

## Senate Select Committee on Job Security

### Questions taken on notice during 13 October 2021 public hearing

Question	Response
<p><b>CHAIR:</b> Mr Spring gave evidence, and I'm sure he's very aware of his responsibilities in giving such evidence, that Express had also been employing people on inappropriate labour arrangements, where it's \$25 flat an hour, but also that there were threats made that if the workers were to become direct hire they wouldn't be able to work for StarTrack, because they're visa holders.</p> <p><b>Mr Josh:</b> Not that I'm aware, Senator. It disturbs me greatly to hear that accusation, and that's something that I will be following up, because that's the first time I've heard of that.</p> <p><b>CHAIR:</b> When you inspected the wages, did you look at superannuation for those Express employees?</p> <p><b>Mr Josh:</b> I would have to take that on notice. I didn't do the investigation myself. It was my HR business partner and the state manager who did, so I have to take that on notice.</p> <p><b>CHAIR:</b> Did you look at workers comp and whether it was being paid? There have been allegations that, as soon as somebody has a problem within the operation of Express, they're no longer seen, or if they talk to a union member they're not seen the following day. It's alleged that's common practice.</p> <p><b>Mr Josh:</b> I would not say that was common practice. That I will take on notice, as I have no information that supports that.</p>	<p>In January 2021, during a monthly yard committee meeting, delegates at StarTrack's Wingfield depot in Adelaide raised concerns about whether workers engaged by Xpress Freight Services Pty Ltd (Xpress), were receiving proper rates of pay with reference to the StarTrack National Enterprise Agreement.</p> <p>StarTrack investigated these concerns and requested Xpress to provide proof of payments made to workers involved in the provision of services to StarTrack. Xpress provided a summary of amounts paid to relevant workers, which identified the workers were paid \$27.70 per hour – an amount above the relevant minimums in the StarTrack National Enterprise Agreement for the work performed at StarTrack's Wingfield depot, and which also identified superannuation deductions. StarTrack reported this information back to the February 2021 yard committee meeting attendees, and showed delegates copies of the relevant payment summary, with names redacted to protect individual privacy. The yard committee determined the matter closed on this basis, and no further concerns regarding the matter have been raised.</p> <p>StarTrack has separately received confirmation from Xpress that it maintains workers compensation insurance that covers workers performing services for StarTrack, and StarTrack has sighted the relevant Certificate of Currency for the policy in South Australia.</p> <p>As noted in evidence provided to the Committee, StarTrack takes workforce compliance matters very seriously and is committed to ensuring compliance. Consistent with that commitment, StarTrack will be conducting further investigations into these matters. The threats and allegations referred to by the Chair will form part of these further investigations.</p>
<p><b>CHAIR:</b> An example was given regarding Kim White. As you're aware, there was media attention. Kim was undergoing treatment for breast cancer. She was working for another of your labour hire companies, APS Transport. She noticed her pay had been cut and asked why, and APS told her that StarTrack had told them to cut her pay back to the award rate. When she queried this with StarTrack, you texted her husband saying, 'She will no longer be required,' and she lost her job. Between this and the Express sham contracting, what does that say about the culture at StarTrack?</p> <p><b>Mr Macdonald:</b> The case regarding Kim White was, as I understand it, an issue between her and her employer, rather than between her and StarTrack. It is, as I understand it, subject to a claim at the Fair Work Commission, so we'd want to be mindful of that process and respect that. My understanding is that some of the matters that have been raised have not been substantiated. We are prepared of course to take further questions on notice regarding that matter, but bearing in mind that it's not a dispute we're a party to. Certainly, as Mr Josh mentioned earlier, if there is additional information in respect of the Express matter, then that's something we can look into as well.</p>	<p>By way of letter to the Committee Secretary dated 15 November 2021, the witness clarified that he had been advised (after the hearing) that StarTrack is a party to the Fair Work Commission proceeding referred to. StarTrack maintains the view that it is not a party to the dispute – which is a matter for Ms White and her employer.</p> <p>Ms White raised a claim with the Fair Work Commission against the labour hire agency that employed Ms White, and against StarTrack. As part of her claim, Ms White states that she was dismissed from her employment., StarTrack did not employ Ms White and does not consider that it has breached any provisions of the <i>Fair Work Act 2009</i> (Cth) in relation to Ms White. Notwithstanding, StarTrack attended a conciliation conference regarding the claim on 19 October 2021, as part of the Commission's ordinary processes. StarTrack will take account of any findings reached in relation to this matter that relate to StarTrack.</p>

Question	Response
<p><b>CHAIR:</b> Thank you. We've received evidence regarding union representatives not being able to talk to workers at an appropriate time. There was evidence that Amazon called the police on union organisers attempting to engage in a completely legal right of entry at one of their yards. Unbelievably, there has been an accusation of your company doing the exact same thing. According to media reports, on 16 September your company called the New South Wales police to block a union official with a legal right of entry permit. Comcare instructed you to let him in, and you then shut the official in a room for five hours. This behaviour might be expected from Amazon, but how can a publicly owned organisation carry on in this fashion?</p> <p><b>Mr Josh:</b> That is an allegation out in the media. The police were not called. The official was allowed on site, but, due to COVID restrictions within the facility, as we have across most of our facilities, he was asked to sit in our boardroom. At no point was he locked in the boardroom. He was given access to everything there whilst we discussed with the broader safety enterprise team what information was being sought and what the requirement was. So the police were not called, and he was not locked in a room. We were going through due process to understand what the requirement was and to gather the relevant information.</p> <p><b>CHAIR:</b> Was he in a room for five hours where he wasn't able to carry out inspections of the worksite? Obviously, the boardroom wasn't what he was inspecting.</p> <p><b>Mr Josh:</b> I'm not quite sure on the time he was there. I do know my state manager was in constant contact with him to understand what he was on site to look at. I do believe it was around some consultation, and I believe there was some paperwork being gathered for that. But I'd have to take the rest of that on notice, as I don't know the finer details.</p> <p><b>CHAIR:</b> You can take that on notice, but it is disturbing that we're receiving evidence regarding union officials being held in a room for five hours and not being able to go out and talk to the workers about safety matters, particularly after Comcare had instructed the company to let him in. It is also deeply concerning to hear allegations of migrant workers being abused, being paid a \$25 flat rate, and it is deeply concerning to hear about the case of Ms White, who lost her job while receiving breast cancer treatment. This is a deeply disturbing indication of the level of responsibility in the supply chain.</p>	<p>On 16 September 2021, a Transport Workers Union (TWU) official provided local StarTrack management with a notice of entry under section 117 of the <i>Work Health and Safety Act 2011</i> (Cth) (WHS Act). The entry notice indicated the official's intention to enter StarTrack's Minchinbury site on the same date. The notice also requested copies of various documents. The official attended the Minchinbury site at approximately midday and was escorted to the site's board room. While the official was not held or detained in the room, he was asked to remain in the room while his request for documents and a tour of the site was considered. During this time the official spoke regularly with StarTrack management, who made themselves available to attend to his needs.</p> <p>Site management discussed the entry notice and request for documents with the official, confirming that StarTrack did not have the requested documents in its possession on the Minchinbury site. StarTrack staff advised the relevant documents could be collated and provided within 48 hours. The official expressed dissatisfaction with this response time, and also indicated that he wished to tour the Minchinbury site unaccompanied. StarTrack management informed the official that it could not allow him to move around the site unescorted as he had not completed site induction and, further, that doing so would be inconsistent with various controls on distancing and movement around site that StarTrack had implemented to manage the risk of COVID-19 transmission.</p> <p>The official called the safety regulator – Comcare – in relation to the matter. A Comcare inspector attended the site at around 4:00 pm and spoke with the TWU official and other persons. Comcare did not issue any notice or advise of a finding of any failure by StarTrack to comply with its obligations under the WHS Act. StarTrack confirmed that it would provide the requested documents to the TWU official within 48 hours and escorted the TWU official on a tour of the site. StarTrack employees and HSR's accompanied the official for the duration of his site attendance, including his site tour. After this tour, the TWU official left the site – at around 5:45 pm. StarTrack did not call the police at any point, and the police did not attend the site.</p>