C O R R E C T E D V E R S I O N

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Labour Hire Employment in Victoria

Melbourne — 13 September 2004

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Mr J. Gardiner, Member;

Ms M. Noall, Manager, Access and Complaints; and

Ms M. Eagle, Systemic Initiatives Officer, Equal Opportunity Commission of Victoria.

The CHAIR — We welcome to the Economic Development Committee this afternoon representatives of the Equal Opportunity Commission of Victoria. By way of introduction I need to advise you of a few things: the first is that this committee is an all-party committee of the Parliament of Victoria and most of our members are here today. We have been asked to investigate and report on matters relating to labour hire employment in Victoria. Public hearings have been well under way for some time. We aim to have our report completed by the end of this year. This is a formal public hearing so your comments today are being recorded by Hansard and we will provide you with a copy of the transcript in a week or two weeks' time when it is ready; you are able to make some corrections if you need to before it comes back to us. Anything you say today as formal evidence in a hearing like this is covered by privilege. Of course that does not extend once the hearing finishes and anything you choose to do with the comments later on. It only applies to anything you say to us when you are in here. I am sure you are aware of that and I do not know if there will be any need to worry about that, but we do need to mention it to you. We did get a submission from you and we appreciate that, what we may do now is allow the three of you to speak to the submission and then we might go around with questions and answers.

Mr GARDINER — Thank you. I am Jamie Gardiner, a member of the commission, and I would like to begin by thanking you for inviting us to address you today to follow up on that submission because we are conscious that by expressing that interest in what we have to say, you are also acknowledging the importance of equal opportunity issues to all workers and employers, and so in your task of considering the extent and breadth and consequences of labour hire employment the implications for equality of opportunity and the rights and obligations for all parties under the Equal Opportunity Act are also worthy of being taken into account. That is in fact one of the things we hope the report will expressly acknowledge because it is not expressly mentioned in the terms of reference.

In justifying that statement, I would like to mention a couple of the ways in which anti-discrimination law, equal opportunity discrimination and the related things such as sexual harassment and racial and religious vilifications affect the employment relationship. I am going to be followed by the manager of our complaints branch, Margaret Noall, who will tell you some of the specific experiences that we encounter in relation to complaints that are at least relevant to this inquiry, and the sorts of issues that lead us to make the submission we made. Melanie Eagle, our systemic initiatives officer, will speak about the inquiry that she has been conducting for the commission into some aspects of equal opportunity and the recruitment industry.

Firstly, equal opportunity connects with the general issue of industrial relations in a couple of different ways. One of them — as mentioned in your terms of reference — is the issue of occupational health and safety. It is very clear in our experience that discrimination and sexual harassment lead to or constitute psychological trauma, and can lead to overt physical symptoms too, so that the existence of discrimination and sexual harassment is itself an occupational health and safety issue, whether it says so in that act or not.

We often find, for example, in employment complaints that one of the consequences of discrimination is a WorkCover claim and there are other interactions too. The complicating issue with the whole question of labour hire in our act is that both parties — the host employer, the employer, or the labour hire company under whichever hat it is working — are in fact liable under the Equal Opportunity Act for discrimination that occurs in the workplace, whichever one it happens to be. But it is far from easy for an employer or a union for that matter to read through the act and the associated law to see exactly how that all works. The parties could be liable and be directly responsible for direct discrimination or for indirect discrimination as employer, as agent, as principal or in some cases as authorising or assisting. We use 'authorising or assisting' where the section of the act actually refers to several other words like 'encourage', 'induce', 'assist' or 'authorise' discrimination that is a separate ground under the act. Margaret will fill me in — I think I left one of them out. Between them these various heads under the act lead to both parties, whoever's workplace the worker is actually working in, ending up generally speaking being responsible for, liable for and subject to claims and complaints of discrimination. But it is certainly far from clear, and one of the suggestions we would make and urge you to take on is a recommendation that it would help the industry and workers to have these things clarified so that it is obvious in the act, rather than having to be traced through by legal opinion writers — and I will sum up these various things in a moment.

It is clear that both parties end up being liable for discrimination by one of those routes or another. Clearly it would be desirable in the labour hire process for these responsibilities to be clarified and for the parties to work out some systematic way, at an industry level or even perhaps at a legislative level, to have a proper method of complaint handling and acknowledging that joint liability. Margaret will say a couple of words about the issue of how you go

about having codes of practice and grievance guidelines that work, that improve workplace harmony, diminish costs to employers and improve the health and wellbeing of workers.

All of that is under the background that equal opportunity obligations and the requirement for a non-discriminatory workplace is an important part of any industrial relations system, and — what is more — it is a growing part. The questions of people's rights to be treated with dignity and specifically people's rights to be treated without discrimination or sexual harassment under the Equal Opportunity Act are really part of the fabric of employment these days, and the question of the particular nature of the complicated interactions, the complexity introduced by a third party to the employment relationship, should not be allowed to blur those important and growing obligations for equal opportunity in the workplace. I think that is probably enough as an introduction and I would be very happy to have questions, as will my colleagues. Perhaps I might just sum up what I and the commission suggest you might want to consider as part of your recommendations into this whole area. As I said before, it is the extent and breadth, and consequences.

Firstly, the recommendations could acknowledge that equality of opportunity, a discrimination-free workplace and compliance with the spirit as well as the letter of the Equal Opportunity Act are important obligations of all those involved in the employment of workers and a necessary part of the industrial relations framework. A second one is the acknowledgment that the employing parties have a joint responsibility not to discriminate against workers or prospective workers, nor to permit nor engage in sexual harassment or racial or religious vilification, and consequently that the Equal Opportunity Act 1995, and other relevant legislation within the purview of your inquiry, should be amended to make this clear in express terms. As I have said, this is already the case, but it is far from obvious at first glance.

A related observation and hope that your report will make a recommendation along these lines is that insofar as the committee recommends any new legislation or amendment to other acts of Parliament, it should recommend express inclusion of equal opportunity obligations by reference to the Equal Opportunity Act. Finally, the point Margaret Noall is going to add some material to is that every labour hire employer should ensure that both it and the employer clients it deals with should have a code of practice which includes a grievance procedure which will enable worker complaints concerning all matters, but including particularly discrimination and sexual harassment, can be dealt with in a manner that improves work force harmony and minimises the need for external agencies, including the Equal Opportunity Commission of Victoria, to become involved more formally and thereby minimise costs to both employers and workers. So I hope those suggestions will commend themselves to you and, unless there are any specific questions, I invite my colleague, Margaret Noall, to make her contribution.

Ms NOALL — As Jamie has already said, the use of labour hire firms introduces yet another variable into the workplace that, in terms of dealing with complaints, often complicates the situation for us in that it is necessary usually to name both the labour hire firm and the host employer when we are dealing with a complaint because it is not always clear where decisions have been made in terms of the employee. So I can only endorse what Jamie said about it being really necessary in setting up a relationship between the parties, that they identify a clear code of practice, and that that is communicated at the outset. It would seem to me that from looking at the files many of the issues arise because of uncertainty rather than actual bad practice in terms of one or the other party.

In the files that I read in preparation for today, many of the issues that we were dealing with were an issue of the host employer wanting to dismiss an employee and the labour hire firm then dismissing them as requested, but the flow-on from that is often quite difficult, particularly in country Victoria where that may be the only labour hire firm operating within an area, and it seems that it is often quite difficult, even without looking into the detail, for the employee to get ongoing employment with that labour hire firm. It is not always clear from our files why that is, but it seems to be that once an employer has rung and said, 'I do not want this person anymore', it is then quite frequent that the labour hire firm does not want them anymore either.

As Jamie said, currently the act is limited in the way it is able to recognise liability to the parties, and I could only recommend also that whether or not any changes are made there is some thought about recognising joint and several liability between the labour hire firm and the host employer. The sorts of difficulties that I picked up from the files were perhaps quite similar to difficulties with another employer, but it showed the difference where someone at arms-length is employing a person — for instance, putting a contract worker into a heavily unionised workplace where contract work is strongly opposed sets them up for great difficulties.

Female workers are being put into almost exclusively male-dominated workplaces. That is an issue for discussion between the two bodies, but it seems to happen. Employees are being sent to sites where there is no union membership, no employment, and are then having to be taken away from there. A lot of disruption seems to occur to people's employment. When sexual harassment issues are complained of to the manager of the host employer there might be a call that night from the labour hire firm saying, 'There is no more work for you', when clearly ongoing work is there. Applicants successfully hired by labour hire firms are put through a company medical and are accepted there, but then when they are filling out forms with the HR manager at the firm and putting down something about WorkCover, suddenly there is no position there for them. That may have happened anyway, but it is just that they seem to be led down a path and then dropped off at a later stage than they would be with a direct employer. Other employees who have phoned for advice about breaks and tried to negotiate for shorter breaks more often — in call centres particularly — are then called into a room to be met by the labour hire person saying, 'That work has finished for you'. Those are industrial issues, but I think they are exacerbated by the fact that there is this third party involved each time. I can only endorse what Jamie has said, that from our experience in dealing with these files both the labour hire firm and the host employer need to be recognised as liable for any decisions that are made.

Ms MORAND — I think it was Margaret who gave the example of the case of a sexual harassment claim and then no further work. In that case what did the commission do? What sort of action can you take, and can you take it against the host employer or the labour hire company?

Ms NOALL — This is the difficulty, because the host employer can only be seen to be authorising and then assisting the discrimination. They have not put the person off; the labour hire firm has.

Ms MORAND — But the actual sexual harassment, if that was committed by the host employer?

Ms NOALL — You can deal with the individual. It is a very messy one actually. The individual can be named, and the host employer can be named as vicariously liable for the behaviour of the individual; but then in terms of no more employment they really only authorised and assisted the labour hire firm, so it ends up that we are dealing with four complaints over the one incident.

Ms MORAND — You could not, for example, get an outcome where you had to offer employment back to the person at the host site, because they were not the employer anyway?

Ms NOALL — No, but they could negotiate that through the labour hire firm, I suppose. That is a negotiation that would occur in the conciliation. It was not done in this case.

The CHAIR — We will move on to Melanie.

Ms EAGLE — I will address the project on the recruitment industry that I undertook on behalf of the commission. I will speak about it and then at the end I will hand out our draft final report into the recruitment industry — I will not give it to you now in case you read it while I am speaking!

To point out the significance of the topic, as was mentioned by the systemic initiatives officer at the commission, it was the first topic that we chose to look into as a project in that capacity; so it was identified as sufficiently important to be a topic to conduct an inquiry into. Seventy-five per cent of all our complaints are about employment, and of that the recruitment industry is a small but growing area. It is obviously behind your deliberations which you recognise here as being important, too. We saw it as both an area about which we received many complicated complaints and one which, if we had a more educated industry, could be a conduit for improved practices as well. That is why we chose to have this inquiry. It is has taken nearly two years to do and we have come to the end of it now. I will quickly walk through what some of our findings were and then I will pass the report over to you so I do not need to speak to it in detail.

There were four terms of reference. They looked into the awareness and understanding of equal opportunity legislation among recruitment agencies and the challenges they face; there was a bit of an examination of best practice and what strategies could be promoted for better awareness. I should say at the outset that we were not looking at just labour hire but at all recruitment agencies. I looked into some of our consultants' reports and it seemed that perhaps about one-quarter were labour hire for the surveyed agencies. Where did we get the data from? I did a literature search throughout. I looked at internal case files. We commissioned consultants who conducted a

telephone survey of 70 different recruitment consultants. I think 20 per cent of those were labour hire. We had case studies of both recruitment consultants and their clients; of those recruitment agents 25 per cent were labour hire.

I did a survey into job seekers, and I targeted people who were more disadvantaged — older people in my age group of 45 years plus, people with disabilities, people with different cultural and linguistic backgrounds. I must say when I looked back into that what I found interesting was the types of agencies people use. I did not survey actual job seekers; I used representative organisations. It was only a very small sample, but it seemed that it was only the older people who used labour hire to any significant extent. The other groups seemed to have a much higher proportion of people using government-run organisations — for example, people with disabilities and people from different cultural and linguistic backgrounds; so that might make it a bit less relevant than the data that is gathered there. We conducted a focus group as well, and that was mainly on the topic of training. That was where we got the data from. What did we find out? I will scan through quickly. A high percentage of people believed they had a good understanding of the law — about 85 per cent. But when they spoke about their peers they did not have the same confidence, so that was a curious kind of mismatch. Yes, they knew what they were talking about, but they did not think that their peers did.

The CHAIR — It is not so surprising, is it? We all think that we are experts in everything and that we know more than anyone else!

Ms EAGLE — They also felt their compliance was better than that of their peers — for example, 76 per cent of respondents said they always made every possible effort to comply with the act; and yet when you probed a bit further, 33 per cent agreed that they sometimes ruled out candidates on the basis of age, sex or other factors. Nearly half believed if they complied with the act they sometimes lost business to competitors who took less notice; so one would start to wonder whether in those half times they would really be prepared to lose business. Some would; we met some sophisticated players who had been in the business for a long time and were confident of their client base and were prepared to choose not to operate with people who put pressure on them in a certain way.

The largest single factor that was reported as causing compliance problems concerned attempts by employers to influence the type of people referred to them by consultants. This is what they kept harking back to — employers who would come to them and say, 'We want a young woman at reception; we want her up to a certain age and she should look like this' type of thing. The personal characteristics causing most compliance problems were age, followed by gender, health problems — which was really people who had prior WorkCover claims, disability and finally race. That was interesting. The first one was age, whereas a few years ago one might have thought gender might would be a higher one. Age is now coming to the fore.

The recruitment industry was described as being under pressure, generally speaking, particularly after the earlier IT and finance boom where more places were to be found, but that is no longer case. People certainly commented, particularly in those more in-depth interviews, about the increasing amounts of legislation with which the recruitment agents were required to comply. I guess that is all the other legislation you are looking into. They are probably feeling hassled that they have all those different things to look at and to be mindful of in their work, and that is another area.

The job seekers we were dealing with for information felt that the recruitment agencies were largely aware of their obligations under the act, but they doubted that the act was effective from their experience and they suggested that it be rewritten. While they saw the recruitment agencies as an important component in the job search strategy, many also felt that their experiences with job recruitment agencies were unfavourable because of the treatment that they received in relation to their particular characteristics — whether it was their age, a disability or different cultural or linguistic backgrounds. As I say, I have to put a caveat on it in that a lot of them were not, in our particular bit of research, dealing with labour hire firms. I have quite a few quotes in there, but I will not go into that.

I undertook a tiny examination of best practice — by that I mean best practice in the equal opportunity sense in the area of recruitment. I visited firms that I had been able to find out from my earlier work had been recommended. I asked them what they thought they did in their work that was good, and it was pretty obvious there were certain things that various ones did: things like providing ongoing active support to the job seeker and employer well after placement; ensuring all their consultants were trained through scenario role-play in how to deal with requests by employers for a certain type of candidate only; building relationships of trust with the employers; encouraging job

seekers with disabilities to refer not to a diagnosis but how the disability affects them and what strategies they have in place; not recommending a person for a position in which they would fail; discussing discriminatory practices with the employers; being prepared to put forward the best people for the job even if they do not meet the personal profile requested by employers; providing employers with literature about equal opportunity laws when forwarding details about job seekers; ensuring job seekers are aware of their rights and responsibilities; undertaking continual professional development including training on equal opportunity and focusing on an actual fairer outcome which, depending on the candidate, may require an adjusted selection process to take into account different cultural backgrounds or disability. This was quite an insight for some people because some recruitment agents are very focused on getting the best job description, and if they can get the best job description and make everybody stick to that then they will get the best person for the job; but there are others who can move past that and are more flexible, are prepared to accommodate the situation, to take into account perhaps the person who comes before them and to adjust the selection process.

I watched an interesting selection process where a very large organisation was attempting to recruit — so it was by choice — some indigenous people to do a job provided they could meet the job selection criteria, but it recognised that often these people would be screened out of the entry process because they would often be responded to differently by the people selecting them due to their way of not looking directly at the people interviewing them, not being prepared to talk about some of their family background and some other things that I had never heard of before. By knowing more about these characteristics I got into a whole different dynamic and could get past some of the hurdles. So it was very interesting. You had a much more sophisticated recruitment process going in than would normally be the case.

The CHAIR — Thank you all for the presentations. We might just allow some questions now. I have a question for Margaret. Just harking back to your experience of what the complaint files have told you and referring to what Jamie said earlier about the desirability of having grievance procedures in any workplace for labour, is it fair to say that the employment complaints which come to you are characterised by an absence of grievance procedures?

Ms NOALL — Yes

The CHAIR — Would it be overwhelmingly the case that there would not be any grievance procedure at all in those situations?

Ms NOALL — From the files I have looked at today and from my knowledge of other files, no, there have been no grievance procedures. The difficulty seems to arise by the distance. It seems that if someone is engaging someone through a labour hire firm and there is a small difficulty then the person is out the door. Any negotiation is then with the labour hire firm, not with the host employer, and it is so far removed. Neither of them, however, seem to have had grievance procedures in place.

The CHAIR — I want to try and be certain here when we talk about the complaints you receive: some 75 per cent — it is your contention — of complaints you receive relate to employment, but not all of those would be labour hire-type complaints.

Ms NOALL — No, really only — I do not have the exact figure — 20 per cent as an upper.

The CHAIR — Twenty per cent of the 75 per cent?

Ms NOALL — Yes.

The CHAIR — So that would be one-fifth of three-quarters, and if my mathematics are correct that is 15 per cent.

Mr GARDINER — Fifteen per cent of all complaints, yes.

The CHAIR — I think we have heard earlier in a number of instances that about 25 per cent of the work force are casual, so that is not too out of whack with that percentage. In that sense perhaps the experience of the commission is a testament to where the economy is at and also where workplace relations are at. That is useful. Can you express a view as to whether the employment-related complaints you are receiving are growing strongly each year, or growing each year, and whether they are growing as a percentage of your workload each year?

Ms NOALL — There are slight variations, but they are not growing markedly.

Mr GARDINER — I would think over the last five years they have ranged between about 70 and 75 per cent, so employment remains very strong as the major domain. Complaints have grown in the last few years. Employment is fairly steadily around about two-thirds to three-quarters, one would say, of all complaints.

Ms MORAND — There are two questions that I have: with the complaints that come from employees who are in labour hire — the 15 per cent of complaints — is there anything that distinguishes them from the general complaints? Are there any specific areas that are different from the normal complaints or are they generally the same issues?

Ms NOALL — They are much the same issues. It seems that union issues perhaps are slightly higher in that people are put into union workplaces, whereby if people were choosing their own job they would either choose to go there or not, and the opposition in some places to contract labour is a feature of quite a few.

Ms MORAND — So they are different then because it shows that they are being placed within an environment where they do not have any choice about where they are being placed, whereas your other complaints would be from people who have chosen generally. I suppose you cannot always be choosy about where you can get a job. In terms of complaints about sexual harassment or gender, is there anything that stands out?

Ms NOALL — No, there is nothing that really stands out.

Ms MORAND — The other question I had was for Melanie. You get a sense of what sorts of strategies labour hire firms and recruitment companies employ to manage the requests from host employers about specific employer characteristics. For example, if they say, 'We do not want anyone over 50 or anyone who has English as a second language', how do they manage those complaints, or do you think that they just abide by those requests?

Ms EAGLE — They were not very forthcoming at all and, as I say, I think the people we dealt with who were prepared to participate were the better providers, better operators; those who were prepared to come and sit down, have the in-depth interviews, were more sophisticated or were prepared to come and be part of focus groups. Some were very honest in the focus groups and some just said, 'Yeah, well, we make a note of it and we make a note of the fact that we said to them, "You should not really do that", and then we send the person that they wanted'.

Ms MORAND — Did you say to them that this was against the law?

Mr GARDINER — 'We told them that it was against the law and then we sent the young blond-haired person'. There was the gamut. The focus group was totally fascinating because there were really the sophisticated operators, as I say, who have been around for ages and knew that they did not need that type of client, and were not pitching at that market. Then there were the others who got ahead and were making lots of money quickly, and they were from the ex-companies. They were known to be from the ex-company in the industry that was moving along quickly and that is how they were making their commissions. They just delivered what was wanted. It was all quite explicit.

Ms MORAND — Have there any been any cases run against these companies making these requests?

Ms EAGLE — I know that this is a problem — and this is partly why we chose the recruitment industry in the inquiry to try to unpack what happens — because it is so hard to get behind what happens between the parties.

Ms NOALL — We have had complaints when people have said, 'I must have been the most qualified and I have had this much experience and I did not get the job; it must be because of a range of factors'. But trying to investigate that and getting someone to go on record saying, 'Yes, we did just give the employer what they wanted' is impossible for us because we do not have the power to really investigate their files or anything like that.

Mr GARDINER — Perhaps if I could amplify that as well by saying that the problem of establishing the fact is always difficult. Discrimination involves under the act that the attribute of sex, age or whatever has to be a substantial reason for the treatment, and it is often very difficult. The introduction of a third party just makes it more complicated, but the question comes up frequently, as Margaret says, of what else could it be. Sometimes it is fairly obvious. We have a very short time frame of 60 days for investigation and our process of investigation cannot

go much further that the natural justice process of asking the other side, or in these cases the other sides, for their take on it.

If the commission or the meeting of which I am a member decides on the basis of the investigation and the recommendation from the officers that there may be discrimination and it is worth trying to conciliate, that is what will we do. Sometimes — and this also goes to your earlier question about sexual harassment — the parties will sit around the table and some outcome that is beneficial can be achieved; sometimes not. That again is why we set up the process, the systemic initiatives branch and this inquiry that Melanie has done, because we know as a commission that at all levels, not just the labour hire one, we need to have more proactive ways of reaching and preventing discrimination. Ultimately, of course, we do not want complaints. We want workplaces to be non-discriminatory. So finding creative ways, as Melanie has done, in working with the industry, and trying to get them to agree to a code of practice — and in the case of the association — making it part of their rules that you get some processing where there is a better possibility, it becomes clearer that the shonky operators are kept more to the side, and we will have some more systemic way of doing it.

It is complex, and with the labour hire companies we often end up with very hard-to-work-with complaints because they are against two different people, each of whom is saying, 'No, they did it', and that is precisely why we think it is very important that the express acknowledgment of joint liability should be spelt out, and that one party cannot hide behind something like, 'They said the employer was not suitable'. We need to be sure that one side or the other goes into it and does not do as suggested, saying, 'We told them it was against the law, but there we go'. We need to be much more forthright and create a level playing field, so that the — as Melanie describes them — more sophisticated, honest and law-abiding firms actually compete fairly, as well as observing the rights of the workers concerned.

Mr JENKINS — Are the definitions in the act of employee and employer the places where you see this being clarified to make sure the third-party type of employment comes in?

Mr GARDINER — I suspect it would require a specific definition. The existing definition of employment agent does not quite cover the matter. The definition of employer in the definition section is very broad, but it could probably be amended to clarify it further. Partly the issue arises because we have to look at either the employer, or the authorising and assisting one. As I say, it works; you can always construct the argument, but it is not obvious. It would be much better for all concerned for it to be clear. We have not drafted a suggested amendment for you, but we would be happy to do so if you would like us to.

The CHAIR — There are two points I would like to pick up on: firstly, what is the number of complaints that the commission would deal with in a year? What is the latest in your report?

Ms NOALL — It is 3500 .

Mr GARDINER — It was 3500 this last year. We have not tabled the annual report yet, but it is about this number.

The CHAIR — So when we say 75 per cent, it is 75 per cent of 3500 , and then labour hire is about one-fifth of that number? Also, when the commission investigates a complaint which has been made involving a labour hire-type situation — and you talked about the complexity of the employment relationship as being problematic in the sense that it makes it harder for you to get to the root cause — does that actually add to the workload as such, or do you quickly get to a point where you recognise that there is not much more you can do?

Ms NOALL — We usually quickly get to a point. Sometimes we get to that point very early in that we cannot identify the correct respondent, and I particularly think of a complaint not long ago where there was more than one labour hire firm providing employees on a particular site. There was a fairly gross sort of sexual harassment complaint arose from it, but identifying who was vicariously liable for the actual harassment was difficult because people have privacy issues and the host company will not disclose who the labour hire firm of someone else is, and it just became bogged down with trying to identify who are the respondents you could actually pursue. Generally once the respondent is identified it is not so much a discussion, it is more of a matter of getting them to stop saying, 'No, it is their fault', and, 'No, it is their fault', and getting to some substance.

The CHAIR — Let me understand this: is it more often the case in those labour hire-type cases you investigate that you are not able to identify the respondent? Is it in more than half of those for instance?

Ms NOALL — You usually can identify. It is in the places where there is more than one labour hire firm supplying labour that is the difficulty and that is from what we see, not a large proportion of it.

The CHAIR — So that is the exception rather than the rule?

Ms NOALL — Yes

The CHAIR — Is it very much the exception? It obviously happens sufficiently often for you to be concerned that this notion of joint liability needs to be stated, but you are saying that it is more the exception than the rule?

Ms NOALL — Yes.

Ms EAGLE — It is not just that. At one stage you might think you are competently on the track of just going against, say, the host employer and then you realise, 'No, oops, that is the wrong way to go'. You have spent six weeks, and you then have to go against the labour hire because in fact the decision was generated by or was authorised by the labour hire company, or the other way round. So it just makes it more complicated.

Mr GARDINER — It wastes our time and resources, it distresses the worker more and it is an unnecessary complexity. My observation seeing the files that come up from the complaints investigation area is that it always fascinates me the number of workers who do not actually know who their formal employer is, and that I think is also something that would be well sorted out somewhere else. That is how this happens. People do not know who they are employed by.

The CHAIR — It is more a case in the labour hire-type situations than elsewhere?

Mr GARDINER — Yes.

Ms EAGLE — I am very sorry. I would just like to emphasise that if you do not read anything else, there is the 'Outcomes' page.

The CHAIR — We will read everything especially if you highlight it.

Ms EAGLE — I am sure you will. It will make it much easier if you just read the 'Outcomes'.

The CHAIR — Thank you very much. We will make sure a transcript is available for you in about two weeks' time and you are welcome to correct it. We will make sure that when we do complete our work that we send a number of copies to the commission. Thank you for your time today.

Witnesses withdrew.