

Chorus & Service Company Response

to

MartinJenkins Independent Review of Chorus' Next Generation Network Contracting Model

12 April 2019

Summary of current investigations

All Investigations

The Labour Inspectorate (LI) initially advised 73 on their list. Subsequently LI advised a further 3 have been added, arising due to publicity and Chorus/Serco activity on the matter.

Chorus/UCG and Visionstream, through our investigations and through whistle blowers, have added a further 34 companies over the period since Dec 2017 when the volunteer labour issue first arose.

Of these as at today:

	Total	On LI List	Identified by Chorus/Serco
22 have been blacklisted, suspended or contracts terminated or voluntarily ceased work on the Chorus network.	22	13	9
41 are in a remediation process These are for lower level issues identified which includes rectification of administration and records and in some cases small value rectification to wages.	41	35	6
17 are in the audit process with service companies	16	8	8
30 have been found to be compliant. This includes 4 who were issued improvement notices and 1 who received an infringement notice. In all cases compliance includes satisfying the issues raised by the Labour Inspectorate in those notices.	30	20	10
Total	109	76	33

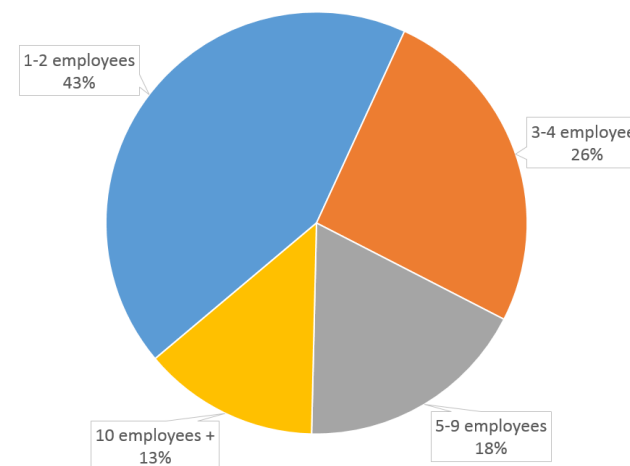
Labour Inspectorate Actions

Of the 76 companies that the Labour Inspectorate have identified as under investigation 48 have been concluded Of these as at today:

Action taken by Labour Inspectorate against Companies	Number of Companies
ERA Statement of Problem	4
Infringement Notice	5
Improvement Notice	22
Improvement Notice and Infringement Notice	8
Enforceable Undertaking	3
Found not to have breached	6
Total	48

~370 companies in UFB Connect

370 sub contractor Companies



There are approx. 370 companies and approx. 1,600 sub contractor technicians and crew in UFB connect

Most of the companies are small (69% between 1 and 4 employees)

Approach to issues raised in the review

Lead

Chorus will introduce a mandatory Supplier Code of Practice for its suppliers. This will focus on stewardship across the supply chain, ensuring a safe work environment to report exploitation and provide confidence that action will be taken. Chorus will work with partners and government to achieve change.

Govern

Chorus and its Service Companies will actively manage and report on workplace risk as a key risk to delivery of the fibre connect programme. This risk will also be monitored by Chorus' ARMC. The Chorus Board will oversee implementation of Chorus' management response to the MartinJenkins report.

Plan

Chorus will, in conjunction with its Service Companies, extend its workforce planning to include a sector-wide Strategic Workforce Plan for all of its workforce requirements. Chorus will work with Service Companies to review the sustainability of revenue arrangements for the sub contractors. Chorus and its Service Companies will engage with Immigration New Zealand on potential future migrant workforce requirements.

Educate

Introduction of a mandatory 'licence to operate' requirement to ensure that all sub contractors across the Chorus supply chain are properly inducted and understand their rights and responsibilities to be good employers. Continuing education will be promoted. Sub contractors who fail to meet standards will be exited.

Protect

Creation of a Chorus supply chain worker welfare portal that enables workers to access information about their rights (in their own language) and where help can be provided. This will include a whistleblowing platform operated by a third party open to all workers. Chorus and its Service Companies will work to remediate individual circumstances where a sub contractor fails to do so with a priority on ensuring continuity of employment and retention of visas.

Monitor


Chorus' Service Companies will improve the quality and quantity of data accessible to Chorus to enable a deeper understanding of the relationships between technical quality, health and safety and the fair treatment of workers. This data would inform a more mature risk-based approach to identifying vulnerable workers in the supply chain via ongoing audit and consequences programme.

Lead

Chorus will introduce a mandatory Supplier Code of Practice for its suppliers. This will focus on stewardship across the supply chain, ensuring a safe work environment to report exploitation and provide confidence that action will be taken. Chorus will work with partners and government to achieve change.

We will	Status
<p>Publish a supplier code of practice</p> <ul style="list-style-type: none">• To be rolled it out across all Chorus suppliers• Develop a programme to monitor adherence to the code across our supplier base	
<p>Collaborate with industry and government</p> <ul style="list-style-type: none">• The review's findings reveal that current policy settings on visas could exacerbate migrant vulnerability by tying workers to a particular employer, along with constraints when transferring migrants between skill type, for example as demand on the Chorus UFB programme tapers.• We will share our findings with government to inform policy on these issues• Chorus is also one of many New Zealand companies whose workforce includes migrants. The report's findings can help other companies when managing the risks that arise from such a work force.• We will share our findings with other businesses to prevent labour and migrant abuses across New Zealand	
<p>Consider the redeployment opportunities available to technicians when demand for fibre connection services decline</p> <ul style="list-style-type: none">• Investigate existing related industry initiatives such as the Ārā jobs hub• Noting that current programmes cater for New Zealand residents, resolution of the redeployment options is closely tied to the policy settings for migrant visas allowing a period of retraining and to change skill category	

Status Key

 Underway  Planned

Govern (1 of 2)

Chorus and its Service Companies will actively manage and report on workplace risk as a key risk to delivery of the fibre connect programme. This risk will also be monitored by Chorus' Board, Audit and Risk Management Committee. The Chorus Board will oversee implementation of Chorus' management response to the MartinJenkins report.

We will	Status
<p>Together with the Service Companies, review the existing risk governance framework for managing workplace risk to support the delivery of fibre connections</p> <ul style="list-style-type: none">• The joint governance committees in place with our Service Companies will report on the progress against actions in this report• The joint governance committees will consider the reporting on audit programmes in place for compliance with labour standards	
<p>Require each Service Company to appoint appropriate people, independent of their operational delivery teams, to provide assurance and reporting on sub-contractor compliance with labour law obligations</p> <ul style="list-style-type: none">• Each Service Company has an existing audit programme underway• Reporting to Chorus occurs weekly, and will continue on this rhythm until current audit issues are resolved• Chorus is to also appoint a person who has appropriate expertise to a new role to monitor the work place and migrant exploitation audit programmes of Service Companies	

Status Key

 Underway  Planned

Govern (2 of 2)

Chorus and its principal Service Companies will actively manage and report on workplace risk as a key risk to delivery of the fibre connect programme. This risk will also be monitored by Chorus' Board Audit and Risk Management Committee. The Chorus Board will oversee implementation of Chorus' management response to the MartinJenkins report.

We will	Status
<p>Implement improvements to Chorus' contract management and change management processes in relation to Service Companies</p> <ul style="list-style-type: none">• A dedicated senior person is in place to deliver these improvements, with supporting personnel to be hired• Ensure that contracts have been operationalised as intended at the time of negotiation – some processes have not been implemented as envisaged by the contracts• Monitor compliance by Service Companies with existing contract terms and in particular Service Companies' arrangements for sub-contractor compliance with labour laws• Improve Chorus change management processes to ensure that impact on workers is appropriately considered when any Chorus-initiated change is introduced to Service Companies	
<p>Report on workplace risk management quarterly to the Chorus Audit and Risk Management (ARMC) board sub-committee</p> <ul style="list-style-type: none">• Workplace risk to be added to principal risk reporting provided by management to Chorus ARMC	
<p>Report regularly to the full Chorus board on the progress of the overall management response</p>	

Status Key

 Underway  Planned

Plan (1 of 2)

Chorus will, in conjunction with its Service Companies, extend its workforce planning to include a sector-wide Strategic Workforce Plan for all of its workforce requirements. Chorus will work with Service Companies to review the sustainability of revenue arrangements for the sub contractors. Chorus and Service Companies will engage with Immigration New Zealand on potential future migrant workforce requirements.

We will	Status
Confirm our financial modelling to gain assurance that the model is economically sustainable	Underway
Model expected workforce demand across all Service Company delivered work for the next five years <ul style="list-style-type: none"> • Planning for both short term with long term, aligning contracting model and contracts to expected demand • Work with Service Companies to understand the impact of the planning results on current sub-contracting arrangements and future immigrant workforce demand • Engage with Immigration New Zealand on demands for planning period including once UFB build is complete • Consider working with programmes such as the Ara Job Hub to retrain workers, if required 	Underway
Monitor changes in the business models of sub contractors and test the ongoing sustainability and efficiency of various business models <ul style="list-style-type: none"> • The business models of underlying sub contractors has changed through time, with more small businesses emerging as opposed to owner operators • To ensure any future changes at this level of the contracting chain do not impact the ongoing sustainability of the business model we will work with Service Companies to test for overall sustainability and efficiency 	Underway
Review dispatch criteria to ensure clarity and transparency of the dispatch process <ul style="list-style-type: none"> • Implement an audit process to provide assurance that dispatch is occurring in compliance with the dispatch criteria 	Underway

Status Key


Underway
 Not yet started

Plan (2 of 2)

Chorus will, in conjunction with its Service Companies, extend its workforce planning to include a sector-wide Strategic Workforce Plan for all of its workforce requirements. Chorus will work with Service Companies to review the sustainability of revenue arrangements for the sub contractors. Chorus and Service Companies will engage with Immigration New Zealand on potential future migrant workforce requirements.

We will	Status
<p>Targeted review of certain work type codes and recovery processes to ensure appropriate allocation of risk and to mitigate unintended impacts on workers</p> <ul style="list-style-type: none">• The review findings suggest a small number of Chorus work type codes are producing unintended outcomes for workers – we will perform a review of these codes with our Service Companies and consider what changes may be required• The process for recovery where installations are below quality standards may be having an unintended flow on impact to end workers. How this process is being flowed through the chain will be examined while noting the contractors' employment obligations to any employees	

Status Key

 Underway

 Planned

Educate (1 of 2)

Introduction of a mandatory 'licence to operate' requirement to ensure that all sub contractors across the Chorus supply chain are properly inducted and understand their rights and responsibilities to be good employers. Continuing education will be promoted. sub contractors who fail to meet standards will be exited.



We will	Status
<p>Standardise Service Company on-boarding requirements to include the following minimum requirements:</p> <ul style="list-style-type: none"> • Demonstrated systematic processes for time sheeting, PAYE and payroll systems in accordance with law • Compliant credit report • Proof of Directors' identity/right to work/proof of incorporation • Legally compliant template employment contracts • Means in place to provide support to employees to ensure they understand their employment contract (legal/translation etc) • Directors demonstrated understanding of directors' duties and the difference between their roles as a director as opposed to working technician • Demonstrated compliant insurance arrangements are in place • Appropriate professional support relationships are in place and identified (e.g accounting and legal) • Demonstrated policies and process for managing health and safety, quality and Code of Practice training • Adoption of a single payroll system is to be considered <p>Chorus to monitor and test compliance For existing sub contractors a period of six months will be provided to meet the new standards</p>	
<p>Publicise and promote working approaches that help lift productivity</p> <ul style="list-style-type: none"> • Assist sub contractors to run businesses effectively and efficiently by sharing best practice recommendations • Best in class sub contractors across a range of metrics, including their labour practices will be showcased 	

Status Key


 Underway  Planned

Educate (2 of 2)

Introduction of a mandatory 'licence to operate' requirement to ensure that all sun contractors across the Chorus supply chain are properly inducted and understand their rights and responsibilities to be good employers. Continuing education will be promoted. sub contractors who fail to meet standards will be exited.



We will	Status
<p>Improve technician on-boarding process to require that all sub contractors and their workers are on-boarded with supporting documentation and data supplied, stored and available for inspections:</p> <ul style="list-style-type: none"> • Proof of identification • Proof of valid visa • Current police checks • Proof of compliant vehicles and tools • Signed employment contract • Proof of minimum training requirements, licences etc <p>Chorus to monitor and test compliance For existing sub contractors a period of six months will be provided to meet the new standards</p>	
<p>Ensure that Service Companies make available business support services, and provide continuing education, to their sub contractors</p> <ul style="list-style-type: none"> • The objective of providing business support services is to assist technicians to transition to being business owners • The types of services will range from directors' obligations through to training on obligations as employers • If changes to employment law obligations are made continuing education training will be provided to sub contractors to ensure they are aware of changed obligations • Refresher training will be periodically provided to ensure that knowledge of obligations remains current • Attendance at these programmes will inform audit selection criteria 	

Status Key

-  Underway
-  Planned

Protect (1 OF 2)

Creation of a Chorus supply chain worker welfare portal that enables workers to access information about their rights (in their own language) and where help can be provided. This will include a whistleblowing platform operated by a third party open to all workers. Service Companies will work to remediate individual circumstances with a priority on ensuring continuity of employment and retention of visas.

We will	Status
<p>Provide a Welcome to New Zealand tech on-boarding programme for migrant workers. This programme will provide the following types of information, as a minimum:</p> <ul style="list-style-type: none"> ▪ Rights as workers in New Zealand, including information on wage rates, holiday pay and entitlements ▪ Information on New Zealand and cultural integration information to assist workers to settle ▪ Guidance on what to do if the worker believes his or her rights are being infringed ▪ Whistleblowing protocols, including to a service provided by an independent third party that any worker can use ▪ Links to Service Companies' webpages with other helpful information ▪ Workers will be provided access to this webpage as part of their on-boarding 	
<p>Implement and promote an independent whistleblowing process for all workers</p> <ul style="list-style-type: none"> • This supplements existing whistleblowing processes, providing an additional whistleblowing process independent of the Service Companies • To be referenced on Welcome to New Zealand programme and included as part of on boarding training • Consider other sources to make aware of whistleblowing channel such as churches, citizens advice, police etc. 	
<p>Introduce migrant exploitation training for Chorus field staff to assist in identification of risk factors and at risk workers</p> <ul style="list-style-type: none"> • The particular risk factors and vulnerability of migrant workers means special skills are required to identify and support at risk workers 	


Status Key

-  Underway
-  Planned

Protect (2 OF 2)

We will	Status
Use Toolbox sessions to publicise and reinforce understanding of worker rights and welfare <ul style="list-style-type: none">• Toolboxes to be promoted to ensure broad attendance by technicians – timing and locations to be considered to promote maximum attendance	Underway
Assistance with worker visa transfers where employer is not meeting the standards expected, including <ul style="list-style-type: none">▪ Liaison with technicians to identify new employers who meet employment standards▪ We have established a process with Immigration New Zealand to assist with transfers of visas for those workers who have been working for companies who have been found to not meet labour standards▪ Provide information to MBIE on immigration policy on the issues identified by this review to help inform broader policy setting	Underway
Establishment of a trust fund for certain eligible workers who are unable to secure payments due from their employer.	Underway
Implementing a shared information portal across the Chorus contracting base identifying those sub contractors and their directors who have been “blacklisted” by any Service Company due to poor labour practices <ul style="list-style-type: none">• Reduce the risk of phoenix companies• Ensure those sub contractors do not reappear elsewhere in the supply chain	Planned

Status Key

 Underway

 Planned

Monitor (1 of 2)

Chorus' Service Companies will improve the quality and quantity of data accessible to Chorus to enable a deeper understanding of the relationships between technical quality, health and safety and the fair treatment of workers. This data would inform a more mature risk-based approach to identifying vulnerable workers in the supply chain via ongoing audit and consequences programme.

We will	Status
<p>Improve data integrity on all technicians and sub contractors and use this to inform ongoing monitoring of worker welfare and risk management</p> <ul style="list-style-type: none">The quality of data held by Service Companies on each technician and sub contractor is currently inadequate. The improvements described in Educate will enhance data quality. This can then inform audit programmes.	
<p>Expand the existing assessment criteria for sub-contractor performance, which is currently focussed on quality, H&S and customer satisfaction, to include efficiency and management & labour practices compliance</p> <ul style="list-style-type: none">Review the performance of each sub-contractor against these criteriaCurrently this data is disaggregated and assessing it together will enable a more holistic view of sub contractorsThis analysis will inform the audit programmes operated by the Service Companies	
<p>Development of Service Company risk-based sub-contractor management practices compliance audit programme and consequence management framework consistent across the industry</p> <ul style="list-style-type: none">Audit staff to be independent of deliveryData integrity and broader assessment criteria will assist to form a view of risk	

Status Key

 Underway  Planned

Monitor (2 of 2)

Chorus' Service Companies partners will improve the quality and quantity of data accessible to Chorus to enable a deeper understanding of the relationships between technical quality, health and safety and the fair treatment of workers. This data would inform a more mature risk-based approach to identifying vulnerable workers in the supply chain via ongoing audit and consequences programme.

We will	Status
Appoint a suitably qualified person, with appropriate ER experience and expertise, to oversee the implementation by Service Companies of audit programmes to monitor management & labour practices standards compliance <ul style="list-style-type: none">• Whilst current issues are resolved weekly meetings to track audit progress and consequence management will be retained	
Statutory declarations of compliance with employment standards and rights of set off will be required from sub contractors to assist in remediation for workers <ul style="list-style-type: none">• These declarations will enable set off of any amounts due to a subcontractor to be paid to worker, therefore assisting in protection of workers• These declarations provide a means to evidence breach of labour standards	

Status Key

 Underway  Planned