



Employment Law Matters

Welcome to the October edition of the Employment Law Matters newsletter. In this month's edition:

- HR Lawyer vox pop videos on: Injury management & RTW; Workplace investigations; Modern slavery; Adverse Actions / General Protection claims; Bullying & harassment; and Workplace mental health. Hear from Maddocks Lawyers, K&L Gates; Clayton Utz; Sparke Helmore; Thomson Geer; FCB Workplace Law; and McCullough Robertson.
- Bargaining and the better off overall test (BOOT)
- Managing ill and injured employees, and what medical evidence is required
- Leave entitlements for casuals employed on a "regular and predictable" basis
- NZ: the Government introduces the Equal Pay Amendment Bill
- NZ: An analysis of the raft of workplace law reform taking place in New Zealand
- Events for exclusive operational and legal HR insight
- As always: The latest Fair Work decisions and the latest news from the Fair Work Ombudsman

LEGAL INSIGHT VOX POPS – KEY TAKEAWAYS FROM LEADING EMPLOYMENT LAWYERS WHO SPOKE AT OUR RECENT HR LAW MASTERCLASS CONFERENCE.

Workplace injury and return to work: Brigid Clark, Senior Associate at Maddocks talks about managing overarching obligations, complexities, and common things which can go wrong. Vox pop video [here](#).

Misconduct-based workplace investigations: Emily Baxter, Senior Associate at K&L Gates gives her key tips regarding procedural aspects of the investigation, procedural fairness, your policies, and duty of care to all involved. Vox pop video [here](#).

Modern slavery: Ian Bennett, Senior Associate at Sparke Helmore discusses NSW legislation, proposed Commonwealth legislative changes, and the systems you need to put in place. Vox pop video [here](#).

Minimising risks associated with terminations of employment: Jonathon Corlett, Partner at Thomson Geer, advises his top tip for avoiding General Protections claims. Vox pop video [here](#).

Adverse Actions: Liam Fraser, Senior Associate at McCullough Robertson, talks about mitigating and risks of claims, and simple ways to control risks of claims. Vox pop video [here](#).

Managing bullying and harassment: Rod Marshall, Partner at FCB Workplace Law discusses how you should develop your systems and processes for proactively managing bullying and harassment in the workplace. Vox pop video [here](#).

Mental health in the workplace (part 1):

Cilla Robinson, Partner at Clayton Utz highlights the importance of de-stigmatising mental health at the workplace. Vox pop video [here](#).

Mental health in the workplace (part 2):

Nick Boyce, Lawyer at Clayton Utz discusses increasingly positive observations in the way employers are managing mental health matters. Vox pop video [here](#).

Industrial relations reform and bargaining is front and centre in the lead up to the 2019 federal election. In the meantime a decision earlier this year by the Full Bench of the Fair Work Commission (FWC) has confirmed the ground rules for the better off overall test (BOOT) to be followed - providing clarity as to when enterprise agreements with loaded wage rates can be approved. With the impact of the decision now being felt in agreement approvals, Nick Tindley Partner at FCB Workplace Law analyses that impact, and identifies what employers seeking to implement loaded rates agreements need to be mindful of. Click [here](#) for the full article.

Managing ill and injured employees, and what medical evidence is required: The Fair Work Commission has recently handed down two significant rulings which confirm the approach to be taken by employers when faced with conflicting medical evidence regarding an employee's work capacity. Madelaine August, Senior Associate at Moray & Agnew writes about the challenges of managing ill and injured employees: what medical evidence is required; defensible decision-making where there is conflicting medical evidence; and information relating to capacity-related dismissals. Click [here](#) for the full article.

Casuals employed on a "regular and predictable" basis entitled to annual leave: The Full Court of the Federal Court has unanimously ruled that casuals, who are employed on a "regular and predictable" and "continuous" basis, are entitled to annual leave under the Fair Work Act 2009 (Cth). This was despite true casual rates incorporating a loading to compensate for non-receipt of annual leave under the Act. Read more [here](#) – insight provided by Harmers Workplace Lawyers.

NEW ZEALAND: Removing barriers to pay equity – the Government introduces Equal Pay Amendment Bill. Late September saw the introduction of the Equal Pay Amendment Bill. The Bill incorporates the new recommendations of the Joint Working Group on Pay Equity Principles to make it easier for women to lodge pay equity claims. The team at Buddle Findlay examine proper management of pay equity claims [here](#).

NEW ZEALAND: Employment law legislative changes are fast approaching

The New Zealand Government is progressing with its package of employment law reforms. Together, these reforms will have a significant effect on New Zealand's employment law landscape. **Topics covered in this article on upcoming legislation, timeframes and advice for employers: The Employment Relations Amendment Bill 2018, Employment Relations (Triangular Employment) Amendment Bill, Domestic Violence - Victims Protection Bill, Fair Pay Agreements, Parental Leave, the Holidays Act Review, Privacy Bill, and Pay Equity.** To read this article, provided by Simpson Grierson, click [here](#).

As always:

For the latest Fair Work decisions click [here](#).

For the latest news from the Fair Work Ombudsman, click [here](#).

FOR CURRENT AND EMERGING UP TO THE MINUTE PRACTICAL LEGAL INSIGHT

Be sure to attend the following market leading events in Australia & New Zealand

Masterclass: Planning & managing effective workplace investigations

[Australia](#): SYD 19 Nov; MEL 27 Nov; BNE 27 Nov; PER 5 Dec

Facilitated by legally qualified Investigators from Q Workplace Solutions

[New Zealand](#): AKL 19 Nov; WLG 21 Nov

Facilitated by Simpson Grierson

[5th annual Workplace Law Forum](#)

Sydney 19 – 21 November Sydney

Early Bird rates expire 11th October (\$500 saving) and 26th October (\$400 saving)

1. Key insights for employers on compliance pitfalls for big businesses: Office of the Fair Work Ombudsman
2. Changing HR law landscapes: AI Group; Ashurst; Norton Rose Fulbright; Thomson Geer
3. Terminations & minimising risk of unfair dismissal: Maddocks
4. Wellbeing & injury management: Goldwind Australia; Veolia; Moray & Agnew
5. Adverse actions insights: Lander & Rogers; Harmers Workplace Lawyers; Sparke Helmore; Minter Ellison
6. Talent management & performance
7. Bargaining & IR: UGL
8. Reducing vicarious, accessorial & ancillary liabilities: Office of the Fair Work Ombudsman; Clayton Utz; Holding Redlich; K&L Gates
9. Misconduct based investigations: Visy Industries
10. Inappropriate behaviour & workplace conduct: American Express; Thales

Strategic HR Business Partnering

[Melbourne](#) 29th – 31st October 2018

Australia's only conference looking at driving business performance through better strategic use of HR Business Partners

The 3rd annual **Workforce Inclusion and Diversity Australia** conference

[Melbourne](#) 29th – 31st October 2018

Workplace Mental Health & Wellbeing conference

[Melbourne](#) 26th – 28th November 2018. **Early Bird** rate expires 23rd October, saving \$400

Organisational Culture, People & Engagement NZ conference

New Zealand's only event focused on building adaptive and empowered workplace cultures

[Auckland](#) 3rd – 5th December 2018. **Early Bird** rate expires 26th October, saving \$300