

Falling through the Cracks?

Labour Hire, Contracting and
Outsourcing Risks
Across the ASX100

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ABOUT ACCR

The Australasian Centre for Corporate Responsibility (ACCR) is a research and shareholder advocacy organisation. We publish research and analysis on the environmental, social and governance practices of corporate Australia. We have a small portfolio of shares that we hold for the purpose of engaging with companies, including through the filing of shareholder resolutions. ACCR is philanthropically funded, not-for-profit, and independent.

ABOUT THIS REPORT

This report has been prepared by Dr Katie Hepworth, ACCR's Director of Workers' Rights, with additional support from the ACCR research team.

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Executive Summary

One of the most significant changes in Australian workplaces over the last few decades has been the resurgence and multiplication of various indirect forms of employment. This has occurred not just through the establishment of new casualised or ‘gig’ industries, but also due to changes to the ways in which existing companies structure their operations.

Increasingly, the boundaries of a company’s workforce stretch beyond its direct employees, to include labour hire agencies, subcontractors, service contractors, independent contractors, and even gig economy workers. Many companies now outsource a large proportion of their activities to other businesses (which in turn, often outsource again). Scholar David Weil coined the term ‘fissured workplace’ to describe this trend.¹

During the COVID-19 pandemic, the impacts of this shift have become apparent.

Australia has relied upon workers in sectors such as health care, cleaning, transport, logistics, education, construction, energy and resources to continue working in demanding and often risky conditions. Many of these workers are employed in precarious roles – including as contractors, subcontractors, labour hire and/or casual workers.

Ongoing outbreaks of the virus have illustrated just how this level of

precarity raises health and safety risks for us all. The pressure to continue working – applied by employers but also dictated by economic circumstances – is extreme for many. In ‘indirect’ working arrangements, lines of responsibility are often unclear, critical information is easily miscommunicated, and training can be lacking.²

Employers may choose to turn to indirect employment arrangements for a number of reasons, including reducing labour costs, accessing specialised workers, adapting to labour market volatility, shifting liabilities away from the organisation, and even, to undermine or circumvent union presence.³ However, in doing so, they may increase their exposure to a range of workforce, business and operational risks. These include:

- Poorer Occupational Health and Safety outcomes;
- Increased possibility of involvement in modern slavery, labour exploitation and wage theft;
- Lower levels of worker engagement and loyalty;
- Loss of human and intellectual capital;
- Reduced workforce development, due to less access to training and skills acquisition.⁴

In 2020, ACCR discussed some of the key workforce and operational risks associated with indirect employment through our report, *Labour Hire and Contracting Across the ASX100*. We reviewed how ASX100 companies in the mining, construction, commercial cleaning and large-scale solar installation sectors were publicly reporting on their workforces. These sectors were chosen because they demonstrated high rates of labour hire, significant non-compliance by labour hire providers with employment and other legislation, and/or the risks were of relatively high severity.

This report updates and extends that analysis, to include companies in the following sectors: airlines and airports, casinos, construction, mining, oil and gas exploration, property management, retail, utilities, supermarkets, and warehousing. Additional sectors were identified through a review of traditional media, company reporting, information from safety regulators, and government inquiries for the period 1 April 2020 – 30 June 2021, to identify areas where the use of indirect employment was linked to specific allegations, controversies and/or increased business risk.

In producing these reports, our aim is to encourage companies to ensure that their reporting more adequately reflects their entire workforces, giving investors a full picture of the risks to be managed. It is clear from our findings that investor engagement on risks associated with

¹ D. Weil, *The Fissured Workplace: Why Work Became so Bad for so Many and What Can Be Done to Improve It*, Harvard University Press. Cambridge, 2014, p. 148.

² ACCR, ‘Broken chains of responsibility: Victorian COVID-19 clusters reveal subcontracting risks’, 3 July 2020, viewed 1 August 2021, <https://bit.ly/2VoVTny>.

³ R. Hall, *Labour Hire in Australia: Motivation, Dynamics and Prospects*, University of Sydney, Sydney, 2002.

⁴ ACCR, *Labour Hire and Contracting Across the ASX100*, 2020, viewed 1 August 2021, p. 12–16, <https://bit.ly/3ihiTxU>.

indirect employment is currently being hampered by poor company reporting on workforce issues. Although indirect workers make up a substantial proportion of the workforce in certain sectors, most companies continue to only report on their 'direct' workforce. Generally speaking, company reporting across the ASX is insufficient to allow investors to engage with companies about their employment models and overall workforce strategy.

FINDINGS

ACCR analysed the workforce reporting of 37 ASX100 companies, with a focus on disclosures regarding the labour hire and contract (or 'indirect') workforce. ACCR used the Global Reporting Initiative (GRI)'s definition of the 'indirect workforce', that is, "workers who are not employees and whose work is controlled by the organization". This analysis found:

1 **Less than half of companies publicly report on the total number and/or FTE equivalent of their indirect workforce**

Only 15/37 (41%) companies provided disaggregated data for employees and non-employees. A further 2/37 (5%) of companies provided aggregated employee and indirect workforce data. It is important that companies provide disaggregated data on their employees *and* indirect workforce, so that investors can form an understanding of their workforce strategy and properly engage on its risks and benefits.

2 **Very few companies provide any definitions for their 'indirect workforce'.**

Only 13/37 (35%) companies provided any definitions of their indirect workforce. 10/37 (27%) companies provided either aggregated or disaggregated

numbers for their indirect workforce, but failed to provide definitions for the categories of worker included in these numbers. As such, it was not clear if their workforce data captures all of their indirect workforce, and if not, which part of the workforce was captured in the data.

3 **While all companies report some health and safety data, less than half provide disaggregated data for their indirect workforce.**

32/37 (86%) companies provided numeric data on fatalities in their Australian and/or global operations. Of these, only 15/37 (41%) companies provided disaggregated data on the number of fatalities amongst their indirect workforce. Significantly, for a further 5/37 (14%) it was unclear whether the reporting on fatalities included their indirect workforce. 25/37 (68%) companies provided some OHS data for their indirect workforce, however only 14/37 (38%) provided disaggregated data for their indirect workforce.

As indirect workers are often over-represented in safety incidents, and may be at a higher risk of workplace health and safety incidents, it is crucial for companies to provide disaggregated health and safety for each section of their workforce.

4 **Companies often use different OHS indicators to report on their direct and indirect workforces**

14/37 (38%) companies report disaggregated OHS data for their direct workforce (employees, including fixed term) and indirect (contractor, labour hire) workforce. Of these, eight

companies reported using (at least some) different metrics for their direct and indirect workforces, with most reporting against more indicators for their direct workers than their indirect workers.

Comparing the metrics reported on for a company's direct and indirect workforce can illuminate key differences between how the company monitors the health and safety of different sections of its workforce. If a segment of the company's workforce is excluded from its public reporting, this should be noted and an explanation given as to why.

Methodology

In 2020, ACCR published a major research report, *Labour Hire and Contracting Across the ASX100*, exploring some of the key workforce and operational risks associated with indirect employment. Risks were identified via a desktop analysis of state and federal government inquiries⁵ covering labour hire matters over the last five years, and an academic literature review on the use of labour hire in Australia. Additional information was then gathered from media reports, statements by the Fair Work Ombudsman, court documents, and enterprise agreements.

That report reviewed the reporting of ASX100 companies in four key sectors: mining, construction, commercial cleaning and large-scale solar installation. These sectors were chosen because they demonstrated high rates of labour hire, significant non-compliance by labour hire providers with employment and other legislation, and/or due to the severity of risks in the sector.

This report updates and extends that analysis. It considers how companies in airlines and airports, casinos, construction, mining, oil and gas exploration, property management, retail, utilities, supermarkets, and warehousing are reporting on their indirect workforces, and summarises some of the risks and challenges

associated with workforce models which rely on large indirect workforces.

Additional sectors were chosen following a review of traditional media, company reporting, information from safety regulators, and government inquiries for the period 1 April 2020–30 June 2021, to identify areas where the use of indirect employment was linked to specific allegations, controversies and/or increased business risk. See p. 9–10 for specific case studies of a range of these risks.

Companies within those sectors were identified via their S&P primary industry codes (see Appendix 1). The ASX100 list was current as of 16 February 2021.

A number of high-risk sectors are not included in our analysis, as there are no ASX100 host companies operating in these sectors. These include horticulture and meat processing.

ACCR reviewed relevant company documents – including Annual Reports, Sustainability Reports, Corporate Governance statements or appendixes, and/or ESG Analyst toolkits. Company documents were reviewed for the fiscal year ending 30 June 2020 or the calendar year ending 31 December 2020, depending on a company's reporting cycle.

The cut-off date for information to be included in our analysis was 31 December 2020.

Case studies have been used to illustrate labour hire related risks in each sector. Case study information was prepared by reviewing government inquiries, media reportage, and materials from corporate regulatory bodies.

In preparing this report, ACCR also consulted with companies, unions, investors, and government agencies.

⁵Since 2015, several state and federal government inquiries have examined the dynamics of labour hire and other third party contracting arrangements in Australia, or discussed labour hire as a dimension of other industrial relations matters, such as wage theft. These inquiries include: [Inquiry into the Labour Hire Industry and Insecure Work, Victoria](#) (2015–2016); [Inquiry into the Practices of the Labour Hire Industry in Queensland](#) (2015–2016); [Black Economy Taskforce](#) (2016–2017); [Corporate Avoidance of the Fair Work Act](#) (2016–2017); [Inquiry into the Extent, Nature and Consequence of Insecure Work in the ACT](#) (2017); [Select Committee on the Future of Work and Workers](#) (2017–2018); [Inquiry into Wage Theft in Queensland](#)(2018); [Migrant Workers' Taskforce](#) (2016–2019).

Labour Hire, Contracting, Outsourcing and the Fissured Workplace

Increasingly, the boundaries of a company's workforce stretch beyond its direct employees, to include a range of indirect workers, such as: labour hire agencies, subcontractors, service contractors, independent contractors, and even gig economy workers. Many companies now outsource a large proportion of their activities to other businesses (which in turn, often outsource again).

Scholar David Weil coined the term 'fissured workplace' to describe this trend.⁶

It is difficult to ascertain the precise size of Australia's indirect workforce. For instance, the Australian Parliamentary Library notes that the true numbers of labour hire workers in Australia may be underreported, partly due to these workers' confusion about their own employment relationships, and "whether they are being paid by a labour hire firm or the organisation they are on-hired to".⁷

While statistical data on labour hire workers in Australia is limited, it is clear that labour hire workers constitute a staggering proportion of workers in some industry sectors. For example, it has been noted that since 2012, many

mining operators in Australia "have moved to predominantly labour hire workforces in recent years with the stated aim of reducing overheads and increasing workforce flexibility".⁸ In 2017, Rio Tinto announced that they will only use labour hire workers in their iron ore operations.⁹ Deloitte notes that 88% of new hires to BHP in the two years to 2019 were labour hire workers, while 50% of new workers at Fortescue Metals Group in the same period were indirect hires.¹⁰

We also note the incursion of labour hire work in sectors such as the health and community services sector. For instance, the 2019–2020 NDIA Annual Report notes that the total NDIS workforce includes 1,692 labour hire contractors and consultants (nearly 15% of the total workforce), and 5,462 people employed by NDIA's partners (representing 46% of the total workforce).¹¹

A NOTE ON TERMINOLOGY

ACCR's 2020 report, *Labour Hire and Contracting Across the ASX100*, focused on two types of indirect employment arrangements: labour hire and contracting. These arrangements were understood broadly as "triangular employment arrangements" involving three parties: a worker; a host company; and an intermediary, such as a labour hire agency. In the 'standard' form of this triangular arrangement, the host company contracts an intermediary to provide them with labour. The intermediary then contracts a worker to provide that labour, and is responsible for paying the worker.

In other words, this arrangement splits contractual and control relationships: the worker has a direct contractual relationship with the intermediary, but it is the host company who oversees the workers' day-to-day work.



⁶D. Weil, *The Fissured Workplace: Why Work Became so Bad for so Many and What Can Be Done to Improve It*, Harvard University Press. Cambridge, 2014, p. 148.

⁷G. Gilfillan, *Trends in Use of Non-standard Forms of Employment*, Parliament of Australia, Canberra, 18 December 2018, viewed 1 August 2021, <https://bit.ly/3fl9q6P>. See also: R. Hall, *Labour Hire in Australia: Motivation, Dynamics and Prospects*, p. 4.

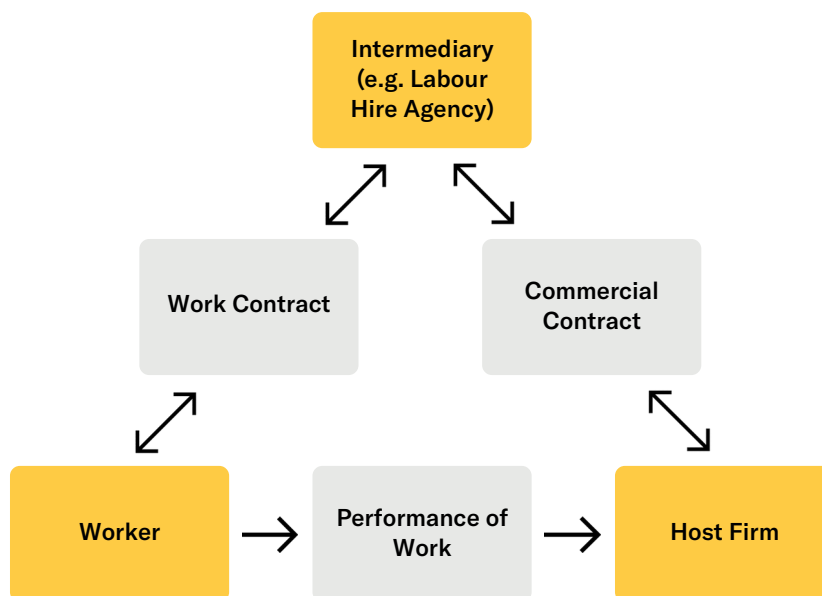
⁸Queensland Government, *Inquiry into the practices of the labour hire industry in Queensland*, Finance and Administration Committee, Brisbane, 2016, p. 12, <https://bit.ly/37eurZ>; see also Commonwealth of Australia, *Keep it in the Regions*, Commonwealth of Australia, Canberra, 2018, <https://bit.ly/3dY6SsN>.

⁹B. Creagh, 'Rio Tinto contractor conundrum: The new normal in the Pilbara?', *Australian Mining*, 5 August 2016, viewed 1 August 2021, <https://bit.ly/2V4qjYy>.

¹⁰P. Milne, 'Casual workforce a "threat" to mine culture, says industry expert', *The West Australian*, 29 January 2019.

¹¹NDIS, *National Disability Insurance Agency 2019–20 (Annual Report)*, NDIS, Canberra, 2020, viewed 1 August 2021, p. 43, <https://bit.ly/3yhjhBY>.

Standard Labour Hire Arrangement



The introduction of subcontracting arrangements further complicates contractual and control relationships.

Since the release of ACCR’s 2020 report, the Global Reporting Initiative (GRI) has released a draft of their new Universal Standards. Following an extensive, multi-year consultation process, the new standards were sent to the Global Sustainability Standards Board (GSSB) to be approved on 10 June 2021.¹²

The updated standards provide clarity on the definition of “worker”, and indicate that in addition to employees (disclosure 2.7), GRI will be recommending that companies report on “the total number of workers who are not employees and whose work is controlled by the organization” (disclosure 2.8).

Here “control” is taken to mean “control of work” or “control of the workplace”:

- **Control of work:** the organisation has control over the means or methods, or directs the work performed.
- **Control of workplace:** the organisation has control over the physical aspects of the workplace (e.g., access to the workplace), and/or the type of activities that can be performed in the workplace.¹³

This definition includes, but is not limited to: agency workers; apprentices; contractors; home workers; interns; self-employed persons; subcontractors, and volunteers.

The GRI also specifies that companies should report on “fluctuations” in employee and non-employee numbers over the reporting period, to allow investors to understand how numbers change over time and the reasons for that change (e.g. seasonal events, conclusion of a temporary projects, etc).

In 2020, ACCR developed a framework to guide companies on the types of material and materiality-based disclosures that would provide investors with sufficient information to assess their employment model and workforce strategy. ACCR recommends that companies use the new GRI definitions for the indirect workforce.

¹² GRI, *Item 03 - GRI Universal Standards Project - GRI Universal Standards 2021*, 2021, <https://bit.ly/3rRfO18>.

¹³ GRI, *Item 03 - GRI Universal Standards Project - GRI Universal Standards 2021*, 2021, p. 46, <https://bit.ly/3rRfO18>.

RISKS ASSOCIATED WITH INDIRECT EMPLOYMENT

Employers may choose to turn to indirect employment arrangements for a number of reasons, including reducing labour costs, accessing specialised workers, adapting to labour market volatility, shifting liabilities away from the organisation, and even, to undermine or circumvent union presence.¹⁴ However, in doing so, they may increase their exposure to a range of workforce, business and operational risks. These include:

- Poorer Occupational Health and Safety outcomes;
- Increased possibility of involvement in modern slavery, labour exploitation and wage theft;
- Lower levels of worker engagement and loyalty;
- Loss of human and intellectual capital;
- Reduced workforce development, due to less access to training and skills acquisition.¹⁵

These risks have been highlighted in key instances over the last 12 months. For example:

- **Labour hire and subcontracting arrangements were a key factor in COVID workplace transmission** during Melbourne's second wave, as detailed in our investor brief, *Broken chains of responsibility: Victorian COVID-19 Clusters reveal Subcontracting Risks*.¹⁶ While the role of security subcontracting in the original 'leak' of the virus is widely known, less well-known is the way in which the use of labour hire exacerbated transmission at other key sites. This includes: the Cedar Meats cluster, where critical health and safety information was not communicated between state public health authorities, the host company and the labour hire agency, leading to delays in notifying close contacts and closing the site for cleaning; Toll Group's Kmart warehouse, where it is alleged that the company refused to share information with employees about positive cases amongst the labour hire workforce, as the positive workers were not Toll employees.¹⁷
- **The Grosvenor mine explosion in May 2020**, where five workers were seriously injured at a Queensland coal mine. The subsequent government inquiry (2020–21), which investigated factors contributing to the explosion, noted that the use of labour hire and contract work arrangements played a role in safety issues that led to the explosion:

There is a perception among coal mine workers that a labour hire worker or contractor who raises safety concerns at a mine might jeopardise their ongoing employment at the mine [and]... the existence of a perception, no matter how widespread, creates a risk that safety concerns will not always be raised.¹⁸

The inquiry noted that labour hire and contract work arrangements have been increasingly used by employers in the Queensland coal mining industry since the mid-1990s for 'core work, rather than specialist work'.¹⁹ It found that these arrangements are associated with: higher incidence of injuries and fatalities; workers' poorer physical and mental health; greater reluctance by workers to raise OHS concerns; more complex inter-organisational chains of responsibility; and reduced access to complaint mechanisms, health services, statutory entitlements to protections and benefits, return to work pathways, and representation.²⁰

Furthermore, it found that performance bonuses for labour hire and contract workers may have led to adverse safety outcomes, and have led to an under-reporting of safety incidents and injuries.²¹

¹⁴R. Hall, *Labour Hire in Australia: Motivation, Dynamics and Prospects*, University of Sydney, Sydney, 2002.

¹⁵For more detail on these risks, see discussion in: ACCR, *Labour Hire and Contracting Across the ASX100*, 2021, p. 12–16, <https://bit.ly/3ihiTxU>.

¹⁶ACCR, 'Broken chains of responsibility: Victorian COVID-19 clusters reveal subcontracting risks', 3 July 2020, viewed 1 August 2021, <https://bit.ly/2VoVTny>.

¹⁷N. Bonyhady, 'Staff walk out of Kmart warehouse over contact tracing fears', *The Age*, 7 August 2020, viewed 1 August 2021, <https://bit.ly/3foVh8D>.

¹⁸T. Martin and A. Clough, *Report: Part II, May 2021*, Queensland Coal Mining Board of Inquiry, Brisbane, p. 408, <https://bit.ly/37fHrZ>.

¹⁹T. Martin and A. Clough, *Report: Part II, May 2021*, Queensland Coal Mining Board of Inquiry, Brisbane, p. 377, <https://bit.ly/37fHrZ>.

²⁰T. Martin and A. Clough, *Report: Part II, May 2021*, Queensland Coal Mining Board of Inquiry, Brisbane, p. 377, <https://bit.ly/37fHrZ>.

²¹T. Martin and A. Clough, *Report: Part II, May 2021*, Queensland Coal Mining Board of Inquiry, Brisbane, p. 408, <https://bit.ly/37fHrZ>.

- In June 2021, the Sydney Morning Herald reported on the **Commonwealth Bank and National Australia Bank's use of labour hire workers in their financial crimes unit**. Drawing on interviews with current and former employees, the article reported that contractors were threatened with sudden termination if they failed to meet KPIs,²² and that the “financial crimes department was ‘numbers-driven’ with teams encouraged to compete against each other by clearing a certain number of alerts per day”.²³ While the Commonwealth Bank has argued that it has since reformed staff KPIs to focus on the ‘quality’ rather than ‘quantity’ of completed investigations, questions must be asked about the extent to which precariously employed staff feel willing to raise concerns about practices within the team. Significantly, the SMH reported that ANZ and Westpac only use permanent staff to fill these compliance roles.²⁴
- In September 2020, **Qantas announced that it would be outsourcing ground handling** work across 90% of its operations.²⁵ The Transport Workers’ Union (TWU) had an opportunity to submit a bid to keep the ground handling operations in-house. However Ernst & Young, which was engaged to prepare the workers’ bid, described the conditions Qantas placed on the bid as ‘unattainable and unrealistic’.²⁶

On 30 July 2021, the Federal Court found that the company had breached adverse action provisions under the Fair Work Act (FWA) in outsourcing over 2,000 ground handling jobs, with the company’s decision at least partially motivated by wanting to “prevent the exercise by the affected employees of their workplace right to organise and engage in protected industrial action and participate in bargaining in 2021”.²⁷ The judge also referred to references in Qantas’ own documents that there was a “vanishing window of opportunity” to outsource the work.

Significantly, Qantas’ own internal documents recognised that the decision to outsource during the pandemic, and while the company was in receipt of significant government subsidies, may have a significant negative impact on their brand and was a critical risk.²⁸

Qantas immediately announced plans to appeal, while the Transport Workers’ Union urged the judge to order Qantas to reinstate and compensate the workers.

²² C. Grieve, ‘CBA’s contractor use sparks financial crimes compliance concerns’, *Sydney Morning Herald*, 25 June 2021, viewed 1 August 2021, <https://bit.ly/3fo5Wk6>.

²³ C. Grieve, “‘Shortage of people’: CBA defends labour hire to fight financial crime”, *Sydney Morning Herald*, 25 June 2021, viewed 1 August 2021, <https://bit.ly/3jfiOKr>.

²⁴ C. Grieve, “‘Shortage of people’: CBA defends labour hire to fight financial crime”, *Sydney Morning Herald*, 25 June 2021, viewed 1 August 2021, <https://bit.ly/3jfiOKr>.

²⁵ P. Hatch and M. O’Sullivan, ‘Qantas ‘pandemic’ Ground Crew Exit Had Been on the Cards for a Decade’, *Sydney Morning Herald*, 9 July 2020, <https://bit.ly/3rXejYU>.

²⁶ L. Baird, ‘Qantas Staff Get Six Weeks to Save Jobs’, *Australian Financial Review*, 1 September 2020, viewed 1 August 2021, <https://bit.ly/3rNbzNq>.

²⁷ J. Lee, *Transport Workers’ Union of Australia v Qantas Airways Limited [2021] FCA 873*, (Federal Court of Australia), 30 July 2021, p. 104, <https://bit.ly/3A5hfW0>.

²⁸ J. Lee, *Transport Workers’ Union of Australia v Qantas Airways Limited [2021] FCA 873*, (Federal Court of Australia), 30 July 2021, p. 58, <https://bit.ly/3A5hfW0>.

Company Reporting on the Indirect Workforce

Given the risks and challenges associated with the use of indirect employment, investors should seek comprehensive disclosures on a company's entire workforce, including direct employees and labour hire workers, in order to make reasonable judgements about the appropriateness and sustainability of a company's employment model. Reporting should be sufficient to allow investors to ask questions about whether a company's workforce strategy is based on low labour costs or maintaining and developing its human capital, and whether it will deliver long-term value for the company.²⁹

ACCR conducted a review of reporting by 37 ASX100 companies in sectors where ACCR had identified specific allegations or industry-wide risks related to the use of indirect employment in the sector. Sectors included: airlines and airports, casinos, construction, mining, oil and gas exploration, property management, retail, utilities, supermarkets, and warehousing. See Appendix 1 for the full list of companies.

NOTE

While the analysis below refers to 'indirect workers', our review of data and company engagement used the GRI definition of non-employees, that is: "workers who are not employees and whose work is controlled by the organization".

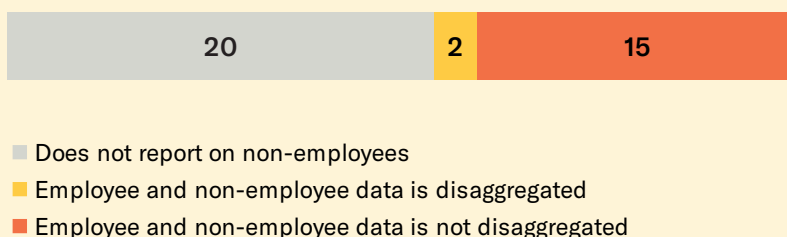
FINDING 1

Less than half of companies publicly report on the total number and/or FTE equivalent of their indirect workforce

Less than half of companies publicly report on the total number and/or FTE equivalent of their indirect workforce (Figure 1).

It is important that companies provide disaggregated data on their indirect workforce so that investors are provided with sufficient information to assess the risks and benefits of their overall workforce strategy.

FIGURE 1. COMPANY REPORTING ON THE DIRECT AND INDIRECT WORKFORCE



Of the 15/37 (41%) of companies who provided disaggregated data for their indirect workforce, only nine provided disaggregated data for all of their primary regions of operations. Here region could refer to countries, cities, world regions and/or specific worksites.

²⁹ NAPF, *Where is the workforce in corporate reporting?*, NAPF, London, 2015, p. 14, viewed 1 August 2021, <https://bit.ly/2ReWcfM>.

FINDING 2

Very few companies provide any definitions of “workers who are not employees and whose work is controlled by the organisation”

Only 13/37 (35%) companies provided any definitions of “workers who are not employees and whose work is controlled by the organisation” (Figure 2). 10/37 (27%) companies provided either aggregated or disaggregated numbers for their indirect workforce, but failed to provide definitions for the categories of worker included in these numbers.

As such, it is not clear if their workforce data captures all of their indirect workforce, and if not, which part of the workforce was captured in the data. In other words, it is impossible to determine whether company disclosures reflect the entirety of a company’s workforce.

This still represented a substantial increase on the number of companies who provided definitions in 2020. In 2020, only 2/17 (12%) defined their use of the terms labour hire and/or contractor in their company documents. In 2021, 7/17 (41%) of the companies profiled in 2020 provided definitions for the salient categories of their indirect workforce.

A review of definitions provided by companies finds that the employment relationships that they describe are not consistent between companies. ACCR is not arguing for a consistent definition of categories of indirect workers. However, the variation between definitions suggest that where companies do not define the terms they are reporting on, investors are unable to gauge which section of the workforce the company is reporting on, and whether or not the data reflects the true numbers of workers employed under triangular employment relationships.

FINDING 3

While all companies report some health and safety data, less than half provide disaggregated data for their indirect workforce

In 2021, all companies reported at least some numerical information on health and safety outcomes for their employees. ACCR interpreted this very broadly— ‘some numerical information’ could include any combination of health and safety data for the workforce for the reporting period. Companies commonly report against at least one of the following indicators (note that this list is not exhaustive):

- **Training:** number of employees covered by the company safety system, safety training hours
- **Events/incidents:** Total actual significant events, total potential significant events, fatalities, OHS management interactions, medical treatment injury
- **Total figures and/or frequency rates:** lost time injury, total recordable injury, occupational illness incidence, high consequence work related injuries, restricted work injury, serious potential incidents, absentees
- **Warnings, penalties:** OHS warning or penalty notices received
- **Compensation claims:** workers compensation claims (outstanding or new in the FY).

FIGURE 2. COMPANIES WHO PROVIDED ANY DEFINITION OF THEIR INDIRECT WORKFORCE IN 2020 AND 2021

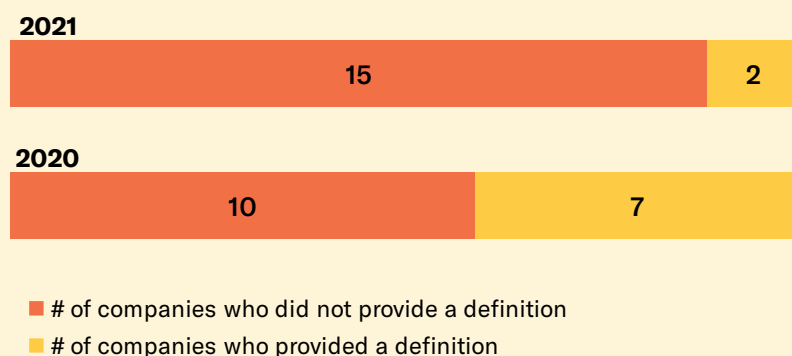
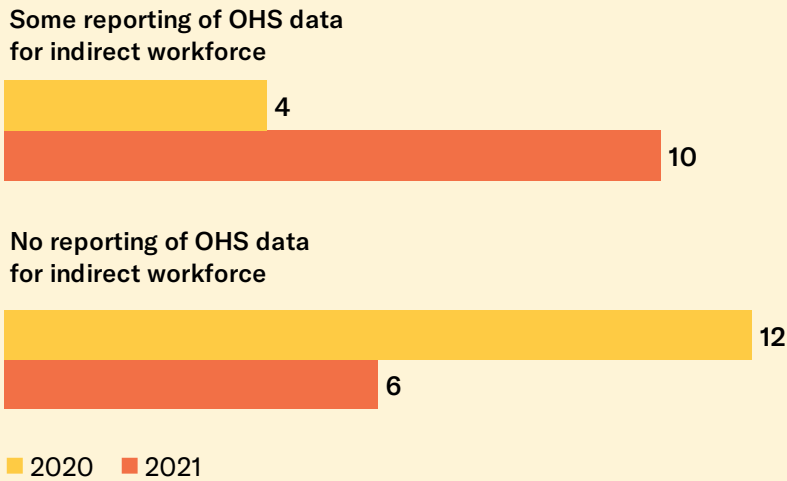


FIGURE 3. ANY COMPANY REPORTING OF OHS DATA (INCLUDING FATALITIES) FOR ITS INDIRECT WORKFORCE, 2020 AND 2021



In 2020, we analysed whether companies provided *any* disaggregated reporting on OHS incidents (including fatalities). Of the companies which were analysed in both 2020 and 2021, only 4/16 (25%) provided disaggregated safety data. This increased substantially to 10/16 (63%) of companies in 2021 (Figure 3).

In 2021, we analysed disclosures on fatalities and other forms of data separately (see below). In both years, we specifically considered whether OHS data for employees and non-employees was disaggregated.

OHS data disaggregation by contract type is important for understanding how health and safety outcomes may differ among different sections of a company’s workforce. As indirect workers are often overrepresented in safety incidents, and may be at a higher risk of workplace health and safety incidents, it is crucial for companies to communicate any differences in its management, monitoring, and reporting of OHS data for each section of its workforce.

Fatalities

32/37 (86%) companies provided numeric data on fatalities in their Australian and/or global operations (Figure 4). Of these, only 15/37 (41%) companies provided disaggregated data on the number of fatalities amongst the indirect workforce. Significantly, for a further 5/37 (14%) it was unclear whether the reporting on fatalities included the indirect workforce.

Non-fatality data

While 25/37 (68%) companies provided some OHS data for the indirect workforce, only 14/37 (38%) provided disaggregated data for their indirect workforce (Figure 5).

FIGURE 4. COMPANY REPORTING ON FATALITIES

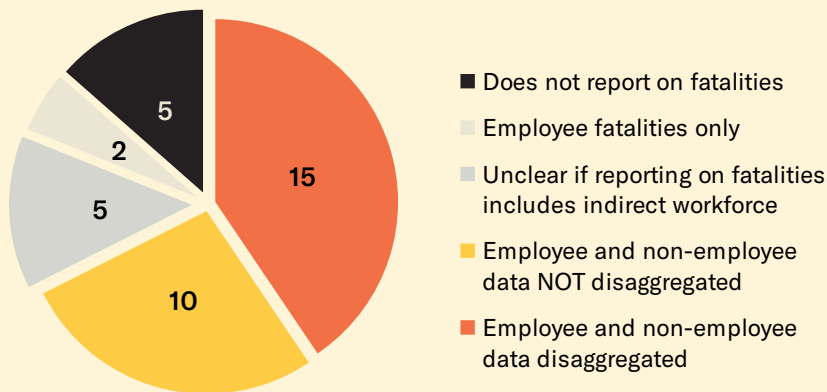
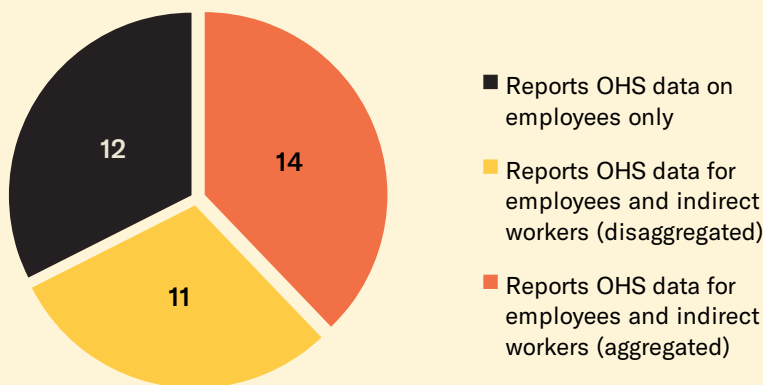


FIGURE 5. SCOPE OF COMPANY REPORTING ON OHS (FOR DATA OTHER THAN FATALITIES)



FINDING 4

Companies often use different OHS indicators to report on their direct and indirect workforces

14/37 (38%) companies report disaggregated OHS data for their direct workforce (employees, including fixed term) and indirect (contractor, labour hire) workforce. Of these, eight companies reported using (at least some) different metrics for their direct and indirect workforces, with most reporting against more indicators for their direct workers than their indirect workers. Six companies reported using the same metrics for both direct and indirect workforce.

It is not the case that reporting on more metrics is necessarily positive or reflects that a company pays greater attention to safety issues. However, comparing the metrics reported on for a company's direct and indirect workforce can illuminate key differences between how the company monitors the health and safety of different sections of its workforce.

If a segment of the company's workforce is excluded from its public reporting, this should be noted and an explanation given as to why. Given that in many cases, companies are already recording the number of hours worked by contractors as part of their OHS disclosures, the publication of disaggregated data would therefore not unduly burden them.

Appendix: Companies Analysed

Entity Name	Ticker	S&P Primary Industry	Sectors
AGL Energy Limited	AGL	Multi-Utilities	Utilities
APA Group	APA	Gas Utilities	Utilities
AusNet Services Ltd	AST	Electric Utilities	Utilities
Beach Energy Limited	BPT	Oil and Gas Exploration and Production	Oil and Gas
BHP Group	BHP	Diversified Metals and Mining	Mining
BlueScope Steel Limited	BSL	Steel	Steel
Charter Hall Group	CHC	Diversified REIT	Construction, Property Services
Coca-Cola Amatil Limited	CCL	Soft Drinks	Manufacturing
Coles	COL	Consumer Staples	Retail
Crown Resorts Limited	CWN	Casinos and Gaming	Casinos
Dexus	DXS	Office REIT	Construction, Property Services
Evolution Mining Limited	EVN	Gold	Mining
Fortescue Metals Group Limited	FMG	Steel	Mining
Goodman Group	GMG	Industrial REIT	Construction
GPT Group	GPT	Diversified REIT	Construction, Property Services
IGO Limited	IGO	Diversified Metals and Mining	Mining
LendLease Group	LLC	Diversified Real Estate Activities	Construction, Property Services
Mineral Resources Limited	MIN	Diversified Metals and Mining	Mining
Mirvac Group	MGR	Diversified REIT	Construction, Property Services
Newcrest Mining Limited	NCM	Gold	Mining
Northern Star Resources Limited	NST	Gold	Mining
Origin Energy Limited	ORG	Integrated Oil and Gas	Oil and Gas

Falling through the Cracks?

Labour Hire, Contracting & Outsourcing Across the ASX100

OZ Minerals Limited	OZL	Copper	Mining
Qantas Airways Limited	QAN	Airlines	Airlines
Rio Tinto	RIO	Diversified Metals and Mining	Mining
Santos Limited	STO	Oil and Gas Exploration and Production	Oil and Gas
Scentre Group	SCG	Retail REIT	Construction, Property Services
South32 Limited	S32	Diversified Metals and Mining	Mining
Spark Infrastructure Group	SKI	Electric Utilities	Utilities
Stockland	SGP	Diversified REIT	Construction, Property Services
Sydney Airport Limited	SYD	Airport Services	Airports
Telstra Corporation Limited	TLS	Integrated Telecommunication Services	Telecommunications
The Star Entertainment Group Limited	SGR	Casinos and Gaming	Casinos
Vicinity Centres	VCX	Retail REIT	Construction, Property Services
Wesfarmers Limited	WES	General Merchandise Stores	Retail, Warehousing
Woodside Petroleum Ltd	WPL	Oil and Gas Exploration and Production	Oil and Gas
Woolworths Group Limited	WOW	Food Retail	Retail, Warehousing