

**EDITORIAL:****Has NZ Post already decided to try to move mail delivery to contract couriers?**

The Postal Workers Union will be vigorously contesting any attempt by NZ Post to move to a delivery model that is based on contractors - a model that the Chief Employment Court Judge says is for some employers to "avoid responsibility for employment rights". (See back page story on the Employment Court.)

NZ Post's Yammer newsletter of 3 August states: "One thing that makes us different from other postal services is that we currently have two distinct networks - mail and courier - which is not the case in many other countries."

This month the Union has challenged NZ Post's news media strategy which appears to be to shout from the roof tops when the company reduces its mail service, like Alternate Day Delivery in

2015 and last month a reduction in 700-750 jobs in five years.

However whenever there is an opportunity to reassure the public about its mail service, like improving the postal voting infrastructure, or reassuring residents of Wainuiomata that their three day a week delivery has been reinstated after two years of irregular deliveries, NZ Post doesn't want to talk.

The reduction of up to 750 FTEs over five years is about two thirds of the estimated 1,100 current FTEs.

If NZ Post only wants one third of its current delivery and processing staff, union members will want to know how is NZ Post planning to deliver mail to every household in New Zealand if it is not intending to replace employees with

contractors?

Increasing numbers of Union members believe that NZ Post has been deliberately running down its mail business over a number of years.

The Union traces an apparent lack of management commitment to its mail delivery business to the passage into law in 1997 of the Postal Services Act which allowed private companies to compete with NZ Post for letters. Eighteen months earlier the Business Round Table had made a submission to the National Party Government that NZ Post should first be deregulated, and then sold.

Stories in this issue of Redback demonstrate that NZ Post's contractor courier model exploits the vulnerability of individual couriers up against a large corporation.

**NZ Post couriers on "take it or leave it" contracts**

NZ Post doesn't even pretend to negotiate the Owner Driver Agreements that its couriers are required to sign. New couriers have been told that all the contracts are the same (so no point in trying to seek any amendments) or that nothing in the contract will be changed before the courier is required to sign it.

The contract requires the couriers to provide a van that remains less than 10 years old throughout the term of the contract. Some couriers have been advised to get a van that will remain less than 10 years old throughout three contract rounds, each contract of three years duration.

For this reason couriers go into debt

to buy a van costing up to \$100,000 to be able to remain within the company's Vehicle Age Policy for up to 10 years.

However one of the provisions in the Owner Driver Agreement is that there is no expectation of the contract being extended by NZ Post beyond three years.

Couriers enter into significant debt to get into the courier industry with NZ Post, and then face no security of income beyond three years - and still with a debt on their van.

There are couriers at NZ Post who are happy with their contracts, but very many are not. They are reluctant to speak up and put their contract renewal at risk when it expires every three years.

**NZ Post wants couriers as contractors, not as employees**

NZ Post is testing a Multi-Run Delivery Partner model in courier delivery which involves the company contracting out multiple runs to a single contract owner with contracts of up to six runs.

NZ Post says in a document describing the new model that it believes the Multi-Run Delivery Partner model "will be *more flexible* by giving a delivery partner the ability to access *multiple vehicles and people* to deliver their runs, *scaling up or down on need*. (Emphasis added.)

The flexibility that NZ Post describes

means that it will be the Multi-Run Delivery Partners who will carry the burden of increasing and decreasing the number of drivers and vehicles under their contract with NZ Post.

The Multi-Run Delivery Partners are required by NZ Post to hire their drivers to work the runs as employees - and not as subcontractors.

However NZ Post refuses to hire its own couriers as employees, thus denying them the rights entitled to employees by law. (See adjacent story, Legal protections ...)

**Legal protections for workers are denied to NZ Post's contractors**

Union members at NZ Post are protected by a network of laws, regulations, court cases and a Collective Agreement negotiated between NZ Post and the unions.

These laws include the Employment Relations Act, Wages Protection Act, Parental Leave Act, Health and Safety at Work Act and the Holidays Act.

Disadvantages for couriers who are contractors and not employees include:

- No paid annual leave or paid sick leave
- No paid bereavement leave
- No paid public holidays or jury service
- No NZ Post contribution to KiwiSaver
- Required to buy some of their own uniform items
- Required to buy their own scanners
- NZ Post can unilaterally change its payment schemes
- NZ Post can unilaterally change runs which may include a reduction of income for the couriers - *without compensation*.

NZ Post may try to force the couriers to deliver mail under clause 8.2 of the Owner Driver Agreement: "*The company may add to or remove the services that the Company provides customers from time to time.*"

## Employment Court on contractor vs employee considered “the nature of the relationship”

NZ Post has told the Union that the company is not interested in having its contract couriers as employees.

Clause 4.1(b) of NZ Post’s Owner Driver Agreements states: “it is their common intention that the real nature of the relationship is that of principal and independent contractor.”

However in the Judgment of the Leota vs Parcel Express Limited case in 2020, the Employment Court placed emphasis on the “nature of the relationship”. The Court said that “the combined weight of all relevant factors tilts the scales firmly in favour of a finding of employment status” for the courier in the Leota vs Parcels Express case.

The Court stated in its Judgment that the intent of an amendment to the Employment Relations Act was to “stop some employers labelling individuals as “contractors” to avoid responsibility for employee rights such as holiday pay and minimum wages.”

The Court also said “Employment status is an important issue. It provides gateway access to a range of statutory entitlements, including minimum wages and holiday pay, redundancy, parental leave, KiwiSaver contributions, and the

*personal grievance procedures and remedies provided under the Employment Relations Act 2000. It also provides the gateway to accessing other rights, such as the right to bargain collectively.”*

The Court stated that every worker in New Zealand has the statutory right to seek a declaration as to whether they are an employee.

In 2021 the Ministry of Business, Innovation and Employment ran a Working Group consultation about the contractor model with the NZ Council of Trade Unions, Business New Zealand, Inland Revenue and other interested parties.

A central issue was whether, such was the control over contract couriers by courier companies, that the couriers were misclassified as contractors when the nature of the relationship was one of employer and employee.

The Postal Workers Union is interested to hear in confidence from any contract couriers who believe that, by the nature of the control that NZ Post has over their business activities as couriers for NZ Post, they are effectively employees of NZ Post and not contractors. (Email contact: john.maynard@pwua.org.nz)

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### NZ Post’s news media spin on job reductions

Union members have been angered by NZ Post asking them for ideas about how to improve NZ Post’s delivery service after the company had just announced the reduction of up to 750 FTE jobs.

Union members also noted how NZ Post had put spin on the story released to the news media. Television, radio and print media all reported NZ Post’s statement that up to 750 jobs would go from the company’s 4,500 employees - that is less than 20% of the staff.

However NZ Post told staff that the job reduction would be up to 750 Full Time Equivalents out of 1,200 staff in delivery, processing and leaders - a reduction of more than 60%.

The Union believes that NZ Post’s bombshell announcement demonstrates once again that NZ Post does not share the same commitment to its mail business as do the Postal Workers Union and its members.

## NZ Post’s control through Owner Driver Agreements

Union members can see below clauses that would never appear in a Collective Agreement that the PWUA has with NZ Post, but reveal the domination the company exercises over individual couriers who have no bargaining rights or collective power:

Clause 5.4 “... the Company may (without compensating the Contractor) alter a Run ... by giving 30 day’s written notice to the Contractor ... by enlarging or reducing, any Run serviced by the

Contractor ...” (Emphasis added.)

Clause 5.8(l) “immediately permit and procure access for a Company representative to ride in any vehicle, or inspect any vehicle and its contents ...”

Clause 20.4 “The Contractor has no right or expectation of being offered a further agreement with the Company following expiry of this Agreement ... the Company will not be liable ... for compensation ... if a further Agreement ... is not offered and/ or is not entered into.”

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**POSTAL WORKERS UNION OF AOTEAROA (NORTHERN)**  
6A Western Springs Road, Kingsland, Auckland, 1021

I hereby appoint the Postal Workers Union of Aotearoa incorporated to be my authorised representative under Sections 18 and 236 of the Employment Relations Act 2000. For the purpose of this authority any duly appointed representative of the PWUA is empowered to act on my behalf in any matters related to or arising out of the negotiation and application of any Employment Agreement or any other matter relating to my employment at my request. This authority shall continue in force until revoked by myself, giving two weeks notice.

Name (PLEASE PRINT)

Signed.....Date...../...../..... Appointment No.....

Employer.....Site.....

Department.....Position.....

Home Address.....

Suburb.....City..... Post code.....

Phone..... Email.....

### Deduction Authority for Postal Workers Union of Aotearoa (Northern)

I authorise my employer to deduct:

\$5.95 per week when I am employed for 30 or more hours per week, or

\$2.95 per week when I am on-call, or employed for less than 30 hours per week from my pay and credit the Postal Workers Union of Aotearoa Northern District.

Please stop any other deductions from my pay to any other union.