MARTIN JENKINS

# HEALTH AND SAFETY IN THE AGENCY WORK INDUSTRY

## Final Report

25 September 2019

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# PREFACE

This report has been prepared for WorkSafe by EeMun Chen, Ben Craven and Lan Fu from MartinJenkins (Martin, Jenkins & Associates Ltd).

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## About MartinJenkins

MartinJenkins advises clients in the public, private and not-for-profit sectors. Our work in the public sector spans a wide range of central and local government agencies. We provide advice and support to clients in the following areas:

- public policy
- evaluation and research
- strategy and investment
- performance improvement and monitoring
- business improvement
- organisational improvement
- employment relations
- economic development
- financial and economic analysis.

Our aim is to provide an integrated and comprehensive response to client needs – connecting our skill sets and applying fresh thinking to lift performance.

MartinJenkins is a privately-owned New Zealand limited liability company. We have offices in Wellington and Auckland. The company was established in 1993 and is governed by a Board made up of executive directors Kevin Jenkins, Michael Mills, Nick Davis, Allana Coulon and Richard Tait, plus independent director Sophia Gunn.

## IDI Disclaimer

This report contains output produced from the Integrated Data Infrastructure (IDI), managed by Stats NZ. The results are not official statistics. They have been created for research purposes from the IDI.

The opinions, findings, recommendations, and conclusions expressed in this report are those of the authors, not Stats NZ.

Access to the anonymised data used in this study was provided by Statistics NZ under the security and confidentiality provisions of the Statistics Act 1975. Only people authorised by the Statistics Act 1975 are allowed to see data about a particular person, household, business, or organisation, and the results in this report have been confidentialised to protect these groups from identification and to keep their data safe.

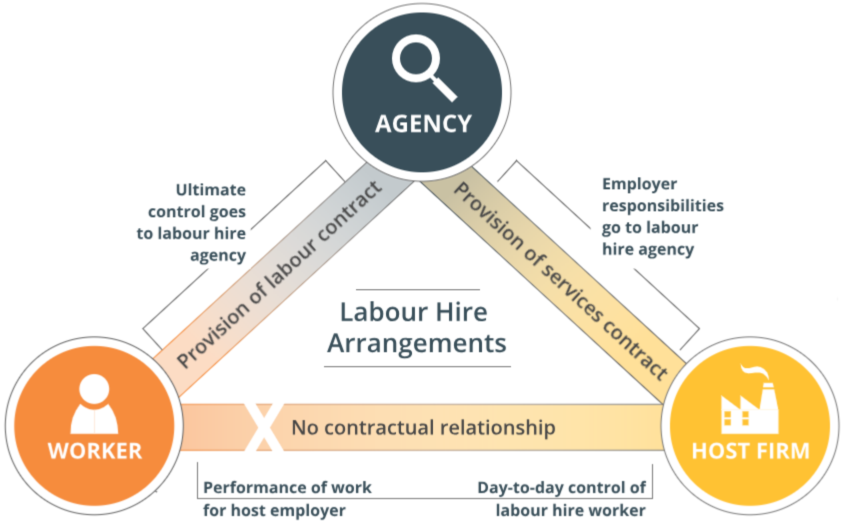
Careful consideration has been given to the privacy, security and confidentiality issues associated with using administrative and survey data in the IDI. Further detail can be found in the Privacy impact assessment for the IDI available from www.stats.govt.nz.

# EXECUTIVE SUMMARY

## Purpose and approach

WorkSafe engaged MartinJenkins to undertake research into the agency work industry to identify the health and safety risks associated with the industry, and how effectively those risks are currently managed.

Agency employment arrangements are 'triangular' relationships where a worker and host firm are separated by a temporary employment agency acting as an intermediary. Other common terms used to describe these relationships are 'labour hire', 'temping', 'on-hire', and 'bureau work'.




While this form of employment is well-established in New Zealand, particularly in certain sectors, the extent of its use and growth has been difficult to measure. WorkSafe identified agency employment as an area warranting further research, in particular to get a better understanding of:

- the size and profile of the agency employment industry in New Zealand, and its likely future state
- the health and safety risks for agency workers, and how they differ from other workers under other contractual arrangements
- how effectively temporary employment agencies and host firms are managing health and safety.

# Profile of the agency work industry

## The agency work industry is larger than previously estimated…

Different data sources provide a broad range of estimates for the size of the agency workforce. Integrated Data Infrastructure (IDI) data shows that while at any given point approximately 40,000 people are employed in agency work, a much larger number of people are involved in the industry over the course of a year.  In 2018, 115,000 people worked for at least one month in the industry.

**HLFS estimates:**

**Temporary agency workers in NZ (0.4% share of total NZ employment)**

**10,400**

*Q3 2018, Statistics New Zealand, Household Labour Force Survey*

**BDS estimates:**

**Labour Supply Services employee count (1.5% share of total NZ employment)**

**39,500**

*2018, Stats NZ, Business demography*

**IDI estimates:**

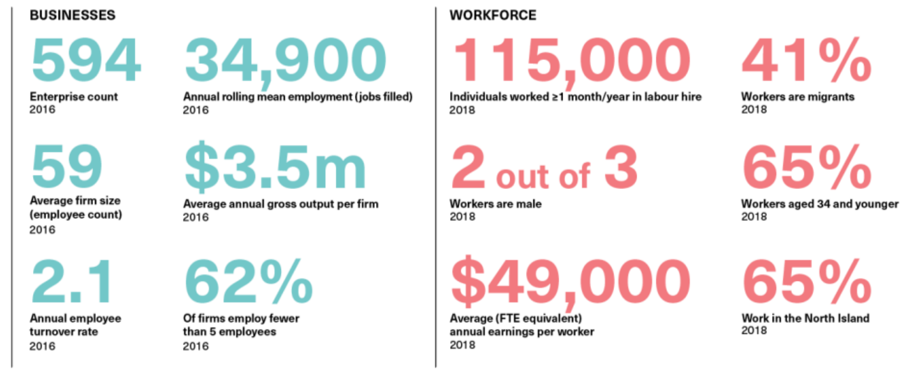
**Number of workers who were employed by a temporary agency for at least a month (4.2% share of total NZ employment)**

**115,000**

*2018, Integrated Data Infrastructure, Stats NZ*

This is much higher than the estimates from the Household Labour Force Survey (previously the main source of data on the size of the industry), and estimates the number of agency workers at closer to 10,400.

### INDUSTRY AT A GLANCE




It is a youthful workforce, more likely to be male, and minority groups are over-represented. A significant proportion of the workforce are migrant workers – they made up 41% of agency workers in 2018, compared to 13% in 2001. Those with work visas make up 51% of the industry's migrant workforce, and these are predominantly under the Working Holiday scheme.

We, and Stats NZ, have been unable to develop an efficient and effective way to determine which sectors agency workers are hosted in. We have had to rely on unverified market analysis from IBISWorld, who suggest that construction and trades is the most common sector (32%) for agency workers, followed by manufacturing, transport and logistics (19%). These figures suggest that at least half of the agency workforce is working in two of WorkSafe's priority sectors.

## …and is likely to continue growing

The future of agency work will be affected by external drivers including overall labour market dynamics, business confidence, demand from key sectors, labour market participation rates and the role of migrant workers in the economy.

Steady short-term growth is expected, reflecting those drivers. Agencies particularly noted business confidence and demand for a flexible workforce as key drivers of growth. A changing regulatory landscape will also impact the potential shape of the industry.

Broader labour market trends are also likely to affect agency work, including automation and uptake of technology, changing employment relationships, and the rise of the 'gig' economy - with potential for disruption from technological platforms.

# Health and safety risks

The literature suggests that health and safety outcomes tend to be poorer for agency workers. We have grouped these into five key themes:

- **Uncertain and high-risk work**

  Agency workers are engaged in a wider variety of roles, and tend to be used in industries which have high risk of injury. Within this context, agency workers may be more likely to be given higher risk jobs or tasks. As agency workers are typically temporary employees, they also have less certainty of work, which can lead to psychological strain and fatigue.

- **Insufficient training and experience**

  Agency workers may be unfamiliar with a workplace or tasks involved, and induction provided by both the agency and the host firm may be insufficient.

- **Economic and reward pressures**

  Agency workers may face greater incentives to continue working in unsafe conditions or while they are injured, as their pay can be contingent on outputs. They often also have limited benefits such as sick leave.

- **Lack of engagement and voice**

  Agency workers are in a particularly vulnerable form of precarious employment. Both workers and agencies can be wary of speaking out due to fears they may not be offered further work. Agency workers may also be more accepting of poor conditions due to a lack of understanding of their rights and an employer's obligations. This may be compounded for migrant workers where language is a barrier.

- **Unclear lines of accountability**

  It may be unclear what the agency and host firm are each accountable for with regard to a worker's health and safety, making it more likely risks are not appropriately managed.

It is established in the literature that agency workers (particularly those experiencing precarious employment) are at greater risk of harm than workers employed under standard employment arrangements.

In New Zealand, identifying the relative harm to agency workers compared to those in standard employment is challenging, but it appears their rates of harm are at least elevated. For example, the rate of ACC claim for agency work is slightly higher than for the general labour market. In addition, the rate of higher severity claims (resulting in at least a week away from work) within agency work has been increasing over the past ten years. This is complemented by an observed increase in the rate of notification to WorkSafe of potentially unsafe conditions.

The field research undertaken does not overturn this assessment but provides evidence that the risks are not universally experienced and there is a need for continued vigilance to the experience of vulnerable and precarious workers, particularly in high-risk sectors.

# How risks are managed

## The relationship between the agency and host firm is key

In a triangular relationship, both the agency and the host firm are PCBUs[1] under the *Health and Safety at Work Act 2015* and have overlapping responsibilities. The relationship between the agency and the host firm is critical and appears to be a determining factor in the risks faced by workers. Key aspects here are:

- how well workers are matched to tasks (how they are initially matched to a host firm's need by an agency, and how they are inducted and allocated tasks by the host firm once on-site)
- how well issues are communicated between agencies and host firms, and with agency workers
- how well the agency and the host firm work together to create an environment in which workers are supported to raise and manage health and safety issues, with clear communication channels.

Many temporary employment agencies and host firms are putting in place systems and processes to ensure health and safety is managed within the triangular relationship. These systems and processes are based on a foundation of trust, constant communication, good relationship management, a focus on worker welfare and good employer practices.

## Awareness and understanding of responsibilities appears to be high

Among the agencies and host firms we spoke to there was a good understanding of their responsibilities under the *Health and Safety at Work Act* and their role as a PCBU.

However, agencies want greater clarity and guidance about how the Act applies in triangular employment relationships. This includes where an agency worker is a self -employed contractor, and also how it would apply in situations where the relationship between the host firm and the agency breaks down.

## There is a 'long tail' of health and safety under-achievement

Although awareness and understanding is generally high, we heard of a long tail of under-achievement in health and safety outcomes within the agency work industry, including both agencies and host firms. 'Lax' or 'cowboy' agencies can only exist if there are host firms who are willing to be their client.

For some workers within the industry, especially migrant workers, a combination of factors makes them more vulnerable. These include having English as a second language, reduced economic incentive to speak up or complain, lower levels of knowledge of process, and some types of cultural barriers. It appears to be this combination of multiple risk factors that is particularly concerning for agency workers, rather than risks specific to the triangular employment relationship.[2]

[1] Person Conducting a Business or Undertaking

[2] We note that these risk factors can also exist in direct employment relationships.

## There are some areas of opportunity that may benefit from greater focus

We identified opportunities for improving health and safety outcomes for agency workers, including:

- taking into account psychosocial risks and the effects on agency workers of less secure employment
- addressing particular challenges faced by migrants and how these combine with other vulnerabilities in the agency work industry
- considering the potential for accreditations, whether industry driven or WorkSafe endorsed, to support better practices and help address the 'long tail' of under-achievement. Some industry programmes have already been developed which may be able to serve as a base
- increasing the focus on monitoring of occupational health, including ensuring that there is clarity between agency and host that this is being done.

# Our approach to the research

To answer the questions asked by WorkSafe, we draw on the following range of sources:

- relevant literature
- data access, collation and analysis (Stats NZ data, interrogation of the Integrated Data Infrastructure (IDI) hosted by Stats NZ, ACC work-related claims, IBISWorld market studies)
- field research including interviews and focus groups with temporary employment agencies, host firms and workers, interviews with key stakeholders, an online survey of agencies, and site visits at two host/client companies.

# INTRODUCTION

## Background: The need for a clear picture of the agency work industry

Many in New Zealand's workforce are 'agency workers' – often also called 'labour hire' workers. This is where there is a triangular relationship between the worker, the host firm and a temporary employment agency acting as a broker. The worker is employed by the agency, but the host firm controls their work. The host's contractual relationship is with the agency, not the worker.

Temporary employment agencies are a significant employer in New Zealand, and agency workers are a core part of our workforce. However, to date there has not been a clear national picture of the size and structure of the agency work industry, including how many agency workers there are in New Zealand.

Here and overseas, the picture of the industry has been distorted by the fact that employment data is collected through self-reporting. Further, often that data has been collected at a single point in time, whereas an agency worker may, in a single year, move through being a labour hire worker, to a permanent employee, to being unemployed.[3]

Workers employed by temporary employment agencies are hosted across many sectors, including in each of WorkSafe's priority sectors – agriculture, construction, forestry and manufacturing. WorkSafe wants to develop a profile of the agency work industry in New Zealand, and get a better understanding of the health and safety risks associated with the industry and


[3] See the ILO Conference paper *Multi-party work relationships; concepts, definitions and statistics* for a good overview of international practices and associated difficulties (International Labour Office, 2018).

how effectively these risks are being managed, both by the agencies and host firms.

## The research questions

WorkSafe identified four research questions for this report to address (using the phrase ‘labour hire’ rather than ‘agency work’):

1. What are the demographic characteristics of the labour-hire industry in New Zealand (the number of labour-hire firms, the number of people employed under labour-hire arrangements, the industries they are hosted in, demographic characteristics of the workforce)?
2. What is the likely future state of the industry (i.e. is it growing in size, are the industries that utilise labour-hire or the demographic characteristics of the population changing) and why?
3. What are the risks for labour-hire workers and how do they differ from workers employed under other contractual arrangements?
4. How effectively is health and safety being managed by both labour-hire firms and host employers (i.e. are overlapping duties being managed effectively, are agency workers as safe at work as workers employed under other contractual arrangements, how does labour-hire safety experience differ to other workers)?

## Scope and structure of this report

This report presents a profile of the agency work industry, assesses the associated health and safety risks and how effectively those risks are currently managed.  The report also makes related recommendations.

The report is structured as follows:

- what is ‘agency work’?
- profile of the agency work industry
- the future of agency work
- health and safety risks for agency workers
- management of health and safety between agencies and host firms
- summary and recommendations.

# Our approach to the research

We undertook a mixed-methods approach that included:

- a literature review
- data access, collation and analysis (Stats NZ data, interrogation of Stats NZ's IDI, WorkSafe notifications, ACC work-related claims, and IBISWorld market studies)
- interviews with key stakeholders (7)
- interviews with host firms (4)
- a focus group with representatives from temporary employment agencies (10), and one in-depth interview with an agency
- two focus groups with 'blue collar' agency workers (12)
- an online survey of temporary employment agencies (82 partial and 37 completed)
- site visits at two host firms.

Appendix 2 has more information on the methods used.

## Assistance from the Ministry of Business, Innovation and Employment

We acknowledge the support of the Ministry of Business, Innovation and Employment (MBIE). MBIE provided us with access to internal research and analysis of IDI data, and subsequent access to the IDI code to support our own commissioning and analysis of further data from Stats NZ.

**INSIGHTS FROM:**

**Primary research:**


**Secondary research:**

- Stats NZ Llinked Employer-Employee Data (LEED)
- Stats NZ Household Labour Force Survey (HLFS)
- Stats NZ Integrated Data Infrastructure (IDI)
- WorkSafe notifications
- ACC work-related claims
- IBISWorld industry estimates

# LIMITATIONS

| | |
|---|---|
| **Literature review**<br>*A focus on New Zealand, Australia, Canada and the UK* | The literature review focused on understanding the growth of agency employment and trends in its use; and risks associated with employment under labour hire arrangements or precarious employment more generally.<br>We focussed on jurisdictions that are similar to New Zealand, for example, Australia, Canada and the United Kingdom. Various states in Australia have recently undertaken investigations into the use of temporary employment agencies, and the impact that has on employment conditions and workers. |
| **Data access, collation and analysis**<br>*Difficulty reconciling different data sets, agency work is often 'invisible' from official statistics* | This is the first time that data on employment and health and safety in the agency work industry has been examined. The work was challenged by accessing health and safety data and reconciling different data sets.<br>It is well documented in the literature that the industry is difficult to measure, with many studies noting the difficulties in measuring the full extent of the industry, the relative paucity of estimates and the variability of the measures that do.<br>We present and interpret official estimates from Stats NZ, as well as customised data from Stats NZ's IDI commissioned and analysed by MBIE and MartinJenkins. |
| **Stakeholder interviews** | We interviewed seven representatives from unions, industry associations, and policy/operational government organisations, as well as a health and safety expert in Australia. |
| **Site visits**<br>*Small sample of two host firm sites using a single agency* | Gaining site access as a means of generating insights was challenging. We had intended to visit host firm sites in three locations around New Zealand, that were clients of two agencies.<br>We were only able to visit two sites (one in Wellington and one in Christchurch) which were both clients of agency (head officed in Auckland). We also undertook an in-depth interview with two representatives from that agency. |

| | |
|---|---|
| **Online survey of agencies**<br>*Low response rate, and sample bias* | The response rate for the online survey was low, despite the incentive and RCSA's support. We received 136 responses, of which only 37 were completed surveys. After ensuring there were no duplications, computer-generated responses or spurious responses, there were:<br>• 81 responses that we were able to use to understand where agencies are located, and their average size<br>• 41 responses that provided more detailed information on their workforce and opinions on industry trends<br>• 37 responses that provided detailed information on agency work practices.<br>Given the low response rate, and the profile of those who responded, we cannot generalise that the responses are representative of the agency work industry as a whole. The subject of the survey, and the difficulty we encountered in engaging participants in this project, also suggests that survey participants would likely be those who are engaging in good practice. |
| **Interviews and focus groups with agency workers and host companies**<br>*Small sample size, and sample bias* | We had intended to undertake seven focus groups.<br>We had great difficulty signing up enough participants for the focus groups. We were only able to undertake three focus groups (one with agencies, and two 'blue collar' focus groups – one in Auckland and one in Hamilton). We undertook one-on-one interviews with four host firms.<br>We spoke with a total of 26 people representing agency workers, agencies and host companies. This sample size is not as large as would have been preferred.<br>There were barriers to accessing qualitative insights. These included caution about speaking out about industry practice. Agency workers who participated in our focus groups are more likely to be employed by agencies undertaking good practice, and are more likely to speak up. The agency workers commented that their peers would be less likely to speak up, raise a complaint or challenge status quo. |

# WHAT IS AGENCY WORK?

The key characteristics of agency work are relatively well defined across academic literature and numerous reports and inquiries.

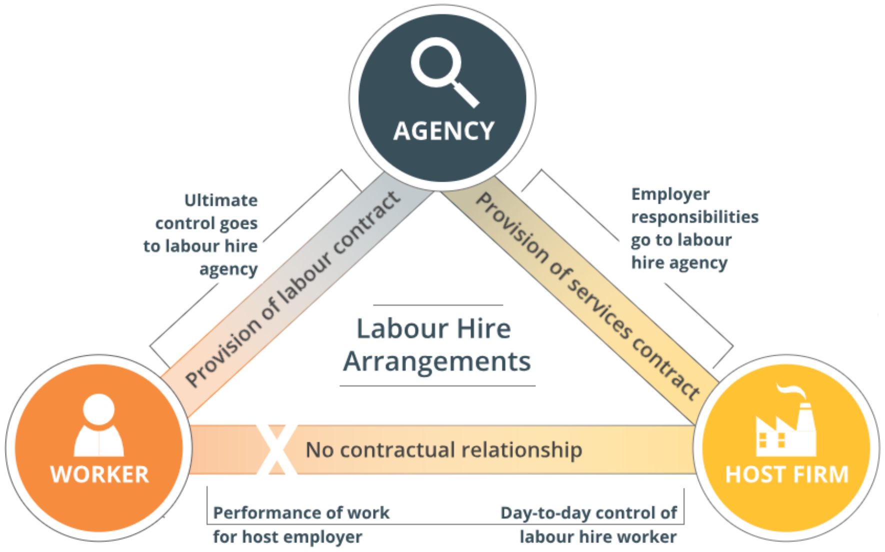
## A non-standard, triangular relationship

In standard employment arrangements a worker is employed by a firm with a contract of employment or service. Typically, this has been a full-time, indefinite contract, and the work is done at the employer's place of business and under the employer's supervision. Regulatory regimes vary, but under New Zealand employment law employees have entitlements and protections such as a minimum wage and protection against unfair dismissal (Walker, 2011).

'Agency' work, by contrast, is a form of **'non-standard' employment**. Non-standard arrangements are varied, but they are less likely to include ongoing employment, and more likely to involve work at multiple locations (or working off-site or away from the employer) and fewer entitlements and protections.

Agency work is a specific form of non-standard employment where the employment relationship shifts to what has been called a **"triangular relationship" (**Figure 1**).**

**Figure 1. The triangular relationship**




### How the triangular relationship works

Under this triangular relationship, the relationship between a worker and host firm is separated by the insertion of an intermediary agency, which acts as a broker between the host firm and the worker. At the agency's instruction, the worker carries out work supervised by the host firm but does not have a direct employment relationship with the host firm.

There is a contract between the host firm and the agency for the provision of services, and a contract between the agency and the worker for the provision of labour, but there is no contract between the worker and the host firm.

The host firm pays the agency a fee, which covers the cost of the worker's services as well as any profit margin for the agency, and the worker is paid by the agency.[4] However, the host firm has day-to-day control of the worker and sets their tasks and responsibilities.

The worker therefore reports to two different entities:

- they perform labour for a host firm, which sets day-to-day tasks and supervises performance, without a direct contract
- they have a contractual relationship with the agency, which pays the workers' wages and manages overall benefits and obligations.

## The range of needs met by agency workers

Agency work arrangements may be used to provide workers to host firms to fill a range of needs, from short term vacancies or backfilling absences, dealing with peaks in demand (either seasonal, or economic), providing specific skills that a business may not want to employ permanently, through to acting as a longer term supplement or eventual replacement of an ongoing workforce (Parliamentary Committees, 2016).

As well as directly hiring out workers to host firms, agency work can take the form of an agency engaging independent contractors to work for a host. In these cases the worker is an employee of neither the agency nor the firm.

# Terminology

## Agency work is known by many different terms

A number of different terms are used to describe the agency work industry and its component parts, which can include:

- **Labour hire**, which the industry often associates with 'blue collar' occupations
- **Temping**, which is more associated with 'white collar' occupations
- **On-hire**, used by the Recruitment, Consulting and Staffing Association (RCSA) to describe agency workers
- **Bureau work**, used widely by workers in the health and related sectors
- **Agency work**, often used by workers or unions to describe work performed for an agency.

[4] Prasad and Tulai v LSG Sky Chefs NZ Ltd. and Solutions Personnel Ltd and Blue Collar Limited [2017] NZEmpC 150

## Key terms we use in this report

Given the range of terms available, we have opted for the following throughout this report.

- **Agency worker** – employed or contracted to the temporary employment agency.[5]
- **Temporary employment agency** (or 'agency' for short) – the firm that employs the worker, and contracts their time to a host firm.
- **Host firm** (or host) – the firm utilising the agency worker's services.
- **Agency work industry** – the overall sector including the agencies, the workers, and the host firms that use them.
- **Labour Supply Services** – a definition within the Australian and New Zealand Standard Industrial Classification. We use Labour Supply Services for industry and firm-focused data sourced from Stats NZ, including data through the IDI.[6]

### Scope of the term 'agency work'

The term 'agency work' is often used by workers or unions to describe work performed for an agency, and to include both 'blue collar' and 'white collar'. RCSA also believes this term is more neutral than 'labour hire'.

Agency work can at times be conflated with other forms of labour supply, including contracting, contractor management, recruitment and placement, and workforce consulting.

For the purposes of this report, our focus is on the triangular relationship as set out in (Figure 1) above. We use 'agency work' to describe this relationship, but it includes all relevant types, including temp workers, on-hire workers, agency workers and both 'blue' and 'white' collar labour hire work.

Contracting services, contractor management, recruitment and workforce consulting are not included in this research. See Figure 2 for definitions and terms used in the industry.

### Some other useful definitions

The RCSA (2017) provides useful definitions in their membership constitution, as follows:

- 'Staffing' means recruitment, on-hire, contracting, workforce consulting and workforce solutions services
- 'White collar on-hire' is focused mainly on work in managerial, administrative, or clerical occupations that is typically performed in an office, virtual office, or administrative setting
- 'Blue collar on-hire' is focused mainly on skilled and unskilled occupations or callings requiring physical, technical or process work that is typically performed outside an office, virtual office, or administrative setting.

[5] In some instances, we use 'labour hire' where this makes the most sense in the relevant context – where it was used in the source material for example. We do not intend a different meaning when we use different terms, we use these terms interchangeably

[6] N721200 – Labour Supply Services is the standard industrial grouping temporary employment agencies. It is a subset of Employment Services (N721) which also includes employment placement and recruitment services.

# Why host firms and workers use agencies

This triangular approach has a number of identified benefits and disadvantages for workers and the host firms.

## Host firms

For the host firms, there are three main benefits in using agency arrangements (Burgess et al, 2005):

- It provides a **flexible** approach to labour supply, hosts get fast, easy access to casual labour, enabling them to respond quickly to changes in demand or activity or to backfill absences. This is particularly useful in sectors with uneven or seasonal demand, such as construction, mining, and horticulture.
- It allows host firms to **shift costs** relating to recruitment, training, and other employment-related costs such as payroll to the agencies, and in some cases the agency workers.
- Host firms can bring in **specialist skills** or supplement the skills they have on hand when needed for specific pieces of work.

The literature suggests that the use of agency work is more attractive where recruitment and training costs are low, demand is irregular, output cannot be stored, and the cost of a poor match between employee and employer is high.

## Workers

There are also benefits for workers from agency work arrangements, including:

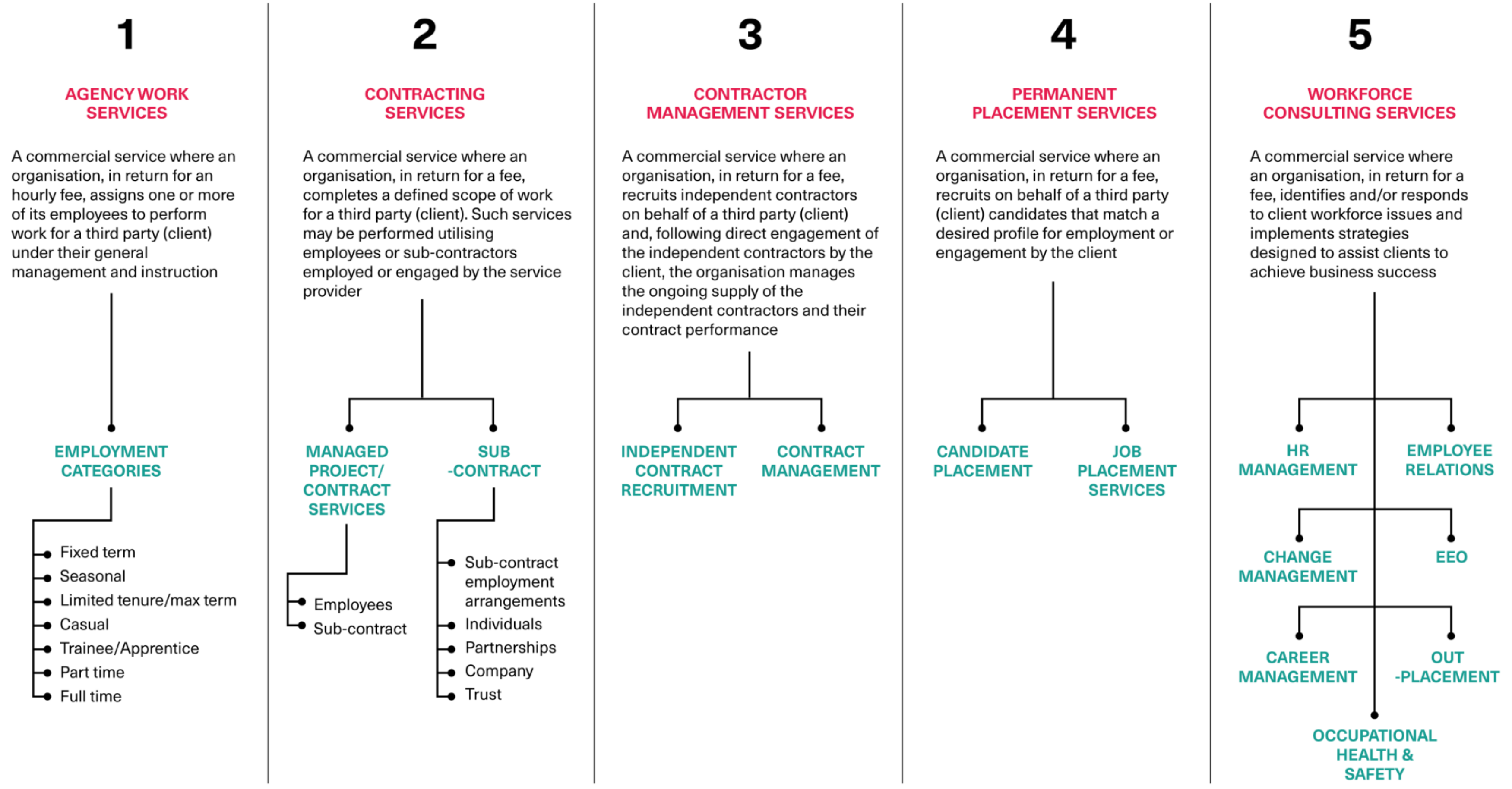
- **flexibility** in the hours of work or the duration of the work contract – workers are able to choose how much or when to work, and arrange their work around their lifestyle
- providing **pathways** to full time or permanent employment (ILO, 2016).[7]

However, the literature notes that agency workers tend to have poorer outcomes in these areas:

- **access to training, promotion, human capital development, and broader career prospects** – UK research suggests that agency work is increasingly long term rather than as a stop-gap (Judge & Tomlinson, 2016). Theodore and Peck (2013) suggest that the industry now plays a more ‘systematic and continuous’ function in connecting host firms and labour supply
- **occupational health and safety, compensation, and rehabilitation** (as explored further in this report) (Underhill, 2013)
- **job security and worker remuneration and entitlements** – This is supported by findings from the UK that suggest agency workers tend to be paid less, and have higher levels of under-employment (Judge & Tomlinson, 2016).

[7] There is a debate on the extent to which non-standard employment acts as a ‘stepping stone’ to permanent or standard employment, or ‘traps’ workers in precarious employment arrangements. We do not explore this debate in this report, but further reading can be found in the ILO (2016) publication, *Non-standard employment around the world: Understanding challenges, shaping prospects*.

**Figure 2. Industry service definitions**




*Source: Adapted from a document provided by the RCSA*

# PROFILE OF THE AGENCY WORK INDUSTRY

## The industry at a glance

### BUSINESSES

**594**
Enterprise count
2016

**34,900**
Annual rolling mean employment (jobs filled)
2016

**59**
Average firm size (employee count)
2016

**$3.5m**
Average annual gross output per firm
2016

**2.1**
Annual employee turnover rate
2016

**62%**
Of firms employ fewer than 5 employees
2016

### WORKFORCE

**115,000**
Individuals worked ≥1 month/year in labour hire
2018

**41%**
Workers are migrants
2018

**2 out of 3**
Workers are male
2018

**65%**
Workers aged 34 and younger
2018

**$49,000**
Average (FTE equivalent) annual earnings per worker
2018

**65%**
Work in the North Island
2018

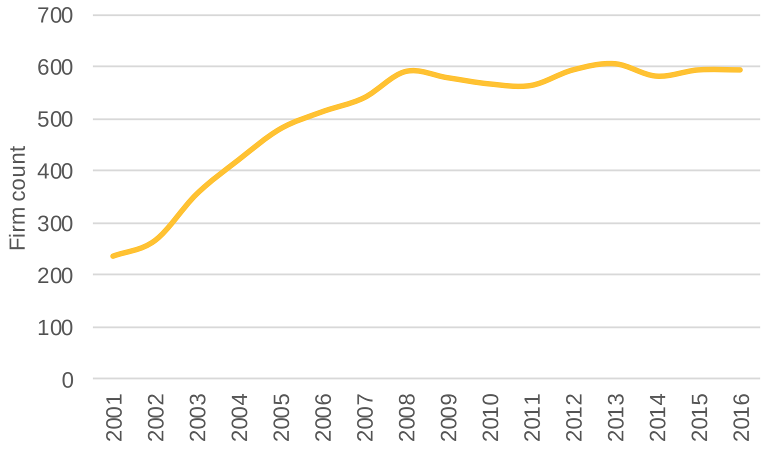
# Businesses

In 2016, there were 594 labour supply services[8] firms nationally (Figure 3).

The number has more than doubled over the past 15 years, from 234 in 2001 to 594 in 2016, representing a net gain of 360 and an increase of 154%.

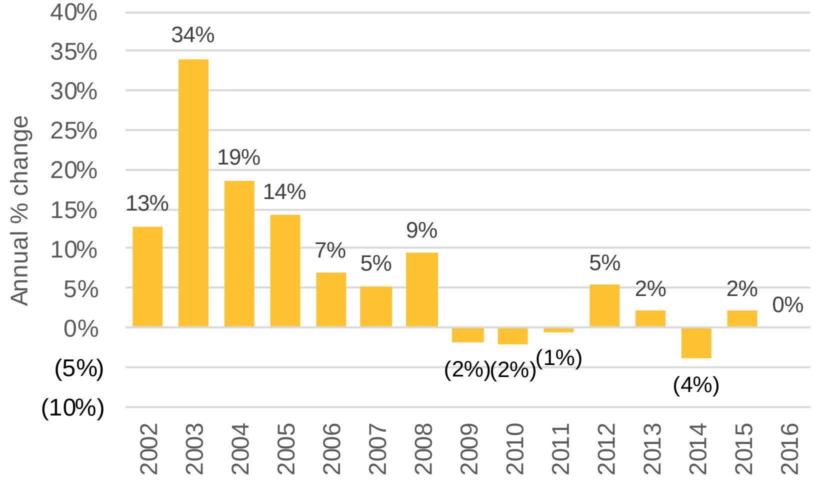
Growth was particularly strong in the lead up to the global financial crisis (GFC) (Figure 4). Compared with other industries that experienced strong declines as enterprises exited during the GFC, there was negative growth of 1 to 2% after the GFC.

**Figure 3. Total industry enterprise count, 2001-2016**




Source: IDI, Stats NZ

**Figure 4. Annual industry enterprise count growth, 2002-2016**




Source: IDI, Stats NZ

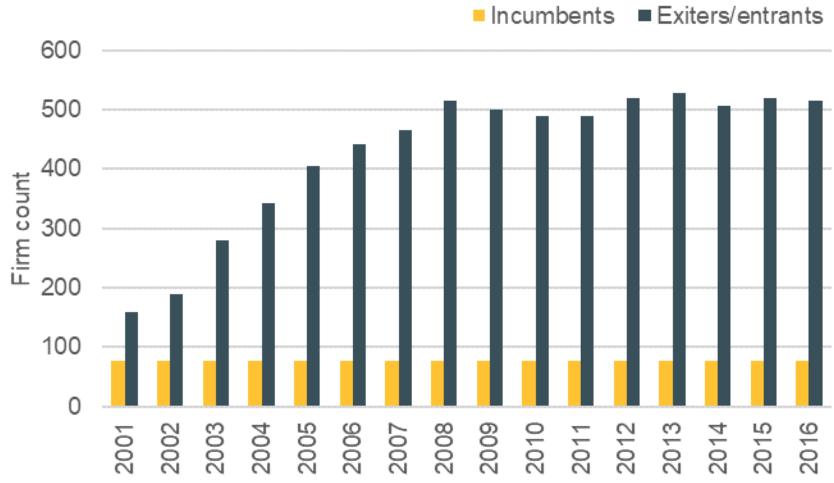
Since then, growth has remained steady through a series of fluctuations, resulting in steady numbers but no net gain.

## New operators are driving industry growth

Figure 5 shows the distribution of enterprises by firm type. Incumbent enterprises represent firms that have been active for the entire 2001-2016 period. All remaining firms are categorised as entrant/exiters. For 2001 to 2016, there were 78 incumbent firms.

8 This term is from the Australia New Zealand Standard Industry Classification (ANZSIC) used for official statistics. Labour supply services (Class N7212) consists of units mainly engaged in supplying their own employees to clients' businesses on a fee or contract basis. Assignments are usually temporary and performed under the supervision of staff of the client unit, at the client's work site. Primary activities: contract labour service, labour on-hiring service, labour staffing service, temporary labour hire service

**Figure 5. Industry enterprise count by firm type, 2001-2016**




Source: IDI, Stats NZ

As incumbent firms remain constant throughout, growth in the firm count is driven by the entrant/exiter firms entering the industry. The industry has experienced strong growth the in number of firms since 2001, but the bulk of this growth was in the lead up to the GFC. There were 159 entrant/exiter firms in 2001, representing 68% of the industry. By 2008, entrant/exiter firms had grown by 360 to 519, representing 87% of the industry. Along with the growth, the ratio of entrant/exiter to incumbent firms increased from 2:1 in 2001 to approximately 7:1 in 2008.

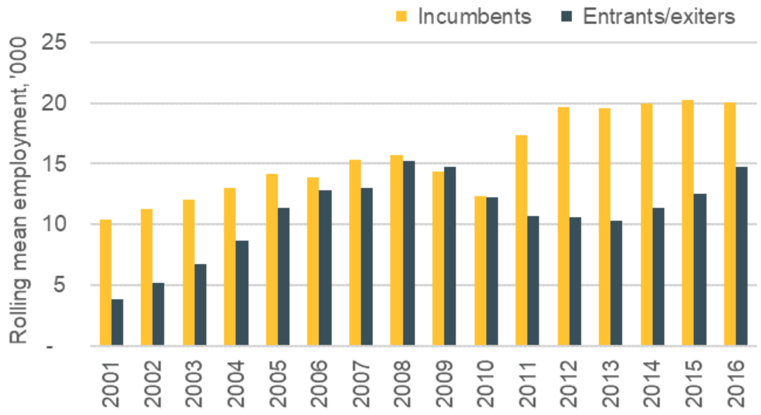
## Workforce share

In 2016, 58% of agency work workforce was employed by incumbent firms (Figure 6). Incumbent firms have, in general, employed a larger percentage of the industry's workforce. The only exception was during the GFC, where employment levels decreased to match entrant/exiter firms.

Entrant/exiter employment tracks closely with changes in the number of these firms. The GFC had a stronger and longer lasting negative impact on employment for this group. By contrast, incumbent firm employment recovered quickly after the GFC, absorbing a higher share of industry employment.

Incumbent firms have contributed strongly to employment growth over the long term; but this has stopped in recent years. Entrant/exiter employment growth has begun to accelerate, recovering to pre-GFC levels and regaining employment share. Overall, recent industry employment growth has been driven by entrant/exiter firms.

**Figure 6. Annual industry total rolling mean employment by firm type, 2001-2016**



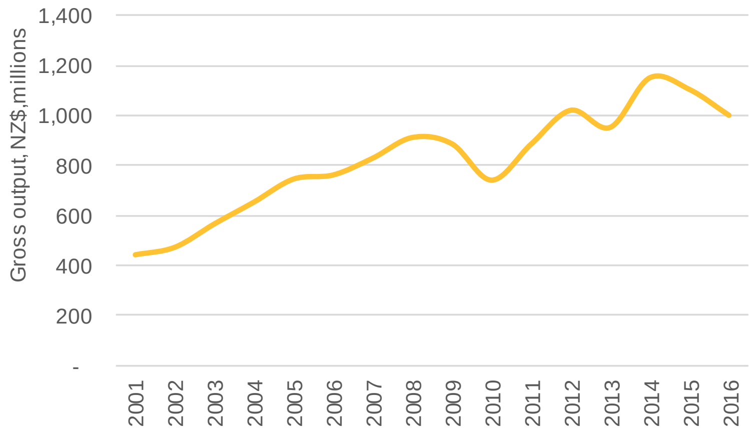

Source: IDI, Stats NZ

## Revenue growth for industry incumbents

Stats NZ and the Ministry of Business, Innovation and Employment (MBIE) provided data on the gross output/revenue of 279 firms – about half of the total number of firms. Data was not available for the other half. The data appears to be broadly representative of the labour supply services industry as a whole. The following data should be used to identify broad trends.

Revenue trends roughly follow employment trends. Of this group of firms, gross output growth has been strong despite two short-lived dips in the past decade (Figure 7). Between 2001 and 2016, gross output grew by 126%.

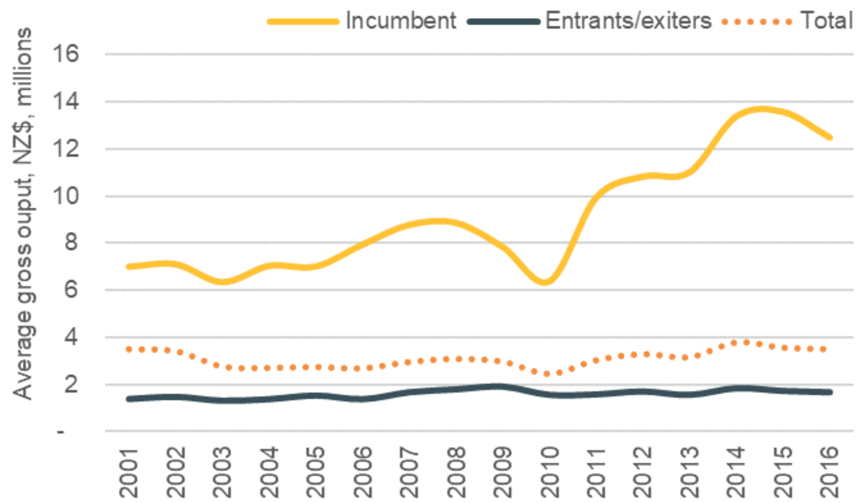
**Figure 7. Annual industry gross output, NZ$, 2001-2016**




Source: IDI, Stats NZ

Average gross output for incumbent firms is much higher than entrant/exiter firms (Figure 8). This variance in gross output is very similar to the variance in average firm size (Figure 9).

**Figure 8. Average annual gross output by firm type, 2001-2016**




Source: IDI, Stats NZ

Over the past 15 years, gross output for incumbent firms increased from $7 million per firm in 2001 to $12.5 million in 2016. By contrast, average gross output has remained relatively flat for entrant/exiter firms.

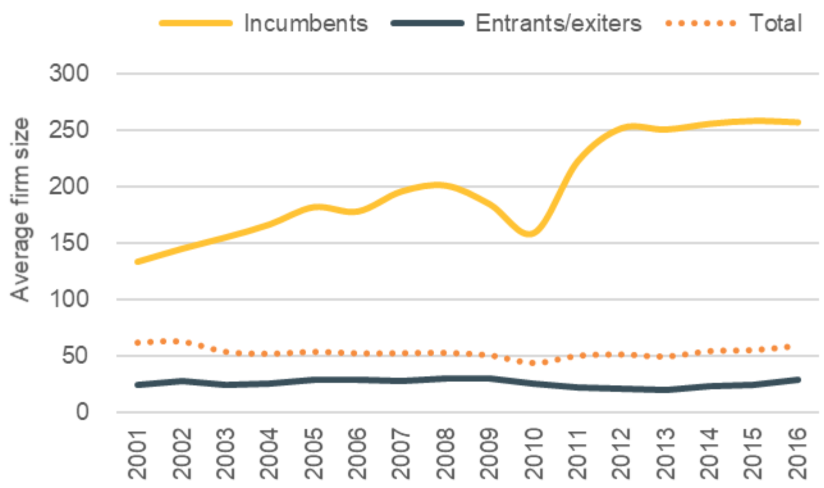
However, when the average firm size for incumbent and entrant/exiters firms is taken into account, the average gross output per employee of incumbent firms is much lower than entrant/exiters. For 2018, the average incumbent firm employs 258 employees, equating to $48,000 in gross output per employee. Conversely, entrant/exiter firms employ on average 29 people, bringing the average gross output per employee to $58,000.

## Established firms have doubled in size

In 2016, a labour supply services firm employed on average 59 workers (Figure 9). Incumbent firms employed a much higher average of 258 workers, while entrant/exiter firms employed a much lower average of 29 workers.

The average entrant/exiter firm has remained capped at under 30 employees throughout the entire 15-year period. Over the same period, incumbent firms have increased by approximately 120 additional employees per firm. However, incumbent firms' average number of employees has stopped growing in recent years.

**Figure 9. Average industry enterprise size, 2001-2016**




Source: IDI, Stats NZ

There were a number of notable mergers and acquisitions from 2011 to 2016, including AWF's acquisition of Madison in 2013 and its later acquisition of Absolute IT and JacksonStone & Partners in 2016. AWF Madison also acquired Select Dunedin in 2018. AWF Madison is now New Zealand's largest temporary employment agency, with almost 330 full time employees, deploying up to 5,000 temporary staff and contractors daily.

During this period Recruit Holding acquired Chandler Macleod Group and Peoplebank, in 2015.

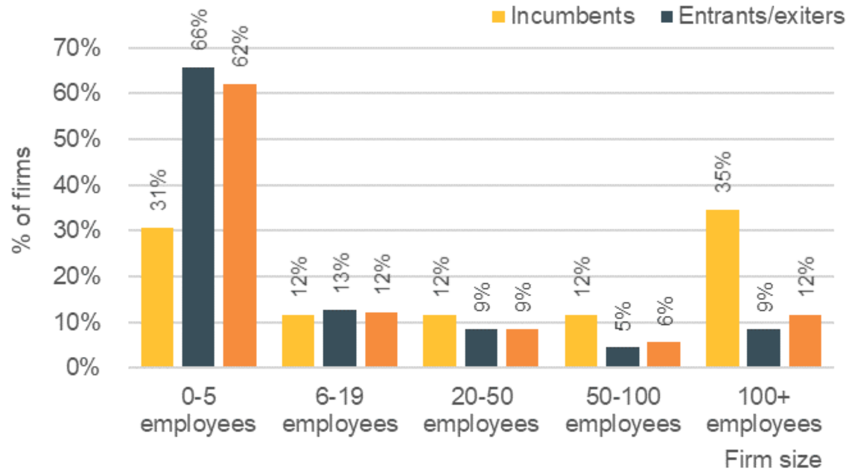
Mergers and acquisitions in the industry have continued in the last two years:

- Recruit Holding announced that Chandler Macleod Group and Peoplebank would combine as a single business unit under parent company Recruit Holding in 2019 (Chandler Macleod, 2019).
- Frog Recruitment merged with People2people in 2019 (Frog Recruitment, 2019).
- TMS Talent Group acquired TopDog Personnel and InPlace Recruitment in 2018 (TMS Talent Group, 2018).
- Enterprise Recruitment Nationwide acquired a shareholding in Christchurch-based The Talent Hive - IT & Engineering Recruitment Specialists in 2019 (Enterprise Recruitment & People, 2019).

The spread of industry firm size is very uneven and heavily concentrated at the small end (Figure 10). Around 75% of agencies employ fewer than 20 employees, and of this group, the majority employ fewer than five employees (62%). Total industry averages are heavily skewed by entrant/exiter firms since this group represents 87% of the industry. The spread of entrant/exiter firms are very similar.

Incumbent firms on the other hand have the highest proportion of firms with more than 100 employees (35%). They also make up a relatively high proportion firms with 0-5 employees.

**Figure 10. Size distribution of industry enterprise, 2016**

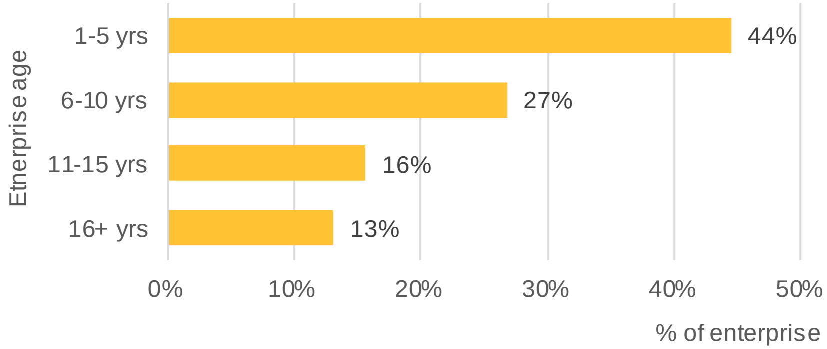



Source: IDI, Stats NZ

Younger firms make up a larger proportion of the firms across the labour supply services industry. (Figure 11). In 2016, firms less than 5 years old represented the biggest share of the industry at 44%. This indicates strong net entry levels in the industry. Firms in the 6-10-year bracket make up another 27%, followed by 16% in the 11-15-year bracket.

Incumbent firms (those that have been around for 16 or more years) account for the smallest proportion of firms in the industry (13%), and employ 58% of the industry's workforce.

**Figure 11. Age distribution of industry enterprise, 2016**




Source: IDI, Stats NZ

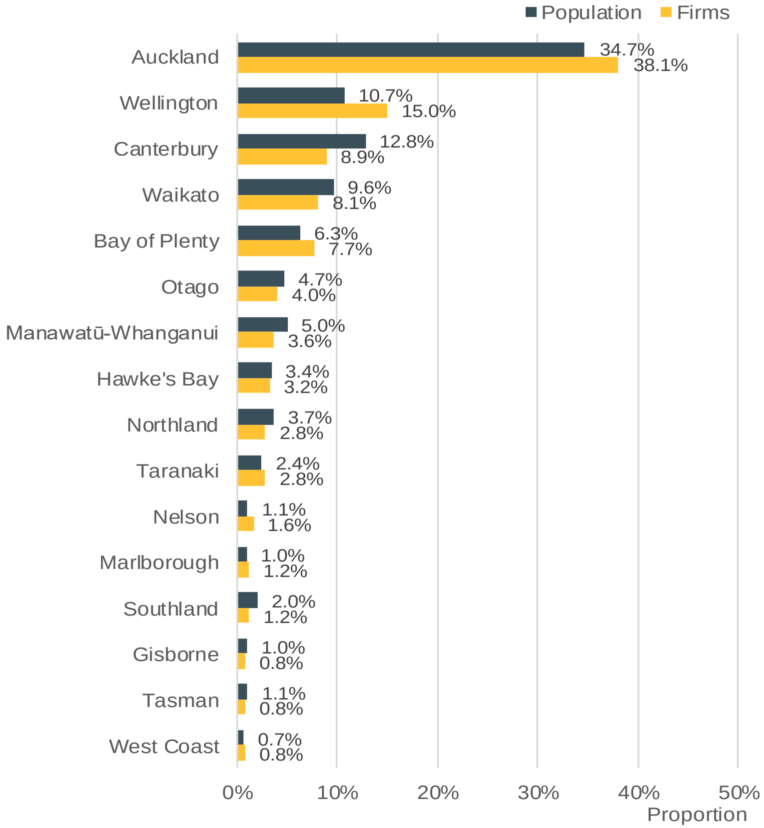
## Businesses cluster where their workforce is based

In general, the distribution of industry firms follows national population trends (Figure 12). The five most populous regions (representing 74% of New Zealand's resident population) housed 78% of agencies. In 2018, Auckland (38%) had the highest concentration of labour supply services firms (38%) probably due to its larger population (and therefore workforce base) and potential client base.

Wellington had the second highest concentration of labour supply services firms (15%) but with a much lower proportion of national population (11%). This may be due to the high concentration of public sector organisations, where there can be high demand for shorter-term project-based work and thus for agency workers. There may also be many smaller, boutique, companies offering specialist labour.

The reverse is seen for Canterbury, where the proportion of industry firms (9%) is much lower than population (13%). This may be due to larger, more established firms dominating, offering workers to support the Canterbury rebuild and Kaikōura infrastructure work.

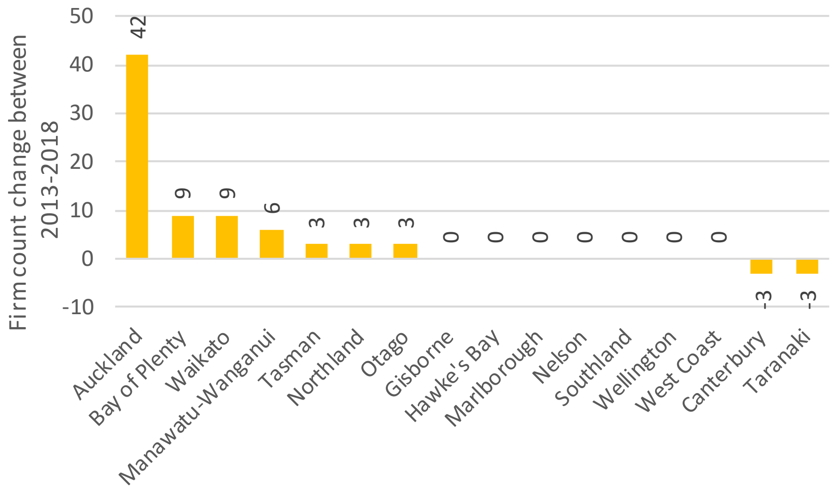
**Figure 12. Geographic distribution of industry business units vs national population, 2018**




Source: Geographic units by region, Business Demography Survey, Stats NZ and Subnational population estimates, Stats NZ

Between 2013 and 2018, the industry experienced a net gain of 66 firms nationally. The bulk of new entries were in Auckland (Figure 13). Waikato, Bay of Plenty and Manawatū-Whanganui experienced strong growth, but firms exited Canterbury and Taranaki over this period.

**Figure 13. Geographic unit count growth by region, 2013-2018**




Source: Geographic units by region, Business Demography Survey, Stats NZ.

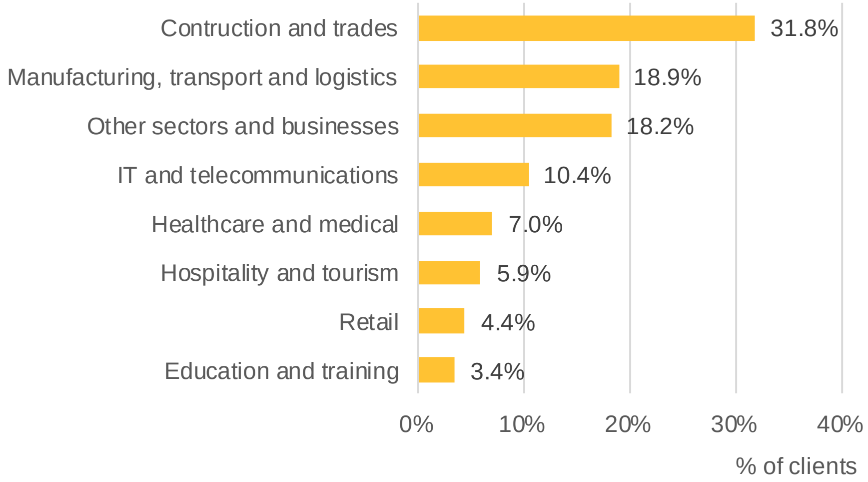
## Agencies are providing workers across a broad range of sectors

So far, there has been no data on what sectors are supported by temporary employment. In the absence of official statistics, we used IBISWorld (Allday, 2018) estimates, which industry peak bodies commonly refer to for a general indication of market share by industry. According to IBISWorld, construction and trades accounted for the largest proportion of agency clients (32%) for the 2018/19 financial year (Figure 14). Manufacturing, transport and logistics

(19%) and other sectors and businesses (18%) follow closely in second and third place.

Half of the agency workforce are in two of WorkSafe's high priority sectors – manufacturing and construction. WorkSafe's other two high priority sectors, agriculture and forestry, appear to have been aggregated with 'other sectors' in IBISWorld data. The data suggests that most of the work is in blue collar fields, although the exact split is unclear.

**Figure 14. Client sector distribution for labour supply services, 2018-19**




Source: IBISWorld Industry Report N7212NZ: Temporary Staff Services in New Zealand.

# The agency workforce

**HLFS estimates:**
**Temporary agency workers in NZ (0.4% share of total NZ employment)**
*Q3 2018, Statistics New Zealand, Household Labour Force Survey*
**10,400**

**BDS estimates:**
**Labour Supply Services employee count (1.5% share of total NZ employment)**
*2018, Stats NZ, Business demography*
**39,500**

**IBISWorld estimates:**
**Temporary staff services employment (1.5% share of total NZ employment)**
*2018-19, IBISWorld*
**40,600**

**LEED estimates:**
**Employed in NZ's Labour Supply Services industry (1.5% share of total NZ employment)**
*2016, Statistics New Zealand, Linked Employer-Employee Database*
**41,178**

**WEC estimates:**
**Number of agency workers in NZ (2.6% share of total NZ employment)**
*2018, World Employment Confederation*
**70,260**

## The agency workforce is much larger than previously estimated…

Our initial analysis of available data sources estimated that there are between 10,000 and 70,000 agency workers in New Zealand, or between 0.4 percent and 2.6 percent of employed persons of the workforce. One of the problems with available data sources is they reflect a single point in time, and it is the nature of agency workers that they will move in and out of the workforce over the course of a year. This could be due to other commitments, or gaining or losing permanent employment in another industry. Through access to the IDI we have been able to determine the number of people who were actively employed in the labour supply services industry for at least 1 month per year. This method shows that in 2018, the number of people who worked for temporary employment agencies was around 115,000 (Figure 15) – a number that is much higher than previous estimates.

This employee estimate includes both agency workers and those who undertake corporate/account management roles for the agency.

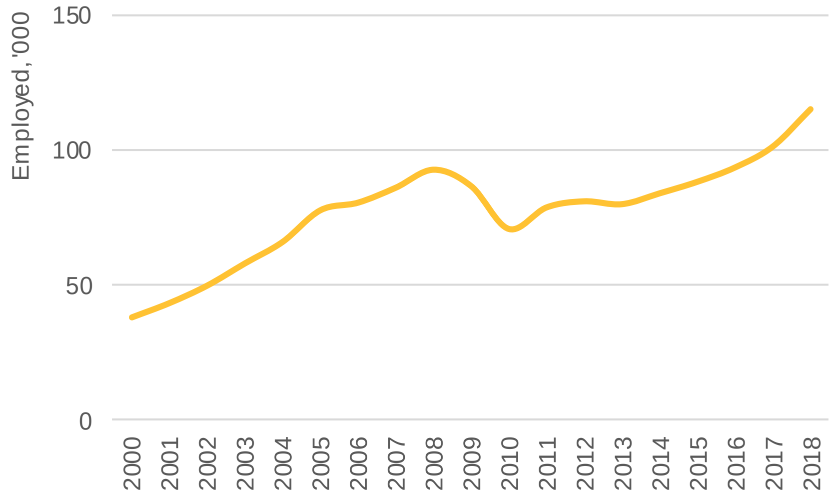
**IDI estimates:**
**Number of workers who were employed by a temporary agency for at least a month (4.2% share of total NZ employment)**
*2018, Integrated Data Infrastructure, Stats NZ*
**115,000**

**IDI estimates:**
**Rolling average monthly employment (1.5% share of total NZ employment)**
*2018, Integrated Data Infrastructure, Stats NZ*
**40,000**

## …and it’s growing strongly

The agency workforce has more than tripled between 2000 and 2018, with the number of people who participated in the industry for at least one month per year growing from 38,000 in 2000 to 115,000 in 2018 (Figure 15). Except for during the GFC, employment growth has been strong throughout the 2000-2018 period.

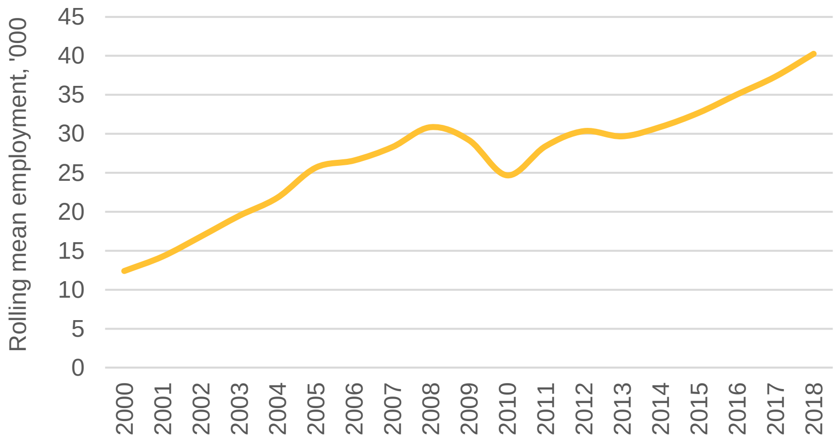
**Figure 15. Annual count of labour supply services employment, 2000-2018**




Source: IDI, Stats NZ

Similarly, rolling mean employment (RME)[9] for the labour supply services industry more than tripled over the same period, from 12,000 in 2000 to 40,000 in 2018 (Figure 16). Employment dipped during the GFC, but has recovered since with net gains from 2013. The Canterbury rebuild has also likely contributed to rising employment.

**Figure 16. Annual rolling mean employment, 2000-2018**



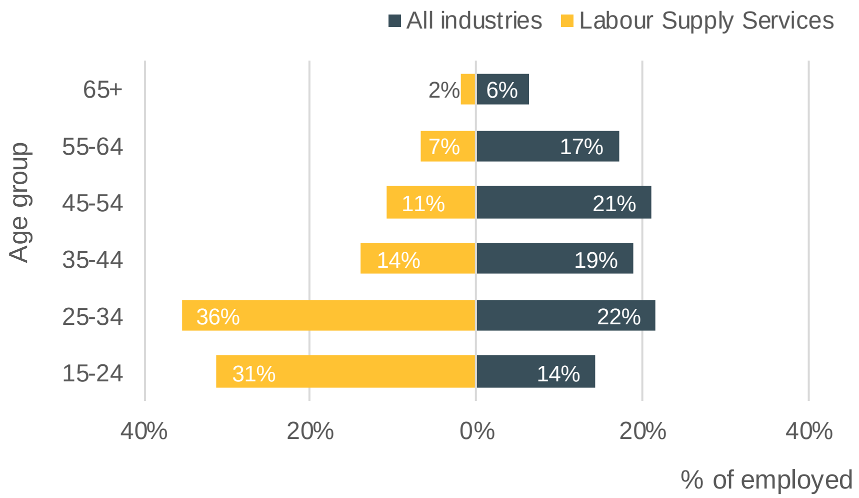

Source: IDI, Stats NZ

[9] RME is the 12-month moving average of the monthly employee-count. RME is used to help determine underlying trends of datasets with high seasonal volatility.

## The agency workforce is young

Youth aged 15-24 and adults aged 25-34 make up over 65% of employees in the labour supply services industry (Figure 17). By comparison, this group of employees account for only 36% of employment in all industries.

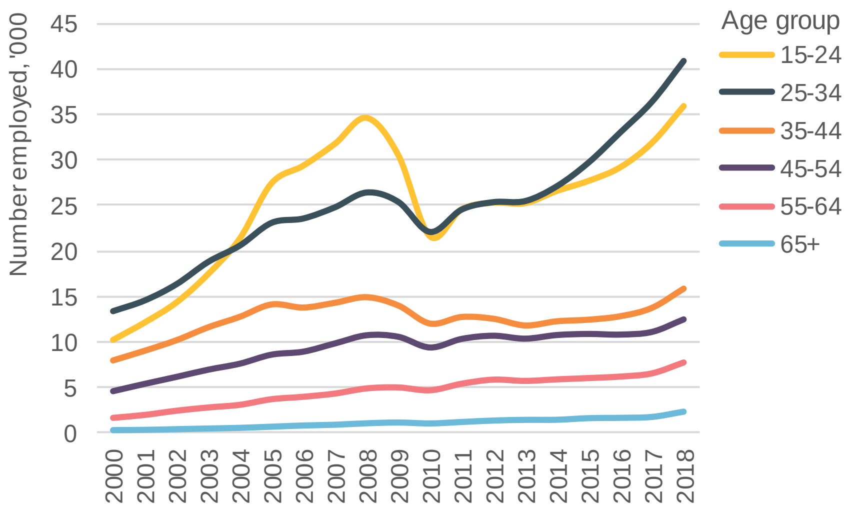
**Figure 17. Share of employment by broad age group, 2018**




Source. Labour Supply Services employment by age, IDI and National Employment Statistics from Household Labour Force Survey, Stats NZ

As shown in other research (such as Stats NZ, 2012), youth employment was most affected by the GFC, dropping by 13,000 (or 38%) between 2008 and 2010 (Figure 18). Youth employment has recovered recently to pre-GFC levels, but growth has been outpaced by the 25-34 age group.

**Figure 18. Labour supply services employment by age group, 2000-2018**

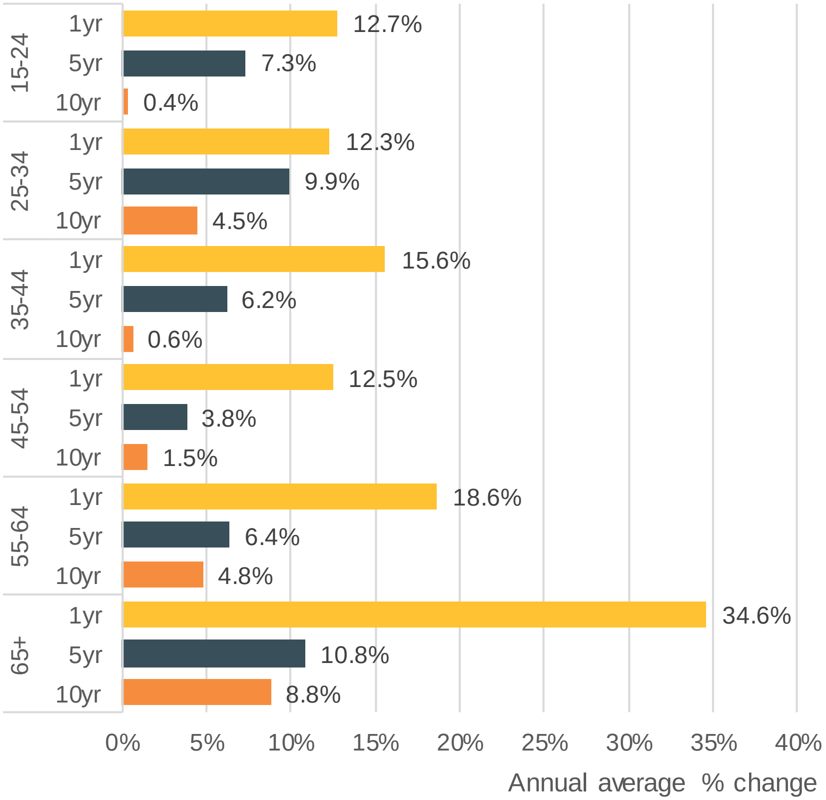



Source IDI, Stats NZ

Across the age groups, short term employment growth has been significant (Figure 19). The 25-34 age group experienced the most consistent growth over the medium and long term. The higher uptake of temporary agency employment in the 24-35 age group may be a reflection of cultural shifts towards more flexible working arrangements, the types of roles and industries that are prevalent in agency work (for example, manufacturing and construction roles that may be physically more demanding), lower barriers to entry of some agency roles, and the use of technology to enable workers to undertake short-term roles remotely.

At the same time, there has been very strong employment growth in the over 55 age group, although this is from a small base.

**Figure 19. Labour supply services employment compound annual growth rate (CAGR), 1yr/5yr/10yr with 2018 as base**




Source. IDI, Stats NZ

This is consistent with the trend of more New Zealanders working into retirement age. A survey implemented by the Commission for Financial Capability found that of 500 organisations, 83% had no policies or strategies in place for workers aged over 50 (Iles, 2018). These policies and strategies also need to address the implications of an aging workforce for health and safety risks.

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Growing numbers of superannuitants are working in supermarkets, driving buses or staying longer in the construction and agricultural sector.

At Countdown, where the oldest employee is 83, 1600 of its 18,000 staff are over the age of 60.

*- Stuff.co.nz*

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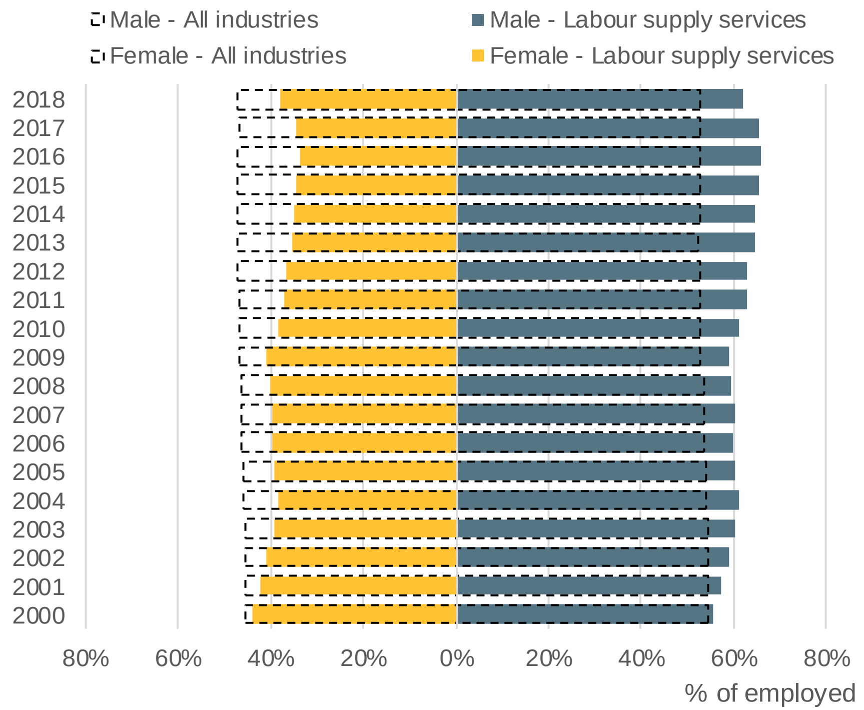
## Agency workers are more likely to be male

In 2000, the gender composition for the labour supply services workforce was very similar to the general New Zealand workforce (Figure 20). Since then, the labour supply services workforce has become disproportionately more male-dominated, while all industries slowly became more gender-balanced.

More recently, the proportion of male workers in the two workforces differed by 13 percentage points between 2015 and 2017. The industry also reached a ratio of two male workers to every 1 female worker during this time.

Looking at annual growth over time, the GFC had relatively the same impact on both genders (Figure 21, overleaf), but growth has bounced back to be stronger and faster for male workers in recent years. Over the past year, employment growth for females outpaced males for the first time in 18 years, closing the participation gap by approximately 4 percentage points.

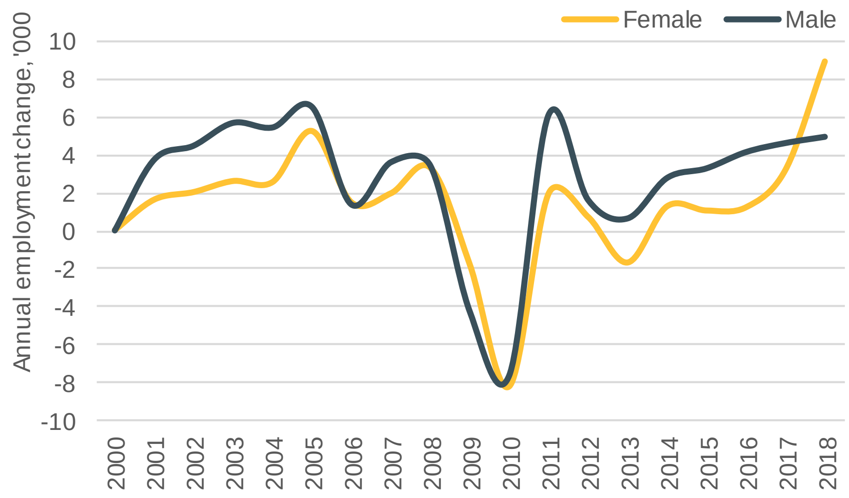
**Figure 20. Employment by sex, 2000-2018**




Source. IDI, Stats NZ

The reason for this is unclear. It could be that more females are taking up agency work in search of more flexibility. It could also be because the types of roles where there is growth tend to be dominated by females, for example, call centres, IT, aged care and retail.

**Figure 21. Labour supply services annual employment count change, by sex, 2000-2018**



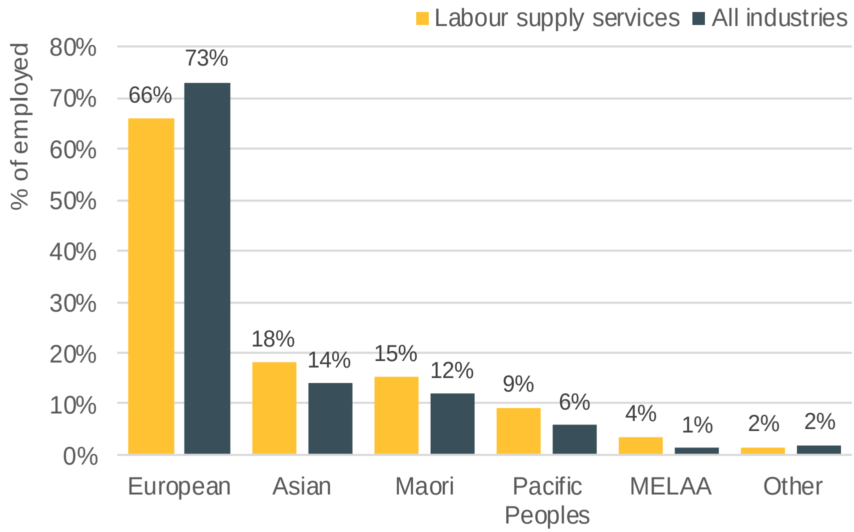

Source. IDI, Stats NZ

## Minority groups are over-represented

At 66%, the European ethnic group makes up the largest proportion of labour supply services workforce (Figure 22). The second and third largest groups are Asian (18%) and Māori (15%), respectively.

Non-Europeans make up a larger proportion of labour supply services workforce (34%) than they do across all industries (27%). Conversely, the proportion of Europeans working in the industry is 7 percentage points less than the proportion of Europeans across all industries.

**Figure 22. Employment by broad ethnic group, 2018**

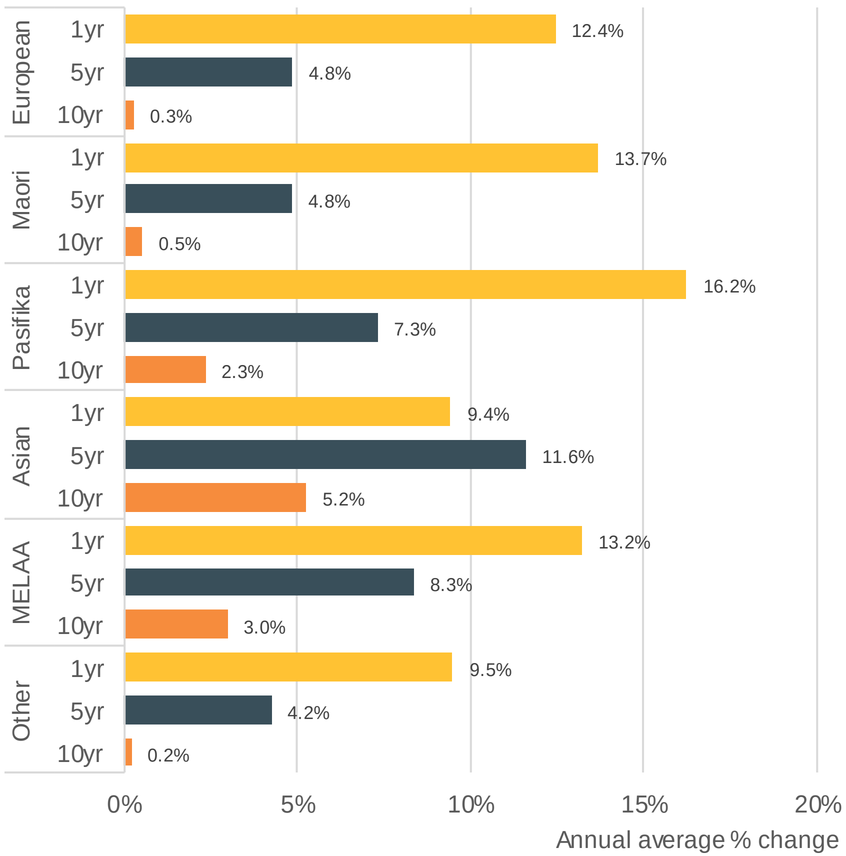



Source. IDI and Household Labour Force Survey, Stats NZ

Recently there has been positive employment growth across all ethnic groups. Over the medium to long term, Asians experienced the strongest growth followed by Middle Eastern / Latin American / African (MELAA) and Pacific peoples. Europeans and Māori experienced the least growth over the 10-year period and have only just begun to recover to pre-GFC levels in the past two years (see Figure 23).

While MELAA employment growth has been strong, it started from a low base of 1,785 in 2008. The number grew by 606 additional people to 2,391 in 2018.

**Figure 23. Labour supply services employment CAGR by ethnicity, 1yr/5yr/10yr with 2018 as base**



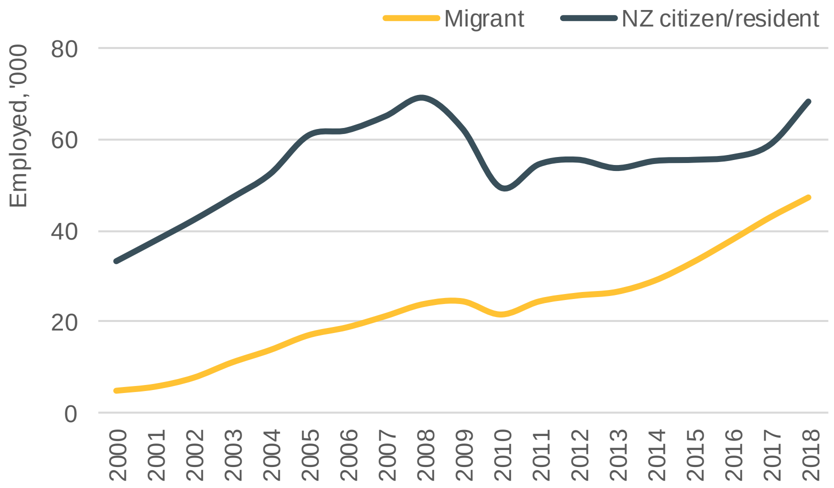

Source. IDI, Stats NZ

## A common avenue of work for migrants

Migrant workers are people who hold a visa granting them the right to work in New Zealand. In 2018, migrant workers made up 41% of the total number of agency workers (Figure 24) and Figure 26). In 2018, approximately 47,000 migrants worked in the labour supply services industry compared to 68,000 non-migrant workers.

During the GFC, non-migrant working in the industry fell significantly while migrants were only mildly affected.

**Figure 24. Labour supply services employment by migrant status, 2000-2018**

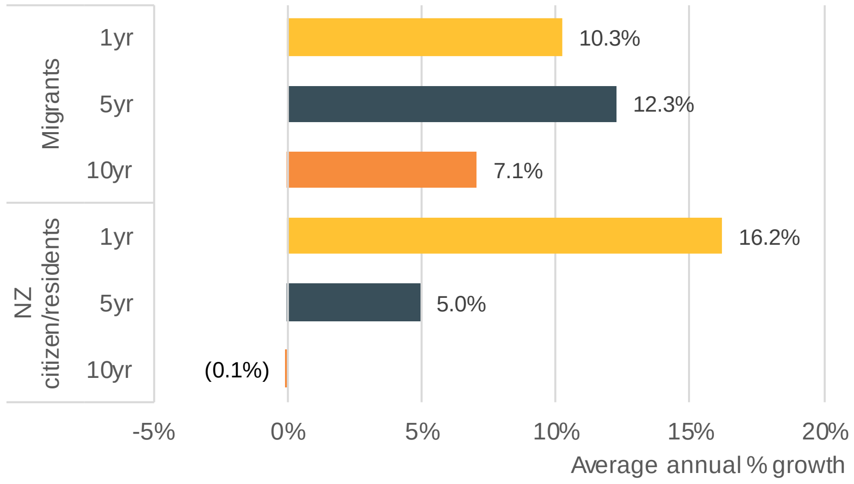



Source. IDI, Stats NZ

While non-migrant employment plateaued after the GFC, migrant employment increased by nearly 26,000, closing the proportional gap.

New Zealand non-migrant employment experienced no growth over the long-term, but has regained momentum in recent years (Figure 25).

**Figure 25. Labour supply services employment CAGR by migrant status, 1yr/5yr/10yr with 2018 as base**

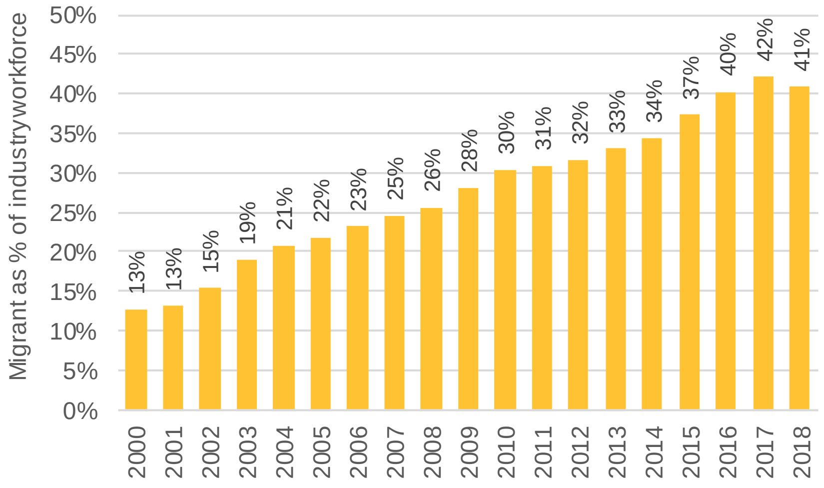



Source. IDI, Stats NZ

Migrant employment experienced significant rates of growth across the entire period. There was particularly high growth over the past 5 years, increasing by more than double the New Zealand non-migrant rate – by 12% annually.

Since 2000, the proportion of migrant workers gained steadily year on year, increasing by a cumulative total of 28% over the past 18 years (Figure 26).

**Figure 26. Migrant workers as proportion of industry workforce, 2000-2018**




Source. IDI, Stats NZ

There was a slight downturn in proportion of migrant workers last year, but it was the first drop since 2000.

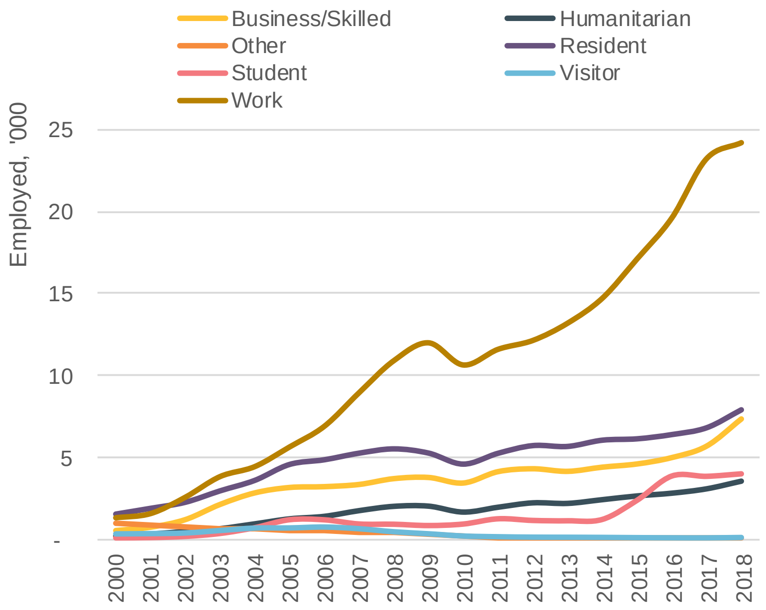
## Migrants in the agency workforce: by visa type

There has been a significant shift in the types of visas under which migrants are working in the labour supply services industry. While all visa categories contributed relatively equally in 2000 (Figure 27), by 2018 work visa holders dominated the migrant workforce, with an additional 22,800 work visa holders joining the industry.

A number of factors could have contributed to this significant increase:

- persistently tight labour market conditions in New Zealand
- temporary employment entry commitments for Chinese nationals under the New Zealand-China Free Trade Agreement
- significant housing and infrastructure developments in urban centres.

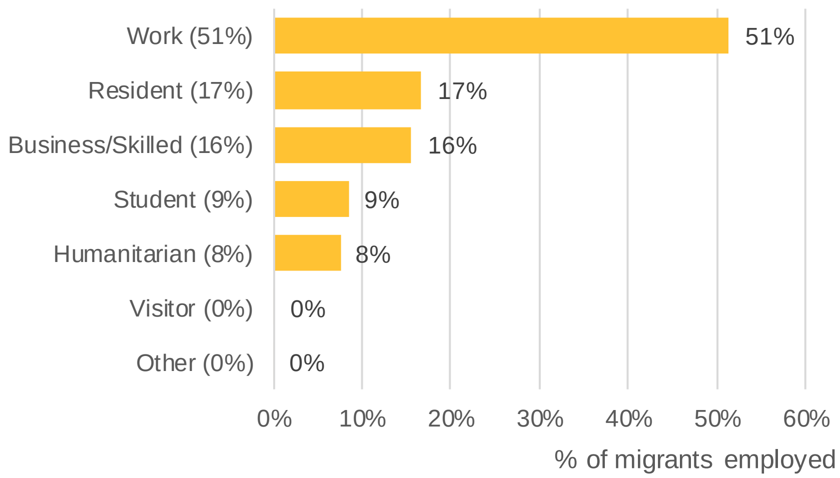
**Figure 27. Number of migrants employed by broad visa category, 2000-2018**




Source. IDI, Stats NZ

In 2018, over half of the industry's migrant workforce (51%) was made up of work visa holders (Figure 28). New resident visa holders (17%) and business/skilled visa holders (16%) combine to make up another third of the workforce. The four remaining categories account for a relatively low proportion of the workforce, ranging from 9% for students to 0.1% for other.

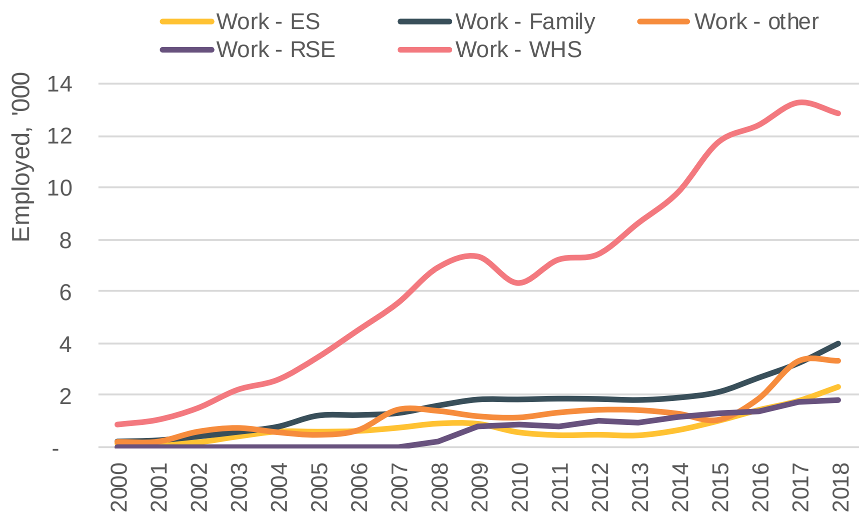
**Figure 28. Proportion of migrants employed in labour supply services by broad visa type, 2018**




Source. IDI, Stats NZ

Within the work visa category, the bulk of migrants come through the working holiday scheme (WHS) (Figure 29). At its peak, WHS workers represented nearly 70% of migrant workers with a work visa. This group has grown significantly, from 855 workers in 2000 to 12,840 workers in 2018.

**Figure 29. Industry migrant workforce by detailed visa categories, 2000-2018**




Source. IDI, Stats NZ

The WHS is available to young people, usually aged 18 to 30 (18 to 35 in a few countries) to travel and work in New Zealand for up to 12 months, or 23 months if they are from the UK or Canada. The countries and territories in Table 1 are eligible.

**Table 1. Working holiday scheme countries**

| Available to young people from these countries and territories | | |
|---|---|---|
| Argentina | Hong Kong | Philippines |
| Austria | Ireland | Poland |
| Belgium | Israel | Portugal |
| Brazil | Italy | Singapore |
| Canada | Japan | Slovakia |
| Chile | Korea | Slovenia |
| China | Latvia | Spain |
| Croatia | Lithuania | Sweden |
| Czech | Luxembourg | Taiwan |
| Denmark | Malaysia | Thailand |
| Estonia | Malta | Turkey |
| Finland | Mexico | United Kingdom |
| France | Netherlands | USA |
| Germany | Norway | Uruguay |
| Hungary | Peru | Vietnam |

Source: Immigration New Zealand

## The agency workforce by region

### Regional shares of the overall agency workforce

In 2018, Auckland had the highest share of the agency workforce (39%), reflecting the region's population and overall workforce share (Figure 30).

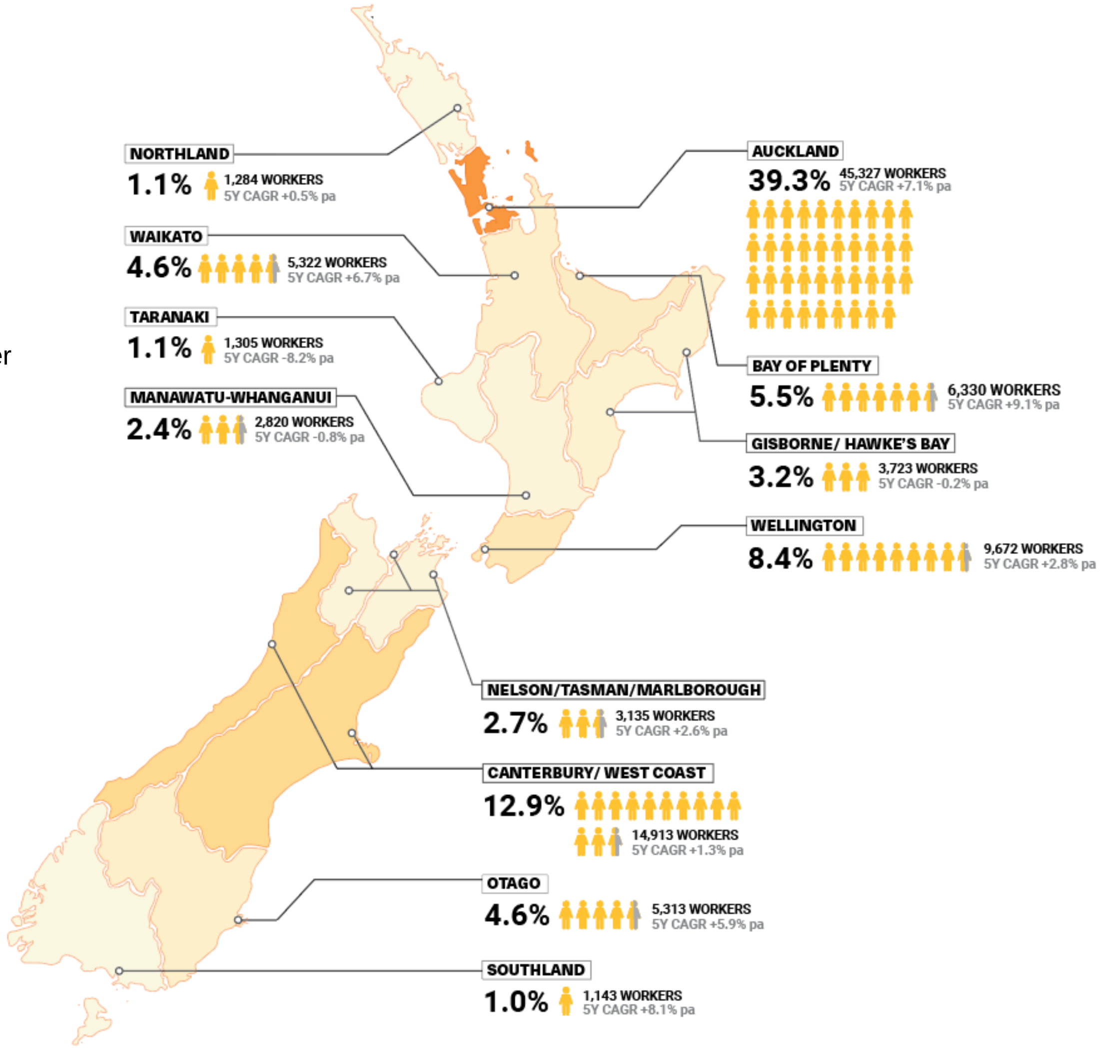
Canterbury/West Coast (13%) had the second highest concentration, followed by Wellington (8%). Waikato and Bay of Plenty represent another 10% of participants.

13% of workers are not elsewhere classified.

While the overall industry experienced on average 8% growth per year over the past 5 years, regions such as Manawatū-Whanganui, Taranaki and Gisborne/Hawke's Bay experienced decline.

**Figure 30. Geographic distribution of labour supply services workforce, 2018**

**Source: IDI, Stats NZ**



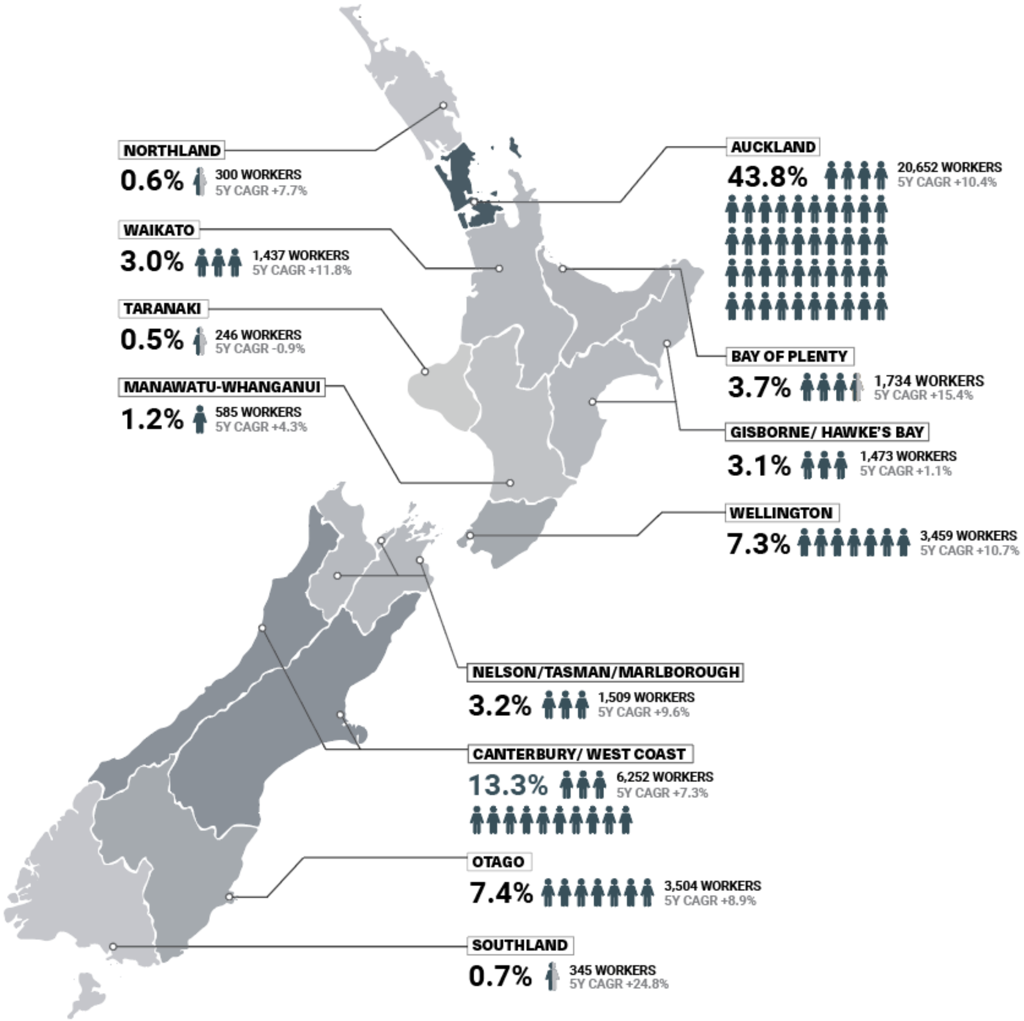
## Migrant workers in the agency workforce by region

Almost half of all migrants employed in the industry were employed in Auckland (44%) (Figure 31).

The South Island employs a slightly higher proportion of migrant workers than would be expected given its share of the total labour supply services industry employment. Migrants are more likely to engage in agency work in Otago, Canterbury/ West Coast and Nelson/ Tasman/ Marlborough. These regions are major hubs of tourism, agriculture and construction, industries which tend to use a high proportion of agency workers.

**Figure 31. Geographic distribution of labour supply services' migrant workforce, 2018**

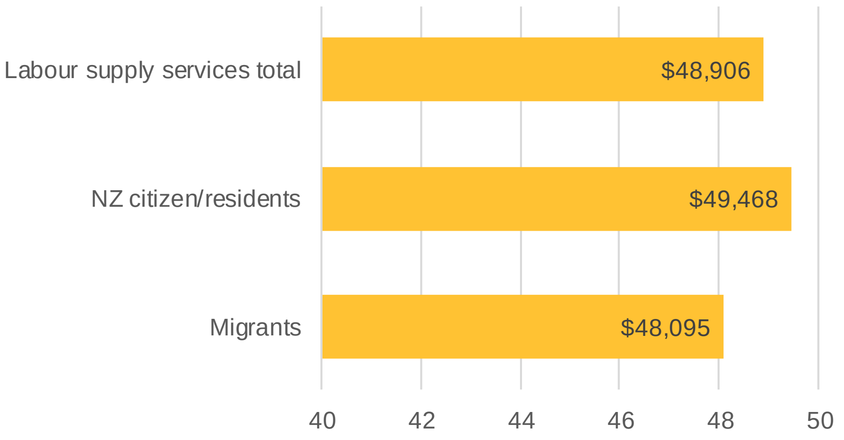
**Source: IDI, Stats NZ**



## Average earnings in the industry

In 2018, an individual working in the industry earns on average the full-time equivalent of $48,906 per year (Figure 32). This is an average of all people employed in the labour supply services, and so would include agency account managers, as well as agency workers across the spectrum of different types of roles and skill levels.[10]

**Figure 32. Mean annual earnings (FTE equivalent), 2018**




Source. IDI, Stats NZ

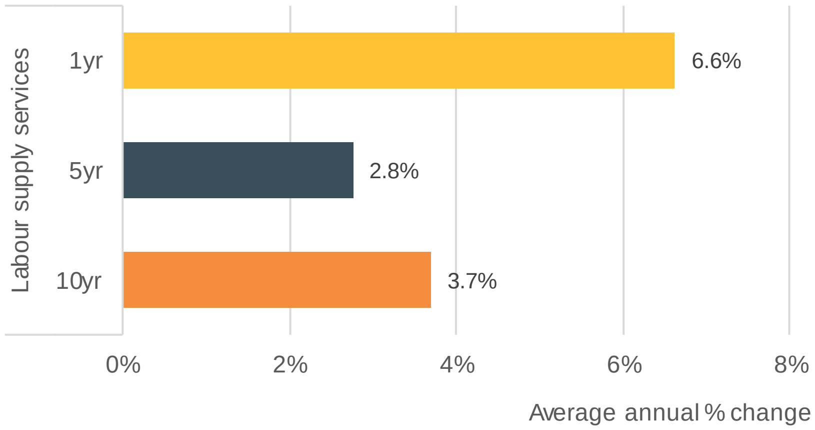
On average, migrant workers earn 3% less than their New Zealand citizen/resident counterparts in the industry.

[10] By comparison, the Essential Skills work visa remuneration threshold is now $25.00 per hour, or $52,000 per annum. The minimum wage in 2018 was $16.50 per hour, or $34,320 per annum.

Overall, industry wages have, on average, increased annually by 4% over the past decade (Figure 33). This equates to approximately an additional $1,500 per year. This is higher than overall average earnings growth in New Zealand, which have increased by 2.8% per year over the same period (Stats NZ, 2018).

Wage growth hasn't been as strong over the past 5 years, but there has been a spike in the last year with 7% growth.

**Figure 33. Labour supply services wage CAGR, 1yr/5yr/10yr with 2018 as base**




Source. IDI, Stats NZ

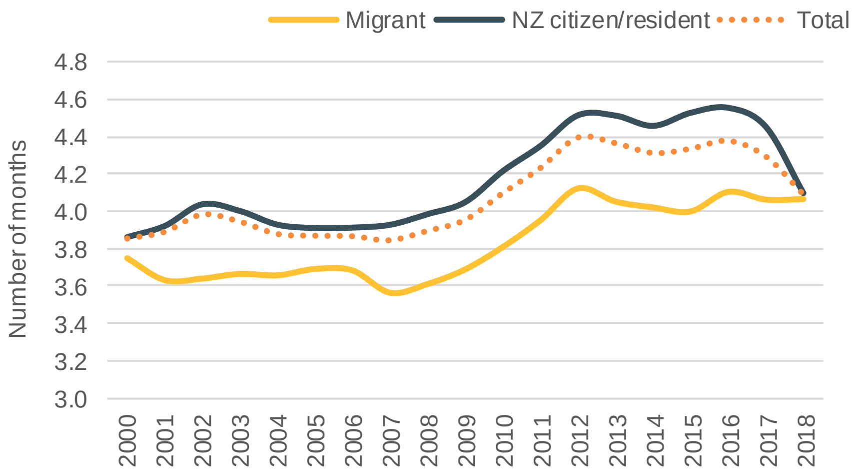
## Length of time in agency work

Figure 34 shows the average number of months individuals worked within the labour supply services industry per year.

In general, the length of time in the labour supply services industry has remained at a similar level over the past 18 years (Figure 34). In 2018, the ‘average’ agency worker spent just over four months in the industry.

The average number of months spent in the industry per year increased as a result of the GFC. In 2008, the average individual worked 3.9 months per year compared to its peak of 4.4 months in 2012. Length of time in the industry has only just dropped slightly to 4.1 months per year by 2018.

**Figure 34. Average months worked per year in industry, 2000-2018**




Source. IDI, Stats NZ

Average length of time for migrant employment held constant at around 4.1 months per year over the past 5 years. Migrants tended to be employed for shorter periods than New Zealand citizen/residents.

Length of time for New Zealand citizen/resident employment decreased to the same level as migrant workers over the past year, from 4.5 to 4.1 months per year.

# THE FUTURE OF AGENCY WORK

## External drivers affecting industry growth

IBISWorld identifies the following key external drivers for the performance of the agency work industry (which it refers to as the Temporary Staffing Services industry) as (Allday, 2018):

- **The national unemployment rate**

  A decline in the national unemployment rate indicates that overall demand for labour is increasing, which can increase the demand for temporary staff. It can also make it difficult for businesses to find labour, encouraging them to use the services of temporary employment agencies. This may work against the agency work industry, as it makes it easier for workers to find permanent work should they desire it. IBISWorld is forecasting that the unemployment rate will remain around 4% over the coming five years.

- **Business Confidence Index**

  Higher business confidence can encourage businesses to hire more permanent and full-time staff while lower business confidence encourages companies to hire staff on a temporary basis. IBISWorld is expecting business confidence index to fall in 2018/19 resulting in greater demand for temporary workers.

- **Demand from key sectors,** which IBISWorld notes include the construction, manufacturing, and information media and telecommunications sectors, all of which are expected to increase in 2018-19**.**

  - New Zealand is seeing a sustained period of high construction activity with continued forecast growth.[11] The construction sector uses high volumes of temporary staff.
  - The manufacturing sector is a significant employer and uses temporary staff for a range of tasks, especially during periods of peak demand. IBISWorld expects the sector to grow in 2018/19, although MBIE notes that the sector is unlikely to generate significant employment growth in the future (Ministry of Business, Innovation and Employment, 2018a).
  - Firms increasingly rely on support for setting up and maintaining computer systems. The temporary staffing services industry supplies some IT professions for these tasks.
  - IBISWorld notes that over the past five years, strong demand from construction and information media and communications has more than offset weak overall demand from manufacturing.

- **Total part-time employees in the labour force**

  While more of an indicator than a driver, an increase in the number of part time employees in the labour force can represent a response to employers seeking more temporary and contract staff.

11 MBIE is forecasting that the value of construction activity in New Zealand will significantly increase between 2017 and 2022, with residential investment increasing by 24%, non-residential building increasing by 29%, and infrastructure investment by 32% (Market Economics, 2017).

## The role of migrant workers is also a key driver

While not identified by IBISWorld, the large proportion of migrant workers making up the agency workforce suggests that immigration settings are likely to be a key determinant on the ability of the agency work industry to continue growing.

The government has signalled an intention to tighten immigration settings for temporary workers, including through the essential skills visas. Government is also considering a mandatory accreditation process for temporary employment agencies seeking to employ migrant workers.

However, the impact of these changes needs to be balanced against the significant proportion and growth of working holiday scheme visa holders working as agency workers. They make up more than 70% of the migrant workers in the industry on a work visa.

# The short-term outlook

## Steady short-term growth is expected

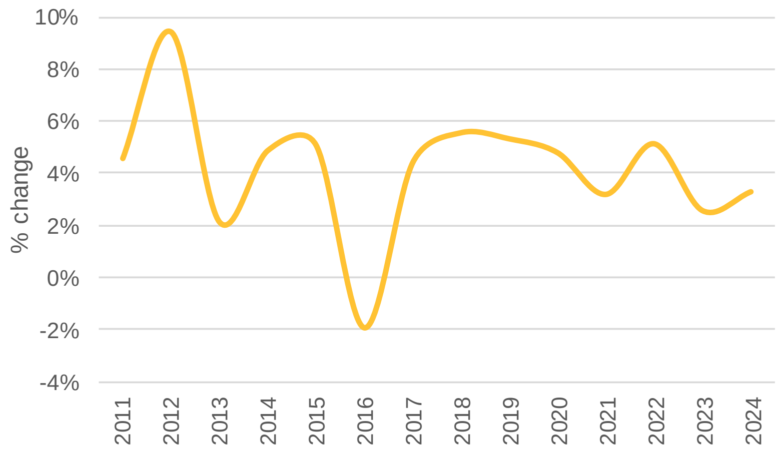
IBISWorld expects the agency work industry to continue expanding over the next five years, through to 2023-24, helped by the low unemployment rate, and an increasing number of part-time workers in the labour force.

Overall, IBISWorld expects industry revenue to increase at an annualised 3.8% over the next five years, reaching $2.2 billion.

This would see the industry growing faster than the economy overall. The Treasury has forecast that overall gross domestic product will grow by an average of 2.6% per year over the next five years (The Treasury, 2019).

However, industry growth will slow nearing the end of the period, constrained by increasing competition within the industry. A sustained low unemployment rate is expected to reduce the pool of available workers in need of temporary work through agencies, increasing competition between agencies for a smaller pool of workers, resulting in higher wage costs.

**Figure 35. Forecast industry revenue**

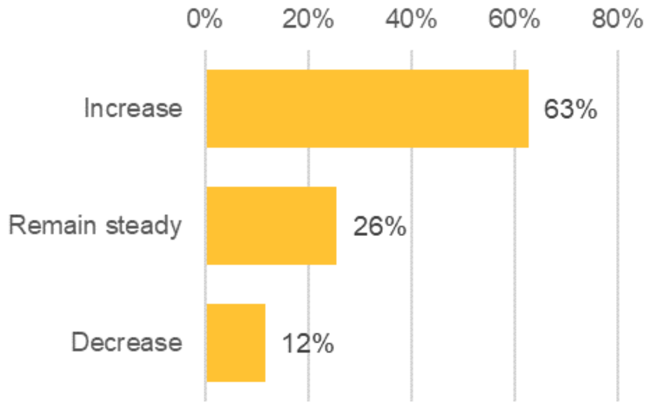



Source: IBISWorld

## Agencies views of expected growth are mixed

Our survey asked temporary employment agencies whether they expected the industry to grow, remain steady, or decrease over the next five years.

**Figure 36. Agency expectations for growth**

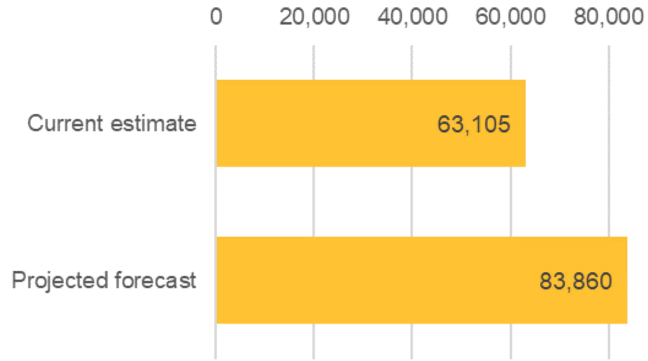



Source: MartinJenkins survey

Of 43 responses, 27 agencies believed the industry will grow in the next five years (63%) and 11 believed the industry will remain the same size (26%). Only 5 agencies believed the industry will decrease (12%) (Figure 36).

Within these responses, agencies broadly projected a modest increase in the number of agency workers in the next five years – with some outliers.

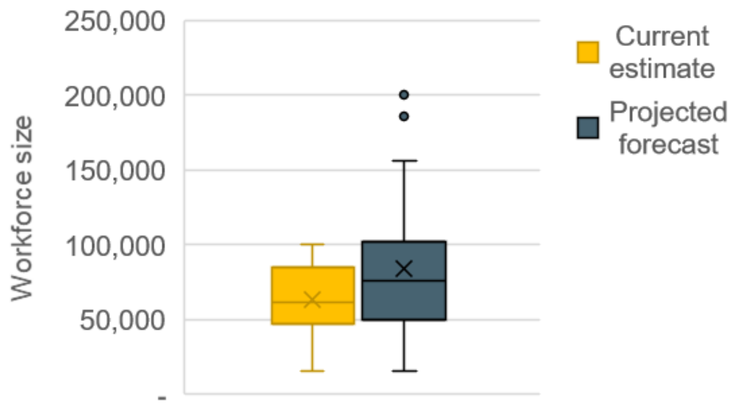
**Figure 37. Agency estimates of current and projected workforce**




Source: MartinJenkins survey

Overall, agencies expect that the average number of workers in the agency work industry will increase from 63,105 (average of all responses) to 83,860 (average of all responses) – or an increase of about a third (Figure 37 and Figure 38).

**Figure 38. Agency employment projections**




Source: MartinJenkins survey

These numbers are likely to be an over-estimate. IBISWorld estimates that employment within the agency work industry will grow at a compound average growth rate of approximately 2.5% from June 2019 (40,600) to June 2024 (47,000), for a total increase of approximately 6,400.

By comparison, MBIE (2018b) is forecasting overall employment to grow by 1.8% per year from 2016-2026, driven by Business Services (of which labour supply services is a part) [12] at 2.5% per annum, retail trade and accommodation (2.4% per year), and construction (2.2% per year) suggesting that labour supply services will be growing at a faster rate than overall employment .

## Four main drivers

We grouped survey responses relating to industry projections into four general themes:

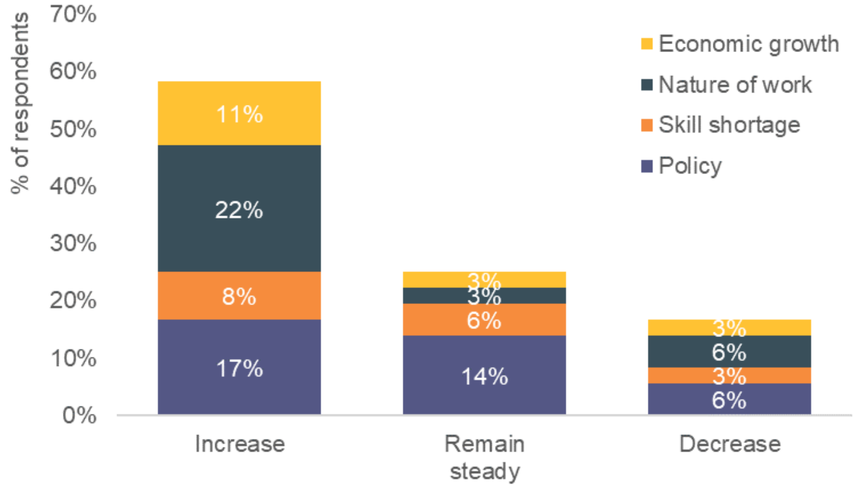
- **changing economic conditions** – for example expected economic growth (or decline), business uncertainty, expected or upcoming government investments in infrastructure
- **changes in the nature of work**, for example automation and changing technologies, increasing demand from employers and workers for flexibility
- **skills and labour shortages**, for example known ongoing skill shortages in the construction industry (driven by ongoing demand for housing and infrastructure) and shortages in the and agriculture sector
- **policy changes**, particularly including proposed changes to employment relations and immigration policy settings.

Agencies varied in how they saw these themes affecting the industry. For example, some expected that a tightening of employment regulations would encourage more employers to draw on temporary employment agencies to minimise risk, while other agencies saw it as constraining the potential growth of the agency workforce. (Figure 39).

> *Businesses will continue to require more flexibility which an agency workforce provides … the government is likely to reduce flexible employment options though so this will minimise the growth of this workforce.*
>
> – MartinJenkins survey participant

[12] MBIE defines the business services sector as combining professional, scientific and technical services, and administrative and support services. Labour Supply Services fits within the administrative and support services.

**Figure 39. Reasons given for expected trends**




Source: MartinJenkins survey

We also grouped survey responses relating to industry projections into whether they were focused on shifting demand and behaviours from:

- employers (the host firm), for example host firms wanting more flexibility in their labour force
- employees (workers), for example workers seeking increased flexibility in when and what work they did.

Overall, agencies expected that trends in workforce growth or decline would be driven more by shifting demand and behaviour from host firms (Figure 40). This includes firms responding to economic conditions, changes in government policy, business confidence, and international trends relating to how work is undertaken (including the gig economy, and changing technology).

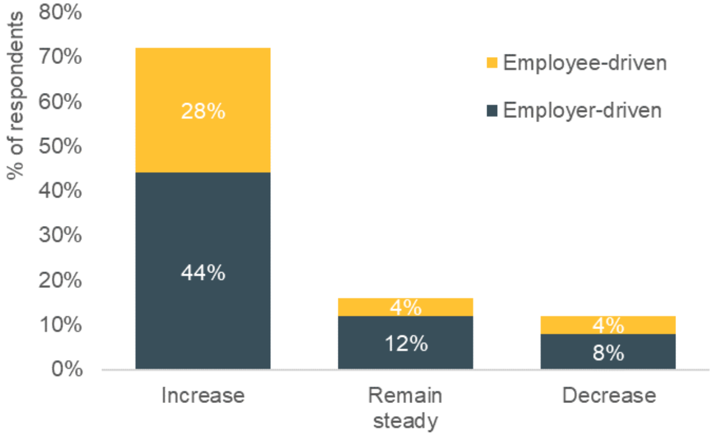
*Business need to remain very competitive in a world market, to do so they must be able to have a flexible workforce. Companies generally will hire as many FTE's as possible however cannot have a high amount of FTE's just for peak times, otherwise they will be constantly restructuring their workforce for peaks and troughs.*

*The most economical way and the right business model is to have some temporary staff on site for peaks and troughs. We are also seeing a higher number of people choosing to work flexible hours to meet busy lifestyles and be adaptable for family.*

- MartinJenkins survey participant

From a worker perspective, agencies cited workers wanting flexible working arrangements, and increasing numbers of migrant workers such working holiday visa holders seeking short term work as being a driver for expectations of industry growth.

**Figure 40. Employer vs employee-driven**




Source: MartinJenkins survey

# The impact of broader labour market trends

The literature has looked at historical trends in the growth of the agency work industry. The Australian Productivity Commission (APC) found, using econometric analysis, that the growth of the industry between 1990 and 2002 was due more to changes in businesses' behaviour, rather than growth in specific industries or the economy (Laplagne, Glover, & Fry, 2005).[13]

This aligns with the finding by Burgess et al (2005) that there was steady growth in the use of agency employment in New Zealand since deregulation in 1984, regardless of business cycles. Since then there has been an emphasis on flexibility and lean staffing, and that factor has been complemented by the relatively small size of many New Zealand businesses.

Burgess et al (2005) and the APC (Laplagne et al., 2005) have conflicting views on the role of small businesses. APC believes that an increase in the proportion of small businesses partly offset the increase in the use of agency employment. By contrast, Burgess et al believes that the prevalence of small business is a feature behind New Zealand businesses' use of agency workers.

The ongoing uptake of agency employment has also been connected to persistent skill shortages in construction, nursing and IT (all relatively heavy 'temp' users) as well as ongoing restructuring of businesses in both the private and public sectors.

This supports findings from our survey, and by IBISWorld, that growth in the use of agency employment appears to be influenced by broader trends in the labour market.

It therefore appears that growth in the agency work industry will be impacted by changes in labour market expectations. It is difficult to predict this with certainty, but key determinants are likely to include the following.

## Automation and uptake of technology

A key mega-trend affecting the labour market is the increasing automation of the workplace. This is widely expected to automate some routine jobs, reducing the demand for both lower-skilled workers and some higher-skilled workers such as accountants and law clerks. This could reduce demand for agency workers, or it could see a greater focus on 'on-demand' access to lower-skilled workers.

The precise impact of automation on the labour market is not yet known. The Productivity Commission has identified that successfully adopting new technologies often requires firms to make complementary changes to business process, skills and access to capital. This means that the full process of adopting technology, and its subsequent flow-on effects, for workers can take many years (Productivity Commission, 2019).

A recent research report into changing skills needs in Auckland found that while many employers were aware of the automation opportunities, few were investing in the capital required. Extensive impacts on the workforce may therefore still be some time off.

That report also found that employers who are investing in new plant are reacting in different ways. Some employers are shifting from using

[13] The Commission found that structural changes reduced the amount that labour hire grew; if only behavioural changes were taken into account, the rate of labour hire employment would have grown more strongly.

temporary staff to more permanent staff, in order to better manage the increased health and safety risks arising from new or more complex equipment and technology. One employer found that it was more efficient to train permanent staff on new technology, with an associated benefit that when permanent staff work with each other over time, they care more about each other's safety compared with those they did not know well (MartinJenkins, 2019).

## Changing employment relationships

Non-standard employment arrangements are generally on the rise around the world. Eight out of 10 respondents to Deloitte's 2015 *Global Human Capital Trends* believe demand for skills is driving a trend toward greater use of contingent workers – including labour or on-hire workers, casual workers, and independent contractors.

The chartered financial accountants 'Future of Talent' report found that businesses predicted that the casual and contractor workforce would increase over the next 10 years (Chartered Accountants Australia and New Zealand & PwC, 2017).

This trend is driven by both employers and workers. Drivers commonly cited include:

- **Businesses** looking to:
  - outsource risks (Burgess et al., 2005)
  - have access to a flexible workforce that enables them to manage peaks and troughs in demand (ILO, 2016)
  - reduce labour costs, including lowering absolute costs, reducing costs of benefits and associated overheads for permanent employees, and being more able to terminate engagements in an affordable manner (ILO, 2016)).
- **Workers** seeking:
  - flexibility over the hours they work so that they have a better work-life balance[14]
  - more variety in the work they do and where they do it, and more control over this.

Greater flexibility, variety and control can improve workers' job performance and increase their job and life satisfaction, provided those factors align with the workers' preference (ILO, 2016).

Within New Zealand, it is unclear whether there is an increasing shift to contractors. Stats NZ in December 2018 identified that 1 in 20 workers are contractors, by asking self-employed people with no employees whether they worked as contractors in their main job (Stats NZ, 2019). This was the first time that this question had been asked, so a trend cannot be identified.

Half of those who identified as contractors in the Stats NZ survey said they relied on one client or business for most or all of their work.[15] That leads them to 'dependent self-employment' as defined by the ILO. It is possible that some agency workers fall within this category, as identified in the UK (Judge & Tomlinson, 2016).

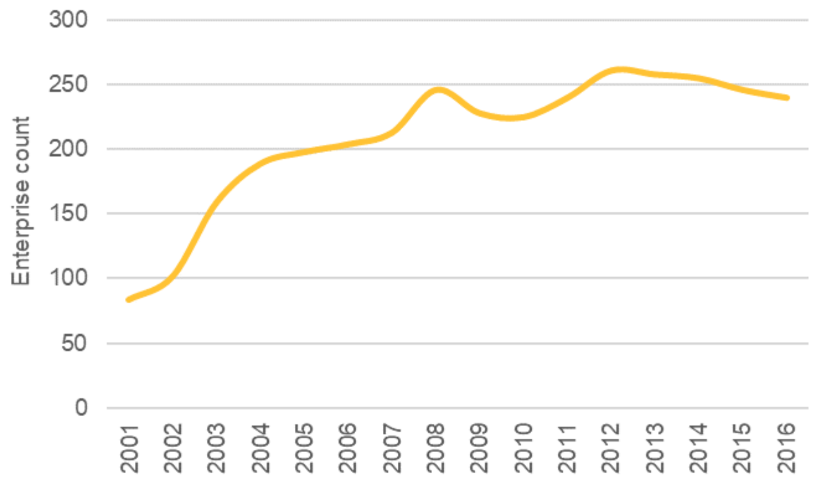
As a proxy, we looked at the number of firms with zero-employees (working proprietors) within the labour supply services industry (Figure 41). Overall, this number has increased since 2001, but has been gradually declining

[14] While flexibility is often cited as a key driver, it is important to note that half of temporary workers in New Zealand would prefer a permanent job (Stats NZ, 2019)

[15] Contractors in highly dependent relationships are more likely to experience issues such as poor conditions of employment and lack of rights and benefits that employees enjoy However, Stats NZ found that the vast majority of contractors were satisfied with their jobs and wanted to remain in self-employment.

since 2011. As a proportion of the total number of firms within the labour supply services industry, it is roughly steady at around 40% (Figure 42). It is possible that these statistics hide the true picture, but specific research into the use of contractors within New Zealand should be undertaken to explore this.[16]

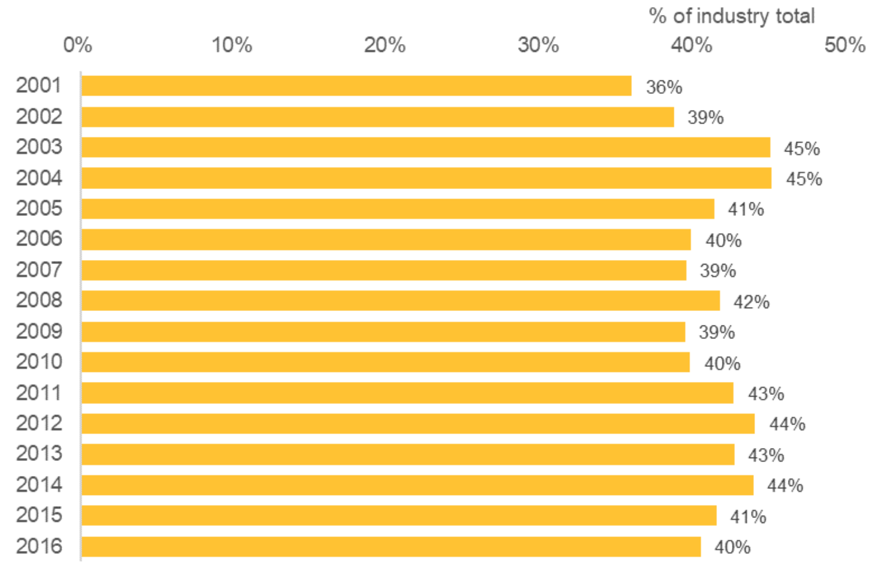
**Figure 41. Number of zero-employee firms in labour supply services, 2001 – 2016**




Source: Stats NZ, IDI

The prevalence and potential increase of independent contracting and self-employment should be monitored for its impact on health and safety outcomes.

**Figure 42. Zero-employee firms as a proportion of industry total, 2001 – 2016**




Source: Stats NZ, IDI

## The ‘gig’ economy and ‘Uberisation’ of business models

This shift to a contingent and highly contracted workforce is reinforced in the emergence of digital platforms that can be used to outsource work or tasks. Digital platforms act as a digital intermediary, connecting a purchaser of labour or skills with a provider of labour or skills – similar to the temporary

[16] We attempted to isolate contractors or agency workers using Inland Revenue data through the IDI by identifying those who receive schedular payments. However, this yielded too many people who can’t be all agency workers, or too few.

employment agency. This can occur across a dispersed area (including globally), or within a specific location – such as nationally, regionally, or within a city (ILO, 2018).

The most commonly cited example is Uber – which is now the world's largest taxi company – Uber does not own vehicles, nor does it employ drivers. Digital platforms are growing fast, with recent research estimating that their use is growing globally at a rate equivalent to 25% per year (Graham, Hjorth, & Lehdonvirta, 2017).

The reasons for using these platforms is similar to the reasons for other non-standard working arrangements, including agency employment, with workers seeking increased flexibility in when and how they work (for example, choosing to work hours to better support their schedule or other time constraints such as childcare) or the ability to supplement existing income.

This type of platform offers a further variation of the triangular arrangement, providing another way for an intermediary to operate between host firms and the labour supply. The role that the digital platform plays in the transaction varies. Many users (those selling skills or labour) of these platforms are defined as self-employed or independent contractors which shifts potential employment protections or benefits away from the platform. This is likely to create further ambiguity about who is responsible for health and safety.

The ease of establishing digital platforms could promote an ongoing shift towards the use of contractors within the workforce. It could also disrupt the agency work industry, creating a direct competitor for temporary employment agencies with lower overheads and costs.

# These trends will impact on the agency work industry

It is likely that the future growth of the agency work industry will be affected by how these labour market trends affect different parts of the triangular arrangement, and in particular:

- how these trends impact on key client industries that tend to use agency workers, such as construction, manufacturing, and information media and technology
- how these trends shift employer and employee perspectives and behaviours, and the shift use of non-standard employment more broadly as the result of a desire for more flexible employment arrangements
- how these trends affect agencies themselves – including through digital disruption.

## Regulatory impacts

It is also unclear how these trends will be considered by regulators and the courts. Within New Zealand, employment standards regulations recently removed the use of 'zero hour' contracts, with the aim of retaining flexibility for both employers and employees while also ensuring mutual commitments to a minimum number of hours.

Agency work is currently the subject of the Employment Relations (Triangular Employment) Amendment Bill. This intends to give employees the right to coverage by a collective agreement. It would also provide a framework for employees to raise a personal grievance with their employer and for the controlling third party to be joined to the proceedings.

The Employment Court recently heard a case about the employment status of two workers engaged as independent contractors to a third-party hire agency. The Court held that, despite the formal contractual arrangements, the host firm was the employer, and it noted that a labour-hire agreement does not represent an 'impenetrable shield to a claim that the 'host' is engaging the worker under a contract of service" (*Prasad and Tulai v LSG Sky Chefs NZ Ltd. and Solutions Personnel Ltd and Blue Collar Limited*, 2017).

It is difficult to predict with any certainty what will happen. What is certain is that the triangular arrangement and the issues raised in this report will need careful oversight by policymakers and regulators.

# HEALTH AND SAFETY RISKS FOR AGENCY WORKERS

## Are agency workers more at risk?

The literature suggests that health and safety outcomes tend to be poorer for agency workers, compared to workers with other contractual arrangements. Agency workers reportedly face a greater risk of injury than others undertaking the same tasks (Johnstone & Quinlan, 2006) and that injuries tend to be more severe (Underhill & Quinlan, 2011b).

These findings tend to be challenged by the RCSA (2018) and agencies themselves, who point to:

- WorkSafe Victoria data that suggests agency workers claim less per $m of remuneration than non-agency workers, and particularly so in the following sectors: manufacturing, transport, postal and warehousing, media and telecommunications, financial and insurance services, professional, scientific and technical services, public administration and safety, education and training, health care and social assistance, arts and recreation services, and agriculture, forestry and fishing.
- Safe Work Australia data that shows the overall number of serious claims per million hours worked has decreased for the employment services industry, as has the frequency of claims.

However, we note that:

- The same WorkSafe Victoria data suggests that claims are higher for agency workers than non-agency workers in the construction, wholesale trade, and administrative and support services sectors.
- The number of serious claims for the labour supply services industry itself (Safe Work Australia data) – a subset of the employment services industry – shows that between 2006 and 2016 the number of claims has risen from 1,200 in 2006 to 1,370 in 2016, with a peak of 2,200 in 2012.

### Health and safety profile of agency workers in New Zealand

This section looks at the health and safety profile of the agency work industry. As already stated, there are a range of estimates for the size of agency employment in New Zealand, which makes it challenging to draw broad conclusions about the risks facing agency workers.

We draw on Stats NZ data on the number of work-related injury claims received by ACC to explore whether agency work has a higher than average incidence of work-related injury claims. We also look at WorkSafe data on the number of severe work-related injury claims received by ACC, with a severe injury defined as an injury resulting in more than a week away from work. Finally, we look at high level trends from WorkSafe notification data.

We have taken a conservative approach to the data, by only considering notifications and claims that are linked to firms classified as ‘labour hire’ under ANZSIC. This means we have focused on the roughly 39,500 (Stats NZ Business demography estimate) employees classified as having worked in ‘labour-hire’ firms in 2018 as opposed to the 115,000 figure stated earlier. Where we compare severe claims data we have had to use the 2017 total of 37,500 as this is the latest year for which public data exists on severe claims.

## Claims are rising and agency work appears to be slightly over-represented in work-related claims

Claims for work-related injury by labour supply services have been steadily climbing over time, more than doubling from approximately 1,750 claims in 2009 to approximately 4,050 in 2018 (Figure 43). However, labour supply services claims as a proportion of total claims are examined, the proportion is relatively small (Figure 44) – rising from 0.8% in 2009 to 1.7% in 2018.

Claims for severe work-related injuries in the labour supply services industry has more than doubled since 2009, increasing from about 370 claims to around 860. As a proportion of total severe claims, it is higher than the figure for all claims – 3.0% in 2017 compared to 1.8%.

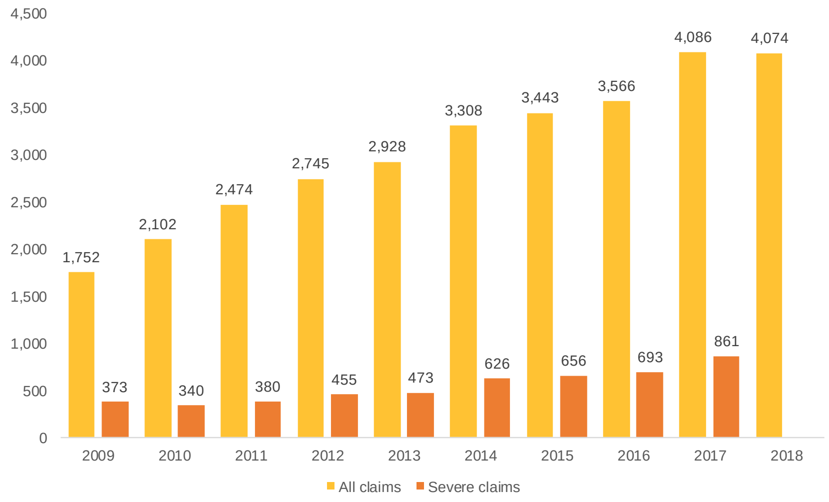
If the Stats NZ Linked Employer-Employee Database estimate for labour hire is used, the proportion of work-related claims (1.7%) is slightly higher than the industry's proportion of overall employment (1.5%) (Figure 45) – However, when considering the incidence of severe claims, there is a slight over-representation across three of the four estimates of the size of the agency work industry. The exception is the comparison using the IDI estimate.

The slightly elevated risk result appears consistent with insights from WorkSafe administrative data on notifications received, which indicate that agency work may experience a higher rate of notification for both concerns about unsafe work practices and notifiable incidents, compared to the overall labour market.[17]

Furthermore, the literature and the primary qualitative research indicates some incentive to under-report work related claims. This is discussed later in the report.

While caution is needed when drawing conclusions from these insights, the combination of ACC claims and WorkSafe notifications suggests there may be some elevated risk of health and safety incidents associated with agency work.

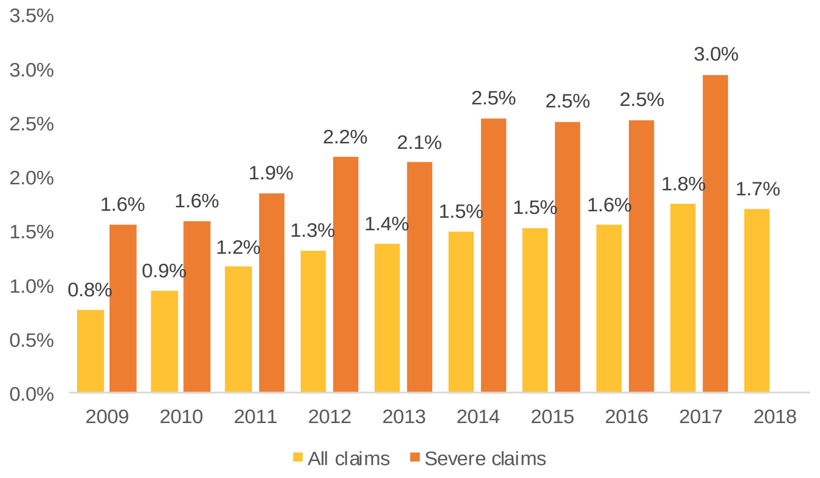
**Figure 43. Number of claims for work-related injury by labour supply services, 2009 – 2018**




Source: Data for all claims from Stats NZ using data from ACC (2018 is provisional data). Data for severe claims from WorkSafe NZ System for Work-related Injury Forecasting and Targeting (SWIFT).

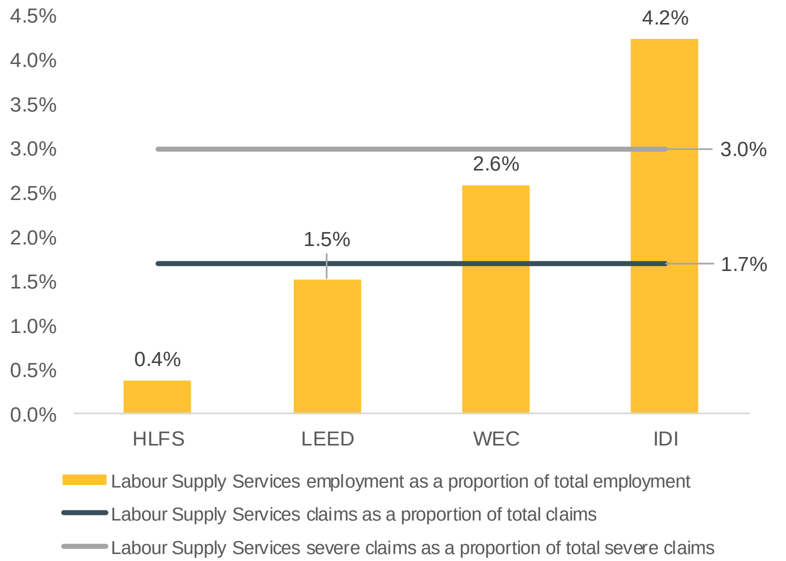
[17] Worksafe notifications are reliant on incidents being reported by the public and/or workers. In addition quality of reporting is likely to be lower, difficult to independently verify and be accurately coded to appropriate categories (for example, industry, age, ethnic group, etc).

**Figure 44. Proportion of agency work work-related claims to total industry work-related claims**




Source: Data for all claims from Stats NZ using data from ACC (2018 is provisional data). Data for severe claims from SWIFT.

**Figure 45. Claims as a proportion of employment, comparison between different agency work employment estimates**




Source: Stats NZ, IDI, World Employment Confederation, SWIFT

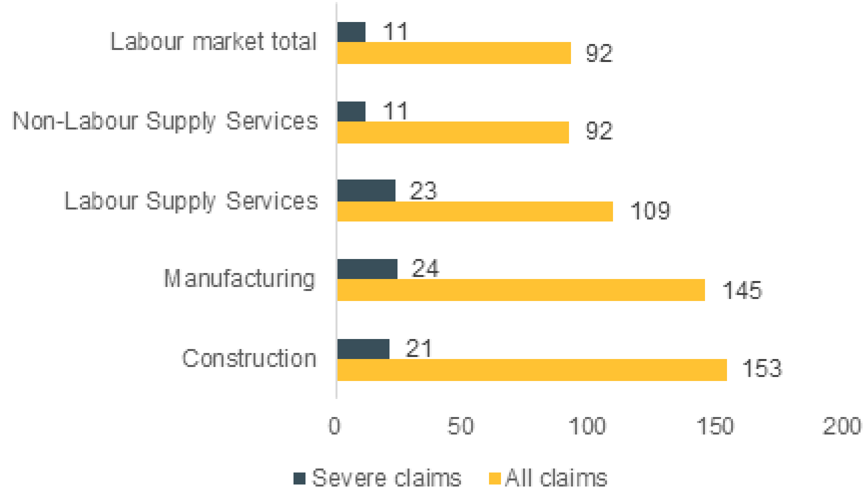
## There is a roughly similar rate of ACC claims for agency workers compared to the rest of the labour market, but double the rate for severe claims

There is a slight difference between agency employment and non-agency employment firms when it comes to the number of claims per 1,000 workers (Figure 46). However, as shown in Table 2 below, the relative incidence of claims is 1.1, which means agency workers make about 10% more claims than non-agency employees.

Notably, when considering severe claims (injury claims with more than a week away from work), the relative incidence of claims increases to 2, meaning agency workers make twice as many claims than non-agency employees.

The claims figures for manufacturing and construction are included in Figure 46 for comparison, given these industries are known to have a higher risk profile and a higher proportion of labour hire workers. Both industries have a higher rates of claims in general per 1,000 workers than the agency work industry but have similar rates of severe claims.

**Figure 46. Number of claims per 1,000 workers, 2017**




Source: Data for all claims from Stats NZ using data from ACC. Data for severe claims from SWIFT

**Table 2. Relative incidence of claims, 2017**

| | Labour Supply Services | Non-Labour Supply Services | Labour market total |
|---|---|---|---|
| Total employed | 37,500 | 2,502,500 | 2,540,000 |
| Claims | 4,086 | 229,114 | 233,200 |
| Claims per 1,000 workers | 109 | 92 | 92 |
| **Relative incidence of all claims in Labour Supply Services versus non-Labour Supply Services** | | | **1.2** |
| Claims | 861 | 28,311 | 29,172 |
| Claims per 1,000 workers | 23 | 11 | 11 |
| **Relative incidence of all claims in Labour Supply Services versus non-Labour Supply Services** | | | **2.0** |

Source: Data for all claims from Stats NZ using data from ACC. Data for severe claims from SWIFT. Employment data from Household Labour Force Survey.

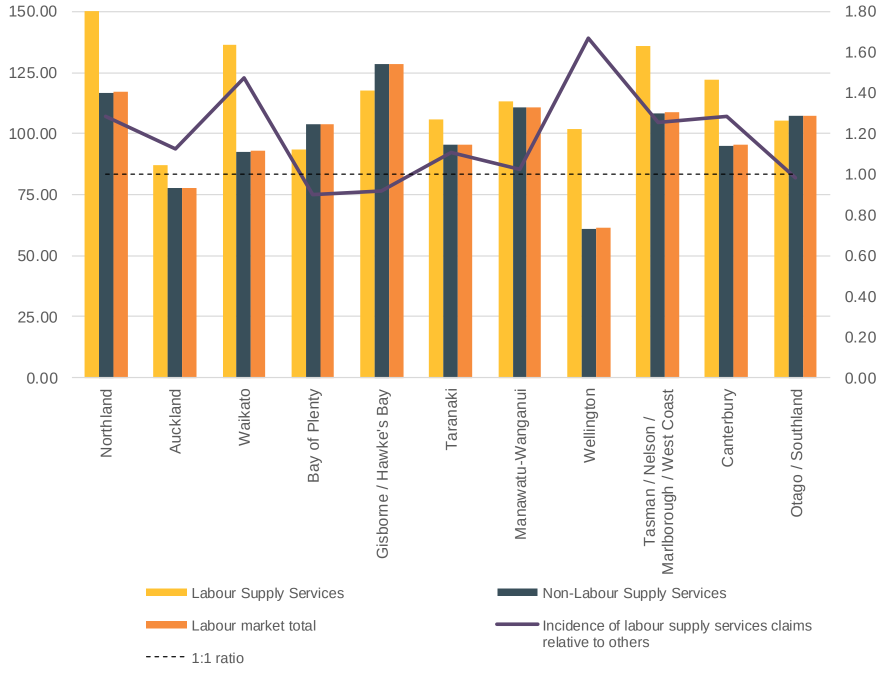
## Agency workers in Wellington and the Waikato appear to have higher rates of claim

Although at a national level the ACC data does not appear to suggest a significant difference between agency workers and non-agency workers, regional breakdowns highlight certain areas where there could be a greater difference.

Wellington and the Waikato in particular, have a relative ratio of 1.67 and 1.47 respectively. This higher rate of claim may be an indicator that agency workers in these regions could be more at risk of work-related incidents (Figure 47). Conversely, it may mean that agency workers in Wellington and Waikato are more likely to claim than their counterparts in other regions. To a lesser extent the same applies to Canterbury (1.29), Northland (1.28), and Tasman, Nelson, Marlborough and the West Coast (collectively 1.25).

Somewhat surprisingly, Auckland is not among the regions with a higher agency work claim profile, despite the high concentration of construction and manufacturing jobs in the region. This could mean a better level of health and safety in these industries in Auckland when compared to other regions. Alternatively, it may mean that agency workers in Auckland are less likely to claim relative to other regions.

**Figure 47. Regional breakdown of claims per employee 2018**



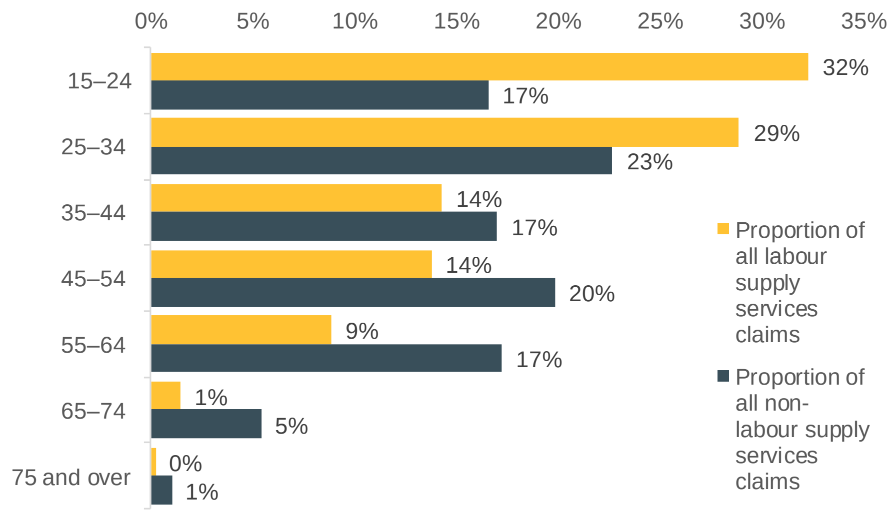

Source: Stats NZ using data from ACC

## Younger workers make a substantially higher proportion of agency work claims

While there appears to be a relatively even distribution of claims across the working age population for non-agency workers, it is far more skewed for agency workers (Figure 48). About 60% of all agency work claims fall within the 15-34 age bracket.

This is consistent with our findings that a large proportion of agency workers are in that age group. Given this age group does not appear to have as high a proportion of all claims in non-agency firms, this suggests they may be more exposed to industry risk or claim when working as agency workers.

**Figure 48. Distribution of work-related claims by age, 2018**



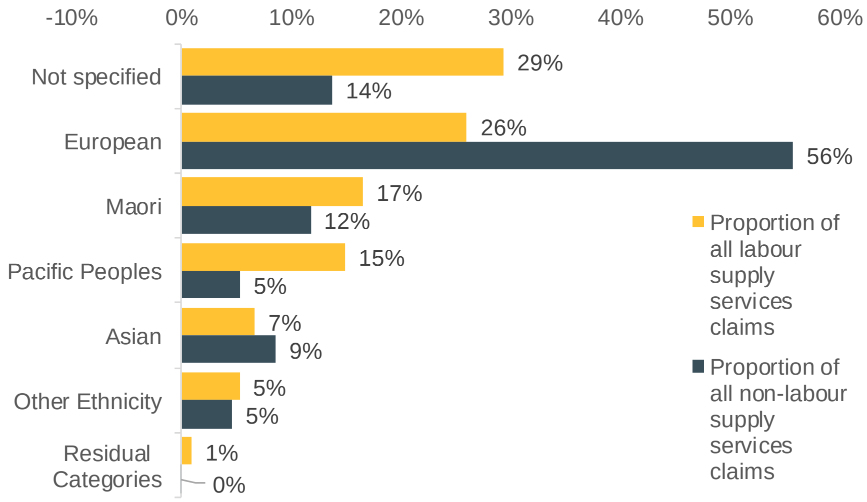

Source: Stats NZ using data from ACC

## Māori and Pacific Peoples make up a higher proportion of agency claims

There are notable differences by ethnic group as well.

While 56% of all non-agency claims are made by Europeans, this proportion drops by almost half (26%) when it comes to agency workers (Figure 49).

**Figure 49. Distribution of work-related claims by ethnic group, 2018**




Source: Stats NZ using data from ACC

Notes: Due to data quality issues, the ethnicity for people who made claims through accredited employers is recorded as 'not specified'. This contributes to the large number of claims in this category.

''Other Ethnicity' includes Middle Eastern / Latin American / African and other ethnicity categories.

'Residual' are those that are too few to categorise.

Māori and Pacific Peoples are 'over-represented' in agency related claims Figure 49. This is particularly interesting given these ethnicities are known to have a propensity to claim less often than they are entitled to.

The Asian ethnic group, which research suggests have a tendency to 'under-claim' (Hosking, Ameratunga, Exeter, & Stewart, 2013), are slightly under-represented in agency-related claims, compared to all non-agency workers.

## Why might agency work present as having greater health and safety risk?

Agency work has been extensively explored across the Tasman in recent years, including through major inquiries into the labour hire industry in Victoria and Queensland, building on previous Productivity Commission reports in the early 2000s.

The literature coalesces around five key themes, which can have an impact on health and safety outcomes for agency workers: These risks relate in varying ways to both the triangular nature of the employment arrangement, and the type of work that agency workers undertake (Figure 50).

- **Uncertain and high-risk work**

  Agency workers are engaged in a wider variety of roles, tend to be used in higher risk industries, and may be more likely to be given higher risk jobs or tasks. As agency workers are typically temporary employees, they have less certainty of work, which can lead to psychological strain and fatigue.

- **Insufficient training and experience**

  Agency workers may be unfamiliar with a workplace or tasks involved, and induction provided by both the agency and the host firm may be insufficient for the task.

- **Economic and reward pressures**

  Agency workers may face greater incentives to continue working through unsafe conditions or while they are injured, as their pay can depend on outputs and they may have limited benefits such as sick leave.

- **Lack of engagement and voice**

  Agency workers are in a particularly vulnerable and precarious form of employment. Both workers and agencies can be wary of speaking out due to fears they may not be offered further work. Agency workers may be more accepting of poor conditions due to a lack of understanding of their rights and an employer's obligations. This may be compounded for migrant workers.

- **Unclear lines of accountability**

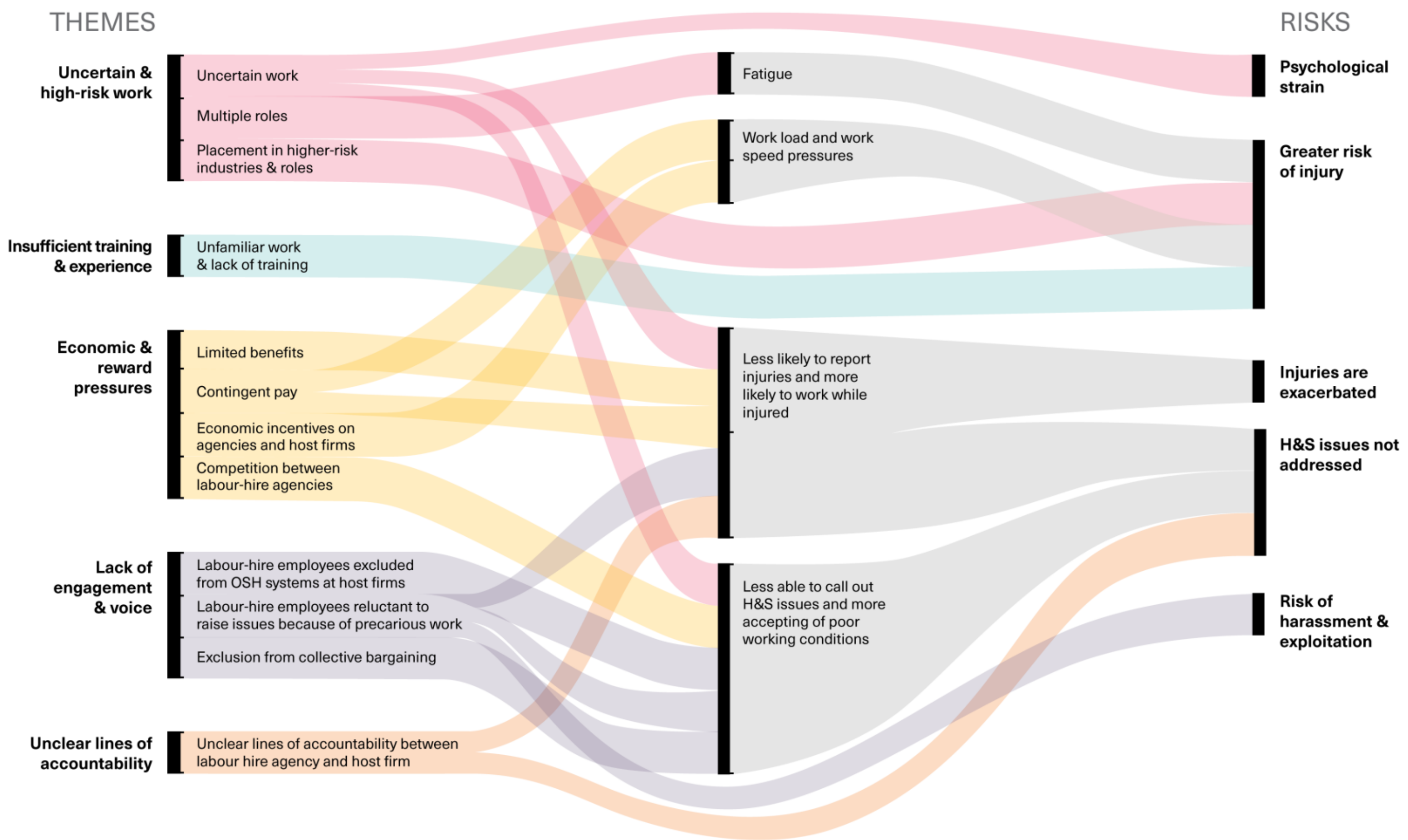
  It may be unclear what the agency and host firm are each accountable for with regard to a worker's health and safety, making it less likely that risks will be appropriately managed.

**These themes are inter-related**

At the outset, it is useful to note that these themes are all inter-related, rather than independent. The 'flows' in the following diagram show these interdependencies.

These themes will be the organising framework for the analysis and findings in the rest of this report, which is informed by the literature and findings from our interviews, focus groups, and survey.

**Figure 50. Organising framework for the rest of this report: Themes**



# Uncertain and high-risk work

## Placement in higher-risk industries

Agency workers tend to be over-represented in more dangerous sectors, in which there is a higher risk of accidents (García-Serrano, Hernanz, & Toharia, 2010; Moyce & Schenker, 2018; Underhill, 2013). A global review of occupational health and safety found that migrant workers tend to be employed in jobs that carry increased exposure to environmental toxins, including extreme temperatures, pesticides, and chemicals (Moyce & Schenker, 2018).

One of the agency workers participating in our focus group, a migrant worker, spoke of being involved in the Kaikōura infrastructure project after the earthquake:

> *were working us really hard … lots of agency workers. Kaikōura project was really huge, lots of agencies working there…Maximum is 85 hours [per week] in Kaikōura … And the weather – so rainy and windy and cold*
>
> - Auckland Agency worker focus group participant

This is consistent with reports that agency work is used particularly in industries such as construction, manufacturing, agriculture, horticulture, and viticulture (BusinessNZ, 2018). These sectors align with WorkSafe's key sectors of focus (construction, forestry, and manufacturing) which reflects their general level of risk (WorkSafe, 2019).

## Agency workers may be given higher risk tasks

Within industries and workplaces, the literature also identifies that agency workers tend to be given more dangerous tasks, compared to permanent employees. The reason seems to be that host firms favour their own staff, and outsource the higher-risk tasks (Underhill & Quinlan, 2011a).

Some agencies had the same perception. They thought that host firms' attitudes to their workers was a key risk on some sites:

> *"I think that's our biggest problem. They don't see our workers as their workers. They're agency guys so who cares about them"* – Agency Focus Group participant.
>
> *"Agency workers can sometimes be given the unsafe jobs to complete as agency workers sometime are afraid to speak up with fear of losing their jobs. We promote speaking out and have a safety email address where they can send anonymously"* – Agency online survey participant

However, the workers we spoke to did not think that they were treated any differently to permanent staff, and saw themselves as part of the wider team ("Blue collar" agency workers, 2019).

The literature also identified that agency workers may be incentivised to accept tasks and conditions that permanent staff would not (Johnstone & Quinlan, 2006). This is related to a further theme that agency workers may have less of a voice (see below).

## Uncertain work may lead to psychosocial strain

People in precarious working conditions may experience more psychological strain due to the uncertain nature of their work. This can be because of:

- uncertainty about their employment, terms and conditions of work, earnings, scheduling of work, work location, work tasks, and workload (Underhill, 2013)
- the need to expend effort looking for roles, and they are more likely to live in a 'precarious household' in which it is a challenge to meet everyone's basic needs (Lewchuk, King, deWolff, & Polanyi, 2003).

This uncertainty can create psychological strain. Lewchuk et al., 2003 report on survey results from 137 respondents, including agency workers working in Ontario in the construction, manufacturing, home care, office support and social services. They found that those in precarious employment reported more stress-related tension and exhaustion, compared to employed workers from a unionised manufacturing plant.

Psychosocial harm or risk wasn't mentioned by agencies, but it was brought up by migrant agency workers. Workers in the focus group commented on stress issues related to not trusting the information provided by their agency about their immigration work status. These agency workers also lamented the low overtime hours available. One host firm mentioned that the agency workers they used would commonly ask for more hours to supplement their relatively low wages.

## Multiple roles may increase fatigue and lead to increased risk of injury

A risk identified in the literature is that because the roles are uncertain, and often low-paid, there is more of an incentive for people to take up multiple roles. This is not always visible to the agency.

Evidence from Australia is mixed. For instance, Underhill and Quinlan (2011a) could not find evidence that agency workers are more likely to work multiple jobs. However, in an earlier stakeholder engagement piece, "the rail transport union claimed that locomotive drivers retained by several labour hire firms could exceed maximum hours/fatigue management regulations by taking sequential shifts with different private rail freight operators" (Johnstone & Quinlan, 2006, p. 23).

To the extent that agency workers do take on multiple roles, this may be a health and safety concern, because it's more likely they will be fatigued on the job and therefore more likely to make mistakes and get injured (WorkSafe reps, 2016).

Agencies in our focus group noted the importance of having oversight of the other roles their workers were taking on. To be able to manage the workers' hours appropriately, they needed to understand their workers' personal situations, including their commute times. Agencies also noted a potential tension with host firms wanting workers for longer hours.

Agencies said they needed to actively consider the transition of workers from day to night shifts, for example. One agency also noted that they had begun asking applicants whether they were working as Uber drivers as they had noticed a spike in workers driving Uber in between jobs. This could cause issues with fatigue.

# Insufficient training and experience for role

The literature suggests that agency workers may be more likely to be injured at work due to issues around ensuring adequate training and experience. This can be due to a number of issues:

- Workers may not be matched to a role that suits their skills or experience. By definition, these employees are relatively unfamiliar with the workplace and the tasks involved, which increases their risk of injury.
- Temporary employment agencies may only provide minimal induction and training – due to their small size, the need to provide labour at short notice, and the challenges of inducting a diverse workforce into a diverse array of workplaces. Induction and training provided by host firms can also be limited, irrelevant or non-existent, particularly if those firms are small and under-resourced, or going through change.

## Matching the worker to the role

The literature highlights instances where agency workers are brought in at short notice, and have not received sufficient induction and training for a role, it's more likely that there will be a mismatch between their skillset and the skills and experience required for the role (Underhill & Quinlan, 2011a).

- The mismatch could be physical – for instance, when white-collar and long-term unemployed people are placed in physically demanding roles for which they are not prepared.
- The mismatch could also relate to experience and qualifications, with agency workers lacking the necessary specialist skills (ibid).

The mismatch can lie in the agency not providing a suitable worker, or it can occur on-site due to host firms not knowing the worker's precise skill mix, and transferring a worker already on site from one task to another (Johnstone & Quinlan, 2006).

This potential to change roles was also highlighted by agencies as a key risk for their workers.

> *"It's not until you ring up the worker and say 'how's this week been' and they say 'Oh well I've been driving the hoist' [and you say] you've been doing what?!'"*

> *"We had a driver change site and he fell off a scaffold. He shouldn't have been near a scaffold, he should have been driving. He'd been on site as a labourer for a week without telling us. We spoke to the labourer, he didn't tell us."*

Meanwhile, one worker at our focus group highlighted concerns at being placed in a role they did not feel prepared for after only a month on a job.

The literature suggests that 'mismatch' injuries are most likely to happen early on in the job placement when some agencies place workers without position descriptions from hosts or place newly hired workers quickly without seeking documentation of their prior experience (Underhill & Quinlan, 2011a).

These types of mismatch increase the risk of injury, both for the agency worker, and for permanent employees who work alongside them.

> *"Our blokes have got to refuse to work with these people because they're just downright dangerous, they haven't had the experience, they're sent out there, they've never seen a 100 tonne mobile crane before, they're spellbound when they see the damn thing, they've got a ticket for an overhead crane in a factory and they haven't a got clue how to do it…" (Underhill & Quinlan, 2011a, p. 408)*

## The role of training

Some agencies insist that employees complete a certain level of training, before going out to host sites. For instance, regulatory officials involved in research by Johnstone and Quinlan (2006, p. 22) 'pointed to the more positive experience in some industries, with one referring to the hotel sector of the hospitality industry where she noted labour hire firms insisted on a level of training (one used a virtual kitchen) before these workers (including chefs, waiters, bar staff and kitchen hands) could be leased to a host employer'.

> *They won't allow us to do the things we aren't capable of … they will train us first.*
>
> *- Auckland labour hire focus group participant*

Garcia-Serrano and colleagues (2010) found that people hired through a temporary employment agency were less likely to experience a serious/fatal accident, compared to employees with 'direct' temporary contracts or open-ended contracts. They believed this could be due to extra health and safety training provided by agencies.

The participants in the Auckland 'blue collar' agency worker focus group, who were all migrant workers, all wanted more skills/trades training as this would open the door to more work. They felt that agencies should pay for training. They also had a broader concern about the cost of accommodation, transport, tools and training: in their view they were being charged excessively for these, with benefits 'stacked' in the agency's favour.

### Providing adequate induction

Induction is key to managing on-site health and safety. The literature, especially from Australia, has highlighted potential for handover issues between the temporary employment agency and the host firm. Host firms may only provide workplace-specific training rather than general training (such as manual handling), because there is an assumption that general OSH training has been provided by the agency (Johnstone & Quinlan, 2006; Underhill & Quinlan, 2011a).

In addition, Brennan et al. found that approximately 40% to 50% of labour hire agencies do not consistently provide safety inductions for their employees and 34% to 39% of labour hire agencies do not assess the host organisation's OHS systems and workplaces prior to assigning employees. Almost 50% of hosts state that labour hire agencies never conduct OHS assessments of their workplace, a further 19% say it occurs only sometimes' (CFMEU, 2015, p. 19).

Induction processes on site may not be tailored to agency workers.

- Induction may be 'extensive but irrelevant', because it is targeted at permanent employees and covers issues such as "social club activities and company long-term objectives" (Underhill & Quinlan, 2011a, p. 408).
- Induction may be minimal, because host firms assume that agency workers will learn the ropes by observing others and by using common sense (Underhill & Quinlan, 2011a).

Data from injured workers in Australia, "revealed the deficiencies in training by agency employers and hosts, whilst focus group participants reported that often neither party fulfilled their obligations" (Underhill & Quinlan, 2011a, p. 412).

These challenges could be due to the small size of either temporary employment agencies or host firms, the need to provide labour at short notice, and the challenges of inducting a diverse workforce into a diverse array of workplaces. In addition, induction and training provided by host firms can be limited, irrelevant or non-existent, because of issues within the host firm, or because the host assumes they are not responsible for this.

## Economic and reward pressures

A number of disadvantages experienced by agency workers were heard during the Victorian Inquiry. These included (Forsyth, 2018; Industrial Relations Victoria, 2016):

- ending up as a long-term casual employee (often at the same site for several years)
- being on-call and reluctant to refuse work, even when required at short notice
- no ability to plan care and family responsibilities
- no certainty of income and therefore an inability to meet mortgage or rental payments
- blurred responsibilities between the agency employer and the host firm (which plays out in a range of areas, e.g. unfair dismissal, health and safety, and managing return to work from injuries)
- working alongside direct employees but on lower pay rates because they're not covered by the host's collective agreement.

This suggests that agency workers are less likely to report injuries to their host firm and the temporary employment agency, and more likely to keep working while injured, due to the precarious form of their employment.[18] Relevant factors include:

- often pay is contingent on outputs and workers have limited or no benefits such as sick leave.
- host firms may expect workers to keep pace with more established employees, which leads to rushing, 'corner cutting', and less consideration of health and safety
- agencies have financial incentives with their client firms and may not feel that they can raise issues due to competitive pressures.

## Economic incentives on workers

The CMFEU points to examples of workers being paid flat rates with no annual leave or sick leave, on a temporary contract renewed every three months (CFMEU, 2015). In theory, they should be paid a higher rate because they have foregone these benefits. The combination of relatively low pay, and limited benefits, means that agency workers are less likely to report injuries because they cannot afford to take time off.

The agency workers we spoke to mentioned that the issues very much depended on the type of agency they were with. There were large differences between high-quality and low-quality agencies.

> *In my previous [poor quality] agency, every day there was a meeting about health and safety but one day I didn't come in because I was sick, and they were so mad. They wanted the job finished … and now I am suffering because the injury I had was never healed when I was with them.*
>
> *…*
>
> *I was stripping some timber, timber shuttering, and because there was so much wind, the shutters they just fly away and then I off balance and fell over and fell roughly. And on the ground there was some rocks.*
>
> *I was off for two days and they want me to go back on the third day. And of course I am scared as well, because I am just new. I course I want to follow the ACC rules but I want to impress my agency as well.*
>
> *They will get rid of you if you don't …*
>
> *They will say you are a poor performer …*
>
> *- Agency focus group participant*

## Economic incentives on firms

Agencies are incentivised to have more of a hard cost-cutting focus, compared with direct employers who seek to grow loyalty and commitment amongst their staff. This connection has been identified by Johnstone and Quinlan, who note that the replacement of permanent with temporary workers has also been associated with a shift to 'hard' human resources practices which emphasise short-term cost-cutting and discipline over building organisational commitment through consultation (Johnstone & Quinlan, 2006, p. 5).

Agencies are also under pressure to provide a low-cost service to host firms. They may therefore supply an insufficient level of labour for the role (understaffing), or they expect agency workers to complete a task in an unrealistic time frame (Underhill & Quinlan, 2011a).

[18] These disadvantages are in contrast to the benefits of greater worker agency, flexibility, and work-life balance discussed earlier in the report. As noted, there is a significant debate on the role of non-standard employment and benefits or disbenefits it offers, which is better canvassed elsewhere.

Host firms may expect them to keep pace with more established employees, which may lead to rushing, 'corner cutting', and less consideration of health and safety. This approach can make regular work riskier, because there is an expectation that it will be completed at speed.

> *They feel as if they've got the eyes on them … 'If I don't work fast, I won't get another gig here, then where am I gonna go?'*
>
> \- Union representative

Competition between agencies can also make it more difficult for agencies to drive health and safety improvements. Johnstone and Quinlan found in the Australian context that there was sufficient competition in the marketplace that an agency could pull out their workers from an unsafe client, "but there are plenty of others queued up behind us that will put their workers in there just to get the turnover." (representative from labour hire industry, cited in Johnstone and Quinlan, 2006, p20).

# Lack of engagement and voice

The literature suggests that health and safety issues that affect agency workers are often overlooked, rather than identified and addressed, because these employees do not have access to the engagement mechanisms of traditional employees.

There are a number of inter-related issues here:

- host firms may exclude agency workers from health and safety measures and reporting, and discourage them from engaging in health and safety committees. This makes it difficult for the agency workers to highlight issues of concern
- agency workers are wary of speaking out about health and safety issues, both to host firms and to their agencies, because of well-founded fears that they will not be offered further work
- agency workers may be less aware of their labour rights and therefore more accepting of poor working conditions. This can be related to difficulties engaging in collective bargaining, and high rates of migrant workers who are unfamiliar with local laws and requirements.

## A lack of engagement in health and safety processes

Agency workers may be excluded from health and safety systems within host firms, which means that health and safety issues are less likely to be raised and addressed.

Exclusion can be formal or deliberate, for instance:

- if host firms deliberately do not record health and safety metrics (like near misses) for agency workers (discussed in Underhill and Quinlan, 2011a)
- if agency workers are not able to become health and safety representatives (Johnstone and Quinlan, 2006).

Exclusion can also be informal or inadvertent, for instance:

- if workers are not adequately briefed about the host firm's health and safety management systems, including the importance of reporting injuries
- if agency workers are not aware of how to participate in health and safety groups, and temporary employment agencies do not promote these groups to hired workers (noted in Underhill and Quinlan, 2011a)
- if agency workers regularly miss site safety briefings, toolbox talks and so on – either because they are not aware of them, or because there is no requirement that they attend.

The impact of this is that health and safety incidents may not be reported by the worker, or recorded by host firm – meaning that key risks may not be identified or mitigated.

## Agency workers are less likely to raise issues for fear of repercussion

A wide range of literature has noted that agency workers are unlikely to raise health and safety issues out of concern that that if they speak up, they could lose their job.

This is in part the result of a belief from agency workers that they could easily be replaced (Underhill & Quinlan, 2011a). This aligns with research which suggests that casual workers, those on 90-day trials, short-term contractors and seasonal workers were all identified as less likely to report injuries or voice concerns for fear of reprisals and of not being re-employed in the future (cited in New Zealand Council of Trade Unions, 2013, p.45; Johnstone and Quinlan, 2006, p27).

Unions are particularly concerned about the lack of voice due to a precarious nature of employment.

> *It's the precarious nature of the work that is the problem. If they sign up to the union, they're told they don't want them anymore – no more hours. It's the same if they raise health and safety problems, or point out other employment condition problems.*
> - Union representative

The fear of speaking up can be greater when agency work is used as a form of probationary employment as workers wanting permanent employment will not want to undermine their chances with the host firm (Johnstone & Quinlan, 2006).

One of the host firms to which we made a site visit deliberately used agency workers as a form of 'try before you buy'. Agency and non-agency workers on site commented that this was widely known among all the host firm's workers.

> *…the other company used labour hire as a way to get in permanent employees, quite deliberately. They used it as a trial period. And everybody who works there knows that. And so I think, regardless of what the group agency said, I think that constrains the psychological safety of that organisation for people to put their hands up and say: "you know what, I don't feel safe". Because if you stir the pot, you're probably not going to get a permanent employee position.*
>
> *- Health and safety expert undertaking host site visit*

The fears about 'not rocking the boat' appear to be well founded:

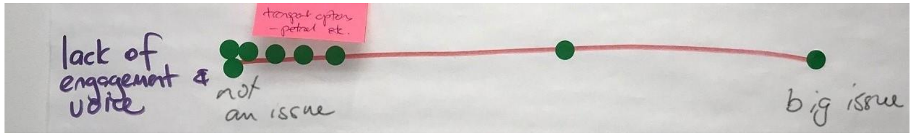
- In an Australian study, 46 percent of hired labourers were offered no further placement after lodging a compensation claim, compared with 14 percent of regular staff (Underhill & Quinlan, 2011a).

  According to participants in that study, agency workers who raised OHS issues with their employer or host were allegedly dismissed, and the perception that 'safety concerns are ignored' was widespread.
- 'If you even question health and safety, the builder you are on-site for will call you a trouble maker, phone your employer, and demand not to send you back to that job' (CFMEU, 2015, p. 4).
- Underhill (2007) found that 36 percent of agency workers were not offered further placements if they were dismissed after posting an injury claim, compared to 8 percent of direct hire employees.

We found in our Hamilton focus group that most participants did not think the ability to speak up was an issue, although one participant considered it a significant issue (Figure 51). However, we note that the agency workers who participate in our focus groups are more likely to be the ones who are well engaged in their workplace, and likely to speak up.

The workers in the focus groups also commented that their agency regularly checked up with them on-site, called them up, sent emails, etc, so that they felt looked after and more able to raise issues.

**Figure 51. Hamilton 'blue collar' agency worker focus group: Perceptions as to whether they feel they have a 'lack of engagement and voice'**




## A lack of voice and power

Ultimately, agency workers are more vulnerable than permanent employees. Host firms and agencies have more power, with host firms controlling the work and agencies controlling their access to the work (Canterbury Safety Charter, 2018).

These challenges are made worse by a combination of vulnerabilities faced by people likely to be working as agency workers. This may result in less power in the workplace and higher risks of exploitation, harassment and mistreatment.

Vulnerable workers, particularly migrant workers, face a number of particular exploitation risks. In Australia, there have been reports of 'unscrupulous labour hire companies exploiting foreign workers' (CFMEU, 2015, p. 9). Temporary work visa holders are particularly vulnerable to exploitation as often their ability to stay in a country is linked to a specific employer. As a result, they will often tolerate terrible working conditions.

Other risks for vulnerable and migrant workers include sexual harassment, employers holding workers' passports which effectively traps them in the country, and overcrowded and substandard accommodation which can create health and safety risks. Migrant workers are also less likely to report issues because of language and cultural barriers, and high distrust of the Police (Parliamentary Committees, 2016).

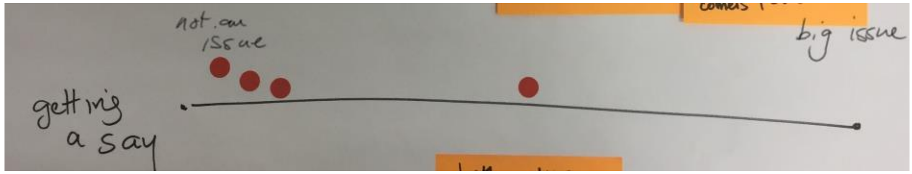
New Zealand regulators also raised concerns about the agency work industry's use of migrant workers and lack of adherence to minimum employment standards through the Canterbury Rebuild, for example, the Tech 5 case regarding costs being recovered from migrant workers employed by a temporary employment agency (*MBIE and Tech 5 Recruitment Ltd*, 2016).

Notably, a worker's ability to speak up can be limited by an inadequate understanding of their rights and of the obligations of the host firm and agency. Exploitation of vulnerable situations can span a spectrum, and can be due to a lack of understanding on either side, as well as more insidious behaviours (Stringer, 2016).

Our focus group in Auckland was a mixture of workers on temporary work visas and Pacific Quota visas. Again, they generally thought that having a voice was not an issue for them and they felt comfortable raising issues (Figure 52). However, when they were asked how other agency workers might feel about having a say they mentioned that many of their peers have language barriers, and discussing issues on site and in groups created more pressure to not raise issues due to their migrant status. This was especially so when visas were up for renewal.

Migrant agency workers we spoke to also felt there was misinformation about worker rights and immigration status and rules. This also led to migrant agency workers feeling they were not in a position to raise health and safety issues.

**Figure 52. Auckland ‘blue collar’ agency worker focus group: Perceptions as to whether they feel they have a ‘lack of engagement and voice’**




The practices of agencies affected the extent to which workers feel like they have a voice. Agency workers in the Auckland focus group spoke about poorer quality agencies pressuring workers to work when they were sick or injured (which has a greater impact on workers on visas who want to give a good impression) not being transparent about workers’ rights (particularly in relation to visa arrangements), or promising things that do not eventuate. These practices create an environment where workers do not feel safe raising issues or trust information presented to them.

An agency representative in our agency focus group also noted that a worker’s previous experience in a poor quality host firm could impact their willingness to raise issues later on even in a different more receptive environment.

# Unclear lines of accountability

Agency workers may be more likely to get injured on the job as a result of a lack of clarity between the temporary employment agency and the host firm about which health and safety responsibilities each is accountable for. That in turn makes it more likely that health and safety risks will not be adequately managed.

Unclear lines of accountability have meant that some injured employees have kept working – and made their injuries worse – while waiting for the agency and the host firm to resolve compensation claims, ‘passing the buck’ back and forth.

## The triangular arrangement can create issues

The CFMEU (2015) believed that the triangular arrangement was a key cause for issues in the industry.

Johnstone and Quinlan also found that, despite a ‘relatively clear legal framework’ regulating health and safety in agency work, temporary employment agencies and host firms see the allocation of responsibility as contested terrain. Evidence (including from OHS inspectorates) indicates considerable variation among agencies in how far they acknowledge and meet their statutory responsibilities (Johnstone & Quinlan, 2006).

The literature suggests that the issue stems from employment and health and safety legislation being predicated on a standard ‘direct and ongoing employment arrangements’ (Johnstone & Quinlan, 2006, p. 5), which is not the case for agencies, hosts and agency workers.

When we asked agency workers to set out the roles and responsibilities of agencies versus hosts versus themselves, we got various answers (Figure 51 and Figure 52). Focus group participants commented that agencies, hosts and workers are all responsible for health and safety. Many of the participants work in high-risk industries (construction/civil), and commented that workers’ attitudes are a significant factor in day-to-day health and safety and how it is managed. Workers also play a key role in identifying and reporting hazards, regardless of whether they are agency or permanent workers.

Encouragingly, agency workers in the Auckland focus group said they did not think there were unclear roles and responsibilities between the host and their agency. There was  a general feeling that their respective agencies were looking out for them and were supportive. However, they wanted access to more information on their rights – particularly about visa status.

At a high level, there was not a substantial difference in the responsibilities identified by the workers and those identified by the agencies themselves (Table 3: Roles identified by agency focus group ), for example the responsibilities relating to provision of PPE, tools, and induction. Agencies noted the importance of workers taking responsibility for communicating their skills, activities, and concerns, and also emphasised the key role that host firms play in managing the day to day health and safety of their workers.

**Figure 53. Auckland 'blue collar' agency worker focus group: What are the roles and responsibilities of the agency, company and you in relation to health and safety?**


**Figure 54. Hamilton 'blue collar' agency worker focus group: What are the roles and responsibilities of the agency, company and you in relation to health and safety?**

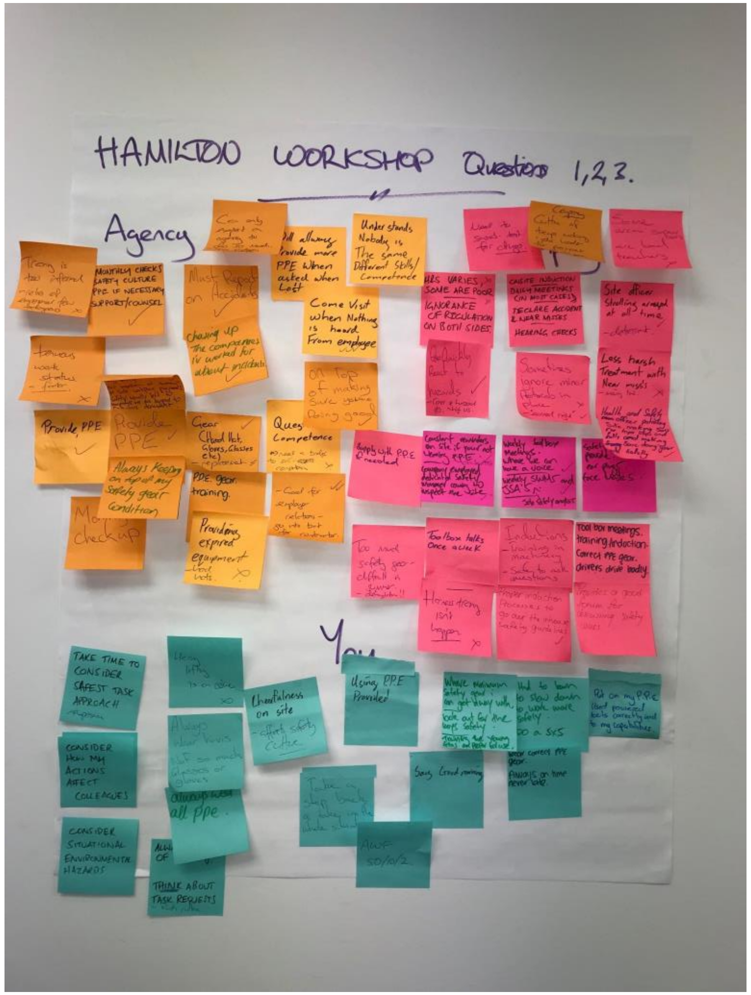


**Table 3: Roles identified by agency focus group**

| Agency | Client | Worker |
|---|---|---|
| • Induction into agency<br>• Assessment / screening of workers, assessing their skills and competencies<br>• Ensure that candidates are work ready – from qualifications to attitude to skills<br>• Matching right worker to right placement<br>• Ongoing training of workers<br>• Screening clients – ensure have health and safety policies and procedures. Audit process but also the 'feel' | • Site induction, ongoing policy and procedures<br>• Accurate job brief<br>• Safe working environment, direct and supervise the worker and engage with the agency<br>• True demonstration of care. Enforced health and safety policy – from top to bottom<br>• Let us know when something happens | • Honest and accurate information at the start<br>• Communication of what is going on on-site<br>• Any changes in personal situation<br>• Want back up from agency – to report/raise the flag |

# SUMMARY OF INSIGHTS FROM FIELD RESEARCH

The table below provides a high level summary of some of the key insights from each of our different field research methods. In the next section we bring insights from the different sources together to form an overall view on the key themes, and opportunities for dedicated focus.

**Table 4: Field research: summary of insights**

| | Focus groups with workers | Focus group with agencies | Interviews with host firms | Survey of agencies |
|---|---|---|---|---|
| **What is it?** | Two focus groups with blue collar workers, covering 12 workers total. | One focus group with representatives from ten agencies. | Four interviews with host firms | Online survey of agencies. Insights below are from freeform responses regarding particular risks and mitigations. |
| **General comments** | • Agency work is likely to be experienced differently by migrant and local workers.<br>• Not a strong perception of health and safety issues – most issues raised were related to wider concerns about pay and conditions. | • Relationship with the host company and the worker is key. Success relies on effective information flows between all parties. | • Use agency workers to manage peaks and troughs.<br>• Some using agency workers for longer periods, including up to a year. | • General awareness of the issues facing agency workers and, in many cases, have implemented processes to try mitigate risks.<br>• Priorities appear to be improving communication flows with host firms, and making it easier for workers to speak up. |
| **Themes** | | | | |
| **Uncertain and high risk work** | • Work in high risk industries, do not see it as relating to agency work.<br>• Migrant workers liked working for an agency as it has their back – could leave 'bad' host firm.<br>• Migrant workers sponsored by a labour hire company are guaranteed 30 hours per week.<br>• Some desire for agencies to offer some kind of protection when they couldn't be placed immediately. | • Agencies need to match the right worker to the task.<br>• Agency is generally reliant on worker disclosing needs or risks. | • Dependant on the industry. White collar not inherently risky. Precarious nature of work is an issue.<br>• Higher risk tasks likely to be given to permanent staff as require higher level of skill or attention. | • Agency workers can sometimes be given unsafe or less ideal jobs – one agency has anonymous email address to raise issues.<br>• Importance of agency staff and permanent staff being treated the same.<br>• Can remove workers if concerned. |

| | Focus groups with workers | Focus group with agencies | Interviews with host firms | Survey of agencies |
|---|---|---|---|---|
| **Lack of experience and training** | • Good access to induction.<br>• Can be allocated to tasks that they do not feel suited for – including running induction after a short period.<br>• Would like more access to training as an opportunity to increase charge rate. | • Important that workers know what they are trained for, and that the agency knows.<br>• Issues can arise from changing job briefs – match a person to do a specified job, end up doing something different that the agency doesn't know about. May be host firm attempt not to pay a higher rate. | • Good induction processes.<br>• One host firm wanted more information from agencies on a worker's skills and experience.<br>• Noted some concerns with drug and alcohol. | • Importance of supervision on site.<br>• Good induction essential and the importance of being used to practices on site.<br>• Short term turnaround / urgency can undermine induction processes. |
| **Economic and reward pressures** | • Generally sought higher wages e.g. higher minimum wage.<br>• Some pressure to return to work after injury or sickness – workers on a work visa want to give a good impression.<br>• Issue for migrant workers understanding rights and immigration policy changes. Concern that issues are not transparent. | • Overall ranked as a higher risk than others.<br>• Some migrant workers have limits on the hours they can do but push for more.<br>• Need to monitor who is picking up additional shifts. | • Some workers ask host firms for more hours due to uncertain work. | • Need to ensure sufficient rest days.<br>• Feeling that need to 'keep up' or to complete tasks on time or before time. |
| **Lack of voice** | • Generally feel like they get a say and feel comfortable raising issues – but group relatively outspoken.<br>• Noted that some colleagues with English as a second or foreign language (ESOL) had issues, with some translation required. | • Workers affected by host firms – so one negative experience can impact a worker's willingness to speak up even with better host. | • All consider their workers are treated the same regardless of whether they are employees or agency workers. E.g. participate in toolbox talks. One had processes to ensure workers interact with HR everyday when completing timesheets<br>• One noted the potential benefit of a worker seeing across multiple worksite – if there is an opportunity for that overview to be leveraged. | • Promote that it is ok to speak up. Weekly and monthly awards, anonymous email addresses.<br>• Regular communication with workers – email and phone call check-ins. |

| | Focus groups with workers | Focus group with agencies | Interviews with host firms | Survey of agencies |
|---|---|---|---|---|
| **Unclear lines of accountability** | • Good understanding of roles and responsibilities across the three parties. Workers play a key role in identifying and reporting hazards regardless of whether they are labour hire or permanent workers.<br>• Do not have a good understanding of their contracts which suggests some literacy / language challenges. E.g, overtime and hazard pay. | • Challenges arise when arrangements change directly between worker and client firm.<br>• Some industry-led initiatives but would like more guidance or endorsement from the government.<br>• Capability can vary across host firms. Smaller firms may have less capability, larger may have better processes but want agency out of the way. | • Generally strong relationships with their agency. Some would like further clarity or guidance.<br>• Some information gaps.<br>• One sees agency as more responsible for their workers. | • Important for workers to manage own stress, harassment or bullying issues.<br>• Regular site visits.<br>• Joint toolbox and 'start ups'.<br>• Communication is essential – both of expectations and ongoing. Could be improved. |

| | Site visits | | Interviews with key stakeholders |
|---|---|---|---|
| **Key cross-cutting insights** | **Site 1**<br>• Agency workers engaged in a phased manner – good forecasting.<br>• Inductions structured to support one or two workers at a time.<br>• Strong relationship with agency.<br>• Processes pictoral.<br>• Training and buddy system available.<br>• Appears occupational health monitoring may not be undertaken. | **Site 2**<br>• Engaged as needed from two agencies – difficult to know who was from where.<br>• Induction processes could be strengthened with better planning.<br>• Processes translated into multiple languages by workers.<br>• PPE provided by agency but occasionally forgotten or defective.<br>• Appears occupational health monitoring not undertaken. | • Challenges around worker voice and incentives to speak up are difficult to quantify and find evidence for.<br>• Concerns that some hosts may be using agency work to avoid employment obligations.<br>• Limited union presence – often focused on conversion to permanent employees.<br>• Long-tail – poor practices by some agencies and hosts undermine the wider industry – e.g. regulatory response in Canterbury.<br>• All parties have a role to play – consult, cooperate, coordinate.<br>• Ongoing health monitoring particularly complex when moving tasks regularly.<br>• Overlaps with other trends e.g. the rise of independent contracting, platform work and the gig economy. |

# MANAGEMENT OF HEALTH AND SAFETY BETWEEN AGENCIES AND HOST FIRMS

## What do we know about national health and safety practices?

Stats NZ's Business Operations Survey (BOS) 2017 included questions on business operations, innovation, business practices, and health and safety. It was the first time the regular survey of businesses asked a number of questions about health and safety practices. The questions looked specifically at changes made to practices as a result of the Health and Safety at Work Act 2015 which was introduced in April 2016.

High level findings from the survey (Stats NZ, 2018):

- More health and safety training provided.
  - More than 1 in 3 businesses provided health and safety training to 76% or more of their employees in 2017, compared with 1 in 4 businesses in 2013.
  - Health and safety training was provided by 79% of businesses.
  - Business plans for reviews of systems and processes for managing the main risks and hazards businesses in 2017, compared with 70% in 2013.
- In 2017, across all industries, the average time spent on health and safety was 18 hours a year per employee.
  - The mining and construction industries spent the most time per employee on health and safety, with 75 hours and 66 hours a year per employee, respectively.

## What do we know about health and safety practices in the agency work industry?

### Health and safety practices of temporary employment agencies

To understand the likely health and safety practices of firms in the agency work industry, we drew on Stats NZ Business Operations Survey data for the Administrative and Support Services industry (of which Labour Supply Services, which includes agency employment, is a subset). We compared this data against feedback from our survey of agencies.

Using the 2017 Business Operations Survey (BOS) we can compare health and safety practices for all New Zealand businesses with practices in the administrative and support services industry, and the practices of a small sample of Agencies (via the online survey).

We found that for some questions, responses for businesses nationally were broadly similar to the Administrative and support services[19] industry as a whole.

However, there appear to be large differences in the following areas where businesses in the Administrative and support services industry. Agencies were more likely to have the following in place:

- business plans for identifying workers that could be affected by the main risks and hazards (Figure 55: Business plans for identifying workers that could be affected by the main risks and hazards)
- business plans for involving workers in decisions that affect their health and safety (Figure 56)
- business plans for processes for working with other businesses to manage shared health and safety risks (Figure 57)
- business plans for reviewing systems and processes for managing the main risks and hazards (Figure 58)
- business plans for systems and process in place to manage the main risks to workers (Figure 59).

This suggests that businesses in the Administrative and support services industry, including Labour supply services (and therefore temporary employment agencies), are 'ahead of the game' in relation to health and safety practices in New Zealand. Given what we know about the business model and legislative requirements of 'Labour supply services', they should be working with other businesses, namely their clients, to manage shared health and safety risks. The BOS data shows that Administrative and support services were much more likely to already be doing this, compared to all industries (Figure 57).

> *in my opinion the industry is a lot more safety conscious than previously but that coincides with the whole market being more safety aware (clients, workers etc)*
> *– Agency online survey participant*

The results of the small sample of agencies who participated in the online survey should be treated with caution as they were:

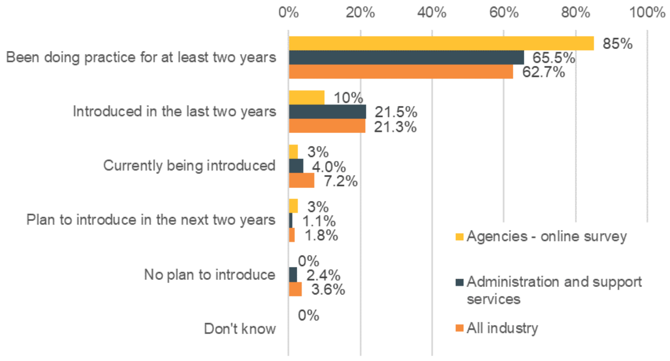
a more likely to be the larger agencies (20% of survey participants had 0-5 employees while across the industry 62% have 0-5 employees)

b more likely to be using good practices (due to response bias).

[19] Data from BOS by industry only goes down to 2-level ANZSIC at the most. For Labour supply services, the closest code is N Administrative and support services. This covers units that are mainly engaged in activities such as office administration; hiring and placing personnel for others; preparing documents; taking orders for clients by telephone; providing credit reporting or collecting services; arranging travel and travel tours. It also includes units providing other types of support services such as building and other cleaning services; pest control services; gardening services; and packaging products for others.

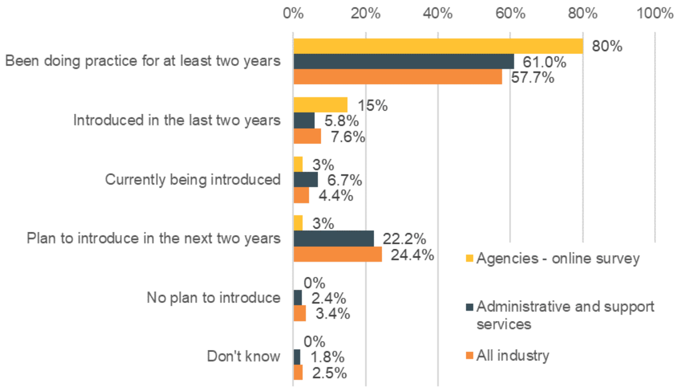
The sampling error for Administrative and support services is 2.4%. Overall the sampling error is 0.8%.

**Figure 55: Business plans for identifying workers that could be affected by the main risks and hazards**



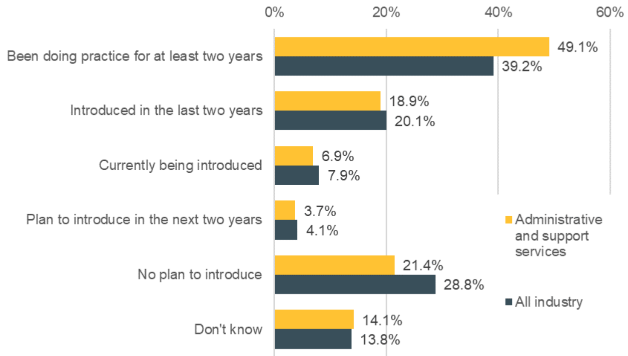

Source: Stats NZ Business operations survey and MartinJenkins survey

**Figure 56. Business plans for involving workers in decisions that affect their health and safety**



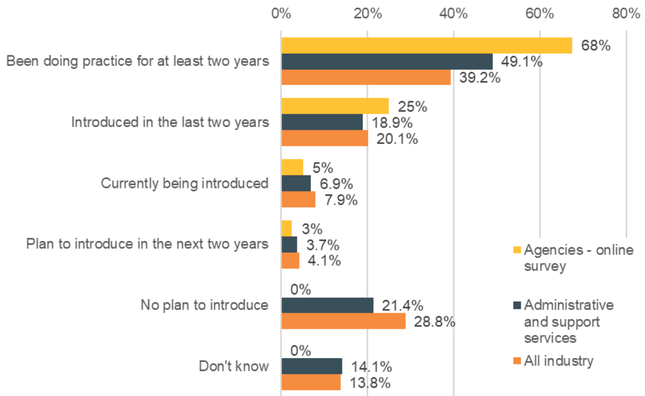

Source: Stats NZ Business operations survey and MartinJenkins survey

**Figure 57. Business plans for processes for working with other businesses to manage shared health and safety risks**



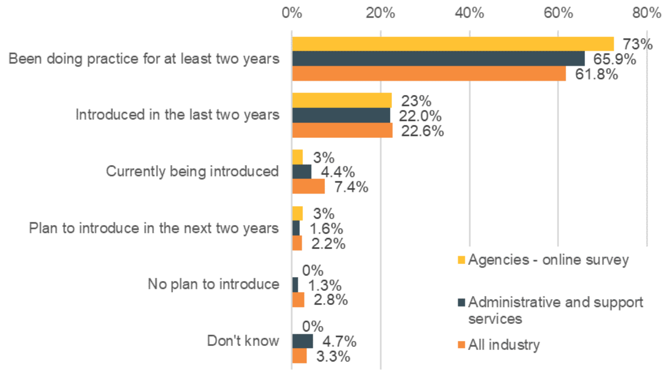

Source: Stats NZ Business operations survey

**Figure 58. Business plans for reviews of systems and processes for managing the main risks and hazards**




Source: Stats NZ Business operations survey and MartinJenkins survey

**Figure 59. Business plans for systems and process in place to manage the main risks to workers**




Source: Stats NZ Business operations survey and MartinJenkins survey

## Health and safety practices of host firms

We draw on feedback from our survey of agencies, focus groups, site visits, and interviews with agencies and host firms.

The health and safety practices of host firms varied depending on their attitude to the agency workforce, and the capacity in which they were using them.

We found that, as with agencies, there was a **'long tail of health and safety under-achievement'** in relation to practices and risk management in the triangular relationship. There appeared to be a large number of smaller host firms and temporary employment agencies with poor health and safety practices – and relatedly poor management and employment practices.

But some hosts have very good practices. In fact, our health and safety expert considered one of the hosts she visited to be:

> *… amazing. Hands down one of the best places I've ever been in for health and safety. It was fantastic. They had a really controlled way of getting labour hire. So they planned it, they knew when their peak periods would be, then phased the introduction of labour workers. So they weren't getting a big group. … it was kind of gold standard … And I couldn't tell who was a labour hire worker or who was employed in that organisation*
>
> - Health and safety specialist visiting a host company

Other hosts were reported to be more permissive in their approach. They tended to ring at the last minute for agency workers to fill urgent vacancies, and take a 'needs must' approach to the agency workforce. AWF Madison's chair recently commented that New Zealand's health and safety record is being undermined by host firms who use temporary employment agencies that do not comply with health and safety obligations (BusinessDesk, 2019).

Host firms we spoke to who had good practices genuinely valued the agency workforce, did not treat agency workers any differently from their own employees, and were deliberate and planned in deciding what skills they needed from their agency workers, and when they would need them. This planning led to inductions that were not rushed and it ensured checks and balances were in place to identify and monitor any health and safety risks.

“The issue is some agencies are very very good - but others are very poor” – *Agency online survey participant*

“Health and safety is everyone's responsibility… the good companies do it well however the 'Cowboy' companies out there do nothing, their business are driven by the $ not safety” – *Agency online survey participant*

Like in any industry, there are rogue operators/ agencies who are supplying staff to sites with little to no H&S processes around their supply” – *Agency online survey participant*

“there are way too many cowboys not following the rules” – *Agency online survey participant*

## The ‘long tail’ of health and safety under-achievement

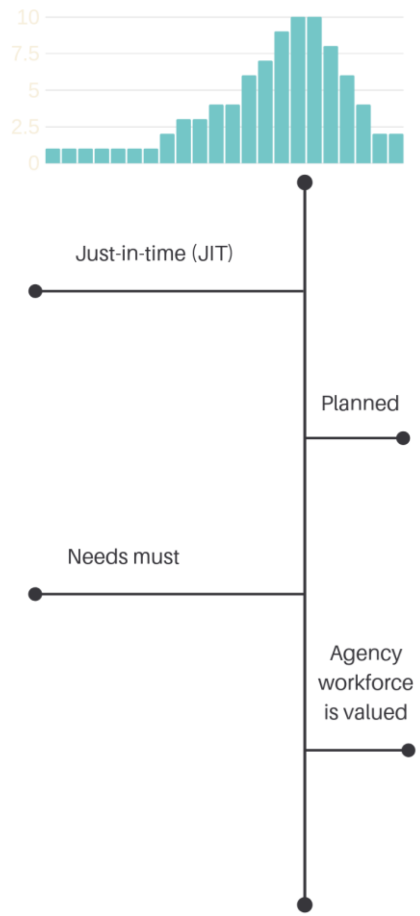
This long tail of under-achievement in relation to health and safety practices was also identified in the agencies themselves.

> *But it’s always the same. It’s the same people at the same tables …. trying to drag the rest of the industry along the way*
>
> - Agency focus group participant

On one hand, there are agencies who are established, are of a significant size, may have been acquiring smaller agencies over time and have mature, developed systems and processes in relation to health and safety of agency workers.

On the other hand, are the ‘man and a van and a laptop’ who have a crew they manage, who may not know New Zealand employment law well and operate on slim margins.

## HEALTH AND SAFETY PRACTICES



*...I think there is also a gap with white collar agencies and businesses that still think safety systems are a blue collar issue only*

– Agency online survey participant

The existence of 'reputable' versus 'rogue' operators was discussed in the Victorian Inquiry into the Labour Hire Industry and Insecure Work. The same challenges New Zealand faces were identified in Australia (Industrial Relations Victoria, 2016). Features of 'rogue' operators included:

- generally working as an individual or husband and wife
- rarely having a business name or business premises
- operating out of a car
- providing cash-in-hand payments
- not providing records
- having workers indentured to local housing or accommodation providers
- large number of foreign workers working within one place
- using social media websites to attract workers
- possibly sourcing workers directly from overseas countries
- operating almost entirely outside the existing regulatory framework.

The Inquiry report noted that there was a wide variety of businesses operating between the two extremes, and that concerns raised were not only related to rogue operators but also to the practices of reputable operators. While the practices may not be unlawful, they were considered by Inquiry submitters to have negative social, economic and health consequences for workers (Industrial Relations Victoria, 2016).

# How risks under the five key themes are managed

We drew on key findings from across our primary research, including our focus groups with agencies and workers, site visits with host firms, interviews with agencies, host firms, and key stakeholders, and responses to our online survey to bring together an overall assessment against the five key themes identified in the literature review.

## Uncertain and high-risk work

Responses from our focus group with agency workers acknowledged that the work they did was high risk. However, they said this was associated more with the particular sector they worked in (typically construction) than the fact that they were agency workers. The agency workers did not feel like they were treated differently from permanent employees on-site.

When we put this issue to our focus group of 10 agencies, they indicated that they had practices in place to manage the risk of higher-risk placements, including through:

- ensuring workers understand what roles they are trained for, and what roles they are not
- monitoring and identifying critical risk areas, and communicating them to workers so that workers understand their limitations.

One survey participant commented that if work is sufficiently high risk, a decision would be made to not supply workers for that work:

*uncertain or high risk - … if work is high risk we wouldn't normally supply*

– Agency online survey participant

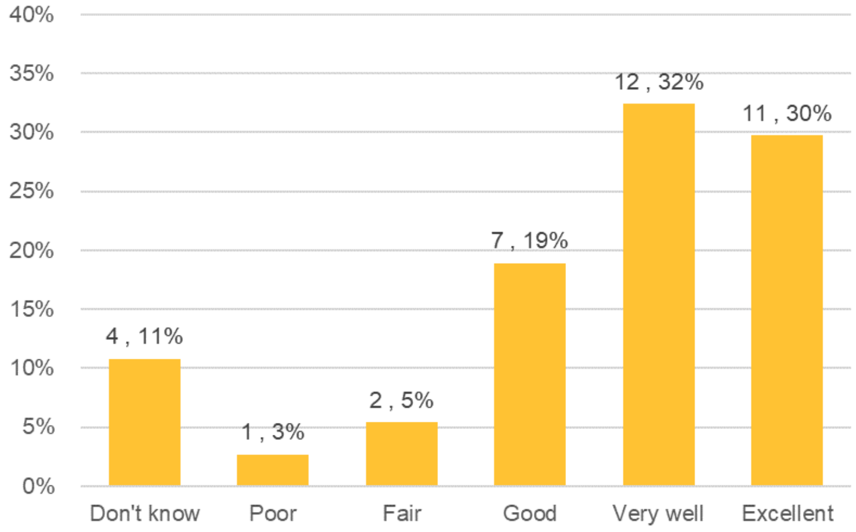
From our survey,  it appears that larger agencies with good health and safety practices (the agencies who responded to the online survey) generally tend to have processes in place to address, manage or remove the risk in relation to uncertain and high-risk work (Figure 60). Thirty of 37 participants described the way their own agency managed this risk as 'good', 'very well' or 'excellent'.

Our survey also asked agencies how they mitigated these types of risks (Figure 61). Responses indicate that agencies establish arrangements with the host firm. These can include

- withdrawing of workers or refusing to supply them at the outset
- setting expectations for incident reporting
- setting expectations for injury management and ACC rehabilitation.

Other types of arrangements mentioned by the agencies surveyed include setting expectations for site access for assessments, having internal health and safety surveying and monitoring, regular communications and requiring host companies to carry out health and safety inductions on site. Twenty-six out of 40 agencies surveyed (65%) have all of these health and safety arrangements in place.

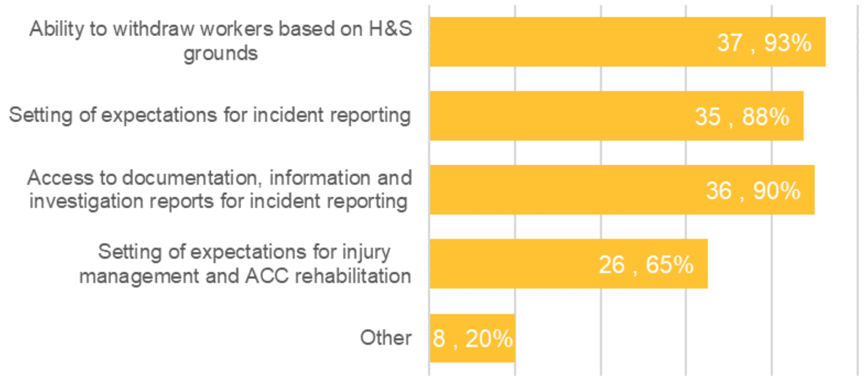
**Figure 60. How well do you think your company addresses, manages or removes the following risk? Uncertain and high-risk work (*n* = 37)**




Source: MartinJenkins survey

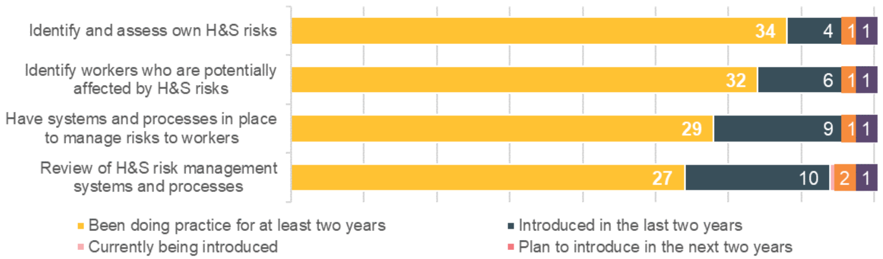
To manage day to day health and safety risks to workers, the agencies surveyed generally relied on workers taking responsibility for identifying and assessing their own risks. Thirty-four of the 40 agencies indicated that this practice had been used for at least two years, with a further four indicating that they had introduced this practice in the last two years (Figure 62). Of the four types of practices we put to agencies, reviewing of health and safety risk management systems and processes was in its relative infancy.

**Figure 61. Types of health and safety arrangements established between agency and host company (*n* = 40)**




Source: MartinJenkins survey

**Figure 62. Types of agency H&S practices established for labour-hire workers *(n*=40)**




Source: MartinJenkins survey

One union representative we interviewed noted that host firms could exploit the 'assignment-based contracting' nature of agency work. They cited an anecdotal example of an agency worker's assignment theoretically finishing at the same time as a health and safety incident occurred, thereby minimising 'time off work' statistics with ACC.

In relation to type of work, two agencies commented that questions about health and safety issues tended to be more commonly put to 'blue collar' agencies than those that worked predominantly in 'white collar' agencies. It was felt that, as a result, the health and safety risks for white collar agencies and hosts were under-estimated.

### Responsibilities towards migrant workers

Employers have specific responsibilities and obligations in relation to migrant workers. For example, under the Essential Skills Work Visa, the role must be for 30 hours or more per week. For migrants employed by temporary employment agencies, this is guaranteed work for 30 hours per week – and the agency workers we spoke to were well aware of this requirement.

While this can make their work less uncertain, their visa will usually be attached to their employer, the agency, so their ability to transfer to a host firm is constrained.

Agencies also spoke of the importance of pastoral care, to help migrant workers to settle and also feel they are able to speak out about health and safety, and other risks.

## Insufficient training and experience

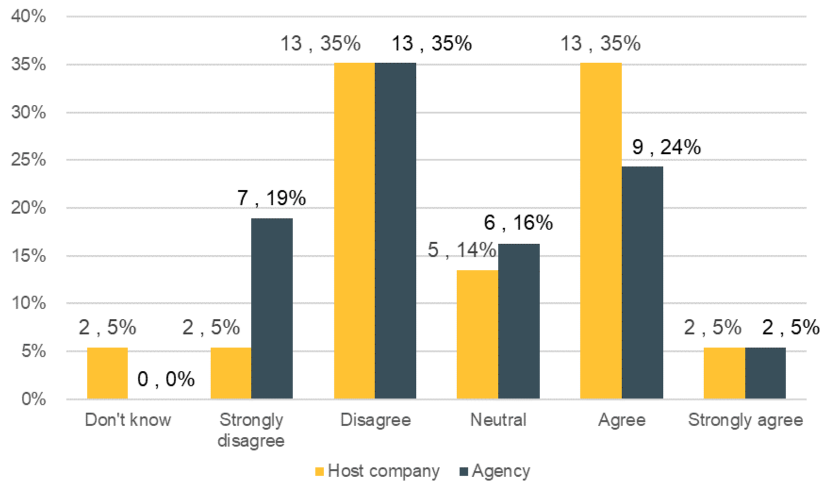
Our interviews found a general assumption amongst host companies that agencies are responsible for ensuring agency workers are sufficiently trained and skilled for the relevant work. However, it is not only workers who present risk to agencies, but also those host firms who ask agency workers to carry out work or roles that are beyond the scope of the initial placement.

The temporary employment agency that supported our site visits said that the potential for insufficient training and experience of workers was their biggest health and safety concern. They worried that their workers would enthusiastically take on work for the host that they did not have the training or experience for. This would make the contract the agency has with the host firm void. This was also raised as a common issue in the focus group of agencies. The worker may have the skills to do the work, but they must tell the agency first.

Regarding on-the-job training and induction, there was no consensus from our survey respondents on the level of provision by host companies – equal numbers agreed and disagreed that agency workers received minimal training and induction from host companies, due to the requiring labour at short-notice (Figure 63). However, agencies felt that generally they provided sufficient training and induction for their agency workers. When asked about how well their own company addresses, manages or removes the risk related to training and experience, agencies' assessments were modest with most indicating they did a 'fair' or 'good' job (Figure 64).

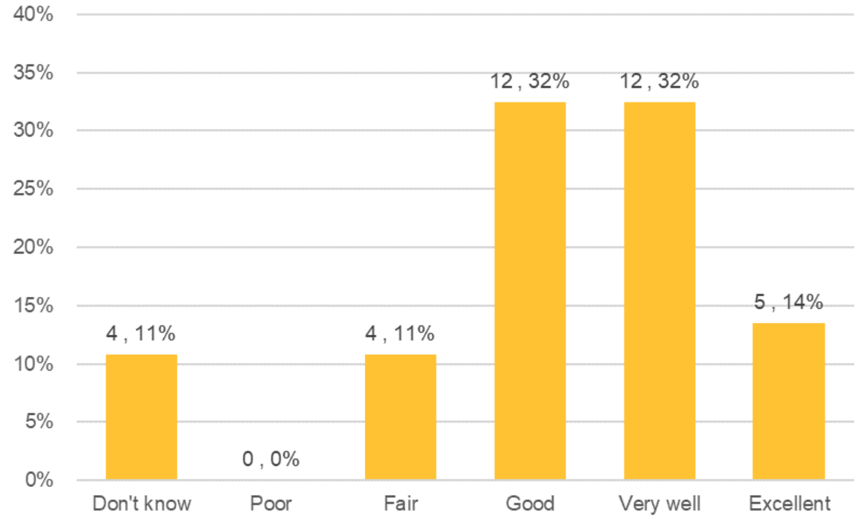
Agency workers indicated that they would like more role-related training, but the agencies can be reluctant to offer this. Agencies recognise that offering training would help them to keep workers, but it can also be an investment that they lose to another agency or a permanent employer. Agencies can also provide other types of training - for example the site visit agency holds three to four sessions a year for agency workers on health and safety, finance, and tax and ACC responsibilities.

**Figure 63. Due to the need to provide labour at short-notice, labour-hire workers are more likely to receive minimal training and induction from host companies, agencies (*n* = 37)**




Source: MartinJenkins survey

**Figure 64. How well do you think your company addresses, manages or removes the following risk? Lack of training and experience (*n* = 37)**




Source: MartinJenkins survey

## Economic rewards and pressures

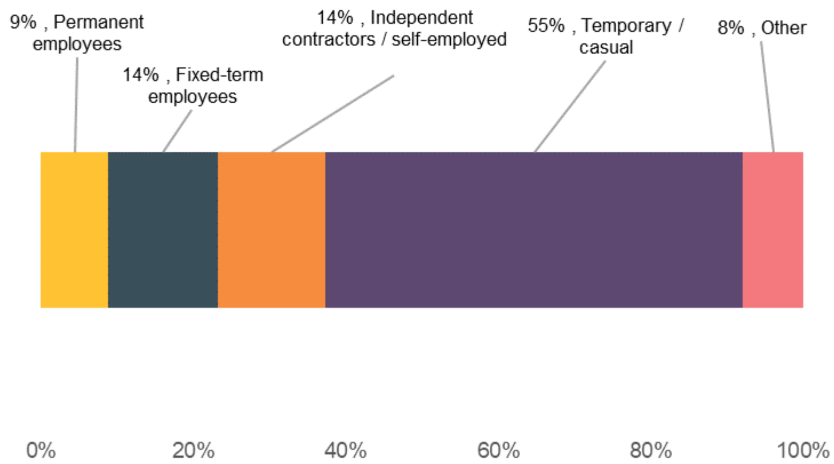
Different agencies use different models of engagement. Workers that agencies have 'on the books' can be engaged as:

- fixed-term employees (part or full time)
- permanent employees (part or full time)
- independent contractors and/or
- temporary/casual.

Our survey indicates that some agencies use only one type of engagement, while others use a mixture. Of the agencies surveyed, the predominant type of engagement was 'temporary / casual' (Figure 65).

This finding is consistent with concern expressed by RMIT business and law professor Anthony Forsyth that agencies have shifted from their original purpose in helping businesses source supplemental labour, and now are relied on as a replacement of the permanent workforce and make work more temporary (Forsyth, 2018).

**Figure 65. How agency workers are engaged (*n* = 46)**




Source: MartinJenkins survey

An analysis by MBIE (2019) found that around 25 percent of agency workers worked only one month in a year in the industry, and nearly 60 percent worked in it for three months or less. At the same time, the average number of months a person worked in the industry has been increasing. Further, between 2000 and 2018, less than 1 percent of people were in the industry for more than 6 years (this was not necessarily continuous employment).

Agencies and workers noted positive aspects of agency work including:

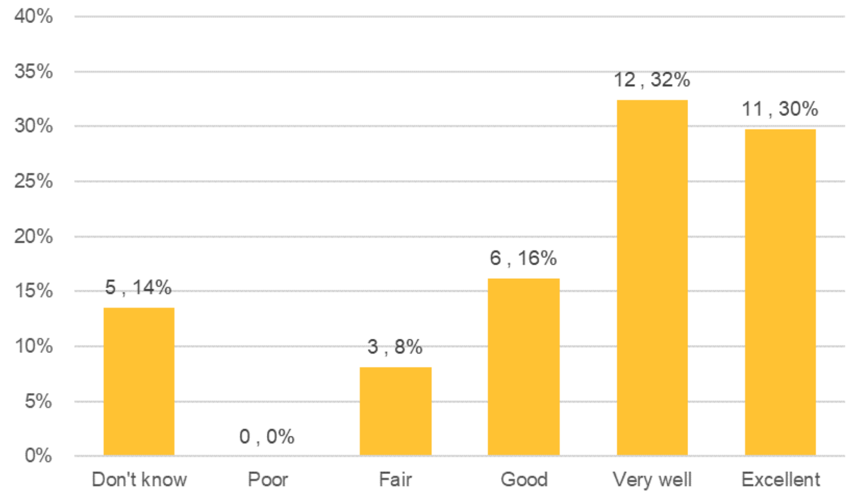
- the ability to try out different jobs and roles
- a way to enter a job or role on a temporary basis, with the hope to move to full time employment (for example, for caregivers returning to the workforce and for migrants)
- a stepping-stone to gain New Zealand and/or industry experience (especially for graduates and migrants).

Agencies commented that their industry is viewed negatively, even though businesses and the labour market clearly have a need for the industry.

The agencies surveyed thought that their company managed the 'economic rewards and pressures risk' well. No one thought they did a poor job, with 23 out of 37 companies saying they managed the risk 'very well' or 'excellent' (Figure 66). While agency employment arrangements may not be inherently risky, workforce characteristics and the triangular relationship can increase the risk. A host firm commented that the agency workers they hosted seemed financially stretched and would often ask for extra hours.

> *I get questions like 'can I pay rent? Will I get another placement after this one finishes?' … they are often people in quite vulnerable positions*
>
> - Host company interview

**Figure 66. How well do you think your company addresses, manages or removes the following risk? Pay is contingent on getting the work done (*n* = 37)**

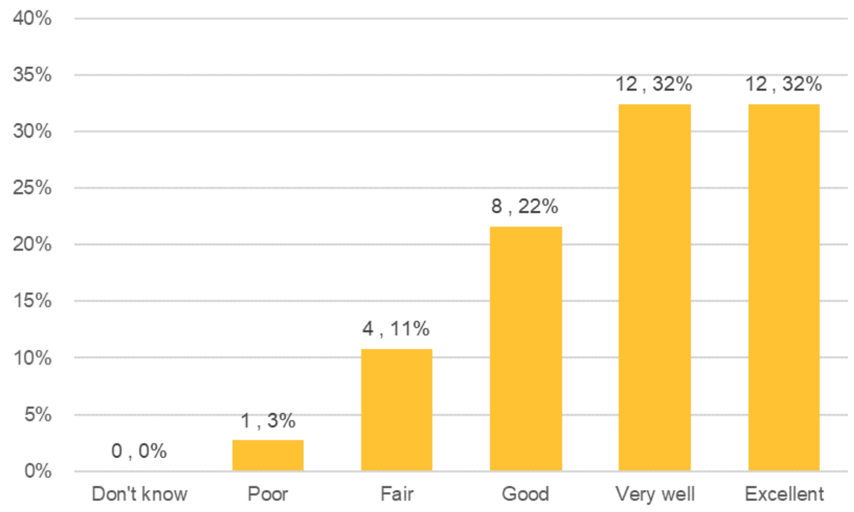



Source: MartinJenkins survey

## Lack of engagement and voice

The agencies surveyed indicated that they had good to excellent processes for ensuring agency workers' concerns are heard. Twenty-four of 37 agencies indicated they did this 'very well' or 'excellent' (Figure 67).

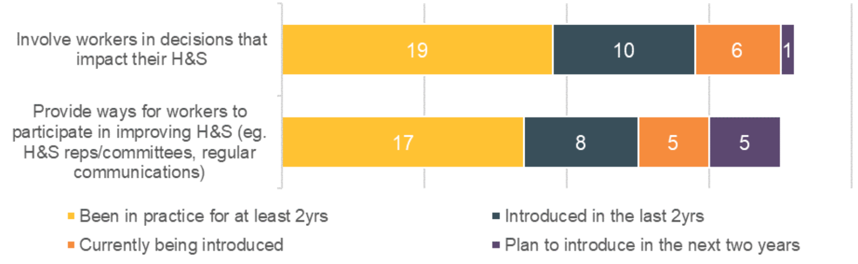
**Figure 67. How well do you think your company addresses, manages or removes the following risk? Ensuring agency worker engagement and making sure their concerns are heard (*n* = 37)**




Source: MartinJenkins survey

A large majority of agencies surveyed involve agency workers when making decisions that impact their health and safety. Eighty one per cent have already introduced this practice, compared to 8% who are currently introducing it (Figure 68).

**Figure 68. Agency inclusion of labour-hire workers in H&S decisions (*n* = 35-36)**




Source: MartinJenkins survey

Agencies who took part in the focus group, as well as host firms interviewed and visited, also thought they each managed this risk well. Examples of the steps they take are in Table 5. We note that some agencies are still catching up, with five of the 35 agencies planning to introduce ways for workers to participate in improving health and safety in the next two years (Figure 68).

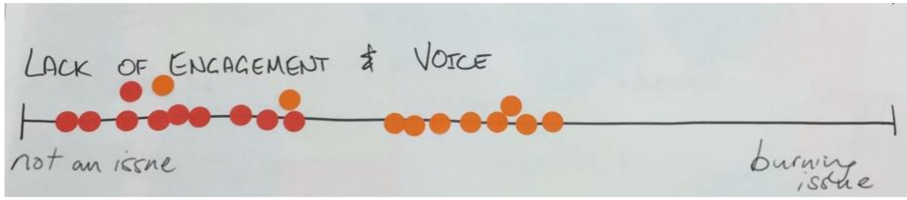
**Table 5 Addressing, managing or removing the risk related to lack of engagement and voice**

| Agencies | Host companies |
|---|---|
| • WhatsApp to raise H&S issues<br>• H&S hotline and email address<br>• Confidential approach to H&S manager<br>• Contact within the first 5 working days with agency worker starting at new host employer<br>• Regular, weekly meetings<br>• Health monitoring<br>• H&S surveys | • Agency workers go to HR for time-sheeting and this becomes a catch-up and a chance to raise issues<br>• Agency workers are buddied up with an experienced worker for a week<br>• Twice-weekly Toolboxes<br>• Can bring up issues with supervisors/managers<br>• Team meetings<br>• Inductions |

| Agencies | Host companies |
|---|---|
| • Regular site visits<br>• H&S software apps<br>• Toolbox meetings<br>• Inductions<br>• HS client agreements | • Temporary workers treated the same as permanent staff<br>• HS representative on site<br>• HS training module on day 1 |

When agency focus group participants were asked to compare how they managed the risk with how they believed others in the industry managed the risk, they expressed a sense that others in the industry were not doing as well (Figure 69).

**Figure 69. Agency focus group: Perceptions of how well 'lack of engagement and voice' is managed. Red dots = how they manage the risk; Orange dots = how the industry manages the risk**




Agencies and host firms said it was often the characteristics of the individual worker that were relevant to this risk - for example, lack of confidence to speak up, cultural elements where it may be disrespectful to challenge authority or to speak up, and fear of not getting their contracts renewed.

## OVERLAPPING DUTIES


Both the labour hire agency and the host company are likely to be PCBUs and will have legal duties in health and safety for the worker, because both control and influence the work of the worker.

The level of control and influence both parties have will change over the course of the relationship. For example, the labour hire agency may have more influence and control prior to placement, but the host may have more influence and control once the worker is on their site. When considering influence and control, work, worker and workplace need to be considered because this helps to make logical and pragmatic decisions about which party is best placed to undertake certain activities.

It is important for both the labour hire agency and the host to communicate, in order to consult, cooperate and coordinate the way the health and safety of the worker is managed. In practice this requires a healthy, well-functioning relationship. Some labour hire agencies may default to bureaucratic paperwork, but that is not what is important. What is important is that both the agency and the host are clear about who is going to do what, and when. For example, who will provide PPE, who will provide training, who will provide occupational health monitoring, where incidents will be reported and how they will be investigated etc.

The way overlapping duties are approached must also be monitored, to verify whether the approach is effective and is appropriate for the worker and the context.

## Unclear lines of accountability

The current regulatory regime, including the introduction of the concept of a 'PCBU', case law and other initiatives and trends (such as supply chain codes of conduct) suggest that hosts cannot rely on contracting out health and safety risks. See *Overlapping duties* at the left.

Agencies themselves were concerned that further clarity is needed around self-employed contractors. It was observed in the agency focus group that contractors are a growing part of the market, but were not agency employees. It was unclear whether the health and safety responsibilities for contractors were the same as for workers who they directly employed, or whether they were different.

In New Zealand, the introduction of the PCBU concept should have helped address accountability within the triangular relationship. However, we heard from agencies that the new principles-based framework can be ambiguous and difficult to understand.

Agencies participating in our focus group noted that the industry was still on a learning curve, and that ‘lots of people are unsure of what their roles and responsibilities are’ (Labour hire agencies, 2019).

Unclear lines of accountability are particularly a problem when communication and relationship management between the agency and the host break down. Our health and safety specialist noted that differences in an agency account manager’s approach to a site and host appeared to be related to whether there was confusion or lack of clarify in roles between the parties. Agencies also emphasised the importance of host firms’ attitudes and approaches to managing their staff, recognising that the host had more direct control over the day to day activities of their staff than they did.

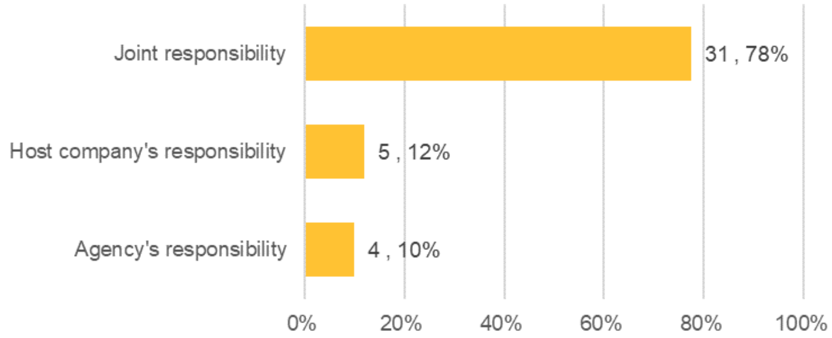
In our online survey, 31 out of 40 respondents (78%) said they believed that building worker competency in health and safety is a shared responsibility for agency and host firm (Figure 70). The minority consists of five (12%) who believe it is the host firm’s responsibility and four (10%) who believe it is the agency's responsibility.

A number of agencies said they were often pulling their host firm’s health and safety practices up and/or that they and their clients were taking collaborative approaches:

> *we see more collaboration with clients who are very aware of their risk as the host PCBU and are generally taking [sic] more engaged to ensure our processes are robust and being followed – Agency online survey participant*

> *On the whole we see ourselves as bringing a far higher level of H&S awareness to most host business work sites, than they would have on site if we were not involved in assessing and advising on H&S best practice. – Agency online survey participant.*

**Figure 70. Who is responsible for building the health and safety competence of your agency workers? (*n* = 40)**

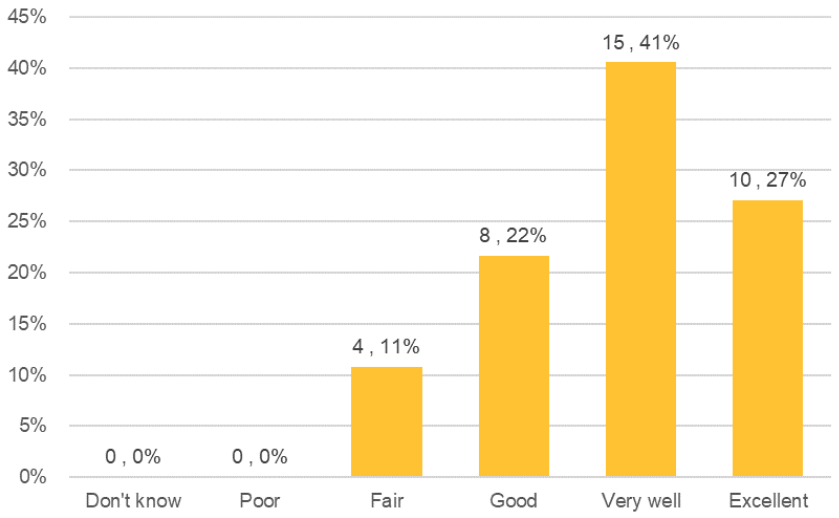



Source: MartinJenkins survey

The practices mentioned in relation to lack of engagement and voice also ensure lines of accountability are clear. Constant communication, regular site visits, and good relationships between account managers and host companies are at the heart of managing the risks of unclear responsibilities.

Surveyed agencies generally thought they were managing the risk well. Twenty-five of 37 agencies believed that their companies were doing this ‘very well’ or ‘excellent’ (Figure 71). Focus group agencies thought that the industry on the whole was getting better, and was learning.

**Figure 71. How well do you think your company addresses, manages or removes the following risk? Accountability between your company and the host/client company ($n$ = 37)**




Source: MartinJenkins survey

We asked agencies to describe in their own words how they manage risk in the relationship. Most referred to contracts/terms and conditions, onsite health and safety assessments before engaging with the potential client, regular health and safety audits of clients' sites, regular monitoring and site visits, and risk assessments and working with clients to manage risk.

> *By working extremely closely with our clients, which includes consulting, cooperating and coordinating on all health & safety activities, with the outcome being the priority of the safety and health of all our workers on assignments. This includes determining who will do what with regards to risk management and the health & safety of our workers.*
>
> *- Agency online survey participant*

Two areas that were a source of tension between agencies and hosts (identified in the site visits and mentioned in interviews) were responsibilities for providing personal protective equipment (PPE) and alcohol and drug testing.

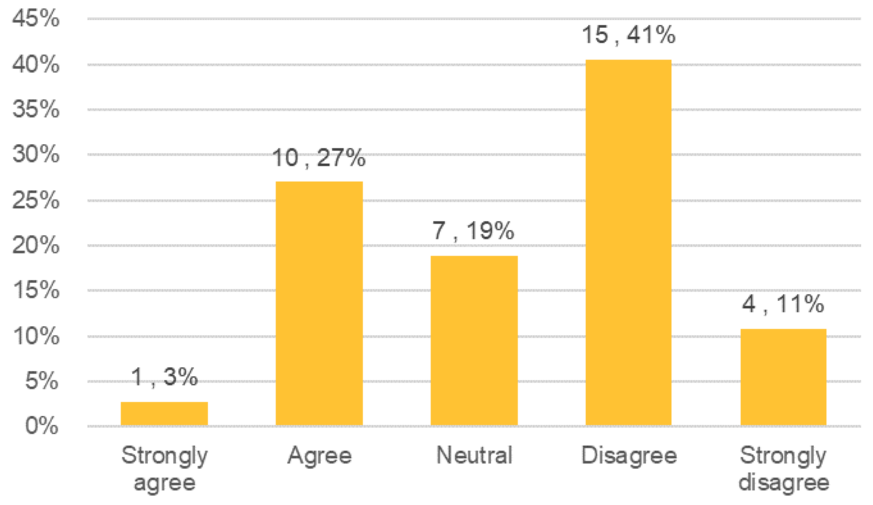
Agencies generally provide appropriate PPE to agency workers, but once agency workers reach the host site they may need different PPE or may not bring the equipment with them. This means that the host ends up providing PPE, which may not be the right fit for the agency worker. That equipment may then go home with the agency worker at the end of the day. Hosts felt it was the agency's role to provide PPE.

Host firms also thought that it was the role of agencies to regularly drug and alcohol test their employees. However, agencies said this was usually done randomly on-site, and resourced by the host.

### Workers not understanding who is accountable

Some agencies were concerned that agency workers themselves may be unclear about who is accountable for health and safety. In the survey, 11 out of 37 participants 'strongly disagreed' or 'disagreed' with the statement that 'Agency workers lack clarity about who is accountable for health and safety (host company or hire agency) which makes it more likely that risks are not adequately managed' (Figure 72).

**Figure 72. To what extent do you disagree/agree with the following statement: Agency workers lack clarity about who is accountability for health and safety (host company or hire agency) which makes it more likely that risks are not adequately managed (*n* = 37)**




Source: MartinJenkins survey

One of our site visits showed how host and agency practices impact on health and safety as it is understood by agency workers:

> *We are responsible for our own health and safety, not this company*
>
> - Agency worker during site visit

# Areas of opportunity

## Health monitoring

Health monitoring is required under the Health and Safety at Work (General Risk and Workplace Management) Regulations 2016. This checks whether the workers are being harmed by exposure to hazardous substances, and aims to detect early signs of ill-health or disease. An example of health monitoring is audiometric testing to detect early hearing loss.

In the experience of our health and safety specialist, businesses across New Zealand tend not to do this well. However, in managing workers who are placed at different sites and where agencies have an arms-length relationship, appropriate health monitoring becomes an increased area of risk. Some agencies mentioned they carried out annual health monitoring – but these tended to be fitness-to-work examinations and wellbeing checks, rather than health monitoring.

Our health and safety specialist recommended to both host firms where we undertook site visits that they work with their temporary employment agency to clarify who is responsible for occupational health monitoring and when it will be done, and to ensure that workers are monitored while they are working with the host firm.

## Psychosocial risks

Psychosocial risks were generally not mentioned by agencies and host firms. Agency workers spoke of disagreements between workers that may be perceived as bullying. A large government organisation that uses agency workers for desk-based tasks indicated that their main responsibility in relation to health and safety was ensuring people are fit to work, including in particular the issues of stress as a result of work, and recovery after illness.

However, two agency participants in the online survey did note stress and related risks and the lack of clarity about responsibilities:

> *Lack of responsibility for managing their stress, harassment and bullying - ownership around this.*
>
> – Agency online survey participant

There was a sense from a host firm that agency workers had lower stress levels than permanent staff, mostly due to agency workers only doing a portion of the workload of permanent staff. However, the same host firm said that uncertainty can be stressful for agency workers:

> *uncertainty is stressful for temp workers. The way contracts are managed under the legislation, and defined end dates for contracts, can create fear in the worker and can be a H&S risk*
>
> - Host firm

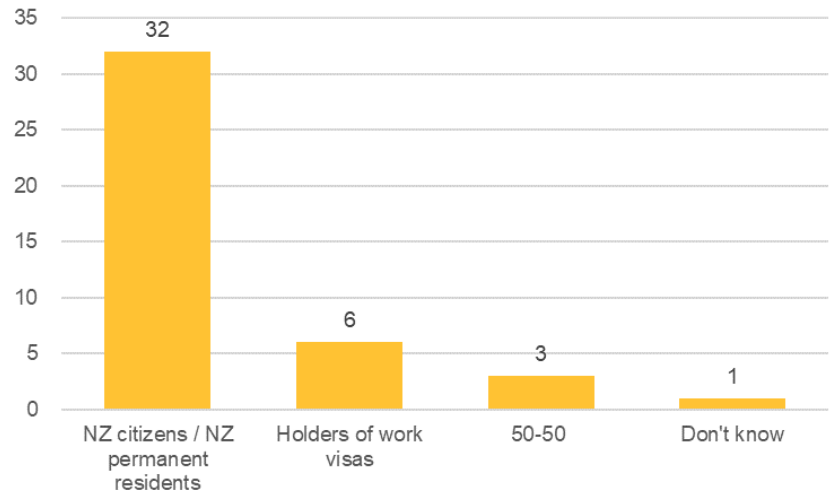
Agency workers mentioned health and safety-related risks related to immigration status. Uncertainty around visas, visa renewals, and eligibility to work can lead to stress for agency workers and therefore to health and safety risks.

## Immigration

And if there is a task given to a migrant worker, they won't go home until it is finished. They are scared of getting fired. If it's a local worker, they will say, it's ok for me, I'll just go home and do it in the morning – no problem – *Auckland agency worker focus group participant*

Our analysis of statistics provided by Stats NZ shows that migrant workers represent nearly half of all agency workers. Across the agencies surveyed, there were more agencies that reported employing a higher proportion of New Zealand citizen/permanent residents, than holders of work visas (Figure 73). There were wide variations in the proportions, with two agencies employing 100% New Zealand citizens/permanent residents, and two agencies employed 90 and 95% holders of work visas.

**Figure 73. Majority of workforce in surveyed agencies (*n* = 42)**




Source: MartinJenkins survey

WorkSafe and others have recognised that immigrant populations often have a greater risk of poor health and safety at work outcomes compared to other workers (Chen, 2018; Moyce & Schenker, 2018). The 'structural factors' we identified as impacting on the risk of migrant exploitation (through our review of Chorus' next generation network connection contracting model

(Martin & Baddeley, 2019)), are the same risk factors for poorer outcomes in health and safety at work- namely:

- **Temporary migration**
- **Language** – not being fluent in the dominant language can make it difficult to engage in the workplace, decrease the likelihood of speaking up, and lead to miscommunication, which can increase health and safety risk
- **Age and gender** – those who are younger and/or female are more vulnerable to exploitation and face higher health and safety at work risks
- **Geographic isolation**
- **Conditions relatively better than home**
- **Economic vulnerability**
- **Lack of political agency**
- **Non-classification as workers**
- **Under-regulated industries** - A global review of health and safety at work as it applies to migrant workers found that migrant workers tend to be found in work and industries that are physically demanding, and have increased exposure to environmental toxins (Moyce & Schenker, 2018)
- **Barriers to accessing remedies** - Research has found barriers to accessing ACC services amongst Māori and Asian people (Hosking et al., 2013).

The combination of these factors mean that migrant agency workers are more likely to:

- not speak up when a health and safety risk is identified
- not seek help or make a claim in relation to health and safety at work
- face psychosocial risks related to misinformation or concerns about their visa/work status
- carry out work that is inherently riskier.

Among migrant workers, there appeared to be a lack in:

- knowledge of their employment rights and where to go to get support
- knowledge of immigration policy as it applies specifically to them. Migrant workers do not necessarily trust the information that is provided by their agency, and are provided with misinformation from others
- for those whose visas are attached to their employer, knowledge of the opportunity for Immigration NZ to provide industry-based visas so that the power dynamics in the relationship are shifted away from employers.

## Accreditations and industry driven initiatives

There are a number of markers the industry uses to show they are not part of the “long tail of under-achievement”. Examples include:

- **Corporate Membership of the RCSA**
- **ACC Accredited Employers Programme** – these employers are responsible for managing employees’ injuries and claims if they have an injury at work, with the potential to reduce the ACC Work levy by 90%
- **StaffSure Standard and Certification Programme** – developed by RCSA in consultation with industry, government, unions and business. The Australian Department of Employment provided a grant to RCSA to pilot StaffSure, but it has not gone so far as to back the programme

- **Accredited labour hire companies** – agencies that support migrants who want to work in the Canterbury construction sector must be accredited by Immigration NZ.[20] MBIE is currently considering whether to implement mandatory accreditation for all labour hire companies wanting to employ migrants on a work visa. The detail of these proposals are yet to be released.

Other than StaffSure, RCSA has undertaken a number of health and safety initiatives including:

- publishing a *NZ Health and safety guide for the on-hire industry (March 2019)* (which they would like WorkSafe to endorse)
- a Safety and Risk working group
- the RCSA Industry Award for Excellence in Safety & Risk Management.

The Construction Sector Accord was also cited by agencies as a positive step in a joint commitment between industry and government to improve health and safety. Some agencies commented that this joint approach between industry and government could be used to tackle health and safety within the agency work industry.

Australian lawmakers have been more hands-on in relation to industry regulation, with labour hire licensing the preferred model of regulation:

- **Queensland**: The Labour Hire Licensing Act 2017, became effective on 16 April 2018. This means an employer in Queensland cannot use workers from a labour hire company which is not licensed to provide that labour. Labour Hire Licensees must satisfy a 'fit and proper person test' that includes compliance with all relevant laws, financial viability and half yearly reports.
- **South Australia**: The Labour Hire Licensing Act 2017 took effect on 1 March 2018. From 1 September 2018, all labour hire providers must be licensed. It will be an offence for anyone to use an unlicensed provider. All providers who have been granted a licence will appear on a Register of Licence Holders.
- **Victoria**: The Labour Hire Licensing Act 2017 commenced on 29 April 2019. Labour hire operators have to pay a licence fee, pass a 'fit and proper person test', demonstrate compliance with relevant laws and standards and be listed on a public register. The compliance unit, Labour Hire Licensing Authority, was also established.

[20] Requirements include that an employer must be in sound financial position; must have human resource policies that are of a high standard; demonstrable commitment to training New Zealand citizens or residence class visa holders; has good workplace practices.

# DISCUSSION AND RECOMMENDATIONS

This section summarises our findings in relation to the four research questions posed by WorkSafe (see the Introduction to this report).

WorkSafe identified four research questions:

1 What are the demographic characteristics of the labour-hire industry in New Zealand (the number of labour-hire firms, the number of people employed under labour-hire arrangements, the industries they are hosted in, demographic characteristics of the workforce)?

5 What is the likely future state of the industry (i.e. is it growing in size, are the industries that utilise labour-hire or the demographic characteristics of the population changing) and why?

6 What are the risks for labour-hire workers and how do they differ from workers employed under other contractual arrangements?

7 How effectively is health and safety being managed by both labour-hire firms and host employers (i.e. are overlapping duties being managed effectively, are agency workers as safe at work as workers employed under other contractual arrangements, how does labour-hire safety experience differ to other workers)?

We now summarise our findings for each of these four questions.

## 1. Demographic characteristics of the agency work industry in New Zealand

The way data is currently collected from temporary employment agencies firms and agency workers means that it is very difficult to paint a true picture of the industry. We, and Stats NZ, have been unable to develop an efficient and effective way to identify the industries agency workers are hosted in. We have had to rely on unverified market analysis for this information.

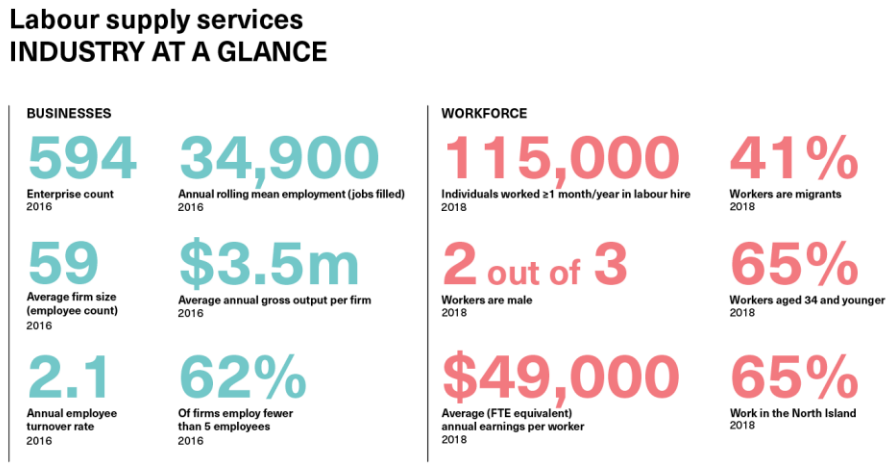
We make the following recommendations in relation to data collection at the firm, geographic unit and employee level:

- An agreed definition of labour hire and agency workers, and an agreed way to identify and count agencies and agency workers. In relation to this, a way to differentiate employees performing corporate functions within an agency from agency workers being placed into host firms.
- Asking businesses whether they use agency workers, and what proportion of their workforce are agency workers. The industry of the host firms would be identified via the ANZSIC assigned to the host firm.
- Establish clarity in relation to the term ‘contractor’. This is also required generally for the term ‘temporary worker’, ‘casual employee’ ‘temporary agency employee’, ‘fixed term employee’ and ‘seasonal employee’. We suspect that there may be confusion when employees provide information and that this then gets miscoded. This is likely to be an ongoing issue as the employment arrangements individuals work under change in the future, particularly contract work and ‘gigging’.
- Collect an input data on work-related injury, and health and safety, data in a more robust/verifiable manner. The industry of the site and

employer needs to be collected and verified, and the arrangements under which the worker is employed needs to be identified.

The following 'at a glance' highlights what we have been able to identify through access to official statistics as well as the IDI.

As for the types of industries, IBISWorld suggest that construction and trades is the most predominant (32%) followed by manufacturing, transport and logistics (19%) (Allday, 2018).




## 2. Likely future state of agency work

It is likely that the agency work industry will continue to experience steady growth, underpinned by a tightening labour market, high rates of labour migration, and general workplace trends towards an increasingly flexible workforce.

Both employers and employees are likely to increase their demand for flexibility and for working non-standard hours, and this will drive demand for agency work. Other factors that are also likely to intensify demand include increasing use of technology and automation of work (which will likely have both positive and negative effects on demand), the tight labour market, and business confidence.

The key sectors that use agency workers – construction, manufacturing and ICT – are likely to continue to show strong growth, therefore increasing the demand for agency work.

As for the changing demographic characteristics of the agency workforce, it is likely that the migrant workforce will become the dominant proportion, unless there are changes in immigration and employment policy. The Government has increased regulatory efforts and is taking a joint regulatory approach to these issues.

## 3. Health and safety risks for agency workers

We have identified five themes and related risks for agency workers:

*Themes*

- Uncertain and high-risk work
- Insufficient training and experience
- Economic and reward pressures
- Lack of engagement and voice
- Unclear lines of accountability

*Risks*

- Psychological strain
- Greater risk of injury
- Injuries are exacerbated
- Health and safety issues are not addressed
- Risk of harassment and exploitation

It has been well established in the literature that agency workers are at greater risk of harm than workers employed under standard employment arrangements.

In New Zealand, identifying the relative harm to agency workers compared to those in standard employment is challenging, but it appears that rates of harm are at least elevated. The rate of ACC claim for agency work is slightly higher than for the general labour market, and the rate of higher severity claims resulting in at least a week away from work within agency work has been increasing over the past ten years. In 2017 this was double that of the overall labour market (although broadly similar to high risk industries such as construction and manufacturing for severe claims). This is complemented by an observed increase in the rate of notification to WorkSafe of potentially unsafe conditions.

From our assessment of these themes, through the literature and through testing in new primary research, it is likely that agency workers in New Zealand face additional risks in the workplace. The risks faced by agency workers are complex and a product of multi-faceted risk factors combining more precarious work and the vulnerability of the over-represented workforce, which include:

- high numbers of migrant workers
- young workers
- temporary workers.

These workers face a number of potential risks, including incentives to seek more work, and a greater power imbalance with their agency employer and host firm, all of which can affect their willingness or ability to raise health and safety issues. Those barriers may be compounded by a lack of understanding of their rights and contracts.

While many of the agency workers, agencies and host firms we spoke to stated that agency workers are treated the same as permanent employees, there are some factors inherent in agency work – and factors relating to the types of people drawn to agency work – that mean that agency workers are more likely to experience greater health and safety risk than non-agency workers.

Psychosocial risks were generally not mentioned by agencies nor hosts. Agency workers spoke of some instances of psychosocial risks related to bullying and economic/visa-related uncertainty. There appears to be an opportunity to bring a consideration of psychosocial risks to the fore in relation to the agency work industry, although we do not believe this is limited to agency work itself. We note that AWF Madison, in their annual report, has supported government's expansion of work-related health risks to include mental health (BusinessDesk, 2019).

Health monitoring is another area of opportunity, with many temporary employment agencies and hosts not doing this as well as they could be. Again, this is not an issue specific to the agency work industry.

## 4. Management of health and safety between temporary employment agencies and host firms

The relationship between the agency and the host firm is key, and appears to be a determining factor in the risks faced by workers, including how well workers are matched to tasks, how well issues are communicated between agencies and host firms, and how well the agency and the host firm work together to create an environment in which the workers are supported to raise health and safety issues.

Certainly, many temporary employment agencies and host firms are trying to ensure that health and safety is managed well within the triangular relationship. To achieve this, they are establishing systems and processes that are founded on trust, constant communication, good relationship management, a focus on worker welfare, and good employer practices. The use of contractors is likely to grow over time, and there is a lack of clarity within the sector in relation to health and safety accountability. It is likely that a specific piece of work is required to resolve this.

The use of contractors is likely to increase over time, and there is a lack of clarity within the agency work industry about health and safety accountability in relation to contractors. It is likely that a specific piece of work is needed to resolve this.

However, there is a long tail of health and safety underachievement among both temporary employment agencies **and** host firms. 'Lax' and 'cowboy' agencies can only exist if there are host firms who are willing to be their client. Intervention is probably needed at those two points of the triangular employment relationship.

Accreditations or a license to operate have been developed by the agency work industry, via RCSA, as a way to self-regulate the industry. The approaches of states in Australia in relation to licensing of temporary employment agencies, and penalties for using unlicensed agencies, may need to be considered.

It is unclear whether agency workers are more at risk than workers employed under more standard arrangements. The available ACC data suggests that agency workers claim at similar rates to non-agency workers. However, within agency work, there appear to be a number of characteristics that present as an increased risk:

- **Region** – there were some differences by region that require further investigation into some differences in that region elevate risk, or whether there is an increased propensity to claim or notify issues.
- **Age** – younger age groups were more likely to claim, and youth are a large proportion of the agency workforce.
- **Ethnic group** – Māori and Pacific peoples were over-represented in the injury statistics. Research also suggests that some groups of migrants are less likely to report and claim – this was supported by our agency worker focus groups. Migrant workers are 41% of the agency workforce.

Again the data available needs to be collected and input in a more robust way to enable more definitive conclusions.

The agency work safety experience does not appear to differ significantly to the non-agency experience. From our research, there is a more measurable difference when the agency worker is also a migrant worker, and there are a number of factors that increase their health and safety risk:

- migrants are often not aware of their employment rights and their ability to raise concerns
- there may be cultural barriers to identifying a health and safety risk and raising a concern
- there are low barriers to entry to the agency work industry, meaning that migrant employers in the industry may not be complying with New Zealand laws
- work visas are attached to employers, which makes it less likely that agency workers will raise a concern, for fear of being deported.

We note that Immigration New Zealand and MBIE's Employment Services provide useful guides and support for both migrant workers and the employers of migrant workers, to help them understand employment rights and obligations. Increasing the awareness and use of these tools could be a useful initial step.

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# APPENDIX 1: DATA DEFINITIONS AND SOURCES

## Integrated Data Infrastructure

The Integrated Data Infrastructure (IDI) is a large research database. It holds microdata about people and households. It is hosted by Stats NZ.

The data is about life events, like education, income, benefits, migration, justice, and health. It comes from government agencies, Stats NZ surveys, and non-government organisations (NGOs). The data is linked together, or integrated, to form the IDI.

The IDI complements the Longitudinal Business Database (LBD), which holds linked microdata about businesses. The two databases are linked through tax data.

Income and work data – includes microdata on tax and income, as well as survey data on income (from New Zealand income survey); household labour force (HLFS); family, income, and employment (SoFIE); and household economics (HES).

Population data – contains information on border movements, visa applications, departure and arrival cards, as well as personal details such as births, deaths, marriages, and civil unions.

IDI produces individual-level data. Individual level data is extracted from the Longitudinal Business Database, comprising of administrative data from Inland Revenue (IR4, IR10, GST) and the Linked Employer-Employee Dataset (LEED). The IDI allows identification of specific workforce populations by industry of entity through which income tax was filed.

IDI data is randomly rounded to base of 3 and any value less than 6 is suppressed to maintain confidentiality.

The IDI enables examination of annual rolling mean employment (average number of jobs filled) as well as a demographic breakdown of individuals who worked in the industry for at least one month in the year. Both views are critical for quantifying and profiling the industry and its workforce, especially given the high churn rate and short tenure characteristic of the industry.

## Household Labour Force Survey

The Household labour force survey (HLFS) holds New Zealand's official employment and unemployment statistics.

In 2012, employment relationship was asked in the Survey of Working Life, since 2016 it has been asked in the redeveloped HLFS.

The HLFS dataset is survey-based. Quarterly estimates of national employment by. Positive responses can be derived, and, in some instances, proxy responses are included. Quarterly HLFS estimates are modelled on approximately 70,000 respondents' self-declared surveyed nationally per quarter.

HLFS data is randomly rounded to base of 3. When a multiple variable view is applied, any value less than 1,000 is suppressed to maintain confidentiality. The high value suppression trigger and low population estimated for temporary agency workers meant many demographic breakdowns were made unavailable.

# APPENDIX 2: METHOD

This study incorporated a number of methods:

- literature review
- data access, collation and analysis
- interviews with stakeholders
- interviews and focus groups with agencies, host companies and workers
- online survey of agencies
- site visits at two host/client companies.

## Literature review

We undertook a literature review focused on understanding the growth of temporary employment agencies and trends in their use; and risks associated with employment under agency employment arrangements or precarious employment more generally.

We focussed on jurisdictions that are similar to New Zealand, for example, Australia, Canada and the United Kingdom. Various states in Australia have recently gone through investigations into the use of temporary employment agencies, and the impact that has on employment conditions and workers.

In the New Zealand context, the Employment Relations (Triangular Employment) Bill is progressing through the process of becoming law. It aims to ensure that agency workers are not deprived of the right to coverage of a collective agreement, and to ensure that such employees are not subject to a detriment in their right to allege a personal grievance.

## Data access, collation and analysis

It is well documented in the literature that the industry is difficult to measure, with many studies noting the difficulties in measuring the full extent of the industry, the relative paucity of estimates (e.g., Burgess, Connell, & Rasmussen, 2005; Judge & Tomlinson, 2016; OECD, 2002) and the variability of the measures that do.

We present and interpret official estimates from Stats NZ, as well as customised data from Stats NZ commissioned/analysed by the Ministry of Business, Innovation and Employment and MartinJenkins.

We applied to gain access, and were granted access, to data held in the Integrated Data Infrastructure

**INSIGHTS FROM:**

**Primary research:**


**Secondary research:**

- Stats NZ Llinked Employer-Employee Data (LEED)
- Stats NZ Household Labour Force Survey (HLFS)
- Stats NZ Integrated Data Infrastructure (IDI)
- WorkSafe notifications
- ACC work-related claims
- IBISWorld industry estimates

pertaining to agency workers.

## Interviews with stakeholders

We interviewed seven representatives from unions, industry associations, policy/operational government organisations and a health and safety expert in Australia. Interviews occurred between 18 March 2019 and 13 June 2019. They were conducted either in person or on the phone, and audio recorded. Interviews were, on average, an hour in length.

Interviews were conducted with a structured interview schedule designed to elicit:

- what their understanding was of the agency employment industry in New Zealand (size, workers, users)
- trends in the industry over time, and any evidence they had access to
- what insight they had in relation to the key health and safety risks for agency workers, and how these are managed
- to what extent recent legislation has impacted on practice
- their understanding of the agency work and health and safety experience, from their point of view/membership
- what opportunities are there to improve health and safety? Who should be involved?

## Interviews and focus groups with agencies, host companies and workers

We had intended to undertake seven focus groups:

- Agencies
- Agency workers who work in professional services, IT, policy, administration, contact centres
- Two groups of agency workers who work in the trades, construction, transportation, manufacturing, primary industries
- Workers who work alongside agency workers in professional services, IT, policy, administration, contact centres
- Workers who work alongside agency workers in the trades, construction, transportation, manufacturing, primary industries
- Host companies.

We had great difficulty signing up enough participants for the focus groups. We were only able to undertake three focus groups (agencies, two 'blue collar' focus groups – one in Auckland and one in Hamilton), and undertook one-on-one interviews with host companies to make sure we were able to capture their perspectives.

We spoke with a total of 26 people in the agency employment industry, across focus groups in interviews (Table 6).

**Table 6. Interviewees and focus group participants**

| Location | Agency workers | Agencies | Host companies |
|---|---|---|---|
| Auckland | 4 | 10 | |
| Wellington | | | 2 |
| Hamilton | 8 | | |
| Christchurch | | | 2 |
| **TOTAL** | **12** | **10** | **4** |

Notes: The agency focus group was held in Auckland but was attended by agencies that are located across New Zealand.

Agency worker participants were provided with a $50 Prezzy® card to acknowledge the time taken out from their working day to be at the focus group.

We had organised a focus group of call centre workers at a host company's site in conjunction with an agency but the agency and host shared concerns about worker fatigue and the need to be focused at the training session and work on the same day. The host company subsequently withdrew participation. We appreciate that the host company considered these health and safety risks and acted on them.

## Online survey of agencies

We conducted an online survey of agencies to understand:

- The size and make-up of the industry, including demographic characteristics of the agencies, people employed/contracted, and the likely future state of the industry.
- The health and safety risks associated with the agency arrangement, and how effectively they are being managed by both agencies and host companies/your clients.

The survey was in the field 22 April 2019 to 4 June 2019. Participants were notified that their responses are confidential and WorkSafe would not have access to individual responses. Participants who complete the survey also had the chance to enter a draw to win a $200 Prezzy® card.

RCSA publicised the survey through their channels, including through their newsletter and on LinkedIn. We also developed a database of agencies to allow personalised invitations to the survey.

The response rate for the online survey was low, despite the incentive and RCSA's support. 136 responses were received, of which only 37 were completed surveys. After ensuring there were no duplications, computer-generated responses or spurious responses, there were:

- 81 responses where we were able to use to understand where companies are located, and average size
- 41 responses where we have more detailed information on their workforce and opinions on trends
- 37 responses where we have detailed information on agency employment practices.

Given the low response rate, and the profile of those who responded, we cannot generalise that the responses of the survey participants are representative of the agency worker industry as a whole. Survey participants were broadly similar in terms of regional spread of employees and agency workers; however, tended to be much larger in business size. The subject of the survey, and the difficulty we encountered in engaging participants in this project, also suggests that survey participants would likely be those who are engaging in good practice.

## Site visits at two host companies

We had intended to visit sites in three locations around New Zealand, that were clients of two agencies. Due to the limited time hosts had available,

and the general difficulty we experienced encouraging businesses to take part, we were only able to visit two sites (one in Wellington and one in Christchurch) of one agency (head officed in Auckland). We also undertook an in-depth interview with two representatives from the agency.

Our health and safety specialist spent a day at the site (5 – 6 hours) and the site visit focuses specifically on the three areas of leadership, engagement and risk management. The approach seeks to understand what normal work looks like, and what might be different for agency workers and non-agency workers. It included:

- interviews with senior staff in the company, with a focus on the ‘three Rs’ – risk management, relationships and resources
- a review of health and safety documentation
- a walk around the site, with short chats to agency workers ‘on the ground.’

The approach was similar to a pared-down ‘SafePlus’ approach. The host companies received a summary A3-style report with key findings and recommendations against the 3 Rs. It highlighted good practice and areas for future focus to guide ongoing improvement activity.

# APPENDIX 3: ACKNOWLEDGEMENTS


## Contributors and participants

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Stats NZ

The Labour Inspectorate

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