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**“We only supply fully fit workers to suit our clients’ need” -  
Injured labour hire workers and their return to work experience**

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Contemporary workplace injury management philosophy promotes early return to work to facilitate successful reintegration of injured workers into the workforce. But as employment security diminishes across the workforce, the likelihood of injured workers returning to pre-injury employment also lessens. This paper examines the return to work experience of labour hire employees, a highly insecure group of employees. The analysis finds injured labour hire employees are significantly less likely to be offered further employment than direct hire employees. Whilst the severity of the injury is an important factor limiting a return to work, the casual status of labour hire employees contributes to the ability of labour hire employers to discard injured workers, and terminate their employment for simply lodging a claim. The implications of these findings are significant in view of policies which promote alternate forms of employment without fully considering the consequences for employees, for workforce regeneration, and for workers’ compensation systems.

### **Introduction**

Research consistently finds a link between early return to the job in the injury rehabilitation process, and successful reintegration into the workforce. In the 1980s and 1990s, Australian State workers’ compensation acts were amended to encourage employers to find suitable duties for injured workers, and to deter them from dismissing injured workers. This paper reviews the success of return to work practices for injured labour hire employees, compared with direct hire employees, in the State of Victoria. The paper begins with an overview of occupational health and safety outcomes for labour hire employees, and the problems they encounter in accessing the workers’ compensation system. The paper then outlines the statutory obligations applied to employers in Victoria with respect to providing ‘suitable work’ for workers injured at work, and their application to labour hire employers. In section three, the research methodology of the study is described. The data is analysed in section four, focusing upon the return to work experience of injured workers, and characteristics of claims and claimants which may contribute to diverging return to work outcomes for labour hire and direct hire workers. The conclusion summarises the findings and their implications for policy debates.

### **Overview of OHS outcomes for labour hire employees**

Labour hire employees are employed by a labour hire company and placed with a host who generally directs their work on a daily basis. Research both in Australia and internationally consistently finds that labour hire employees have a higher incidence of injuries than direct hire employees. They also appear to suffer more serious injuries (Johnstone & Quinlan, 2005; Underhill, 2002). Statutory authorities in Australia responsible for preventative and inspector activities for occupational health and safety (OHS) identify labour hire employment as the most difficult and compromising area to manage OHS in Australian workplaces (Gallagher, Underhill, & Rimmer, 2001; Johnstone & Quinlan, 2005). Labour hire employees report being ‘dismissed’ for raising OHS and workplace concerns, and many are reluctant to raise concerns for fear of dismissal (Underhill, 2005). A recent Parliamentary

enquiry into labour hire employment in Victoria affirmed concerns over the OHS treatment and future work prospects for labour hire employees (Economic Development Committee, 2005).

What little research exists suggests these factors impact upon the reporting of workers' compensation claims by labour hire employees, and their employment outcomes once a claim has been lodged. Thus, a 2003 survey of 144 labour hire employees in Victoria found that 24% of respondents experienced a workplace injury in the past 12 months. Whilst almost half of these involved injuries considered too minor to lodge a workers' compensation claim, 18% of those who did not lodge a claim were deterred from doing so for fear of job loss (Underhill, 2004). The reluctance to make a workers' compensation claim for job security reasons is not unique to labour hire employees. For example, the Australian Bureau of Statistics found in 1993 that 8% of all types of injured workers in New South Wales did not make a claim for fear of possible retrenchment (Quinlan & Mayhew, 1999). Future job prospects with other employers may also deter injured workers from lodging a claim when employers include compensation history in selection processes (Morrison, Wood, & MacDonald, 1995). In Victoria, employees are required to disclose any pre-existing injuries or disease before being hired, or risk being ineligible for future compensation claims (VWA, 2004a:9).

The 2003 Victorian survey also found that 10% of respondents had lodged a workers' compensation claim. Of these, one third were offered light or modified duties with the pre-injury host, but 27% were not offered further work until they were fully fit to return to pre-injury duties. One in five (20%) were not offered any further employment by their agency (Underhill, 2004). Whilst this data is qualified by the small number of survey respondents, it implies a bleak picture for labour hire employees who are injured at work. If they make a workers' compensation claim, they risk remaining on workers' compensation benefits (with an associated lower income) until they are fully fit to return to work, or at worst, losing their employment altogether and potentially jeopardising future job prospects. If they do not make a claim, and require time off work, they suffer a complete loss of income due to their predominantly casual employment status and lack of entitlements to sick or annual leave. On the other hand, if they decide to attend work whilst injured, they risk compounding the nature of the injury and ultimately enduring more serious employment, financial and health problems.

### **Overview of return to work legislative obligations**

The Accident Compensation Act 1985 (Victoria) imposes minimum requirements upon employers governing the management of workers injured in the workplace. Employers are required to have an occupational rehabilitation program, a return to work plan for each injured worker, and a risk management program (VWA, 2004b). Once a workers' compensation claim has been accepted, employers are required to provide 'suitable' or the pre-injury employment to the injured worker for up to twelve months. 'Suitable' employment means 'work that suits the nature of your worker's injury and their current capacity...without the risk of further injury' (VWA, 2004b:94). After 12 months has lapsed, an employer can dismiss an injured worker. However, workers' compensation payments continue until either the injured worker has a capacity for work, or until the injured worker retires (VWA, 2004a). The obligation upon employers to provide suitable employment to injured workers was introduced to all Australian states in the 1980s and 1990s for two principle reasons. First, when employers provide employment to their injured workers, there is much greater likelihood of the employee successfully returning to work. Without such a guarantee, the return to work process of injured workers 'is seriously, if not terminally compromised' (Purse, 2002: 62). Second, employers were said to routinely dismiss injured workers, undermining reintegration

of injured workers into the workforce (Purse, 2002). The level of compliance with return to work statutory requirements is unknown. Most States designate non-compliance as a criminal offence, but South Australia is the only state where such prosecutions have occurred. Similarly, some States allow for workers' compensation premium adjustments when an employer dismisses an injured worker, but again the only State where this is known to have been applied is South Australia (Purse, 2002). Dismissed injured workers are more likely to instigate an unfair dismissal action against their employer under relevant State industrial relations legislation or the Workplace Relations Act. This potentially offers the injured worker a remedy, whereas the state compensation regimes only offer authorities a penalty against the employer (Guthrie, 2002).

The absence of prosecutions against employers for dismissing injured employees means any interpretation of how the legislation would apply to labour hire employees can only be speculative. Labour hire employees are predominantly casual employees, and each attendance at work is regarded legally as a new offer of employment. The decision to not offer another placement with a host is therefore not a dismissal but the absence of a new contract of employment (Tham, 2004). Hence, if no further placements are offered to an injured labour hire employee, they are simply not being re-hired rather than being dismissed. The failure of labour hire employers to offer injured workers further employment may be consistent with their legal obligations. An injured labour hire employee, however, could still potentially claim unfair dismissal if they had been employed for at least twelve months on a regular and systematic basis by the labour hire employer.

## **Methodology**

This study analyses a sample of workers' compensation claims lodged by injured labour hire and direct hire employees (July 1994 and June 2001) in Victoria. Workers' compensation claims are recorded when an employee has lost more than ten working days, or when the medical costs are greater than a specified minimum amount (approximately \$450.00 in 2001). Not all workers' compensation claims are automatically accepted nor compensation paid by the claims' agent. Some are investigated to verify compliance with the Workers' Compensation Act. The sample population in this study was drawn from those claims subject to an investigation by the claims agency. Claims are usually investigated when the employer of the injured worker expresses concern that the claim may not be legitimate or the claim is sufficiently unusual and unexpected that they would like the circumstances explained. Suspicion concerning the legitimacy of a claim is often associated with the employers' belief that the injury was caused by a non-work factor; that the injury is related to an earlier injury sustained with another employer; that the injury was genuine but the employee is malingering; or that the injury does not exist at all. The latter belief arises most often when the claim and reporting of the injury is delayed; or when the claim is made after the employee's employment has been terminated or, in the case of labour hire employees, after no further placements have been offered. Claims are also investigated when the injury potentially involves a common law negligence suit or when the claim involves a permanent disability. In all cases except those involving common law suits, the investigation process precedes acceptance of the claim and payment of workers' compensation benefits. Consequently, an injured worker whose claim is investigated may not receive compensation benefits for several weeks, or even months, after the injured has been sustained.

Investigations usually involve interviews with a number of parties, including the injured worker, their supervisor, their employer (for labour hire workers) and workers who witnessed the incident. A detailed history of the claimant's employment may be collected, and surveillance of the injured worker may be conducted. The claimant's workers' compensation

file also includes medical reports, conciliation reports, and correspondence on the rehabilitation and return to work processes. Investigated claim files contain detailed information not recorded by OHS agencies for statistical purposes, including information on the claimant's return to work experience post-injury. These files were examined in this study, and the information collated both quantitatively and qualitatively. This paper draws primarily upon the quantitative data.

Between July 1994 and June 2001, almost four thousand (3,941) workers' compensation claims were lodged by labour hire employees in Victoria, and 571 (14.4%) of these were investigated by the claims agent. The only claims selected for analysis were in the most common occupational/industry groupings for labour hire claims: white collar occupations; maintenance trades (primarily in manufacturing); building and construction workers; stores, warehouse and transport workers; and process and assembly workers. Three hundred and sixty-six (366) claims fell within these groups, of which 227 were available for examination. The remaining 89 files were either on-going claims, or the files were held by the claims agent (and not WorkSafe Victoria) and therefore not available for examination. After eliminating files containing insufficient information, 214 files remained. A further 16 claims were later removed as they were direct hire office workers employed by labour hire companies and did not fit the characteristics of the sample. Hence, a total of 198 labour hire files were analysed.

A stratified random sample of direct hire employees' whose workers' compensation claims files were also investigated was selected from WorkSafe Victoria's claims data base and matched to the labour hire files by occupational/industry group and year. A total of 214 files were examined. This sampling process was underpinned by the hypothesis that workers with a similar occupation and industry location should encounter similar injury and return to work experiences, unless their mode of employment intervened.

Both the labour hire and direct hire files sampled showed a similar distribution of injury types when compared to the total population of all types of claim with two exceptions. First, acute injuries such as fractures, dislocations, open wounds and crushings were under-represented. Second, less visible injuries such as sprains, strains and occupational overuse syndrome were over-represented. This is an outcome of the decision process underpinning the selection of claims for investigation by claims agencies. Acute injuries are less likely to raise suspicions that the injury either does not exist or is not work related, whilst less visible injuries are more likely to be questioned as to their legitimacy.

All workers' compensation claims lodged in Victoria are included in the WorkSafe Victoria data base, irrespective of whether the claim is ultimately accepted or rejected by the claims agency, or withdrawn by the claimant. Hence a number of claims included in this study did not result in workers' compensation payments. Claims may be rejected or withdrawn for a variety of reasons, many of which do not directly relate to the nature of the injury. The claims agent will reject a claim when work is found not to have been a 'significant contributory factor'. This is the test which claims must meet to be eligible for workers' compensation.

Claimants may withdraw or discontinue their claim at several stages in the investigation process, prior to the claim either being accepted or rejected by the agency. First, a contested claim can undergo conciliation between the agent and the injured worker, when the claimant disagrees with the agent's rejection of their claim. If the conciliator determines there is a genuine dispute, but does not direct the agent to accept the claim, the injured worker can pursue the claim further in the Magistrate's Court. In a number of the files examined, the conciliator found a genuine dispute, but the worker still elected not to take further action before the Magistrate's Court. In these cases, the file was officially treated as rejected, and workers' compensation payments were not paid. The reasons for claimants not pursuing their

claim further are not disclosed in their files. Few of the claims studied involved third party representation, such as unions or solicitors. After experiencing months without income, coupled with continual medical appointments, claimants in these circumstances appear to become worn down and just give up. Second, a claimant may find new employment elsewhere and not comply with requests from the claims agent for further medical examinations. Having failed to comply with the agents' request, the agency rejects the claim. Similarly, the claimant may find employment elsewhere and officially withdraw their claim. Third, when a claim involves an on-going and serious disability, such as a debilitating back injury, the claimant may give up pursuing the workers' compensation claim and opt for disability or sickness benefits. In each of these circumstances the claimant endures lost wages and foregoes future redemption of medical costs. Further, the question of whether work was a 'significant contributory factor' to the injury remains unresolved. Because most withdrawn claims, and an indeterminate proportion of rejected claims are arguably genuine, they are included in the analysis.

### Data Analysis

When a worker is injured at work, the injury may be relatively minor and not require time off work. However, if the medical costs exceed a specified minimum, the injury will be recorded for workers' compensation purposes, notwithstanding an absence of lost wages. When the injury requires time off work, the worker may return to normal work duties or in the case of more serious injuries, return to lighter or modified duties. As noted earlier, employers in Victoria have an obligation to offer 'suitable duties' for up to 2 years after the claim has been accepted. The claims data was analysed first to determine the frequency with which different types of injured worker returned to work. The results are presented in Table 1.

**Table 1: Return to work experience of labour hire and direct hire claimants**

Return to work experience	Proportion of Claims			
	Labour Hire Employees (LH)		Direct Hire Employees (DH)	
	No.	%	No.	%
No lost time, remained at work	8	4.0%	13	6.1%
Return to work, normal duties	38	19.2%	57	26.6%
Return to work, lighter or modified duties	23	11.6%	53	24.8%
No return to work:	72	36.4%	18	8.4%
(a) no further offer of employment (LH)				
(b) employment terminated (DH)				
No return to work:	37	18.7%	29	13.6%
(a) employee finds alternate employment (LH)				
(b) employee resigns (DH)				
Return to work not applicable, claim post employment cessation (1)	6	3.0%	23	10.7%
No return to work, other misc. reasons (2)	1	0.5%	2	0.9%
No return to work, retired on medical advice &/or common law settlement	11	5.6%	13	6.1%
No return to work, deceased employee	2	1.0%	6	2.8%
Total	198	100%	214	100%

$\chi^2 = 62.555$  DF 8 Sig = 0.000

(1) Includes claims lodged post retirement for labour hire and direct hire; between placements with hosts for labour hire; and post resignation or employment termination for direct hire

(2) Other miscellaneous reasons: in one case, the injured worker died from non-work factors before a return to work was possible; in the second case, the employer had ceased operations; the third case involved a fixed term contract where the claim was lodged 2 days prior to the completion of the contract.

Only a very small number of investigated claims involved no lost time. This is to be expected. They are minor claims unlikely to justify the costs of an investigation. When the claim involves an injury requiring time off work, the return to work experience of labour hire employees is significantly different from that of direct hire employees. First, labour hire employees are less likely to return to their pre-injury duties. Only 19% of labour hire employees returned to normal duties compared to 27% of direct hire claimants. Second, only 12% of labour hire employees were returned to work on light or modified duties, compared with 25% of direct hire employees. Third, 36% of labour hire claimants were offered no further work by their employer compared with only 8% of direct hire employees who found their employment terminated after they had lodged a workers' compensation claim. Fourth, labour hire employees were slightly more likely to move on to another employer post injury (19%) compared to direct hire employees (14%). These claims are distinguished from those where labour hire employees received no further offers of placements because the claimant advised the agency of their new employment. Whether they switched employers because no further work was offered by their original employer could not be determined from the file correspondence. Fifth, a much higher proportion of direct hire employees (11% compared to 3%) lodged their claim after their employment had been terminated. Delayed claims are most likely to be investigated.

A small proportion of claims (6% for both groups of employees) involved incapacitating injuries which prevented any return to work. This proportion is inflated by the nature of the sample. Extremely severe injuries and claims resulting in a common law suit are invariably investigated and therefore occur in disproportionate numbers in any study of investigated claims. Similarly claims involving a deceased employee are always investigated.

The data suggests some explanations for the inferior post-injury experience for labour hire employees. First, the poor outcomes for labour hire employees can arise because any employer hiring a casual employee may not have a legal obligation to offer 'suitable' work post-injury. Once the injury has been sustained, and the employee is unable to attend at work, the contract of employment and associated legal obligations cease. The data in Table 2 shows that casual labour hire employees were less likely to be rehabilitated by their employer than permanent labour hire workers.

**Table 2 Return to work experience by employment status of labour hire claimants**

Return to work (RTW) experience	Proportion of Labour Hire Claims (1)							
	Permanent employees (2)		Casual employees		Contractors		Total	
	No.	%	No.	%	No.	%	No.	%
No lost time	2	6.7%	6	4.3%	-		8	100%
RTW normal duties	12	40%	25	17.7%	1	20%	38	100%
RTW light or modified duties	6	20%	16	11.3%	1	20%	23	100%
No RTW no further offer of employment	5	16.7%	64	45.4%	2	40%	71	100%
No RTW - employee finds employment elsewhere	5	16.7%	30	21.3%	1	20%	36	100%
Total	30	100%	141	100%	5	100%	176 (1)	100%

Fisher's exact test = 0.035

- (1) excludes those for whom a return to work is not possible due to permanent disability, having already resigned or retired, or being deceased (20 workers); and 2 for whom employment status was indeterminate
- (2) employed as permanent employees of the labour hire company, although potentially placed on short term assignments with host organisations.

Several inferences can be drawn from this table. First, the higher proportion of permanent employees returning to normal duties suggests they may be more confident that making a claim for minor injury will not lead to termination of employment. Second, labour hire employers may be more reluctant to dismiss permanent employees when they have made a claim, and will also support their return to work on modified duties. Third, labour hire employers claim it is impracticable to rehabilitate workers on lighter or modified duties (although there are exceptional labour hire employers which disprove the generalisation). The starkly different outcomes for permanent compared to casual labour hire employees suggests that labour hire companies may be exploiting a gap in regulation which allows them to avoid return to work obligations in respect of casual employees.

Second, Tables 3 and 4 displayed on the following page shows that if injured labour hire employees are to be rehabilitated at work, they must return quickly. Severe injuries that delay return to work reduce their chances of re-employment significantly compared to direct hire employees.

**Table 3. Return to work outcomes for labour hire employees by severity of injury**

Days Compensated (severity of injury)	Labour Hire Claims									
	Return to work experience (1)									
	Returned to pre-injury duties		Returned to lighter / modified duties		No RTW – no placements offered		No RTW – employee finds other employment		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
No days compensated	25	26.6%	9	9.6%	37	39.4%	15	16.0%	86	100%
Up to 1 month compensated	8	24.2%	2	6.1%	14	42.4%	9	27.3%	33	100%
> 1 - 3 months	4	17.4%	4	17.4%	6	26.1%	9	39.1%	23	100%
> 3 - 6 months	-	-	4	36.4%	6	54.5%	1	9.1%	11	100%
> 6 - 12 mths	-	-	2	33.3%	3	50%	1	16.7%	6	100%
> 12 months	1	10%	2	20.0%	6	60%	1	10.0%	10	100%

$\chi^2 = 31.838$  DF 20 Sig = 0.045

(1) excludes those for whom a return to work is not possible due to permanent disability, having already resigned or retired, or being deceased; and eight claimants who had no lost time.

**Table 4. Return to work outcomes for direct hire employees by severity of injury**

Days Compensated (severity of injury)	Direct Hire Claims									
	Return to work experience (1)									
	Returned to pre-injury duties		Returned to lighter / modified duties		No RTW – no placements offered		No RTW – employee finds other employment		Total	
	No.	%	No.	%	No.	%	No.	%	No.	%
No days compensated	40	40.8%	17	17.3%	10	10.2%	18	18.4%	85	100%
Up to 1 month compensated	6	23.1%	13	50.0%	2	7.7%	5	19.2%	26	100%
> 1 - 3 months	6	40%	8	53.3%	-	-	1	6.7%	15	100%
> 3 - 6 months	4	33.3%	4	33.3%	1	8.3%	3	25%	12	100%
> 6 - 12 mths	-	-	7	63.6%	4	36.4%	-	-	11	100%
> 12 months	1	12.5%	4	50%	1	12.5%	2	25%	8	100%

$\chi^2 = 45.385$  DF 20 Sig = 0.001

(1) excludes those for whom a return to work is not possible due to permanent disability, having already resigned or retired, or being deceased; and thirteen claimants who had no lost time.



Comparing Tables 3 and 4 reveals a number of contrasts. First, the proportion of labour hire claimants with longer-term injuries (more than 1 month) who return to work averages around one-third of cases (17 of 50 claimants paid more than 1 month compensation) compared with direct hire claimants where the proportion is over two-thirds (34 of 46 claimants paid more than 1 month compensation). Second and conversely, the proportion of labour hire claimants with longer term injuries who are not offered a return to work placement is approximately 42% of cases compared to only 13% for direct hire. Third, differences are also pronounced for short term injuries. Just under 40% of labour hire claimants who have had no days compensated are still not returned to work compared to only 10% of direct hire claimants. Qualitative evidence supports the view that the absence of further offers of placements following minor claims strongly indicates that lodging the claim, not the severity of the injury, contributes to the withdrawal of future employment.

Third, there may be practical constraints on labour hire employers finding suitable placements for workers requiring lighter or modified duties. Some labour hire companies specialise in supplying particular trades or industries, whilst others supply workers with a range of skill levels across many industries. Specialist labour suppliers may have longer-term relationships with host clients, enabling them to persuade hosts to accept injured workers. On the other hand, labour supply companies with a broader range of placements may have more scope for placing injured workers in different, lighter duties. The data was analysed to determine whether the nature of the labour hire company's operations impacted upon their return to work practices (tables have been omitted due to space considerations). Only 11% of claimants in this study were hired by specialist labour hire companies. Their employers were more likely to offer a return to work on lighter/modified duties (27% compared to 14% for non-specialist). Claimants hired by specialist suppliers were also less likely to move to another employer (7% compared to 21% for non-specialist); however they were more likely to experience an absence of further offers of employment (40% for specialist, 34% for non-specialist). These findings were not statistically significant. The differing return to work outcomes suggest, but do not confirm, that specialist labour hire companies are more likely to take steps to return injured workers to work.

Fourth, the duration of employment with a labour hire company prior to the injury may influence the employers' attitude towards the claimant, as an implicit contract develops akin to that with direct hire permanent employees. In such cases, the labour hire company may have a greater level of trust and understanding of the employee, and be more concerned with retention. The data was tested to compare return to work outcomes for employees injured in the first month of their employment (22% of claimants) with those employed for a longer period (tables have been omitted due to space considerations). Those injured within the first month were much less likely to return to normal duties (3% compared to 30%); much less likely to be offered further placements (55% compared to 32%), but slightly more likely to be offered light or modified duties (19% compared to 15%). A similar proportion of both groups (23%) found employment elsewhere. The differences were statistically significant (Fisher's exact test = 0.011). Similar results were found when comparing employees injured within their first year of employment, with those employed for a longer period. Claimants with less than one year's employment were more than twice as likely to not receive any further offer of employment (43% compared to 19%). These findings suggest that labour hire companies are much more likely to offer a return to work for longer term employees than recent commencements. It points to the exercise of discretion which favours longer term employees whilst disadvantaging new employees.

## Conclusion

Workers' compensation authorities in Australia have actively promoted rehabilitation through return to work for workers injured at work. This is seen as the most cost effective and humane means of supporting injured workers (Purse, 2002). Labour hire employees are more likely to be injured at work, yet their employers show little interest in supporting their successful return to work post-injury. Instead, they are more likely to effectively terminate employment. The desire to eliminate this practice of terminating injured employees contributed to the introduction of legislative requirements for employers to find suitable work for injured workers in the 1980s and 1990s. Labour hire employers, however, avoid these obligations by relying on casual employees. Those that hire permanent employees are noticeably more likely to continue employing the worker.

The severity of injury plays a role in whether a labour hire employee is offered further work, with those most severely injured least likely to be re-employed. However, many are not offered further employment simply because they have lodged a workers' compensation claim. On this basis, fears expressed by labour hire employees of the threat to employment associated with making a claim are well-founded. To the extent that this deters labour hire employees from lodging claims over relatively minor injuries, data on workers' compensation claims will increasingly understate the incidence of workplace injuries as labour hire employment expands further. Importantly, however, labour hire employees may risk working with an injury rather than lodging a claim, potentially compounding their injury and eventually experiencing a much more serious injury. This is a high risk strategy for labour hire employees given the absence of return to work processes supported by labour hire employers with respect to employees with severe injuries.

Preliminary analysis of the claims data showed that even though severity of injury plays a part in the decision of the labour hire company to offer further placements to workers post-injury, a high level of discretion based around issues of trust, disposability of workers, and practicality of finding placements for workers requiring lighter or modified duties are also important. Labour hire employees injured early in their employment were treated far less favourably than those employed for a longer duration; those working for specialist labour hire organisations were more likely to return to work post-injury although a substantial proportion also received no further offers of employment. Other factors impacting upon return to work practices, such as the nature of the injury, could not be explored within the constraints of this paper.

The failure of labour hire employers to support severely injured workers has important implications for both the injured employee and the question of who bears the costs of these injuries. An employee with a substantial workers' compensation claim may encounter difficulties in ever regaining employment should their work incapacity be overcome. If they regain some but not full capacity to work, they may find their workers' compensation benefits terminated, and instead become financially dependent upon the disability pension. In both instances, the costs of the claim are pushed out of the workers' compensation system and borne by the social security system. In both instances the employee risks becoming entrapped in poverty, when a return to work programme may have enabled them to regain productive employment.

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