

Commentary: The Dairy Workplace Action Plan, Kelly's 'Pledge Washing', and the Health and Safety at Work Act, 2015

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Abstract

The dairy farming industry has launched its *Dairy Workplace Action Plan* to tackle endemic employment problems of attracting and retaining staff, high staff turnover, changing career patterns and the increasing use of migrant workers, especially in non-traditional South Island dairy farming areas. The *Action Plan* is based on moving from mere compliance to having quality dairy farming workplaces through actions represented in five themes. However, Kelly has described this as 'pledge washing', which is a managerial strategy to avoid formal regulation. The *Action Plan* represents a continuation of the long run opposition of dairy farming employers to any form of worker organisation or formal participation. This continues to undermine pan industry public good organisations such as PrimaryITO.

The *Sustainable Dairying Workplace Action Plan* is the result of collaborative work primarily between DairyNZ and Federated Farmers. It addresses the increasingly high profile employment issues which have affected the dairy industry for many years – issues of attraction, recruitment and retention of staff, problems of high staff turnover, changed career prospects, the need for migrant workers, the lack of statutory compliance, and the shift of dairy farming southwards, together with a change to more employed rather than self-employed staff. A radical new plan was launched on 8 October at a Lincoln University Dairy Farm Focus Day by Minister for Primary Industries, Nathan Guy (*Action Plan to attract skilled dairy workers, 2015, October 20*). One of the key drivers for the Action Plan is the growing realisation that, in a competitive global environment, it is necessary to have products that are ethically produced from industries that exhibit good social responsibility to remain competitive. Hence, the desire for 'Good dairy employment'. The Action Plan sets a number of important precedents and marks a landmark day for the dairy industry.

It is very pleasing, after an academic lifetime teaching and researching rural employment relations and other subjects at Lincoln University, to see that these efforts may have had an influence on the Plan. One of the key ideas behind my research and teaching, known academically as the psychological contract, underpins much of the plan, although it is not mentioned directly. It refers to the mutuality of expectations between every employer and employee, supervisor and subordinate, principal and contractor, husband and wife, and so on – in fact every form of human relationship. Understanding the psychological contract is very useful for understanding problems of staff turnover. Another exciting feature is to see DairyNZ and Federated Farmers developing psychological contracts with themselves as representatives of the industry with the industry at large, by confirming their expectations for the five pillars on which the Action Plan is built. The Pillars are embodied in a simple diagram, in which a foundation of compliance supports the five pillars which in turn lead to a quality workplace.

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5 Pillars of Good People Management (DairyNZ & Federated Farmers, 2015)

Each of the pillars on which the accord is based would merit a separate article. Two key issues are recognised – the tyranny of long hours and poor rosters and excess staff member fatigue. The goal of DairyNZ and Federated Farmers is not just compliance, (the achieving of which has been seen up to now as a problem), but instead voluntary engagement by becoming ‘Good Dairy Employers’. The latter is very similar to the ‘Decent Dairy Farmers’ identified by the industry in our recent Lincoln fatigue research funded by DairyNZ (Tipples, Hill, Wilson & Greenhalgh, 2013).

One research finding reported (DairyNZ & Federated Farmers, 2015) is that dairy farmers today rate farm employees as more important than other factors, such as pasture, herd quality and infrastructure in dairy farming’s future. That is a significant change from the past. Moreover, careful reading of the Plan reveals that employees feature strongly in it, which is surprising in light of the furore over the introduction of the recent Health and Safety at Work Act. Farming was being expected to have employee health and safety representatives as a high risk industry. That had led, after lobbying, to farming being downgraded to only medium risk and, therefore, not needing such representatives (Rutherford, 2015). Under Pillar 3 of the new Workplace Action Plan, ‘Wellness, Wellbeing, Health and Safety’, the dairy industry recognises it has an unacceptable level of workplace accidents and is expected to improve its health and safety significantly. Under Pillar 5, ‘Effective Team Culture’, employers and employees are expected to work together in setting health and safety plans, but there is no mention of formal representation.

Another pleasing feature is the high profile given to the contribution of the migrant component of the farm work force. It is now some 10 per cent of the workforce at large but they are on temporary visas, which have an average duration of 1.5 years. Some 50 per cent of such migrants are from the Philippines. The Plan recognises the rapid growth in the number of migrant workers, particularly in the districts with a huge growth in dairying, such as Canterbury and Southland, but only hints at the need to enhance local communities in those areas, which historically have been some of the most homogeneous parts of New Zealand. If the industry wishes to encourage career building and community development in new dairy farming areas, as the Plan suggests, perhaps it should consider the next generation of dairy farmers being

Filipino, much as the Dutch impacted the industry in the 1950s (Krivokapic-Skoko, 2001). However, that will require significant changes to current immigration rules which seem to operate against Filipinos getting permanent residence status, although they are now a very valuable part of the industry (Poulter & Sayers, 2015; Poulter, Sayers & Tipples, 2016).

Current statistical and other information underpinning the ‘Dairy Industry Strategy’ and ‘The New Zealand Dairy Story’ is another helpful feature of the Action Plan. The information highlights the growth in the industry and dairy production, but unfortunately does not feature the contribution of the dairy industry to Gross Domestic Product – the New Zealand Economy. Dairy represents 47 per cent of all farming exports, demonstrating that the dairying industry is very important to the New Zealand economy.

However, if the Plan is examined from an employment relations point of view, it just confirms the unitary approach of Federated Farmers and DairyNZ, which goes back to the early days of the Arbitration system before World War I. Helen Kelly, former President of the Combined Trade Unions (CTU), made a point in her final speech as President (October 2015) that the process of development of the *Work Place Accord* had specifically rejected a participatory role for organised labour. In effect, the *Accord* is the farmers’ view of how to solve their well-documented employment problems in ways that they say are in the best interests of employers and employees, regardless of what employees actually think. This continued a trend that was most prominent when dairy farm employers killed off the Farm Workers’ Association, which had been created as an independent collective of farm employees not affiliated to the CTU under the Agricultural Workers Act 1977 (Angove, 1994; Tipples, 1995). Since then, there has been an on-going problem in many pan agriculture organisations such as the AgITO, now Primary ITO, which has a major role in farm safety training, finding someone to represent farm workers’ views (Tipples, 2011). Kelly has described farming as “...this most important part of our economy (which) is still the wild west when it comes to employment practice.”

She went on:

We have highlighted this in the simplest of ways – using social media representing farm workers, gathering the data and using the mainstream media, and the industry has felt the pressure. Not enough pressure to fix this problem – only enough to look for alternate ways to counter the criticism. The industry continues to be extremely dangerous with no sign of improvement in accident numbers. 7 people have been killed on quad bikes alone in agriculture this year at the same time as the Minister passes law removing farm workers’ rights in health and safety. But the latest move by DairyNZ, supported by the Feds and worst of all supported by Government departments is the attempt to ‘pledge wash’ the employment issues on farms.

Pledging is the new black in this country. Since I took up this job everyone is doing it. Instead of bargaining, setting and maintaining standards etc. with unions, business draws up its pledge to address some issue where they are under fire and gets employers to sign it....The most recent example of this pledging is the just launched ‘Sustainable Dairying Workplace Action Plan’ which was launched last week – it was developed with the help of MBIE, Worksafe, ACC and MPI – they were all in there and the results speak volumes about what they view as aspirational for New Zealand farm workers. We approached DairyNZ when we heard about this initiative seeking for them to develop this with us and the workforce and with ambition.

Documents on workers' rights should have a workers voice right? We were rejected both by the Federated Farmers and DairyNZ.

After giving some examples of new undesirable norms in the sector, she continued:

This is an industry more and more reliant on migrant labour to feather its low wage survival. This new document (new pledge wash) notes the huge turnover in dairy and the fact that fewer and fewer registered unemployed are being engaged on farms, and that many farmers spend very little on training – but this document is as good as it gets and it will be used every time we raise concerns – oh yes, we are concerned they will say – and that is why we have this sensational charter – The pledge wash by DairyNZ shows in one way we are having an impact – our work has led to this charter. On the other hand Government departments that know their international obligations on worker rights and have relationships with the NZCTU think it is perfectly fine to collaborate on this document that is designed to create a fiction that the workforce issues on farms are being resolved by the industry - and most worryingly – both the Government departments and DairyNZ and the Feds are desperately trying to fight the reality that workers in the agriculture sector would be much better off joining a union for these matters to be fairly addressed. The last thing they want is that and together this collaboration is their push back against our campaign. It is our continuing obligation to expose this sort of malarkey and continue to speak on behalf of these workers and encourage them to organize (Kelly, 2015: 2-3).

So in Kelly's opinion, this example of 'pledge washing' will prove problematic for achieving higher standards quickly in the farming sector. With the Fed's focus on putting in place this 'pledge wash' that Kelly argues will slow progress because it is unenforceable, they may, in fact, have missed the much greater problems awaiting them in the Health and Safety at Work Act 2015, which came into effect on 4 April 2016. While they have avoided the issue of safety representation following ministerial intervention, they will still be bound by the central requirements of the Act. In effect, lack of necessity for safety representation may be a pyrrhic victory. Under the new Act every principal involved in a business (Person Conducting a Business or Undertaking – PCBU) will have a primary duty to ensure employees, and others affected by its work, can work in a safe and healthy environment. All PCBUs acquire personal liability for accidents occurring in the workplace. These will not be able to be avoided by blaming intermediaries or contractors and cannot be insured against. PCBUs will have to conduct hazard identification and appropriate training for hazard avoidance. Accidents, which have to be notified to WorksafeNZ, show a failure to do so and criminal liability comes back directly to the business owners including farmers. In future, escaping those responsibilities will be difficult and potentially incur penalties up to \$600,000 and/or 5 years imprisonment for sole traders or officers and \$3 million for companies.

DairyNZ and Federated Farmers have taken many brave steps with this accord, not only recognizing long hours and fatigue as problematic, but also recognising that competitive wage and salary rates that attract and retain talented people are required. However, still more could be done. For example, a system of collecting reliable data on hours worked, wages paid, incidences of work-related injuries and illnesses etc. needs to be established. Finally, recognition needs to be given to the changing demographics of the farm worker population and the changing nature of the work where individual's psychological contracts should to include freedom of association.

References

Action Plan to attract skilled dairy workers. (2015, October 20). *Selwyn Times*, 26

Angove, N. (1994). The New Zealand Farm Workers Association: its rise and fall 1974-1987. In P. Walsh (ed.). *Traff Unions – Work and Society – the Centenary of the Arbitration System* (pp.155-175). Palmerston North: The Dunmore Press Ltd

DairyNZ & Federated Farmers. (2015) *Sustainable Dairying Workplace Action Plan*. Hamilton/Wellington: Author. Retrieved from <http://www.dairynz.co.nz/media/2841148/sustainable-dairying-workplace-action-plan-WEB.PDF>

Kelly, H. (2015). *Helen Kelly's CTU Conference Address*. Retrieved from <http://union.org.nz/news/2015/helen-kellys-ctu-conference-address>

Krivokapic-Skoko, B. (2001). *Understanding ethnic entrepreneurship in agricultural settings: Qualitative Comparative Analysis of ethnic groups in New Zealand agriculture*. (PhD Thesis). Lincoln University, New Zealand.

Poulter, C., & Sayers, J. (2015). Retention of skilled migrants in the New Zealand Dairy Industry. *New Zealand Journal of Employment Relations*, 40(2), 1-23.

Poulter, C., Sayers, J., & Tipples, R. (2016) The importance of retaining skilled migrants in the New Zealand dairy industry. *The Journal – The Official Publication of the New Zealand Institute of Primary Industry Management Incorporated*, 20(1), 36-41.

Rutherford, H. (2015). Health and safety reform bill passes, amid division over representation. Retrieved from <http://www.stuff.co.nz/business/farming/71522468/Health-and-safety-reform-bill-passes-amid-division-over-worker-representation>

Tipples, R. (1995). The re-regulation of farming employment relations in New Zealand. *Sociologia Ruralis*, XXXV(1), 93-109.

Tipples, R. (2011). Seeing OSH solutions to precarious working in the growth of New Zealand dairy farming: a research agenda. In M. Sargeant & M. Giovannone (eds.). *Vulnerable workers-safety, Well-being and Precarious Work* (Chapter 9. Aldershot: Gower.

Tipples, R.S., Hill, R., Wilson, K. & Greenhalgh, J. (2013). 'Decent dairying' – Findings from a Change Laboratory process to reduce fatigue on New Zealand dairy farms. *Extension Farming Systems Journal*, 9(1), 132-140