

REPORT ON PROCEEDINGS BEFORE

MODERN SLAVERY COMMITTEE

**INQUIRY INTO MODERN SLAVERY RISKS FACED BY
TEMPORARY MIGRANT WORKERS IN RURAL AND REGIONAL
NEW SOUTH WALES**

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At Macquarie Room, Parliament House, Sydney, on Friday 20 March 2026

The Committee met at 9:35.

PRESENT

Dr Joe McGirr (Chair)

Legislative Assembly

Legislative Council

The Hon. Greg Donnelly

The Hon. Dr Sarah Kaine

The Hon. Aileen MacDonald

PRESENT VIA VIDEOCONFERENCE

Ms Jenny Leong (Deputy Chair)

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The CHAIR: Welcome to the sixth hearing of the Committee's inquiry into modern slavery risks faced by temporary migrant workers in rural and regional New South Wales. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us today. My name is Dr Joe McGirr, and I am the Chair of the Committee.

I ask everyone in the room to turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures. To each witness, welcome and thank you for making time to give evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament.

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The Hon. SOPHIE COTSIS, Minister for Industrial Relations, and Minister for Work Health and Safety, before the Committee

Ms MARINA RIZZO, Executive Director, Premier's Department, Industrial Relations, sworn and examined

Mr IAN GALVIN, Director, Policy, Premier's Department, Industrial Relations, affirmed and examined

Dr PETRINA CASEY, Executive Director, Strategic and Corporate Services, SafeWork NSW, affirmed and examined

The CHAIR: Minister, would you like to make an opening statement?

Ms SOPHIE COTSIS: Thank you, Dr McGirr, and Committee members. I do have a statement here, but I won't read the whole lot. I'll just let you guys ask questions. Firstly, I'd like to acknowledge the traditional owners of the land and pay my respects to Elders past, present and emerging. Dr McGirr and Committee members, thank you very much for inviting myself and officials to your public hearing. I am very honoured, but also I want to thank you for your consideration and your passion, particularly the body of work that all of you have done looking into modern slavery risks faced by temporary migrant workers in rural and regional New South Wales.

Migrant workers are particularly vulnerable to exploitation and the Government is working hard to address these issues. I acknowledge that the regulatory framework that applies to migrant workers at work is complex, and it is often a mix between Federal and State regulators who are involved. The employment of migrant workers is normally governed by Federal legislation, while our work, health and safety is governed by the Work Health and Safety Act here in New South Wales. As you've seen, we have both our industrial relations officials and Dr Casey from SafeWork NSW. Dr Casey, and both Ms Rizzo and Mr Galvin will be able to provide you with information about what we're doing in terms of collaboration, MOUs and a range of compliance activities.

There has been a number of compliance activities around Leeton, Griffith and the Mid North Coast, particularly in agriculture. As you know, past interactions with the Committee have focused on labour hire and its regulation in New South Wales, but I'd just like to take some time to outline what the Government is doing. While many labour hire providers in New South Wales operate responsibly and lawfully, we do know that there are cowboys, and this is what you're examining. As this Committee has heard, the unscrupulous operators that seem to be most active in the horticultural and agricultural sectors—I too have received many representations from these individuals as well as from NGOs, unions and many family members. As you have heard, it's very appalling.

The evidence tells us that the triangular labour hire arrangement, where the labour hire provider is the employer while the host is not, makes it easier to shift and blur the responsibilities. We know that this leads to the exploitation of workers. Regulators in other jurisdictions have approached these relationships by focusing firstly on the provider by requiring them to be licensed and secondly on the host by requiring them to use only licensed providers. Such schemes now operate in Queensland, Victoria, South Australia and the ACT. Dr McGirr, I'm happy to continue on but my preference is for the Committee to obviously get as much as it can out of asking us the questions.

The CHAIR: Thank you very much, Minister, for appearing today and for your engagement with the Committee.

The Hon. GREG DONNELLY: Minister, would you be prepared to table that and have it incorporated into the Hansard, rather than leave it there?

Ms SOPHIE COTSIS: Yes, a hundred per cent.

The Hon. GREG DONNELLY: Because it sounds like a comprehensive document.

The CHAIR: I thought that you were intending to table that, Minister.

Ms SOPHIE COTSIS: Whatever you want me to do, but I'm happy to table it and provide every member the work that we've done already. My office has prepared it with our officials, so I don't want it to go to waste.

The CHAIR: We'll all have some questions, but my question really is to ask you to explore a little bit further what is happening in terms of labour hire regulations. We have met with you before and written formally to you. It's an issue that has come up consistently in evidence to the Committee that the lack of regulation is a significant issue. There seems to be widespread support from unions, communities and from businesses to increase the regulation. I understand that attempts at some sort of national scheme have floundered. So I'm very keen to hear what work is being done at State level to progress the issue of labour hire for regulation.

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Ms SOPHIE COTSIS: Certainly, Dr McGirr and Committee members. In 2023, the New South Wales Government were a new government. We agreed, along with all other jurisdictions—including the Commonwealth, who had made an election commitment in 2022—that we would have a harmonised labour hire regulation scheme. The New South Wales Government was involved in ministerial meetings and we supported a harmonised process to support and participate in the development of a national labour hire licensing scheme. A national working group expended considerable effort in developing model legislation and funding and administrative models for a national system.

Dr McGirr, following a change of government in Queensland in late 2024, the Queensland Government indicated that it would no longer be participating in the development of a national licensing scheme. Being involved in those meetings early on in 2023 and in 2024, there was certainly a lot of work that was happening. I think this would have come through the communique: There were—not disputes, but who was going to be the host, was it going to be Victoria or Queensland. Those two States were tasked with Federal officials and their officials to work out the best process.

There was a landing, but, anyway, the election happened, the Queensland Government has said, "In Opposition we did not agree with what Queensland did in terms of the labour hire scheme. However, we're happy with our scheme. We don't want to be involved in a national process." That's where it ended, in terms of the governments. In terms of officials, they continued to work to see what a possible model may look like. In October 2025, when we had our Ministers meeting, Queensland, the Northern Territory and Tasmania formally withdrew from the national process. So I want to report that to the Committee. The remaining jurisdictions have now decided to pursue an alternate strategy of developing a set of regulatory principles that could then be realised later in harmonised legislation across all participating jurisdictions.

I'm very disappointed in the collapse because we were completely invested. For us in New South Wales, we're happy to look at other jurisdictions. They were ahead of us. I don't want to get too political, but obviously the former Government here didn't set up their own system et cetera. We were willing and able; our officials were working very hard. Now we're exploring what a labour hire licensing scheme could look like in New South Wales and, as an interim solution, what cross-jurisdictional regulatory agreements could look like with States that have existing schemes. I can advise the Committee that any New South Wales labour hire legislation would pay regard to the experience of Queensland and Victoria. In both Queensland and Victoria, substantial consultation occurred about licence fees, scheme operations and future stakeholder obligations.

In Victoria, as you all probably know, the Victorian Labour Hire Authority is a statutory body, whereas in Queensland, the work is done from the Office of Industrial Relations. While that work is ongoing, I'm committed to taking practical actions to mitigate or close the risks faced by labour hire industry workers in New South Wales, in the short term by utilising existing legislation and regulatory powers. We're exploring all options: What can we do working with Queensland and Victoria, working with the Feds, but in the meantime, the Government—Dr Casey will be able to outline what we're doing in terms of SafeWork NSW and also industrial relations and what are our short- to medium-term regulatory options at the moment.

Obviously, we now have to explore what a scheme looks like here in New South Wales. I can't sit here and make a decision and say we're going to do it. It has to go through an internal process for us, the Government. We're looking at those options but, in the meantime, we have to do something now. This includes new codes of practice for labour hire companies that are operating in New South Wales. I also note from June this year, SafeWork codes of practice will become enforceable instruments under the new legislation that we passed last year under work health and safety. Dr McGirr and Committee members, at this point in time, would you like me to refer to Dr Casey to give you more detail about that?

The CHAIR: I would like some more detail, please. So this is the interim solution. This is what could be done in the short term now, and you're talking about a code of conduct or code of practice for labour hire firms that will be enforceable?

Ms SOPHIE COTSIS: We're doing this now. This is happening now.

The CHAIR: Perhaps some detail would be important.

PETRINA CASEY: I should say at the outset that the labour hire code of practice applies under the work health and safety legislation, so that's an important context. As the Minister said, there's no separate labour hire licensing scheme but also, importantly, labour hire providers and host employers are both considered persons conducting a business or undertaking. That means that each of those owes a primary duty of care under the work health and safety legislation. Certainly, any activity, compliance activity, education, awareness that SafeWork does under the Work Health and Safety Act is targeted at both labour hire companies as well as host employers. That's just an important context.

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But in relation to the code of practice, the Minister can approve SafeWork making a code of practice in relation to lots of different activities across the work health and safety legislation and has recently approved SafeWork NSW to begin work on a code of practice for labour hire. There isn't a model code of practice in Australia, meaning that New South Wales will be the first one that will have this labour hire code of practice. It will look at things like labour hire arrangements, as I said, and look at host workplaces and duties relating to the provision of adequate facilities.

We've heard lots through the different inquiries, particularly the ones in Griffith and Coffs Harbour, around accommodation, amenities and issues of that consideration. The code of practice can cover those sorts of things. That's certainly the intent of the code of practice. When we're developing a code of practice, we do that in a tripartite way: We consult with unions, with businesses and also with any experts who might help us pull together that code of practice. It's very much a co-designed piece of work. The importance of that is to make sure that it's practical and implementable. Then, as the Minister said, the new legislation that came into place in October last year—as of July this year, codes of practice will be mandatory, which will then be another compliance activity that SafeWork can do on the back of the development of the labour hire code of practice.

The CHAIR: And behind that will be SafeWork's capacity to inspect and enforce?

PETRINA CASEY: Absolutely. I wouldn't want to suggest that currently SafeWork doesn't. The absence of a code of practice does not mean that SafeWork is not out there looking at these issues as part of proactive compliance activity, as well as when we receive safety complaints. As well, the Committee has heard evidence that reporting some of these matters can be an issue. That's certainly an issue for SafeWork as well. A lot of our activity, from a compliance perspective, is also working with local communities around the ability to report, the ability to feel comfortable to report and to have different reporting mechanisms. Certainly part of our proactive work already looks at that, particularly in the agriculture and the construction sectors. But, absolutely, the code of practice will then give more detail and more awareness for organisations—because, typically, when a code of practice is being developed and then implemented, there's a lot of awareness and education activity that goes with it, so it's got that sort of dual focus. Obviously our inspectors then do the compliance activity on the back of that.

Ms JENNY LEONG: Thank you all for being here. I appreciate that there was a process in place and that that gradual process has stalled. I respect that that's how we've got to this situation. The level of urgency with which we have informally raised this with you, based on the evidence we have heard around the idea that we're working on a code of practice that will have some level of enforcement but will not necessarily have the resourcing and capacity to be able to hold all of these dodgy labour hire firms to account—my concern is that there's a lack of recognition of the imminent and real risk happening to people right now. The Fair Work Ombudsman's report found that 83 per cent of labour hire companies in the Riverina and 74 per cent in Coffs Harbour and Grafton were noncompliant with existing relevant industrial relations rules. While the idea of developing a code of practice is all well and good, there are existing industrial relations rules and legislative protections for workers that are not being complied with.

We have heard direct evidence to say that New South Wales is being seen as a soft touch because we do not have our own scheme. Why can we not immediately introduce a mutual recognition scheme to at least allow us to prevent the dodgy labour hire firms that have been rejected in other States from setting up shop in New South Wales, as a basic starting point? I'm not saying that all these other things aren't good or that we don't have to work through this. But there is nothing stopping us this week in Parliament having some kind of legislation put through that would have a mutual recognition scheme, to at least send a message to say that those dodgy labour hire companies cannot open up shop across the border in New South Wales—because currently that is what the evidence we have heard is that they are doing. That is a huge risk for this State and for the people who are here.

Ms SOPHIE COTSIS: Deputy Chair, I completely agree with you in terms of the urgency of this situation. That's why we've invested \$127 million into SafeWork over the next four years. Part of the work that Dr Casey has outlined in terms of the enforceability is these codes of practice that we put through the Parliament last year—I know with your support. We are directing additional resources in terms of going out particularly in those areas where we're running campaigns and blitzes. I know that there are some coming up. I understand that I'm not at liberty to say where and how because of the sensitivity of the issues, but there are joint collaborative programs, of getting out there and running these campaign blitzes. That's one part of it. Mutual recognition: We're currently exploring MOUs, or agreements, between the States, Queensland and Victoria. We're currently undertaking that work. I hear the urgency in terms of mutual recognition. I ask either Mr Galvin or Ms Rizzo to talk about the mutual recognition or agreements between the States.

MARINA RIZZO: There are some legal complexities around the implementation of the mutual recognition scheme that we are working through. Fundamentally, a mutual recognition scheme does require an existing framework, a licensing scheme of sorts, to exist before steps taken in another jurisdiction are either

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recognised here or not, so there are some complexities that we're working through that will require some legislative amendment or some legislation to be enacted.

Ms JENNY LEONG: Given the time frame from when we have heard—obviously, this is an issue that Unions NSW and others have been working on for a very long time. It's not new news. The Anti-slavery Commissioner has raised it. But in terms of the work of this Committee, we've had direct evidence come to us that dodgy labour hire firms are opening up in New South Wales because we do not have a scheme. That is of a level of urgency that has been raised now over many months with the Government. I appreciate that there's a lot of reforms that need to be done as a result of what happened under the last Government, but this is a current practice that is happening now. I guess there's been no indication, even in terms of public commentary, to say that New South Wales is going to move urgently to enact a mutual recognition scheme, which might even prevent those labour hire companies bothering to set up shop across the border because they know they're about to be prevented. I appreciate it would need legislative change, but that legislation is not forthcoming, as far as I understand. I'm wondering why there is a delay given the level of risk.

MARINA RIZZO: Not wanting to pre-empt any decision of government, but there's a weighing-up exercise. You either implement the mutual recognition scheme but then it requires almost the same steps as implementing a substantive labour hire regulation scheme, in terms of the consultation and legislative framework that it would require. We're actively weighing up those options to be able to provide advice to government.

Ms JENNY LEONG: I appreciate that there's a genuine question of the amount of work needed to set up a mutual recognition scheme. To draft the legislation and to work on that could be the same as setting up a regulation scheme.

MARINA RIZZO: Precisely.

Ms JENNY LEONG: I agree, but what I'm wondering is why has there been no progress on this over such a significant period of time?

Ms SOPHIE COTSIS: I can respond to that. It's because we've been relying—we made a commitment with the Federal Government, and the other States pulled out late last year. It was late October, the end of October, and we're in March, so it's been the last four months. I know that we've spoken to the Committee and we've spoken to members last year about the urgency. We were saying, "We're working with the Feds. We're working on a scheme." But I was pretty angry and annoyed that we've gone through 18 months of work and then the two States and the Territory pull out. We're going back to, what can we do now? What's tangible now?

Ms JENNY LEONG: Can I just follow up on that? Obviously, I've never had the benefit of being involved from a ministerial level in discussions about trying to create a national scheme through legislation in different States that's the same. Presumably in that 18 months work was done.

Ms SOPHIE COTSIS: There was work done for a Federal harmonised scheme.

Ms JENNY LEONG: What I'm saying is if there's work done on some kind of Federal harmonisation that would involve us having to pass legislation in New South Wales, presumably at a Federal level or in New South Wales there is that work done. Actually, we're not starting from scratch in the sense of needing to start establishing that; we could take that work and turn it into legislation that could be passed urgently.

The Hon. GREG DONNELLY: Point of order: I think the Minister is entitled to respond to one question at a time as opposed to a whole stream of propositions being put.

The CHAIR: I think the Minister would like to have the opportunity now to respond.

Ms JENNY LEONG: Of course. Apologies, Minister. That wasn't the case. It was more just trying to get—

Ms SOPHIE COTSIS: I understand the frustration. There was a pretty big debate between Victoria and Queensland because neither of them wanted to give up their scheme. I don't want to reveal anything that was in those meetings. That was that background. We proposed this as a new Government: "Go back, do some work, but we need to have one host agent, one host State. We all need to get on board, and we all need to get on with it." There was a battle between the States. There was a landing, and New South Wales was working towards that harmonised process. I think it was going to be Victoria.

IAN GALVIN: Yes, Victoria.

Ms SOPHIE COTSIS: Victoria was going to be the host, and we were going to work with them, and whatever. Anyway, it's all kind of fallen apart, but they're still doing work. Federally, and with our officials, work is still happening. But I'm not deluded. I know that the Committee's expectation, Labor Party members' and union

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members' expectation, is that we need to get on with it. What I'm doing is looking at what are some of the tangible actions now, the campaign blitzes, working together in collaboration. The Fair Work Ombudsman and SafeWork are about to sign an MOU in doing joint partnerships. The Migrant Workers Centre that the Government funded a couple of years ago, they're going to open it in the next few months. They'll let all of us know. These are targeted campaigns. The Government provided, I think, 6.5 over four years—and this is education and training—to stop exploitation of migrant workers in New South Wales, Multicultural NSW, SafeWork NSW.

That is your tangible action. Their work is to do targeting work around gathering the intelligence, so there'll be funding of offices. It's in partnership, their current visa assist partnership, so they do have a partnership. Sorry, I apologise; there is a name. They're working together with another partner. Unions NSW have a partner, and they're working together with our agents, those two agencies, to make sure that they're—SafeWork is funding part of it, Multicultural NSW is the lead, and I understand that midyear they're going to launch it and have a targeted program.

Ms JENNY LEONG: Can I just say before we wrap up, they all sound like really important, good things. I acknowledge that there's no critique of the work that is being done; it's what else we should be doing. I just want to acknowledge that on the record.

The Hon. Dr SARAH KAINE: Thank you all for appearing. Nice to see you all again. Dr Casey, I have a couple of questions for you. It's my memory of the WHS Act that it doesn't explicitly refer to conditions of modern slavery. Is that correct?

PETRINA CASEY: I think that that's correct, but if it's not, I'll come back on record and correct that. But that's my understanding, too.

The Hon. Dr SARAH KAINE: It doesn't refer to modern slavery. When inspections—blitzes—are taking place, the inspectors obviously can only do what's within the remit of the Act.

PETRINA CASEY: Absolutely.

The Hon. Dr SARAH KAINE: There would be other markers of modern slavery which don't then feature in the WHS Act. I know the WHS Act is meant to be harmonised, but I wondered might it be an idea that we consider amending the Act—

Ms SOPHIE COTSIS: Good idea.

The Hon. Dr SARAH KAINE: —to insert the term "and look for" whatever it is, and the drafters will put something together, so that you're expressly looking for the markers of modern slavery, in addition to all of the other list of things you have to look at?

PETRINA CASEY: What I would say in terms of the general duty or the primary duty under the work health and safety legislation is quite broad in terms of PCBUs having to provide a safe workplace and the welfare of their workers, so certainly when we're out doing any activity, whether it's reactive or proactive, we are looking at accommodation where it falls under the jurisdiction. Where the employer is providing that accommodation, you would look at amenities, fatigue, so how work is organised, how the workday is organised. Certainly psychosocial hazards is also another important component of the Work Health and Safety Act now. It is quite broad in terms of what our inspectors need to consider in terms of compliance with the legislation. But absolutely, it doesn't look at wage conditions, those other sorts of things, which fall outside the jurisdiction of the work health and safety—

The Hon. Dr SARAH KAINE: They wouldn't be then asking questions about whether travel documents had been confiscated, those kinds of things?

PETRINA CASEY: Not in relation to industrial relations matters, but if there was travel logs and other things where we were looking at issues of fatigue or work overload.

The Hon. Dr SARAH KAINE: But not sort of passports et cetera?

PETRINA CASEY: No, absolutely not. I guess that's where the work that the Minister mentioned that we're doing with the Department of Home Affairs is really important and the Fair Work Ombudsman. We're starting to get a bit more sophisticated how we work together on that and target our compliance so that we're doing that and we're looking at it under the work health and safety legislation, but we've got the other regulatory agencies looking at the jurisdiction under their legislation as well.

The Hon. Dr SARAH KAINE: Does that mean that inspectors are trained to be able to identify those other markers, or they're trained simply with—I'm not suggesting they're not well trained, but that they're looking at those things under the Act, or have they had training in, if you see these things, these are markers?

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PETRINA CASEY: Our inspectors are trained, obviously, under the work health and safety legislation, but, as I said, those things are pretty broad, and particularly now that we've got the psychosocial legislation, there's not that much that doesn't come under that you could consider a psychosocial hazard. The training is certainly encompassing that, but I think the important thing is that their remit, as you're pointing out, is under the work health and safety legislation, so working alongside other regulatory bodies who have that jurisdiction and that specific training is really important.

The Hon. Dr SARAH KAINE: I guess one of the things that I'm reflecting on is that we've had evidence from the Anti-slavery Commissioner, and a lot of the work that he's been doing has been about training various parts of the public sector, specifically in modern slavery. I wonder if the Minister may be considering some inclusion in the Act of modern slavery, but maybe some of the existing programs that the Anti-slavery Commissioner already has for training the public service might also be worth considering.

Ms SOPHIE COTSIS: Dr Kaine, I think it's a good idea, but obviously I have to get advice from our officials.

The Hon. Dr SARAH KAINE: I'm just throwing around some suggestions.

Ms SOPHIE COTSIS: I might ask Dr Casey. We've got a regulatory program around amenities, for example. When our inspectors go out, particularly on worksites—as we all know, in 2026, we have no equity in terms of female amenities on worksites, not just building sites but other sites. I know all of you have had delegations who've come to see you about amenities. Our inspectors will go in, they've got a checklist, and now we've added amenities. Amenities has been there, but we're really—it's more pronounced. We could have a look at doing something like that through the regulation, in terms of accommodation.

PETRINA CASEY: We actually have a code of practice, specifically on accommodation. It's just been renewed—updated. It does now contain some more detail, particularly targeted at the rural accommodation, which can be quite specific. There are specific codes of practice in addition to what you're talking about, Minister, around the amenities. Going back to the earlier conversation, they become mandatory on 1 July.

Ms SOPHIE COTSIS: Why don't we work with you, in collaboration with the Committee?

The CHAIR: I think there are offences related to modern slavery. You've actually got a mechanism here by which the State can get involved and recognise it. I think having it linked to the Work Health and Safety Act would be quite an important mechanism for getting some action here and would link with the proposed code of practice. I think that's where you're going, Dr Kaine.

The Hon. Dr SARAH KAINE: Yes, I think if we can chat.

Ms SOPHIE COTSIS: Absolutely. We can take it away, look at it and get our legal people to have a look at it. I'm very open. I think that's a very good idea. Sorry, I didn't mention, but there's some really good work around the collaboration with Home Affairs as well, as you were saying. I thought that was great as well. We're looking at SafeWork, Home Affairs and the Fair Work Ombudsman working in collaboration, so everyone knows their jurisdiction and what they have to do. To the point around passports and things like that, we've got Home Affairs, and obviously the complaints around the PALM scheme and that process. That's a very good idea, and let's get back.

The Hon. Dr SARAH KAINE: Is it possible for us to have on notice those codes of conduct and things that you were talking about? They might already be publicly available. If not, it would be great to have a look at those as well if we could, Dr Casey.

Ms SOPHIE COTSIS: Yes.

The Hon. AILEEN MacDONALD: I'll do mine as a supplementary.

The Hon. GREG DONNELLY: Thank you, Minister, and officials, for coming along today, and can I acknowledge the work that's being done and the very real challenges that have been presented arising from the collapse of what we hoped was going to be a very solid national approach and requiring us now to carve our own way forward in dealing with it. I thank the officers particularly for what is, in a sense, creative work they now have to do to see what New South Wales will do to move things along. My question, Minister, is to the matter of the compliance work that has been done, particularly in the context of the supply chain compliance. Take it on notice if you need to, in light of the time. There's only a couple of minutes left. The supply chain compliance program is obviously being done. It is formalised, I presume, in documents, and it is being pursued by inspectors and others, driving into these areas of what is nothing short of exploitation of workers. So a supply chain compliance program update—but if you need more time, because you've effectively got 120 seconds, maybe take it on notice.

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Ms SOPHIE COTSIS: I know that you're very passionate about this area and have been a very strong advocate. There are two things here, and I know that Dr Kaine knows this area—the Ethical Clothing Extended Responsibilities Scheme—very well. I haven't mentioned it, but I just wanted to let you know that the inspectorate in the Premier's Department is doing some really important work to enliven it, and I think we're getting to August, Ms Rizzo?

MARINA RIZZO: Yes, that's right.

Ms SOPHIE COTSIS: We'll have a lot more to say, but I want to thank you all, and particularly Dr Kaine, for pushing us on this. That's very important. With respect to the Construction Compliance Unit, again, the Construction Compliance Unit are based in the Premier's Department Industrial Relations Inspectorate. From 1 March, this is a really important initiative where there are three complementary streams of work. I know that the Government has done a lot of work with respect to procurement. Dr Kaine, you've been involved in that. Prior to Government awarding a contract—because this comes up to us all the time—you award a contract and then you've got the third, fourth and fifth tier that's not following, whether it's entitlements, whether it's long service leave, whether it's not paying the super or not paying their tax. Then the main contractor says, "It's not our responsibility. We're doing what we have to do via government."

The CCU—the Construction Compliance Unit—will conduct checks of publicly available records held by relevant regulators. A report of any findings will be provided to the procuring agency to support its due diligence process, so there's going to be a lot more due diligence around awarding a government contract. What that has done, through our agency—and Ms Rizzo's team is working very hard speaking to the contractors, speaking to the agencies and saying, "We'll do this work." We've sent a very strong signal out to the market that we're not going to take their crap. They want a government contract. They have to follow the rules and everybody else has to follow the rules under them.

The CCU will work with the client agencies and head contractors to develop and maintain a database of subcontractors operating on New South Wales construction sites, improving transparency and oversight. We've got that body of work—that data—that will give all the agencies, the government and the public an opportunity to see who's a subbie working on a government contract. This sort of falls into my space as well around the—we've got the administration into the CFMEU and all the things that we've heard with respect to what they've been doing. We want to make sure that this industry in particular is rid of criminals and corruption all across the industry, moving on these dodgies and having these subcontractors in particular, not only getting government work but all work, do the right thing by workers and working conditions. Finally, the CCU will conduct audits of head contractors and subcontractors to assess compliance with industrial relations obligations, including super and payment of wages. We'll continue to work with existing contractors. I haven't had any pushback from any of these tier ones.

MARINA RIZZO: No.

Ms SOPHIE COTSIS: I've had pushback on other things, but it seems that the signal's out there. I just wanted to report that to the Committee.

The CHAIR: Thank you for that. We are at time. Minister, importantly, the new SafeWork codes of practice, which can be enforced from July, what is the timeline on the development of that in relation to this in particular? Because that's the urgent—you've indicated that is the point at which we can act now to get some control of what's happening. What is the timeline around that? Can we expect that this year?

Ms SOPHIE COTSIS: Yes, you can expect it this year.

PETRINA CASEY: Well—

Ms SOPHIE COTSIS: We're trying. We're working.

PETRINA CASEY: Certainly, the work internally within SafeWork has commenced, having recently received the approval from the Minister. Typically, the codes can take 12 to 18 months, but that's because we're doing that consultation. While we're doing that, there is an important awareness component that we can still work on. As I said, the compliance activity and the broad duties under the Work Health and Safety Act mean that we're not not doing anything while the code is developed, Dr McGirr. I think that's an important point. But they do take about 12 to 18 months.

Ms SOPHIE COTSIS: To Dr Casey's point, when we passed the legislation last year around mandating codes of practice, we still haven't switched that part of it on in the Act because we told everyone it's going to take 12 to 18 months to do all the consultation and the workshops. There's a lot of detailed work with the industry and the unions. With respect to this one, Dr McGirr, I understand the urgency. I hear you. We hear you. Again, I'm not talking for the industry, but the industry players that have come to see us—and I'm sure they're the same that

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have come to see you and report to you—want urgency as well. The industry, the NGOs, the unions—everybody is all on one side in terms of getting this right level playing field and making sure that the good operators that do the right thing are not put out of existence. I hear what you're saying.

The CHAIR: Certainly, the work we've done over the last 12 months indicates this is the one thing everyone agrees on, and also agrees on the urgency. Thank you, Minister. Thank you all for your evidence. The secretariat will contact you in relation to any questions or supplementary questions on those. I understand you'd be happy to answer those. I want to thank you all for appearing, including Mr Galvin. I'm sorry that you didn't have an opportunity, sir, to participate. Thank you for your attendance.

The Hon. GREG DONNELLY: We'll throw you lots of supplementary questions.

IAN GALVIN: Next time, maybe.

The CHAIR: We'll bring this session to a close. Thank you.

(The witnesses withdrew.)

(Short adjournment)

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Mr STEVE DARGAVEL, Labour Hire Licensing Commissioner, Victorian Labour Hire Authority, before the Committee via videoconference, sworn and examined

The CHAIR: Mr Dargavel, thank you very much for agreeing to come at very short notice. We very much appreciated it. Not only at short notice, but I think you have actually sent through a presentation which is extraordinary actually, so thank you. That is above and beyond. Generally speaking, we would say to a witness to restrict your opening statement to two or three minutes, but we've had a chat this morning and would like you to give us your presentation. I'm sure you're aware of this, but just to recap: The context is the Committee has been very concerned about the lack of labour hire regulation in New South Wales, and we've made representations to the Government.

In fact, the Minister attended this morning our formal public hearing on the issue. There has clearly been an issue with harmonising labour law regulation at a national level. That process has broken down. The New South Wales Government, having done some, work tells us that they are now embarking on a regime within New South Wales. The evidence this morning was, essentially, it will almost take as long to do mutual recognition as it would to establish a separate scheme, but they're working on that. They've indicated to us that in the meantime they are going to introduce a code of practice under SafeWork, under our work health and safety legislation, that will be enforceable as a measure in the interim. Still, that will be taking some time.

In that context, we remain concerned at the lack of labour hire regulations, so we are very keen to hear about how Victoria has approached that, and are happy for you to do the presentation. But I guess the specific context for the Committee is what can the Government do, outside of formal legislation, for labour hire regulation to improve the situation in terms of people acting as labour hire firms? In other words, without specific legislation, what can be done? What have you done? That's a lot of sub-text questions. On that note, I might hand over to you and thank you again.

STEVE DARGAVEL: Thank you very much for the opportunity. I welcome the opportunity and am grateful for it. I think the work of the Committee is very important and I'm very pleased to be given the opportunity to address your work. Just a quick snapshot of what we do in Victoria. There was an inquiry into the labour hire industry and insecure work that was concluded in 2018. It was a major inquiry. It attracted a lot of interest and a lot of participation by employer associations, labour hire providers, host users of labour hire, non-government organisations, churches. There was a lot of interest in it. It concluded that there needed to be a barrier to entry regulator to deal with labour hire. The inquiry conclusions are not dissimilar to many other inquiries that have happened prior to it and since it, including the Harvest Trail Inquiry, which was supported by some very significant work by some very significant Commonwealth agencies, including the Fair Work Ombudsman, the Australian Taxation Office and others.

The object of our Act is to protect workers from exploitation by labour hire providers and the users of labour hire services, and to improve the integrity and transparency of the labour hire industry. A lot of labour hire services are often orchestrated through quite opaque vertical supply chains. Improving the integrity and transparency of the industry is one of the foundation requirements to ensure that workers are protected from exploitation, and it is temporary migrant workers that are so often exploited in the labour hire industry. The obligation under the Act in Victoria is that all labour hire service providers must have a licence, and host users of labour hire services must only use licensed providers.

With the provision of the public register, it's very easy for hosts to ensure that they're only using licensed labour hire providers. There are consequences for not using licensed providers and there are consequences for providing unlicensed labour hire services. That can be penalties of over \$650,000 for a corporation and over \$160,000 for an individual, for an actual person. One of the inquiry recommendations was that the cost of breaching laws should not just be part of the cost of doing business—that there had to be a meaningful set of interventions to ensure that there was actual behaviour change. That's the theory. The next slide which I've provided the Committee—and I think your secretariat said I shouldn't share my screen because it might break something, so I'm just hoping that the Committee can bear with me with the documents.

The CHAIR: We've got the presentation, yes, and we're following it.

STEVE DARGAVEL: That's the kind of theory of it. Firstly, going to the horticultural industry, you'll see that our licensing data to February this year is that we are dealing with presently 448 entities supplying labour hire services into the horticultural industry. That is after we've refused 198 businesses their application to provide services and we've cancelled 259 labour hire providers in the industry. So the total number of participants providing labour hire services in the horticultural industry in Victoria is half of what it otherwise would have been were it not for a barrier to entry regulator.

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Our Act was recently amended at the end of last year and the fit and proper person test has been strengthened. I expect that the total number of labour hire providers in the horticultural industry and some other industries, including the construction industry, will compact further as a result of those more stringent requirements which have been carried by the Victorian Parliament. In the last financial year, if you go to the next slide, what that snapshot looks like for a single year, as opposed to a whole industry over a journey—in a single year last year we cancelled 535 providers, we finalised 330 investigations, we refused 100 applications and we imposed specific conditions for performance on a further 48 businesses.

Sometimes a business may be—we think that it's not really at the point that they should be removed permission to operate, but there is sufficient concern to impose a specific compliance condition. For example, you might have a business that has been supplying workers on the pretext that they're independent subcontractors, whereas they're actually employees, and not paying them the award and superannuation's not being honoured. What might have happened is that that business is—in some circumstances, they will have had a condition that they can only provide labour hire services, in respect of employees, where there is traceable means on remuneration and that sort of thing. In other cases, we've cancelled licences where it was clearly an avoidance device and there was no confidence that compliance would proceed from the decision. There is a range of tools which can be used flexibly—and proportionately is the key here. The key also I'm inviting the Committee to consider from this evidence is that it is a fairly active regulator, it's quite a dynamic register, and there's a lot going on in the labour hire world.

In our journey, we have had providers that are not necessarily based in Victoria but are supplying labour hire services within Victoria that have been involved in comprehensive avoidance structures, such as proxy directors. Someone might have come to Australia on a student visa, they've created a constitutional corporation here, created a director ID, a bank account and taken out a mobile phone number. Then they've returned to country of origin after being here for maybe a month and apparently are conducting an active labour hire service business in a regional location in Australia. One interpretation of those facts might be that that's actually what's occurring. An alternative explanation is it's a fake company with a front director, which has been controlled by other principals.

We have an intelligence and analytics unit. We're a cost recovery regulator, so we're not going to government asking for funds. After the initial startup commencement cost of the agency, there is no call on the taxpayer to run the agency. Labour hire firms pay a licence fee that's retained into a trust account by the authority. That's what funds their operations, so we're a bit different to other labour hire regulators in other jurisdictions. As a consequence, we're larger. One of the by-products of being a bit larger is we have a dedicated intelligence and analytics unit, which assists us with our work. In looking at some of those phoenixing structures or sophisticated avoidance structures, we have identified a number of actors that are actually based in New South Wales, but the avoidance structure is being represented here. We've seen evidence of modern slavery; systemic avoidance behaviour by taxation law, occupational health and safety law, migration law; and the award being abused. We've had occasion to map those avoidance structures, because as they turn up in Victoria we've got to have awareness about their association.

If I take you to the next slide, you'll see one example of one part of an avoidance structure operating in New South Wales where the authorities needed to treat various entities in that corner of that particular syndicate, where a range of entities are turning up seeking permission to provide labour hire services, or who have managed to get a permission but we're weeding out of the garden, as it were. Often they've got professional enablers that are creating the avoidance structure. If you go to the next page, that zooms out to the entirety of the structure. I'm not, for various legal reasons, able to share with you the identities of the parties involved and the nature of the transactions, but that gives you a visual insight into what a single avoidance structure operating in New South Wales looks like.

What's particularly interesting—or what I hope you'll understand is interesting—is that different primary agencies will apprehend elements of that syndicate. You may have Border Force, which will see some abuse of Australia's migration system in certain elements of the system. The Australian Taxation Office will most certainly see non-remittance in other aspects or phoenixing behaviour. The Phoenix Taskforce will see elements of it because there are entities being created, tax not remitted, wages not remitted, super not remitted and then the entity is put into administration and everyone is left high and dry, and trading creditors are harmed. Then the gig just keeps continuing, where the principals have a different proxy to orchestrate the same set of harms in the same community, often involving the same victims. Then you'll also see the occupational and safety regulator dealing with another element of the piece.

If we're looking at it through the prism of modern slavery, we'll see modern slavery manifest from certain aspects of this syndicate. The key point that I'm hoping to convey is that tackling modern slavery in isolation of understanding the overall integrity challenge to government—you need to have a single lens to the problem that

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apprehends the dynamic and then has got the power to not only interfere with it but dismantle it. In Victoria, we can interfere with it and stop this particular syndicate's presentation in the jurisdiction of Victoria. We can't mobilise, obviously, in New South Wales. That's not our job. It wouldn't be proper for us to seek to do that. We don't have the power to do it. What I'm trying to convey is that some of these structures are quite sophisticated. They're very large. They have an enormous impact in terms of harms. They're understood through different lenses. Different elements of the problem are understood by different primary agencies.

And then to the last slide, having shared that set of observations, the key point here is that modern slavery in isolation, without understanding the dynamics that create the problem—the treatment of the problem needs to apprehend the totality of the structure. The Commonwealth committed to implement a national approach. There was a very compelling set of reasons to do that—either a national approach or they committed to implement their own approach. There have been various versions of that over the years. That clearly hasn't happened and is not likely to happen. That leaves the States and Territories with the original problem that needs to be tackled. What I would say is that the labour hire licensing scheme provides the necessary single lens to be able to apprehend the harms across various domains and tackle, at least, the supply side of the problem.

There are two elements to this: You have to tackle the syndicates and the normal noncompliance that happens in the labour hire industry. There also has to be an effort at the demand side of the problem, which is about saying to large hosts, "It's not the right thing to be entering into sub-price contracting that is creating the market demand for this kind of activity." The cost to government of setting it up is a one-off establishment cost. The Victorian Government funded the establishment of the Victorian Labour Hire Authority. After it was established, it has not cost the Victorian Government funds. As I say, we're self-funded.

There's been a good return on investment to Victoria in the sense that there has been a reduction in the amount of abuse of the taxation system that accrues to the labour hire industry. There's been a good return to the community in the sense that honest businesses that are seeking to compete on a level playing field have less static in competing with underquoters that are racing to the bottom. They never find the bottom, it turns out. My evidence is not that we've solved all the problems. We've got a lot more work to do—and we certainly are looking forward to those amendments coming online once they're proclaimed—in pursuing our mission. It is my evidence that I think it is a positive result for the community, and for government, ultimately. Whilst it's a contested debate in parts, there are certainly aspects of the labour hire industry that have been quite pleased with a journey to levelling the playing field that otherwise was completely out of control previously.

The CHAIR: Thank you for that presentation, which, I have to say, actually broadens the significance of the labour hire issue for me. I guess I'd seen it pretty much in isolation. But I think what you're saying is that you're really dealing with organisations that are very clever in the way they are constructed and how they operate. If they break the law in one area like tax or some compliance—I think you mentioned—in relation to water, for example, they are able to deal with that agency in a way that doesn't affect the rest of the company because the agency can't see the rest of the company. The company is actually so complex in its structure that that agency may not even be aware of the links to other parts of the organisation. That's quite a profound insight.

What goes with that, from what you've said, is that this lens of modern slavery and labour hire together would actually enable the Government to get a sense of what's going on with those organisations in the broader scope, which they can't as an individual agency. The modern slavery lens actually provides a useful way of tackling what's a major concern. My question, though, is that it seems from your evidence that you were saying that companies with these complex structures continue to operate in New South Wales. If they try and do anything in Victoria, you can get onto them. You've got an analysis, you've got a team, you've got a structure, but in New South Wales, none of that exists.

STEVE DARGAVEL: Correct.

The CHAIR: Then they use the base in New South Wales perhaps to try and get back into Victoria from time to time, do they?

STEVE DARGAVEL: That is certainly what's been going on with this particular syndicate and some other syndicates, correct.

The CHAIR: I guess the same would be true of Queensland perhaps, although that's speculation. So it actually represents an issue for Victoria that New South Wales is allowing these firms to operate.

STEVE DARGAVEL: I'd put it through the prism that it represents a problem for the country. These are avoidance structures that are getting around the nooks and crannies of the regulatory architecture, whether that architecture is orchestrated federally or within a particular jurisdiction. It's not a criticism of any particular jurisdiction at all. It's just that there is a market demand for it, and that market is going to be served, and there needs to be a strong regulatory focus on dealing with it. Certainly, we see it represented as it comes into Victoria.

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I'm not suggesting for a moment that we've solved all of the problems in Victoria—we haven't—but we think that we're part of the solution.

A lot of the entities that we have removed from the marketplace will often have a website with a value statement. Your earlier question, Chair, was what of self-regulation or what of codes of practice as perhaps a bus stop towards a more serious program. There really are quite a lot of entities that will say all the things you want them to say. They'll have a value statement. They'll have statements that often are generated by generative AI these days about how they're ensuring compliance, how they've got internal codes of practices. On a desk audit basis, you look at them and at first blush it looks all very lovely. Then you get onsite and see some financial intelligence and some other inputs, and then you realise that that's all just nonsense.

You've got to deal with people on what they do rather than what they say. This is a notoriously difficult industry to deal with on the premise that it's a code of practice type thing because these are structures that are set up to avoid the system. They're not there to do anything other than make money for the principals. They are involved in substantial and widespread lawbreaking across local government, State Government and Commonwealth law. It's hard to apprehend how a self-regulation guidance sort of system motivates change of behaviour with those sorts of actors.

The CHAIR: The code of practice would be in the context of some changes to legislation here that would make it enforceable. I think there was an intention that there would be SafeWork inspectors who would be out policing that code of practice. To be fair, it wasn't to be self-regulation. There was an intention to have boots on the ground. However, the point that comes home to me is that that's going to be from a SafeWork lens. These organisations are much more complex than that and it may be that we will still miss the boat on how they operate by just purely having that SafeWork directorate looking at it without looking at a whole range of other issues, which is actually quite helpful.

The Hon. GREG DONNELLY: Thank you, Commissioner, for joining us today. Thank you very much for your presentation and the opportunity to ask you some questions. Are you able to provide to the Committee a sense of how profitable this labour hire industry is in terms of its money-making capacity? It's a relatively straightforward model in some sense. As you've described, tragically—using the words you quoted—it's a race to the bottom where there's no bottom at all. In terms of looking at the way the labour hire industry was operating pre-legislation and regulatory influence, it was presumably much more profitable then and has become less profitable or is it still quite profitable now to the extent that they can hide behind these complex structures?

STEVE DARGAVEL: Regrettably, there's a lot of money being made by principals who are operating these structures. That is the sort of black economy actors we're talking about, avoiding syndicates, that are pulling in not tens of millions but hundreds of millions of dollars. The Phoenix Taskforce has had various goes at trying to estimate just what the phoenixing element of labour hire is costing simply government in revenue. That's a subset of a subset of a subset. Estimates range between \$1 billion to \$5 billion per annum.

The Hon. GREG DONNELLY: In the State of Victoria?

STEVE DARGAVEL: No, nationally. At the upper range of \$5 billion per annum in revenue, which is just the phoenix subset of the problem, or let's take the much more conservative estimate of \$1 billion per annum in government revenue for the State of New South Wales that is taxation avoidance, but as it represents the workforce it's clearly a bigger number than that, because wages are supposed to be bigger than taxes. Then there's the harm to all the legitimate businesses who are trying to do the right thing who are being under-quoted and not winning work. There are certainly some publicly available products for the Committee to consider from the Black Economy Taskforce and the Phoenix Taskforce, and I'm sure the secretariat could provide you with better numbers from those—at least the publicly available material that's available to the Committee. But some of these structures are pulling in just gobsmacking amounts of money and getting away with quite offensive behaviour. It's not a marginal, small problem.

The Hon. GREG DONNELLY: No, it's not pocket change. In the early part of your opening statement, you helpfully referred to the agencies involved, and specifically ATO, Border Force, WorkSafe, and then obviously there's the modern slavery framework through legislation. I presume, fitting into that, there are also at least some occasions where both the Australian Federal Police and the Victorian police force—

STEVE DARGAVEL: We do a lot of work with Victoria Police, the AFP—with lots of agencies we work with. The premise is that a labour hire provider has to comply with a range of legal obligations—tax law, migration law, workplace law, accommodation standards, transport standards, workers compensation and so on and so forth. All of the normal sorts of obligations which attach to employing people and supplying services attach to a labour hire company. The premise is you've got to follow all the rules. If you don't follow the rules and you're doing the wrong thing on health and safety, or if you do the wrong thing on the Fair Work Act or taxation law,

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then you run into trouble with your labour hire licence, is the concept. Of course we work with as many agencies as we can. We do quite a bit with law enforcement.

In the construction industry in Victoria, there's been a lot of work with Victoria Police. They've been fantastically supportive through the Hawk taskforce and also with the AFP through the JOCG. Then also, in relation to modern slavery matters, we deal with the AFP. The AFP does some wonderful work, but the size of the problem is bigger than what I suspect they can allocate resources to, so the threshold for them to be able to invest in intervention is never going to be enough. That's why you need a barrier to entry, because when you see an agency have a very high threshold, it's suggestive that the problem is bigger than their resourcing commitment can furnish. We've been very pleased to work on some of those modern slavery matters where we've been able to effect treatment of the problem and, of course, refer to the AFP in the event that they're able to take enforcement action. But, ultimately, it's about ensuring that the wrongdoers aren't in the marketplace in the first place and the victims are squared away.

Ms JENNY LEONG: Thank you, Commissioner, for joining us today. It's really helpful insight to hear how things are happening in Victoria. I wanted to have an understanding of the amount of licences that you've either refused to renew or cancelled, or refused the application, say, in that example you gave us within the horticultural industry. To what extent would you have information that those labour hire companies would also be operating in other States? To what extent would there be some form of collaboration that could occur between Victoria and New South Wales in terms of your agency becoming aware of the fact that these labour hire firms that you have either refused an application for or cancelled their licence are also operating in New South Wales? Is that something that could be facilitated as an information-sharing exercise in the absence of New South Wales having a regulatory scheme—recognising that you've said, obviously, this is a national problem and that people are going to work however they can to try and get around it.

STEVE DARGAVEL: As you know, there's a scheme in Queensland, there's a scheme in Victoria and also the ACT, and a much smaller subset of a scheme in South Australia. So that's a good start. In terms of your information disclosure question, we can disclose to law enforcement agencies or co-agencies—regulators, that kind of thing. It's a problem for all agencies when a policy arm of government wants good information and law enforcement agencies can't give them the granular insights, which is why the broader studies of things like the Harvest Trail report are important, because that's really the people with access to the raw intelligence telling the story to policymakers.

To the precise question, if New South Wales had an enforcement agency that was operating in the field, whether or not it was called a labour hire regulator or something else, then the secrecy provisions of our Act enable us to make disclosures to enforcement agencies. We do, nonetheless, produce on our website the register. Everyone in the marketplace can download that register and see who has got a licence to operate in Victoria and where they're based. We provide for a downloadable CVS. Anyone anywhere can download that and have a nice old data party.

You can see from that that there's a range of entities that are not licensed to operate in Victoria who are based in New South Wales, and we know that they're operating in New South Wales. So there's publicly available information for agencies if they're so inclined. If we had a law enforcement agency to disclose that had the remit in the function sufficient for us to do so, we like to collaborate with as many agencies as we can to—it's just good for the community and serves the public interest. But we're not in a position to just disclose raw material to a department, as such, that might be exploring things but doesn't have a particular statutory function.

Ms JENNY LEONG: Is there a role that the Department of Employment and Workplace Relations can play? Could there be a function? Because I appreciate and we're very aware that the national scheme or the attempt to have a national approach to this has really stalled. Is there a way that the Department of Employment and Workplace Relations could actually be an agency that the various States disclose to and that they would be able to hold that? Or does it have to be an agency in the form of a police or AFP-style agency?

STEVE DARGAVEL: If New South Wales orchestrated either its own labour hire agency or it created an Act that gave the New South Wales occupational health and safety inspectorate powers and functions to investigate and deal with noncompliance in connection with labour hire—either of—we could certainly make disclosures to either of those alternative agencies in the broad. But a departmental function that's talking about having codes of practice and industry guidance and all that sort of lovely stuff, which is speaking to that part of the market that is actually not deadset committed to avoid the law, then there's not much we can do by way of disclosures to those sorts of entities. But certainly, if there's an agency that has got an Act and is well empowered, then scope under our secrecy provisions is much broader.

Ms JENNY LEONG: I have a follow-up question but I can do it as a supplementary if that's suitable.

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The Hon. AILEEN MacDONALD: Thank you, Commissioner, for your time today. I probably should already know this, but how long has the Labour Hire Authority been in existence in Victoria?

STEVE DARGAVEL: We commenced licensing operations in 2019. That should've been on the first slide. The Act was in 2018. We commenced in 2019. We had a six-month transition window where providers could apply for a licence. Close to half the industry turned up in the last 48 hours of that transition window. That was a fun 48 hours. So it's since 2019. We started fairly small. It has grown since then.

The Hon. AILEEN MacDONALD: On the last slide, you said the Commonwealth committed to implement a national approach. It hasn't occurred, nor is it likely. That hasn't stopped your organisation from continuing to do what it does. Have you had any input into what happens? Are they coming to you for advice or guidance?

STEVE DARGAVEL: Initially, in 2018, the recommendation was to set up a barrier to entry regulation. The Victorian Government approached the Commonwealth and suggested a national approach but, at that time, was rebuffed. A number of State jurisdictions proceeded to set up their own schemes, but the posture, initially, was always that people thought a national approach would be better. For a period, a former government said they'd set up a national scheme, but that wasn't progressed. The current Government said they'd set up a national scheme but then converted it to a nationally harmonised approach. I was involved with a broader working party with officials from across the country in putting together a nationally consistent approach. That was achieved inside six months, which I'm told is relatively quick in terms of getting States and Territories to agree on a single thing.

Then it was over to the Commonwealth to fund the commencement cost, which they didn't get to. Subsequently, Queensland pulled out of the piece and Tasmania pulled out of the piece. There doesn't appear to be any signs of life of the Commonwealth returning back to their commitment to set up their own national legislation, nor does there seem to be any interest in really pursuing a nationally harmonised approach to make sure that we've got a consistent thing across the Commonwealth. That's really where I came to a conclusion that it's kind of up to each jurisdiction to figure out how to approach the model.

The Hon. AILEEN MacDONALD: It's probably a good idea too, by the sounds of it. You mentioned that you approach it on a cost-recovery basis. I wondered if you could tell us a bit more about that.

STEVE DARGAVEL: Labour hire providers pay an application fee to be considered for a licence, which is non-refundable. Those avoidance structures that you've seen have all had to apply for licences, pay a non-refundable fee and, when they're refused, as they generally are, that's revenue retained by the authority to fund our regulatory operations. Then there's an annual licence fee that's paid by licensees each year. It's not a popular thing. The industry doesn't like having to pay for its own regulation. But it does set the Victorian scheme up a bit uniquely from others in the sense that we don't have to go cap in hand to treasury asking for a funding round. All the moneys collected from the industry are used to support regulation in the industry. It's not tax by stealth. It's not money collected for one purpose that's then going into other government programs.

The Hon. Dr SARAH KAINE: Following up from Mrs MacDonald's question, often when this kind of regulatory approach is discussed, there are concerns that particularly that licence fee and the cost recovery might price the industry into oblivion, and then you have all the concerns about "But we need the flexibility". You've heard these before. I wonder, when the process was starting, were those arguments put up? It would appear that there's still a very robust industry for labour in Victoria. I wonder if you could say a little bit about that.

STEVE DARGAVEL: Yes, of course there was a lot of advocacy around the fee structure, and there were lots of concerns raised by industry that they would have to pay money to government for a thing or money to an agency for a thing. There is clearly lots of diversity in the market, so there's no lack of competition in the market, if you like. Those providers that have had to pay fees but are offering a legitimate labour hire services proposition, I think it can be safely said, have less competition threat from folks who've been eating their market share to feed a horrible avoidance beast. Whilst each individual business may resent having to pay a fee when the idea is introduced, over time, they can begin to appreciate that, in the longer term, it is a much safer position for them to be in the marketplace.

The CHAIR: Thank you very much, Mr Dargavel. That's been very helpful for the Committee. We appreciate your time, particularly at short notice, and your presentation. We may have some supplementary questions. I think Ms Leong indicated she would like to send a supplementary question, so we'll send that through to you. I hope you'll be able to answer that for us. On that note, I bring this hearing to a close. Thank you once again for your participation.

(The witness withdrew.)

The Committee adjourned at 12:30.