

QUEENSLAND COAL MINING BOARD OF INQUIRY

Coal Mining Safety and Health Act 1999

Establishment of a Board of Inquiry Notice (No 01) 2020

Before:

Mr Terry Martin SC,
Chairperson and Board Member

Mr Andrew Clough,
Board Member

At Court 17, Brisbane Magistrates Court
363 George Street, Brisbane QLD

On Tuesday, 18 August 2020 at 10am
(Day 10)

1 <TYLER MITCHELSON, on former affirmation: [10am]

2
3 MR HUNTER: Just before we go any further with this
4 morning's proceedings, Mr Martin, can I hand up a tender
5 list in relation to documents produced on 13 August 2020.

6
7 THE CHAIRPERSON: That's marked?

8
9 MR HUNTER: Marked G.

10
11 THE CHAIRPERSON: Thank you. The items listed on the
12 tender list marked G will be admitted into evidence.

13
14 <EXAMINATION BY MR HOLT CONTINUING:

15
16 MR HOLT: Q. Mr Mitchelson, yesterday as we finished,
17 I had referred to the fact that you hadn't really been
18 taken at any stage to the safety architecture that sits
19 within the Anglo underground coal mines in particular but
20 across all of the coal mines that sit under your banner.
21 A. Yes.

22
23 Q. You were taken, as I noted yesterday, to a range of
24 documents in the main, and, for example, memoranda about
25 various change processes or strategies of the business.
26 You will recall that?

27 A. Yes.

28
29 Q. I will take you back to some of those in a moment, but
30 before we do, I would like to take you to your statement
31 just so that we can be clear about, if I can put it this
32 way, the business as usual safety structure and processes
33 this sit around Anglo's work. Could we have, please,
34 Mr Mitchelson's statement up, and if we could go, please,
35 to paragraph 55, which is on - as always you will be there
36 quicker than I can find the page number, Mr Operator.
37 Thank you.

38
39 Again, I don't want to go through this in detail with
40 you, because the Board has it in writing and it is
41 available on the court book for those who want to read it,
42 but just to get a sense of how the policies tier down right
43 through to site level, you have identified, haven't you, at
44 (a) through (c) a policy or overarching framework called
45 the Anglo American SHE policy?

46 A. Yes.

47

1 Q. Is that policy, as you have explained, in essence,
2 designed to set out the standards and objectives that apply
3 and the process of safety that applies across the whole
4 group?

5 A. Yes, it applies to all of Anglo American. It's your
6 guiding principles and your guiding documents to be able to
7 then apply that to your specific business circumstances
8 within that policy.

9

10 Q. Is that an example where Anglo American can leverage
11 off its international size and its capability and capacity
12 to essentially help and create tools and frameworks
13 designed to set the kind of direction of those individual
14 sites and individual businesses?

15 A. Yes, it's one of the opportunities, with the
16 experience across - and part of this, and we've talked
17 about some of the principles and policies, whether it's the
18 LFI process, an Anglo standard that comes from there that
19 we apply into Met Coal, or the operating risk management
20 processes with the four-layered approach, which is a broad
21 Anglo program that we adopt within the Met Coal business.

22

23 Q. You mentioned LFI now, so I might as well ask this
24 question at this point. That learning from incidents
25 process, as you have noted, is an Anglo American-wide
26 process?

27 A. Yes.

28

29 Q. It has a number of tools, as you would know, embedded
30 into it?

31 A. Yes.

32

33 Q. Different kinds of tools to help you to assess
34 incidents in different kinds of ways?

35 A. Yes.

36

37 Q. Bearing the LFI process in mind, does Anglo seek to
38 only comply with its regulatory obligations in each
39 jurisdiction, or does it see its obligations and processes
40 and opportunities as going further than that?

41 A. It is both. It has an expectation that it will comply
42 with, I guess, the Anglo standards and the jurisdictional
43 standards and processes, and I think in the document we're
44 quoting here, it's whatever is more stringent. I think
45 those are the terms, or close to those terms. So, yes,
46 there's a minimum of we will do whatever - consistency
47 across all of the Anglo businesses but also recognising you

1 have to comply with your regional jurisdictions and their
2 requirements from there.

3
4 Q. Is the LFI process an example of that, in the sense
5 that the LFI process clearly goes well beyond, in terms of
6 its sophistication and requirements, say, the form 5A
7 process which exists in regulation in Queensland?

8 A. Yes, and that was developed so we could have
9 a consistent standard across all our geographies around the
10 world, based a bit off the ICAM process, but we wanted to
11 take that and have a much more comprehensive program, so
12 every incident, whether it's in South Africa or Australia,
13 was investigated in the same manner, in the same way, with
14 the same rigour.

15
16 Q. I interrupted myself. I'm sorry, I just want to walk
17 through this for a moment. Could we scroll down, please,
18 Mr Operator. We can see there at 55(c) that you have
19 described the code of conduct for the Anglo group?

20 A. Yes.

21
22 Q. Including six values, one of which is safety, and then
23 you define the way in which that process is to be
24 implemented at a regional and at a local site level?

25 A. Yes.

26
27 Q. Can we go over the page, then. I won't take you
28 through the diagram in detail, but again that just explains
29 how Anglo seeks to implement those structures across its
30 operations?

31 A. Yes, the intent is - and this is the operating model
32 that I referred to in my transformation program. This is
33 the standard that is being rolled out across all of
34 Anglo American, so this is the foundational document as to
35 how we plan work, execute it and measure ourselves.

36
37 Q. I was going to just perch for a moment, now that you
38 have said that, on the idea of measuring yourselves. Why
39 is that important and how do you ensure that you do it
40 well?

41 A. So the critical part - and the box on here, it's
42 called "feedback" - is actually measuring yourselves in a
43 number of different ways. We've talked through - and
44 I think it was in the Brady report, talking about leading
45 and lagging indicators. It's looking at the performance,
46 whether it's safety related, hazard related, production
47 cost, whatever it is. You have to measure yourself to know

1 where your opportunities for improvement are, and it is
2 part of - in that box, there is an "analyse and improve".
3 It is part of always analysing what you have done and what
4 are your areas for improvement that you can roll through
5 into your planning processes and start planning work to
6 achieve those improvements.

7
8 Q. Thank you. Now, if we can roll down to (e), please.
9 Actually, just pause there. In (d) you identify again that
10 the Anglo American overall governance framework includes an
11 operating model which defines the structured approach to
12 underpin the operation of the business, including the way
13 in which, for example, contractors are integrated or used
14 at Anglo American sites?

15 A. Yes.

16
17 Q. We will come to some specifics in relation to
18 contractors with Mr Jones and probably also with Mr Wynn
19 later today.

20 A. Yes.

21
22 Q. But from an Anglo American perspective, from an
23 overall Anglo perspective, what is the kind of philosophy
24 in terms of dealing with contractors and how you ensure
25 safe operation by contractors?

26 A. The fundamental principle is anything that happens on
27 the site is under the safety and health management system
28 at that site. So whether you are a contractor, you are an
29 employee, whether you do contract service work or
30 specialised work on the site, you fit under that safety and
31 health management system. We do not, from a safety
32 perspective, treat anybody any differently.

33
34 There are specific procedures that we have in a
35 contract management standard that we ensure, particularly
36 around service contractors, that they have to go through
37 a very rigorous process, understand the safety and health
38 management system and work underneath that, or if there are
39 very specialised skills, that's added to the safety and
40 health management system and they are held to account for
41 that.

42
43 Q. And you will understand that Mr Jones and Mr Wynn will
44 both be able to talk about how that is practicalised as
45 between Met Coal in Brisbane and the site, using Grasstree
46 as an example?

47 A. Yes.

1
2 Q. If we go then to (e), obviously there is reference
3 there to what we all know about, which is the safety,
4 health and environment management system which Met Coal
5 applies through its own processes.

6 A. Mmm-hmm.

7
8 Q. But you would understand that in the Queensland
9 context, there is obviously a statutory obligation on the
10 SSE and on the mine operator to have a site-specific safety
11 and health management system?

12 A. Yes.

13
14 Q. Again, just so we understand the architecture, that's
15 the responsibility of the SSE and the mine operator, but
16 are they left alone by Anglo to kind of just figure that
17 out on their own, or how does the balance work from your
18 perspective?

19 A. We've got standardised processes - obviously the PHMP
20 process, the standard operating procedures, going all the
21 way down to job risk assessments and tasks that are
22 assigned to a worker on on a daily basis. We get
23 consistency across each one of our operations, and it
24 operates under the framework of our overall processes, and
25 it has to take into account some of those things that were
26 referred to yesterday.

27
28 Global technical standards - we have to take those
29 into account and apply those into each individual operation
30 and include those into the PHMPs to ensure we're covering
31 those as well. And, as well, yes, the critical control
32 work we've done at a Met Coal level of looking at those
33 specific controls - those then need to be rolled down into
34 the PHMPs, SOPs and right down into the JRAs. So there is
35 definitely accountability at site, but there are certain
36 standards that have to be applied within the context of
37 expectations for the Met Coal business and broader
38 Anglo American.

39
40 Q. Just so we can name it and deal with it, those
41 expectations that are placed on site, are they expectations
42 about production or safety or both, and what happens if the
43 two conflict, if that ever occurs?

44 A. It's for both, and I think - you know, I firmly
45 believe, it's my philosophy and the words I always use are
46 "safe production". You cannot actually be a productive
47 mine unless you are a safe mine. So as we develop our

1 business plans, which include safety plans, include
2 production plans, cost, capital investment, it's all looked
3 at together in the context of achieving safe production out
4 of that mine.

5
6 Q. The last one I want to perch on from here, though -
7 your statement is obviously comprehensive - is the
8 Anglo American elimination of fatalities approach that was
9 taken by Anglo at a global level.

10 A. Yes.

11
12 Q. Could you just talk us briefly through, please, what
13 was done locally after - at about the time I think that you
14 came into the Australian business to design and implement
15 the elimination of fatalities strategy?

16 A. It's one of the key projects from an Anglo American
17 basis around elimination of fatalities across the globe, so
18 there was some work done there. From a Met Coal context,
19 what we started when I arrived here is we did have the
20 framework of an elimination of fatality program. It was
21 outlined in our safety strategy document that was shared
22 earlier.

23
24 So the approach we take is at least once a year we get
25 all of my leadership team, the MCLT, together with the GMs
26 and the safety and health managers from each one of the
27 sites and we review the program, so it's the six elements
28 for the Met Coal level but also the six elements for each
29 one of the sites, so we review all the site ones as well.
30 We look at the performance, where are we against the tasks
31 and our objectives in there, what have we learned,
32 incidents that have happened through the year, injury
33 rates, learnings, and then we re-evaluate what does the
34 next year look like and we set the next year's plan, and
35 then that becomes something we monitor as part of our
36 critical tasks going forward throughout the year.

37
38 Q. Could we just roll up, please, Mr Operator, so I can
39 see the Roman numerals that sit below (f). You note there
40 in terms of Met Coal that the EoF project has an annual
41 plan for actions to be achieved, including key elements of:

42
43 *... leadership, planning and scheduling,*
44 *learning organisation, caring culture, risk*
45 *and change management, monitoring and*
46 *assurance.*
47

- 1 Can you see that?
- 2 A. Yes. Those are the six elements of our EoF program.
- 3
- 4 Q. Those are then rolled down to each individual mine
- 5 site?
- 6 A. Yes.
- 7
- 8 Q. You have included references there to the documents
- 9 that show the plan at Met Coal level and at site level?
- 10 A. Yes.
- 11
- 12 Q. Does each component of that plan, both at Met Coal and
- 13 at site level, have an owner, if I can put it that way?
- 14 A. Yes. In the context of the Met Coal level, I actually
- 15 have assigned owners from my MCLT to own each one of those.
- 16 And at the site level, they will particularly have one of
- 17 the senior leadership team own each one of the six elements
- 18 in there. The intent behind that was just to try to
- 19 reinforce the message that safety isn't about the safety
- 20 department only. The safety department has to give you the
- 21 broad framework, support, but this is about the leadership
- 22 team taking safety on as our accountability to lead safety,
- 23 similarly at each one of the sites.
- 24
- 25 Q. In a document, which I'll ask to be brought up now,
- 26 AAMC.001.031.0142 - this was an MCLT note that you were
- 27 taken to yesterday, which I think you would agree is
- 28 effectively a document that primarily sets out the Business
- 29 Transformation to Achieve our Strategy - Pathway to
- 30 Excellence?
- 31 A. Yes.
- 32
- 33 Q. It's a sort of overarching document that sets out
- 34 effectively the vision, I suppose, if I can put it that
- 35 way?
- 36 A. Yes, it's the vision and the pathway that we want to
- 37 undertake to be able to deliver on our strategy.
- 38
- 39 Q. In terms of elimination of fatalities, you noted that
- 40 under the bit that has been taken out, which is a whole
- 41 table, in fact your ambition in that is noted specifically
- 42 as being safety?
- 43 A. Yes.
- 44
- 45 Q. And, under that, the words "unrelenting focus on
- 46 elimination of fatalities"?
- 47 A. Yes.

1
2 Q. So I guess - it might be an obvious question - in that
3 context, how important from a strategic perspective is the
4 elimination of fatalities program to Met Coal?

5 A. It is one of our critical components. So in there -
6 I know it is blacked out - there are five different pillars
7 underneath there. The focus, certainly in the immediate
8 term, has been all around elimination of fatalities, and
9 that comes through in the six elements of our program in
10 being able to actively look for ways to improve that. And
11 some of it, there is interrelationship between the fatality
12 program and some of the other programs that we're putting
13 in place, which are really foundational, to be able to
14 deliver the safety and the productivity we're looking for.

15
16 Q. If we can deal, then, with how that is practicalised,
17 because it's often said of big companies, well, you get
18 pretty diagrams and strategies and whatever, but what
19 matters is how they look on site.

20 A. Yes.

21
22 Q. We can deal with that with Damien Wynn, but could
23 I get you to look at paragraph 57 of your statement,
24 please, if we might bring that up again. Again, we won't
25 go through it in detail. What you have set out there are
26 reviews undertaken by the elimination of fatalities task
27 force?

28 A. Yes.

29
30 Q. In paragraph 58 you describe the task force completing
31 reports into relevant potential fatal risk management at
32 Met Coal mines following site visits and audits of the
33 mines, and then you have noted below where that has been
34 done at various points in time in relation to each of the
35 three mines with which this Board of Inquiry is concerned?

36 A. Yes.

37
38 Q. So is that a demonstration of the way in which it is
39 not just about saying, "Here is our elimination of
40 fatalities strategy", but Anglo actually seeks to audit and
41 check and improve that process?

42 A. Yes. This was a global program, so it was a group of
43 12 to 15 people that was picked from across all sorts of
44 different organisations around Anglo American with
45 expertise in operations and safety. They undertook
46 a review at every single site and went through and produced
47 a report, as the ones that are attached in the witness

1 statement, to assess where are we. The journey they show
2 there is getting to resilient, being the ultimate goal of
3 all safety programs. It's similar to what is referred to
4 in the Brady report of a high reliability organisation.
5 There are similar overlaps between those two concepts.
6

7 So this went through each one of the sites and came up
8 with recommendations for each one of those sites. Those
9 recommendations were loaded into Enablon, times, tasks.
10 Those are reported through our monthly process and had to
11 be closed out. In the case of these specific tasks, I had
12 to report those on a monthly basis in to the Anglo
13 organisation.
14

15 And then as a follow-up to ensure visual verification
16 that it actually happened in February 2020, the task force
17 came back and had a look at, have you done what you said
18 you were going to do, to actually visually be able to see
19 it and also to give us another set of eyes to have a look
20 at opportunities. And there were some additional
21 opportunities and actions that came out of that
22 verification process that we again have put into our action
23 plans. It's in Enablon. It's part of our safety actions
24 for the year.
25

26 Q. Just to tie this in to a comment that you made
27 yesterday about the incentive schemes or the bonus scheme
28 that exists in Anglo, what part does the elimination of
29 fatalities strategy and the successful implementation of
30 that have, and how is that integrated into the incentive
31 scheme?

32 A. I'm going off memory here, but as part of what was
33 highlighted yesterday in the safety, health and environment
34 section for Met Coal, I believe the overall was
35 12 per cent. I think the number was 4 per cent that was
36 execution of the elimination of fatalities program and
37 success against those tasks that we have identified and the
38 actions that we have identified.
39

40 Q. To be clear, and it might ultimately have been clear
41 from the questions that our learned friend Mr Hunter was
42 asking, is that integrating the incentive scheme by
43 reference to whether there were any fatalities or by what
44 you might rather call the question of whether you have
45 implemented the strategies that are intended to avoid those
46 fatalities occurring?

47 A. It is more of a broad, I guess you would call it

1 a leading indicator, have you delivered on the tasks that
2 you have set, which had an outcome and an intent. The
3 outcome at the Moranbah North mine is captured in
4 a different way, with the deductor of 10 per cent and
5 20 per cent, as we discussed yesterday.

6
7 Q. Could I bring up, please, Mr Operator,
8 AAMC.001.029.0028. You will recognise this as being the
9 Met Coal Elimination of Fatalities Plan 2020 & Roadmap to
10 2024 that you were asked some questions on a couple of
11 occasions about yesterday?

12 A. Yes, yes.

13
14 Q. We found a typo, but other than that - no, that was
15 another document. That's all right. Can I get you to go,
16 please, to 0057, Mr Operator. Again, I just want to focus
17 for a moment on planning and scheduling as part of the
18 elimination of fatalities strategy. Could you explain why
19 that is important?

20 A. There is a fundamental principle that exists out there
21 right now that planned work is 70 per cent safer than
22 unplanned work and at least 30 to 40 per cent more
23 productive. And it's mentioned in the transformation
24 document, the implementation of the Anglo operating model -
25 it is a critical component, and if you saw the boxes,
26 planning is a major component of that, both from
27 higher-level operational planning right down to detailed
28 task planning, which is critical to ensure the safety is
29 there. So getting that process will deliver us
30 productivity benefits but more so deliver the safety
31 benefits we're looking for right now.

32
33 Q. Could we go to 0060, please, Mr Operator. Again, this
34 is part of the EoF strategy called Learning Organisation,
35 and you can see here this is about seeking and implementing
36 opportunities for improvement, sharing as being inherent,
37 use of high-level control hierarchy and benchmarking
38 activities?

39 A. Yes.

40
41 Q. Including sourcing and implementing communication
42 technologies that improve opportunities for learning from
43 incidents?

44 A. Yes.

45
46 Q. Again, why is that part of the elimination of
47 fatalities program?

1 A. It is a critical component. I keep going back to the
2 operating model, but that feedback component, if you are
3 not measuring yourself and looking for those opportunities
4 to improve, you will never actually improve the business.
5 In reading the Brady report, he uses the term "chronic
6 unease". This is what's really driving the opportunity
7 here. As I said, yes, we have been successful, but are we
8 measuring ourselves and being able to look for those
9 opportunities to continually challenge and bring that back
10 into our planning processes to take the next set of tasks
11 going forward.

12
13 Q. You have referenced the Brady report on a couple of
14 occasions, so I would like to go, please, if we can, back
15 to AAMC.001.031.0142.

16
17 THE CHAIRPERSON: Just before you do.

18
19 Q. Mr Mitchelson, with the "sharing is inherent in safety
20 culture" aspect, what is the "sharing" referring to?

21 A. It's sharing of learnings and information across.

22
23 Q. Yes, but with whom, I mean?

24 A. It starts right at the workforce level. I think some
25 of my colleagues earlier in the week talked about when
26 incidents occur, it is shared at start of shift meetings;
27 it is shared at roster change meetings; they have weekly
28 safety meetings. So there is that frontline level of
29 sharing. Some of this work and the targets or the
30 activities around safety will be shared on a regular basis
31 with crews and workforces by the GM or the senior
32 leadership team at the mine site.

33
34 Q. So it's the group workforces, it's shared amongst mine
35 sites and things of that nature?

36 A. Yes, yes. And then our elimination of fatality
37 program at my team's level and at the leadership teams
38 across all the sites - they see everybody else's as well as
39 obviously the Met Coal one, and we work together on
40 integrating those, so people understand. Each mine site
41 will be at a different stage and a different part of that
42 safety journey, so there may be more priorities at -
43 a Capcoal open-cut may be different than what would be at
44 an underground mine.

45
46 Q. Is there any sharing industry wide?

47 A. There is. I'll go back a little bit. The former

1 chief mine inspector, Luca Rocchi, that now works for me -
2 one of the things that was really good that Luca used to
3 do, which I haven't had the opportunity to be able to start
4 with Peter Newman just because of COVID and everything
5 else, was that we would sit down probably once a quarter,
6 he would look at safety performance at my five mines and he
7 would share with me, "Here is how you are stacking up
8 against some of these incidents or issues across the rest
9 of the industry."

10
11 So that was a bit of a great opportunity there, just
12 on a regular basis to be able to see how we stack up.
13 There is an annual report that is issued by the
14 inspectorate, as well, that is helpful to see where the
15 industry is going and some of the issues that have been
16 raised there as well.

17
18 The other one that unfortunately we didn't get to do
19 this year is the Queensland mining health and safety
20 conference that was held last August. I thought it was an
21 incredible opportunity for sharing. If you went through
22 all of the different breakout sessions, the information
23 that was available was incredible. There have an
24 innovation award, where they have 10 contenders for the
25 innovation award, and there were some absolutely fabulous
26 ideas that came out. At the end of it, I did the closing
27 speech for the conference and challenged my GMs to adopt at
28 least five of those in their operations, because it was
29 a great chance to see what other people are doing. I think
30 as an industry, when it comes to safety, we're willing to
31 share. It isn't proprietary information.

32
33 MR HOLT: Q. Can I pick that up, if I may, in terms of
34 the topic. You have talked about the benefits of that and
35 the willingness of the industry to share. I guess the
36 logical next question is do you see any ways of doing that
37 better?

38 A. I do think the conference is one way. I think it
39 would be a great opportunity to have additional forums to
40 be able to do that on a more frequent basis. There is the
41 coal mine safety and health - CSMHAC, that's the tri-party
42 group that does look at some of these issues that come
43 through there. We're not on the board of that. We do
44 contribute a lot particularly around the technical issues
45 there, where we do a lot of work with CSMHAC to provide our
46 input in some of the technical discussions there. So
47 that's another avenue. I think there is a great

1 opportunity to actually expand on some of that as well.

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Q. I would ask for this note to come up. Thank you, Mr Operator. Could we just zoom in on the bottom paragraph, please. You have mentioned a couple of times, indeed you mentioned it yesterday, some of Dr Brady's work in the Brady report that came out we're familiar with.

A. Yes.

Q. There are two phrases you have used that came out of that report. One is "preoccupation with failure" and the other is "chronic unease"?

A. Yes.

Q. Both of those, as you mentioned, are in the context of what Dr Brady describes as creating an HRO - a high reliability organisation?

A. Yes.

Q. An HRO is an organisation which is going to be well placed to deal with safety issues?

A. Yes.

Q. The idea of preoccupation with failure and chronic unease - from your perspective, how does that practicalise? How do you try to live that out, if indeed you do, I guess, is the assumption underlying the question?

A. Yes, and it does come through - you mentioned the measurement system before and how we track, whether it is incidents or safety performance. That's part of the chronic unease, always measuring yourself. There is a saying out there of "Challenge the greens, embrace the reds", and I do think we adopt that through the LFI process of understanding what has happened, full investigation, how do we fix that going forward. That's part of it, but also looking at the incidents and injuries that have happened, what are the agencies of those, what are the common causes and how are we addressing those? And then that feeds into our elimination of fatality program, generally in one of those six boxes.

Q. I want to focus just on that bottom paragraph, because it is kind of the obvious sentence to pick up if the CEO of Anglo is giving evidence, and so you were asked about it by lots of people, where it notes:

We are not where we need to be on our

1 *safety performance and our sustainability*
2 *strategy ...*

3
4 I guess, on the one hand, you can be criticised, saying,
5 well, that is a confession of some sort.

6 A. Yes.

7
8 Q. From your perspective, is it that, or was it an
9 example of the idea of preoccupation with failure?

10 A. I think it's the chronic unease and preoccupation.
11 The safety performance of the Met Coal business since
12 2014-15 has improved dramatically, but we're never
13 satisfied with that. We always want to push to the next
14 level.

15
16 Even this year, we're having two of the mines that are
17 having probably the best safety performance they have ever
18 had - the conversations at last month's MPR were around,
19 "Okay, you've done really well, you're having some material
20 impact on your safety. Now what are we going to do?", and
21 it was actually a relook at some of the critical work that
22 they felt they needed to do to not only maintain but take
23 it to the next steps, looking at changing how they approach
24 their visible felt leadership, time out actually in the
25 field, looking at those next level down incidents and
26 common causes. So it initiated another piece of work to
27 try to actually even push that further.

28
29 Q. Thank you. I want to now pull up this document,
30 please, Mr Operator, AAMC.001.031.0147. I think it's the
31 _U version that has the redactions removed. Thank you.
32 This was a document you were taken to on a number of
33 occasions yesterday, which deals with the contribution of
34 the Met Coal business effectively to the Anglo American
35 target in terms of productivity.

36 A. Yes.

37
38 Q. What it describes, as you would know because you wrote
39 it and also because of the questions that were asked
40 yesterday, is a 24 million tonne per annum goal or target
41 for the underground mines.

42 A. Yes.

43
44 Q. It might not have been clear yesterday: what phase is
45 this thinking in, that thinking about getting to 24 million
46 tonnes per annum from that group of mines?

47 A. Right now, we're in the pre-feasibility stage.

1 A fundamental part of this program and our growth objective
2 is to unlock the capacity within the Moranbah-Grosvenor
3 prep plant, so it's adding additional capacity. That
4 additional capacity is only one part of the overall project
5 to be able to try to deliver, you know, the ambition of
6 getting that gross to 24 million tonnes.
7

8 The other documents that are in here, including this
9 one, are what do we need to do to reliably and safely
10 deliver on those production rates to achieve that
11 24 million tonnes.
12

13 Q. In case there was any misunderstanding yesterday, is
14 it the case at all that Anglo is saying to its mines
15 "You've got to start getting to 24 million tonnes per annum
16 now"?

17 A. No. As a broader Anglo American, there is a growth
18 strategy and there is a desire to improve the business.
19 When we looked at our own Met Coal business, the largest
20 opportunity we had was in the Moranbah and Grosvenor
21 complex, focusing on the productivity in those areas, and
22 the 24 million tonnes is a bit of a tag-line target. The
23 number will be what it will be, based on what we can
24 comfortably demonstrate that we can safely deliver out of
25 those mines.
26

27 Q. I was going to put that in a slightly different way.
28 Can I ask you this question: if you do all of this work,
29 and we will go through a little bit of the detail of that
30 pre-feasibility and feasibility work, if you do all of this
31 and you conclude that you can't do 24 million tonnes per
32 annum safely, what will happen?

33 A. We will revise the targets down and basically reassess
34 the entire project. It may or may not make sense to do it
35 in the way that we are thinking of doing it. It's about
36 a half a billion dollar investment that we're looking at
37 making, and we may have to rethink the size and how we
38 actually do it. But it's reliably and safely delivering,
39 consistent production, and that will define what we are
40 able to do and how we will invest.
41

42 Q. Might we zoom in on the third paragraph down, that
43 commences, "The Anglo American Operating Model". We can
44 see there from this memo, a part that you weren't taken to
45 yesterday, that the operating model is being implemented as
46 part of the pathway to excellence transformation program.
47

A. Yes.

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Q. That's the same program we were talking about before that describes safety as the key pillar?

A. Yes.

Q. And the unrelenting focus on elimination of fatalities?

A. Yes.

Q. From your perspective, is this pre-feasibility study to attempt to increase the productivity of this set of mines - is that something that sits apart from those other strategies or as an integrated piece of it?

A. No, particularly in this case, in this document, referring to gas and strata, it is absolutely integrated. It is actually a precursor for us to be able to deliver any kind of productivity improvements. We have to be able to manage gas within the limits of the production - and strata - within the rates that we want to achieve.

Q. Again, because I know that the document was only referred to briefly yesterday, we didn't really drill into what it was truly trying to scope, the kind of work that it was truly trying to scope. We can see the bottom paragraph that is currently on the screen.

This task assignment --

And that, I take it, is the task assignment that this memo is creating?

A. Yes.

Q. --

will define the processes, systems and organisation to address the current instability on gas, strata/structure.

A. Yes.

Q. Was that instability on gas, strata and structure seen as being something which simply has to be dealt with appropriately and with significant resources in order to be able to even think about achieving this target?

A. Yes. We weren't going to be able to do this as business as usual, which is what's referred to in the transformation document. We know we had to do things

1 differently to be able to actually deal with the gas issues
2 we have currently and where we want to take the business
3 and be able to deal with them proactively.
4

5 So this team - there are two separate teams, although
6 this is written in the one memo. The gas management team
7 went out and got an external person to run that, dedicating
8 resources to it and working with each one of the sites, and
9 our Brisbane technical group and some external experts as
10 well, to redesign that whole process.
11

12 Q. If we look here, we can see, again from that
13 paragraph I was reading from, that:
14

15 *This process will not deliver any technical*
16 *solutions or breakthrough, but will provide*
17 *the platform to identify the issues,*
18 *generate the workstreams to resolve and*
19 *embed them in the business processes.*
20

21 Is that, again, a clear indication that this document is
22 very much pre-feasibility; it is about setting up the
23 organisational processes to allow that work to be done in
24 a careful and considered way?

25 A. Yes. This is getting your platform to enable - the
26 right processes in there to be able to actually come up
27 with the solutions.
28

29 Q. If we could go to 0148 of that document, please,
30 Mr Operator. The integration - we can see that there is
31 consideration there of operational planning, work
32 management and, again, feedback?
33

34 A. Yes.
35

36 Q. If we could go to the next page, please, under
37 "Quality", we can see there that in fact what the task is
38 intended to do is a mini-transformation project, and it's
39 again noted:
40

41 *... not expected to provide the technical*
42 *solutions for this task assignment ...*
43

44 And then in the final paragraph:
45

46 *The final process design and*
47 *organisation/accountability structure will*
be consistent with the AAOM/Organisational

1 *model development ...*

2

3 A. Yes.

4

5 Q. So, again, what phase is this indicating that you are
6 at?

7 A. This would be in that pre-feasibility stage. We are
8 still in the design process, analysing what our current
9 structures and business processes are, and getting into the
10 "to be" as to where we want to have those processes in the
11 end.

12

13 Q. Could we go back, please, to AAMC.001.031.0142 at
14 0146. I'm sorry to jump around. Under "Options", if we
15 could just highlight the "Options" part, please, noting
16 there:

17

18 *The Met Coal business could continue to*
19 *refine current process and systems with*
20 *additional resources. This fits into the*
21 *"run harder" mentality ...*

22

23 A. Yes.

24

25 Q. Is your point here that you are supporting a "run
26 harder" mentality or not?

27 A. No. I put that in there as an option, more as to
28 point out that that is not a viable option. We have to do
29 something different. Part of this was aligning with my
30 leadership team and the GMs this is our process, this is
31 what we need going forward to deliver on the business and
32 our strategy.

33

34 Q. Can we scroll in whichever direction goes towards the
35 bottom of the document. The comment:

36

37 *Met Coal wants to create a business where*
38 *employees are fully engaged, empowered and*
39 *given the opportunity to achieve their*
40 *best - resulting in delivering results*
41 *never achieved before in a met coal*
42 *business. The Pathway to Excellence*
43 *program will create the systems, processes,*
44 *behaviours that create a culture of*
45 *excellence with the ability to*
46 *quickly implement industry leading*
47 *practices to achieve zero harm, become*

1 *a trusted partner and deliver exceptional*
2 *business results.*

3
4 You weren't taken to this part of the memo, but, again, is
5 that part of the indication of the way in which you see
6 safety and productivity as going hand in glove?

7 A. Absolutely. All of these programs and the operating
8 model implementation, the organisational model - all of
9 these fit together to deliver a safety result and the zero
10 harm, which is part of our strategic objective, and it fits
11 with the productivity.

12
13 Q. Mr Operator, could we go to AAMC.001.031.0152. The
14 document that is coming up is a document about longwall
15 movement optimisation that our learned friend Ms Holliday
16 took you through yesterday.

17 A. Yes.

18
19 Q. I think, but I'm not sure, that it seemed to be
20 suggested as an example of an intent to sort of push
21 productivity. I'm not sure. Anyway, let's see if it is.
22 You explained yesterday, Mr Mitchelson, that this was in
23 fact about the time that it took to move a longwall between
24 operations?

25 A. Yes.

26
27 Q. Obviously enough, that's an opportunity to increase
28 the productivity of the business?

29 A. Yes, that's correct.

30
31 Q. What you weren't taken to was the "Purpose", on
32 page 1, or, if you were, I don't think the word "safely"
33 was noted:

34
35 *Redesign the LW Move systems to safely*
36 *reduce the current process by up to 50%*
37 *without investment in a complete set of*
38 *second supports.*

39
40 A. Yes.

41
42 Q. Again, noting obviously the existence of the word
43 "safely", what if it turned out that you couldn't do that
44 safely, what would you do?

45 A. We wouldn't do it. It's a high activity, there are
46 a lot of people involved and it's a high activity, so the
47 safety component absolutely has to be taken into account.

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Q. I would like to turn now briefly to critical controls. There has been a lot of discussion about critical controls.

A. Yes.

Q. You explained yesterday the process that Anglo has been on in terms of refining and improving its critical control process consistent with the acronym that I've forgotten --

A. ICMM.

Q. -- consistent with that process that I understand commenced in 2015, before you started?

A. Yes, the initial one, and the first one that was done at Anglo American was piloted at Met Coal in 2015.

Q. What's the point of critical controls? Why are they such a central part of your strategy?

A. They are as - a brief description of the process. You have a priority unwanted event, which is one of those events that can cause a potential fatality. You look at one of those and you identify all the controls to either prevent it or mitigate the potential outcome. There is a suite of controls that will go with it, but there will be some that are identified as critical controls, and these are the ones that are more likely than not to prevent the outcome occurring or mitigate the actual impacts happening on the other side. So it's the fundamental ones that you really want to focus on that have to be in place and have to be well, well thought through from a monitoring, management and erosion factor.

Q. You described before the "before" time, in effect, there were different critical controls at different mine sites and there were a lot more at some and a lot less at others.

A. Yes.

Q. Is there a correct number and are there any problems with having, say, too many?

A. Part of the reason - as I say, when I got here, you have three underground mines that had anywhere from, numbers off the top of my head, 240 down to 130 critical controls, and they're fundamentally similar operations. So the importance for me, and the first step, was where we had the University of Queensland come through and go through our entire list of critical controls and the processes

1 around it. As well, we had KPMG come through and have
2 a look at our monitoring processes around it.
3

4 The feedback from the University of Queensland was
5 that all of the controls were there. Some of the controls,
6 critical controls, that were identified were monitoring as
7 opposed to critical controls, and the risk you get into -
8 if you have too much monitoring activities called critical
9 controls, that's where the focus goes, as opposed to the
10 focus being truly on those critical controls. There are
11 monitoring activities that fit within that, but it
12 shouldn't be called a critical control.
13

14 Q. Is that part of the strategy to avoid what you
15 described as the erosion of controls that can happen over
16 time?

17 A. Yes, and this is the opportunity now we're down, you
18 know, in the undergrounds to 117, starting to roll that out
19 across all of the operations now, to roll into PHMPs, SOPs,
20 JRAs and the actual task assignments. A component that we
21 didn't do previously but we are now is, for each one of
22 those critical controls, we've taken the time to identify
23 what is the erosion factor. Even on an engineering
24 control, you can have an erosion factor.
25

26 Q. How can that happen on an engineering control?

27 A. If you have conditions around, you change, so you're
28 mining into different types of environment; regulatory
29 changes can change the critical controls around that, so
30 you have to understand what they could be. We have
31 defined - in the process of defining what are the
32 supporting activities to ensure that erosion factor doesn't
33 happen, and those will be activities built in to, again,
34 SOPs, JRAs and actual work.
35

36 Some work will happen at the Met Coal level, and then
37 from that, you now develop the monitoring program, so who
38 checks this on a monthly basis or whatever the cadence is -
39 it can be monthly; some were quarterly; some were once
40 a year - to monitor those, that they are in place and
41 operating effectively.
42

43 The other part we have changed a little bit, we're
44 still working on, is the verification process, that they're
45 actually happening. So when a worker actually gets a work
46 order, on there will be the critical control. Before they
47 complete the work or start the work, that has to be in

1 place and they have to verify that it has actually occurred
2 and it's operating the way it should.
3

4 Q. Can we have a quick look, please, at AGM.003.001.0830.
5 This is the one that is better opened in Excel, I think, as
6 Mr Hunter indicated yesterday. Mr Hunter properly noted
7 that there were, I think, 641 entries in this register?

8 A. Yes.
9

10 Q. Can we immediately see, if we focus on the heading
11 "Critical Control", if you take, for example, the 9th row
12 through to the 21st row, that it is the same critical
13 control that is being referred to?

14 A. Yes, it is.
15

16 Q. And then what is on the right-hand side is the
17 monitoring activity in respect of that critical control?

18 A. Yes.
19

20 Q. What you can do, and in fact what I think has since
21 been done in order to clean the document up, is you can
22 have it at a high level, so just those 117 critical
23 controls for each underground mine exist?

24 A. Yes.
25

26 Q. But I take it that the monitoring activities and the
27 owner of that activity and frequency, and so on, is still
28 really important data for those who are accessing this kind
29 of a document to have?

30 A. Yes, it is. Particularly the owner, obviously, is
31 accountable for the monitoring and maintenance of that, to
32 ensure it is operating effectively, and the monitoring
33 programs with the dates on there is the expectation and
34 that's what gets reported through on a monthly basis,
35 whenever it is scheduled to be reviewed. That monitoring
36 activity will be reported up on a monthly basis.
37

38 Q. Can I just ask you now, please, about reporting of
39 safety issues, reporting of hazards, just as a general
40 issue.

41 A. Yes.
42

43 Q. You will understand this has been a focus of quite
44 a bit of evidence in the course of the inquiry, about
45 whether coal mine workers feel okay about reporting safety
46 hazards. Can we just be absolutely clear. What is yours
47 and I guess Met Coal's, Anglo's, philosophy on the

1 reporting of safety issues and hazards: are you neutral
2 about them, do you want them, will you fire people if they
3 tell you things are bad? Can you explain for the Board
4 what your approach to that is?

5 A. Yes, and this was referenced in the Brady report as
6 well. Incidents and hazards, my preference is always to
7 find the hazards first. We have something in Anglo called
8 the high potential hazard, which is getting into before the
9 incident actually occurs, we identify it and fix it.

10
11 There is a number of other hazards that are encouraged
12 to be identified in each one of the mine sites on a regular
13 basis, whether that's through - and an operator on a daily
14 basis has to fill out a SLAM, "stop, look, assess, manage".
15 Some of those may identify hazards that need to be reported
16 through. Some of them can be addressed right on shift.
17 Some will have to be reported through to the site and roll
18 into Enablon and be managed. The more hazard
19 identification we get, the more we can take action and
20 prevent these from actually occurring.

21
22 Q. Is there a level at which you prefer hazards to be
23 identified, that makes it easier to use them as learning
24 processes?

25 A. One of my focuses would be anything that has that 4 or
26 5 I really want to know about and I want to make sure
27 people are really attuned to anything that could be
28 a potential fatality, and that is something that each one
29 of the sites focus on as well.

30
31 We try not to set quotas or targets. We actively
32 encourage. That comes through in some of our EoF programs
33 around the leadership component. Particularly at one of
34 our open-cut mines, we have really pushed the reporting, so
35 they are identifying hazards, and the great part of that is
36 70 per cent of them are coming from the frontline worker,
37 which is what we want to find. We want to have that
38 identification happening at that level being raised and
39 being addressed very quickly.

40
41 Q. You have identified there the difference, effectively,
42 between an incident and a hazard. You were asked questions
43 by our learned friend Ms Holliday yesterday about Anglo
44 HPIs, or high potential incidents.

45 A. Yes.

46
47 Q. Anglo HPIs, for present purposes.

1 A. Yes.

2

3 Q. If I'm paraphrasing wrongly, I apologise, but there at
4 least seemed to be an implication that the best thing to do
5 is to sort of - success is calling things HPIs, is naming
6 them as HPIs in an Anglo sense rather than as something
7 else, as an HPH, as a hazard, as a reportable incident or
8 something else. Is there any downside to kind of
9 over-reporting incidents as opposed to identifying them as
10 hazards?

11 A. I guess the potential risk with that is you dilute the
12 focus. For me, in particular, anything that has that 4 or
13 5 consequence I really do want to know about and I want to
14 ensure that we have addressed that. Lower-level incidents,
15 if you put them all together, have the potential to dilute
16 management focus away from those high-risk areas, not that
17 the rest of them can be ignored. It's through the LFI and
18 the investigation processes they are all dealt with. The
19 opportunity is the ones that are repeats or ones that are
20 trending - yes, we do need to capture those as well,
21 because it could turn into a potential incident, HPI.

22

23 Q. That idea that it could turn into a potential incident
24 was kind of an interesting discussion that our learned
25 friend Mr Hunter was having with you yesterday, because, of
26 course, at one level what he says, unsurprisingly, with
27 respect, makes perfect sense. If you have gas at a certain
28 level, there is always the potential in some world that it
29 will get to a higher level.

30 A. Yes.

31

32 Q. There is also the potential in some world that an
33 ignition source will exist, and therefore you might
34 arguably say they should always be in category 4 or 5.

35 A. Yes.

36

37 Q. Is that the approach that should be taken to the way
38 in which the risk matrix operates?

39 A. We try to do this consistently across all of Anglo and
40 certainly across all of the business, is look at the
41 incident for the actual event that happened and really have
42 the LFI team, and/or in some cases it goes to the SSE or my
43 head of safety to look at as to what the proper
44 categorisation is. So you want to understand the incident
45 and what potentially could have happened from that
46 incident.

47

1 There are cases, looking at that incident, that maybe
2 it's not an HPI, that wouldn't have potentially hit that 4
3 or 5 based on the event, but it should be potentially an
4 HPH. It's a hazard that we need to identify and go through
5 that same process and same management.
6

7 Q. When you are looking at that incident in terms of what
8 actually happened, are you also looking, I think as you may
9 have mentioned yesterday, at what other controls worked or
10 didn't work in relation to that?

11 A. Yes.

12
13 Q. Let's say you have an exceedance of 2.7 or 2.8 or
14 something of that kind?

15 A. Particularly around generally anything that is going
16 to have a potential fatality, there are multiple critical
17 controls that are in place and multiple systems and
18 processes. In the case of a gas exceedance, you have
19 your ventilation system in there; you have, in our case we
20 call them interlocks with the equipment, so that potential
21 ignition source, being electricity and/or frictional
22 ignition - regulations are at 2 per cent, you cut power to
23 the AFC and the shearer. We do that at 1.9 per cent, and
24 actually at 1.6 per cent we start slowing the shearer down.
25

26 Q. That's to reduce gas that might be emitted as a result
27 of production?

28 A. Yes, it's to reduce gas from the cutting speed going
29 forward. So those are the additional controls that are in
30 place that you look at in the context of the incident.
31

32 Q. In terms of the HPIs, the department HPIs that we are
33 dealing with here, so the gas exceedances that we're
34 dealing with here, again the suggestion seemed to be
35 yesterday that the risk within the Anglo process is that
36 they are treated in some way as poor cousins, if I can put
37 it that way. But can we be clear: every single one of
38 those gas exceedances resulted, did it not, in an LFI
39 process being undertaken with those tools that we have
40 talked about?

41 A. Yes. All department HPIs go through the full LFI
42 process.
43

44 Q. Then the results of those, as I understood what you
45 were saying yesterday, go to you on a daily basis through
46 the Enablon process?

47 A. Yes, I see them daily.

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Q. In addition, they go to Glen Britton for actual sign-off, that is, part of the Met Coal leadership team?

A. Yes.

Q. In addition, they are discussed, you're aware, at a site level?

A. Yes.

Q. They are also discussed at your monthly and quarterly meetings with SSEs?

A. The department HPIs, yes. On the gas exceedance ones?

Q. Yes.

A. Absolutely.

Q. Actually, that's a segue into the next thing I want to ask you, which is, the implication here almost seems to be, well, they are just departmental HPIs, so they were normalised or no-one was really interested in what they were telling you. How significantly did you and Met Coal leadership treat the gas management issues that were being indicated by the HPIs, the departmental exceedances that were occurring at the various sites?

A. Yes, the HPIs, as I said, were well known; we knew about them. All of that work initiated some of the documents and the work that we were referring to earlier, which is, you know, full focus on redesigning our gas management processes in there.

As I mentioned in my statement, it led to two different workshops that we had with external experts in there to try to get short-term and long-term solutions for here.

Again, from a capital funding focus and business investment, all of that is incorporated into that discussion. So in the case of I think Tim McNally, they needed the extra blower, that got approved very quickly through the system to dedicate the funds. In our planning process, looking at what the gas management strategy is, based on the issues we have had, which those HPIs support - how do we actually address that in our business plans.

Q. You set that out - we don't need to go through it in detail - in particular from paragraph 34 of your statement, that is, the series of gas workshops that were conducted?

1 A. Yes.

2

3 Q. And the technical work that was then being done and
4 the capital investment that followed?

5 A. Yes.

6

7 Q. One of the key things you were talking about there was
8 modelling?

9 A. Yes.

10

11 Q. And improving the modelling?

12 A. Yes.

13

14 Q. What is in train, effectively, to try to get that
15 modelling as good as it can be?

16 A. This is one of the - it's coming out of this, but
17 certainly one of the innovations we want to push on, right
18 now gas modelling is you try to - as my gas modellers tell
19 me, it is one of the most complicated models that you can
20 try to build, given the variables that go into it. So
21 a short-term opportunity is to look at some of the inputs
22 and the variability around those inputs to try to get
23 a better understanding of what our risk profile is.

24

25 Within the next 18 to 24 months, I want to be able to
26 bring that into - we're developing a Met Coal analytics
27 centre with data scientists in there and subject matter
28 experts around gas - and be able to use data science to be
29 able to better develop a model, better predict, based on
30 additional information that we maybe don't have today, so
31 we may have to acquire it, but actually looking at it
32 differently.

33

34 We did this with the cavity prediction software at
35 Grosvenor. Typically you try to predict your strata with
36 your seismics, your drilling, a little bit of the resource
37 model. In this case, we developed a model through a third
38 party that looks at, I believe, six different databases,
39 pulls together all of that information, and through
40 algorithms, through predictive smarts, and it will learn on
41 itself as well, to be able to predict strata. I want to be
42 able to do something similar on the gas management side.

43

44 Q. Your statement and the things that you have told us
45 about, and indeed what we have heard about from the various
46 sites, indicates that as these issues arose, particularly
47 the modelling issues arose, there were short-term,

1 medium-term and long-term strategies put into place to deal
2 with that issue as it emerged?

3 A. Yes.

4

5 Q. In the meantime, given the controls that you have
6 described being in place at the sites, and let's take
7 Grosvenor, for example, as those gas exceedances were
8 occurring --

9 A. Yes.

10

11 Q. -- was there any sense in which you were or anyone
12 was, to your knowledge, pushing continued production in
13 circumstances that were thought to be unsafe?

14 A. No, not at all. I think I may have mentioned it
15 yesterday, at the start on 104, going into that business
16 plan, we had a risk workshop around all of the different
17 sites at around Grosvenor particularly understanding the
18 strata, the gas issues there, defining the operating
19 strategy that we were going to put in place at the time,
20 change goaf hole spacing - all of that was done with the
21 site. That was put into their - what's it called? -
22 secondary workings document, fully risk assessed by the
23 site, and that became the document that went forward to the
24 site.

25

26 Q. If that risk assessment had indicated that the mine
27 couldn't be operated safely in terms of methane levels in
28 the longwall, what would have happened?

29 A. We wouldn't have started the longwall.

30

31 Q. Is there in fact an example of that occurring, as we
32 will hear in a bit more detail, at Grasstree, with one of
33 the panels being determined not to be ready to go?

34 A. Yes, that happened late last year. We were supposed
35 to move from 909 basically to the adjacent panel. The gas
36 drainage was not where it needed to be, so the outburst
37 thresholds weren't hitting 7. There was a previous panel
38 that had less gas issues, basically, on the other side,
39 called 808. The gas contents were where they needed to be,
40 so we basically completely flipped the strategy at that
41 point in time, and the operating plan mid-year changed from
42 going 909 to 910, to 909 to 908, and now we're back into
43 910, because it had an extra year to drain.

44

45 Q. That decision to not go where you were going
46 presumably didn't come without cost?

47 A. Yes, it delayed the longwall move, so we had a lot of

1 down time, I believe up to 90 - or 60 days, I believe, on
2 that. So you lost production out of it. But in the end,
3 we couldn't go to where we wanted to go and we were not
4 going to take that risk. We were going to take the hit on
5 production to be able to ensure we could operate that
6 safely.

7
8 Q. Finally I want to rewind all the way back to, I think,
9 other than your full name, one of the very first questions
10 Mr Hunter asked you - and I think it was early and maybe
11 not completely understood - which was what innovations, in
12 effect, or what ideas or future thinking Anglo is currently
13 doing around gas management arising out of, I guess, the
14 whole experience of the last few years?

15 A. Over the last few years, recent incidents, actually,
16 and listening to some of the stuff from the Board, and
17 Mick Lerch mentioned this earlier, the remote operation
18 is - we were working on that, seven shearers at Grosvenor;
19 Moranbah North now has the technology and the
20 infrastructure set up. We will push that. We've changed
21 and reallocated some resources to ensure that is up and
22 running sooner than probably anticipated. Have to do it
23 with the workforce, there are change management processes,
24 but remote operation is the single - to me, the biggest
25 potential value we have to pull people away. Even if they
26 are on the maingate or up on surface, it gets them away
27 from that high-risk environment.

28
29 Based on the incident that we had on May 6, again, we
30 reviewed all of our controls. We will look at some
31 different technology around that, based on what we have
32 seen from a very large overpressure event that we had never
33 seen before, and the ability to be able to react to that
34 quickly. We will look at putting pressure sensors on to
35 our longwall face, which has the same impact of the methane
36 sensors, which basically stop the power and stop the
37 movement to the shearer and the AFC, but it does it within
38 300 milliseconds, so it is an instantaneous stop, to remove
39 those potential sources of ignition if you have a flush on
40 to the face like we saw before.

41
42 As I mentioned, again, getting that gas modelling and
43 using advances in data science and technology and the
44 critical control rollout I think will have a significant
45 benefit to really get us focused on that control platform.

46
47 Q. There is mention, I think, in your statement of

1 digitisation, which just sounds like a buzzword, but
2 practically why is that important or something that is
3 focused on?

4 A. One of the opportunities - so it's using the
5 technology. The breakthrough we had last year was the
6 ability - we developed an underground tablet that you can
7 actually take in an IS safe environment.

8
9 I mentioned in the critical control part getting to
10 that verification step where someone is doing a task. What
11 we will have the ability to do is that work order, task
12 document, will come up. It will identify the critical
13 controls that have to be in place before the work can
14 occur, and we actually have the ability to mandate that the
15 person - they have a camera on these things - literally
16 takes a picture of it as photo evidence that that control
17 is actually in place.

18
19 And it is being able to have real-time information and
20 communication back and forth. They have Skype
21 capabilities, so they can talk to surface from underground,
22 to give you a better opportunity, so the engineer doesn't
23 necessarily have to go there. They can answer questions on
24 a real-time basis. It gives real-time information, and the
25 whole safety and health management system will be available
26 actually online underground, or we're piloting it on the
27 surface as well.

28
29 MR HOLT: Thank you. Thank you, Mr Martin.

30
31 THE CHAIRPERSON: Mr Hunter?

32
33 **<EXAMINATION BY MR HUNTER:**

34
35 MR HUNTER: Q. Just a couple of points, Mr Mitchelson.
36 You mentioned yesterday the expenditure of the sum of
37 \$1.8 million on goaf drainage in response to incidents that
38 had occurred at Grasstree.

39 A. For the blowers?

40
41 Q. Yes.

42 A. Yes.

43
44 Q. Presumably before that expenditure was authorised,
45 someone would have had to put a business case to management
46 about why the expenditure was necessary?

47 A. Yes, the site would have prepared a form document

1 through Damien, the GM.

2

3 Q. That business case would presumably have explained
4 that, look, these gas exceedances are affecting our ability
5 to produce, because we have to stop?

6 A. Yes.

7

8 Q. And pointed out what the losses from those production
9 stoppages had been?

10 A. I assume so. I can't - I don't know the document.

11

12 Q. I don't know it, either.

13 A. Yes.

14

15 Q. I'm just asking in a general sense --

16 A. It would highlight the production impacts we had and
17 the exceedances that occurred because of the capacity.

18

19 Q. Presumably, the document would have specified the
20 pay-back time, if you like, for that expenditure?

21 A. Possibly. It doesn't happen in all cases. In certain
22 cases around safety expenditures, there is no pay-back
23 considered.

24

25 Q. Let's be clear, we're talking about the expenditure of
26 \$1.8 million?

27 A. Yes.

28

29 Q. In circumstances where the group revenue for 2019 was
30 \$3.75 billion?

31 A. For Anglo American group?

32

33 Q. Yes.

34 A. Okay, yes.

35

36 Q. That's taken from your annual report. Will you accept
37 that?

38 A. Yes.

39

40 Q. Can I just ask you about the LFI process. Just to
41 remind you, my learned friend Mr Holt QC prefaced his
42 questions to you by reference to the safety architecture.

43 A. Mmm-hmm.

44

45 Q. He asked you whether Anglo was content to simply
46 comply with what was required by the regulatory framework
47 where the mine was operating or whether Anglo went further

1 than what was required, and I think you explained that you
2 did do more than was required?

3 A. Yes.

4
5 Q. Correct me if I am wrong, but were you saying that the
6 LFI process was something that you regarded as something
7 that went beyond what was required by the regulator?

8 A. I'm not sure I meant to say that. The LFI process is
9 standard across all of Anglo American. The intent is it's
10 a robust process, it's based off the ICAM process, to
11 investigate incidents.

12
13 Q. But the LFI process is nothing less than what is
14 required by the Act, can I suggest to you?

15 A. I haven't consulted the Act, but I'm assuming the Act
16 has requirements for a proper investigative process.

17
18 Q. I will put this to you. Section 30 says that the mine
19 has to have systems that must incorporate risk management
20 elements and practices appropriate for each coal mine to,
21 in (d), investigate and analyse the causes of serious
22 accidents and HPIs with a view to preventing recurrence.

23 A. Yes.

24
25 Q. That's precisely what the LFI process does; do you
26 agree?

27 A. Yes, yes.

28
29 Q. The LFI process takes time?
30 A. Yes.

31
32 Q. Obviously you need to get people with appropriate
33 expertise to look at what happened?

34 A. Yes.

35
36 Q. Some incidents will be more readily susceptible of
37 analysis than others?

38 A. Yes.

39
40 Q. But it is not something that can be done in the course
41 of a day or even a week?

42 A. Depending on the incident. More complicated incidents
43 will take longer.

44
45 Q. What do you say about this proposition, that it is
46 pretty undesirable to have an event repeat itself before
47 you've got the results of the LFI from the previous one?

1 A. Yes, if you have a repeat event, I can understand
2 that.

3

4 Q. Because the whole idea of the LFI is to learn about
5 what happened --

6 A. And prevent the next one, yes.

7

8 Q. So it would be even more undesirable, can I suggest to
9 you, if you had time and time again incidents of the same
10 type recurring before the LFI process from the previous one
11 had been finalised?

12 A. Yes, your preference would be to have it addressed
13 first.

14

15 Q. No doubt we will come back to this, but one of the
16 points that I intend to make is that at Grosvenor, for
17 example, every single HPI that I am talking about,
18 DNRME HPIs on the longwall concerning methane - every
19 single one of them occurred before the LFI process from the
20 preceding one had been completed.

21 A. Yes, I think in the case of Grosvenor, that may have
22 been the case. I think some of those, if you look at the
23 causes behind them, similar to what the team at Grasstree
24 did, there were common causes around - I'm going to get the
25 number wrong - I think six or seven of those that they
26 packaged together to be able to analyse, because it was
27 a common issue, to be able to deal with that one before
28 proceeding on to the next. Off the top of my head, I don't
29 know the Grosvenor ones.

30

31 MR HUNTER: Those are the only questions I have.

32

33 THE CHAIRPERSON: Mr Clough?

34

35 MR CLOUGH: Q. Mr Mitchelson, I do have a couple of
36 questions based on your evidence, probably more seeking
37 your opinion on a few ideas. You spoke a lot about
38 analysing data?

39 A. Yes.

40

41 Q. You also spoke about a statistical definition of
42 "stability" as applied to production?

43 A. Yes.

44

45 Q. Are you referring to process control charts?

46 A. Yes, stable and capable histograms.

47

1 Q. I'm just curious what your thoughts are in terms of
2 applying a process control chart to methane levels in the
3 tailgate?

4 A. That is something - as I mentioned around the
5 short-term updates of the model, it lends itself exactly to
6 that. You get statistical variation that's happening in
7 there. That variation, I want to be able to take that and
8 use it in our existing models to understand, you know, what
9 is it plus or minus on the deviation basis. So absolutely
10 that's a good application of it.

11

12 Q. My thoughts are that it would be a good indicator of
13 whether or not the system is in control, to use quality
14 management talk?

15 A. Yes, absolutely.

16

17 Q. That was the first idea I had. The second idea: what
18 are your thoughts on actually the industry having an agreed
19 group of critical controls, given that the hazards aren't
20 that different between different undergrounds or open-cuts,
21 that basically industry gets together in Queensland and
22 comes up with an agreed set of critical controls? What are
23 your thoughts on that?

24 A. I think it's possible. I would really want to think
25 through the implications of that. I do really believe
26 there is value, and we certainly saw it within our own
27 mines, of the sites or the actual business doing that. You
28 learn so much about the process and the value of the
29 controls by actively engaging in the process. The outcomes
30 could be similar, but I would not want to lose the
31 opportunity to learn through that process, to understand
32 how critical controls actually work.

33

34 In listening to Glencore's testimony through here,
35 I think they had 76, off the top of my head. One of my
36 notes is to follow up with Glencore and see if they are
37 willing to compare notes on the critical controls across
38 the two. But I do think sharing those and understanding
39 what each other is doing would be valuable. Whether they
40 are standardised across the business, you would really have
41 to think that through in the nature of the context of
42 unique features of a mine, but I certainly would absolutely
43 encourage the sharing.

44

45 Q. My thoughts were that perhaps the individual
46 organisations would develop their own monitoring and
47 support activities?

1 A. I think that's essential. Because every business and
2 site is going to have slightly different processes and
3 people in there to monitor them, I think it has got to be
4 unique, fit for site.
5

6 Q. The last question, and it sounds like your
7 organisation has adopted it to a certain extent, as has
8 Glencore, but the role you see, in terms of corporate
9 governance of priority unwanted events or catastrophic
10 risks or principal hazards, that critical controls take.

11 A. Yes.
12

13 Q. So mechanisms - for example, if a critical control is
14 ineffective, how far up the line should that go? Should
15 that actually go all the way to you?

16 A. Yes, and it comes all the way through on a monthly
17 basis, where it's reported through. There is more
18 real-time monitoring - one of our objectives is on
19 a monitoring basis, similar to a control basis,
20 administrative monitoring is not my favourite - our intent
21 is to have real time monitoring for 20 per cent of those
22 critical controls. So that's the alarm system. I want
23 instantaneous notification if this isn't happening, but it
24 will be escalated up to myself at least on a monthly basis.
25

26 MR CLOUGH: No more questions. Thank you.
27

28 MR HOLT: Might Mr Mitchelson be stood down?
29

30 THE CHAIRPERSON: Yes.
31

32 Q. Could I just ask this: it was mentioned again today
33 that Glen Britton signs off on the LFIs; is that what
34 I understand?

35 A. Yes.
36

37 Q. On whose behalf is he signing off?

38 A. He's signing off as the executive head of the
39 underground operations. All the GMs/SSEs report to
40 Glen Britton. I have another open-cut executive head as
41 well. So he is signing off that he has actually looked
42 through the LFI and reviewed it. It is not necessarily
43 signing off on behalf of me or on behalf of Anglo American;
44 it is an oversight part for the operations, as the head of
45 operations.
46

47 Q. What does the sign-off mean, though - that he accepts

1 the contents or he endorses the contents or --
2 A. Yes, that he has reviewed the document, it's the
3 quality that he expects from the document, and agrees with
4 the outcomes. If he doesn't, it will be pushed back to the
5 SSE and the respective site and teams to be able to review
6 that.

7
8 Q. He's not an obligation holder, Mr Britton?

9 A. No, he's not. The obligation stops --

10
11 Q. And he's not assuming that position by signing off?

12 A. No. It's an additional check and balance that we put
13 in place.

14
15 THE CHAIRPERSON: Thank you. Nothing arising out of that?
16 Thank you.

17
18 Mr Mitchelson, if you don't mind, I will just stand
19 you down at this stage. You may be required in the next
20 tranche. Thank you, and thank you for your evidence.

21
22 **<THE WITNESS WITHDREW**

23
24 MR HUNTER: I call Warwick Jones.

25
26 **<WARWICK DAVID JONES, affirmed: [11.15am]**

27
28 **<EXAMINATION BY MR HUNTER:**

29
30 MR HUNTER: Q. Mr Jones, your full name is Warwick David
31 Jones?

32 A. Yes, it is.

33
34 Q. What is your current position with Anglo American
35 Metallurgical Coal?

36 A. I'm the head of human resources for Metallurgical
37 Coal.

38
39 Q. How long have you held that position?

40 A. This current role, just on four years.

41
42 Q. Prior to that?

43 A. I was with Anglo since 2011. In the years prior to
44 that, I was the regional head of human resources for
45 a couple of years, and then I moved into a head of human
46 resources role for Australia and Canada under a combined
47 Anglo Coal structure that included South Africa.

- 1
2 Q. We've heard from Mr Mitchelson that he was not with
3 the organisation at the time a labour hire agreement was
4 entered into with One Key Resources. You obviously were?
5 A. Yes.
6
7 Q. Were you involved in the process?
8 A. Yes.
9
10 Q. So I take it you are very familiar with the agreement
11 that was entered into between the two organisations?
12 A. In terms of the One Key agreement?
13
14 Q. Yes.
15 A. Yes, it's not a working document that I'm in and out
16 of every week, but I'm certainly very familiar with it,
17 yes.
18
19 Q. Could I ask that we please have on the screen the
20 document that is AGM.003.004.0001_2. I can give you a hard
21 copy of the document, if it is easier to look at than on
22 the screen, if you would prefer?
23 A. Let's see how we go. If I need it, I'll sing out.
24
25 Q. Do you recognise the cover sheet as being the cover
26 sheet of the agreement?
27 A. Yes.
28
29 Q. Can we go, please, to clause 3.3, which is on page 11.
30 We see that 3.3 is headed "Manning Schedule". Does this
31 clause set out the basic framework in which, at a practical
32 sense, the system works - that is, that Anglo sends to
33 One Key a schedule that sets out the various positions that
34 it wants workers to fill?
35 A. Yes, that's correct.
36
37 Q. The requirement is that within a specified period -
38 I think it is three days - One Key are to come back with
39 a list saying, "Okay, these are the people"?
40 A. Yes.
41
42 Q. Can we go, then, to 6.2, which is at page 15. This is
43 a provision that deals with warranties regarding labour
44 hire workers, and I'm going to ask you a bit more about
45 training and competencies in a moment. You will see there
46 that the contractor - and you understand the term
47 "contractor" refers to One Key?

1 A. One Key, yes.

2

3 Q. It is warranting to Anglo that the labour hire workers
4 will be either their employees or subcontractors; that they
5 will have all of the qualifications, et cetera, to perform
6 at the site; to fulfil the requirements of the relevant
7 role profile - and there are role profiles specified at the
8 end of the agreement, aren't there, that, "Okay, this is
9 what we expect for someone who is going to be working in
10 this part of the mine"?

11 A. Yes.

12

13 Q. That they are competent, responsible workers; that
14 they will perform their role with the level of care, skill
15 and competence that the company is entitled to expect; have
16 completed the safety inductions; and will comply with all
17 Anglo American corporate policies. Right? So I'm just
18 wondering about how that works in practice. Does Anglo
19 accept at face value that the workers provided to it by
20 One Key can meet all of the requirements specified in
21 clause 6.2?

22 A. No. In practice, what happens is we're putting out
23 a schedule of the skills and experience type, if you like,
24 that we require, recognising that it wouldn't be possible
25 for someone like One Key to source people who exactly meet
26 that profile with all of the current skills and
27 competencies.

28

29 So, to be fair, there is some give and take in that
30 process, where we may be looking for particular attributes
31 that are difficult to train or that may be more important,
32 and so it's rare that you will get somebody who presents
33 under this agreement, or any of our other labour hire
34 agreements, for that matter, or indeed permanent
35 recruitment, for that matter, who meet all of the criteria
36 around which you are looking to fulfil the role. So when
37 you take somebody in on the process, you're always going to
38 be mindful that there will be some training, there will be
39 some other way in which that person's incorporated into the
40 crew or on to the site.

41

42 Q. How do you know what skills, competencies, abilities
43 a particular worker has?

44 A. Maybe I can talk more broadly, if I could, and I will
45 come back specifically to this. I guess, in a way, there
46 are four streams, if you like, around which people would
47 come to site. You will come to site as a permanent

1 employee under our recruitment process; you will come to
2 site as a labour hire employee; you will come to site as
3 a service contractor; or you might come to site as
4 a visitor. For the purpose of this, I think I will park
5 the visitor piece, and I will come back to the service
6 contractor, if you like.

7
8 If I'm a permanent employee or I'm a labour hire
9 contractor, the skills that I hold, the competencies that
10 I hold - and they may be nationally recognised
11 competencies, if you like, or tickets or licences or
12 qualifications, or they may be competencies that I've had
13 recognised at other mine sites that I've operated on under
14 their safety and health management system - I'll
15 essentially present all of that as part of the interview or
16 the pre-arriving at site process.

17
18 They will be validated to the extent that they are
19 current and correct and true and those sorts of things, but
20 they won't necessarily be loaded into our system at that
21 point, because when I arrive at site - again, as a labour
22 hire employee or as a permanent employee, there is really
23 no distinction in this process - I'm going to be assessed
24 against those competencies that I say that I hold and that
25 are relevant to the job that I'm being considered for or
26 being taken on for.

27
28 Some of those will be, as I say, things that will be
29 delivered by an RT0. For example, a generic industry
30 induction is something that we would expect people to turn
31 up with on day one, before they start any work on site.
32 That will be, as I say, provided by an industry-recognised
33 provider.

34
35 Other skills and competencies, then, will be through
36 the induction process imparted to people in terms of some
37 of the site-based competency and training that is required.
38 During that process, also, or indeed after that process,
39 other competencies that the person says that they hold and
40 we believe they hold will be checked by one of two
41 processes.

42
43 One is a recognition of current competencies process,
44 which says that the individual has a recognised RII
45 standard competency, so a national framework competency, or
46 they've got some other competency that might be, as I say,
47 derived from another source. If that's the case, we'll go

1 through what's called an RPL process. Really, one is
2 a deeper version of the other or a more thorough version of
3 the other.

4
5 So the recognition of current competency - I might be
6 required orally, I might be required through some practical
7 demonstration that I have, the competency, and I'll be
8 essentially authorised or signed off on that competency.
9 An RPL process - I'm typically going to have to demonstrate
10 more of my knowledge and capability before that competency
11 would be accepted and endorsed by, in this case, the SSE on
12 that particular site. That's a process for essentially all
13 of the skills and competencies that I bring.

14
15 Q. You may have said this, but RPL is recognition of
16 prior learning?

17 A. Prior learning, sorry, yes.

18
19 Q. I'm just trying to understand how it works in
20 practice. One Key provides Anglo with the populated
21 manning schedule, which specifies the names of the workers?

22 A. Yes.

23
24 Q. I assume some of those workers will already be known
25 to you?

26 A. Yes.

27
28 Q. What happens in the case of a worker who is someone
29 that you haven't previously had on site? What other
30 information do you get from One Key, apart from their name
31 and their apparent availability to work?

32 A. I think just to draw the distinction, I'm happy to go
33 back and talk about when Grosvenor was started, because
34 I think when you campaign starting an operation and trying
35 to ramp up for a large number of roles, it's a slightly
36 different process than when we're in, if you like, the
37 day-to-day operational sort of situation now, where the
38 numbers coming through are much smaller.

39
40 Essentially One Key will go through their own normal
41 recruitment process, as would any employer. They would do
42 their ordinary assessment work, they would do their
43 reference checking, they would make sure and do their own
44 validation of some of the skills and competencies that
45 individuals are putting forward, so a very similar process
46 to what we as a direct employer would do if that was the
47 case.

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Q. But my question to you is: what do you get? Does One Key say to you, "Okay, here is the manning schedule. You don't know A, B and C. Here is a package of information that we've collected about them".

A. Yes, typically, they will provide more background on the individual than just the name and their competencies. It will talk about the experience that they have held, where they have been, other sites. There may be some referencing that they have completed on their own part in terms of here are people that have provided information or whatever for these particular characters.

Q. If we look at 6.2(f), it says that One Key is to warrant that the workers "have completed the safety inductions required by the Company". So that, on a strict reading of it, suggests that before they arrive on site they have completed the required safety inductions. What is that a reference to?

A. The generic industry induction would be that requirement.

Q. Not a site induction?

A. No, you can't - they couldn't have done the site familiarisation and induction prior to.

Q. Well, what about with respect to (g), because there is a warranty that they will comply with your corporate policies, your SHE requirements and so forth. Does One Key train its workers in your corporate policies and SHE requirements?

A. No. No, they will be provided with some information, some limited information, as part of their recruitment work, if you like. So things like our diversity and inclusion policy, some of the general terms and conditions that may be contained in the sort of overall arrangement and work arrangements - they will be provided with some of those. Some of our basic site requirements they will be given, just so they can engage with potential candidates around what the role is, what the organisation is, and so on.

But in terms of actually going through and having direct accountability for the delivery of the training associated with any of those policies or SHE requirements, that's a matter that rests with Anglo.

- 1
2 Q. So the training in the corporate policies and SHE
3 requirements is done by Anglo?
4 A. Yes.
5
6 Q. It is not outsourced?
7 A. No.
8
9 Q. Is it done on site?
10 A. Generally. Much of that would be done during the
11 induction process itself, as people arrive on site.
12
13 Q. The site induction process?
14 A. Yes, sorry, site induction.
15
16 Q. The site induction process, how long does that take?
17 A. Generally about two days. But I would just say, it
18 extends beyond that in the sense that the competency
19 assessment process extends beyond that two-day initial
20 induction period.
21
22 Q. That was going to be my next question: how much time
23 is then spent beyond the site induction in determining the
24 competencies that a particular --
25 A. Most of the time would be done doing sort of site
26 familiarisation work or area familiarisation work, so the
27 specific induction components associated with the work
28 area. Then there would be a training plan that is
29 developed for those individuals to say what training or
30 assessment is going to be provided to them to have the
31 necessary competencies for the role that they have been
32 employed for, to be recognised by the SSE.
33
34 Q. And who signs off on the decision to take someone on
35 and to actually have them start work?
36 A. Ultimately, the employment decision is a One Key
37 decision; the decision to deploy them to Grosvenor would be
38 Anglo's.
39
40 Q. I suppose that's what I mean.
41 A. Yes.
42
43 Q. So the decision to allow them to do work on site for
44 which they are to be remunerated is Anglo's?
45 A. Yes.
46
47 Q. Specifically who at Anglo?

1 A. Ultimately it would be the SSEs to authorise the
2 appointment, yes.

3

4 Q. Does the SSE delegate that task to others, though, in
5 the ordinary course?

6 A. Will delegate certain parts of that, but ultimately
7 will still maintain a signatory sign-off, but will rely on
8 the input of others in the management structure, you know,
9 generally, to do that.

10

11 MR HUNTER: I'm about to move to another topic. Is that
12 a convenient time?

13

14 THE CHAIRPERSON: Yes, we will adjourn for 15 minutes.
15 Thank you.

16

17 **SHORT ADJOURNMENT**

18

19 MR HUNTER: Q. Mr Jones, the sense I'm getting, at least
20 at this point, dealing with 6.2, is that the way things
21 work in reality is not perhaps quite as prescriptive as
22 specified in this document?

23 A. Yes, I think there is a lot more cooperation or
24 collaboration, whatever might be the right word, in the
25 relationship for it to work, yes.

26

27 Q. So when you get the manning schedule, as it's called,
28 does Anglo necessarily accept that, okay, these are the
29 people that we will take on, or is there a discretion
30 exercised?

31 A. There would be a discretion. We would vet - we would
32 satisfy ourselves that, yes, people meet the requirements
33 of the role but also that people from their background and
34 experience, from the references that might be done, are
35 also the sort of coal mine workers, if you like, that we
36 want to have on the site.

37

38 Q. I assume that the process of not only site induction
39 but then the checking of competencies is a time-consuming
40 and expensive task as far as Anglo is concerned? You are
41 nodding. That's a "yes"?

42 A. Sorry. Yes, yes.

43

44 Q. These days, it only has to happen with respect to new
45 hires, if I can use that expression?

46 A. Yes.

47

1 Q. Obviously back when Grosvenor started, it had to be
2 done with the entire workforce; is that right?

3 A. Yes, a little. Again, maybe a bit more context to
4 that, if I could. If you go back to the original starting
5 of the mine, the 2013/2014 period, it was being done under
6 a service contract arrangement, and there was a major
7 contractor in there who was doing the drifts, so the entry
8 roadways to the mine, as well as had the contract for a lot
9 of the pit bottom development work and the initial gateroad
10 development.

11
12 Around 2014, in fact the middle of 2014, there was
13 a decision made that that wasn't the best arrangement, that
14 wasn't working, and that essentially Anglo would take over
15 those contracts directly and perform that work itself.
16 Now, when I say "itself", what we did was we looked at, for
17 that development work that was being done around pit
18 bottom, what would be the best way to do that, and we
19 decided that the model would be service contractors but
20 working under Anglo direction, an Anglo management system,
21 Anglo technical standards, Anglo safety standards and the
22 like. So that's really the way the operation kicked off in
23 the initial stages, and we had I think it was two, maybe
24 three, contract providers working in that arrangement.

25
26 At the back end of 2014, we decided that we would
27 continue with that model, but we would do so totally under
28 Anglo systems and under Anglo management control. That's
29 the point where we went to more of a labour hire model,
30 working with Anglo direction right down to frontline
31 supervisor level.

32
33 Q. Perhaps the misunderstanding is mine, but who was
34 directing and controlling the contractors prior to this
35 point?

36 A. Anglo - an Anglo project team as opposed to sort of an
37 Anglo operating management team, if you like. So we still
38 had to have an SSE, we still had a tech services manager
39 and those sorts of roles, but under that particular service
40 contract the contractor brought a management structure with
41 them to actually help fulfil those tasks, whereas in 2014
42 we moved to an Anglo management structure with a labour
43 hire model for operators and trades and a couple of other
44 roles.

45
46 Q. Is that the model that still applies today?

47 A. Yes, largely that's the role. Sorry, the only reason

1 I raised it in that context was if you go back to that
2 point, we actually, with a number of labour hire providers,
3 advertised for that first influx or that first key group of
4 people that would come in. There were about 80 that we
5 recruited for in that first round. Since then, we've been
6 topping up and, obviously through natural attrition,
7 replacing.

8

9 Q. It is now at the point where, I will say at Grosvenor,
10 for example, your labour hire workforce is about
11 75 per cent of the people on site; is that right?

12 A. Yes.

13

14 Q. 76 per cent, I think to be precise. Again, you are
15 nodding.

16 A. Yes.

17

18 Q. The answer is "yes"?

19 A. Yes, that's correct.

20

21 Q. So when the decision was made to go to the --

22 A. Sorry, Mr Hunter, I must take you back. It is
23 actually not that 76 per cent are all labour hire. In that
24 76 per cent group, we're talking all labour hire and
25 contractors who are on site. There may be service
26 contractors, there may be contractors who are performing
27 capital projects who are coming in for a particular capital
28 item, and the like. So I think in that 76 number that you
29 quote, it's all of those contractors and labour hire, some
30 of which would be One Key. I think the number of One Key
31 is about 380 of that 650 number that you might be referring
32 to.

33

34 Q. Can I ask you, though, when the decision was made to
35 go to the model that persists today, what were the reasons
36 behind the decision to do that?

37 A. Again, in that sort of 2013/2014 period, we were
38 looking as part of the project at what labour model, if you
39 like, we would adopt, and there were a range of options
40 that were in play from a common law contract to an
41 owner/operate with a collective agreement. There were
42 a range of different sort of structures that we looked at.

43

44 We also at that stage had the operational excellence
45 group inside Met Coal do a bit of work on what was the
46 experience and development performance, recognising that
47 the first three years of this mine was all about

1 development - there was really no longwall operation at
2 that point - so what was the development performance that
3 was being achieved elsewhere, in Queensland, New South
4 Wales and a little bit internationally, but mainly in
5 Australia?
6

7 Out of that, they really came back with a conclusion
8 that said the best performance that was being seen at that
9 time, when you tried to normalise for operating conditions
10 and circumstances and equipment and other things that are
11 all different, was a contract model that had labour hire or
12 contractors and an owner/operate management structure
13 sitting over the top of that, and preferably down to
14 frontline leaders. That was the model that was adopted at
15 that point.
16

17 Q. Let's look at that. You say "best performance". What
18 do you mean by "performance"?

19 A. Typically it was done on productivity, so production
20 performance. And, in that, the conversation was always
21 that there was no discernible or material difference in
22 safety performance under any of those models. There were
23 full service contractor models that were performing very
24 well; there were owner/operate arrangements that were
25 performing very well from a safety point of view; and there
26 was a labour hire owner/operate model that was performing
27 very well from a safety point of view. So it wasn't
28 a distinguishing factor at all.
29

30 Q. Safety can mean different things to different people.

31 A. Yes.
32

33 Q. By what metrics was safety being measured at the time
34 that this decision was made?

35 A. It would be primarily by safety injury outcomes, lost
36 time injuries, medical treatment, yes - your typical lag
37 indicators, if you like.
38

39 Q. There are a number of advantages to a mine operator
40 from having a labour hire workforce, beyond productivity,
41 can I suggest? I'm going to put a series.

42 A. There are pros and cons of all the models, but, yes,
43 I would agree, yes.
44

45 Q. You don't have to worry about all of the payroll,
46 superannuation, leave entitlements, those sorts of things;
47 that's all dealt with externally?

1 A. Correct.

2

3 Q. You don't have to pay as much by way of workers
4 compensation insurance premiums?

5 A. In this case, correct.

6

7 Q. You don't have to worry about enterprise bargaining?

8 A. Not to the extent that we're involved directly;
9 correct.

10

11 Q. So it makes things a lot simpler from your - that is
12 the operator's - side of things?

13 A. It does now that we've consolidated into a single
14 labour hire provider. It probably wasn't that prior to
15 2016, where we had a number of different labour hire
16 providers. But that was one of the reasons why we
17 consolidated at that time, yes.

18

19 Q. I'm sorry, my questions were premised upon an
20 assumption that we're talking about the current model.

21 A. Yes, yes.

22

23 Q. So do I understand that the essence of the arrangement
24 is that most of the employment obligations, if not all of
25 them, are on the labour hire company, but the safety and
26 performance obligations are on the operator?

27 A. Largely correct, yes. The only qualifier I would put
28 around it, if I could, is that in terms of the employment
29 obligations, we still need to make sure, for example, that
30 One Key in this case have appropriate processes and systems
31 in place to, if you like, exercise their obligations and
32 manage their obligations. One of the contract requirements
33 is that they have an employee relations management plan,
34 and we want to make sure that that employee relations
35 management plan addresses all of the key issues associated
36 with them treating their people lawfully and fairly.

37

38 Q. We will come to the performance indicators, and there
39 are four, are there not?

40 A. I believe so, yes.

41

42 Q. We will come to the contract in a moment. Before
43 I leave the numbers, does Anglo keep track of labour hire
44 worker turnover?

45 A. Yes.

46

47 Q. Can you tell us - you may not be able to off the top

1 of your head, but you might be able to tell us where we
2 should go looking or asking to find that information - as
3 to the rate of turnover?

4 A. At Grosvenor?

5

6 Q. Yes.

7 A. At Grosvenor, for the One Key workforce it is
8 11 per cent.

9

10 Q. Over what period?

11 A. Voluntary turnover. That would be annualised.

12

13 Q. Annualised?

14 A. Yes.

15

16 Q. Is that broadly the same elsewhere or --

17 A. It would be higher than what we would see in a similar
18 Anglo workforce under a direct employment relationship,
19 which would be somewhere between maybe 4 to 6 per cent. It
20 would be lower than what we see in general service
21 contractor workforces, and it is lower, typically, I'm told
22 by One Key from what they see on their other labour hire
23 contracts.

24

25 Q. Do you know how it compares across the industry
26 generally?

27 A. No, I don't.

28

29 Q. Can we go to 6.8, which is over the page. You will
30 see the contractor requirements at the foot of the page?

31 A. Yes, I do.

32

33 Q. Following on from what you have told us, do
34 I understand that in practice, it would be Anglo who would
35 train the workers in the various corporate policies, and so
36 forth, referred to in (d)?

37 A. Correct, yes.

38

39 Q. And that prior to the workers starting work, Anglo
40 would ensure that they actually fitted the role profile for
41 the role that they are required to fill?

42 A. We would definitely satisfy ourselves of that, yes.

43

44 Q. Is there ongoing monitoring of the work performance of
45 labour hire workers?

46 A. Yes, there is.

47

- 1 Q. So Anglo is the entity that ensures or checks that
2 a worker is in fact performing in accordance with the
3 minimum work standards?
4 A. The actual accountability for the performance
5 management piece rests with One Key.
6
7 Q. It does?
8 A. But they would require information and input no doubt
9 from Anglo and our supervisors and others, yes.
10
11 Q. Because One Key would have no idea --
12 A. Correct.
13
14 Q. -- unless you told them?
15 A. Well, that's not quite right. They will have - they
16 have a site supervisor on site as part of this contract,
17 which is again a bit different than you would typically see
18 under just a generic labour hire arrangement. One of the
19 accountabilities of that person is to ensure that any
20 performance management issues are addressed in accordance
21 with One Key policies and process.
22
23 Q. How would performance management issues be brought to
24 One Key's attention?
25 A. I would think typically by Anglo supervisors,
26 department managers, yes.
27
28 Q. On that topic, does Anglo have its own policies with
29 respect to the management of, for example, a delinquent or
30 an underperforming labour hire worker?
31 A. What we would do is, if it's a performance management
32 issue, again, we would rely in this case on One Key's
33 performance management process. At the end of that, if
34 there was some form of discipline, for example, up to and
35 including potentially termination of employment, we would
36 make sure that we've applied our own consequence matrix or
37 our consequence model, as we call it, to their
38 decision-making process just to ensure that there is some
39 consistency in the way that we would treat a coal mine
40 worker versus, if you like, the output of their process.
41
42 Q. Where do we find the consequence model?
43 A. Where would you find it?
44
45 Q. The Anglo consequence model. It is in a document
46 somewhere?
47 A. Yes, it would sit inside site procedures, site HR

1 documents. It's actually an A4 poster-style thing that's
2 often around, up in people's offices and in various
3 locations.

4
5 Q. Let's say that a person is being disciplined or even
6 terminated in accordance with One Key's procedures. How
7 does it come about that there would be this check
8 undertaken by Anglo?

9 A. One Key would bring the results of their performance
10 management process to typically our company contract holder
11 or nominee or representative, which in this case is the
12 site human resources manager.

13
14 Q. And so the site HR person would then check to ensure
15 that the consequence that has been determined by One Key is
16 in accordance with what Anglo would do in the same
17 situation?

18 A. Correct, correct.

19
20 Q. Does Anglo itself ever involve itself in managing
21 a problem with a labour hire worker?

22 A. Clearly accountability rests with One Key, but in
23 practical terms there will have to be some level of input
24 from us, even if it is only just to provide information on
25 performance. It might be that One Key needs some
26 statements or some evidence, or something or other, to go
27 into their investigative process. The answer to your
28 question is, yes, there would be some level of involvement.

29
30 Q. For example, your deputies - they are almost always
31 Anglo employees?

32 A. Correct.

33
34 Q. And so they would be well placed to observe the
35 performance of One Key labour hire workers?

36 A. Most likely, they would be the person most familiar
37 with that individual's performance or issues or whatever
38 was the concern, yes.

39
40 Q. At 6.6 on the same page, in particular 6.6(a)(ii), the
41 SSE can object to any labour hire worker proposed by the
42 contractor. How does that work in practice?

43 A. Having received advice from One Key who it is that
44 they propose to bring to site to fill a role, fill
45 a vacancy, if you like, that might exist in the schedule,
46 somebody from site, not necessarily the SSE initially, but
47 somebody from site, would be reviewing that sort of

1 information, as we discussed earlier, and there may be
2 a recommendation to the SSE that that person not be
3 approved to come to site.
4

5 Q. Is that something that happens frequently in practice?

6 A. Look, I've got to say from my experience - I'm
7 a little bit away from site these days, but from my
8 experience, it is not something that happens frequently,
9 but it certainly does happen. Individuals across the
10 industry will be known, you know, certain people will know
11 certain people, and so, yes, there is a level of
12 understanding and probably familiarity with some applicants
13 in this industry that might be a little bit different than
14 elsewhere. So it does happen, yes.
15

16 Q. Can we go over the page to 6.9. This perhaps picks up
17 something that I was asking you about a little earlier,
18 which is the obligations or the responsibilities of the
19 contractor in terms of the employment obligation. We can
20 see that the contractor is responsible for all of the
21 recruitment and the checking, and so forth, of their
22 qualifications. What is the onboarding of labour hire
23 workers? What is that a reference to?

24 A. I would think that that refers to One Key's onboarding
25 of those people as employees of their company. They will
26 have, I guess, various pieces of information they will be
27 required to get from individuals as they are bringing them
28 on as employees of One Key.
29

30 Q. All of the costs associated with remuneration,
31 superannuation, leave, workers compensation, et cetera, are
32 all set out in (iv) to (vi), and that's all on One Key?

33 A. Correct. There is a schedule of rates that attaches
34 to the contract that spells out some of that, yes.
35

36 Q. At 6.11, which is at page 18, we can see the right
37 that an SSE has to remove and require the replacement of
38 a labour hire worker. We can see that there is a number of
39 specified reasons in (a)(i) to (vii), but also under (viii)
40 there is this broad, catch-all power if the SSE is
41 "otherwise dissatisfied with the conduct of any labour hire
42 worker". My question, I suppose, is how would the
43 unsatisfactory performance or behaviour of a labour hire
44 worker come to the attention of the SSE?

45 A. I think it's unlikely that the SSE would have that
46 direct information and only the information to them, so
47 I would see in this particular case it would come via

1 somebody or multiple people in the management structure.

2

3 Q. Would you expect that rather than it falling to the
4 SSE, it would go through the One Key processes? That's at
5 least how Anglo would expect it to be addressed?

6 A. Initially I would expect that to be the case, yes.

7

8 Q. So if the solution to the problem was termination, you
9 would expect that decision to be made not by the SSE in the
10 first instance but by One Key?

11 A. Correct.

12

13 Q. I understand you are aware of the case of Kim Star,
14 who brought an action in the Fair Work Commission against
15 WorkPac after she was demobilised for raising what appears
16 on its face to have been a legitimate safety issue?

17 A. It goes back a little way, but yes.

18

19 Q. You understand what occurred?

20 A. Yes.

21

22 Q. The labour hire company, WorkPac, was told by the mine
23 operator that she was no longer required, in effect?

24 A. Correct, that's part of it, yes.

25

26 Q. It seems, at least on the conclusions drawn by the
27 Commissioner, that there was no proper basis for
28 demobilising her, to use the euphemism that was deployed in
29 that case. What protections are there for labour hire
30 workers against that sort of capricious action by an SSE,
31 for example, in this instance?

32 A. There's probably a few things I would say in response
33 to it. One, if you look at the contract, as you've just
34 gone through this particular clause, there are eight
35 provisions, one of which, as you say, creates this sort of
36 rather large general category, but there are seven others
37 that are quite instructive about the circumstances in which
38 you might exercise that right.

39

40 The second thing is that it goes only to the SSE. So
41 it is only the SSE that has that ability, and it is quite
42 deliberately not delegated to others inside the management
43 structure and even down to the contract holder or contract
44 representative. Again, part of the purpose of that is to
45 try to create some level of multiple eyes on the one
46 problem or the one decision, so that you would very rarely
47 get to a situation where the SSE unilaterally, with no

1 other input from anybody else, has exercised the right
2 under clause 6.11(a)(viii). So I think that's the second
3 thing that I would say, that in practice it has gone
4 through multiple reviews or recommendations before it gets
5 there.

6
7 The third thing I would say is that - and I'm not
8 across all of the detail of the Star matter, but I know
9 that the Commission in that case put weight on the fact
10 that the particular labour hire provider did not follow
11 their own performance management process in respect of that
12 individual. They were therefore entitled to draw the
13 inference that only this unilateral right applied, because
14 they had not put in place anything in relation to their own
15 performance management. Again, I would hope that in the
16 way we would manage, that would be distinguished on that
17 basis.

18
19 Probably my last point around that is that the court
20 also, if I recall rightly - I've just lost my train of
21 thought there for a second. Just bear with me.

22
23 Q. Take your time.

24 A. Sorry. There is a fourth point to that, and I just
25 can't recall it right now. It might come back to me.
26 I apologise.

27
28 Q. That's all right. In terms of the employees that are
29 provided to you by One Key, do you understand, as we think
30 we understand it, that there are two classes of them -
31 there are people who are on so-called maximum term
32 agreements and people who are casual?

33 A. Yes.

34
35 Q. Is there any other category with One Key that you are
36 aware of?

37 A. They have some people who are on subcontract
38 arrangements as well.

39
40 Q. You understand, do you, that people who are on the
41 so-called maximum term agreements can be terminated by
42 One Key, subject to a notice period that depends on how
43 long they've been with the organisation?

44 A. Correct.

45
46 Q. But with respect to the casual workers, are you aware
47 of the basis on which they can be terminated?

1 A. Contractually, I understand it would be on an hourly
2 basis. Contractually.

3

4 Q. They can be terminated with one hour's notice?

5 A. Yes.

6

7 Q. And that's the end of it?

8 A. Yes. In practice, I've never known that to occur, but
9 contractually I get it.

10

11 If I could, Mr Hunter, as well, I might just finish
12 off the fourth point? Sorry. The court in the Star case
13 also gave weighting to the fact that the labour hire
14 provider had not made inquiries of the host employer about
15 the background or context or reason for the termination or
16 demobilisation decision, and I think the Commission in that
17 case put some weight on the fact that they hadn't fulfilled
18 their obligations.

19

20 Q. Is there anything in this agreement between Anglo and
21 One Key that sets out a process whereby, for example,
22 a decision by an SSE might be reviewed?

23 A. I'm not sure it goes to that particular language, I'd
24 have to say, but I think there is a clause in here - and
25 I may be wrong, but I think it is around clause 33 - that
26 talks about the company exercising its rights and
27 obligations under the contract in - I'm paraphrasing -
28 a fair and equitable manner. There is a generic sort of
29 obligation to apply the contract and apply decisions
30 reasonably and fairly, so that would be one provision that
31 we could go to.

32

33 Q. Talking about the powers exercisable by the SSE,
34 perhaps we can go to clause 33, which is at page 51. If we
35 scroll down a bit further to 33.5, please, we can see the
36 various powers that can't be delegated?

37 A. Yes.

38

39 Q. I don't see there any prohibition on the delegation of
40 the power of the SSE to remove a worker from the site, so,
41 strictly speaking, the SSE could delegate that power to
42 somebody else in the organisation?

43 A. Possibly, but - yes, possibly, yes.

44

45 Q. Can we go then, please, to 11.1. Again, if we go to
46 the bottom of the page, this is the contractor's
47 obligations. This picks up what I was asking you about

1 before about what happens in practice as opposed to what is
2 set out in the document?

3 A. Yes.

4
5 Q. It requires that the contractor must ensure that they
6 had the documentation referred to in (a)(i), but not only
7 that, over the page, that they are trained in those
8 matters. Does that not suggest that One Key has an
9 obligation to train its personnel in those matters
10 independently of Anglo?

11 A. It does suggest that, but in practice that's simply
12 not possible.

13
14 Q. Can we go to 11.8, please, on page 26. This is
15 a clause that specifically deals with any safety incident.
16 In particular, for safety incidents that were caused or
17 contributed to by a contractor or the contractor's
18 personnel, there is an obligation on the contractor to
19 immediately notify the company about the incident.

20 A. Yes.

21
22 Q. If there is a safety incident on site that affects or
23 potentially affects the One Key personnel, is there any
24 obligation on Anglo to notify One Key? I'm suggesting that
25 there is nothing in the contract that would require Anglo
26 to notify One Key about a safety incident?

27 A. I'm not sure there is under this contract. I'm just
28 actually trying to think whether under the Coal Mining
29 Safety and Health Act there is an obligation on the SSE to
30 notify of an incident, but I'm not sure.

31
32 Q. Not to notify a labour hire company.

33 A. Well, an employer - the fact that a labour hire
34 company, but an employer generally.

35
36 Q. I will be corrected, but I think not.

37 A. Yes, I - I'm not sure either.

38
39 Q. Does that strike you as odd, that there could be
40 a safety incident on site potentially affecting One Key
41 employees and there is no obligation on Anglo to pick up
42 the phone and say, "Look, we've just had an incident
43 affecting your staff"?

44 A. No, it doesn't in this case, because the employer,
45 One Key, has a representative on site every day, and if
46 there was a safety incident involving their employee - just
47 the natural course of things would be they would be aware

1 of it.

2

3 Q. They would hear about it because people would be
4 talking about it?

5 A. They would be involved in the investigation
6 potentially as a follow-up, depending upon the seriousness
7 of it and so forth. But I'm just - it is hard to conceive
8 that they wouldn't know about it.

9

10 Q. We've heard quite a bit of evidence about Anglo HPIs
11 and DNRME HPIs. Were you, prior to these proceedings aware
12 of the distinction between those two types of high
13 potential incidents?

14 A. Yes, I was.

15

16 Q. Was there any formalised process whereby an Anglo HPI
17 was notified to One Key?

18 A. Not to One Key directly but certainly to the - I say
19 "coal mine workers" - but the employees of One Key who are
20 designated coal mine workers for the purpose of the Act,
21 they are treated, in terms of communication of the
22 learnings or communication of the event, no differently
23 than anybody else on site.

24

25 Q. And how is the occurrence of an event that is an Anglo
26 HPI communicated to the workers?

27 A. It would depend a little bit on the event - the
28 severity, the relevance, if you like, to that particular
29 site or that level of the organisation. Typically if it is
30 a coal mine worker learning event then it would go through
31 primarily toolbox talks; start of tour there would be
32 a pre-shift communication where all of the events of the
33 last seven days, where those people may well have been off,
34 would be accumulated into a short presentation that is
35 given to the crews. So they are probably the two main
36 ones, would be toolbox talks each day, but then pre-start
37 at the start of their tour, would be the other big one.
38 There are also training days where some of those things
39 would be covered.

40

41 Q. Are there noticeboards?

42 A. Yes, there are.

43

44 Q. Whereabouts are those found?

45 A. Generally in what is called the breezeway or next to
46 the lamp room. I'm just trying to think at Grosvenor where
47 those noticeboards are.

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Q. These are aboveground?

A. Sorry, yes, on the surface. They are generally around the lamp room area where people congregate.

Q. What about at DNRME HPI - are they communicated to workers?

A. I don't have any first-hand knowledge of those being - versus not, but I certainly know from my role as part of the executive team that we would expect any relevant HPI, department or otherwise, where there are learnings and information that's got to be provided to a coal mine worker to make our operation safe, to make its way to those coal mine workers.

Q. There would be records, then, that would be kept, for example, of the way in which, if at all, a particular event was notified to coal mine workers?

A. Yes, I think most of those would be done up into some sort of toolbox talk format that would be a document or slides that are presented.

Q. So if the Board, for example, wanted to see the extent to which, if at all, a particular high potential event was promulgated, or the occurrence of it was promulgated to workers, it would be possible to ask Anglo for that and there should be records that could be produced?

A. For those that were communicated back for learning I would expect so, yes.

Q. Do you know anything about the timeliness or does it depend upon the event?

A. Yes, I - no, I don't, I'm sorry.

Q. The One Key - I forget the term you used, but the One Key employee who is on site, is it a single employee?

A. Sorry, yes, the contractor representative, yes. There are two people on site from One Key, sorry, just to clarify that. There is a person who acts in a, let's say, supervisory role but a contract coordinator type role, and there is an administrator type role as well.

Q. What role does the supervisor play?

A. Liaising with Anglo and the contract representative that we have about any issues around performance that are coming up with the contract or any changes to manning schedules that might be coming up. They will be liaising

1 sort of daily about absenteeism/attendance-type issues,
2 who's got leave, how are we scheduling leave - you know,
3 a lot of those sorts of matters.
4

5 Q. What does the admin person do?

6 A. Generally is processing a lot of the leave forms and
7 bonus payments. You know, liaising with their payroll to
8 make sure that payroll is done accurately and so on.
9

10 Q. Something I meant to ask you earlier when you were
11 telling us about turnover of labour hire staff and you said
12 at Grosvenor it was annualised at about 11 per cent --

13 A. Yes.
14

15 Q. -- what about Anglo staff on the same --

16 A. At Grosvenor?
17

18 Q. At the same site, at Grosvenor. How does that
19 compare?

20 A. At Grosvenor it is similar to that 11 per cent, by
21 coincidence, maybe, but it is about 11 per cent. That
22 would be slightly higher than what we would see at our
23 other Anglo operations, or did see in our other Anglo
24 operations.
25

26 Q. I meant to ask you this: when the decision was made
27 to go to the model that you are currently using,
28 performance was said to be optimised by using that model?

29 A. Yes.
30

31 Q. Was there some understanding of the factors that meant
32 that labour hire gave you better performance than
33 alternatives?

34 A. I'm not sure that there were sort of defined factors
35 in that way. Can you maybe ask your question a little bit
36 differently?
37

38 Q. When a decision was made, "Look, we're going to go
39 with a labour hire workforce because that's going to give
40 us the best productivity", surely you would want to
41 understand why that model would give you the best
42 productivity - that is, what is it about labour hire
43 workers that mean you can produce at a faster rate than you
44 would be with a direct hire, for example?

45 A. It wasn't specifically just about whether it was
46 labour hire or not. So, as I said, in some cases we will
47 see now that our own development crews of Anglo employees

1 are performing at development rates comparable to anybody,
2 performing very, very well. So it was just at that point
3 in time, the results that were being achieved elsewhere in
4 the industry pointed us towards that particular model as an
5 opportunity to improve on what we were seeing as our
6 development performance at that time.

7
8 Q. Was a further factor, and perhaps a decisive one, the
9 issue of cost?

10 A. It was a factor, yes. I would say it was a factor.

11
12 Q. The term "flexibility" is sometimes used in the
13 context of labour hire, but what that means in practice is
14 that when you don't need workers, you don't have to pay for
15 them; have I got that right?

16 A. In part that's correct, yes.

17
18 Q. In part? Isn't it --

19 A. Well, in some cases we've got labour hire people who
20 are on contracts that require some sort of termination
21 redundancy, other payments that - you know, it's not just
22 an hour-by-hour payment arrangement. So it is not a case
23 of just, "I don't need you next hour. Go and sit in the
24 corner, we don't have to pay you."

25
26 Q. I'm not suggesting that that is the way it is, but in
27 the sense that there are times when you need more workers
28 than you need at other times?

29 A. Yes.

30
31 Q. And it is possible to predict a significant way in
32 advance when those times are going to be?

33 A. Generally, yes, for big numbers, yes.

34
35 Q. So there are some substantial savings to be made
36 because you can say, "We're not going to need X workers for
37 this period" - perhaps three or six months' time?

38 A. Correct. But all I'm saying is that in reducing those
39 numbers, it's not always a case that there is no cost
40 associated with doing that.

41
42 Q. But, nonetheless, there are cost savings to be made?

43 A. In total, yes. But there are certainly rates in our
44 labour hire arrangement with One Key that are comparable in
45 the earnings for the employees to what we have in our other
46 agreements across our undergrounds.

47

1 Q. Can we go to page 61, please. I mentioned before the
2 key performance indicators. I'm sorry, you need to go two
3 further pages on. That's it. If we could just zoom in on
4 the table, please. These are the performance indicators
5 that determine or enable an assessment of how One Key has
6 performed under the agreement; correct?

7 A. Yes.

8

9 Q. There is only one that relates to safety, and that is
10 compliance with the company's authority to work?

11 A. Yes.

12

13 Q. What is the company's authority to work?

14 A. So for a contractor to come on site there are
15 essentially sort of two processes. One is a permit to
16 work. So prior to mobilising on site all of the necessary
17 sort of risk assessment and all of the understanding of
18 what equipment, what individuals, what competencies are
19 required for that task, all of the relevant safe work
20 procedures, safe operating procedures and the like would
21 all be packaged up for that particular piece of work, and
22 that would be issued to the contractor prior to them
23 arriving under a permit to work.

24

25 The authority to work is then the sort of instruction,
26 if you like, to allow the contractor to mobilise on site,
27 and it is also the checklist by which we validate that all
28 of the requirements under the permit to work have been
29 done, that we know the individuals and their particular
30 requirements, in terms of appointments or authorisations,
31 and that all of that information is captured back inside
32 the site safety and health management system. So it is
33 a bit of a checklist process to make sure that all of that
34 preparatory work associated with the planning of the task
35 for the permit to work is covered and in place before you
36 issue the authority to work.

37

38 Q. What I'm struggling with is that, as I understand what
39 you have told us, what happens in actuality is that the
40 training in respect of any required competencies and so
41 forth isn't done by One Key?

42 A. Correct.

43

44 Q. It is done by Anglo?

45 A. Correct.

46

47 Q. So in terms of One Key's compliance with that KPI or

1 achievement of that KPI, it is not up to them; it is up to
2 Anglo, isn't it, to a substantial extent?

3 A. To a substantial extent to make sure that the
4 individuals have got the competencies required and that
5 those competencies are current and approved by the SSE,
6 completely within Anglo's control. To ensure that the
7 individuals that come forward and are potentially new to
8 site meet the sort of minimum requirements or the role
9 profile competencies for the role, that would be certainly
10 in the scope of One Key.

11

12 Q. The others - I think I said there were four, before,
13 but there are five. There is the number of rejected
14 invoices, so that's, what, making sure that One Key sends
15 Anglo accurate invoices?

16 A. Correct.

17

18 Q. Then there is the ERMP that you have told us about?

19 A. Yes.

20

21 Q. There are the reports and meetings, and there is the
22 compliance with the manning schedule?

23 A. Yes.

24

25 Q. Do I correctly understand that One Key effectively has
26 no say about safety on site - that's all on Anglo?

27 A. I think as a general statement that's correct.

28

29 Q. Does One Key have ability to inspect or otherwise form
30 its own judgment about the safety on an Anglo mine site?

31 A. Any ability, sorry, did you say?

32

33 Q. Yes, that's right.

34 A. Yes, definitely.

35

36 Q. That's not specified.

37 A. No, it may not be specified in the contract, but as an
38 employer of people who are on site they would have
39 obligations under their employee relations management plan
40 and under their broader duties under the Fair Work Act and
41 so forth.

42

43 Q. Are you aware whether One Key ever, for example,
44 conducts reviews of the safety and health management system
45 at an Anglo mine?

46 A. I'm not aware of that, no.

47

1 Q. Are you aware of whether One Key ever conducts
2 inspections on site to satisfy itself that the conditions
3 where its workers are working are safe?

4 A. Not independently, but they would be part of
5 investigations that may be initiated as part of events -
6 safety events, safety incidents and the like. So they
7 would have a level of participation in those.

8

9 Q. I'm not talking about after an event, I'm talking
10 about proactively?

11 A. Not that I'm aware of, no.

12

13 Q. You say that they would be involved in events - in
14 investigations after an event?

15 A. Yes.

16

17 Q. So, for example, where a worker is injured on site,
18 are One Key allowed on site to, for example, inspect the
19 scene of an incident?

20 A. Yes.

21

22 Q. Did they come on site after the incident of 6 May this
23 year?

24 A. They were on site already but, yes, they were on site
25 pre and post.

26

27 Q. I understand that there were the two staff you have
28 spoken about?

29 A. Yes.

30

31 Q. But I'm talking about people who were there
32 specifically to look at and investigate what happened to
33 their - that is One Key's - workers?

34 A. My understanding is that in the period immediately
35 after the event there was a representative from One Key on
36 site, yes. The degree to which they participated in the
37 investigation I'm not sure.

38

39 Q. Do you know who it was that was on site?

40 A. I certainly know that Ben Lewis, who is their general
41 manager, was up on site, and I believe Rachel, who is their
42 safety manager, was on site for a period after that, but -
43 yes, I'm not a hundred per cent sure but I believe that to
44 be the case.

45

46 Q. Can I move from that agreement to the payment of
47 bonuses to One Key employees, and can I please ask that

1 this document be displayed. It is AGM.003.004.1108. Just
2 before I go to the detail of that, there is nothing in the
3 agreement between Anglo and One Key that says anything
4 about the payment of production bonuses or any other bonus
5 to One Key labour hire workers?

6 A. That's right.

7
8 Q. Indeed, the payment of bonuses to One Key workers is
9 not formally documented anywhere; is that right?

10 A. No, it's management discretion, correct.

11
12 Q. This document that we see here, though - is that
13 something that was promulgated to the labour hire workers
14 themselves?

15 A. Yes, I believe so.

16
17 Q. So this is how a labour hire worker would find out
18 about his or her entitlement to a bonus?

19 A. For that particular month, yes.

20
21 Q. So it varies from month to month?

22 A. Yes, the plan and the planned metres will vary month
23 to month. Sorry, the rates and the general principles of
24 the bonus don't, but the actual metreage planned for that
25 month or retreat metres for a longwall would be changing.

26
27 Q. Just so we are clear about it, the bonuses are
28 calculated on the basis of metres of advance for
29 development?

30 A. Correct.

31
32 Q. Or metres of retreat for longwall?

33 A. For the longwall; correct.

34
35 Q. And the workers get a certain amount for the first
36 I think 3 metres - let's use longwall as an example.

37 A. Yes.

38
39 Q. For 3 metres, another amount which is double that for
40 I think 3 to 7 metres?

41 A. Yes.

42
43 Q. And then five times that for 7 metres plus?

44 A. Correct.

45
46 Q. Is that right?

47 A. Correct.

1
2 Q. That is not applied on a worker-by-worker basis, but
3 rather it is applied across the workforce generally?

4 A. The calculation or the bonus distribution?

5
6 Q. The bonus distribution?

7 A. It is paid to each individual - an amount, a fixed
8 amount, is paid to each individual, yes.

9
10 Q. But it is not about, for example, the amount of
11 longwall advance that that individual worker was involved
12 in --

13 A. No.

14
15 Q. -- as opposed to how the workforce as a whole
16 performed?

17 A. Correct.

18
19 Q. Am I right in understanding that the amount of the
20 bonus varies from month to month but it was, at least
21 between July of last year and April/May of this year, an
22 amount that was between \$1,000 and \$4,000 per worker per
23 month?

24 A. Correct. I would agree with that.

25
26 Q. If we could just scroll through the document to the
27 next page, please. This is the calculation for the
28 longwall. Is it the metreage that varies or the dollar
29 amount that varies?

30 A. No, the metreage, so the planned metreage, yes.

31
32 Q. So it will vary from month to month?

33 A. Yes.

34
35 Q. Can we scroll to the next page, please. This is the
36 same system for development?

37 A. Correct, just recognising the two slightly differing
38 configurations in a particular development heading, that's
39 all.

40
41 Q. The next page. Can you explain these to us - the
42 concept of a divider?

43 A. Yes. So you will see in the first bullet point there,
44 they were sort of the planned or the revised forecasts for
45 that particular sort of month, if you like. They were -
46 particularly in maingate 104, those metres were changed
47 from the original plan that people would have been made

1 aware of and were working towards, and the bonus was
2 rerated, if you like, to take into account the difficult
3 mining conditions or more difficult mining conditions that
4 were being experienced. So that's the purpose of the first
5 point, just trying to explain that change.
6

7 The dividers then were - the operation at that time
8 I believe was moving into a longwall move, so it was coming
9 to the end of one block, it then moves across to the next
10 block. So some of the dates and changes you see there
11 relate to key milestone points on the ramp-down of the
12 existing longwall block, or, yes, being able to achieve
13 certain development points, certain advance development
14 points for those maingate drives.
15

16 Q. So, for example, where it talks about "break chain",
17 that is a reference to the conclusion of mining on longwall
18 103, effectively?

19 A. Essentially, yes.
20

21 Q. So if it was achieved by 29 December, the divider
22 would be 0.8; is that right?

23 A. Yes.
24

25 Q. But for every day after that, it went out by 0.1?

26 A. Yes.
27

28 Q. So that is a completely discretionary exercise
29 undertaken by Anglo? There is no discussion with One Key
30 about it?

31 A. Correct. I only hesitate with "discretionary" on the
32 basis that if we didn't pay a bonus in any form, then we
33 would have issues in terms of market competitiveness and
34 relativity. So it is discretionary in terms of its form.
35 In theory it is discretionary as to whether we pay or not,
36 but there is a certain market reality that we also have to
37 understand around it, yes.
38

39 Q. I guess my point is that it is not actually set out
40 anywhere in a document other than on a month-to-month basis
41 in documents such as this?

42 A. Correct. But the format in terms of the rates has not
43 changed since the bonus was originally introduced in 2014.
44 So in terms of understanding - it is a pretty simple
45 structure. So in terms of understanding what those rates
46 are for particular tiers of the bonus, that would be very
47 well known and understood around the mine site.

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Q. So everyone would know that the faster you advance or retreat, the more you get paid?

A. There is an impact on bonus, absolutely, yes.

Q. One thing that is not specified in that document, or indeed in any other document that I've seen - and correct me if one exists - is the imposition of penalties for safety incidents. Can you explain to us how that works? There is such a thing, isn't there, as a safety penalty?

A. Yes, there is a modifier. I would rather use the word "modifier", but I get it.

Q. It reduces the amount payable, doesn't it?

A. Yes.

Q. The workers would see it as a penalty rather than a modification?

A. Yes, okay, I will explain why I say "modifier" in a second. Originally when the Grosvenor bonus was designed, there was a suite of metrics that were included. It was actually quite a complex bonus. This goes to the issue of bonus design and whether it is simple, complex, whatever. They had quite a complex arrangement and there was a series of metrics, safety related and not, that looked at things like panel standards, equipment damage, hazards, things like recordable injuries and so on. That sat there as a sort of guide, if you like, as to what management might take into account, or Anglo might take into account, when it was looking to modify the bonus up or down.

Over time, that became really quite complex for people to understand and administer, and I think any sort of utility in it was lost.

I think around early 2019 they went back to a much more simple modifier which looked at lost time injuries and medical treatment injuries, and, where that occurred, deducting the bonus for that particular shift where that injury might occur.

Q. So is the mere occurrence of an injury something that necessarily results in a modification of the bonus?

A. Not necessarily, and that's why I say "modifier" as opposed to just "penalty", because in some instances where there has been a lost time injury the bonus was not reduced, and typically there is a review of the incident

1 and that would be done ultimately to the accountability of
2 the site safety and health manager with a recommendation to
3 the SSE. But they would look at the nature of that and
4 determine whether there were any other mitigating factors
5 around that injury that should be considered before the
6 deduction is recommended, if you like.

7
8 Q. Perhaps we will look at some examples and I might ask
9 you - I don't expect you would be able to tell me the
10 specifics about these two examples I'm going to show you.

11 A. Yes.

12
13 Q. But you can perhaps give me an example or explain to
14 us what you mean by "mitigating factors"?

15 A. Sure, okay.

16
17 Q. Could we please have on the screen AGM.003.005.0001.
18 We can see here that for 10 February this year you have
19 a total recordable case which was a fractured finger, and
20 the word "deduction" is used in the column - it is said
21 that the deduction is 100 per cent, "TRC - Fractured
22 Finger". Overall quantity rating reduction is
23 100 per cent, total eligible bonus is zero per cent; right?

24 A. Yes.

25
26 Q. Then I'm going to ask you to look at another document
27 which has the same number except that it has a 2 at the end
28 of it. If we can zoom in on the three entries on the
29 right-hand side, on the portion of the page that shows
30 that. We will see here that on 24 April 2020 there was
31 a laceration to a hand that resulted in a zero per cent
32 reduction in the bonus. So we have two injuries - that's
33 an "MTC" as opposed to a "TRC". What's an "MTC"?

34 A. A medical treatment case.

35
36 Q. So what is the difference there? Is the difference
37 because one was a TRC and one was an MTC?

38 A. Not necessarily, and I can't - to your point, I can't
39 actually speak to either of those incidents themselves.
40 But what I do understand is that when there is a recordable
41 case - lost time injury, or medical treatment injury in
42 this case - the assessment will be of whether there were
43 any other mitigating factors other than just employee
44 behaviour, employee decisions, whatever, that might
45 mitigate the - I say "liability", but whether, in fact, we
46 should reduce bonus, so whether we should exercise
47 discretion and not just automatically reduce the bonus.

1 I understand in one of those cases, clearly some mitigating
2 information or views were formed that viewed we shouldn't
3 just unilaterally reduce the bonus. In the other case, the
4 view was that there were no mitigating factors, in which
5 case the bonus should be reduced.

6
7 Q. A medical treatment case - is that an incident that
8 would feed in to the executive bonus scheme or would it not
9 be counted?

10 A. It would, because it is part of the overall staff
11 short-term incentive program, driven by total recordable
12 frequency cases, so medical treatments would be covered,
13 yes.

14
15 Q. So that is a TRC case?

16 A. Yes.

17
18 Q. And the entry behind the other incident was "TRC". Is
19 there a reason for the difference in terminology?

20 A. I'm not sure whether one was a lost time injury and
21 classified as a TRC, and MTC - I'm not sure. But both lost
22 time injuries and medical treatment cases, which both of
23 these would have been, are covered by that total recordable
24 frequency rate.

25
26 Q. It depends, if I understand you, on effectively how
27 culpable the employee or employees were in the safety
28 incident?

29 A. I think there is an attempt to look at all the factors
30 that went into the injury and try to determine whether
31 there were some no fault aspects, if you like, to the fact
32 that there was an injury.

33
34 Q. One of the issues about these sorts of cases is
35 management finding out about them, do you agree - that is,
36 that they have to be reported?

37 A. Yes, they have to be reported, yes.

38
39 Q. The reduction as a result of the first of the two
40 examples that I gave you didn't just apply to the workers
41 involved, it would have applied to the whole workforce?

42 A. To everybody on shift on that particular day, yes.

43
44 Q. So it affects not just the individual workers who were
45 involved in the incident that led to the injuries but
46 everyone on shift?

47 A. Yes, it does.

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Q. Do you accept that there is a risk that imposing a modifier or a deduction for a safety incident such as that might discourage its reporting because it is likely to affect the earnings of not just the worker but everyone on shift?

A. I accept there is a risk if it is not applied appropriately and if it is not part of a broader system that aligns with ensuring that, you know, all injuries, all incidents, are reported.

Q. How do you mitigate against that risk?

A. I think, as I say, there are a couple of things. You have to make sure that everything else in your organisation is absolutely aligned and clear about the need to report, the purpose of reporting, and encouraging that. I think that's the most significant thing. The second thing is I think you need to make sure that the weighting of this stuff is not too severe. So if you look at the instance that happened here in the deduction that you are talking about, the net effect for an individual over the course of that month was about \$100. So for that month they earned \$3,300, and that was modified down to \$3,200 for that month. So again, I think if the weighting is wrong and you've got one incident having a more than reasonable impact on bonus, then I think that risk increases.

Q. I'm just wondering where the safety modifier, or whatever term you use, is promulgated to your workforce. We know that there are the calculations for advance and dividers and retreat that we have seen already. That's published to the workforce. They can see that, they can understand what they are going to get if they achieve certain objectives.

A. Yes.

Q. Are the deductions or modifiers promulgated anywhere for staff to see?

A. Not necessarily in that presentation pack that you saw, and I'm not quite sure why that's not the case, by the way. It probably should be, for completeness. But verbally across the site, and certainly from the experience that has happened over time, I am confident that people at site, all people at site, would be very clear that in the event of an injury, it is subject to that sort of review.

Q. When people get paid their bonus, is it clear in

1 whatever documentation they get given that their bonus was
2 reduced because of a safety penalty?

3 A. Yes.

4
5 Q. So the workforce would all know that?

6 A. Yes, and there will be variances potentially between
7 people who were rostered on and subject to that particular
8 deduction and potentially others that weren't. In terms of
9 comparing who got what for bonus, that's a pretty active
10 exercise around the site, yes.

11
12 Q. Is it something worth thinking about, that you would
13 actually formally notify your staff?

14 A. As I said to you, in terms of that presentation
15 material, I was surprised when I saw that that it actually
16 wasn't a line item that is mentioned.

17
18 Q. The document that we have there is only an example of
19 something that is published on a regular basis.

20 A. Yes.

21
22 Q. Is it possible that safety deductions are specified in
23 other examples of that document?

24 A. It is possible but I haven't seen them. But to your
25 point would it be more complete and better if they were,
26 yes.

27
28 Q. You have a scheme called Your Voice?

29 A. Yes.

30
31 Q. Is that administered by Anglo or is it administered
32 independently?

33 A. It is administered independently. In terms of
34 receiving those calls or inquiries or complaints, they go
35 to an independent third party. They then get fed back in
36 to Anglo via our central - what we call ABAS, essentially
37 our internal auditing process.

38
39 Q. Do you accept this proposition, that rightly or
40 wrongly some workers, and particularly labour hire workers,
41 may have a perception that if they raise safety matters
42 then they are likely to jeopardise their employment?

43 A. I think it's a risk. I think it's something that we
44 have to constantly be aware of and make sure that that's
45 not the culture that exists across our operations.

46
47 Q. Does Anglo overtly - and I mean in writing - say to

1 its workers, "You will not be dismissed for legitimately
2 raising a safety issue"?

3 A. In writing, in many, many presentations that are
4 provided and in many workforce verbal communication
5 sessions that are held, it is very much the theme that we
6 need people to raise issues, put their hand up: where
7 they've got genuinely held safety concerns, we need to
8 understand it and there will be no fallout as a result of
9 that.

10

11 Q. Is it sometimes, though, complicated by the fact that
12 the workforce as a whole benefits from increased production
13 because of the bonus scheme, and that the reporting of
14 safety matters has at least the potential to inhibit
15 production and that, therefore, there is perhaps a culture
16 amongst the workers that discourages them from raising that
17 because of, for example, peer group pressure or
18 a perception that co-workers will not appreciate it if you
19 complain about a safety matter?

20 A. I just don't think it is as binary as that. I don't
21 think it is as black and white. I don't believe that
22 individuals would jeopardise their own sort of safety or
23 that of somebody standing next to them or working alongside
24 them for the sake of a \$100 bonus over the course of
25 a month.

26

27 Q. This Your Voice service, in terms of safety matters,
28 you have provided us with the data in your statement - and
29 I note the time, so I won't ask for it to be put up on the
30 screen - in terms of safety, in 2019 there were zero
31 reports, I'm suggesting.

32 A. I'll just check. I'm sure that's straight out of my
33 statement, so --

34

35 Q. It is. I'm looking at paragraph 88 of your statement?

36 A. Yes, yes, correct.

37

38 Q. And there were three in 2020.

39 A. Yes.

40

41 Q. Do you accept this proposition, that workers who
42 complain about a particular safety incident, if they don't
43 want to be identified, have to be very careful how much
44 detail they give?

45 A. It's a balance, because if there is not enough detail
46 then there is sort of nothing to investigate or it's hard
47 to actually get to the cause of what might be the

1 complaint. But equally, you know, there is an obligation
2 in the investigation process to maintain a level of
3 confidentiality, which practically, I think to your point,
4 is often hard to achieve. So there has to be very careful
5 thought about how the investigation process can be done and
6 still maintain that level of confidentiality. That's quite
7 difficult at times.

8
9 Q. A worker who was involved in a specific incident that
10 wanted to make an anonymous complaint would find it very
11 difficult to describe the specifics of the incident, if it
12 was sufficiently unique, without identifying themselves or
13 at least a very small number of people who they might be --
14 A. Potentially that's an issue. Potentially. I mean,
15 there is an anonymity that goes with that, as in we
16 wouldn't see the name of an individual, in most cases,
17 unless they agree as part of their making the complaint
18 that they want to share their name. So we wouldn't know
19 who they are. But your point, depending on the way the
20 incident or the complaint is described, might it narrow it
21 down to a few people? It potentially could, yes. That's
22 where I say we have to be careful, then, about how you
23 would do the investigation process, to try to avoid any of
24 those breaches of confidentiality.

25
26 MR HUNTER: Thank you. Is that a convenient time?

27
28 THE CHAIRPERSON: Yes. 2.15, thank you.

29
30 **LUNCHEON ADJOURNMENT**

31
32 MR HUNTER: Mr Martin, could I hand up a tender list
33 marked with the letter H relating to yesterday's
34 proceedings, 17 August.

35
36 THE CHAIRPERSON: Yes. The items listed on this tender
37 list marked H will be admitted into evidence. Thank you.

38
39 MR HUNTER: Q. Mr Jones, I understand that there is an
40 aspect of your evidence that you wanted to correct from
41 this morning concerning the impact of a safety modifier on
42 the bonuses?

43 A. Yes, thank you. I think I made the statement that the
44 deduction applies to those that are rostered on at that
45 time. It actually applies to all coal mine workers who are
46 participating in the bonus scheme. Thank you.

1 Q. How many workers would there be that participate in
2 the bonus scheme?

3 A. It would typically be all of the labour hire crew, so
4 approximately 400.

5
6 Q. Let's say I'm working on a shift and I use an
7 incorrect manual lifting technique and I hurt my back. If
8 I report that injury, I know that I run the risk of doing
9 everyone else on the site who is a labour hire worker out
10 of, what, potentially \$100?

11 A. Yes.

12
13 Q. You said before that you thought it was unlikely that
14 people would sit or stand silently by and allow safety
15 matters to go unreported, but that's a perfect example of
16 what could happen; do you agree?

17 A. It could, but I think you've also got to put it in the
18 context of the culture that you've got at the operation and
19 all of the messaging and important reinforcing, if you
20 like, of the importance to raise issues, concerns, and
21 report incidents and injuries. I understand that those two
22 things might be seen to be in conflict at times, but the
23 reality is people are juggling, I think, a lot of
24 conflicting messages on any given day at a site. But
25 I think overarching, our message is very, very clear that
26 that's what we expect and that's the obligation that
27 everybody has each day.

28
29 Q. You wouldn't want to be that employee, that one person
30 who cost everyone \$100?

31 A. I think you are going again to a particular culture,
32 and I think - I would suggest that our culture is a little
33 bit more mature than that, in most cases. It won't
34 necessarily be a 100 per cent correct answer, but I think
35 in most cases people understand the importance and would be
36 understanding of people who genuinely report incidents and
37 concerns and hazards.

38
39 Q. So what is the purpose in having the safety modifier?
40 What does it achieve?

41 A. I think - it probably achieves the opposite of not
42 having it in, in the sense that it reinforces that safety
43 is a component that is important. Whether you put
44 5 per cent weighting, 10 per cent weighting I'm not sure is
45 actually that important, but to have a bonus or incentive
46 scheme that doesn't in some form or other include a safety
47 component, to me, would be not - you know, not ideal that

1 we had that.

2

3 Q. You have to be careful, don't you, to even
4 inadvertently create a situation where you subtly
5 discourage reporting?

6 A. Yes, I think it's always an issue, whether it is
7 linked to bonus or not linked to bonus. As you mentioned
8 before, the peer pressure cultural piece can be just as
9 powerful as anything that might be financially related, so
10 I think you are always alert to and trying to work against
11 some of those risks.

12

13 Q. You talk about levels of maturity. You can talk about
14 that in a general sense about your workforce, but levels of
15 maturity in terms of how to properly respond to a safety
16 issue are likely to vary widely across a workforce of
17 400 people?

18 A. Yes, I think that's true in terms of individuals, yes,
19 their experience and confidence, yes.

20

21 Q. Unless you have - there is just no way to have an
22 inflexible rule where you don't include in your workforce
23 people who are, for want of a better word, idiots? It is
24 difficult to do, isn't it?

25 A. I don't think it's about necessarily idiots, but
26 I think people have different risk approaches and risk
27 tolerances and all those sorts of things. But, yes,
28 I wouldn't say any of our workforce are idiots.

29

30 Q. I'm not suggesting you were. I guess what I meant was
31 it is very hard to be confident that there won't be people
32 on your workforce who would view the loss of \$100 because
33 of another worker's noncompliance with proper procedures as
34 being something that they might be given a hard time about?

35 A. Yes, well, all I can say is that it's just a message
36 that is continually reinforced from the top of the
37 organisation right throughout, down through to, I would
38 hope, every frontline supervisor, the importance of raising
39 hazards, reporting incidents, and it's just a repeat
40 message across our organisation every day.

41

42 Q. Does the organisation count or celebrate injury-free
43 periods?

44 A. Yes.

45

46 Q. So, again, someone who reports an incident breaks that
47 what might be a record, for example?

1 A. Yes.

2

3 Q. There is a celebration of no HPis, when that happens
4 in a calendar year?

5 A. Yes.

6

7 Q. So, again, by reporting something, you might undo
8 something that would otherwise be celebrated?

9 A. I understand your point and I can't argue with it.
10 I mean, it's possible, without question, but I just caveat
11 it, in that you have to have all of the other aspects of
12 what you are trying to do from a cultural point of view
13 lined up so that that's not the case.

14

15 Q. I don't want to go into any great detail about the
16 executive bonus scheme. Did you see the evidence that
17 Mr Mitchelson gave yesterday about that?

18 A. Yes, I did.

19

20 Q. You agree, I take it, that the DNRME HPis are not
21 a KPI for the purposes of the executive bonus scheme?

22 A. Correct. No HPis are, with the exception that at two
23 sites, the two open-cuts, I think there is a reference in
24 one of the critical tasks to HPis. But at the corporate
25 level and at all of the underground sites, there is no
26 reference to HPis.

27

28 Q. Is there anything you would like to add, given your
29 role in HR, to the evidence that was given by Mr Mitchelson
30 about the executive bonus scheme?

31 A. There are probably two comments I would like to make,
32 if I could. One is just reflecting on the way the
33 scorecard is presented. I talk, in my mind, a lot about
34 symbolism when it comes to the bonuses as opposed to exact
35 amounts of weightings and the particular metrics. I think
36 some of the symbolism is actually more important than the
37 actual metric and result.

38

39 Even when I look at our scorecard, the fact that we
40 don't present safety as the first item, to me just looking
41 at that was an opportunity to think about how we present.
42 So I took that.

43

44 The second piece, though, probably more importantly,
45 is when we start talking about the fatality modifier, which
46 was talked about yesterday - I think that's an awkward
47 topic. Certainly when we were - and I was part of the

1 human resource leadership team that was redesigning, if you
2 like, the bonus program in 2018, into 2019. It's an
3 awkward topic as to how do you allocate a percentage or
4 a dollar amount to something like that. So I just
5 acknowledge that when you start talking 20 per cent for one
6 group and 10 per cent for another for a fatality situation,
7 it's completely inadequate, but it needs to be there and it
8 needs to be in some form or other, and that was the best
9 option that we could come up with in the design process.

10
11 What I would say, though, my last point on that, is
12 that the question was asked yesterday about the difference
13 in the amounts, site versus corporate, and so on. I just
14 make the point that at a corporate level, it is cumulative.
15 So if there happen to be multiple fatality events, then
16 that deductor or modifier would be cumulative at the
17 corporate level but obviously not at the site level.

18
19 Q. It's not at site level?

20 A. Not unless there were multiple single events at that
21 particular site, in which case it would be.

22
23 Q. So at a corporate level, if there is a single incident
24 with multiple fatalities, it is 10 per cent per facility?

25 A. Correct. It is 10 per cent for incident of fatality,
26 not necessarily fatalities. If two sites, for example, had
27 fatalities in the same year, it would be a 20 per cent
28 multiplier that applied to the group level, the logic being
29 that at site, you have exposure, you have a certain level
30 of control; at group, you've got more exposure to more
31 sites.

32
33 Q. Of course, I accept that the document that I was
34 asking Mr Mitchelson about yesterday and the one we're
35 talking about now was an internal document.

36 A. Yes.

37
38 Q. What, though, do you say about the fact that you have
39 this score for the elimination of fatalities, which is said
40 to be a lead indicator, yet at a site where there was
41 a fatality, there was still a score of 4 out of 4? Did
42 that strike you as incongruous?

43 A. Again, it's one of the difficult components of bonus
44 schemes, if you like. I've been doing bonus schemes in
45 various forms for the best part of 30 years in and around
46 the coal industry. I've yet to find the right one. I'm
47 still looking for it. So I think, you know, any bonus

1 scheme that I've been involved in has got merit and it has
2 got some cons associated with it. I will say that we have
3 tried to make it as transparent as possible for people in
4 terms of what it is that is going to drive the outcomes,
5 and the fact that people were still working on elimination
6 of fatality programs and initiatives, albeit we had
7 a fatality in that year, is still the right focus for us.
8

9 Q. Can I move to a different topic, and this is career
10 progression. Presumably people who are direct employees of
11 Anglo can see for themselves, potentially, a career
12 progression through the ranks?

13 A. I would hope so.
14

15 Q. How does that work for a labour hire worker?

16 A. Probably at sort of an entry level - I'm just trying
17 to think of an example that I could give you. In the event
18 where we've got supervisory level roles, that would
19 probably be the most likely point where somebody from
20 a labour hire arrangement would move across. So they may
21 be appointed as a supervisor, as an Anglo employee as
22 a supervisor, for example.
23

24 Or I know, for example, in the undergrounds, we had an
25 ERZ controller program where we were basically helping
26 people, supporting people, through a staged process to get
27 their statutory qualification, and we had a number of
28 labour hire employees, if you like, of One Key participate
29 in that program to ensure that the industry, as well as the
30 site, had the future skills that it needed.
31

32 Q. But what about getting to the point where you might be
33 considered for a program such as that? Let's say you start
34 off as - do they call them yellow hats or something like
35 that? These are the brand new --

36 A. Inexperienced mine workers, yes.
37

38 Q. Inexperienced mine workers.

39 A. Yes.
40

41 Q. Is there some way in which those inexperienced mine
42 workers can progress to progressively more senior roles
43 within the mine, albeit as a labour hire worker?

44 A. Not as a labour hire worker. Because of the way the
45 model is, once you're appointed to ERZ controller level and
46 above, typically all those roles are Anglo employees. So
47 if you aspired and took on one of those roles, you would

1 typically be offered an Anglo permanent employment
2 contract.

3

4 Q. My point is how do you progress from being an
5 inexperienced mine worker, as labour hire, to a more senior
6 role, albeit still as a labour hire worker? Is it possible
7 for that to occur?

8 A. You would go through that inexperienced program, which
9 typically says that I am yet to be assessed in a full range
10 of competencies that apply to me being an unsupervised coal
11 mine worker underground, and that's a combination of
12 various competencies, it would be site familiarisation,
13 underground familiarisation, as well as a range of other
14 operational competencies. So yes, I progress through that
15 over a period of time, and I do that based ultimately on an
16 assessment of my competency, not at the end of a fixed
17 period of time but when I have achieved that level of
18 competency, and then I progress to what is called
19 a white hat, yes.

20

21 Q. We see that there are role profiles for various
22 people. These are in the One Key labour hire agreement.
23 There are all of these roles that are specified, and some
24 of them require substantially greater levels of experience
25 and qualifications than others; do you agree?

26 A. Yes.

27

28 Q. Is there a defined pathway whereby someone who starts
29 off at one of the less-experienced, less-qualified levels
30 can progress to a higher level?

31 A. Typically it would be governed by the amount of those
32 particular skills or roles that you need. So there is an
33 element of, is there a vacancy and is there an opportunity
34 to do that? Then there would be a selection process from
35 the experienced mine workers that might meet the criteria
36 for that next-level role, a selection process as to who
37 might be appointed to any of those higher-level vacancies.

38

39 Q. Is that something that Anglo does?

40 A. I'm not a hundred per cent sure. I don't know.

41

42 Q. Do you see that there is a potential problem if people
43 are left to stagnate at a particular level, that if no-one
44 improves, the potential problem is that you run out of
45 people, eventually, who are capable of doing the
46 higher-level work?

47 A. I'm not sure I would agree with that. I mean, a lot

1 of people in our organisation are very, very satisfied and
2 content with the level that they hold.

3

4 Q. But isn't an important part of job satisfaction the
5 idea that you can see for yourself a career progression?

6 A. Yes.

7

8 Q. People, for example, might not see themselves as being
9 an outbye operator for the rest of their career?

10 A. Yes.

11

12 Q. They would want to do something else? They might want
13 to be an operations coordinator or something like that -
14 yes?

15 A. Yes, definitely.

16

17 Q. So is there some process whereby that happens for
18 labour hire workers?

19 A. Again, it would be no different than at any of our
20 other sites, whether it is labour hire or not. Vacancies
21 arise. We would advertise internally vacancies that exist,
22 and people would be free to apply and they would be
23 assessed as applicants for those roles.

24

25 Q. When you say "advertise", these are labour hire jobs,
26 though, aren't they?

27 A. In terms of the crew jobs that you are talking about?

28

29 Q. Yes.

30 A. Yes.

31

32 Q. So why would Anglo advertise? Wouldn't you just say
33 to One Key, "Get me another operations coordinator"?

34 A. Yes, but you are more likely to recruit those senior
35 roles from inside your existing crews on site.

36

37 Q. My question, then, is what role does Anglo play in
38 that process?

39 A. And I said to you I'm not a hundred per cent sure.

40

41 Q. Can you see benefit for your workforce as a whole in
42 Anglo being actively engaged in assisting appropriately
43 skillful workers to progress through the ranks?

44 A. Yes, I can, and we are. If my answer hasn't conveyed
45 that very successfully, then --

46

47 Q. Maybe it's just me. Can you help me out here? Can

1 you explain that to me, how do you do it?

2 A. Well, by simply making sure that those opportunities
3 for people who are in the existing workforce - they have
4 the opportunity to move into those roles. What I'm saying
5 is I'm not sure of the process by which they would be
6 selected for those roles.

7
8 Q. Because you mentioned a moment ago about advertising
9 for the role.

10 A. Yes, and that was wrong. In the context of the roles
11 that you are talking about, that's wrong. My answer was
12 really in the context of an ERZ vacancy or a coordinator -
13 I think you used the example, coordinator - or if we have
14 a superintendent role, those sorts of roles that people
15 quite rightly, who may be a coal mine worker today, aspire
16 to to fill, they would have the opportunity to apply for
17 those roles irrespective of whether they are an Anglo
18 employee or a labour hire employee.

19
20 Q. But the role of operations coordinator is a labour
21 hire role, isn't it?

22 A. Yes. It's also an Anglo American role.

23
24 Q. Is it? I see.

25 A. Yes.

26
27 Q. I'm sorry, I'm just --

28 A. I probably helped confuse you on that point. I wasn't
29 aware you were going to that role.

30
31 MR HUNTER: Those are the questions I had. Thank you,
32 Mr Jones.

33
34 THE CHAIRPERSON: Mr Roney, you're there. I was looking
35 all around for you.

36
37 **<EXAMINATION BY MR RONEY:**

38
39 MR RONEY: Q. Mr Jones, my name is Peter Roney.
40 I appear for One Key Resources. I just want to take you
41 back through some of the evidence that you have given and
42 also some that seems closely related to some that you have
43 given, which was given earlier, which concerns the level of
44 control of the One Key workforce, if I can call it that,
45 and the extent to which Anglo expected cooperation and
46 collaboration, to use your words?

47 A. Yes.

1
2 Q. You have been taken to many clauses in the labour hire
3 agreement. I'm not going to take you to any of them
4 specifically, but you will know the ones that I'm talking
5 about because you have already been taken to them. The
6 agreement, though, that you have been taken to, is the
7 Grosvenor 2016 agreement - yes.

8 A. Yes.

9
10 Q. We know, do we not, that One Key also supplies, and
11 has supplied for some considerable time, labour hire
12 services - employees, I will call them - to Grasstree and
13 Moranbah North?

14 A. Yes, and to our other open-cut operations, yes.

15
16 Q. This is the point I was going to get to. This is just
17 one example of an agreement that operated at a particular
18 mine in a particular circumstance, in this case a mine
19 which was effectively starting up, a new workforce?

20 A. The original 2016, yes, in a particular labour model,
21 yes.

22
23 Q. That particular labour model, as you call it, was in
24 your experience a unique one to Anglo in Australia - that
25 is, that a labour hire supplier supplied a significant
26 proportion of the entire workforce at the mine?

27 A. It was certainly very different to our other
28 operations, in that our other operations had existing
29 workforces, and this was the start-up of a new operation.

30
31 Q. So that kind of model obviously works at a practical
32 level if you don't have an existing workforce?

33 A. Correct.

34
35 Q. You effectively import, if I can use that word, a new
36 workforce?

37 A. Correct.

38
39 Q. In this particular case - tell me if you don't know
40 whether this is true or not - another organisation, was it
41 Hutchinsons, had worked on the mine prior to its commencing
42 to operate as a coal mine itself?

43 A. Hutchinsons is not a contractor that I'm familiar
44 with, no.

45
46 Q. Prior to Anglo coming in and running Grosvenor, did
47 someone else look after the establishment of the mine?

1 A. No, no. No, Anglo has owned the project, owned the
2 mining lease and the project through to operations.

3

4 Q. This particular agreement, if I could just remind you
5 without taking you to it, is a document that is branded
6 with the Anglo American insignia and it has a particular
7 name, a contract number, and it is called a labour hire
8 agreement. Have you seen similar agreements made with
9 other labour hire companies and Anglo?

10 A. Yes.

11

12 Q. Can you say whether they more or less, if not
13 completely, follow the form of this one in terms of its
14 critical elements?

15 A. I haven't done a line-by-line comparison, but my
16 expectation would be yes.

17

18 Q. Would it be reasonable to assume that this is some
19 kind of generic document that the company used in 2016 and
20 may still use?

21 A. There would be much of it that is standard contract
22 clausing and template, yes.

23

24 Q. Again without taking you back through the individual
25 clauses that you have been taken to by our learned friend
26 Mr Hunter, it is reasonably clear, isn't it, that there are
27 clauses in this agreement that don't reflect the practical
28 reality of the way that One Key and Anglo do business at
29 Grosvenor?

30 A. Yes, I would say to that I think that it establishes
31 a very clear boundary in terms of clauses and contract
32 terms, but the practical reality of trying to make that
33 contract work efficiently means that, yes, as I said
34 before, there is a cooperation in terms of how that stuff
35 is administered and works in practice.

36

37 Q. You were taken to some clauses by our learned friend
38 that seemed to suggest that there was a warranty by One Key
39 that it, for example, would ensure that there was an
40 appropriate safety and health management system in place
41 and that there would be risk assessments, and so on, and
42 that their workers would be familiar with all of those. Do
43 you recall that?

44 A. Yes.

45

46 Q. The essence of your evidence is that in fact Anglo not
47 only did not want but did not require One Key to meet that

1 obligation, because in fact Anglo wanted to be the entity
2 which controlled that process?

3 A. Correct.

4
5 Q. We've heard some evidence that the process of
6 identifying, placing and then permitting workers to work
7 under a labour hire agreement such as this with One Key was
8 one which occurred under Anglo's systems - yes?

9 A. Not fully, but in part, yes.

10

11 Q. I will come back to the part in a moment.

12 A. Yes.

13

14 Q. But certainly once the employee was placed at the
15 mine, that was the situation?

16 A. No, not necessarily, but, as I said, there is an
17 employee relations management plan. In that, it had some
18 day-to-day, weekly requirements and management
19 responsibility from the direct employer, being One Key,
20 yes.

21

22 Q. I understand that. You're really talking about
23 administration of the contract, aren't you? I'm really
24 talking about safety systems, safety and health management
25 systems, training and the like.

26 A. In those respects, I agree with you, yes.

27

28 Q. My question perhaps wasn't as clear as it should have
29 been.

30 A. No, that's good.

31

32 Q. The other thing that has been said is that under this
33 managed workforce model, it was to be given effect to under
34 Anglo's management and control, subject to the
35 qualifications we've already identified about the
36 individual role of individual One Key employees on site -
37 yes?

38 A. Yes.

39

40 Q. Now, Grosvenor is - I won't call it unique, but there
41 are degrees of uniqueness. It's fairly unique in terms of
42 models you see out there in the industry - this managed
43 workforce model, I think it has been called?

44 A. Right, are you asking me is it?

45

46 Q. Yes, sorry, that's a question. Is that your
47 experience?

- 1 A. I'm aware of other operations - I'm aware of one other
2 operation that has a similar but not exactly the same
3 model, but, yes, relatively unique.
4
- 5 Q. You can think of one other example like this one?
6 A. Yes.
7
- 8 Q. When we go to Grasstree, we've got a smaller
9 proportion of the workforce being supplied by One Key?
10 A. Correct.
11
- 12 Q. I don't think we've seen a contract between Anglo and
13 One Key arising out of the Grasstree arrangements. Do you
14 know whether there is one?
15 A. They would be engaged under the contract that you
16 referred to earlier.
17
- 18 Q. So it would be a different contract or just a contract
19 in the same terms or similar terms?
20 A. No, it would be the same contract.
21
- 22 Q. Even though it is with Anglo Coal (Grosvenor
23 Management) Pty Ltd?
24 A. Sorry, no, there is a second contract that is with
25 Anglo American Metallurgical Coal that applies across all
26 of the operations.
27
- 28 Q. So it would be a second contract in more or less
29 identical terms to this one?
30 A. It's not in identical terms, no.
31
- 32 Q. We'll come back to that at another time with someone
33 else.
34 A. Okay.
35
- 36 Q. Is one of the reasons, if not the only reason, that
37 Anglo wishes there to be this control and the use of its
38 systems and Anglo's management and control to ensure that
39 there is consistency across Anglo mines?
40 A. That's part of it.
41
- 42 Q. What else is there?
43 A. Well, so that the site SSE can satisfy his or her
44 obligations under the Coal Mining Safety and Health Act.
45
- 46 Q. Obviously the SSE at a given mine will have particular
47 hazards and will have particular ways in which to manage

- 1 risk that might be site specific or have some peculiar
2 aspects that relate only to that particular mine?
- 3 A. Well, every site will establish their own safety and
4 health management system, and it will be a distinct system
5 at each site.
- 6
- 7 Q. But in terms, then, of this idea of there being
8 control under Anglo systems for labour hire across the
9 Anglo sites, that's to achieve some level of consistency
10 across the sites, is it?
- 11 A. Yes, yes.
- 12
- 13 Q. You have dealt with personnel from One Key in your
14 time as the HR manager, have you?
- 15 A. Not as an HR manager, but in my current role, I have,
16 yes.
- 17
- 18 Q. In your current role, you have?
- 19 A. I draw that distinction only because the HR manager's
20 role at site is quite specific in terms of the contract
21 administration.
- 22
- 23 Q. My apologies. But in any event, you have certainly
24 had direct experience of, if you like, managing the
25 contribution or the contractual requirements of a labour
26 hire company and, in particular, One Key?
- 27 A. I have, yes.
- 28
- 29 Q. You would have communicated and those that you work
30 with at Anglo would undoubtedly have communicated those
31 expectations that I went through earlier in terms of
32 Anglo's having control over the systems?
- 33 A. Yes, I think that's very clear, yes.
- 34
- 35 Q. Would that have been reinforced in direct meetings and
36 in documentation provided to One Key?
- 37 A. I'm sure it will have, yes.
- 38
- 39 Q. Would that have been an ongoing process, in other
40 words, would the obligations in that regard have been
41 repeated and One Key reminded of its obligations in that
42 respect to fit in under Anglo's systems?
- 43 A. Yes, I'm not sure about reminded or on what frequency.
44 But is that the basis of the relationship? Yes. And is
45 that clear? I think so.
- 46
- 47 Q. Really, it is a continuum, isn't it? It started that

- 1 way, and it has kept going that way?
2 A. Yes. Well, just - I mean, it may or may not be
3 relevant to your question, I apologise, but if you go back,
4 there were multiple labour hire providers. One Key came in
5 to the process in 2016, when that was put out to tender,
6 and they were the successful tenderer. In establishing all
7 of that, there was a transition of some of the labour hire
8 workers who were already there in under the One Key
9 contract, and that has gone on as a sort of sole source
10 provider since then.
11
12 Q. I'm going to come back to transitions and whatever
13 tenure there is in a moment in a different way.
14 A. Sure, yes.
15
16 Q. In your experience, would one find Anglo engaging
17 labour hire companies in different mines other than the
18 three that this inquiry is about?
19 A. Yes.
20
21 Q. In other States?
22 A. We don't operate at the moment in other States, only
23 in Queensland.
24
25 Q. One question that Mr Hunter asked you much earlier in
26 his questioning was about the clause in the agreement which
27 deals with manning schedules, clause 3.3. I won't take you
28 to it, but he drew to your attention that there was some
29 sort of requirement there on One Key to come back within
30 three days with a list of workers.
31 A. Yes.
32
33 Q. In practice, there is no such requirement to come back
34 in three days, is there? That's not an enforced
35 requirement?
36 A. It is not an enforced requirement. Again, I think it
37 reflects the nature of, you are not just going out to the
38 street corner and finding anybody who is capable of coming.
39 You are actually recruiting from a particular skill set,
40 you are looking for a particular type of person. That
41 doesn't take three days.
42
43 Q. This leads me to a different topic, which is about the
44 quality, if I can use that expression, of the workforce
45 that is supplied.
46 A. Yes. Sorry, I was just going to add maybe the point,
47 though, that it also doesn't say that the process stands

1 still waiting for the next vacancy. So there is an active
2 process of trying to make sure that there is a pool of
3 people - when I say a "pool", it could only be a couple,
4 a small number, but there is a pool of people who are ready
5 to transition through and into the contract as required so
6 that it is relatively seamless and we are not starting at
7 the point the vacancy occurs, or a vacancy occurs.

8
9 Q. So Anglo would identify well in advance, it could be
10 months, a need for a particular group of workers, if I can
11 call it that, competencies to do particular kind of work or
12 perhaps just general work that it had yet to allocate?

13 A. Correct.

14
15 Q. It would give some indication to One Key that that was
16 coming up?

17 A. Correct.

18
19 Q. And ask them to then start the process of identifying
20 people to fill those roles?

21 A. Correct.

22
23 Q. So the whole three-day issue is just an irrelevancy,
24 isn't it?

25 A. It's a guide in terms of just trying to make sure that
26 there is a responsiveness and a time frame that's set. But
27 I think the other piece of it is that there is a small
28 contingency built in in terms of the manning requirement to
29 make sure that we are - if we were fully staffed, we would
30 actually probably be slightly above our complement and
31 requirement, to make sure that we are catering for any
32 immediate unknown resignations, long-term illnesses, those
33 sorts of things, so that we can actually manage that within
34 the existing pool of supplied labour hire.

35
36 Q. So for that purpose, One Key in your experience, keeps
37 what is called a float workforce; they keep excess to
38 needs, ready for immediate supply if that is what is
39 required?

40 A. Correct, and there are two components to that - one
41 that One Key may have in terms of their own labour sourcing
42 and labour pool and employee base, and then, as I say,
43 a small number of contingency that would be held at site
44 and form part of the crews to cater for long-term absences,
45 illnesses, resignations and the like, so that you are
46 managing with a certain range as opposed to you are
47 managing at each individual role.

1
2 Q. One question that was asked, almost the last question
3 you were asked by Mr Hunter, was this question of placing
4 yellow hats or inexperienced mine workers. This, to use
5 a favourite word at this Bar table, segues into this
6 question: in the sixth schedule to the labour hire
7 agreement that we've been talking about, there are seven
8 categories of roles. I might just read them to you rather
9 than bring it up on the screen: operations coordinator,
10 tradesperson levels 1 and 2, operator production and
11 operator outbye, operator specialised level 1 and operator
12 specialised level 2.

13 A. Yes.

14

15 Q. Now, none of those roles could be and nor would they
16 be permitted to be performed by yellow hats or
17 inexperienced mine workers; correct?

18 A. Correct.

19

20 Q. Indeed, One Key does not supply and Anglo has never
21 requested or accepted the supply of a yellow hat or an
22 inexperienced mine worker of One Key's supply; correct?

23 A. I'm not sure that's the case.

24

25 Q. At these three mines I'm talking about.

26 A. Yes, I - certainly at one of our mines, we're running
27 an inexperienced miner program, so a specific program to
28 bring in new talent into the industry and give them the
29 sort of core initial skills, bring them through that
30 yellow-hat phase into white hat. One Key have supported
31 that. That's at Grasstree, not at Grosvenor.

32

33 Q. That was a specific program directed to those kinds of
34 workers?

35 A. Correct.

36

37 Q. But otherwise, in those categories --

38 A. We wouldn't typically go out and look for an
39 inexperienced mine worker to fill a role, that's right.

40

41 Q. Forgetting typically, you just wouldn't accept one,
42 would you?

43 A. Not unless it was part of a particular program where
44 we were trying to bring in deliberately new skills and new
45 talent into the industry.

46

47 Q. Can I turn, then, to the quality of the workforce that

1 is provided by One Key. You have identified those
2 categories. It is the case, isn't it, that before workers
3 that One Key supply are placed at the mine, they have been
4 put through a rigorous process on the part of One Key to
5 identify that they have relevant qualifications and
6 experience?

7 A. Yes. That's certainly our expectation, yes.

8

9 Q. There is documentary material provided with each
10 worker who is proposed to be placed that identifies what
11 those qualifications and experiences are?

12 A. Yes.

13

14 Q. That is quite a detailed body of material, isn't it?

15 A. I have to say, I haven't seen it recently, so I --

16

17 Q. Drawing on your own experience.

18 A. The short answer would be yes, and we would be looking
19 for that and require that before a person was accepted to
20 arrive on site.

21

22 Q. So can I put it this way: it is a reasonably
23 sophisticated system for identifying particular skills and
24 abilities and experience that would fit a particular worker
25 to a particular task in one of Anglo's mines?

26 A. Yes, I agree.

27

28 Q. In your experience, those who are supplied are
29 certainly individuals with a lot of experience in coal
30 mining?

31 A. Generally that's the case.

32

33 Q. I will put the question another way.

34 A. Yes.

35

36 Q. They are not rejects from the system, are they?

37 A. I don't believe so. I mean, they wouldn't be on our
38 site if that was the case. Mr Hunter asked a question
39 about the quality of the people, and we would expect the
40 same level of vetting and capability of a person on site
41 from One Key as we would for an Anglo employee.

42

43 Q. I accept what you say. Can I just come back, though,
44 perhaps to a subtlety of that question, which is really
45 this: the individuals who use the labour hire model to
46 find themselves employment, they often do so, don't they,
47 because of their own lifestyle decisions, not because they

1 are not desired in the workplace, for example, in the
2 permanent workforce?

3 A. I agree with the second part completely. The first
4 part is one of these generalisations, and your point is
5 well made, but it certainly wouldn't apply to everybody.
6 But I absolutely accept the prospect just because somebody
7 is working through a labour hire model does not mean that
8 they are second and wouldn't get a permanent job elsewhere
9 in the industry if that's what they chose, yes.

10
11 Q. You were also asked - and this raises this issue with
12 the last answer - about career progression, to use the word
13 I think that Mr Hunter used. There are three different
14 categories of employees that you have identified, and one
15 of them is casuals - I've forgotten the exact language -
16 I think you said fixed term contract, and the third was
17 contractor?

18 A. Subcontractor, yes.

19
20 Q. Subcontractor.

21 A. Yes.

22
23 Q. Just so that I'm clear, the subcontractors you are
24 referring to are really individuals who have their own
25 service companies, so I offer myself as a contractor,
26 Peter Roney Pty Ltd?

27 A. And would be engaged by One Key on that basis, yes.

28
29 Q. So for all intents and purposes, it is just the
30 corporate alter ego of the individual worker?

31 A. Yes.

32
33 Q. Anyway, those are the three categories. In the case
34 of so-called casual workers, they are designated casuals
35 not because they are liable to be dismissed on a whim or
36 whenever it was thought appropriate but because they are
37 paid as casuals because they have no specific term which
38 applies to their contract?

39 A. Correct.

40
41 Q. They are paid a 25 per cent loading because they are
42 casuals; correct? Notwithstanding that they are
43 categorised as casuals, many of the casuals at the
44 Anglo mines that we are talking about stay for a year or
45 more?

46 A. Certainly.

47

- 1 Q. Indeed, some stay there, and stay there for many years
2 and never leave, but they are still categorised as casuals?
3 A. Correct.
4
- 5 Q. And then there are the maximum-term employees, as you
6 called them - I called it something else a little while
7 ago, but since I've found my note - the maximum-term
8 individuals are under some sort of arrangements that mean
9 they are on the site for a particular period?
10 A. Yes, so they would be engaged on a contract for
11 a fixed term, which was the term I used, but it's the same
12 thing, so it would typically line up with the contract term
13 or the commercial term of the overarching contract.
14
- 15 Q. Such as?
16 A. The One Key contract that we entered into in 2019, for
17 example. I know that that was the opportunity where
18 One Key reset the term for many of those, if not all of
19 those, fixed-term employees for another three-year period
20 to coincide with the completion date of the overarching
21 commercial contract.
22
- 23 Q. So the reality of it is that then it is a rolling
24 series of fixed-term arrangements for the same employee
25 group?
26 A. That's the way it is applied for those fixed-term
27 category employees, yes, or permanent employees, for that
28 matter.
29
- 30 Q. So if one is looking at it from the perspective of
31 a member of that workforce, whilst there is no certainty
32 around you going into a new term, the expectation and the
33 reality of it in these mines is that typically they would
34 move on into a new term?
35 A. Correct. It's been - yes.
36
- 37 Q. Many of these workers will have been there for years,
38 working in the same areas of the mine?
39 A. Yes. If you look at the tenure profile for the
40 One Key employee base that exists at the mine, it sits at
41 just under four years tenure, on average, and there are in
42 excess of 115 people who have been there for more than four
43 and a half years. The mine itself is only five and a half
44 years, so we've actually got some people who have been
45 there from the start, right from the start.
46
- 47 Q. So there are two aspects of this. One is the

1 perception of the worker that they have some permanency or
2 security, if I can use that word?

3 A. Yes.

4
5 Q. And the other is the risk that they might be summarily
6 dismissed, which you have been asked some questions about.
7 Can I turn to those topics.

8 A. Sure.

9
10 Q. It may not be part of your current daily experience,
11 but certainly in your experience working with One Key, is
12 it the case that the One Key staff who have worked at
13 Anglo, to your perception, have a good, strong sense of
14 security at those mines?

15 A. Yes, I believe so. My involvement is limited in
16 certain ways, but I participate --

17

18 Q. It is now --

19 A. No, but I participate in executive processes that have
20 us go to site to do VFLs, and that will often mean going
21 underground and engaging with the crews directly. I've
22 probably been to Grosvenor underground maybe a dozen times
23 in the last three years, involving underground visits and
24 directly engaging with work groups, so I get a reasonable
25 feel for it, and --

26

27 Q. If there were reports that individual workers in the
28 One Key group that were at the Anglo mines hadn't felt
29 secure or were expressing concerns about their security, is
30 that something that would come through the lines to you?

31 A. I would typically hear about it when I go to site --

32

33 THE CHAIRPERSON: That's a difficult question to ask, and
34 pretty self-defeating as well, isn't it? If they are
35 raising security matters and they themselves are feeling
36 insecure, is it not a bit self-defeating?

37

38 MR RONEY: I'm not going to argue with you, Mr Chairman,
39 about that. It is a question of whether there have been
40 reports of individuals feeling insecure.

41

42 THE CHAIRPERSON: Yes, but the absence of reports won't
43 mean much, will it? That's all.

44

45 MR RONEY: That's a matter for argument. I won't answer
46 the question.

47

1 THE CHAIRPERSON: You can ask it. It won't help you, but
2 you can ask it.

3

4 MR RONEY: If it won't help, I won't ask it.

5

6 Q. Coming back to the point perhaps I was really getting
7 to, we've heard the expression "seamless integration into
8 the workforce". That expression was used by other
9 witnesses. In your experience, is the One Key labour hire
10 supply, the employees supplied under that, seamlessly
11 integrated into the Anglo permanent workforce?

12 A. Sorry --

13

14 Q. In other words, is there a way to distinguish what
15 they do, how they do it, who they are specifically, when
16 you are looking at a crew that is working? Is there
17 anything that you can say that is noticeably different
18 about the way that labour hire employees supplied by
19 One Key do their work in this mine from the way that the
20 permanent employees of Anglo do it?

21 A. Not particularly. In fact, I'd say if you go to
22 Grosvenor, they're as engaged and as willing and
23 cooperative a workforce as we've got anywhere. That's not
24 saying our other workforces aren't exactly that, because
25 they are, but there is certainly no sense that Grosvenor
26 has some legacy in terms of workplace cooperation, people's
27 willingness to get on and do tasks, because of the labour
28 hire model. If it was, and that was the experience, then
29 that would be clearly one of the reasons we would review
30 it.

31

32 Q. Associated with that is a topic that Mr Hunter asked
33 you about, and others have been asked about, to do with the
34 risk of under-reporting or non-reporting of safety issues
35 and the possible risk that that might occur or would be
36 more likely to occur by labour hire staff than by permanent
37 mine staff. That's the focus of the question. Do you
38 think, from your experience, that there is any basis for
39 concern that that could occur or does occur?

40 A. I think there is a basis for concern. I think it
41 would be foolish to sit here and say there is not a basis
42 for concern. But I would also add, in my experience - and
43 it is one of the things that I do actually look for and
44 test and challenge a little bit when I go out, particularly
45 to Grosvenor but not only to Grosvenor, and ask that
46 question - I actually don't have the concern across our
47 sites that it is a material factor in under-reporting or

1 not raising hazards or incidents across our operations.

2

3 Q. How have you been able to satisfy yourself that it is
4 not a matter of concern?

5 A. Because I've been to sites, I've been underground
6 doing our VFLs, I've challenged people about their
7 willingness to speak up, I've sat through some of the
8 safety resets where we particularly address the issue of
9 everybody on site needs to speak up. I've participated in
10 a number of what we call deep dive sessions, where we
11 actually did some small group, you know, what's not working
12 in safety and what do we need to do better, two or three
13 years ago. In a couple of those sessions we had only
14 labour hire, because we wanted to address labour hire
15 issues. When I say "we", it was me and two other people
16 that weren't connected to the sites, and we asked these
17 questions directly to people.

18

19 Now, again, the comment can be, well, that's going to
20 be filtered and they know who they are talking to and they
21 are not going to tell you the truth. I get that. All
22 I can say is that we talk to people, we ask them about
23 their level of uncertainty and concern about raising
24 issues, and I didn't come away from that saying that we
25 have a systemic problem. Now, does that mean that there is
26 not a risk that there's not [sic] individuals who don't
27 feel confident raising those issues? I certainly would not
28 say that.

29

30 Q. You have been asked a number of questions about the
31 process of deciding whether there would be a reduction or
32 a deduction of some amount that might otherwise have been
33 paid by way of bonuses, safety penalties, as they were
34 called, but not by you. You called them a modifier?

35

A. Yes.

36

37 Q. Just so that I'm clear - and I think I've understood
38 your evidence correctly - the modifiers that are dealt with
39 in, for example, this labour hire agreement that you have
40 explained in your statement once involved quite a number of
41 key identifiers as the basis for changing?

42

A. Yes.

43

44 Q. But it is now only one?

45

A. Yes.

46

47 Q. You have explained what that is, but this is directed

1 to injuries, isn't it --

2 A. Yes.

3

4 Q. -- or fatalities? It is not directed in any way, is
5 it, to whether there are reported concerns about the
6 presence of unsafe practices or unsafe conditions or
7 inappropriate working conditions?

8 A. No, it is not a metric that picks up hazard
9 identification or the raising of issues, no.

10

11 Q. So, really, it has absolutely nothing to do with
12 whether incidents are or are not reported unless for some
13 reason or other you could get away with not reporting an
14 injury or not reporting a fatality; correct?

15 A. Correct.

16

17 Q. No doubt at Grosvenor mine in the course of
18 reiterating the requirements that Anglo expect but also
19 within the individual safety and health management systems
20 at individual mines, there is a requirement to identify,
21 manage risk and to report any concerns that are had about
22 what is going on in the mine?

23 A. It is an obligation that sits with every coal mine
24 worker, yes.

25

26 Q. How, typically, is that reinforced, that issue that
27 you are to look for and identify anything of concern and
28 report it?

29 A. It is a similar answer that I gave Mr Hunter. It's
30 a regular theme and drumbeat across the operation, and
31 there would be --

32

33 Q. You mentioned pre-start meetings --

34 A. Yes, there would be very few formal communications
35 that happen around the site without some reference to
36 safety, either in relation to incidents or what it is that
37 we might need to do to improve our safety performance.
38 That would typically involve bringing hazards to the table
39 so that we can actually get them out and understand and
40 prevent them.

41

42 Q. One question you were asked a short while ago by
43 Mr Hunter was along these lines: it was suggested to you
44 that there are workers, particularly labour hire workers,
45 who may perceive that if they raise safety matters, they
46 may jeopardise their jobs or their employment. Do you
47 remember being asked about that?

1 A. Yes.

2

3 Q. He was in particular asking you about the Your Voice
4 scheme, which is, for want of a better word, an anonymous
5 whistleblower-type system; correct?

6 A. Yes, it is.

7

8 Q. There are many, many other forms in which reports of
9 concerns are recorded and passed up to management, aren't
10 there, apart from this Your Voice scheme?

11 A. Yes, that's true.

12

13 Q. Is the assumption in that question that particularly
14 labour hire workers may perceive that if they raise these
15 matters, they may jeopardise their careers something that
16 you have actually ever encountered?

17 A. No. I will make the additional comment on that that,
18 in my view, what occurs is that often people don't see the
19 full context of what's actually going on. They may see an
20 individual who raises an incident or raises a concern, and
21 they may then see some occurrence later on or post that,
22 but it will typically be part of a - there will be another
23 process that is going on in terms of whether it be
24 performance management or an incident investigation or
25 whatever, and not everybody will get to see the full
26 context around which One Key or the SSE may make those
27 decisions in relation to individuals.

28

29 Q. So what do we draw from that?

30 A. Oh, just draw that there will often be a suggestion
31 that suddenly somebody raised something, and they're gone
32 tomorrow. If they are not there in the future, and they've
33 been subject to some sort of discipline, or whatever, it
34 will, in my experience, always be the result of something
35 much more cumulative or much more serious or much more
36 broad than, "I simply raised my concern on a day, and
37 suddenly I don't have a job tomorrow." That's just not the
38 way we operate.

39

40 Q. I will come to the disciplinary process in a moment.
41 Can I ask first about the periodic interactions between
42 One Key managers and Anglo staff. In particular, I want to
43 focus on the extent to which One Key managers look at your
44 system and Anglo looks at One Key's system. Now, it is the
45 case, isn't it, that each of the two entities I've just
46 referred to respectively audits the other from time to
47 time?

1 A. Correct.

2

3 Q. So Anglo will send staff to One Key's organisation and
4 audit its compliance with its requirements under the
5 contract, including what it has in place to ensure the
6 workers meet your standards?

7 A. Yes, there is a specific audit process of the ERMP, or
8 the employee relations management plan. I think that's
9 what you are referring to. Yes, and we've done an audit of
10 that.

11

12 Q. That audit is done periodically?

13 A. Yes. I'm aware of one. I suspect there are more that
14 are done by site, but I'm certainly aware of one.

15

16 Q. Is the reverse true, that is, that there is not an
17 identical, of course, but an equivalent audit done by
18 One Key staff of what is in place at the mine in terms of
19 its systems?

20 A. I'm less familiar with that. I wouldn't say it
21 doesn't, but I'm less familiar with it.

22

23 Q. I think that was your answer, in fact, when you were
24 asked that question earlier, that you weren't necessarily
25 aware of that.

26 A. Yes.

27

28 Q. It wouldn't surprise you, though, if there were mutual
29 audits?

30 A. No, it wouldn't surprise me, no.

31

32 Q. Can I then turn to this question of discipline. There
33 has been considerable focus on the notion of the arbitrary
34 removal by the SSE of a worker, and you've been asked a lot
35 of questions about that. Would the Board be right in
36 thinking that there would be no example that one would
37 encounter of an arbitrary removal of a worker, whether
38 a permanent employee or an employee of Anglo or a labour
39 hire employee, by an SSE, in your experience?

40 A. In terms of - for raising a safety concern or a safety
41 issue?

42

43 Q. I will come back a step.

44 A. Okay.

45

46 Q. Perhaps I've gone too far too early. You have told us
47 that there would be a process which would be gone through

- 1 before it would even reach the level at which it arrived at
2 an SSE?
- 3 A. Generally that's true, yes, correct.
4
- 5 Q. Would that be a comprehensive process to identify what
6 had occurred, who was or was not at fault, and that would
7 involve both One Key managers and Anglo managers?
8 A. Yes.
9
- 10 Q. And then, out of that process, there would ordinarily
11 be a resolution of the issue one way or the other? It
12 might be that nothing happens, that the employee is
13 exculpated?
14 A. Yes.
15
- 16 Q. It might be that there is some kind of discipline,
17 warning, counselling or something of that kind?
18 A. Correct.
19
- 20 Q. Or it could be that someone is stood down for a period
21 but then reinstated?
22 A. Yes.
23
- 24 Q. Or it could be that they are dismissed?
25 A. Yes.
26
- 27 Q. But there would be that full process that would be
28 undergone in every case; correct?
29 A. Yes.
30
- 31 Q. So even by the time it reached an SSE, if there were
32 a power such as that in clause 6.11 of this contract, it
33 will have already reached a fairly advanced stage of
34 investigation and identification of the particular
35 circumstances?
36 A. Correct.
37
- 38 Q. Could you imagine a situation in which Anglo staff
39 had, in that investigative and review process, decided that
40 an appropriate course was not to dismiss an employee but
41 where the SSE would nevertheless dismiss the employee?
42 A. I can't conceive of it, because it would mean the SSE
43 having a greater level of knowledge or insight into the
44 incident or the decision around the incident than the
45 investigation process has come up with, and it would be -
46 I just can't imagine that scenario.
47

1 Q. Putting aside, then, the removal of an employee at the
2 end of that process, the other question that I want to ask
3 that arose out of one of your answers is to do with the
4 raising of a safety concern. You have told us already, and
5 I won't repeat, that clearly it is fundamental policy at
6 Anglo mines that there be the identification and reporting
7 of any risks, and if there are any concerns about safety
8 issues, that they be communicated. Again, are there any
9 circumstances that you can envisage or that you can draw on
10 from your experience in which you can see that an employee
11 or a labour hire employee might be disciplined, not just
12 dismissed but disciplined, for raising a concern about
13 safety issues?

14 A. No, I can't. In terms of someone just raising
15 a genuine safety concern in isolation and having some
16 disciplinary action taken against them as a result of doing
17 that, I can't envisage that, no.

18
19 Q. So even if I completely misconceived what was going on
20 and I was reporting something that really was quite silly,
21 I shouldn't be reporting it in the sense that there was
22 nothing wrong --

23 A. Yes.

24
25 Q. -- but even if I reported it, that would be an
26 encouraged course?

27 A. Absolutely. What I would say, though, is that not
28 every individual will get the response that they believe
29 they should get when they raise it. It may be that
30 a supervisor, superintendent or manager says, "I understand
31 that, but for these reasons, we are doing X", and the
32 employee may remain dissatisfied about where they are with
33 having raised the safety issue. But your question was
34 around discipline in response to that, and I just don't
35 believe that that would occur.

36
37 Q. That proposition would apply equally to labour hire
38 staff as it would to permanent mine staff?

39 A. Yes, or contractors, yes.

40
41 Q. By "contractors" in that context, you mean --

42 A. Service contractors, specialists or service
43 contractors.

44
45 Q. I won't take you to it, but can you take my word for
46 it that in the FES coal agreement that has been exhibited
47 to your statement - you reference it, I think, as document

1 number 3 in your statement?

2 A. Yes.

3

4 Q. Are you familiar with that document? That is an
5 agreement, can I suggest, which was made after
6 comprehensive negotiation between One Key, or the entity
7 that is in that agreement which is controlled by One Key,
8 and the CFMEU. Are you familiar with that?

9 A. I'm familiar with both the parties to the agreement,
10 yes.

11

12 Q. That fact is identified in the agreement itself. Can
13 I tell you that in that agreement, at page 9 of it, there
14 is a list of the rates that are to be paid under that
15 agreement, and they range from around the \$27 to the \$34
16 per hour rate?

17 A. Yes.

18

19 Q. It is true to say, isn't it, that the amount that
20 workers are paid - and of course it will differ from worker
21 to worker, depending upon the particular roles that are
22 identified, but the payments that are made under the
23 service contract with One Key are very well in excess of
24 those amounts, aren't they, per hour?

25 A. Many multiples, yes.

26

27 Q. One of the reasons, can I suggest, that employees
28 supplied under labour hire are paid those rates is because
29 that is one way of ensuring a quality workforce?

30 A. Yes. I mean, adopting a labour hire model, at least
31 in our case - I am not going to speak for other cases, but
32 in our case - was not a cost-cutting or a "how do we find
33 cheap labour", because the market will tell you what you
34 get if you choose to pay cheap. So we were always looking
35 to put together a competitive remuneration arrangement that
36 looked at not just the dollars that people got, but that
37 was an important piece of it, but also rosters and other
38 things like quality of accommodation and, in this case at
39 Grosvenor, FIFO or DIDO or residential options from
40 a living point of view as well. So it was about what
41 I would say is the package that was being made available to
42 people, but remuneration was pitched at ensuring we remain
43 competitive in the market, yes.

44

45 Q. Again, tell me if you can't answer this question, but
46 you would be broadly familiar with the hourly rates paid to
47 Anglo employed staff?

1 A. Yes.

2

3 Q. In general terms, how do they compare with these many
4 multiples of the FES coal agreement rates?

5 A. If I take the equivalent position under an Anglo
6 enterprise agreement for an equivalent position under the
7 Grosvenor labour hire agreement, you would be within about
8 5 per cent of total earnings. Now, bonus is the variable.
9 Bonus does move up a little bit and down, depending on the
10 site. But normalising for that, you would be within about
11 5 per cent on a like-for-like basis.

12

13 Q. It is certainly not the case, is it, that workers who
14 are supplied under a labour hire arrangement are worse off
15 in terms of what they are paid per hour than equivalent
16 mine staff?

17 A. Under one of the rates under labour hire, they are
18 better off.

19

20 Q. Do you know which one that is?

21 A. Oh, that's the top rate. The one below the
22 coordinator, whatever that one is, yes.

23

24 Q. But otherwise, even allowing for whatever it is that
25 One Key takes out of the exercise, their labour hire
26 workers are paid an equivalent amount to what they would be
27 paid if they were permanent staff at the mine?

28 A. Similar, yes.

29

30 MR RONEY: Thank you, Mr Chairman. Those are my
31 questions.

32

33 THE CHAIRPERSON: Thank you, Mr Roney. Mr Roney, Mr Lewis
34 is coming before the inquiry on Friday; is that correct?

35

36 MR RONEY: That's correct.

37

38 THE CHAIRPERSON: Do we have a statement from him yet?

39

40 MR RONEY: I indicated to counsel assisting that there
41 would be one by the end of tomorrow.

42

43 THE CHAIRPERSON: Right. Is that going to address the
44 choice of contracts, be it casual or whatever?

45

46 MR RONEY: Yes.

47

1 THE CHAIRPERSON: Yes, thank you. Thank you, Mr Roney.

2
3 Mr Crawshaw?

4
5 **<EXAMINATION BY MR CRAWSHAW:**

6
7 MR CRAWSHAW: Q. Could I just deal with a couple of the
8 questions that my learned friend Mr Roney just asked you.
9 Firstly, on the question of whether particular workers
10 signed up as labour hire employees rather than permanent
11 employees - I think you said it was difficult for you to
12 answer that question; is that right?

13 A. I'm sorry, what was the question?

14
15 Q. That it is difficult for you to - I withdraw what
16 I said. It is difficult for you to put yourself in the
17 position of a worker making a decision as to whether to go
18 for a labour hire job rather than a permanent job?

19 A. Yes, I think that's true, yes.

20
21 Q. To be fair to you, you were trying to answer
22 a question along those lines, but you wouldn't know if
23 there was any worker out there that would prefer a job with
24 a labour hire company to a job as a permanent employee,
25 would you?

26 A. I would know that, and I do know of individuals who
27 are employed by labour hire who prefer it that way, yes.
28 I think what I wouldn't say is that that is everybody who
29 is employed under that model. But there certainly are
30 individuals --

31
32 Q. How many - sorry.

33 A. Sorry. There are certainly individuals who I've
34 spoken to, who I have talked to directly, who have
35 expressed their preference, and they are quite satisfied
36 with being employed under the model of a labour hire
37 arrangement.

38
39 Q. How many individuals have told you that?

40 A. Oh, difficult to put a number on it, but it would be
41 certainly more than 10 but probably less than 1,000.
42 I don't know, but it is not one or two, that's for sure.

43
44 Q. But it could be up to 1,000 individuals who have told
45 you that; is that what you are saying?

46 A. No, no, no. No, no, I was probably exaggerating a bit
47 unfairly. I would have spoken to, let's say, a dozen

1 people who have told me that directly.

2

3 Q. Did any of them give you a reason for that preference?

4 A. In most cases, it provides them with a bit of
5 flexibility in terms of their working arrangements. Some
6 don't necessarily want to work all year round and are quite
7 happy to work for periods of time and then not for periods
8 of time. For others, they are quite happy for the
9 financial arrangement under a labour hire casual as opposed
10 to the financial outcome under a labour hire or even
11 a permanent employee.

12

13 Q. Where were these employees, these individuals that you
14 are talking about?

15 A. Where? They would be at our existing operations.

16

17 Q. Whereabouts?

18 A. It could be any one of the five that I visit.

19

20 Q. If they are people that don't want to work for a long
21 time, they wouldn't fit in with this model of the long-term
22 casuals that you gave evidence about when answering
23 questions to Mr Roney?

24 A. Potentially not, that's quite right. They may look at
25 that and go, "That's actually too permanent for me, in
26 terms of my model of casual."

27

28 Q. When you say "Potentially not", they wouldn't fit in
29 with it at all, would they?

30 A. No, they might work for a period of time and then
31 choose to resign, leave.

32

33 Q. You can do that as a permanent employee, too, can't
34 you?

35 A. I'm sure you can, yes, but, again, I'm not exercising
36 their choice for them. That's their choice. That's the
37 choice they expressed to me. They're happy to be a casual
38 employee under the arrangement because it gives them that
39 level of flexibility and potentially means that they've got
40 more cash immediately upfront than under other
41 arrangements.

42

43 Q. We will come to the question of the comparison of
44 rates later. You also gave some evidence about whether
45 there were workers employed by labour hire companies who
46 had some insecurity about their employment situation. To
47 be fair, once again you were asked to try to put yourself

1 in the position of those workers. I think in the end, you
2 would agree that you wouldn't know whether there were
3 workers employed by labour hire companies out there who had
4 a level of insecurity about their employment?

5 A. I wouldn't know as to their own personal feelings or
6 views about it, but what I could say is that I know that
7 there are employees under the labour hire model who would
8 express a personal preference to be permanent employees.
9 I've had those as well. Just as others have expressed
10 a view, I've also certainly, when I've been underground or
11 engaged with crews, had people express a view that, "I'd
12 like to be a permanent employee of Anglo at some point."
13

14 Q. A lot of them, if given the opportunity, change over
15 to being permanent employees, don't they?

16 A. On occasions, we would give people that opportunity,
17 yes. Not all will, but most will, I agree.
18

19 Q. You haven't had any go the other way, have you?

20 A. Not that I know of, no.
21

22 Q. Permanent employees at one of your mines switching to
23 being employees of labour hire companies?

24 A. Not that I know of directly, but we have had
25 situations where people have been offered permanent
26 opportunities and have said, "I'm happy to remain as
27 a casual."
28

29 Q. I just want to try to get a picture of the labour hire
30 in the three mines the subject of the terms of reference.
31 One Key is not the only labour hire company employed by
32 Anglo at those three mines, is it?

33 A. Correct. They are not.
34

35 Q. Can you just tell me the other labour hire companies
36 that are engaged by Anglo at the three mine sites?

37 A. Primarily it's One Key and WorkPac that are the
38 primary two. There may be a couple of others, Mr Crawshaw,
39 who provide a very, very small number of people, but I'm
40 not across that.
41

42 Q. Is WorkPac at all three of the mines - Grasstree,
43 Grosvenor and Moranbah North?

44 A. I'm not sure. I don't think they've got anybody
45 currently placed at Grosvenor. But at the other sites,
46 they may have people placed not necessarily just in
47 production-type roles; they could be in warehousing, admin

1 support or indeed even maybe some technical roles.

2

3 Q. But they are in production roles as well?

4 A. I'm just trying to think across Moranbah and Grasstree
5 whether we have any WorkPac employees. I think at
6 Grasstree, we may have. I would need to check a hundred
7 per cent, if it's important for you. I believe at
8 Grasstree, we may have a small number of people who are
9 WorkPac. At Moranbah, I doubt that we would have anybody
10 in production roles who are employed by WorkPac.

11

12 Q. You gave some evidence, in reply to Mr Hunter's
13 questioning, about there being a One Key contract
14 supervisor and a One Key administrator employed on site.
15 Do you remember that evidence?

16 A. Yes, yes, I do.

17

18 Q. Does that apply at each of the three mines?

19 A. No, it doesn't. Only at Grosvenor.

20

21 Q. Are there any supervisory One Key personnel at
22 Grasstree or Moranbah North?

23 A. No, not to administer the contract or oversee the
24 contract or provide any direct line operational supervision
25 to any of those labour hire employees.

26

27 Q. Are there any One Key personnel other than the labour
28 hire employees at Grasstree or Moranbah North?

29 A. No. I think the answer is no, and I only hesitate on
30 the basis that from time to time, there will be some
31 supervisors or, if you like, administration people from
32 those organisations who will go to site to do some basic
33 administration, but they are not full time and they will
34 typically be there only for a very, very short period.

35

36 Q. While we are dealing with WorkPac, I take it you are
37 familiar, in your human resources role, with the Federal
38 Court decisions relating to WorkPac and certain labour hire
39 employees?

40 A. Yes, I am.

41

42 Q. You are familiar with the Skene decision?

43 A. I am.

44

45 Q. You understand that in that case, after the matter
46 went to the Full Federal Court, WorkPac was penalised for
47 underpaying Mr Skene, who they classified as a casual

- 1 employee?
- 2 A. I'm aware of the outcome of the decision. I'm not
3 sure that I would go to the same language as yourself, but,
4 yes, I'm aware of the outcome of the decision, that there
5 was a decision against WorkPac in that matter, yes.
6 Whether it is a case of underpayment, or whatever, I think
7 is maybe a different debate.
8
- 9 Q. Well, that's what the case was about, wasn't it?
- 10 A. I understand the case is still subject to some legal
11 process as well, so I'm not sure if the matter has been
12 fully settled yet.
13
- 14 Q. I won't debate what's happening in the litigation with
15 you, but --
- 16 A. I think there's the Rossato matter, which is the one
17 I'm referring to, which is obviously still ongoing.
18
- 19 Q. Yes. Well, I wasn't asking you about the Rossato
20 matter. That's a separate case brought by WorkPac itself.
21 A. Yes.
22
- 23 Q. But the Skene litigation is over, isn't it?
- 24 A. Yes, but my understanding - and you will have a better
25 understanding than me - is that the Rossato matter may have
26 some implications for the principles established in Skene.
27
- 28 Q. Does that litigation give you any cause for concern?
- 29 A. No, it doesn't.
30
- 31 Q. You started with Anglo in 2011; is that right?
- 32 A. Yes, yes, it is.
33
- 34 Q. Do I understand that at that time, both Grasstree and
35 Moranbah North already had labour hire?
- 36 A. They would have been using labour hire as well as an
37 existing permanent workforce, yes. They would have been
38 using both.
39
- 40 Q. Was the quantity of labour hire in their workforce the
41 same in 2011, when you started with Anglo, as it is now?
- 42 A. 2011 - I'm not a hundred per cent sure, but I would
43 say over the last three to four years that ratio has been
44 reasonably consistent. I'm just trying to think. 2011 -
45 I would think it would be reasonably consistent, but
46 I don't have those numbers in my head.
47

- 1 Q. I'm just wondering whether you have been involved in
2 any decisions to increase the ratio or proportion of labour
3 hire compared to permanent employees at those two mine
4 sites?
- 5 A. Not particularly. Not particularly. The site would
6 fill the roles as it can and as it feels that it is most
7 appropriate, so that's not something that - I wouldn't
8 direct a particular percentage or a number from my role, if
9 that was the question.
- 10
- 11 Q. I'm just asking you whether you were involved in any
12 such decisions. Are you saying you weren't? When you say
13 "Not particularly", it suggests that you might have been
14 somewhat involved.
- 15 A. I would certainly have been involved in conversations
16 about staffing and filling roles at each of those sites,
17 yes.
- 18
- 19 Q. But I was asking about increasing the ratio or
20 proportion of labour hire versus permanent employees?
- 21 A. Then the answer is no. Specifically around that
22 particular question, the answer is, no, I've not been
23 involved.
- 24
- 25 Q. But you were involved in the decision to engage labour
26 hire according to the model you have given evidence about
27 at Grosvenor; is that right?
- 28 A. Yes, it is.
- 29
- 30 Q. I'm just trying to get a handle on the dates. Was
31 there an in-principle decision to go down the lines of that
32 model that you have given evidence about? Is that what
33 occurred first?
- 34 A. No. I guess what occurred, as I tried to explain
35 earlier, was a series of things. We were looking at what
36 might be the labour arrangements and the employment model
37 for Grosvenor as early as probably 2010, before I arrived,
38 and certainly from 2011 onwards. We were looking at
39 a number of different models, which I tried to highlight
40 before. It probably came down to four key employment types
41 or arrangements, but there were certainly some sub or
42 hybrid models inside each one of those. At the point where
43 we decided that we would take over from the existing
44 service contractor who was providing those services for the
45 drift development and essentially pit bottom development,
46 and so on, at that point we moved to an arrangement with
47 a number of contractors to provide employees under the

1 Anglo systems and Anglo management and direction. That was
2 approximately 2014.

3

4 Q. That's what I was going to ask. In 2014, you decided
5 to adopt that model which meant that the production and
6 engineering employees would all be labour hire?

7 A. Correct. Correct.

8

9 Q. Just before we deal further with that, I understood
10 you to say one of the alternate models was a common law
11 contract model?

12 A. Yes.

13

14 Q. Is that what you said earlier?

15 A. Yes.

16

17 Q. How does that work?

18 A. We would employ people directly on common law
19 contracts, similar to what we do for staff. So you can
20 have an all staff model, if you like, which was one of the
21 concepts being put around or thought about at the time.

22

23 Q. But of course you can't just ignore statute in this
24 country in relation to employment, can you?

25 A. No, you can't.

26

27 Q. So you can't be purely on common law contracts?

28 A. Well, it goes back to 2011 and 2012 at the time, so
29 I will leave it there because we didn't ultimately go down
30 that path.

31

32 Q. Okay. Let's deal with the path that you went down.
33 As I understood it, you chose the path of labour hire for
34 production and engineering employees after performing some
35 sort of evaluation; is that what happened within Anglo?

36 A. Yes. We looked at development activities elsewhere in
37 the industry and how that was structured and what sort of
38 results were those activities delivering.

39

40 Q. When you say "we", who in Anglo carried out this
41 evaluation?

42 A. Oh, it predominantly would have been - there was
43 a group at the time that no longer exists that was called
44 operational excellence in the underground space. It would
45 have been done in that group.

46

47 Q. Was that directed at Grosvenor itself or was it

- 1 a broader exercise?
- 2 A. It would have been in the context of Grosvenor,
3 looking at options and how might we set Grosvenor up, given
4 that it was a greenfield operation coming in to operations
5 phase from project phase.
- 6
- 7 Q. When you say "It would have been", are you saying it
8 was directed at Grosvenor?
- 9 A. Yes.
- 10
- 11 Q. I don't want you to speculate.
- 12 A. Okay. I'm saying yes.
- 13
- 14 Q. Was there a report produced?
- 15 A. Not that I'm aware of, no.
- 16
- 17 Q. Was there anything put in writing about this
18 evaluation?
- 19 A. Not that I'm aware of. There was a number of meetings
20 and verbal conversations that took place around it that
21 I do recall, but I don't recall any documents or
22 presentations.
- 23
- 24 Q. So it was all just dealt with orally, was it?
- 25 A. Largely verbally, yes. Or verbally, sorry.
26 I shouldn't say "largely". Verbally. To my recollection,
27 verbally.
- 28
- 29 Q. Nothing written down?
- 30 A. No, there may be sort of a record of decisions
31 somewhere in the project steering committee meeting
32 minutes, but I don't know that off the top of my head.
- 33
- 34 Q. I thought you suggested that there was some precedent
35 for the Grosvenor model; is that right?
- 36 A. No, I didn't suggest there was a precedent. I think
37 I was asked the question am I aware of anything else, and
38 I said I'm aware of one similar operation, but it wasn't
39 a precedent for Grosvenor. It wasn't pre-Grosvenor.
- 40
- 41 Q. It wasn't?
- 42 A. No.
- 43
- 44 Q. By the way, what is that other mine that you are aware
45 of?
- 46 A. That's a gold mining operation in the Northern
47 Territory, in the Tanami.

1
2 Q. So when this evaluation took place, there was nothing
3 of the like of the Grosvenor model to evaluate?

4 A. Not in terms of an overall operation, no, but in terms
5 of particular development operations that may have been
6 occurring inside existing operations, then yes. What we
7 were looking at particularly was the development component
8 of the operation, not necessarily an overall mine that may
9 be set up and run in the way that Grosvenor is currently
10 run.

11
12 What we were looking at is the performance of
13 development activities inside different operations, and
14 there were operations at that time that were running their
15 development units, or one of their development units, not
16 necessarily all of them, but one of their development
17 units, with essentially a contractor or labour hire
18 workforce base employed under an owner/operate management
19 structure.

20
21 Q. It's quite common for development to take place
22 through contractors, isn't it?

23 A. It is not unusual, yes, I agree.

24
25 Q. You didn't have any basis on which to compare those
26 contractor development operations with a similar operation
27 conducted by permanent employees, did you?

28 A. The comparison certainly was with the performance that
29 we were achieving in our existing operations, because at
30 that stage Grasstree wasn't at pit bottom and wasn't
31 actually in development phase. So our comparison,
32 internal, if you like, was what were external organisations
33 with their development units, under different arrangements,
34 achieving, with what we were achieving essentially with our
35 own units at that stage.

36
37 Q. That's a false comparison, isn't it?

38 A. I'm not sure, but if you believe so, that's fine.

39
40 Q. Well, I'm putting it to you that it is.

41 A. I don't believe it is, but - okay.

42
43 Q. They are different operations that you are comparing;
44 isn't that right?

45 A. You're comparing different types of arrangements that
46 people had established for their development in a mine.
47 Some were full contract, some were full owner/operate, some

1 were a hybrid. So is that a false comparison? I don't
2 believe so. And I remember at the time there was effort
3 that was actually done to try to ensure that they
4 normalised for different equipment, different mining
5 conditions, because all of those were obviously going to
6 impact on the development rates and performance of those
7 development units.

8

9 Q. There were figures produced, were there, showing this
10 comparison?

11 A. As I say, there was conversation that I was party to
12 around the relative merits and performance of each of those
13 options, yes. There was conversation. I don't recall
14 a document. As I say, it's going back to 2013, so it is
15 a little while.

16

17 Q. I'm just asking whether there were figures produced.
18 I didn't ask you --

19 A. There would have been a --

20

21 Q. -- a question of whether there was anything in
22 writing, although maybe you are forecasting my next
23 question. Were there figures --

24 A. The comparison would have - sorry.

25

26 Q. Sorry, I cut across you. Were there figures produced
27 showing comparisons?

28 A. The comparison would have been based on figures, yes.

29

30 Q. They were based on figures? When you say "would have
31 been"?

32 A. Yes. Yes, they were based --

33

34 Q. Just to come to the question that you guessed I might
35 ask, are you suggesting all those figures were the subject
36 of oral or verbal discussions, but none of them were
37 written down?

38 A. Not to my recollection.

39

40 Q. I think you gave a 76 per cent figure for the ratio or
41 the proportion of labour hire employees at the Grosvenor
42 mine; is that right?

43 A. No, I think I qualified the statement that was made
44 earlier to say that the 76 per cent number includes labour
45 hire and service contractors that may be on site and would
46 also include anyone that we call capital contractors, but
47 typically they are service contractors or specialist

1 contracts who are delivering capital investment projects.
2 So all three of those would be the contribution to that
3 76 per cent.

4
5 Q. So who falls in the other 24 per cent - are they all
6 management employees?

7 A. Yes, they would be staff down to and including ERZ
8 controllers.

9

10 Q. You would accept that what is happening under the
11 Grosvenor model in terms of labour hire goes well beyond
12 managing peaks and troughs in the industry?

13 A. Yes, I would agree.

14

15 Q. If we could just come to the selection of One Key at
16 Grosvenor, when did that occur?

17 A. Originally the contract went out for tender in 2016,
18 if I'm correct, and that was awarded to One Key at that
19 point, and the contract was subsequently renewed in 2019.

20

21 Q. Prior to 2016, was the labour hire model implemented,
22 or wasn't it implemented --

23 A. No, it was implemented, but there were multiple
24 providers on site. There were at least three or four who
25 were providing, and that was certainly creating some
26 difficulties in managing that complexity.

27

28 Q. You chose One Key through a tender process?

29 A. Correct.

30

31 Q. Were they the lowest bidder, were they?

32 A. Not necessarily. I wasn't actually involved in the
33 tender process, so I couldn't tell you, but I have been
34 involved in other tender processes where cost is
35 a component but not the only one.

36

37 Q. You have given some evidence about the process that
38 takes place in relation to a safety incident that might
39 lead to discipline or, indeed, dismissal of a labour hire
40 employee. You have suggested that, in effect, Anglo is
41 heavily involved in such a situation; is that right?

42 A. I certainly said "involved". I'm not sure I said
43 "heavily", but I certainly said "involved".

44

45 Q. Well, at least as involved as in a situation where
46 a similar incident involved a permanent employee of Anglo?

47 A. Yes, yes.

1
2 Q. What if the disciplinary matter or the dismissal
3 matter is not a safety matter, is there the same level of
4 involvement?

5 A. There would be less direct involvement upfront, in
6 that it would be One Key's obligation to undertake their
7 own performance management investigation and understanding,
8 but there would be a review of that decision by an
9 appropriate person at Anglo, which would typically be the
10 contract representative.

11
12 Q. How do you know that?

13 A. How do I know that? Because that's the process that
14 has been agreed to by the parties.

15
16 Q. Is that in writing somewhere, is it?

17 A. There are, in the contract, various references to the
18 employee relations management plan and the obligation to
19 have that plan in place, and part of that plan addresses
20 that the company, being One Key, have an appropriate
21 performance management system in place.

22
23 Q. But that doesn't mean One Key has to consult you when
24 an employee is dismissed, does it?

25 A. They probably don't have to, but as a matter of course
26 they do.

27
28 Q. Well, how do you know?

29 A. Well, we're on site and we see people who are coming
30 and going, so we have a reasonable idea. If a person is
31 being removed from the operation, we would ask the question
32 where has that person gone?

33
34 Q. You have given a lot of evidence about what "we" do.
35 I'm asking you about what you do and what you know. How do
36 you know what actually happens on site?

37 A. I would take advice from those that are on site.

38
39 Q. If they told you about it?

40 A. Correct.

41
42 Q. You have told us that there is no enterprise agreement
43 with the permanent employees at Grosvenor; is that right?

44 A. Correct, yes.

45
46 Q. I think it is the case that the ERZ controllers are
47 currently seeking an enterprise agreement; is that right?

- 1 A. That is right, yes.
2
- 3 Q. Moranbah North has an enterprise agreement?
4 A. Yes, it does.
5
- 6 Q. Do I understand, without going to it - I think it was
7 on the court book, but I can't find it any more - that it
8 makes provision for casual employment?
9 A. Sorry, under the Moranbah enterprise agreement?
10
- 11 Q. Yes.
12 A. I'm not a hundred per cent sure, but I wouldn't be
13 surprised if it does, and if you've looked at it and it
14 does, then I accept that it does.
15
- 16 Q. I was just wondering whether there are any casual
17 employees at --
18 A. No. Sorry, the answer is no. The answer is, no, we
19 don't have anybody employed - if the agreement provides for
20 casuals, it may well do, but we certainly don't have
21 anybody employed under the categorisation of "casual" under
22 that agreement.
23
- 24 Q. But do you recall this, that there is a provision in
25 the Moranbah North agreement that labour hire employees
26 receive the same rates and conditions of employment as
27 permanent employees?
28 A. Yes, I'm aware of that clause.
29
- 30 Q. That is implemented at Moranbah North?
31 A. Yes, it is.
32
- 33 Q. But there is no such provision at Grasstree, is there?
34 A. No, there is not.
35
- 36 Q. Correct me if I'm wrong, but there was a claim by the
37 employees covered by the Grasstree enterprise agreement for
38 such a clause, but it wasn't agreed to by your company?
39 A. I'm not sure. I wasn't involved directly in those
40 bargaining negotiations.
41
- 42 Q. In any event, at least under the Grasstree enterprise
43 agreement there is no obligation to pay labour hire
44 employees the same rates and conditions of employment as
45 permanent employees?
46 A. Sorry, under the Grasstree agreement there is not?
47

1 Q. No.

2 A. No; that's correct.

3

4 Q. I would suggest to you that in actual fact, labour
5 hire employees do not receive the same rates and conditions
6 of employment as permanent employees at Grasstree?

7 A. I suspect they - I don't know specifically, but
8 I would think you're right that they don't receive exactly
9 the same; correct.

10

11 Q. You have given some rather general evidence about
12 comparisons between rates and conditions received by
13 permanent employees compared to labour hire employees.
14 Would you accept that the best way to make that comparison,
15 at least where there are enterprise agreements, is to
16 compare the rates of pay and conditions in the enterprise
17 agreements?

18 A. I'm not completely clear on the question, but I think
19 that's what I was doing in providing my answer.

20

21 Q. I see. Of course we can't make such a comparison at
22 Grosvenor, can we?

23 A. Well, we can. In terms of the total earnings for the
24 employee, yes, we can.

25

26 Q. We can't compare labour hire employees to permanent
27 employees at Grosvenor, because there's only labour hire
28 employees in the production and engineering workforce, and
29 the permanent employees are only in the managerial
30 workforce?

31 A. There is no internal comparator of the wage rates that
32 are applied to labour hire at Grosvenor, no internal
33 comparator at Grosvenor. My comment before was comparing
34 that to similar roles across the other operations where
35 employees are paid under an enterprise agreement.

36

37 Q. At Moranbah North, if we were to make a comparison
38 between the labour hire employees and the permanent
39 employees, one would compare the rates in the Moranbah
40 North enterprise agreement with the rates in the One Key
41 and WorkPac enterprise agreements; is that the case?

42 A. If you were going to do that comparison, yes. Yes,
43 I agree.

44

45 Q. By the way - sorry, I was going to ask you what the
46 break-up with WorkPac and One Key was at Grasstree, but
47 I think you have already said you're not sure. Likewise,

1 if we are to make the comparison at Grasstree between
2 labour hire and permanent employees doing similar jobs, you
3 would compare the rates under the Grasstree enterprise
4 agreement with the rates in the One Key agreement; is that
5 right?

6 A. Not necessarily in the One Key agreement, because they
7 will often be paying rates according to a schedule that
8 would be separate or outside of their enterprise agreement.
9 But there would be an agreed schedule that exists under the
10 contract for work of that particular type, and so to your
11 point, I think, you would compare the earnings under the
12 Grasstree enterprise agreement with the schedule of rates
13 that are included in the contract under which One Key
14 engaged their employees for Grasstree.

15

16 Q. I'm just trying to work out where this schedule is.
17 Is it in the individual contract between One Key and its
18 employees?

19 A. No, it would sit as an attachment to the contract
20 between Anglo and One Key. So there would be an agreed
21 schedule that said at any site, if you are bringing
22 somebody in for this particular role, here is the rate that
23 you would apply for that role.

24

25 Q. Is that the rate that is paid to the employee or the
26 rate that Anglo pays One Key for the worker, including, as
27 you heard yesterday with Mr Mitchelson, the component for
28 profit?

29 A. It would typically include both. It would include the
30 base rate, and it would have the build-up of that by way of
31 various statutory, payroll tax and other components, as
32 well as the margin that would apply.

33

34 Q. So you know through that contract exactly what is
35 being paid to each One Key employee?

36 A. In the case of Grasstree, I don't off the top of my
37 head, but, yes, that's where it would be, yes.

38

39 Q. I'm not asking you to try to give me the figures off
40 the top of your head. Now, just dealing with the
41 enterprise agreements that the labour hire employees have,
42 you will recall yesterday that I took Mr Mitchelson to
43 clause 7.6 of the labour hire agreement. Perhaps we might
44 just get that on the screen, AGM.003.004.0001, at 0022, in
45 particular, clause 7.6 at the bottom of the page. Do you
46 remember my taking Mr Mitchelson to that?

47

A. I just might wait for it to come up, if I could.

- 1 I can't see it right now.
2
- 3 Q. It comes up quicker for me than for you, for some
4 reason.
5 A. Yes, it is in front of me now. Yes, I can see it.
6
- 7 Q. Do you remember me asking Mr Mitchelson about that?
8 A. I do, yes.
9
- 10 Q. He, as it were, flick-passed it to you.
11 A. Yes. Yes, he did. All right.
12
- 13 Q. Is it the case that clause 7.6 applies in practice?
14 A. Yes, it would.
15
- 16 Q. Well, I don't want to keep castigating you about the
17 use of "would", but "Yes, it does" is your answer?
18 A. Sorry. Yes, it does. My apologies.
19
- 20 Q. That's because you have an interest in what the
21 enterprise agreements of your labour hire providers
22 contain?
23 A. We have an interest not so much in the content or the
24 specifics of their enterprise agreement. We certainly have
25 an interest in any matters that might stem from their
26 industrial relations arrangements or status that have the
27 potential to impact on the operations or the continuity of
28 the operations.
29
- 30 Q. That includes involvement of union officials?
31 A. Only to the extent that it would be relevant that it
32 would create some sort of risk of labour supply or
33 disruption of that supply to the operation. So not as
34 a matter of course. So the fact that One Key was
35 bargaining with a union or sitting with unions having
36 various conversations would not be a matter of interest for
37 us.
38
- 39 Q. If you were told that approaches had been made by
40 a union official in relation to any existing enterprise
41 agreement, what would you do about it?
42 A. Most likely - and it never has arisen, so most likely
43 nothing, unless as a result of that there was some likely
44 or possible risk to the service delivery under the
45 contract.
46
- 47 Q. What about a request to bargain for a new enterprise

1 agreement, have you been notified by your labour hire
2 providers about that?

3 A. No, I haven't directly.

4
5 Q. I'm just wondering how this has worked in practice,
6 this particular clause?

7 A. In practice, I'm not aware of this clause having been
8 utilised or engaged or, yes, any particular result of this
9 clause in practice to date.

10
11 Q. I thought you said it had.

12 A. No, I'm sorry. If I said that, I misspoke. I am not
13 aware of it, no.

14
15 Q. When One Key tendered in 2016, they already had an
16 agreement, did they, an enterprise agreement?

17 A. I would imagine they would have, because it would have
18 been one of the things that we would have looked at in
19 terms of the tendering evaluation process. Did they have
20 an agreement? That would have been one of the questions
21 that would have been there as a standard tender question.

22
23 Q. Why is it important for the purpose of the tender that
24 a labour hire company have an enterprise agreement?

25 A. So that we could evaluate - not just necessarily
26 a labour hire but any tenderer, so that we could on balance
27 look at any industrial risks that might be posed.

28
29 Q. Is that because if there is no enterprise agreement,
30 bargaining for an enterprise agreement could involve
31 protected industrial action by the employees?

32 A. Potentially that would be - that's possible, yes.

33
34 Q. It is also the case, isn't it, that if a contractor or
35 labour hire provider doesn't have an enterprise agreement,
36 they can't employ casual labour?

37 A. Correct. I believe that to be correct, yes.

38
39 Q. Because the underlying award for the coal mining
40 industry - namely, the Black Coal Mining Award - doesn't
41 provide for casual employment of production and engineering
42 employees?

43 A. Correct. It provides casual employment for only
44 certain classifications, which is not production and
45 engineering. So the vehicle to be able to employ casually
46 in the black coal mining industry, you are quite right, is
47 through having a provision in your enterprise agreement.

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Q. You know, don't you, that One Key had an enterprise agreement of that ilk when it tendered in 2016?

A. As I say, I wasn't part of the tender process, but I would have expected them to have one, yes.

Q. But you know as part of your role in human resources that One Key had such an agreement?

A. I just said I wasn't part of the tender process, so I wasn't specifically across what they were putting in their tender. I hadn't done any research on whether One Key had an agreement or not. But I would have expected that as a tenderer for a labour hire and that sort of work model, they would have had an enterprise agreement, yes.

Q. Putting aside the question of tendering, I'm asking you whether you knew they had an enterprise agreement?

A. Not at that time, no.

Q. You know now they did?

A. Yes, I do now.

Q. How did it come to your knowledge?

A. It came to my knowledge over - there was an issue, and I won't know the specifics off the top of my head, but there was an issue with an enterprise agreement that they had deployed for some of the Grosvenor people, and some of the Grosvenor people were moved across to a different enterprise agreement, which is the now current enterprise agreement.

Q. So are you saying that One Key had more than one enterprise agreement applicable to their Grosvenor workforce?

A. In the initial stages, I believe, yes.

Q. Is this the enterprise agreement that was approved in the Fair Work Commission but later found by the Federal Court to be quashed in terms of the approval decision?

A. Correct.

Q. And that meant the employment by One Key, under that agreement, of casuals had been unlawful; do you understand that?

A. I'm not necessarily across that outcome, but I will take your guidance on it.

1 MR HUNTER: Mr Martin, I hesitate to interrupt my learned
2 friend, but I respectfully submit that historical matters
3 such as this have very bare relevance to the terms of
4 reference. With respect, I struggle to see how this
5 historical arrangement that was found to be unlawful can
6 bear on the terms of reference.

7
8 THE CHAIRPERSON: Mr Crawshaw?

9
10 MR CRAWSHAW: I wasn't going to take it any further than
11 I already have.

12
13 THE CHAIRPERSON: All right. Mr Crawshaw, I'm just
14 looking at the time. Do you have much to go?

15
16 MR CRAWSHAW: No, I've nearly finished.

17
18 THE CHAIRPERSON: All right. Yes, carry on, thank you.

19
20 MR CRAWSHAW: Q. Do you understand - I think you may
21 have given evidence about this - that the current One Key
22 agreement allows for both casual and fixed-term employees?
23 A. Yes, I believe it does.

24
25 Q. We have heard some evidence about the casual employees
26 in terms of their security of employment. But the
27 fixed-term employees - you understand that at the end of
28 the fixed term, they can be terminated without any recourse
29 to any unfair dismissal provisions?

30 A. Sorry, just repeat the last part, without any
31 unfair --

32
33 Q. Recourse to unfair dismissal provisions of the Fair
34 Work Act.

35 A. If, at the end of that, it was all terminated
36 lawfully, then, yes, I would agree that's the case.

37
38 Q. And such an employee doesn't have to be given reasons
39 for being terminated in that situation?

40 A. The very nature of the contract arrangement is that
41 it's date driven and term driven.

42
43 Q. You have given some evidence about ABN holders.
44 I think it might be at paragraph 56, you said that some one
45 or more deputies are ABN holders?

46 A. I'm not sure if I referenced deputies as such, but
47 I did say that potentially some people who are employed by

1 One Key at Grosvenor, my understanding is that they are
2 engaged by One Key potentially under a subcontract or ABN
3 arrangement.
4

5 Q. I see.

6 A. I'm not sure if I said - I don't think I said ERZ
7 controllers, because that wouldn't be the case.
8

9 Q. I will come back to the ERZ controllers, but the
10 subcontractors will be engaged under independent
11 contractors, the One Key subcontractors?

12 A. That's a matter - I don't have line of sight over
13 that. I'm not aware of what arrangements One Key would
14 have with those people.
15

16 Q. They are not employees, though; isn't that what you
17 are saying?

18 A. Again, I'm not across the contracts that One Key might
19 have with those individuals. I'm just not in a position to
20 comment on it.
21

22 Q. Why did you distinguish between employees and
23 subcontractors in giving your evidence in relation to --

24 A. Purely to make the point - sorry. It was purely to
25 make the point that they existed as a particular type on
26 site.
27

28 Q. When I was asking you about the ERZ controllers, I was
29 thinking about paragraph 56 of your statement.

30 A. Yes, sorry, and I may have - in my comment back to
31 you, I think I was referring to my conversation around
32 One Key engaging, as opposed to potentially Anglo engaging,
33 ABNs. So if you are talking about Anglo engaging ABN for
34 ERZ controllers, then, yes, there may well be a small
35 number of those on site. My apologies. I was referring to
36 One Key and the arrangements and scope with One Key, yes.
37

38 Q. I'm grateful. I was going to take you to the other
39 matter, anyway, but could I just ask you about that
40 particular arrangement. How are the duties of those
41 deputies any different than those who are engaged as
42 employees?

43 A. For the purpose of discharging their duties and their
44 roles, they are not different.
45

46 Q. Aren't they, in reality, employees?

47 A. No, I don't believe so. I believe they're independent

1 contractors.

2

3 Q. Even though they're doing exactly the same work as
4 employees?

5 A. They may well be doing exactly the same work, yes.

6

7 Q. In any event, as contractors, they wouldn't have
8 access to unfair dismissal laws themselves?

9 A. I believe that's right, yes.

10

11 Q. Unless they argued that in law they were truly
12 employees, or argued successfully in law that they were
13 truly employees?

14

15 THE CHAIRPERSON: That's probably a comment, Mr Crawshaw,
16 not one for the witness I don't think.

17

18 THE CHAIRPERSON: I think he took it that way, Mr Chair.

19

20 MR CRAWSHAW: Yes, well, that may well be an inauspicious
21 way to end my questioning, Mr Chair.

22

23 THE CHAIRPERSON: Thank you. Could I just get an idea for
24 tomorrow - Ms Holliday?

25

26 MS HOLLIDAY: No questions from us.

27

28 THE CHAIRPERSON: Mr Holt?

29

30 MR HOLT: If I were given 5 or 10 minutes leeway, I could
31 probably finish with the witness tonight. It is 20 past
32 now. I don't think I would take much longer than that.
33 Many of the topics have already been dealt with in the
34 course of questions and answers. Otherwise, we can deal
35 with it in the morning. There is no difficulty with that.

36

37 THE CHAIRPERSON: I'm happy to sit on if it is only going
38 to be 10 or 15 minutes.

39

40 MR HOLT: I would think so. If my estimate turns out to
41 be as bad as some of my estimates, I will let you know
42 straightaway.

43

44 THE CHAIRPERSON: Yes, well, your estimate was awful this
45 morning, Mr Holt, but I expected that.

46

47 MR HOLT: In the rich tradition of counsel.

1
2 THE CHAIRPERSON: Yes, quite.

3
4 <EXAMINATION BY MR HOLT:

5
6 MR HOLT: Q. During the course of questioning this
7 morning, Mr Jones, you talked about the consequence model
8 that Anglo has, and Mr Hunter asked where we might find it.
9 A. Yes.

10
11 Q. We have provided it to the Board over the course of
12 the day. Could we have a quick look at it, please. It's
13 AAMC.001.040.0037. This is the document you were referring
14 to?

15 A. Yes, I was probably more referring to - there's
16 a model inside of this document.

17
18 Q. Can we scroll down to the second page.

19 A. Yes, it's the complete document.

20
21 Q. I think we'll see that. That's the model we are
22 talking about?

23 A. Yes, yes.

24
25 Q. The idea is, in effect - we don't need to go through
26 the detail of it now - to assess a particular incident or
27 event that has occurred to identify where on the scale it
28 sits between individual accountability and no fault, to
29 determine an appropriate consequence?

30 A. Correct.

31
32 Q. What you were suggesting was that Anglo's process is
33 to seek to have One Key's arrangements or decisions that
34 are made in relation to One Key personnel to be consistent
35 with that approach?

36 A. Consistent with that outcome, correct.

37
38 Q. You talked about training and competencies and
39 competency assessments on mine sites. On a few occasions
40 in the questioning, it was suggested that the contract with
41 One Key doesn't reflect the reality on the ground. You
42 will recall those questions?

43 A. Yes.

44
45 Q. Is part of the reality behind that that the
46 obligations on the SSE and on the coal mine operator under
47 the Act and under the regulations to train and induct are

1 non-delegable, that is, that they still remain the
2 obligations of the SSE and the coal mine operator?

3 A. Correct, correct.

4

5 Q. Section 82 in particular, or regulation 82, requires
6 the coal mine's safety and health management system to
7 provide for a training scheme for people at the mine, with
8 a series of components within it?

9 A. Yes.

10

11 Q. In fact, at Anglo, that's the very component or the
12 very scheme that you were talking about that provides for
13 induction and training and assessment of competencies and
14 the like?

15 A. Yes, and the management of the records associated with
16 the training, which is another big issue for the industry,
17 that you've not only got to do the training, but you've
18 actually got to have a very, very thorough system to
19 demonstrate that you've done that training and that people
20 actually have those competencies.

21

22 Q. Again, can we just have a quick look, please, at the
23 Mine Training and Competence Scheme that Anglo has,
24 AAMC.001.039.0119. Do you recognise this as the current
25 Mine Training and Competence Scheme, which is intended to
26 comply with those obligations?

27 A. Yes. Yes, it is.

28

29 Q. It is owned by you, as head of human resources?

30 A. It is, yes.

31

32 Q. Could we just scroll down, please, to clause 11. We
33 don't need to go through it in detail for present purposes.
34 If we work through clause 11 - and we won't do the whole
35 thing - we can see there the standard, effectively, for
36 induction. We can see there in clause 11.1, if we can
37 scroll down a touch, Mr Operator, that they won't be
38 permitted on the site or to carry out any task - and that's
39 "any person". That doesn't distinguish between an
40 employee, a labour hire person or a service contractor?

41 A. Service contractor, correct.

42

43 Q. Again, as we go through, we can see at clause 11.2, if
44 we scroll down, a full training process for a person who
45 has no previous experience in the area for which they are
46 trained?

47 A. Yes.

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Q. And then at 11.3, if we can keep going, this is recognition of prior learning, that assessment process you were talking about?

A. Yes.

Q. Again, this applies equally, as I understand it, to employees, labour hire people coming on to site or service contractors?

A. Correct.

Q. All have to have their competencies assessed?

A. Yes. Sorry, the one slight qualification to that is that if a contractor is coming back on to site and still has a current competency, then that recognition of current competency would allow that to be recognised. So if they have left site to go to another site or another job for three months and are coming back and that competency remains current, that will be recognised by the SSE.

Q. The SSE will know that or the training superintendent will know that, because they can access the Anglo electronic system, which will tell them that?

A. Correct, yes.

Q. Again, if we can go down to 11.8, please, "Test and Maintain":

Personnel required to operate plant and equipment for the purposes of maintenance, servicing ... shall be trained and assessed on each piece of equipment as competent to the level of operation required ... by the SSE ...

A. Yes.

Q. That can be done by recognition of prior learning or competency, as you've said, or previously having been done on the system, but otherwise for every person on site it is done from scratch?

A. Correct.

Q. Again just briefly in terms of induction, you have indicated that there is an induction process again which can take a different amount of time for any one mine site but applies, again, to everybody, employees, labour hire

1 and service contractors who are coming onto site?

2 A. Yes.

3

4 Q. There was also a question about progression that you
5 were asked about, and in particular a question asked about
6 whether One Key, so labour hire staff who are on site, have
7 a path of progression to more senior roles. Do you recall
8 those questions?

9 A. Yes, yes.

10

11 Q. Are you aware of a program called the Future Leaders
12 Program within Anglo?

13 A. Yes.

14

15 Q. Are you aware that certainly at Grosvenor, One Key
16 people have been supported into that Future Leaders Program
17 which is intended ultimately to give people pathways to
18 becoming deputies?

19 A. Correct. Correct. I think I made reference to the
20 fact that the ERZ controller program that we had sort of
21 set up, and I think the number is about 38 at the moment
22 that have essentially completed that program or largely
23 completed that program, had participation from, you know,
24 One Key at Grosvenor.

25

26 Q. This one is a really stupid question, probably: when
27 we think about labour hire and kind of talk about casual
28 staff and so on, some of us who don't spend our lives on
29 coal mines think about someone coming in for a few days or
30 a week. Is that the way your labour hire workforce
31 operates in a real sense?

32 A. No, it really doesn't happen that way on any site, but
33 certainly not so on Grosvenor where under the arrangement -
34 that's why I talked before about sort of a collaborative
35 arrangement with One Key. It is recognition that we have
36 a put in place a contract for services for a three-year
37 period, and that doesn't see people come and go in hourly
38 increments around that. We would anticipate, short of some
39 major change in the operational circumstance, to continue
40 with the majority of that workforce over the period of that
41 time.

42

43 Q. We talked about competencies before, and
44 "competencies" isn't just a term we have made up, they are
45 a term under the Act?

46 A. Yes.

47

- 1 Q. And they are assessed or identified in different kinds
2 of ways?
- 3 A. Yes.
- 4
- 5 Q. And the SSE has a particular obligation in relation to
6 ensuring that people hold competencies for doing the work
7 of coal mine workers?
- 8 A. Correct.
- 9
- 10 Q. Can we have a look, then, just as an example of those
11 competencies, at AAMC.001.039.0098. I just want to check
12 that the version that comes up has been redacted for
13 personal details. Yes, it has. That's excellent. This is
14 a screenshot from your system?
- 15 A. Yes, it is.
- 16
- 17 Q. For a particular unnamed employee who we have
18 redacted, but a real employee, you would understand?
- 19 A. Yes.
- 20
- 21 Q. What we can see down there is a list of a number of
22 things which effectively represent different competencies
23 for different jobs or tasks that that person is going to do
24 on the particular mine site?
- 25 A. Correct. In this particular version it also includes
26 competencies that may have been deemed "archived" - that
27 is, they are no longer current. That will be held as
28 a record on the system for the employee but won't be
29 active - that is, they don't have the approval or
30 authorisation to actually exercise that particular
31 competency.
- 32
- 33 Q. I understand. Thanks. That's the orange box we can
34 see that?
- 35 A. Yes, it is a large part of this front page. They tend
36 to aggregate to the front of the report, for whatever
37 reason.
- 38
- 39 Q. Could we pop down, then, perhaps a couple more pages.
40 There we go, now we can see some black ones. We can see
41 there, for example, "Safe movement of vehicles", "Hygienic
42 work environment", "Manual handling" - all those sorts of
43 competencies which are on your system and you can tell
44 whether they are current or active or not?
- 45 A. Yes, those particular ones are actually SOPs, so that
46 will be recognised - it is not necessarily a competency, as
47 such, but it will be recognised that that individual has

1 completed and signed off on the SOP for that particular
2 task or activity. So there is a mixture in here of SOP
3 recordings, where we've had to, you know, basically update
4 people's knowledge around certain aspects through the SOP,
5 where it has changed or it has been modified in some form,
6 and it will also then include competencies to operate
7 particular pieces of equipment, for example.

8

9 Q. I understand. And we can see examples of that
10 throughout the document?

11 A. Yes.

12

13 Q. In terms of monitoring this, I understand that
14 a dashboard that summarises the situation in terms of
15 competencies and training for the entire workforce at the
16 mine is available to the training superintendent and the
17 SSE?

18 A. Correct. There is a monthly dashboard that is
19 produced from this data, yes.

20

21 Q. So the idea is, that tells you how many people and of
22 what competencies have to be refreshed in terms of the
23 training?

24 A. Yes, yes.

25

26 Q. In terms, then, of training to achieve that - we've
27 talked about induction, but I know it is different from
28 different mine sites, but in your experience, how much
29 training is built in for coal mine workers in order to
30 ensure that they can continue to be updated with these
31 competencies at the Anglo mines?

32 A. The site induction typically runs for between two, two
33 and a half days, depending a little bit on the site.
34 I think as I mentioned earlier, from there, though, there
35 would be the implementation of the training plan that is
36 associated with that individual, so what are the
37 competencies that I need to either RCC or RPL prior to them
38 being able to operate, and that can depend a little bit on
39 access to equipment, what the mine is actually doing at any
40 point in time. So some of that just may not be available
41 to be able to assess people. So typically you would be
42 talking, you know, weeks if not months before people are
43 fully assessed in all the competencies that they will
44 ultimately hold.

45

46 Q. In terms of one swing, say, like one tour of work, how
47 many training days would typically be set aside for

- 1 a typical employee?
- 2 A. Generally there will be a training day but it will
3 probably be once per month as opposed to once per swing.
4
- 5 Q. Once per month there would be a training day?
- 6 A. Yes, yes. Again, slightly different, each site has
7 different arrangements, but once per month would be fair.
8
- 9 Q. This is an issue we haven't touched on, but how to
10 service contractors fit into this model of induction and
11 competency assessment? How is that done on site?
- 12 A. Again, for service contractors, most of that data or
13 information is gathered in the permit to work system, so
14 the stuff that is done before anybody is mobilised to site.
15 In that, we get an understanding of what particular
16 competencies is that contractor bringing associated to the
17 tasks that they are - within their scope. And then when
18 the authority to work permit is actually issued, which is
19 really the way in which they get mobilised to site, you are
20 then looking at the individuals and the specific
21 competencies associated with that task and what has to be
22 appointed. Because some of these will be appointments as
23 opposed to authorisations. So you just break all of that
24 down into a plan, by individual who is coming on site, with
25 each and every contractor.
26
- 27 Q. So it is not like the service contractor rocks up and
28 they have their name on the side of the van and 10 people
29 in there and you just let them onto site because they've
30 signed a contract?
- 31 A. They wouldn't be able to - they wouldn't be able to
32 mobilise, they wouldn't be able to come to the site
33 induction, unless all of that material in terms of the
34 training records and the competencies associated with those
35 individuals that they are bringing to site is provided
36 beforehand.
37
- 38 Q. In terms of auditing of that process, because
39 obviously you can have all the processes in the world you
40 want, I understand they are audited at the mine site
41 effectively from the team in Brisbane?
- 42 A. Yes, correct.
43
- 44 Q. On a 5 per cent sample, as I understand?
- 45 A. Correct, 5 to 10 per cent.
46
- 47 Q. How often does that happen?

1 A. Once per year to once every 18 months, sort of that
2 window to get across the five sites. It is a pretty
3 thorough process. This is one thing in my area that stops
4 the operation if we don't get it right. The inspectorate
5 will come in and audit this stuff and if we are not very,
6 very clean in our documentation we will stop the operation.
7 So we put a lot of focus on it, therefore it is
8 a reasonably lengthy period. But somewhere between that
9 12-month to 18-month window would be done an audit across
10 each site.

11

12 Q. Could I ask for AAMC.001.039.0116 to come up. This,
13 Mr Chair, is an extract of some data that was provided in
14 an earlier document, but the one that I want to just focus
15 on if we can, though the whole thing will obviously be
16 available at Grosvenor, is if we can go to the third table
17 down, please, the one that has "Grosvenor Anglo" at the
18 top. Mr Jones, what you have done here is, from the data
19 available, a comparison between Grosvenor Anglo, that is
20 permanent staff, and One Key Grosvenor, in terms of their
21 average years on the site?

22 A. Yes.

23

24 Q. That turns out to be effectively - not "effectively" -
25 in fact identical, 3.7 years for each of those bodies of
26 workers?

27 A. Yes.

28

29 Q. And then can you explain what the 8.5 years is on the
30 right-hand side for us, please?

31 A. The 8.5 was to look at the One Key employees that are
32 there are at Grosvenor at the moment, so essentially the
33 407 that are represented, on average, what industry
34 experience did they bring to Grosvenor. So prior to, on
35 average, 8.5 years of industry experience before arriving
36 at Grosvenor.

37

38 Q. Thank you. Again, just in terms of the really
39 interesting questions that arise in this Board of Inquiry
40 about - and we will no doubt explore this a little bit more
41 tomorrow - the question of whether labour hire workers are
42 more vulnerable, for example, or are less likely to report
43 hazards, those sorts of issues. I think there was a review
44 that you were involved in in 2019 that looked at some of
45 the data associated with HPis, HPHs, total case reports and
46 so on. I guess one of the benefits of the three mines that
47 we're talking about here for Anglo is you've got a little

1 bit of a natural experiment, because Grosvenor has such
2 a higher proportion of labour hire workers than the other
3 mines?

4 A. Yes.

5

6 Q. Was there any difference across the three sites in
7 terms of the involvement of - the numbers in terms of the
8 proportion of the workers on the site of HPis, HPHs,
9 TRIFRs, total case reports and so on?

10 A. The short answer is no. It wasn't necessarily
11 a sophisticated review --

12

13 Q. I understand.

14 A. -- but to satisfy myself, because there was a lot of
15 this noise about whether we were seeing outcomes at
16 Grosvenor that were different, or whatever. So I actually
17 went back over the last three years and had a look at those
18 data points against those metrics that you just spoke to
19 and I found no pattern, and certainly nothing that
20 suggested that Grosvenor was an outlier against any of
21 those metrics.

22

23 Q. Thank you. Just a really specific question. In terms
24 of One Key people on site, you were asked a question by
25 Mr Hunter about whether One Key itself would be advised by
26 Anglo in the event that there was an incident or something
27 involving a One Key worker - do you recall that - and how
28 that would occur?

29 A. Yes.

30

31 Q. Are you aware that the One Key representatives, who
32 you have already described being present at Grosvenor, in
33 fact have access to what we have already heard about, which
34 is the Enablon system?

35 A. I am aware of that, yes.

36

37 Q. And they also attend what are called daily MOS
38 meetings?

39 A. Yes.

40

41 Q. Is there any sense, I guess, in which they are
42 excluded from those kinds of processes and learnings?

43 A. Not that I'm aware of. As I say, it is an integrated
44 model and they would certainly be attending most of those
45 MOS pre-start shift meetings.

46

47 Q. Mr Hunter asked you some questions about the bonus

1 scheme or the incentivisation scheme in relation to One Key
2 workers. The way he put it to you, no doubt just by way of
3 convenient paraphrase, was that what that workforce is
4 effectively told by the scheme is that the faster you can
5 advance the longwall, the more money you're going to get.
6 Now, what I just want to be clear about are a couple of
7 things associated with that which were clear from what we
8 saw. The first is that the target, if I can put it that
9 way, is about planned advances of the longwall; is that
10 right? It is not that the workforce can choose to go as
11 fast as it wants to, it's all against planned progress?

12 A. No, very tight controls around what the plan is for
13 a particular shift and what people are required to do and
14 where those panels are - whether it be longwall or
15 development panels, where those panels are expected to be
16 at the end of the shift.

17
18 Q. You gave us an example in fact of where there had been
19 an adjustment to that plan because there were some
20 unexpected difficulties in terms of advance, which, as
21 I understand it, effectively meant that they could achieve
22 the same bonus but not have as much of an advance because
23 there were things that should necessarily have meant they
24 slowed down.

25 A. Correct. There were things that the mine felt weren't
26 properly accounted for in the plan, and therefore the
27 individual employees should not, if you like, be affected
28 by that, negatively affected.

29
30 Q. Just one final topic, please, then, if I might exceed
31 my estimate by about a minute. You were not asked any
32 questions about this matter but it has been referred to in
33 the list of topics - that is, the How We Rock Up scheme at
34 the Grosvenor mine. You are aware of that?

35 A. I am, yes.

36
37 Q. We have been talking about how you communicate to the
38 workforce this message you have been telling us is
39 a constant drumbeat, which is "Please tell us about hazards
40 and safety issues and those sorts of things." What was How
41 We Rock Up at Grosvenor? What was that intended to do and
42 how was it implemented?

43 A. I will try to be quick through it. In 2018 or
44 thereabouts across the board we said that as an executive
45 group that the sites need to implement some form of
46 behavioural base safety program, right? That was sort of
47 the broad agenda. We had some sites that were already down

1 the path with certain providers and certain programs, so we
2 let that run. Grosvenor had not started at that point, and
3 they decided to take a slightly different approach, which
4 was essentially to design from within, albeit with
5 a consultant to help them pull all that together, and they
6 came up with the "How We Rock Up Matters" as the sort of
7 tag-line or catch-phrase for a range of initiatives that
8 sat in underneath that.

9
10 Those initiatives were really aimed at equipping
11 certainly frontline supervisors to have more effective
12 conversations with people about safety-related matters, but
13 probably more broadly than that. So one of the things that
14 was slightly different about it - and I think, you know,
15 a credit to them - is that they were looking at not just
16 how you rock up at work but how you actually rock up when
17 you go home. So what are the things that you may be
18 carrying over from work as opposed to just bringing to
19 work. I thought that was a slightly different approach of
20 thinking to it.

21
22 The result of that was that they sought from coal mine
23 workers, and that meant everybody on site, what were the
24 issues that, you know, potentially could be addressed
25 during their How You Rock Up Matters campaign, which was
26 scheduled to have a 12-month or so agenda.

27
28 So they looked at a range of different modules or
29 topics that they introduced, and it went to things like
30 financial planning and financial security and making sure
31 that people understood how they might do that more
32 effectively for themselves, and there were other modules
33 around alignment, team effectiveness, where they brought in
34 in or at least had videos of senior sporting figures and
35 those sorts of things to try to impart the key messages.

36
37 So it was a range of things like that and it went
38 through specifically to some coaching for all of the
39 supervisors, everybody who was appointed as a supervisor or
40 leader on site - and I think there were about 180 or
41 something captured in that - as I say, to actually engage
42 and communicate and be more effective in trying to create
43 more impactful safety conversations in particular.

44
45 MR HOLT: Thank you, Mr Martin. I'm grateful to you for
46 sitting on.

47

1 **<EXAMINATION BY MR HUNTER:**

2
3 MR HUNTER: Q. Just one matter. You say that the
4 One Key supervisor on site has access to Enablon?

5 A. Yes.

6
7 Q. You are not suggesting that the person has full access
8 to Enablon?

9 A. I would imagine they would have certain user rights
10 that would be described, and that would allow them to go in
11 and, yes, identify and capture the matters that
12 specifically related to One Key.

13
14 Q. But you are not telling us, for example, that the
15 One Key supervisor had access to Enablon to the extent that
16 they could see, for example, safety-related tasks that were
17 being set for Anglo employees?

18 A. I wouldn't think so. There would be some
19 categorisation, I don't know what that is, but there would
20 be something that would allow visibility of fields in
21 Enablon that were appropriate for One Key.

22
23 Q. But you can't tell us what they are?

24 A. I don't know what they are, no.

25
26 MR HUNTER: That's all I had.

27
28 THE CHAIRPERSON: Mr Clough?

29
30 MR CLOUGH: No questions, thank you.

31
32 MR HOLT: Could Mr Jones be excused?

33
34 THE CHAIRPERSON: You are happy for Mr Jones to be
35 excused?

36
37 MR HUNTER: Yes, thank you.

38
39 THE CHAIRPERSON: Mr Jones, thank you for your attendance
40 today. You are excused.

41
42 **<THE WITNESS WITHDREW**

43
44 **AT 4.45PM THE BOARD OF INQUIRY WAS ADJOURNED**
45 **TO WEDNESDAY, 19 AUGUST 2020 AT 10AM**

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