

Dissenting Report– Inquiry into the Extent, Nature and Consequence of Insecure Work in the ACT

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In relation to the Inquiry into the Extent, Nature and Consequence of Insecure Work in the ACT we wish to provide dissenting comments in relation to the Inquiry.

Our comments reflect the content of a number of submissions received by the Committee and reiterates concerns and evidence presented by witnesses that was omitted in the initial draft Chairs Report.

We acknowledge that there are a range of Federal and Territory laws that currently govern employment in the ACT. These include but are not limited to the Fair Work Act 2009 (Cth), State based Health and Safety and workers compensation laws, Federal and State anti-discrimination laws, superannuation and taxation laws.

We believe that strong consideration must be given to national reform measures currently being undertaken by the Commonwealth Government as well as existing protections through Fair work legislation and other legislation and regulations before any changes are made to Territory laws.

Further, we submit that no formal evidence was presented to the Committee with regards to sham contracting or unscrupulous practices relating to Labour Hire occurring in the ACT at the present time.

We offer the following recommendations for consideration by the ACT Government:

Recommendation 1

The Committee recommends that the ACT Government not make any changes to Territory laws that would be inconsistent with the Fair Work Act 2009 (Cth) or any other Commonwealth Workplace legislation.

Recommendation 2

The Committee recommends that the ACT Government acknowledge that in 2010 the ACT along with all other Australian states, with the exception of Western Australia, referred workplace relation's powers to the Commonwealth, through the introduction of the Fair Work Act 2009 (Cth), with the intent to create a more uniform and simple workplace relations system.

Recommendation 3

The Committee recommends that the ACT Government takes reasonable steps to measure the potential impact of additional regulatory burden on business when seeking to introduce legislation and or regulations with respect to labour hire or independent contracting arrangements.

Recommendation 4

The Committee recommends that the ACT Government continue to advocate through Council of Australian Governments (COAG) processes for the continuation of work on a national adoption of a labour hire licensing scheme that would provide consistency between states and Territories.

Recommendation 5

The Committee recommends that the ACT Government acknowledge that temporary work and casual work is an important and effective strategy for people with disability and other marginalised groups to enter the workforce, gain experience and progress to permanent employment ¹

Recommendation 6

The Committee recommends that the ACT Government acknowledge the benefits of utilising the labour hire industry to employ personnel in the ACTPS and that the labour hire industry is used currently to fill positions in ACT Government agencies such as Access Canberra.

Recommendation 7

The Committee recommends that the ACT Government acknowledge that labour hire arrangements are a valuable form of access to work for people with a disability, carers, seniors, former Australian Defence Force personnel and their supporting family members. ²

Recommendation 8

The Committee recommends that the ACT Government acknowledge that the labour hire industry in the ACT is comprised predominantly of legitimate operators adhering to laws and regulations pertinent to their business. ³

Recommendation 9

The Committee recommends that the ACT Government acknowledge that apprenticeships have historically been viewed as a secure method of employing and training young people and other vulnerable workers. ⁴

¹ Submission No 5 – Enable Employment

² Submission No 5- Enabled Employment

³ Submission No 5 – Enabled Employment

⁴ Submission No 6 – 1300 Apprentice

Recommendation 10

The Committee recommends that the ACT Government acknowledge that employed Apprentices receive a high level of employment protection via the relevant modern Award and the *Fair Work Act 2009*.⁵

Recommendation 11

The Committee recommends that the ACT Government not impose any further regulations on Group Training Organisations in the ACT.

Recommendation 12

The Committee recommends that the ACT Government acknowledge that Labour hire companies provide a critical temporary work force to meet fluctuations in workload which are evident in many industries, including ACT Government projects, tourism and construction.⁶

Recommendation 13

The Committee recommends that the ACT Government not undermine the value or importance of casual employment to the ACT economy.

Recommendation 14

The Committee recommends that the ACT Government acknowledge that there is no evidence to suggest that operators of labour hire businesses or those using independent contractors in the ACT do so to avoid their workplace and statutory obligations.⁷

Recommendation 15

The Committee recommends that the ACT Government acknowledge that the use of Labour Hire enhances the ability of ACT businesses to adapt their workplaces to a rapidly changing technological and economic environment, and ensure they can attract, maintain and support the skilled workers they will rely on in the future.⁸

⁵ Submission No 10 – Master Builders Association

⁶ Submission No 10 Master Builders Association

⁷ Submission No 11 – Canberra Business Chamber

⁸ Submission No 16 – ApSCO

Recommendation 16

The Committee recommends that the ACT Government ensure that tendering and procurement practices in place for Government contracts encourage best practice in the supply of contracting and workforce services whilst ensuring value for money at every level.⁹

Recommendation 17

The Committee recommends that the ACT Government acknowledge that any additional regulation of group training providers would lead to higher costs for host employers and potentially increase barriers to the employment of apprentices, trainees and graduates.¹⁰

Recommendation 18

The Committee recommends that the ACT Government advocate for greater resources for the Fair Work Ombudsman (FWO) to investigate and prosecute illegitimate labour hire businesses that are breaking the law as a national priority.¹¹

Recommendation 19

The Committee recommends that the ACT Government acknowledge that with regards to migrant workers, the *Fair Work Act 2009* and awards apply to overseas workers working in Australia. In addition, the rights of working visa holders are protected by the *Migration Act 1958* (Migration Act).¹²

⁹ Submission No 20 – Recruitment and Consulting Services Association “The ACT Government’s recent slashing of margins for on-hire firms supplying contractors to the ACT government is just one example of price-down procurement that encourages poor practices and cutting corners” page 3

¹⁰ Submission No 22 – Ai Group

¹¹ Submission No 22 – Ai Group

¹² Submission No 22 – Ai Group