to make one final point?

**Mr MORISON** — Suffice it to say that it is possible for an employee to lodge a form of complaint with the association on such an issue, and under the code, there is a requirement for us to then investigate it.

**The CHAIR** — Does that happen often?

**Mr MORISON** — I have to say 'No', it does not. I would say that probably in the past 12 to 18 months, there have been about three claims of that nature.

**The CHAIR** — How would an employee become aware of that provision or that process?

**Mr MORISON** — Normally by initially making a phone call indicating that they have a concern about an entitlement. We would advise them of the code and what is required by way of the bureaucracy to go through the process — when I say bureaucracy I just mean paper flow — and from there they would have an understanding and appreciation of how to proceed.

**Mr WAKELING** — In terms of the issue of award compliance, as an industry and I know for us as an organisation, we actually spend a lot of time and effort in training our internal staff — our consultants — who are the people dealing day to day with people that we on-hire in training and educating them on award compliance or award responsiveness. Their obligations are to ensure that when these people are employed or engaged, our frontline troops if you like dealing day to day with these people, that they have a clear understanding of what is required for the purpose of award regulations and other legislative requirements like superannuation et cetera, and that they ensure that the award compliances are dealt with properly from the outset.

**The CHAIR** — Maxine, do you have any questions?

**Ms MORAND** — Yes, I am making sure I understand the submission properly and just trying to get a handle on what proportion of on-hired employees are employed full-time. In your submission you talk about 76 per cent direct employment as full-time, but does that generally reflect your on-hired employees? How many of them are in full-time employment?

**Mr CAMERON** — In reference to direct employees, without knowing which specifically you refer to —

**Ms MORAND** — Page 19.

**Mr CAMERON** — Of our submission?

**Ms MORAND** — Yes.

**Mr CAMERON** — Typically, in terms of terminology, direct employees are those employees who work directly for the provider in terms of, for instance, consultants who would place parties out there as opposed to on-hired employees who would be the individuals obviously placed into a client's work environment to work.

**Ms MORAND** — Then the question is: what proportion of on-hired employees are employed full time?

**Mr CAMERON** — To that end we have broken it up into permanent and non-permanent rather than specifically responding to the question that was asked earlier. We have not at this stage broken it down into full-time, casual, fixed-term, seasonal and the like.

**Ms MORAND** — Have you any idea at all what it would be?

**Mr CAMERON** — Maybe Nick, from his perspective with a decade of experience, can give an indication?

**Mr WAKELING** — From our perspective the need and requirement for permanent employment is certainly increasing. Over the past five years it has grown exponentially in our organisation regarding the number of employees on-hired to clients. On a permanent basis a lot of clients now instead of traditionally looking for a pool of casual employees are looking at the benefits of having what we call dedicated flexible workforce, where a portion will be permanent either on an ongoing basis or for a specified period, and additionally they are supplemented by casual employees for peak times.

**Ms MORAND** — When you say 'permanent', then it is not permanent if it is for a specific period? That is not what I call permanent.

**Mr WAKELING** — We have ongoing employees who do not have a specified end date, we have fixed-term people who have a guaranteed period of employment and then we have maximum-term employment, who are people employed for a maximum period of time, say, 12 months, but who may conclude before that. I do not have the figures of the breakdown between those ongoing versus the maximum term. I can say that the shift, from just engaging people on a casual basis to a permanent basis, be that maximum term or ongoing, is certainly increasing. That is providing not only flexibility for the clients — more importantly it is providing those employees with entitlements.

**Ms MORAND** — I can imagine a lot of people who work through labour hire would enjoy the ability to work when they want to work and to work part-time, but do you get a sense that in other cases there are people who are looking for full-time employment who are not able to achieve that by working through a labour hire company?

**Mr WAKELING** — The survey indicated that 67 per cent of those surveyed enjoyed the flexibility that was provided. Anecdotally we found of the number of employees employed through a labour hire company 19 per cent were provided with the opportunity to go permanent with the client. I would say anecdotally that a number of employees would never have gone permanent if they had not been there in the first place. A lot of our clients are not necessarily employing people directly on a full-time basis but because we provide someone on an on-hired casual basis, if the client likes the person they are in a position to be offered work. The RMIT survey indicated that 19 per cent of employees who are on-hired actually became direct employees of the client. As an industry we encourage the system which allows for employees to become employed directly by the client at a later point.

**Ms MORAND** — So all of your companies do not have a proviso saying you cannot pinch staff once they go to work someone?

**Mr CAMERON** — The code of professional conduct is what we call transition arrangements whereby if there is an existing incumbent provider at a particular client site and there is a change of contract of the provider then there will be transition arrangements. There are other commercial factors.

**Ms MORAND** — What sort of arrangements would they be, would it be to you for providing the staff?

**Mr CAMERON** — No. In those circumstances it is simply a notice period to ensure there is suitable transfer of those on-hired employees who choose to change employment from being with the incumbent supplier to an alternative supplier to ensure that the actual on-hired employees themselves are treated in an appropriate manner and given the appropriate opportunity. As I say, they either stay with the incumbent supplier or go to alternative suppliers. I do not think we can sit here today and say that 100 per cent of on-hired employees are completely chosen and would accept no other form of permanent or direct engagement. There are certainly circumstances like that. We are endeavouring to provide a solution to, in many regards, employees engaged as direct hire casual employees.

There is a significant number of what we call back-to-back assignments. These back-to-back assignments provide what might be the first capacity for an on-hired employee to potentially become a permanent on-hired employee. Permanent on-hired employees arise where a company will have significant levels of volume, and they can be assured that they have a particular assignment to place an individual into. Let us place aside the issue of somebody being on-hired on a permanent project basis. An example, and I am sure they would not mind me mentioning it, is Skilled Engineering that has such levels of volume that they can be assured that at any one time they will be able to move a person from one assignment into an alternative assignment with another client. Once those volume levels get up, rather than those individuals being engaged on a piecemeal basis, which is direct hire casual employee, they can have the same level of diversity, which is the predominant reason many of these individuals choose this form of work while that the same time working at different locations picking up new skills but at the same time being potentially engaged as a permanent employee. That is why we say that with the natural increase in volume levels then that provides greater capacity for organisations to engage people on a permanent basis. The interesting thing here is that potentially the client may not know what form or capacity they are engaged in. Certainly other external stakeholders would not necessarily know whether they are engaged on a permanent or ongoing basis but were simply seen as, for want of better terminology, a temporary employee. To that end it is really only the knowledge of the employer, the legal employer, who understands whether they are engaged on a casual, permanent, part-time or full-time basis.

**Mr VAN STOKROM** — I do not know that we have specifically answered the question. Were you suggesting that once a labour hire company has a group of employees that it wants to protect those employees and are not allow them to be employed full-time at the client's site?

**Ms MORAND** — No — whether or not there is an opportunity for people to get full-time employment through labour hire.

**Mr VAN STOKROM** — I would say, speaking on behalf of all our members, that when we quote for opportunities to supply on-hired workers there will always be a clause with respect to what will surround the conditions of where a temporary employee is either approached by the client or the employee has expressed an interest in working full time for the client. In most of those arrangements there will be an agreement as to how long that person could work temporary. We call it temp to perm. It is a common practice in our industry to provide that as an opportunity for people to gain full-time employment. There is no ownership of the actual employee by the member of our industry. In fact, often an employee may be registered with more than one agency, up to five agencies.

**Mr PULLEN** — The New South Wales labour hire report in part said:

In 1993 the FSU negotiated a new federal award with the Commonwealth Bank (CBA) and Adecco (then ADIA). This award regulated the conditions ...

Basically the same conditions applied for the people who worked with your company as for the Commonwealth Bank. Is that still the case?



**Mr WAKELING** — The Adecco Casual Officers Award was negotiated with the FSU and was renegotiated about two years ago now. It has some slight variations from the Commonwealth Bank's direct award and the EBA. It has specific provisions that relate to aspects of our industry and has set a benchmark for labour hire in the financial sector. I understand that it is now being used as a model by on-hired service providers with the EBAs that have recently been negotiated as well.

**Mr PULLEN** — Also in the New South Wales report there is mention that:

RCSA disagrees with this view on the basis that group training companies are fee-earning intermediaries and, as such, perform a labour hire function.

Can anyone expand on that in relation to group training companies? The report says that they are not labour hire companies. You disagreed with that and said that they are labour hire companies. Is there a view on that in Victoria?

**Mr CAMERON** — I would like to know little more about the context in which the comment was made. In our opinion — although we do not like using the term 'labour hire' so let us use our terminology for a moment of 'on-hired' employees — again we would have to firstly establish whether apprentices are indeed, say, employees engaged under a contract of employment or whether they enter into some alternative arrangement, which can well be the case through traineeships and the like. We feel that many of the issues and challenges we face are very similar to group training schemes in the sense that you have an individual who is engaged and then on-hired or supplied to a third party to work within their work premises. As to the back end of it and understanding how they operate regarding financially, the motivations commercially or otherwise for doing so, it is hard for me to comment, but listening to some of the comments of our colleagues who were before us, certainly in the areas of occupational health and safety at the very least we share very similar concerns in terms of the incapacity to reasonably and effectively control workplace risks where individuals are supplied to a third party. We can go down the path of looking at issues such as supervision and monitoring of on-hired employees on placement. To that extent that is a debate we certainly sought to enter into as part of the review of the Occupational Health and Safety Act. To that end, there are many common experiences we share with such providers. I am not sure whether that fully answers the question.

**Mr MORISON** — Interestingly, in terms of the two relevant codes that apply for WorkCover premiums, work training schemes are embraced by those two codes that are specific to the recruitment sector. That only applies, as I understand it, in this state.

**Mr BOWDEN** — It was interesting to hear in the early part of your presentation mention of standards and recommendations in terms of codes of practice. We as legislators are receiving input from the community about the need to do two things in the labour area: firstly, to help young people to get their first foot on the ladder of employment, and secondly, a more recent phenomenon over the past 5 or 10 years, in particular, is mature-age employment issues. It occurred to me that with the large number of corporate clients your organisation may have a positive role in assisting these two important ends of the community in terms of employment opportunity. Would you care to comment on that to give us some appreciation of the need to address those issues?

**Mr CAMERON** — It is a very good question because in our opinion there are many opportunities that are currently not seen as appropriate and have been missed in terms of the role we play in the greater business or government world. To that extent we feel that we are a significant provider of job opportunities. While there may be some natural challenges to providing certain levels of training by virtue of the flexible nature of the employment, there are many examples of where we are providing the first step, as you have outlined, in terms of employees who may not otherwise have been able to naturally walk into permanent-style positions or, to that extent, direct-hire positions. Many of our members also hold contracts under the job network, and they work effectively to provide on-hired employee placements as a solution to those who may be longer-term unemployed persons or those who naturally have challenges or barriers to entry in the employment market. Furthermore, another interesting statistic is that when asked the question in the RMIT report that if you overnight, in essence, were no longer allowed to or it was illegal for you to use on-hired employees would you necessarily replace all of those positions with direct-hire employment, only in 50 per cent of the cases or thereabouts they said definitely yes. The others said sometimes and a significant number said no.

We would argue that we are creating job opportunities, especially for the low-skilled or unskilled and semi-skilled workers. Touching upon the topical issue of mature-age workers, it so happens that on Tuesday the RCSA is

hosting and convening a national symposium, and major business leaders, government representatives and the Sharan Burrow from the ACTU will also be presenting at that. We are looking at the opportunities we can provide regarding the re-entry into the employment market, whether that be in traditional vocations or non-considered vocations. We are very interested in finding out how we can participate and provide that conduit back in the first instance. Members of the committee are more than welcome to attend if they are not sitting on this particular committee at the time, because the more people we can get on this debate the better. We certainly recognise this as a major issue.

**Mr VAN STOKROM** — I would like to add to what Charles said on the younger work force. The RCSA members conduct a lot of recruitment programs together with their clients. That is a big part of what my company does. We also partner with group training organisations to assist in the placement of traineeships within our client base. A lot of partnerships exist currently in this industry. On the ageing work force, as well as a symposium, the RCSA conducts regular training programs and updates, and a breakfast and lunch series, to ensure that our consultants and participants in this industry are well aware of the opportunities that we have with the ageing work force. We are well on top of that.

**Mr MORISON** — To add to that point, in conjunction with the federal government we have a job placement scheme where members are encouraged to do exactly what you are proposing.

**Mr DELAHUNTY** — In reading through the submission I noticed you say that there is evidence that the industry is contributing significantly to the Australian economy and so on. Will you expand on that and highlight what you are talking about — is it growth in the industry or employment? Your submission says that you want governments and regulators to work closely with your industry.

**Mr CAMERON** — The predominant basis is that employment services, which incorporates placement services as well, contributes 1.3 per cent to the GDP of Australia. In isolation it is larger than legal services or accounting services. A significant number of direct-hire employees are engaged in an administrative or consultative capacity through RCSA service providers. We also feel that we do a great deal, and again it is an area that is somewhat unrecognised, in terms of providing yet again a conduit for education from regulatory authorities such as WorkSafe, Equal Opportunity Commission of Victoria and also the Department of Employment and Workplace Relations in educating small to medium and sometimes large client members in terms of those who may not otherwise understand their minimum legal obligations.

While we may find challenges, especially in the area of occupational health and safety, we feel that we are an unrecognised source of the provision of that, say, unthreatening foot in the door to provide educative material and understanding and value-add compliance services to many of our clients. To that end that is why we focus heavily on providing consultants with training in the areas of workplace relations and occupational health and safety. We are currently working with the Equal Opportunity Commission of Victoria to prepare a best practice guide for recruitment.

One of the things we are trying to promote is, why do we not start creating equal opportunity packs so that when we go in and have to do a preplacement assessment of the client's safety and equal opportunity systems, and if we identify that there is an absence of appropriate compliance or understanding then we can actually not only provide a copy of the pack directly from EOCV we can also work with them to share our experience in terms of improving their level of knowledge and compliance.

One of the fundamental issues is that our industry is a professional employer. If we do one thing well, and there will always be some exceptions to that, we know how to employ and what our minimum obligations are. There are areas in terms of the legislation not necessarily having kept up to speed with the way in which we engage and on-supply people, but in many regards we know how to employ people well and can share that experience, and hopefully that contributes significantly not only to the GDP but to the end user of the employee, or indeed contractor.

**Mr DELAHUNTY** — Getting back to the evidence, if you were not there, what would be the significant difference?

**Mr CAMERON** — The question was asked in the RMIT survey of the host organisations or the clients as to the level of productivity, and a large number indicated that their organisations would not be as productive in the event that they were not able to rely on on-hired employee services. A lot of this is an unquantifiable, of course, in

terms of how we are directly contributing to, say, the improvement of business or indeed government because again we are not as sophisticated as we would like to be in doing that.

**Mr DELAHUNTY** — Then your evidence is not totally correct?

**Mr VAN STOKROM** — I can quote specific examples if you like, and there are many examples, such as this one in this industry : it is a well-known fact that flexible work arrangements can attract or retain business within the state, and indeed this country. A specific example that I will quote is the Avalon project with Qantas with respect to refurbishment of their aircraft. It commenced about five years ago and started with 180 employees working on flexible working arrangements together with a particular union and state government and with Qantas. It has resulted in 800 jobs now, permanent, full-time jobs there at Avalon, and without the flexible work arrangements that were originally constructed with Qantas some five years ago it is a fact that those jobs would have gone offshore.

**Mr DELAHUNTY** — That is the evidence.

**Mr WAKELING** — If I could just make one more point — it is not a Victorian example but I would like to give you a South Australian example which involved our organisation and the Mitsubishi manufacturing plant in Adelaide. Mitsubishi a number of years ago was looking at closing down its manufacturing plant and entered into a workplace flexibility arrangement with our organisation to supply anywhere up to 500 employees on a dedicated flexible workforce basis. That was done in partnership with the AMWU vehicle division, and as a consequence of that we were in a position to engage anywhere up to 500 employees and ramp up and ramp down according to the manufacturing needs of that organisation. Mitsubishi had stated to the Productivity Commission that if that arrangement had not been put in place it would not have been able to achieve what it had. You have seen recently that its engine plant has obviously seen its demise, but the manufacturing plant where we were in fact supplying labour has been retained. We would like to think that our industry at least in some small way provided the help and assistance to help that organisation to prosper.

**Mr VAN STOKROM** — I could quote another example, if you would like. That is that obviously under the situation with respect to our current international borders and our customs requirements there is a significant need right now for the federal customs department to recruit and train several hundred graduate customs officers. My company is actually assisting the customs department around the country. It simply would not have the resources to be able to recruit and train those people in the time frame required.

**Mr MORISON** — The Victorian state government through the professional services sector has now identified this sector also for the purposes of export opportunities, and whilst it is at an embryonic stage it is clearly another element that hopefully will just allow this sector to progress further in terms of its economy

**The CHAIR** — I want to ask one question before we go to Maxine, and I knows Noel has got a final question as well. We cannot let you go without referring to Elsa Underhill. We have not met Elsa but she is giving evidence tomorrow I think, so if you are not doing anything at 10 a.m. you can come along and sit in the gallery.

When we were in Sydney not so long ago we spoke to Professor Michael Quinlan from the University of New South Wales. I am not sure if you are aware of Michael Quinlan. He referred to her work on this, and he said — I am just quoting from my notes here — that consistent overseas results from research into labour hire temporary workers show higher injury rates. Then he referred to what she was doing, and he referred to some Canadian findings that the injury prevalence doubled the average in labour hire situations. I am not sure it is just Elsa Underhill's work or whether in fact there are other people making this claim as well, but obviously that is a source of disagreement between you and her at the stage. Is that fair to say?

**Mr VAN STOKROM** — Yes.

**Mr MORISON** — Yes.

**The CHAIR** — But you have got a recently prepared report by ACIL Tasman. Can we get hold of that today?

**Mr MORISON** — Yes.

**The CHAIR** — Would she be aware of that report contesting her views?

**Mr MORISON** — She is aware of it. I should add, however, that there has been some correspondence by solicitors in relation to this matter.

**The CHAIR** — It is getting messy.

**Mr MORISON** — I just alert you to that. Certainly we can provide to report to you, but it may need to be considered very sensitively.

**The CHAIR** — All right. Obviously we are going to take your counter claims against her claims and try and elicit something of more accuracy than what we have got at the moment.

**Mr MORISON** — Our concern with the Elsa Underhill report was that it is seen by ACIL Tasman as being flawed in terms of data collection, the actual analysis and also in terms of the ultimate conclusions and findings made. ACIL Tasman has then put forward from a purely statistical research analysis why that is so. I think the important point is that the Association's concern is not just over the recommendations but the sample that was used. For example, the sample was 1.4 per cent of the population that was involved and there were a number of technical reasons as to why there were deep concerns with the nature of the report. Our concern is that at the end of the day, if the recommendations do possibly turn out to be accurate what we want is to understand why. Our concern is that some of the base premises in our view simply are not accurate

**The CHAIR** — Fair enough.

**Mr MORISON** — We want to get to the truth in terms of the transparency element.

**The CHAIR** — Can I just say on the issue of occupational health and safety, with my eye on the clock, I think your survey with RMIT is instructive for two reasons. One, that it does, as you clearly want it to, demonstrate that RCSA members are acting in a commendable way when it comes to OHS. But it also raises a question. A secondary effect of that survey is that, for example, at page 33 where you talk about 49 per cent of RCSA members refusing to supply on-hired employees to clients for OHS reasons. The question that leaps out at me is: what did the clients do after that refusal? If in fact they are going out and sourcing a provider of employees or on-hired employees who will not ask questions, then that is quite alarming for us. That is exactly the sort of thing that we want to investigate a lot more closely. So I think your survey has been terrific, but perhaps for reasons beyond what you have actually presented in your report.

**Mr CAMERON** — I would be more than happy to work with you.

**The CHAIR** — Yes we might come back at some stage.

**Mr VAN STOKROM** — I would be more than happy to give you examples as well.

**The CHAIR** — We might not do that on the record but wait till afterwards.

**Ms MORAND** — I just wanted to ask a question about an industry that I am most familiar with, which is as a former health professional and also working for John Thwaites as an adviser at a time where there was unprecedented use of agency nurses throughout metropolitan hospitals — —

**Mr DELAHUNTY** — And country.

**Ms MORAND** — And country — sorry, Hugh. What I saw were some of the problems that could be inherent in the overuse of labour hire, and I wanted you to comment on that. Some of the things that were raised, for example, are coming in new to an environment where you are not familiar with the procedures, the equipment, the patients and a lot of other issues surrounding the care and the role you were set to perform, and that when there is an imbalance in permanent staff and casual staff that causes some problems. We all know what happened through the process of addressing that issue, but I am just wondering if you could comment on that specifically in the health industry but also more generally, and on how it is seen as a problem by some people that is inherent in bringing in a person that is unfamiliar with the workplace. Can you comment on that?

**Mr CAMERON** — It is probably worth commenting that of course the engagement of an on-hired employee would be absolutely no different from the engagement of a direct-hire casual employee, so to that extent I do not believe it is necessarily a problem that should be specifically levelled maybe at on-hired employee services

but more in terms of flexible employment services. Certainly I think we try to be pragmatic in terms of providing for a sustainable industry. We understand that there are some circumstances where it may well be the client's attitude towards their utilisation of the flexible or top-up services in some cases. We do not retract from the argument that clients need to be maybe better prepared in some circumstances to ensure that there is not an oversupply of those parties who, whether they are on-hired or otherwise, do not have the necessary immediate skills and requirements. To that extent what we can say is if there are circumstances where there are demands in those areas, we are working significantly towards trying to get on-hired employees who have a degree of, let us say, experience and qualifications available immediately. It may be far more difficult to attract those particular individuals if they are engaged on a direct-hire, casual basis rather than being able to select from a database of parties where a lot of preparatory work had been done to ensure that they do not only say they hold certain qualifications but may well be able to demonstrate the application of those qualifications on alternative assignments.

To that end we have prepared a generic induction-based CD-ROM which focuses on occupational health and safety compliance. I can appreciate that your point is not just about OHS compliance — it is not about compliance issues necessarily; it is about the relevance of their skills. To that extent I think, as I keep reiterating, we are not necessarily saying that on-hired employee services is the solution to every labour circumstance or any greater business or government organisation issue. However, we do believe that it provides a very viable solution and a far better alternative in most circumstances to engaging people either directly on a short-term or a casual basis. That is on the grounds that we know and can understand and contract their work record. I do not know whether anyone else wants to comment on this.

**Mr VAN STOKROM** — As far as nurses specifically are concerned, Brian, I think you may have something to add, but just on the general issue with respect to preparing people, we have got some facts and figures with respect to training and a lot of that is induction training for casuals to go on on a site.

**Mr CAMERON** — It is an issue, and of course if we can have a provider who works on an ongoing basis with a particular client I think that is a far preferable situation to them maybe having a pool or a regularly changing supplier of parties who are providing on-hired employee services such that we can get to understand and know exactly what their particular and immediate needs are. As I say I do not think we retract from the notion that there are circumstances where the client ultimately will need to improve their level of organisation potentially. But at the same time again we do not deny the fact that there are increasing levels — and a lot of this, we argue — of demand from both individuals as clients or as consumers through to, let us say, international export markets through to governments who are faced with increasing resource issues at the same time whilst having to obviously increase the level of service to the greater public. To that end I do not know whether we necessarily have all the answers, and I do not suggest we do for one moment, but we are more than happy to work with whatever committee or government in ensuring that we could be better maybe than we currently are.

That does not necessarily give you the answer you were generally looking for, but I think we would argue — and a lot of the trouble we believe with the Underhill report — was that the examinations were not being done examining the levels of, let us say, safety risk, and comparing it directly with casual employees who were direct hire — they were comparing it with traditional permanent employment. Of course what we need to understand is that if on-hired employee services were not around and they could not be supplied, would that necessarily resolve the greater problem — which is, that the increased reliance on flexible labour, we would argue, is not necessarily I guess the issue.

**Mr MORISON** — This does not necessarily relate specifically to your question in terms of nurses, but clearly there are two induction processes the majority of recruiting agencies will determine should be carried out. One is a general induction program internally, and then there is clearly encouragement with the client to ensure that there is a site-specific induction. So you have a generic industry induction and a site-specific induction, and we see that as really key and very critical to whichever sector — —

**Ms MORAND** — Is that a standard all your members adhere to — that they have to provide an on-site induction for everybody before they go to that site?

**Mr WAKELING** — No. The client would actually supply the in-house induction. What we would expect is that when they come into our organisation to register we put them through a two-hour induction program. They

are then sent out to a client and the client is required to provide them with an on-site induction of the client-specific arrangements at that site.

**Ms MORAND** — Is there any minimum standard for the on-site induction that you set?

**Mr CAMERON** — As part of the training that I deliver I ensure and endeavour again- — -

It is difficult for us to place all these templates up for them — it is an area that we are moving towards — but I certainly make it very clear. I have done a bit of training in the areas of developing our OHS management systems for on-hired employee services. To give another example, in the absence of the client either understanding or being willing to actually undertake their obligations there we will actually facilitate that such that we will actually develop on some occasions the site-specific induction for them. We do not believe we are necessarily the best party to do that, because we do not have the local knowledge nor I guess application. John Wilson is a senior member of the RCSA who does provide services in the area of nursing, and John might, if it is appropriate through the Chair — —

**The CHAIR** — As long as we can do it very quickly because we are already 7 minutes overtime and Noel has got a question up his sleeve.

**Mr WILSON** — To answer your question very briefly, the RCSA has a special-interest group focused on health. As you well know, back when John Thwaites put a cap on wages in the public health system for agency nurses it changed the landscape of nursing because at one stage agency nurses were getting sometimes double or triple regular nurses. Because of the capping that has now changed the landscape and a lot more nurses have gone back to a nurse bank, for those who did not want to work full time, and a number have gone back to full-time nursing. So the landscape as a general rule has changed.

The issue of occupational health and safety in the hospital is slightly different to what we call a blue-collar worker going out into the work force. It is slightly different because nurses are very highly trained, as you know. So when they go onto the sites it is more a matter of showing them where everything is rather than the whole OHS philosophy, because nurses are fully trained in that area anyway, such as in administering drugs et cetera. It is a different philosophy. The issue of nurses as a general rule, in my opinion anyway, in Victoria in the public sector has changed substantially. The difficulty we have is that there are just not enough nurses in the country. That is the problem. Our company is importing nurses at the rate of knots but still cannot keep up. It is about the fundamentals of getting nurses trained and getting them up to speed.

**Ms MORAND** — What is your company, John?

**Mr WILSON** — Austrahealth International. That is the bigger issue here. If there was enough nurses fully employed we would not have some of the issues we do have now. And we have been doing that for how long? It has been going on for 20 years.

**Mr PULLEN** — Brian, you might be able to answer this one. My concern is the down time of possible employees. In other words, I accept, and I think it is a great thing that people can work whenever they like and so on like that, do you have any percentage of when a person wants to work and cannot work for you? The reason I ask this is because it becomes a difficulty when a person wants to get a housing loan or something like that, that banks look at a situation whereby that person's income may be treated as only 50 per cent of their actual income because they have got down time involved. They will look at it over say a two-year period compared to a person who may be a full-time employee of a company that once they get off their probation of six months or something a bank will then consider them for a housing loan. Do you have any idea of the percentage of your workers that are having down time or what the situation is with it?

**Mr MORISON** — Unless my colleagues have a better feel for this the answer is no. I do not think I can give you specifics, other than I can say that the amount of down time today would be very minimal. There is not a significant amount of down time, so that you do have a very continuous period of employment. That can vary from industry to industry obviously, and there will be peaks and troughs, but generally given the common mean it is I suppose essentially one of the reasons you have seen such a significant increase in the involvement of the on-hired employees sector. So while I cannot give you a precise statistic certainly and totally, there is nowhere near the same degree of down time that one might have envisaged 10, 15 or 20 years ago.

In terms of your interesting observation about the way the banking sector might see this, I have got to say to you that probably today banks would be inclined, or the person concerned seeking the loan would be more inclined, to seek from the on-hired employer just what was the employment history and whether that person seemed to be assured of continual employment and was employable. I think the banks fortunately have tended to change their view of the world, like with females who had their own income but still could not get a bank loan. I think there has been that change in approach fortunately.

**The CHAIR** — That is probably as a good reminder as any that it is lunchtime. There will be a few follow-up tasks and we will be in touch with you about that. Thank you for your time. It has been most illuminating. We may have reason to call you in again or we may just do it informally, either as a group or individually, to check our facts and talk further. A copy of the transcript will come to you in about a week's time. Please check that and get back to us. We will make sure copies of our report are made available to the association at the end of the year.

**Witnesses withdrew.**