

Stretching credibility: Independent research versus employer policy objectives in the labour hire industry

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ABSTRACT

This paper reports on an on-going debate between Underhill versus the Recruitment and Consulting Services Association (RCSA) concerning defamatory claims made by the RCSA against Underhill in mid-2004. It explains the nature of the claims, and discusses the problem of pursuing independent academic research in a hostile political environment. In 2002, the Underhill Report (2002) for WorkSafe Victoria analysed workers' compensation claims in Victoria for labour hire employees and direct hire employees from 1994/95-2000/01. The Report concluded that labour hire employees had a higher incidence of workers' compensation claims, and appeared to have more severe injuries than direct hire employees. A number of possible explanations for these differences, based upon international research findings, were provided. In 2004, in the context of the Maxwell Report into the Victorian Occupational Health and Safety Act 1985 and the subsequent revisions to the Act, and the Victorian Parliamentary Enquiry into Labour Hire Employment in Victoria, the RCSA, the employer association representing labour hire employers, went on the offensive. They hired the ACIL-Tasman Institute to critique the methodology of the Underhill Report, and provide a voice for their own view that labour hire employees were no more likely to be injured at work than direct hire employees.

With the ACIL-Tasman Report (2004) in hand, the RCSA then issued a national press release raising five criticisms of the methodology employed in the Underhill Report, and accusing Underhill of reporting "her findings in a biased way. She claims that on-hired employees are at greater risk of workforce injury or illness than other workers, but her own figures disprove this claim". At this point, the argument about research methodology turned into a legal argument about defamation. A letter was issued by Underhill's solicitor to a number of parties, including the RCSA, accusing them of making highly defamatory and false accusations in their media release and the ACIL-Tasman Report supporting their press release. Several months later, the RCSA's legal representatives responded with a denial of the defamation and an offer to publish Underhill's response to the ACIL-Tasman report subject to the right of the RCSA "to make a fair comment reply itself". This offer has not been taken up.

The RCSA is not a stranger to the concept of unethical behaviour. The behaviour of their members towards one another led to the ACCC providing interim approval to a RCSA Code for Professional Practice, which includes: "Ethical behaviour is not simply compliance with legal requirements, it extends to honest, equity, integrity and social responsibility in all dealings. It is behaviour that holds up to disclosure and to public scrutiny." Yet the RCSA publicly endorsed and promoted a report which they knew to include false statements, because it offered them support in their arguments against the introduction of regulation of employment in an industry where employees are disadvantaged relative to traditional, direct hire, employees in most respects.

The paper concludes with a discussion of the difficulties confronting academics pursuing independent research in an environment where extremely well-funded conservative think-tanks are willing to lend their support to conservative arguments, irrespective of the objective merits of their case.

References

- Underhill, E. (2002) *Extending Knowledge on Occupational Health and Safety and Labour Hire Employment*, WorkSafe Victoria, Melbourne.
- ACIL-Tasman (2004) *Occupational health and safety in On-hire employee services: a review of Extending Knowledge on Occupational Health and Safety and Labour Hire Employment prepared for WorkSafe Victoria*, Prepared for the Recruitment and Consulting Services Association, Melbourne.

