

SUBMISSION OF THE AUSTRALIAN SERVICES UNION

The ASU is the union representing white collar clerical, administrative and customer service employees across a wide range of industries in both the public and private sectors.

The ASU's submission is supplementary to the submission provided by the QCU, and will not cover those matters which are dealt with in detail in the QCU submission, which is endorsed by the ASU. Rather, the ASU seeks to outline our key concerns and provide more detail relevant to the occupational base of workers represented by our union.

The ASU does not believe that adequate attention or resources have been allocated to date to white-collar and more particularly clerical and administrative occupations. It is apparent that the lion's share of resources is allocated to blue-collar industries. Whilst the ASU would agree that there is a higher risk of death and serious injury in those industries, we have been concerned to observe a serious deficit of experience and interest in our areas of coverage on the part of WHSQ personnel generally. Our submission is made in the context of urging policy makers and resource allocators to review the complete inadequacy of the system which fails our members on a regular basis.

We do not wish to make complaints regarding WHSQ staff who appear to be extremely busy and dedicated individuals, but it is clear that a confusion of roles and responsibilities has added to a level of conflict between WHSQ staff and union staff which is misplaced and unnecessary. The dual functions of *advising* employers as well as *prosecuting* employers has resulted in a culture of negotiation and concealment in some cases, rather than enforcement of the Act. The ASU's complaints with respect to the handling of Qantas matters including the exposure of secret deals between WHSQ and Qantas are well documented and we can provide full particulars upon request. We are aware of other similar stories from other unions.

We do not believe that it is appropriate that a single Inspector should receive a complaint and then be placed in a position of having to give advice to an employer, rather than the employee who has made the complaint. This has resulted in frequent instances where employees' complaints are neither acknowledged nor actioned, and where the Inspector has failed to even interview the complainant at all. Complainants in the past have not been kept up to date with progress of their complaints, and have not been advised of any outcomes. The ASU acting on behalf of complainants has frequently been refused access to information such as the employer's response to the complaint, as well as any steps that have been agreed to be taken as a result of the complaint. Such activities have in the past taken on a cloak of secrecy which have resulted in conflict between the union and WHSQ, and has resulted in very unsatisfactory outcomes for our members who continue to be left out of the loop.

The ASU has gained the impression that different industries elicit different responses from WHSQ. For example a shut down of air conditioning in the height of summer does not entitle complainants to a visit from an Inspector, despite evidence of heat exhaustion and poor management of the hazard by management. Another example is the refusal of WHSQ to audit the safety of aerobridges at Brisbane Airport after a serious accident late last year, despite the ASU's requests to do so. Whilst the latter example resulted in permanent brain damage on the part of our member, we have been unable to ascertain what action if any has been taken to inspect the aerobridge involved in the accident, what investigation has been undertaken of maintenance programs, and what investigation has been undertaken with respect to the safety of other aerobridges. This is despite our advice to WHSQ that our members frequently complain of mechanical failures and the fact that the public may also be at risk.

Investigation techniques with respect to rostering practices also appear to be vastly inadequate. WHSQ has repeatedly advised the ASU that they do not have significant expertise in this area, yet have failed to deal with ongoing issues at Qantas which arose in 2006. Inspectors refuse to intervene with poor rostering practices and deliberate understaffing, and continue to support the employer's contentions, going so far as to agree to rosters sight unseen.

The practice of entering into secret Partnership Agreements with an employer is in our view most inappropriate, creates a serious conflict of interest on the part of WHSQ, and is a danger to employees who are kept in the dark about hazards and incidents within their own workplace. An incentive also arises for Inspectors to simply sweep issues under the carpet that they have failed to deal with. The Qantas Partnership Agreement, obtained by the ASU as a result of an FOI application, was clearly not monitored during its operation and expired without being implemented. Action was only taken on a piecemeal basis after the ASU's further complaints.

It is also apparent that Inspectors have not been adequately trained in the recent changes to the Act with respect to AREOs, and this has led to further conflict and confusion on the ground, again, unnecessarily. Some Inspectors also appear to be unaware of the requirements of the Act with respect to the rights of Health and Safety representatives and Committees generally, and this has led to a lack of faith in WHSQ on the part of our membership.

The ASU has been advised by WHSQ that risk assessments are not required within our industries, despite the fact that the Act does not prioritise particular industries in this regard. WHSQ has consistently refused to enforce this aspect of the Act and refuses to share information with the ASU which they say serves the same purpose of satisfying their Inspectors. Clearly, our members take this to mean that their health and safety is not as highly valued as a worker in the construction industry, for example. The employer no doubt will also take away

this message. Either way, the issue at hand is not addressed, and the Act is selectively not enforced.

The failure of WHSQ to enforce the Act means that issues affecting ASU members remain unresolved, and our members' expectations significantly lowered where intervention is seen as necessary. In our view, a far more practical and effective process would be to allow unions to launch prosecutions, or at least raise a dispute in the industrial jurisdiction so that issues could be addressed in a timely manner. Whilst the ASU would certainly support the training and development of Inspectors as well as increased resources in our areas of coverage, such changes would inevitably take a long time to achieve and in the meantime our members continue to be disadvantaged. Likewise, a greater role for WHS Reps on the ground in line with other state jurisdictions and within our own state's coal industry would result in greater compliance with the Act. There are so few prosecutions involving our industries that it is not possible to state whether an increase in fines or penalties would be effective. However, current circumstances are much less than those in other states and we support an increase in this regime.

Finally, we wish to point out that the current climate of secrecy enveloping complaints does nothing to achieve the objects of the Act and absolutely mitigates against its enforcement. It is beyond doubt that Inspectors enter into deals with employers without advising staff of the contents or its existence at all. This is not only poor practice, it is poor governance at a corporate level, and puts workers in real danger. The ASU continues to be appalled at this practice and the attitude of WHSQ management in this respect.

Case Study - Qantas

In approximately February 2006, the Union, on behalf of members, lodged complaints regarding fatigue arising from poor rostering practices and deliberate understaffing. It is unclear what WHSQ's response was at the time, as they apparently at that time had a policy of not engaging directly with complainants regarding the receipt of, or investigation of, complaints.

The issue remained unresolved, and again became prominent in October 2006, with serious concerns being raised about the proposed roster for the Northern Winter schedule. Staffing levels had not increased, in fact the rate of resignations of customer service staff had increased significantly by then. The proposed rosters would, in the view of our members, severely increase the fatigue that they were already experiencing, and clearly did not reflect the actual hours which would be required to be worked as opposed to those projected by management at the time.

The ASU at this time expressed our serious concerns that staff were describing fatigue levels which could result in serious accidents or harm to others. For

example, one staff member reporting losing control of his vehicle whilst driving home due to falling asleep. We also pointed out a number of things which we asked for WHSQ to take into account with respect to what we perceived to be deliberate understaffing of rosters so that projected rosters appeared acceptable. We continue to believe that there is ample evidence that rosters are deliberately understaffed, resulting in numerous shift extensions and overtime occurrences, and an extremely high level of sick leave.

Despite significant concern from members, particularly about the Christmas period, WHSQ did not appear to deal with the complaints. Members did not receive any contact from WHSQ, either to verify their complaints or to seek to ascertain the level of fatigue which was being experienced. WHSQ has maintained that %privacy requirements+prevented their consultation with the Union regarding what steps if any have been taken. We find this to be completely unacceptable.

To this day, our members have never been canvassed as to their actual fatigue levels by either their employer or WHSQ. (A supposedly random sample of 12 staff was recently undertaken which included the Airport Manager and other senior staff.) A serious accident did in fact occur late last year involving a customer service representative, and once again, WHSQ appears most unwilling to consider factors which may have led to the accident which we have advised existed on the day in question . ie. Severe understaffing.

Throughout the last year, it appears that WHSQ has consistently refused to gather its own evidence of the complaints, and has preferred to rely upon information given to it by the employer. The Union has on a number of occasions advised WHSQ of what flaws existed within that information, to no avail. WHSQ has also refused to assist us, in our capacity as AREOs, to obtain the evidence which would clearly demonstrate the unhealthy and unsafe conditions being imposed upon our members by the employer. Our members quite rightly feel betrayed by the Division's lack of assistance or independent investigation of what they consider to be serious health and safety problems.

Earlier this year, the Union was astounded to hear that WHSQ had in fact entered into a secret %Partnership Agreement+with Qantas regarding the complaints back in November 2006. It was indicated to the ASU that WHSQ would not progress the complaints because the %agreement+with Qantas was entered into instead. The ASU was refused a copy of the %agreement+by WHSQ, as well as by Qantas. This is despite WHSQ's advice to the Union that Qantas was required under the terms of the agreement to consult with the staff about its contents and implementation.

It is appalling that the ASU was finally forced to obtain the %agreement+via a Freedom of Information Request. It is even more appalling that the document, the

Partnership Project, expired at the end of June without its terms having been either implemented nor communicated to staff.

The ASU is advised that even though WHSQ say they were ~~monitoring~~ the implementation of the project, they were unaware that its terms had not been adhered to until advised by the ASU.

It is clear to the ASU that activity to date has been for the purpose of avoiding the issuing of Improvement Notices or enforcing the provisions of the Act. Whilst we acknowledge that WHSQ has a serious lack of expertise in this area, we consider 12 - 18 months to be a very generous time-frame indeed within which the proper expertise could have been sought or gained.

The ASU sought agreement from WHSQ that no further ~~agreements~~ or ~~projects~~ with Qantas would be entered into without consultation and agreement from the Union. This was rejected.

We have sought an independent Investigation into the handling of the above-mentioned series of events. This has so far been rejected.

Qantas staff are now negotiating the 2007 Northern Winter Schedule. Volume at the airport in the last 12 months has increased, yet there are now less staff than were employed this time last year. There is no sign of activity on the part of WHSQ.