

From: [Parliamentary Services](#)
To: [Committee, Job Security \(SEN\)](#)
Subject: Select Committee on Job Security - Questions on notice - 27 August 2021 [SEC=OFFICIAL]
Date: Wednesday, 6 October 2021 2:22:32 PM
Attachments: [Fines and penalties_CLEAN.docx](#)
[Labour hire_CLEAN.docx](#)
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[Remuneration_CLEAN.docx](#)
[STP_CLEAN.docx](#)

Good Afternoon Committee,

Please see attached the final response to Questions on Notice taken before the Select Committee on Job Security public hearing held, 20 August 2021.

QoN	Attachment
Fines and penalties	
Labour hire	
Ongoing staff	
Outsourced call centre and personnel services	
Outsourced call centre	
Remuneration	
STP	

Job Security

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Fines/Penalties

Question:

CHAIR: When you say 'our staff', are you including labour hire?

Mr Chapman: Yes, that would be the same for the labour hire providers. All those same controls are in place.

CHAIR: Is every worker at an outsourced provider vetted to the same extent they would be if they were an APS employee?

Mr Chapman: Yes, that is correct. We have a particular standard we apply. Obviously we have some roles within the ATO where people may require access to more sensitive things and have to go through additional clearance steps, but all of our outsourced providers and contract staff are required to meet the same standard as the bulk of our ATO APS employees.

CHAIR: When labour hire or outsourced companies fail to meet ATO standards, are they fined or penalised in some other way?

Mr Chapman: I'm certainly aware that there are arrangements in place to ensure performance is monitored and issues are dealt with. My colleague Emma Rosenzweig may have some past experience in that space.

Ms Rosenzweig: Yes, there are financial penalties built into our contracts with those providers for a range of things. There are KPIs built into those contracts and there are financial penalties that are attached to all of them. A breach of any security or any taxpayer data is a breach and there are financial penalties associated with it. We also have a zero tolerance policy if a worker is found to have breached in terms of them continuing on working on our contract.

CHAIR: Where labour hire or outsourced companies have failed to meet ATO standards—this is what I was asking before—what are some examples you can give me? How many fines or penalties have been dished out in the last five years?

Ms Rosenzweig: I would have to take that on notice and come back to you with a response. I don't have that in front of me, sorry.

CHAIR: We will put the question in writing and that may assist. I will be asking about both the labour hire workers and the rest of the work and how it's reformed by the labour hire companies themselves. Those workers are part of the labour hire company, so I want to see what particular penalties or fines you have in that circumstance.

Answer:

The ATO closely manages its contracts with outsourced service and labour hire providers, addressing substandard performance using the various remedies available under the terms of the contract. Over the past five years, the ATO has not imposed fines or penalties on any of its labour hire providers but has claimed service credit from its outsource service providers on 36 occasions. The main circumstance in which these service credits have been claimed is when a supplier has not met key performance indicators.

Job Security

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Labour hire arrangements

Question:

Senator WALSH: We have had some evidence today from the CPSU about people working in the ATO who say that they've had the same labour hire staff working there for more than nine years. Is that possible? Is it possible that there are labour hire workers being engaged in the ATO for periods of something like nine years?

Mr Chapman: I want to distinguish between labour hire and casual. I don't think that there would be any labour hire in that boat. I think that the CPSU may have been referring to casuals. We certainly do have some casuals who are quite happy with the casual working arrangement because it fits in with their lifestyle, so they may be long-term casual employees. That said, we run regular recruitment across all of our sites, and there is an opportunity for our casual employees and other employees to apply for roles. Last year, I think we had somewhere in the vicinity of 80,000 job applications that we received. It's obviously not possible for all of those people to be successful and get an ongoing job. But, in the last year, we've certainly seen, across nearly all of our sites, the number of ongoing employees has increased, and the number of casual employees has decreased. So we are seeing a shift to more ongoing employees than casual employees.

Senator WALSH: Thank you. The CPSU evidence—because I'm looking at a quote—was in relation to labour hire. **You can't think of instances where you would have had labour hire workers for several years.**

Mr Chapman: I'm happy to take that on notice, Senator.

Answer:

Yes, it is possible but not typical.

Job Security

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Ongoing Staff

Question:

Mr Chapman: I can tell you that as at 30 June our Albury site was 36.6 per cent casual, which is not indicative of our sites. That is currently higher both due to tax time and because we have a particular function that is very seasonal in Albury with our scan and capture work. It is the one location in the country where all of our mail goes. As you can imagine, that is very significant and fluctuates to very large degrees throughout the year. What I would say further to that, though, is that there is a significant component of that scan and capture work which we had previously outsourced and which in fact, having assessed it, we've brought back into the ATO. We have staffed that with casual employees as we get across the requirements, and we are looking at converting some of those roles to ongoing roles now that we've got a handle on that. So we would see that as a very good-news story in terms of bringing work back in. Whilst initially focused on casual work, it is now actually at a point where we're able to offer more ongoing roles.

CHAIR: Why did you bring that work back in? It's just a practical question: what's the benefit that you see from those workers now doing that work directly?

Mr Chapman: We review workloads that are outsourced to ensure that we are doing it as well and as efficiently as we can. A review was conducted into that particular workload, and it was determined that it would be best to actually bring that back in house and that we could do it more efficiently.

CHAIR: There was an article in the *Daily Telegraph* back in March 2018 titled 'Australian Taxation Office call centre staff get paid small fries, even less than McDonald's workers'. As the title suggests, your outsourced call centre workers at Stellar are being paid \$20 an hour, less than someone flipping burgers at McDonald's, while the rate Stellar was receiving from the ATO was closer to \$50 an hour. An ATO spokesperson quoted in the article did not reject these claims. They only said:

... external service providers are engaged for the provision of an agreed outcome (not) ... the purchase of workload seconds.

To translate it into common English, the ATO is saying it is somebody else's job to ensure that your labour hire workers aren't being exploited, not the ATO's.

Mr Chapman: As I mentioned before, we certainly require all of our providers to sign up to meet all of their commitments and work within the appropriate legislative frameworks for the work that they are engaging employees to do. I can't say I'm familiar with the particular article or the particular arrangements with Stellar, the provider there, so I'm afraid I can't offer too much of an informed comment on that.

CHAIR: Thank you. In response to a question I asked before, which you said you were taking on notice, you gave me some outline about the work that's brought back in and why you do that. For that particular instance, can you take it on notice to give us the details of what that reasoning was?

Mr Chapman: Yes, I'm happy to.

Answer:

Previously, the ATO had a hybrid model for its paper capture services. Some high-volume low complexity paper forms were outsourced, and all other paper capture services were performed internally. This work typically involves scanning, keying and remediating errors with paper forms and correspondence lodged by clients.

Following a review, it was decided in July 2020 that the ATO would transition to fully insourced paper capture services by the end of 2020.

This decision was made having regard to the efficiency of processes, the flexibility and responsiveness to make process improvements, the cost of transitioning, operating costs and the staff and client experience.

Transitioning to a fully insourced model for paper capture services presented opportunities to deliver operational efficiencies and improve the staff and client experience.

With visibility of the end-to-end process, continuous improvement opportunities could be identified and implemented quickly. Operational efficiencies could be realised through streamlined processes, removing double handling and reducing end-to-end processing time. Additionally, it would optimise the return on investment on recent investments in equipment (such as new scanners).

Job Security

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Outsourced call centre and personnel services

Question:

Senator WALSH: Finally from me, before I hand back to the chair, I'm just looking at some information about a report on the use of temporary personnel services in 2020 in the ATO, which puts that number at \$927.6 million. It's from a Senate order on procurement contracts and the use of confidentiality provisions. I'm not sure if that is a report that you're familiar with. Are you, and does that figure of over \$900 million on temporary personnel services in 2020 seem correct to you? It seems inconsistent with the evidence you've just given us.

Mr Chapman: I suspect that that is likely to be the outsourced call providers, but I can take that on notice to confirm.

Senator WALSH: Okay. That seems like quite a large number for outsourced call provision, so perhaps take on notice how much you spent in the last financial year on your outsourced call centres. If that's not publicly available, that would be useful. Is it publicly available? Do you know the answer to that? Mr

Chapman: I do believe that we publish through AusTender the amount of potential spend, more so than actual spend, but I'll take it on notice. It does sound larger than I would expect, but we'll take it on notice and confirm.

Senator WALSH: Okay. Thank you. I might go back to you, Chair.

Answer:

1. The reported figure of \$927.6 million in temporary personnel services for the ATO in the 2020 calendar year is correct. This figure is the total value of contracts, including multi-year contracts, with a value of at least \$100,000 that were active in the 2020 calendar year (where the AusTender category has been recorded as Temporary Personnel Services), and is not the actual expenditure on these contracts over that period. As Mr Chapman advised, outsourced call providers are the major component of this category.

2. In 2020-21, the ATO spent \$180.7 million on outsourced call centres.

Job Security

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Outsourced call centre services

Question:

1. At the hearing, the ATO confirmed it has a panel of five providers that it uses for outsourced call centre work. Please confirm (with respect to all outsourced work, not just call centres):

- a. What services the ATO outsources
- b. The total spend in each of the last five years on outsourced providers
- c. The number of workers currently engaged through outsourced providers (or if not available, the most recent available number)
- d. Is the work performed by outsourced workers exclusively non-ongoing and short-term in nature, or are outsourced providers being engaged for ongoing work in some instances?

2. At the hearing, Mr Chapman was asked about an article in the Daily Telegraph from 2018, which claimed that workers at a Stellar call-centre for the ATO were being paid as little as \$19.56 an hour, while Stellar received about \$50 per hour per employee from the ATO.

Mr Chapman said he wasn't familiar with the article, and the ATO does not refute these claims within the article. Please advise:

- a. Does the ATO still outsource call-centre work to Stellar, and if so, how much did the ATO pay Stellar for this work in the most recent financial year?
- b. How many workers does that sum cover?
- c. Does the ATO know how much workers at its outsourced Stellar call-centres are being paid, and if so, how much?
- d. Does the ATO request, or does Stellar otherwise provide, details of the breakdown of its fee rate, including the proportion of the fee rate which is paid through to employees?
- e. Can the ATO confirm that it is not paying outsourcing companies like Stellar a rate that is more than double what is actually paid through to employees, as is alleged in this article?

3. Does the ATO ever audit, inspect or otherwise review or monitor the pay, conditions of work, or general compliance with APS standards at the outsourced providers it utilises, and if so – when was this last done and please share the outcome.

4. The CPSU's submission includes quotes from an ATO employee who says they have had some labour hire workers in their team for more than 9 years. Please advise: a. How many people the ATO have engaged through labour hire for 3+ years

- b. How many people the ATO have engaged through labour hire for 5+ years
- c. How many people the ATO have engaged through labour hire for 9+ years

5. Does the ATO ever audit, inspect or otherwise review or monitor the pay, conditions of work, or general compliance with APS standards at the labour hire it utilises, and if so – when was this last done and please share the outcome.

6. The ATO confirmed at the hearing it is currently above its ASL Cap. If the ASL Cap were lifted, could some of the work currently performed by labour hire, contractors or outsourced providers instead be performed by permanent ongoing APS employees?

7. Mr Chapman said at the hearing that the ATO had insourced work at its Albury office. He said: *"A review was conducted into that particular workload, and it was determined that it would be best to actually bring that back in house and that we could do it more efficiently"*

- a. Please provide the review
- b. Have any reviews been conducted of other outsourced work which remains outsourced, and if so, please provide the reviews.
- c. Please advise why this work was assessed to be more efficiently performed internally, while other work remains outsourced.

8. What proportion of ATO employees receive paid vaccination leave, and paid leave if they are required to isolate due to COVID-19?
9. What proportion of employees of other companies working for the ATO (labour hire, contractors, service delivery providers) receive paid vaccination leave, and paid leave if they are required to isolate due to COVID-19?
10. If a labour hire company, service delivery provider or other outsourcing company does not meet certain standards or expectations, does the ATO have access to punitive or other remedies? And if so, how many times has the ATO sought to take this sort of action over the last five years, and for what failures or breaches?

Answer:

1.
 - a. Outsource providers on the Outsource Labour for Service Delivery Panel support the ATO with call centre services, including telephony and processing activities, which is work subject to large fluctuations in volumes throughout the year.
 - b. The total amount spent (excluding GST) by the ATO with the five providers on its Outsource Labour for Service Delivery Panel in the last five years is:
 - 2016-17 – \$120.084 million
 - 2017-18 – \$114.003 million
 - 2018-19 – \$124.651 million
 - 2019-20 – \$152.750 million (includes \$6.356 million for debt management services)
 - 2020-21 – \$184.153 million (includes \$27 thousand for debt management services).
 - c. Outsource service providers are engaged to provide a service or outcome, not a specified number of staff. It is a commercial decision for each outsource provider to determine how many staff they engage to deliver that service or outcome.
 - d. Outsource providers are engaged to provide services for specified periods during the term of their contract to meet ATO business requirements and this is routinely reviewed.
2.
 - a. The ATO has continued to contract services from Stellar Asia Pacific (now Probe Asia Pacific with effect from 1 April 2021 following a takeover by Probe Group), paying them \$53.781 million (excluding GST) for these services in the 2020-21 financial year.
 - b. Outsource service providers are engaged to provide a service or outcome, not a specified number of staff. It is a commercial decision for each outsource provider to determine how many staff they engage to deliver that service or outcome.
 - c. The ATO has ensured that outsource agents servicing the ATO contract are paid at equal to or above the Customer Contact Centre Award (CCCA), which is linked to their Enterprise Agreement.
 - d. Yes. Stellar (now Probe Asia Pacific) has provided a breakdown of all costs for the services provided to the ATO.
3. The ATO requires all outsource providers to submit monthly, quarterly and yearly assurances to demonstrate their compliance with contractual obligations. These assurances include warranties and assurances they are complying with their obligations to their employees. Additionally, the ATO regularly communicates its expectations to all outsource providers.

4. As at 31 August 2021, the ATO had:
 - a. 170 people engaged through labour hire for 3 years or more
 - b. 110 people engaged through labour hire for 5 years or more
 - c. 31 people engaged through labour hire for 9 years or more.
5. The ATO's commercial arrangement with its labour hire service providers contains a clause enabling the ATO to request evidence from the service provider of rates paid to the labour hire personnel and conditions of work if required. To date, the ATO has not had cause to undertake any audits or reviews in relation to labour hire worker payments or conditions of work as these arrangements are provided for in the contract.
6. The ASL Cap has not been the driver for labour hire or outsource arrangements.
7.
 - a. Please refer to support document
 - b. The ATO has searched and did not identify any documents that were in scope.
 - c. Processing paper capture work internally reduced double handling and utilised existing equipment.
8. The ATO is unable to provide this data. The ATO has supported vaccinations through paid work time agreed with managers, which is not captured corporately. Staff required to isolate may work from home or use a variety of leave types such as personal leave, paid miscellaneous leave or flexible working arrangements depending on their circumstances.
9. This is a policy matter for the suppliers. All suppliers have warranted to the ATO that they will comply with all relevant Commonwealth, state and territory laws in respect of the management of their employees.
10. The ATO closely manages its contracts with outsourced service and labour hire providers, addressing substandard performance using the various remedies available under the terms of the contract. Over the past five years, the ATO has not imposed fines or penalties on any of its labour hire providers but has claimed service credit from its outsource service providers on 36 occasions. The main circumstance in which these service credits have been claimed is when a supplier has not met key performance indicators, none of which are related to pay or conditions of employment.

Job Security

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: Remuneration

Question:

CHAIR: How are you going about ensuring that workers in your own supply chain external workforce aren't being exploited? You mentioned just then that there are some instances that come to you, but do you do a general audit? Do you know you're going to be having a look every X period of time during the term of the contract?

Mr Chapman: One part of our process is that we seek the statement of tax compliance, and we have various conditions in our contract such as modern-day slavery clauses et cetera. We do seek regular assurance, and certainly if there are complaints made to us by any of the employees of any of those providers we will make inquiries with the provider with a view to ensuring that they are appropriately meeting their commitments and looking after their workers.

CHAIR: Do you require the outsourced labour hire workers receive the same pay and conditions as your own internal employees doing the same job?

Mr Chapman: There are varying and different conditions around leave and all sorts of elements of the employment contract, so I can't give you an assurance as to all the individual employment arrangements of the different providers. I can't give you that assurance, I'm afraid.

CHAIR: So you don't require them to be paid or to receive the conditions that your own internal employees doing the same work get.

Mr Chapman: Some of our labour hire providers may receive more remuneration than some of our staff in terms of the scarcity of the skillset that they may have. We have differing circumstances for differing—

CHAIR: Does that mean battlers don't get a chance?

Mr Chapman: Sorry, I missed that?

CHAIR: Sorry, I was just bringing up something you said. I said: does that mean that battlers don't get a chance? I'm interpreting what you said to me, so correct me if I am wrong, but that's the low-end jobs. You don't worry about what they're getting because the market turns around and makes its own decision about what they get.

Mr Chapman: There is a requirement that those employees of labour hire providers are paid at a minimum in accordance with the relevant awards that they're employed under. We certainly require all of our providers to ensure they're meeting those commitments.

CHAIR: Just so I'm clear, what's the auditing process that takes place? You mentioned an example before, but obviously I'm hoping there are other examples of what auditing process you take to make sure that this is a fit and proper business to be operating in the public service, especially in such a sensitive area as the ATO.

Mr Chapman: Senator, I'll take on notice the detail of that process, but certainly throughout the initial procurement period there are statements of tax compliance which go to things like meeting superannuation obligations et cetera as well as other assurances that are provided throughout the procurement process and there are regular performance check-ins throughout life cycle of the contract. But, in terms of any additional detail over and above that, I would have to take that on notice.

CHAIR: I'm looking forward to further details, but you might be able to help me with my next question. Is there any requirement for these people to be on the same wage level? For example, if you're doing an audit process, what do you audit against?

Mr Chapman: Again, Senator, I'll have to take that on notice, I am afraid.

CHAIR: How do you ensure that the workers in your own supply chain and external workforce aren't being exploited? Another ATO worker who formerly worked as one of the outsourced providers is quoted in the CPSU submission, saying: The conditions were terrible, the management staff were incompetent, we were underpaid, overworked, we had no privacy, and we were probably being exploited due to the lack of a union presence, or oversight by the government. Is there any enforcement at all of APS standards in these places, in light of those sorts of comments?

Mr Chapman: As I mentioned before in my evidence, when we do receive a complaint we certainly follow up with the provider and seek assurances as to the matters that have been raised in any complaint to ensure that appropriate arrangements are in fact in place.

Answer:

Labour hire worker rates are determined by the supplier in line with relevant Australian laws, which they are required to comply with under the terms of their contract with the ATO. Accordingly, the ATO expects that rates paid to labour hire workers in the ATO to be at or above the relevant award rates.

The ATO's commercial arrangement with its labour hire service providers contains a clause enabling the ATO to request evidence from the service provider of rates paid to the labour hire personnel if required. To date, the ATO has not had cause to undertake any audits or reviews in relation to labour hire worker payments.

Job Security

ANSWERS TO QUESTIONS ON NOTICE

Agency: Australian Taxation Office
Topic: STP

Question:

Senator WALSH: I might take the opportunity to ask a question from a completely different perspective in the last couple of minutes. You may or may not be the right people from the ATO in relation to the question, but it's about the Single Touch Payroll System data that you have. It's been occurring to me that some analysis of that data might in some ways be really helpful to this inquiry. I was wondering what the arrangements are in relation to that data and being able to have analysis of deidentified data for certain purposes done from time to time.

Ms Rosenzweig: The Single Touch Payroll data is something that is made available through the Bureau of Statistics to researchers and academics on a deidentified basis, obviously, and they handle it in a very secure way. I'm not aware of access for a committee such as yours, so I would have to take on notice what is possible there. Certainly researchers and academics can access some of that information in a deidentified way to help the research that they're undertaking.

Senator WALSH: If it is within your world to take that on notice and let us know whether we might be able to request some analysis, that would be really helpful. Thank you.

Ms Rosenzweig: Sure.

Answer:

De-identified Single Touch Payroll data from the ATO is available now in the ABS DataLab for approved researchers.

Access to ABS microdata is for research, policy and statistics purposes. There are strict controls on the researchers who are able to access detailed microdata files and on the purposes for which they can use the files. No unit record information is allowed to leave the ABS DataLab.

Researchers are limited to government employees, government contractors and individuals sponsored by government, academics and researchers from public policy research institutes.

All output a researcher wants to use outside the ABS DataLab is checked by the ABS before release to ensure it meets ABS confidentiality standards and cannot be released in a manner likely to identify an individual or organisation.

Contact the ABS to discuss user need, DataLab approval and access.

Detailed outputs and STP insights are available in [Weekly Payroll Jobs and Wages in Australia, Week ending 31 July 2021 | Australian Bureau of Statistics \(abs.gov.au\)](https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/weekly-payroll-jobs-and-wages-australia/latest-release#national)
[<https://www.abs.gov.au/statistics/labour/earnings-and-work-hours/weekly-payroll-jobs-and-wages-australia/latest-release#national>]