

## Best practice labour protocols critical to maintaining essential industry status

As COVID-19 shuts down industries across the country, Australia's grape and wine sector is very fortunate to be recognised as an essential industry by the Australian Government. This recognition allows businesses to assemble the people they need to harvest, transport and crush the grapes that will make vintage 2020.

However, without clear and well-implemented protocols to manage risks associated with infections in the vineyard, the winery and the community, our sector's ability to continue operating could be curtailed or halted by Government decree with little notice. To put it bluntly, in the current environment, our essential industry status is a privilege granted by the Government.

For individual businesses, it is also critical that all employees, whether employed directly by the business or through labour hire companies, are treated the right way. We have all seen the media reports of underpayments of staff by some of Australia's largest companies, indeed the Sydney Morning Herald has a standalone [wage scandal page](#) on its webpage, which gives a clear indication of how significant this issue is. We know the horticulture sector has been subject to the Fair Work Ombudsman's attention in Australia in recent years, and we must expect grape and wine business practices to be similarly scrutinised in the near future.

### COVID-19 protocols

We encourage all businesses to refer to the materials on Australian Grape & Wine's [COVID-19 website](#), including information about what businesses need to do if one of their team members contract the virus, general guidelines about disinfection and cleaning, and links to official government advice. Drawing upon this information, and that provided by official government websites like [www.business.gov.au](#), you should assess your own requirements and develop a risk management plan for you, your team, and critically, your region.

Remember, the people you employ will likely be travelling daily between the vineyard or winery, and their homes and towns. Given the current restrictions<sup>1</sup> on social gatherings and movements, there is an expectation that you, the business owner, will play a role in ensuring your workers are not contravening these Commonwealth, state or territory directives. Instances of community tensions in some regions of Australia, particularly in relation to groups of backpackers working in agriculture (including viticulture), risk creating a situation in which the risks associated with COVID-19 outweigh the argument that we are

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<sup>1</sup> Refer to the current guidelines for the latest information. See [www.australia.gov.au](#)



an essential industry.

An appropriate risk management plan will help you deal with an emergency if and when it arises, and demonstrate that you, and the grape and wine sector more broadly, is operating as responsibly as possible.

### **Labour hire companies**

Many grape and wine businesses engage labour hire companies to provide the teams they need for vineyard work like picking and pruning. While this is appropriate in the vast majority of cases, growers and winemakers also need to be aware of the risks that can arise in some arrangements, and ensure they undertake due-diligence to ensure the people they are working with are treated fairly, and in line with all commonwealth, state and territory legal requirements.

The onus is on you to check that the labour hire companies offering their services are paying their staff and complying with the law. If the media discovers your businesses produced wines using staff who were underpaid, the reputational damage could be huge. Further to this, you risk severe penalties under the Fair Work Act 2009, including significant fines.

### **Actions businesses can take**

While much of this might be new for your business, there are a number of simple steps you can take to demonstrate you're doing the right thing by your people and the community.

As discussed above, in relation to COVID-19 it is essential that you implement risk management arrangements to ensure you help flatten the curve of COVID-19 transmissions, and keep people safe.

In relation to engaging labour hire providers, Australian Grape & Wine is working to develop guidance and protocols for all businesses. We expect these will be provided to members and the industry more broadly later in 2020.

In the meantime however, businesses should at a minimum make sure they are doing the following when engaging a labour hire provider (LHP):

## CHECKLIST FOR GRAPE AND WINE BUSINESSES

- the LHP is licenced according to the respective state government labour hire law
- strong and clear written contracts are in place between your business and all stakeholders along the supply chain, including LHPs
- the LHP has strong and clear written contracts with all its workers, and understand their obligations under migration law.
- that, to assist with record keeping and resolving potential disputes, the LHP pays workers via Eft/bank transfer (Note – while it is legal to pay people in cash, EFT/bank transfer is generally considered to be best practice)
- the LHP issues workers a pay slip with all relevant information ([see here](#))
- any deductions from pay are authorised and meet FWO requirements
- [Accurate records](#) are maintained (including but not limited to records relating to all workers onsite, and hours worked)
- all workers via LHP are paid in accordance with the Wine Industry Award and receive all relevant benefits
- all workers have the right to work (via Vevo check)
- all workers are issued a [Fair Work Information Statement](#)
- all workers are provided with appropriate PPE and tools to carry out their duties