

CORRECTED VERSION

ECONOMIC DEVELOPMENT COMMITTEE

Inquiry into Labour Hire Employment in Victoria

Melbourne — 11 October 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

Executive Officer: Dr R. Solomon

Research Officer: Ms K. Newitt

Witnesses

Ms J. Teao, Director-Head of Administration;

Mr T. David, Managing Director; and

Ms R. Edwards, Human Resources, Westpower Resources.

**Necessary corrections to be notified to
executive officer of committee**

The CHAIR — This afternoon the committee welcomes three representatives from Westpower Resources. We have Tai David, the managing director, Jasmine Teao, the director, or head of administration; and Rachel Edwards, who is responsible for human resources. This is a state parliamentary committee. It is an all-party committee, so it has Liberal and Labor members and a National Party member on it. We have been asked to investigate and report back to Parliament on matters pertaining to labour hire employment in Victoria. This is a formal hearing and your comments are being recorded by Hansard. In a couple of weeks time when we receive the transcript we will give you a copy. You can make any corrections; if we have spelt names incorrectly or obviously made mistakes with some of the evidence you gave you can come back and ask us to correct those and we will check that out. Anything you say at today's hearing is covered by parliamentary privilege, so if you want to mouth off at us that is all right, we will not sue you — we might get upset, but we will not sue you. However, anything you say once you go out the door after this hearing is not covered by parliamentary privilege. You need to be aware of that.

You have made some written material available and if it is all right with you we will consider making this a public document for the purposes of our inquiry. The committee will have to vote on that separately later, but that is one of the things we are able to do. You are here today because an earlier submission from, I think, the National Union of Workers referred to your company, and we decided to give you the right to come back and respond. We have been doing that with a number of companies. We have put half an hour aside for this, so we would like to give you the opportunity of making some opening comments, and then we will have questions and answers if that is all right.

Ms TEAO — We understand that Westpower has been given the opportunity to address the committee because of the fact that Westpower was referred to in the recent submission of the National Union of Workers. Accordingly this submission is a response to the NUW submission.

Westpower Resources is a family-owned labour hire company that originally operated solely in loading and unloading shipping containers using manpower or forklifts. Over the years Westpower has branched into catering for the general labour requirements of different storage companies, and is fortunate to have A. B. Oxford Cold Storage and Montague Cold Storage as its main contracts. Over the years Westpower has made mistakes that it has learnt from and it has now gained more knowledge from government figures and employers alike.

Two areas are sought to be addressed. Firstly, matters that are particular to Westpower; and secondly, issues of labour hire casuals benefiting the employers. It is submitted that a number of allegations arise either expressly or implicitly from the NUW submission, all of which are adverse to Westpower. These allegations include Westpower's web site with concerns about penalty rates, unfair dismissal, WorkCover claims and workplace health and safety obligations. With respect to the allegations regarding Westpower's web site advertisement, we admit it is incorrect advertising. The web site has been shut down and will not be advertised anywhere as the information is misleading. The web site was opened in the early stages and was drafted by our host company, then approved by me. At the time I thought the web site stood out from those of other agencies and did not consider the implications we would face in the future. Westpower apologises for the inconvenience which was caused by a lack of knowledge at the time. There has been no benefit from this web site as all our clients have been found through word of mouth.

Labour hire is a social community benefit. It provides a path to permanent employment and removes people from the social security system. Westpower services approximately 62 companies that use our casual labourers on a time-to-time basis. Larger companies such as A. B. Oxford Cold Storage hire the largest number of our employees for both unsteady, casual and ongoing casual work. In turn employees may be offered permanent positions if candidates have proven themselves over a number of months. More than 40 current full-time employees of A. B. Oxford Cold Storage were previously labour hire workers.

Westpower values its staff highly and has procedures in place to ensure that its employees are given sufficient training and are placed in safe working conditions, as worksite assessments are performed. As you can see, attachment A is a layout of how we assess the work sites. I have two different ones because we vary the inspections for different sites. Westpower has occupational health and safety procedures in place that have been verified by WorkSafe Victoria, as well as independent suppliers. Our employees must sit through a thorough interview process — as in attachment B which contains a sample of what we do now — and procedures have been put in place that require demonstrations of competency before placing employees in work sites. Feedback from our supervisors assists us when there is need for improvement, and that is in attachment E, one of the comment sheets we get back on a weekly basis from our supervisors.

We supply safety protection, and all our supervisors carry first-aid kits for minor injuries. When our major clients, such as A. B. Oxford Cold Storage, hire our employees they receive a full induction, company training and all occupational health and safety and anti-discrimination benefits. Oxford supplies protective clothing to all workers at its sites and treats all workers, whether labour hire or permanent, as valued members of its team.

We acknowledge that the ability of casual employees to access home loans, or any loan, through lending agents is a great issue while their employment status is casual, and most times loan applications are not accepted. Westpower is fortunate to have major clients that, when candidates are found competent after a trial period, are able to offer full-time employment.

Westpower allows its employees, with sufficient notice, to knock back work and work only days that accommodate their lifestyles — for example, we have included a statement — attachment C — from a staff member who has an ill family member and is only able to work casually because of this. To assist in the committee's research our staff has performed a survey amongst our current casual staff to ascertain their views on working on a casual basis — attachment D.

Westpower tries to be more than the average labour hire recruitment company by assisting employees who live in the relevant areas to car-pool vehicles to ensure that they can attend worksites until they are able to provide transport of their own.

Westpower pays penalty rates and overtime loading for all its employees according to the award rates applying to each site. Unfair dismissal has not been an issue as we are always placing competent employees easily into other employment. Employees are given an opportunity to discuss their termination, based on the grounds on which their positions were replaced or no longer available.

To our knowledge, workplace injuries within Oxford Cold Storage, and all large companies to whom Westpower supplies services, have been recorded in their in-house injury report books. In turn they must send Westpower a copy of the report so that we are able to follow through on the standard procedures accurately. We know that, with our own insurance suppliers, we must advise them of all injuries, whether minor or serious, therefore premiums from their own providers are adjusted accordingly.

Westpower pays all employees according to penalty rates, especially if they are working overtime and weekends. We have not had any disputes regarding this matter. Westpower would like to thank you for making this time available and hope this will help in your inquiry regarding labour hire employment in Victoria.

The CHAIR — Thank you very much, Jasmine. That was terrific. Is Westpower Resources a member of the Victorian Employers Chamber of Commerce and Industry?

Ms TEAO — No.

The CHAIR — You are not a member of VECCI. What about the Recruitment and Consulting Services Association, the RCSA?

Ms TEAO — No.

The CHAIR — It is all right, it is not a trick question. We have had them both along and we are trying to figure who is a member of what.

I come to the issue of the web site. That was the first thing that the NUW raised with us and we are looking at it. I will come back to some of the issues that were specifically raised by the union and that concern me. You are saying that the web site has now been changed.

Ms TEAO — We have closed it. We have stopped.

The CHAIR — It must have only been in the last couple of days, was it?

Ms TEAO — Weeks — since we got the first submission. We did not realise that — —

The CHAIR — I thought we checked it last week, and we thought it was still current last week.

Ms TEAO — Since the week of — probably days.

The CHAIR — So there is no web site working at the moment? The thing that concerned me, and I have not actually looked at it directly so I accept that I might have this slightly out of context, is that at the same time you were advertising that employers could gain — and there is a dot point that says — no more workplace health and safety issues', but at the same time you were indicating that the host employer would be directing the workers and be in total control. I do not understand how anyone could advertise that because it seems to me to be mutually contradictory that you can have total control of someone else's workers but, by inference, you have no health and safety responsibilities. You have taken that site down; you understood there were some problems with it. What do you understand to be your occupational health and safety responsibilities as a labour hire company?

Ms TEAO — We have to make sure our employees are always working in a safe environment so we in turn have to regularly do assessments. We have our own supervisors who give us the feedback with their comment sheets. That is one of the ways we make sure they are in a safe environment all the time.

The CHAIR — What would be the obligations of your clients as the host employers? What do you understand that to be under Victorian law? I am not posing this as a trick question; I just want to know what you know that to be.

Ms TEAO — They also have to accept responsibility; that is what I take it to be. When there is an injury on a site, I know that we are in contact with the employer of the site. They also record what has happened and they always get back to us. We communicate together on the progress of the injured, if they are injured, people as well. If you can understand that.

Ms EDWARDS — There is one guy we could not place back into the work force so we hired him as a permanent. We did not think it was right to let him go because he could not get another job so we employed him as a permanent worker. I think we are doing our part by giving employees we cannot place anywhere else some type of employment so we employ them full time.

The CHAIR — Can I just go from that to some of the submissions you have made? I want to be clear in my mind what we are talking about here. With your inspection checklist — attachment A — who signs off on that? That is a checklist which is signed by someone from your company who does the workplace assessments before someone goes out to that site?

Ms TEAO — Yes. We have an elected health and safety inspector who we have sent on the courses to make the assessments properly. We also use Tai because he has done the course as well. They sign off on the sheets.

Mr DAVID — We use both — we use our health and safety officer and their health and safety officer.

The CHAIR — That is the client's?

Mr DAVID — Yes.

The CHAIR — So they both sign the inspection checklist. Your employees who will go and work there, what do they do in terms of the induction or understanding the risks that your person and the other person have signed off on?

Mr DAVID — Before we both sign it, we let the boys know what is happening before they go on site. Our health and safety officer and their health and safety officer sign it in front of them so everybody understands each other.

The CHAIR — I am an employee of yours and I go out to a workplace. An assessment has been done of the workplace by people in the host employer's and my company, but I might arrive at that workplace on the first day not having seen it before — —

Mr DAVID — And our supervisor will explain it to you before you start work there.

The CHAIR — Do I as an employee sign off saying I understand what this induction is all about.

Mr DAVID — Yes.

Ms MORAND — On the injury rates and return to work, it must be an industry that has a relatively high injury rate because of the nature of the work, especially sprain and strain sort of injuries. Firstly, do you know what the injury rate is for your employees relative to injury rates generally? Secondly, what sort of support do you provide to injured workers? You said there was an example of one guy you had put on full time but do you support people in their return to work or provide alternative work of a lighter nature when someone is injured? Can you talk to me about that?

Ms EDWARDS — Yes, we have that. Say somebody injures their finger, they can take a week off and we go through the procedures to make sure they are able and fit to come back to work. We have never had any problem — only one major case where we could not place them anywhere.

Ms MORAND — Are they paid any sick leave?

Ms EDWARDS — We pay them two weeks wages. Our insurer pays the rest if they are off for more than a month.

Ms TEAO — They can only return to work based on the clearance of the doctor anyway so our insurance company covers for it. However, we have to have a return-to-work plan every time they are ready to come back to work. Generally it starts off with the light duties, whether it is in the office photocopying, before they go out driving forklifts again.

Ms MORAND — How many employees do you have on your books? You provide workers for 62 companies but how many workers are there?

Ms EDWARDS — I think it is 290.

Ms MORAND — Do they generally work full time?

Ms EDWARDS — No. There are some ongoing — about 70 of them — leading to permanent. We have just had a big increase in numbers because we got a new contract. It used to be about 130.

Ms MORAND — Are they mostly men?

Ms EDWARDS — Women.

Ms MORAND — Some women?

Ms TEAO — Only a few.

Ms EDWARDS — About 20 women — not doing the containers.

Ms MORAND — Would you say that most of the 290 work as many hours as they would like to or would they prefer to work more?

Ms EDWARDS — They would prefer to work more but we cannot supply that.

Ms TEAO — However, we let them all know that it is not ongoing before they start working here and decide this is where they are going to work forever. When we find them they are unemployed and they really want to get into the workplace but they are not given the opportunity. We give them the opportunity to start with us and then branch off from there.

Ms MORAND — Do you have different classifications of pay? What is the lowest pay scale I would start on if I wanted to come and work for you?

Ms EDWARDS — The lowest pay now is \$17.78.

Ms MORAND — Is there an opportunity to get paid more depending on the number of months you have worked there or your skills?

Ms EDWARDS — Yes, but most of them do not stay with us — once they have gained their skills, they are off. We are happy for them because they have a permanent job.

Ms TEAO — A lot of our employees are not with us for very long — the numbers change all the time.

Ms MORAND — And that is because they find full-time work.

Ms TEAO — Yes. We feel that we are here to cover the ones who cannot find a job, and when they do find the right employment they leave us. We are always finding new workers who need to work. Most of our workers come from the unemployed anyway.

Ms MORAND — How do they find you?

Ms TEAO — We find them.

Ms EDWARDS — It is word of mouth.

Mr DAVID — Someone's friends — they ask to bring them in. They tell us they have been looking for work for a month or three months and we tell them to bring them in and we give them a chance. From there, maybe some company we take them to likes them and asks us if they can take them on full time and we give them to them.

Mr PULLEN — You supply labour for loading and unloading containers whether it be by manpower or forklifts. I suppose you would have to put them through some sort of training because if they cannot pick up the cartons and stuff like that, they have no hope — you have to be pretty strong. Am I on the right track there?

Ms TEAO — They definitely have to be trained. We want to keep a good name, and they need the training to be able to gain more contracts for us through word of mouth. Tai handles the training side of things anyway.

Mr PULLEN — Just on the Oxford Cold Storage affair, the enterprise bargaining agreement that the National Union of Workers had with them — \$21.31 an hour and you are paying the award rate — what happens if any of these people are union members? Do you have any union members at all?

Ms TEAO — We understand we do.

Ms EDWARDS — It is just we do not know who they are.

Mr PULLEN — Would they still get the \$17 an hour or do they work on the \$21.31, what would happen?

Ms EDWARDS — We really do not understand that. I am not sure. I think if Oxford hires its own casuals it has to pay that amount.

Ms TEAO — That is our understanding of it.

Ms EDWARDS — But if they come through an agency, we charge them — —

Mr PULLEN — Fair enough.

Mr ATKINSON — I was just interested. When the NUW raised it with us, presumably they also raised the issue with WorkCover. Did you have discussions with the WorkCover people about that web site? Did they visit of your sites or look at any of your OHS practices, or give you an indication of what they thought of your practices?

Ms EDWARDS — Nobody seemed to bring it up because nobody took much notice of it. They have been to our offices to discuss matters with us and make sure we are doing things the right way.

Mr ATKINSON — Is that recently?

Ms EDWARDS — This was last year.

Ms TEAO — We work with someone in the WorkSafe office, his name is Scott Burgess. He has been to Oxford and had a look at that side as well. He makes sure that we understand our obligations. The last time he was with us was May 2003 — that was the last visit we had from WorkSafe anyway. He gave us a lot of information that we did not know about WorkSafe practices and things like that. We did not know how to do the work site inspections without his help. He helped us a lot.

Mr ATKINSON — Presumably you are a relatively new company. How long have you been in business.

Ms EDWARDS — Since 2000.

Mr ATKINSON — Do you have any views as to how government could provide you with that information better or how you could better learn what your obligations are as an employment agency?

Ms EDWARDS — I think it was up to us to learn more about it, and we were not educated enough to look up the information. It was free out there but we did not know where to look. People have now shown us where to look for help if we need help, but it is a bit late now.

Ms TEAO — I guess you could probably put it on Google search so when you type in labour hire it brings that up first. That is what we are using a lot nowadays.

Mr BOWDEN — There is a concept that has been brought forward to us in earlier submissions called hold harmless clauses where in a relationship/contract/understanding between a labour hire company and a host company, the host company wants the labour hire provider to engage in a hold harmless clause. Do any of your 62 clients require your company to enter into a hold harmless understanding with the host company?

Ms EDWARDS — Could you explain what that means?

Mr BOWDEN — It looks like it is not an issue with your company if you are not aware of it. Basically it is where if there is a major accident or a serious occupational health and safety matter arises, then under this contract that may be signed and may be in effect, the labour hire company — the provider — indemnifies the host company from any claims or things like that.

Ms EDWARDS — We have not come across one yet.

Mr BOWDEN — It is called hold harmless. It is not an issue here if you are not that familiar with it.

Ms EDWARDS — Never heard of it before.

Mr BOWDEN — That is not necessarily a bad thing.

Mr PULLEN — You mentioned in your presentation the difficulties of people getting home loans if they are casual. Has this come out quite a lot with you? Can you expand on that?

Ms TEAO — We have had a lot of people try to apply for home loans. The banks call us to see if they can get a reference and as soon as they hear 'casual' — I try to say to them that they are on an ongoing basis where they are not going to lose their job tomorrow and that sort of thing but as soon as you mention the word 'casual' the banks say no straightaway. I cannot really help the fact that they are employed on a casual basis but if they are good and worthy enough to go permanent, they do. That is all we have control of.

Mr PULLEN — And that is only recently?

Ms TEAO — Yes.

The CHAIR — I know time is moving on. You have been generous with your time given that we kept you waiting a while. The Victorian WorkCover Authority applies premiums so you would pay a premium. Can I ask what percentage that premium is?

Ms EDWARDS — I think it is 4 per cent.

The CHAIR — Do you know how that compares with the sites you would have worked at where they used to employ workers themselves?

Ms EDWARDS — I do not know.

The CHAIR — My understanding is WorkCover works on a premium history so after about three years or so if you have had injuries, the premium starts to go up and it stays up because of your history. Are you anticipating that your premium will go up next year? What has your WorkCover history been like in terms of injury rates?

Ms EDWARDS — We have not had any accidents since last year — not major ones, just minor ones like fingers.

Ms TEAO — Our premiums do go up but they do not go up really high. We try to keep our injuries down to a minimum through the training and the return-to-work process, that sort of thing.

The CHAIR — I ask you because it has been put to us a few times by witnesses that one of the attractions of getting a labour hire firm to provide labour is that the host company can relieve itself of a WorkCover problem because they are paying quite high premiums. The attraction for a new labour hire company is that the level of injuries does not reflect itself in a high premium for them for three years or so — until they build up a claims history over three years. I need to test that out. In your case you are saying your premium level is fairly low at 4 per cent.

Ms EDWARDS — I checked on that to find out the percentage.

The CHAIR — Before we talk to WorkCover we might get your permission to let them tell us what the rates are in comparison. Is that all right? Are you happy with that?

Ms EDWARDS — Yes.

The CHAIR — One final question: a number of witnesses have said to us that there is a real problem with labour hire because people are typically employed on a casual basis. The problem can be if I am a casual employee and I raise an issue about safety, my company for whatever reason says it does not want people asking too many questions about safety, labels me a troublemaker and I just do not get any more work. They say that is a real problem for labour hire employees — if they raise safety issues, they run the risk of being dismissed because no explanation needs to be given to them. What is the procedure in your company if you have an employee who says they are not happy about working on a site because they think there is an issue that is unsafe? How is that dealt with?

Mr DAVID — If that happens, I will see the health and safety officer on the site and make an issue of it. If the guy still does not want to work there for some reason, we will change sites. We will take them around and if they are happy on other sites and the work they do there, we will keep them there. If they bring up those issues about they are not happy about this health and safety risk, we will do something about it.

The CHAIR — I imagine when you make something an issue, Tai, people do not argue with you too much, because you have such a magnetic personality is what I was going to say.

Can I put the issue to you in another way. People have said to us this is a problem. I think Job Watch has documented a couple of cases where this happened. We do not know how often it happens but we accept it happens on occasions. Should casual labour hire employees be offered some protection so if they do raise it as a health and safety issue they cannot be dismissed? How do we protect employees or labour hire companies so that when they raise a genuine health and safety issue that is not used against them so they never get any more work, because their company or their host company says, 'I do not want troublemakers like this making life more difficult for me'. Have you any suggestions?

Mr DAVID — That has not happened.

The CHAIR — But other people have said to us that does happen — not with you, but elsewhere.

Ms EDWARDS — If that happens where somebody raises — I think there was one incident where one of the boys said it was not safe there, so we sent Tai to make sure that they were abiding by the occupational health and safety because we have to be sure on that.. It was resolved.

Mr DAVID — We get feedback from our supervisors around four sites, and they just ring me and I come in and talk to the industrial relations company and all that.

The CHAIR — We may have to create a job for Tai with the WorkCover Authority! You have been very good with your time. If there is anything else we need we may get in touch with you informally, just to check some of our answers or if we need further advice. Okay?

Ms TEAO — I will leave my card with you.

Witnesses withdrew.