



Pic: Getty Images

TRY BEFORE YOU BUY

The steady increase in Australians undertaking contract and other shorter term work has prompted the House of Representatives Employment Committee to investigate labour hire and independent contracting. With submissions to the inquiry expressing a variety of views on the subject, Dr Richard Hall gives his perspective on the issues.

LABOUR HIRE—known as temporary agency work in most parts of the world—has recently become a focus of increasing attention for governments, policy-makers, academics and commentators.

The reasons are simple: the incidence of agency work as a form of employment has been increasing at a significant rate in Australia and other western economies; the labour hire industry itself has grown

to the extent that one global agency giant now claims to be the world's biggest employer; and there is mounting evidence from workers that conditions of work and employment offered through agencies can often be substandard.

Labour hire workers appear to receive less training, fewer opportunities for workplace participation, poorer career paths and, according to some studies, lower pay than traditional, direct employees. Labour

hire workers are also more likely to miss out on many of the benefits and entitlements enjoyed by direct employees—leave entitlements and various allowances and benefits. Some studies have also suggested that labour hire workers are exposed to greater occupational health and safety risks. On the other hand proponents of the industry point to the greater efficiencies that labour hire companies can offer employers and the greater flexibility and variety that labour hire arrangements can offer workers. Regulating labour hire arrangements and the labour hire industry is now a major policy issue for governments in Australia and around the world.

Under labour hire working arrangements workers are on-hired by an agency to a client firm or organisation which pays contract fees to the agency for the labour provided. The worker typically works at the premises of the client firm, under the day-to-day direction of the management of the client firm, but is paid by the agency. Labour hire is not new. For many decades Australia has had 'temping agencies' that traditionally specialised in supplying temporary clerical and administrative staff to workplaces that needed to fill temporary, short-term gaps caused by staff absences or short-term peaks of activity. What is new in Australia is the spread and growth of labour hire.

While reliable data on the incidence of labour hire in Australia has only recently become available, it appears that the number of workers employed through labour hire has been growing strongly in recent years. The first Australian Bureau of Statistics (ABS) survey to accurately capture the number of labour hire workers, conducted in 1998, estimated 84,000 labour hire workers. By the time of the next survey in 2001, that estimate had almost doubled to 162,000 representing about 2.2% of all employees. A more recent survey of agencies suggested that over 290,000 workers were employed through labour hire. If labour hire represents around 3% of employment in Australia, this places us towards the top of any international 'league table' measuring its popularity.

The industry in Australia is large, growing, highly competitive and, apparently, very profitable. By 2002 the 'employment services industry', of which labour hire is the major component, included over 2,700 operators generating income of over \$10 billion, amounting to 1.3% of GDP. In mid-2002 the ABS estimated that the industry made over 3.3 million temporary or contract placements in the previous 12 months—an increase of over a third in just three years. In that same period client income to the industry increased by almost 35%.

In contrast to the origins of the industry, labour hire workers can now be found in all parts of the economy—utilities, communication services, mining, manufacturing, finance and insurance, property and business services all report above average utilisation of labour hire workers. Similarly, while the bulk of labour hire workers are intermediate clerical and service workers, labourers and trades workers, over a fifth of all labour hire workers are professionals or associate professionals.

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So why has labour hire been growing so strongly? While debate rages as to the relative influence of employer demand and employee preference for these arrangements, on balance employers' desire for flexibility is likely to be the key driver. The search for flexibility has characterised the employment policies and practices of many Australian employers since the mid-1980s. Australian workplaces have downsized overall staff numbers, de-layered levels of management and moved to lean staffing profiles with a minimum number of permanent employees complemented by increasing numbers of casual, contract, temporary and now labour hire workers.

The appeal of labour hire arrangements for employers is easy to understand. 'Filling temporary staff vacancies' is always noted as a motivation for using labour hire by employers and labour hire firms alike. This is, of course, the classic temping model and agencies can often quickly supply competent staff to plug gaps in staffing. However, part of the reason for the growth in the use of labour hire has been the increasing tendency for employers to exploit the flexibility afforded by labour hire in other circumstances.

Many agencies can supply staff covering virtually all occupations and professions, and where an employer wants to fill a potentially longer-term vacancy they can use a labour hire worker to effectively 'try before they buy'. Client firms can specify the kind of worker they are seeking, evaluate their performance in the role for any period of time and even seek alternative workers from the same or another agency until they find a worker to whom they might be prepared to offer direct employment.

Alternatively, as has been seen in the case of maintenance workers in manufacturing, employers might choose to rely on labour hire for the ongoing provision of staff in particular areas of their organisation. Thus, rather than directly and permanently employing trades workers to undertake maintenance in a factory, for example, many employers choose to use labour hire as and when needed.

Labour hire is also seen as cost effective by many employers. While the direct wage costs represented by the fees paid to the agency will normally be higher than the wage or salary directly paid to an equivalent employee, employers can save on recruitment, selection, induction and training and development costs, as well as the benefits and entitlements that accrue to direct employees such as leave entitlements, superannuation and workers' compensation. Many employers also report that labour hire is administratively convenient. In addition to avoiding extensive recruitment and selection processes, using labour hire workers reduces the burden of payroll administration, managing benefits and entitlements and, to some degree, managing the performance of those workers.

In one sense, then, labour hire provides employers with an opportunity to divest themselves of many of the traditional burdens associated with actually managing their workforce. In fact, 'professional employee organisations', as they are known in the US, are emerging in the market, offering to take over all aspects of the personnel management of all or some of a client organisation's workforce.

Labour hire can also provide employers with certain cash flow and other financial benefits by allowing them to move some of their fixed employment costs to service invoices. This tactic of using labour hire instead of direct employment can also form part of a company's employment risk strategy. An employer's exposure to liability for accrued benefits, occupational health and safety and risk of unfair dismissal can all be reduced.

For all the benefits available to employers in using labour hire, it is also the case that at least some workers prefer labour hire work, or are at least satisfied with this form of employment. The flexibility and diversity of agency work can be appealing to some workers, particularly young workers and those re-entering the labour market. Professionals with in-demand skills can also use agency work as a way of vetting potential permanent employers, although this is evidently more often the exception than the rule.

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The question remains whether the much-vaunted 'flexibility' that allegedly characterises labour hire work is flexibility for the employer or flexibility for the worker. The reality is that most workers are not given the option of being either directly employed or engaged through labour hire. The freedom to choose in the case of the successful job applicant for a labour hire position is generally restricted to the freedom 'to take it or leave it'.

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Similarly, in the case of the supposed flexibility of when and where to work, agency workers soon discover that that freedom is severely limited. Few employers are prepared to offer agency workers the option of deciding the hours of work, the timing of those hours and the days on which they would prefer to work. More realistically, employers want labour to be supplied for specified periods and shifts, and agencies simply look for workers 'on their books' who are available and prepared to work under those conditions. The flexibility afforded by labour hire is largely flexibility as defined by the employer rather than the employee.

Research into labour hire in Australia also indicates that agency workers tend to endure worse conditions of employment than direct employees. They tend to receive less training, have less developed career paths, report much higher levels of job insecurity, have little involvement in workplace decision-making, have access to fewer benefits and entitlements, and, in some cases, receive lower pay. In many cases these workers are working alongside direct employees and are undertaking exactly the same work but under inferior conditions. The apparent unfairness of these arrangements is surely a cause for concern for policy-makers.

For all the talk in the industry of the great opportunities offered by agency work and the preference of many workers to work in this new, modern way, the fact remains that, according to a 2003 RMIT survey of agency workers, two-thirds stated that, if given the choice, they would prefer to be employed directly by an employer than as a labour hire worker through an agency.

Even if we decide that the costs to individual workers who have little option but to take labour hire work are outweighed by the advantages to employers in having flexible, easily disposable labour 'on tap', there are other considerations concerning the effects of labour hire that need to be borne in mind.

As noted above, labour hire arrangements are associated with lower levels of training. At a time when skill shortages are emerging as a key policy problem, the proliferation of labour hire represents a further serious threat to Australia's eroding skill base. In a number of trades areas, for example, labour hire has evidently contributed to the failure of important trade skills to be adequately reproduced. Employers who use the convenience of short-term labour hire for the provision of specific trade skills, for example, are unlikely to be interested in taking on apprentices and committing to their longer term development.

More generally the labour hire industry, as an innovative development in the labour market, operates according to a low cost dynamic. The industry is highly competitive and agencies, many of them major multinationals, compete with each other to provide labour at the most competitive rates. This dynamic only serves to place downward pressure on the conditions and pay rates offered to workers on-hired by agencies. Evidence presented to inquiries into the industry around Australia has included instances of labour hire companies prepared to pay award rates and conditions being undercut by rival operators. Many have also expressed concern that the uncertainty as to whether the agency or the client firm is the 'employer' at law creates problems in the event of unfair dismissal claims and for establishing liability in occupational health and safety cases.

In any event, the low cost dynamic at the heart of the current industry raises issues from a labour market policy perspective. If we have learnt anything from the record of comparative economic performance over the past 20 years it is surely that Australia's future in the global economy does not lie in trying to become a lower cost, lower wage economy. On the contrary, Australia needs a significant increase in investment in skills and the generation of more highly paid, high value-adding jobs—ambitions likely to be further frustrated by the proliferation of labour hire work.

Many jurisdictions around the world are grappling with the regulation of labour hire. Several European democracies place restrictions on the length of time that agency workers can be engaged on that basis. Others insist that agency workers can only be used to cover for short-term, temporary absences.

Obviously there is a role to be played by labour hire in the contemporary labour market. Many employers need access to temporary workers that can be readily and cost-effectively provided by an agency, as a means of covering short-term gaps in their workforce. At least some employees are happy to take these job opportunities and might gain some potentially valuable experience as a consequence. However, there is a strong case that labour hire arrangements should be restricted to genuine cases where the need is for short-term, temporary labour. There is also little apparent reason why employers should be allowed to substitute labour hire workers on lower pay and worse conditions for direct employees on negotiated wages and conditions.

On principles of both efficiency and fairness, a legitimate and sustainable labour hire industry needs to be regulated according to two basic principles: labour hire arrangements should be restricted to genuine cases of short-term temporary work and agency workers should have guaranteed access to standards of pay and conditions equivalent to those of direct employees performing similar work. Until this occurs, the costs of labour hire to Australia are likely to continue to outweigh the benefits. ■

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Submissions to the inquiry into independent contracting and labour hire by the House of Representatives Employment, Workplace Relations and Workforce Participation Committee, along with more information on the inquiry, are available at www.aph.gov.au/house/committee/ewrwp or email ewrwp.reps@aph.gov.au or phone (02) 6277 4162.