

Our ref:SAL:DL:210044_060

10 March 2022

The Hon. Senator Tony Sheldon
By email: senator.sheldon@aph.gov.au

Dear Senator Sheldon,
and Mr Fitzpatrick

Senate Enquiry into Pacific Labour Program

Herewith a copy of my letter with attachments to Danielle Heinecke, First Assistant Secretary, Labour and Connectivity Division, Office of the Pacific, Department of Foreign Affairs and Trade, sent today.

Please feel free to table my letter and attachment in the Senate, if you so wish.

With kind regards

Yours sincere
LEVITT ROBINSON

Stewart A Levitt
Senior Partner

Encl

cc: Mr Steven Fitzpatrick
By email:

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E-MAILED
10/3/22

Dianne Roberts

From: Dianne Roberts
Sent: Thursday, 10 March 2022 6:43 PM
To:
Cc:
Subject: Information Request - Seasonal Workers' Program (LR 210044)
Attachments: Amended letter to Ms Danielle Heinecke DFAT.pdf; Article - Absconding - The Risks and Consequences.pdf; Email from Ms Danielle Heinecke to Levitt Robinson dated 13th December 2021.pdf

Dear Ms Heinecke

Herewith letter and attachments from Stewart Levitt.

Kind regards

Dianne Roberts | Legal Secretary

Ground Floor, 162 Goulburn Street, Surry Hills NSW 2010

PO Box 850, Darlinghurst NSW 1300

· www.levittrobinson.com



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E-MAILED
10/3/22



levitt robinson
solicitors

Our ref:SAL:DL:210044_059

10 March 2022

Ms Danielle Heinecke
First Assistant Secretary
Labour and Connectivity Division
Office of the Pacific,
Department of Foreign Affairs and Trade

By email:

Dear Ms Heinecke

Information Request – Seasonal Workers’ Program

We appreciate your enquiry of 13th December, 2021, which was recently renewed.

We would appreciate that not only I personally but members of my staff, have devoted a great deal of time and energy, including emotional energy and I have incurred considerable expense, in travelling to various parts of Australia to investigate the very matters which are the subject of your enquiry.

The information which you seek is hardly arcane and would be readily available to DFAT, upon due investigation.

We note that in mid-2021, nine (9) members of Australian Border Force were deployed to conduct a search warrant at the home of Geoff and Jane Smith in Bundaberg, at some cost to the Commonwealth and we would expect that similar resources – at least – could have been devoted to conducting the investigation which DFAT belatedly proposes to undertake.

We are a relatively small, single-owner Sydney-based firm and the Commonwealth is relying on Levitt Robinson for information on the Pacific Labour Program, which involves multi-national participation and deployments throughout the whole of regional Australia!

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We have provided the very information which DFAT is seeking to the Hon. Senator Tony Sheldon (Labor, NSW) and facilitated the testimony of seasonal workers, some of whom we transported to Canberra at the writer's personal expense, to testify to the Senate Enquiry last month.

If there is a Parliamentary Enquiry which calls for written submissions, we would be happy to make a written submission under the protection of Parliamentary privilege.

There can be no question that under its Memorandum of Understanding and, given the legislative and regulatory regime which applies to the Pacific Labour Scheme, the Federal Government is and has been complicit in constructing and maintaining the unjust regime under which seasonal workers from the South Pacific, perform labour in Australia's agricultural and primary industry sector.

The poster which was published for the Pacific Labour Scheme by the Australian Government, could only be interpreted as having a deliberate intimidatory effect on Pacific Workers in Australia (copy **attached**) under the banner, "Absconding - The Risks and Consequences," and has done nothing to engender confidence in any assurance which might be forthcoming from DFAT that the grievances and concerns of the workers will be fairly investigated by the Australian Government and their confidentiality respected.

Virtually no resources have been deployed by the Australian Government to conduct its own "on the ground" investigations other than with a view to launching possible prosecutions of the Smiths and their associates, for allegedly ameliorating the Pacific 'Workers' exploitation and abuse.

We are aware that DFAT has already complained to one participating foreign Government over its High Commissioner's vigorous advocacy of the cause of his countrymen in relation to the Scheme, which has effectively muzzled him.

According to what we have been able to divine, there is barely a single participating Labour Hire Firm which is not implicated in exploiting or profiteering from the presence of Seasonal Workers in Australia.

It would be regrettable if you had made available your correspondence and referred to our firm's non-response, to Government Senators, to facilitate their casting aspersions on the motivation of Levitt Robinson and effectively, to assist supporters of the Pacific Labour Scheme in its current exploitative form, to take cheap shots in Federal Parliament at the "messengers". To-date we have not made a cent out of our advocacy for Seasonal Workers and we have incurred considerable expense in furthering their cause.

Should a representative action be launched and a Court approve our reasonable costs for bringing an action to the Federal Court, should such matter be resolved by negotiation, or a judgment and verdict in favour of the workers, then we would be no less entitled to be remunerated than public servants or parliamentarians are entitled to be paid for their own work.

OUR ASSISTANCE GOING FORWARD

Should there be a call for submissions to a Parliamentary Enquiry, then we would make those submissions under the mantle of privilege.

Should representatives of DFAT wish to schedule an appointment with us to speak personally and confidentially about these matters and to hear from us about our recommendations for reform, we could also identify particular cases, with the consent and authority of our clients, and I would gladly participate in such meeting at our Sydney office.

I **attach** a copy of the poster to which I refer, “Absconding, – The Risks and Consequences” (content blurred) and also, your email to me, Danielle, dated 13th December, 2021.

With kind regards

Yours sincere

LEVITT ROBINSON

Stewart A Levitt

Senior Partner

Encl

cc: Ms Helen McCormack

By email:



ABSCONDING

THE RISKS AND CONSEQUENCES



VISA CONDITIONS FOR WORKERS

Your Australian visa is linked to the employer listed in your Offer of Employment. If you leave your job and don't intend to return, you are breaking the conditions of your visa. This is called absconding and is a very serious matter. Be wary of people who may promise you better work, more money or a visa to live permanently in Australia. This may be a scam and you need to understand the risks if you leave your job.

RISKS AND CONSEQUENCES OF ABSCONDING

- ▶ your visa may be cancelled
- ▶ your employer will stop arranging payment of your health insurance
- ▶ no guaranteed accommodation
- ▶ no welfare support
- ▶ you could be mistreated by dishonest employers who do not provide fair working conditions that meet Australian laws
- ▶ you may not be able to work in Australia again (this may include your family and community members)
- ▶ you may damage the relationship between your country and the employer, and
- ▶ you may bring shame to your family's reputation.

IF YOU ARE HAVING PROBLEMS AT WORK OR HOME, SPEAK UP! TALKING TO YOUR SUPERVISOR, YOUR EMPLOYER OR YOUR UNION LEADER, MANAGER OR LIAISON OFFICER. PLEASE ALSO CALL THE Fair Work Ombudsman on 13 2323, the Pacific Labour Scheme worker welfare hotline on 800 99 99 99 or the Personal Migrant Programme information line on 02 9248 3234.



Dianne Roberts

From: Dianne Roberts
Sent: Monday, 13 December 2021 1:09 PM
To: Stewart Levitt; Dana Levitt
Subject: FW: Information request- Seasonal Workers Programme [SEC=UNOFFICIAL] (LR 210044)

Stewart, see email under from Danielle Heinecke of DFAT. Thanks

With regards,

Dianne Roberts | Legal Secretary

Ground Floor, 162 Goulburn Street, Surry Hills NSW 2010

PO Box 850, Darlinghurst NSW 1300

www.levittrobinson.com   

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The office of Levitt Robinson Solicitors will close at 5 pm on Thursday, 23 December 2021 and re-open at 9 am on Monday, 10 January 2022. Any urgent enquiries during this period are to be directed to Stewart Levitt or or Dana Levitt on

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From: Danielle Heinecke
Sent: Monday, 13 December 2021 12:57 PM
To: Info
Cc: MCCORMACK, Helen
Subject: Information request- Seasonal Workers Programme [SEC=UNOFFICIAL]

Dear Mr Levitt,

I would like to seek information in relation to the issues raised by you in the media and in your ABC Radio National interview with Ms Fran Kelly on 4 November 2021 about the Australian Government's Seasonal Workers Programme (SWP).

In late November, the Government announced that responsibility for the administration of the SWP will be moved into the Department of Foreign Affairs and Trade (DFAT).

We take allegations of exploitation very seriously and want to ensure that appropriate action is taken to investigate any historic or contemporaneous claims of worker mistreatment or exploitation.

The Department of Education, Skills and Employment (which previously had responsibility for the administration of the SWP) has reviewed its records and is unable to find any information or evidence regarding the claims you have made, or about the workers they may relate to.

Could you please:

- provide details of the labour hire firms the allegations relate to?
- provide any information on the workers (with the workers' consent) who were allegedly underpaid and/or exploited whilst participating on the Seasonal Workers Programme and details of the nature of the underpayment/exploitation?
- provide estimated dates and locations the workers were employed by the labour hire firms you are referring to?
- advise if the workers are still participating on Pacific Australia Labour Mobility Scheme (Pacific Labour Scheme or Seasonal Workers Programme)?

Any information you are able to provide will assist us to ensure that appropriate action is taken to address the concerns raised.

This may include, if appropriate, referring information to the relevant authorities such as the Fair Work Ombudsman, to ensure that the interests and welfare of Pacific workers are addressed.

Workers may also report their concerns to DFAT directly, by emailing me or contacting my team at DFAT via phone on workers@dfat.gov.au. Workers can also contact the Pacific Labour Facility 24/7 hotline on 1800 515131– noting welfare team staff are available to communicate with workers in most Pacific languages.

I look forward to hearing from you soon.

Regards
Danielle Heinecke

Danielle Heinecke
First Assistant Secretary
Labour and Connectivity Division
Office of the Pacific
Department of Foreign Affairs and Trade

If your message is urgent please contact me on my mobile.



I acknowledge the first nation people of Australia and pay my respects to elders past, present and emerging. I express my gratitude and honour their spiritual connection to the land.