

WORKPLACE BUZZ

Tristar's trials & tribulations + who the OWS are targeting now.

By now, many employers will be aware that the Office of Workplace Services (OWS) has become a larger threat to the functionality of their business than the unions ever were.

Case in point is the fact that the OWS persecution of Tristar Steering & Suspension Australia Pty Ltd continues. They are going to take them all the way to try and prove that Tristar "involuntarily retrenched" their workers. Remember this one? Some time ago, Tristar had agreed to redundancy and severance arrangements in their union Enterprise Agreement which were actually more generous than having the workers work for 12 months doing nothing. Clearly this is not a very logical thing to agree to, and does not provide many workable solutions. However under WorkChoices when you move from one employer to another all the old conditions on the old agreement only last 12 months so things like redundancy disappears. Someone did their homework and worked out that, in this case, it was cheaper to keep them employed even if they were doing nothing, than to make them redundant. So rather than keep them actually working doing something useful for 12 months they were, as it turned out, "involuntarily employed" even though they didn't have to do anything to be paid each week. We're not suggesting that you actually feel sorry for Tristar. They deserve what they get. The point is the OWS are running an action against a firm who refused to stop employing people.

Nobody is safe against these zealots. Sure Tristar have made some questionable decisions. They were also insensitive, but they were following the law. Now they are going to have to spend up to hundreds of thousands to defend against this. They will probably win but they won't get what it's cost them. Following on from this, the **next focus** of the OWS audits that could cost you thousands will be on **younger workers** (aged between 15 and 24). Again, they will be reviewing pay slip and time and wages record-keeping; rates of pay; loadings and penalty rates; non-remunerated additional hours of work; and employers' obligations when negotiating workplace agreements.

In April, a Victorian ophthalmic supplies company was fined \$88,000 for underpayment of wages and entitlements plus pay the 6 workers the underpayment of \$17,564.86 with an additional \$5353.65 in interest imposed by the Melbourne Magistrates Court. That's right, they walked out of there with over \$100,000 to pay.

The Office of Workplace Services has now collected more than \$10million in underpayment entitlements, and the penalty can be up to \$33000 per breach. No-one can afford to be complacent in their workplace, as the OWS continues its hunt for the 'bad' employers. Since many small businesses can't be experts at everything, can you be sure that your own workplace is living up to the expectations of the OWS?

[Contact Haycroft Workplace Solutions today.](#)

Case Study (getting it right first time)

We often talk about setting up workplace agreements, and "[Rudd-Proofing](#)" your business, but don't often give away how it's done. Below is a case study of Beecham Motors, and its

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owner, Chris Beecham, who has had the same experience as many of our clients- the end result was one that both parties could be happy with.

As a result of one of our recent Workplace Buzz publications, we received a phone call from Chris Beecham, who had Australian Workplace Agreements (AWAs) created for their mechanics and technicians almost three years ago. At that time, they had decided to leave their remaining 30 or so employees under their current arrangements (their own version of the award).

Chris and the internal accountant/HR manager, Jenny had recognised the need to ensure that all of their work practices were in line, in case the Office of Workplace Services (OWS) ever decided to audit their records. Decisions were made very quickly, as the deadline was set that the agreements should be implemented before the old AWAs expired at the end of the month.

The majority of staff were offered Individual Workplace Agreements (IWAs), to either formalise the packages they were already receiving, or offering an improved deal where there was an opportunity to create better options for these staff.

The employees were encouraged to take home their IWAs to read though, although they could have waived their right to hold onto the agreement in the meeting, and suggested that if they are happy with the agreement it should be returned within 7 days. IWAs slowly came before the 7 day period, though most were received on the 6th or 7th day. Once Jenny realised that the reason for the slow return is that some employees thought it would be an ideal time to ask for a pay rise it was explained that they would continue to have an annual review process, and rates would be negotiated then, and agreements came back in time.

Now we just needed to ["Rudd-Proof"](#) the business as well. Any remaining employees who were eligible to vote on a Collective Workplace Agreement (CWA) were identified and given a CWA along with their own individual letter of offer. The vote was held a week after every employee had received the CWA, and the agreement was approved. Once lodged, this allowed the employer to employ new employees under the CWA, without having to get documents lodged with the Office of the Employment Advocate, and has allowed the business to work under an agreement which lasts for the next 5 years, irrespective of whether there is a change of government ["Rudd-Proofing"](#).

The moral of the story is:

When you recognise a need, it is important to understand and move on that need quickly; to make decisions about your employees in a logical and decisive manner, and once the agreements are given to employees, it is important that the process keeps moving and agreements are followed up by the employer-

A perfect example is set above where, by taking the time to communicate with the employees on a one-on-one basis, Chris was quickly able to address any concerns of the employees and resolve them appropriately. Most importantly of all, when the director is involved in every step along the way, employees understand a change is serious and respond as such.

If you want to get it right first time contact us now by phoning **1300 766 380** or [email us](#).

What's new?

Insurance is one of those painful payments, but you wouldn't dream of leaving your business unprotected. Imagine finding out that your premium was going to be substantially higher because of that excellent decision you made to use labour hire.

There are plenty of labour hire agencies in the marketplace but you only have to remember one name for your workplace challenges – [Haycroft Workplace Solutions](#), which includes [Labour Hire Australia](#) & [Small Business Union](#).

You ask your insurance rep what you can do to reduce your public liability premiums & they suggest to employ the workers yourself. As a result you may have a reduced insurance premium but you **WILL** have the angst of recruiting & retaining workers as well as the costs of employment such as payroll & compliance with legislation and regulations.

In a former life our principal was a licensed insurance broker with a very large brokerage in Caloundra so he knows the importance of getting the right advice about Liability Insurance; and that why Haycroft Workplace Solutions uses a professional insurance broker who delivers excellent customer service.

We asked them to provide comment to one of our host employers and here is their reply:

*"Some insurers are charging clients higher premiums if they are deemed to be "host employers" because they choose to use labour hire firms. There is an exposure to claims if an injured worker sues the host employer for failing to provide proper induction training, safe work environment etc. I emphasise that there are only **SOME** insurers charging for this exposure. Where premiums are excessive, we would market the account and try to find an insurer who does not load the premium excessively for this aspect. If that doesn't work, there are underwriting agencies that provide specific liability policies for Host Employers and the rates are generally lower than what mainstream insurers charge."*

Guess what decisions that host employer made?

IMPORTANT NOTE: Haycroft Workplace Solutions is not an authorised Financial Services Provider and we are not allowed to provide insurance advice, however we like to support professional & proactive people who deliver effective results, so here are the details of our broker who is properly licensed to provide the advice you need. If you're seeking better customer service, why not give him a call.

Steve Hind

Director, Senior Account Executive
ANZIIF (Assoc) CIP,
Dip. Fin. Serv. (Broking), QPIB
Your Insurance Broker
ACN 010 218 041 AFS Licence 244335

P 7 5491 9000

F 7 5499 6622 / 7 5491 9299

M 0417 634 272

E steve.hind@yib.com.au

W www.yib.com.au

OH&S

Hazardous Substances

Do you have the correct PPE (personal protective equipment) for dealing with chemicals?

A simple risk assessment (i.e. read the label) of the chemical and document the process for using said chemical will head off a lot of unwanted common law claims.

- Does the worker need gloves?
- Do you (the employer) provide these gloves for the worker?
- Are they the correct gloves for the chemical?
- Does the worker wear the supplied gloves?
- And most importantly, What do you do when you catch the worker not wearing the correct gloves?

It is this last question that is the trick. Do you/your foreman/supervisor enforce the rules of PPE?

The answer must be **DEFINITELY**, and here is a copy of our formal breach notice for not adhering to the safety rules.

Safety: you know it makes sense.

Profile: Meet The Team!

Ben Haycroft with his family!



I have been contracting to Haycroft Workplace Solutions (Labour Hire Australia, Small Business Union) since 1993. Over this time I have been involved in administration, recruitment, HR consulting and various other activities. In 2001, I decided to specialise in OH&S by becoming a Workplace Health and Safety Officer and WorkCover rehabilitation co-ordinator. Due to the labour hire agency having a diverse clientele, I have gained an extensive knowledge base over many varied industries.

What can I offer your business is simple, practical advice on what your legislative requirements are and/or how to solve problems, with simple strategies.

My relevant qualifications are: Workplace Health and Safety Officer; Rehabilitation Coordinator; Workplace Assessor and Trainer. Services include:

- **Hazard identification** of all facilities and equipment at the workplaces;
- **Risk Assessment** of facilities, equipment and activities carried out;
- **Consultation** for the development of policies and procedures/standards;
- **Implementation** of policies, procedure manuals and books of standards;
- **Initial induction training** of workers and managers in the construction and other industries;
- **Workplace Audits** at a 3 month nominal frequency; or as requested.
- **WorkCover** compliance management, monitoring and reporting on claims.
- **On Call** for investigation of serious bodily injuries and fatalities;

- **Event notification** in the case of Serious Bodily Injury SBI and/or Dangerous Events
- **Updating of information** with a view to ongoing compliance; and
- **Servicing** by telephone and personal appointment of general and specific requests.

If you have any queries, please call Ben on 0411 116 676

Go Lions!

Caloundra Office
38E Grigor St
Caloundra Qld 4155
Tel: 07 5491 9800
Fax: 07 5491 7915

www.haycroft.com.au

Brisbane Office
634 Main St
Kangaroo Point Qld 4169
Tel: 07 3891 7788
Fax: 07 3891 7733

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