

The importance of having a say: Labour hire employees' workplace voice

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ABSTRACT

Labour hire employment is an increasingly important segment of the labour market. The conditions under which labour hire employees work, however, appears especially degraded relative to direct hire employees. This paper explores the extent to which labour hire employees' ability to effectively voice concerns about workplace issues is associated with degraded employment outcomes. The analysis draws upon a survey and focus groups of labour hire employees in Victoria, and identifies a number of constraints upon the effective exercise of voice: discrimination and harassment, threat of job loss, and the failure of host employees to support labour hire employees. The outcomes on a number of workplace issues, beyond regulatory minimums, are then assessed. Whilst labour hire employers have primary responsibility for the employment conditions of their employees, the host is also identified as playing a critical role.

Introduction

The rapid expansion of labour hire employment in Australia is contributing to growing concerns about the impact of this form of engagement upon employment conditions. Two state governments have initiated enquiries into labour hire employment (Labour Hire Task Force, 2001; Economic Development Committee, 2004) and union campaigns to convert casual employees to permanent employment are intended to capture the interests of labour hire employees, most of whom are casual. This paper focuses upon one aspect of labour hire employment, the ability of labour hire employees to effectively voice concerns over working conditions and safety at the workplace. Drawing upon a survey and focus groups of labour hire employees, the paper examines the extent to which voice has been exercised, the mechanisms for undermining employee voice, and the differing employment outcomes for those able to express concerns about their employment conditions.

The paper begins with a brief explanation of the operation of labour hire agencies in Victoria, and the research methodology, including demographic and employment characteristics of the respondents to the survey and focus groups. The options for exercising voice are outlined, and the experience of labour hire employees using these processes is discussed. A comparison is then drawn on non-regulated employment conditions amongst those with an effective voice at the workplace compared to those without. Most participants in this study were union members - not by itself sufficient to guarantee voice when managements' freedom to hire and fire is so strong.

Labour hire operations in Victoria

Labour hire employment has expanded rapidly in Australia since the early 1990s (Burgess, Rasmussen, and Connell, 2004). The proportion of agency workers in workplaces with twenty or more employees doubled from 1989 to 1995 (Wooden, 1999), and anecdotal evidence suggests more rapid growth in the second half of the 1990s. By 2000, the number of agency workers was estimated to be just over 2% of the workforce (Austats, 2000). The majority of temporary agency workers are female clerical workers (Australian Bureau of Statistics, 2001), but the recent expansion has been driven by the growth in blue-collar, low skill, male dominated occupations (Underhill, 2002). The majority (80%) of labour hire workers are hired as casual employees, with only 20% employed on a permanent basis (Austats, 2000). Some agency workers are hired as independent contractors but data on the prevalence of these workers is not collected. The latter are hired as quasi self-employed and are not entitled to statutory employment protections. Anecdotal evidence suggests such arrangements are least common in Victoria, the location of this study.

Labour hire operations have evolved to take several forms. Underpinning each is a high level of competition between agency firms, conducted primarily on the basis of price (Underhill, 1999). First is the supply of short term placements (Austats, 2004). These placements reflect the more conventional concept of 'temping', or filling very short term vacancies with on-call casual employees of the labour hire company. The supply of seasonal workers, especially in agriculture and food processing, is a growing variation on this arrangement. These placements can last several months, and in rural areas, often involve the casual re-hiring of locals on an annual basis. Here, the workers supplement the direct hire workforce of the host for a limited time. Second, a significant proportion of labour hire growth is due to the outsourcing of specific functions, such as maintenance operations, to labour hire companies. The labour hire company may re-employ the host's workforce, but will generally employ fewer workers and hire them, at least initially, as casual employees (Underhill, 1999). Regular working hours appear common, but employment status remains primarily casual. Third, labour hire companies may supply a substantial proportion of a host's workforce for an extended time. Focus group participants in this study provided several examples of this kind of operation. In one major retail distribution centre, for example, approximately 25% of the workforce is employed by the retailer, and the remaining 75% are employed by two labour hire companies. The retailer's workforce is hired predominantly as permanent employees and the labour hire companies' workforces are hired on a casual basis. A similar practice was identified in a call centre, where the majority of the workforce was supplied through two labour hire companies with a small core of permanent direct hire workers, most of whom had worked at the centre prior to outsourcing by the host. The major task distinctions in both examples were one of degree. The direct hire permanent employees had more task variety, more regular shifts, and were more likely to be paid at a higher job classification. Fourth, some labour hire companies supply the entire workforce for the host. In meat processing, for example, labour hire companies increasingly supply the host's former workforce as casual employees under new, usually poorer, employment arrangements (for example, see *Australian Meat Industry Employees' Union v. Belandra Pty. Ltd. (2003) FCA 910*). Fifth, a small number of labour hire firms own and operate their own workshops and call centres, displacing the role of the host and taking on the role of more traditional employers. The likelihood of permanent employment seems greatest under this last arrangement, but is probably not universal.

The ability of workers to exercise voice on workplace issues will be affected by the nature of these operations in several ways. First, on-call and casual employees, a common feature of each of these operations, are difficult to recruit into unions and are vulnerable to employment termination should they voice their concerns (Pocock, Buchanan, and Campbell, 2004). Second, workers employed in the more traditional 'temping' roles would be expected to have the most individualised employment experience, and the least bargaining power beyond that related to specialist skills. Seasonal workers, on the other hand, may be numerically strong but relatively transient and less concerned about employment conditions attached to a specific employer. Third, workers employed in outsourced arrangements will have relatively little contact, if any, with their fellow employees beyond those placed at their host workplace. This limits their ability to collectively raise concerns with their employer. To redress problems arising at the workplace, they need the support of host direct employees (Heery, 2004). This can be problematic when breaches occur between the direct employees and labour hire workers, especially when the latter are seen as a threat to the direct hires' employment. The capacity of workers to raise concerns appears strongest in the fourth type of operation, when labour hire workers are a significant proportion or the entire workforce. Their casual employment status here, however, is likely to undermine their potential exercise of voice. Union strategies to regulate labour hire employment through enterprise agreements negotiated with labour hire employers should, in principal, offer a channel for labour hire employees to voice their concerns. In practice, however, enterprise agreements appear relatively standardised (Underhill, 2004) and job insecurity undermines the operation of grievance procedures and union representation on a day-to-day basis (see below). The union strategy of converting casual employees to permanent status may counter this constraint (Campbell, 2004), however the labour hire sector has yet to be challenged by this approach.

Methodology

Researching the employment experience of labour hire employees is difficult. Like other itinerant workers, they are difficult to access (Quinlan, Mayhew and Bohle, 2001), are mobile and scattered amongst many workplaces, whilst low barriers to entry contribute to a large number of relatively small operations with high turnover. Notwithstanding two state government enquiries into labour hire employment, no government has yet sponsored research on the employment experience of labour hire employees, preferring instead to rely on the submissions of interested parties for empirical evidence. Only one other survey of labour hire employees has been conducted in Australia. The Recruitment and Consulting Services Association, the employer association representing labour hire employers commissioned research in 2003 (Brennan, Valos and Hindle, 2003). That survey of employees included those with experience of working for labour hire, and those who had registered with but not yet received a placement with a labour hire company. Unfortunately the study rarely distinguishes between the two groups (although the latter appear to make up just under 50% of responses), limiting the usefulness of their analysis. The data upon which this paper is based was collected with the support of the Victorian Trades Hall Council, and drawn upon for their submission to the Victorian government enquiry into labour hire employment. Focus groups and a survey of temporary agency workers were undertaken in Victoria in 2003. The survey identified common work experiences among agency workers, whilst comments from focus group participants provided a richer understanding of how their employment impacts upon their work experience and beyond. Five focus groups were held, four in Melbourne and one in a regional centre. Attendance at focus groups was organised through trade unions, and all attendees except call centre workers were union members. Thirty-eight people attended, the majority of whom worked for labour hire companies. The other attendees were union organisers with substantial experience responding to concerns of labour hire employees and organising host work sites where labour hire employees are placed. All attendees were assured of confidentiality, and the proceedings were taped. Each focus group lasted approximately 1½ hours. The industry sectors represented were call centres, construction, local government, manufacturing maintenance, meat processing and warehouse distribution.

The gender distribution of focus group participants was skewed towards males, with only four female attendees. Persistent attempts to conduct a focus group of female process workers, an increasingly important segment of labour hire workers' compensation claims (Underhill, 2002), were unsuccessful allegedly due to these workers' fears of discrimination should they attend. The self-selection process inevitable in voluntary participation in focus groups held outside working hours means that those who attended held strong, predominantly negative, views about their labour hire experience.

The self-administered questionnaire for labour hire employees was developed based upon findings of previous research, the findings from an analysis of individual workers' compensation files of agency workers (Underhill, forthcoming), and consultation with union officials. The questionnaire was pilot tested with ten union organisers and officials responsible for labour hire employees. Questionnaires were distributed at workplaces by union organisers, and most were returned anonymously via pre-paid postage to the Victorian Trades Hall Council. A small number were returned directly to union organisers. Whilst 1000 surveys were printed, the number distributed remains indeterminate due to the distribution method. One hundred and forty-seven (147) surveys were returned by agency workers.

The data collection method skews the data in three important respects. First, respondents were more likely to be working in a unionised host workplace (indeed, 82% of respondents were union members). They are thus more likely to be employed under regulated employment conditions, and more informed of their employment entitlements compared to non-union members. Their responses should reflect a better working environment than that experienced by the majority of labour hire employees who are non-union members. Responses were least likely from highly itinerant agency workers. Second, industries and sectors with low levels of unionisation, such as clerical workers and the hospitality industry, both of which draw heavily upon agency workers, were excluded because of reliance upon unions for the distribution of the survey. Call centre workers were the exception to both of these qualifications. Third, the survey was not a random sample, and is likely to have drawn more responses from workers with an antipathy towards temporary agency employment. Hence, counter-balancing factors are at play.

On the one hand, responses come from workers whose minimum standards should be broader and better enforced than non-union agency workers. On the other hand, their views may reflect a negative attitude towards agency employment. Survey data was analysed using SPSS version 11 for Windows.

The industry location and occupation of survey respondents is given in Table 1 and reflects the union coverage associated with the distribution of the survey. Organisers in industries and sectors with either an established labour hire presence, or a rapidly emerging level of labour hire engagement were most likely to encourage participation in the survey.

TABLE 1
Industry and Occupational Distribution of Survey Responses (n=147)

Industry	Responses (%)	Occupation	Responses (%)
Call centre	5%	Customer Service	6%
Construction	16%	Labourer	11%
Food processing	14%	Maintenance (2)	5%
Health	14%	Nursing	12%
Local government	7%	Office worker	3%
Manufacturing	24%	Process worker	5%
Manufact. & construct (1)	6%	Storeperson	2%
Other	12%	Tradesperson	50%
Not stated	2%	Other	6%
Total	100%	Total	100%

(1) 'manufacturing & construction' was established due to the number of responses indicating this combination

(2) respondents who indicated Maintenance and Tradesperson have been categorised as Tradesperson.

Almost half the respondents work in manufacturing or construction, including a small proportion that moves between these two industries according to placements. Food processing, a major growth area for labour hire employees, is the third largest industry grouping alongside the more traditional nurse agency workers in the health sector. Like industry distribution, the occupational distribution also reflects the membership coverage of the unions most actively encouraging survey responses. Just under three-quarters (73%) of respondents are in blue collar, manual occupations. The gender distribution of responses reflects this occupational distribution. Only 24% of responses came from females, and half of these were nurses.

Survey respondents had substantial experience working through labour hire agencies. The average time employed as a labour hire worker was 4 years 3 months (median 3 years, 6 months after removing outliers), varying from a minimum of one week through to 30 years. Respondents received work through an average of 2.3 agencies in the previous 12 months (median 1, 1.7 after removing outliers). The average time of placement was 38 weeks (after removing outliers), with a minimum of 1 day and a maximum of 9 years. The placement time varied according to the reasons why the employee became a labour hire employee. Table 2 gives the distribution of placement times for all respondents, and disaggregated by reason for becoming an agency worker.

TABLE 2
Average time of placement and reason for becoming a labour hire worker

Average time of placement	All responses (n=147)	Lack of direct employment (n=53)	Position outsourced (n=25)	Prefer flexibility (n=24)
Less than 1 week	17%	6%	4%	54%
1 week < 1 month	6%	6%	-	8%
1 month < 6 months	35%	43%	36%	21%
6 months < 12 months	14%	17%	8%	13%
12 months or more	28%	28%	52%	4%
Total	100%	100%	100%	100%

Those working for an agency because their permanent position was outsourced are most likely to have experienced a single placement for the previous 12 months, with more than half working for the same host for 12 months or more. Those preferring the flexibility of agency work (primarily nurses) are more likely to have very short placements, and several placements each week. Those employed in labour hire because of the lack of direct employment options appear to have the most regular churning of placements, with less than one-third having average placements of more than 12 months.

Capacity to raise issues at the workplace

Workplace concerns can be raised through union representation in ad-hoc negotiations, grievance processes, or enterprise bargaining. They can also be voiced through individual workers raising issues directly with management. Most survey respondents (82%) were union members, and just over half were employed under union negotiated enterprise agreements. This suggests, *prima facie*, a level of acceptance by labour hire employers of union representation. Yet a minority of survey respondents indicated they had been discriminated against or harassed for joining a union or being a union or OHS representative. A majority had not. The results are given in Table 3.

TABLE 3

Labour hire employment and discrimination & harassment

Grounds for discrimination	Yes	No	Not Applicable	Total
Talk of joining a union (n=138)	17%	67%	16%	100%
Being a union member (n=142)	20%	70%	10%	100%
Being a union delegate (n=142)	13%	48%	39%	100%
Being an OHS rep (n=136)	10%	44%	46%	100%

Focus group participants highlighted discrimination and lack of voice as a major impediment to improving employment conditions. Discrimination typically took the form of no further placements offered (pseudo dismissal), or being moved overnight to another host too geographically removed for the placement to be practical. Comments included:

‘No OHS rep because they don’t get a job when contract renewed’

‘We haven’t got many OHS reps, just as we haven’t got many stewards – the minute you raise an issue, they move you out.’

A union organiser commented on the difficulties of representing labour hire workers:

‘they want to remain anonymous, actually afraid even to talk to me...we get our phone calls from labour hire employees after hours, it’s not during work hours...a lot use direct debit for union dues because they don’t even want the company to know...when you go out there they specifically say to you “don’t mention my name”’

When workers raised concerns about workplace conditions or safety, a similar pattern of employer responses was evident. Whilst just over half of the survey respondents had raised a concern, the outcomes were often unsatisfactory (see Table 4). Problems were fixed in 55% of cases, but one in four problems remained, and the risk of losing a placement or job arose in 17% of cases.

TABLE 4

Outcome of raising a concern about working conditions or safety at the workplace

Outcome	Proportion of those who raised a concern (%)
Problem fixed	55%
Problem ignored	26%
Sometimes fixed & sometimes ignored	2%
Placement terminated	7%
No further work offered by the agency	6%
Placement terminated & no further offer	4%
Total (n=82)	100%

Survey respondents who had not raised any concerns about working conditions or safety were asked why they had not done so. The results are given in Table 5. The majority (63%) were either satisfied with conditions or not aware of any problems needing attention. However, fear of job loss was an important impediment to workers exercising voice. One-third of the 'silent' workers identified this reason. Focus group participants explained how problems tend to go unresolved as hosts and labour hire employers passed-the-buck between each other, with neither taking responsibility. Responses included:

'...it's not my problem it's their's...'

'...we always get the ping-pong ball...'

'...the labour hire company says it was the host's decision, the host says it's got nothing to do with us...'

TABLE 5

Reason for not raising a concern about working conditions or safety at the workplace

<i>Reason</i>	<i>Proportion of those who had not raised a concern (%)</i>
Satisfied with condition / safety	37%
Unaware of problems / issues	26%
Fear of job loss	34%
Because nothing will be done	3%
Total (n=76)	100%

The ability to draw upon the support of direct hire employees at the host workplace provides another avenue for voicing concerns about workplace issues. However, focus group participants and survey respondents (open-ended question) commented upon the lack of support they receive from host employees, as follows:

'No confidence in permanently employed OHS reps or union delegates...lack of workplace democracy for casual workers and no representation...casual workers need to be organised to elect their own representatives on large shutdown maintenance jobs, eg. Power industry, pulp & paper...'

'The main problem is labour hire is treated by fellow union members as being scum and consequently we do not get support from the host employee. I don't blame them, because they fear us, as we are about to take their jobs.'

'Labour hire employees are outcast from in-house and let known regularly. There is no boss to back you up in a dispute (with the host) and so most labour hire people feel vulnerable and intimidated and so keep quiet about conditions and safety.'

The perceived threat to host employees' employment, and the tendency for direct hire employees to take advantage of the vulnerability of labour hire employees, such as giving them the worst or most dangerous jobs, appears to underpin the lack of cohesiveness amongst direct hire and labour hire employees working at the same workplace. This is reflected further in the extent to which labour hire employees do not feel integrated into the host workplace. Forty-one percent of survey respondents said they often or always felt like an outsider at the host's workplace. Of those who worked in labour hire because their job had been outsourced, 37% often or always felt this way, whilst another 37% said this was sometimes the case, notwithstanding 60% of this group had been employed at the one workplace for more than 6 months. The attitude of host employers towards labour hire employees promotes and legitimises the hostility shown by some host employees towards their labour hire fellow workers. Arguably a divide and rule strategy has been remarkably effective in reducing the potential bargaining power of labour hire workers.

Impact of lack of voice on employment outcomes

A comparison between the wage and employment conditions of labour hire employees and direct hire employees is not explored in this paper. Instead, the focus is upon whether labour

hire employees constrained from exercising voice are employed under poorer conditions than those who are not similarly constrained. Table 6 compares the outcomes for a number of issues which have a direct impact upon employment conditions, pay, control over working hours, and health and safety outcomes for labour hire employees. The data is limited to issues where the on-going exercise of management discretion by the host or the labour hire company determines the outcomes. A comparison of outcomes associated with forms of employment regulation would provide a fuller picture of working conditions and pay, but this is not possible within the scope of this paper. It should also be recalled that the majority of respondents are union members, preventing a comparison of outcomes based upon union membership. The comparison is drawn between those who raised a concern and had the problem fixed, and those who raised a concern which was not fixed or whose employment was terminated for raising the issue.

Table 6 shows that those with a voice at the workplace are relatively advantaged across a range of employment issues. First, they are more likely to receive a placement for which their qualifications and experience are necessary and relevant, and to not be paid a lower hourly rate when they accept a placement involving lesser skilled jobs. Second, their placements potentially offer better health and safety outcomes. They are more likely to receive OHS information from the labour hire company and/or the host, and feel they can refuse unsafe tasks. Third, they have more control over their work time, expressed as having a say in when they work. Fourth, they are more likely to feel a part of the workplace where they are placed. They are much less likely to feel like an outsider, and much more likely to experience working for a host who provides them with as much support as their direct hire employees.

TABLE 6
Employment experience and effective voice on workplace conditions or safety

<i>Employment experience</i>	<i>Frequency of experience</i>			
	<i>Never / rarely</i>	<i>Some-times</i>	<i>Often / Always</i>	<i>Total</i>
<i>Those with an effective voice (a)</i>				
Qualifications unnecessary for placement (41)	44%	44%	12%	100%
Experience irrelevant to placement (41)	46%	42%	12%	100%
Same rate of pay for placements involving lower skilled jobs (39)	36%	10%	54%	100%
OHS information from labour hire company (41)	29%	17%	54%	100%
OHS information from host (41)	12%	27%	61%	100%
Able to refuse unsafe tasks (40)	10%	25%	65%	100%
No say when I work (42)	52%	19%	29%	100%
Feeling like an outsider at the host workplace (40)	40%	37%	23%	100%
Host provides as much support to me as to direct hire (eg. discrimination, unfair treatment) (39)	18%	18%	64%	100%
<i>Those with no effective voice (b)</i>				
Qualifications unnecessary for placement (37)	32%	43%	24%	100%
Experience irrelevant to placement (37)	35%	43%	22%	100%
Same rate of pay for placements involving lower skilled jobs (37)	51%	14%	35%	100%
OHS information from labour hire company (37)	65%	22%	13%	100%
OHS information from host (36)	36%	42%	22%	100%
Able to refuse unsafe tasks (36)	31%	39%	30%	100%
No say when I work (37)	41%	13%	46%	100%
Feeling like an outsider at the host workplace (40)	19%	25%	56%	100%
Host provides as much support to me as to direct hire (eg. discrimination, unfair treatment) (36)	58%	17%	26%	100%

(1) defined as those who raised a concern and the problem was fixed.

(2) defined as those who raised a concern and the problem as not fixed, or their employment was terminated.

These better outcomes were also associated with higher levels of satisfaction with working under labour hire arrangements. Fifty-six percent of workers with voice were satisfied (42%) or very satisfied (14%) with their employment arrangements. A stark 80% of those without voice were either not satisfied (31%) or very dissatisfied (49%) working under labour hire arrangements.

Conclusion

This paper has explored the constraints upon labour hire employees exercising voice at the workplace, and identified better employment outcomes for those with a capacity to exercise voice. Notwithstanding the high level of union membership amongst survey respondents and focus group attendees, a substantial proportion indicated their jobs were at risk should they raise concerns about working conditions or safety at the workplace. Just under 20% of those surveyed who had raised concerns at work had subsequently lost their employment. Their ability to draw upon the collective strength of the host workforce to assist with resolving their concerns is similarly constrained. Host employees feel threatened by labour hire workers, and react against the presence of labour hire employees at an individual level. Rather than viewing labour hire workers as more vulnerable and in need of support, they take advantage of that vulnerability. The practices of the host employer towards labour hire employees appear to contribute to this outcome. When hosts treat labour hire employees more fairly, including responding to employment concerns, employees are more likely to be integrated into the workplace. Further research on the attitudes of host employees would enable a better understanding of the interaction of these forces. Another issue requiring further exploration is why some labour hire employees are better able to exercise voice than others. Is it because some labour hire companies and hosts adopt a more democratic approach to managing employees, or is it because those employees with voice are supported by a more active union? Finally, this paper draws upon the views and experience of primarily unionised labour hire employees. These workers would be expected to experience fewer workplace problems and be less marginalised than the majority of labour hire employees who are both non-unionised and casual employees. What then must be the experience of those working beyond the realm of union contact?

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