

P.o.P (POWER OF PRINT) SUMMIT '24
SHARE THE KNOWLEDGE

CLASS NOTES

HR/IR: People and Policy



HR/IR

People and Policy



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Visual Media Association, GM - IR, Policy & Governance

Charles has a strong background in workplace relations and corporate governance.

Having worked in some of Australia's pre-eminent law firms and industry bodies for over 20 years, he has a depth of knowledge and experience across a range of industries. His qualifications include a Bachelor of Laws, post-graduate studies in Industrial Relations Law, and is a Fellow of the Governance Institute of Australia.

Additionally, Charles is also a regular contributor to trade press and other media for his commentary, editorial and insight on workplace relations, government and legislative amendment matters.



“Workforce related costs can be 70% of a businesses operating expenses.”

Charles Watson

Top 5 common HR/IR matters arising in 2024 begin with knowing the details of the legislation rather than being intimidated by legislation.

Workforce costs reflect some 70% of our business costs and therefore ensuring compliance and best practice across your business to protect your business and employees.

There are many details across all the elements of industrial relations legislation and Australia does have complex workplace relations requirements which whilst businesses do not need to be experts in every aspect of the law, you do need to have rigour and procedures to ensure you are up to date, supported by an Association or legal professional and diligence to understanding amendments.

CONTRACTS - THE DETAILS YOU DON'T WANT TO MISS

Contracts of Employment are important to develop with key focus to evolving legislation, interpretations or rulings.

Rules to keep in mind for your contracts:

- > **DON'T INCLUDE UNNECESSARY CLAUSES.**
Extensive post-employment restraints are often overruled and must be specifically reasonable for the employee's role. For example, an account manager's post-employment restraints should be different for a production employee, however it still must be reasonable.
- > **DON'T INCLUDE UNNECESSARY LEGALESE.**
Your employment contract should be clear and easily interpreted by your employee and any potential third party reading the contract.
- > **TERMINATION CLAUSES PROTECT ALL PARTIES.**
Including detailed grounds for dismissal or termination is important to not shy away from, include for both parties to ensure equal understanding to process.
- > **WORKPLACE POLICIES.**
Workplace policies should be referred to, rather than directly included within employment contracts. If you include workplace policies within your agreements, each time you amend a workplace policy you will need to re-negotiate your employment contract.
- > **PAY REVIEWS.**
Including reference to annual pay reviews or bonus increases should be within a workplace policy rather than a clause within the employment agreement. If included within the employment agreement, this is a requirement for you to be compliant to the contract, however if within a workplace policy it will outline the process of such a pay review, rather than a commitment to the pay review.
- > **CLEAR JOB DESCRIPTION.**
Often overlooked, however very important to include job description and duties within the contract and update as these evolve.
- > **AUTOGRAPH IT.**
Ensure you have the employee sign the contract and initial each page prior to commencing employment. This avoids any potential future claim that the employee didn't know about the contract or understand the contract.

WORKPLACE POLICIES - WALKING THE WALK

Your workplace policies outline how your business goes about its operations across employment, culture, operational requirements, inter-employee engagement, operational health and safety and more. Including your teams in the development, review and implementation of these policies is an important engagement opportunity.

Top tips across workplace policies include:

- > **COMMUNICATE VALUES, EXPECTATIONS AND MINIMUM STANDARDS.**
Ensuring all your teams, partners and suppliers are across your workplace policies is important to ensuring they are complied to. Communication of the expectations is critical to the success of your policies being standard everyday practice.
- > **SUPPORT EMPLOYERS TO MAINTAIN GOOD PRACTICES.**
Including your employees in the review process encourages engagement and input with improved implementation and often provides better policies and communication channels across workplace policies.
- > **THEY ARE NOT A SET AND FORGET.**
All workplace policies should be reviewed and recorded as being reviewed at least once a year. Whilst amendments may not be extensive to each policy, recording that they have been reviewed and looked to is important workplace policy management.
- > **SHOULD BE BACKED UP BY PROCEDURES, WHERE RELEVANT.**
Policies should be implemented across your business with procedures that are shared and communicated across all employees. This provides greater step by step clarity to the policy and provides an 'in action' approach to workplace policy.

WHICH ARE THE KEY POLICIES A BUSINESS SHOULD HAVE?

1. Workplace Health & Safety Policy.
2. Code of Conduct (i.e Respect@Work).
3. Social Media or Reputational Policy.

POLICY POP OUTS

Refreshment Entitlement (Clause 16).

All businesses need a refreshment or morning tea break in the first half of their shift. This is a compliance requirement and should be included in your workplace policies including workplace health and safety alliance. If employees are not taking a refreshment break, consider rostering it across the shifts.



Work Organisations (Clause 24).

Often employees are relied upon when there are staff shortages due to sick leave or absenteeism, and asked to work across a different department or equipment than they usually work when being skilled to do so. This can sometimes lead to employee disgruntlement. It is important to seek to utilise and rely upon Clause 24 of the GAPPA to direct the employee to take those opportunities that are within their skillset and competence.



Redundancy (Clause 42).

The clause and ATO sites outline liabilities to payment and entitlements, however often misunderstood is that once issued a redundancy, the employee can still end their employment whilst maintaining their severance entitlements fully earned other than the remainder of the notice period.



Long-Service Leave.

The National Employment Standard (NES) applies for all employees and has a reference to long service leave however the pre-modern award long service leave terms continue to apply as do the state long service leave Acts. It is important to seek clear advice on how to provision for long service leave across your businesses.



RESPECT @ WORK - UNDERSTANDING POSITIVE DUTY

There has been long-standing sexual harassment laws across workplaces, however the recently introduced Respect@Work legislative amendments includes a positive duty as well as the Human Rights Commission is now empowered to investigate matters, as opposed to historically ruling on matters before them.

The positive duty on employers requires employers to take active steps to remove all reasonable and proportionate measure to eliminate discrimination of sexual harassment or sexually hostile conduct or action of sexual victimisation in the workplace.

START WITH:

Zero tolerance to any form of sexual harassment, conduct, bullying or other action.

Develop an action plan should a matter arise in the workplace and inform all employees of the action plan. Include the action plan and procedure in your workplace policies.

Communicate safely with your teams and provide opportunities to check-in and build regular touch points and opportunities for your employees to communicate any matter or concerns safely and without fear of adverse response.

Develop a Leadership Statement with input from your leadership teams to build engagement.

Consider surveying all employees via a confidential platform to ensure you are hearing all potential matters in a safe environment for the employee and sharing with your teams that your approach is genuine and survey feedback is then included in the action plans and policies.

EXITING EMPLOYEES - DOCUMENT AND MANAGE PERFORMANCE

Documentation is key. When an employee is not performing to your expectations, work with the employee and document these approaches. Further, communicate with the employee as it the initial phase it may be the employee simply doesn't understand your expectations.

Should matters continue and communication across all workplace policies and expectations not be adopted, documentation is critical to the performance management process. Including your HR/IR Adviser earlier rather than later is recommended to ensure your communication is accurate to any legislative requirements.

Across redundancies, retrenchments or other, it is often the genuine consultation part of the process is the most non-compliant area where matters arise. Communicate, document, re-communicate and provide time for feedback or clarification points to ensure you remain compliant and the employee is comfortable in their informed status.



Q: Employees who have been with us over 10 years no longer have visibility of their LSL and have questioned why it has changed to 15 years. Does the NES apply to these employees?

A: The National Employment Standards (NES) apply to all national system employees and employers, which includes reference to long service leave entitlements. Which particular long service leave provisions apply will depend on various circumstances. Most employees' entitlement to long service leave comes from long service leave laws in each state or territory. However, state and territory long service leave laws don't apply when there are long service leave entitlements in a federal pre-modern award that would have covered an employer and their employees before 1 January 2010, should the employee have been employed at that time.

Although they don't form a term of the modern Graphic Arts, Printing and Publishing Award (GAPPA) the long service leave entitlement and related provisions that were terms under the pre-modern Award, the Graphic Arts General Award 2000, will generally continue to apply under specific circumstances. Essentially, a production related employee who is employed by a metropolitan printing business, and under the terms of the GAPPA, will most likely have the terms of Appendix E - Long Service Leave within the pre-modern Graphic Arts General Award 2000 apply to their employment, unless the employer applied something more advantageous to the employee. Depending upon the circumstances of how the termination of the enterprise agreement occurred, may also affect the outcome.

Q: Which long service leave provisions apply if an employee works across two states?

A: The answer to this question will depend upon several factors. As a rule of thumb, and if an employee is not entitled to long service from the pre-modern the Graphic Arts General Award, the employee has continuous service, and that service has a substantial connection to a particular state, it is likely that states long service provisions will apply.

Q: What happens if a manager knows about a sexual harassment incident and doesn't report it?

A: Given the Respect@Work legislative amendments, employers and all employees now have positive duties to proactively eliminate sexual harassment as far as possible. Managers and supervisors have a critical role in preventing or acting upon any form of harassment in the workplace. However, knowing how to best manage related issues can be daunting. However, members can contact the VMA for support and to discuss appropriate steps and processes to undertake and resolve related issues in the workplace.

Q: Are there any policies with regard to employees requesting transition to retirement changing from working full time to part time?

A: Although there is no policy specifically, the Fair Work Act does contain terms that, under specific circumstances, entitle an employee who is 55 years of age or older, to make a formal request to their employer for a flexible work arrangement. If an employee makes a formal request:

- > the employer must consider the request;
- > take a consultative approach with the employee to genuinely try to reach an agreement of possible alternative arrangements;
- > respond in writing within 21 days, stating whether the request is approved or denied.

Refusal of a request may only occur after genuine consultation and on reasonable business grounds. This may include for reasons such as cost, impracticality, an inability to change other employees work arrangements to accommodate the request, a significant loss in efficiencies or productivity, or that the request would have a significant impact on servicing clients.

On these or similar issues, and given the range of potentially applicable variables, we recommend seeking specific tailored advice to suit your business needs.

NOTES

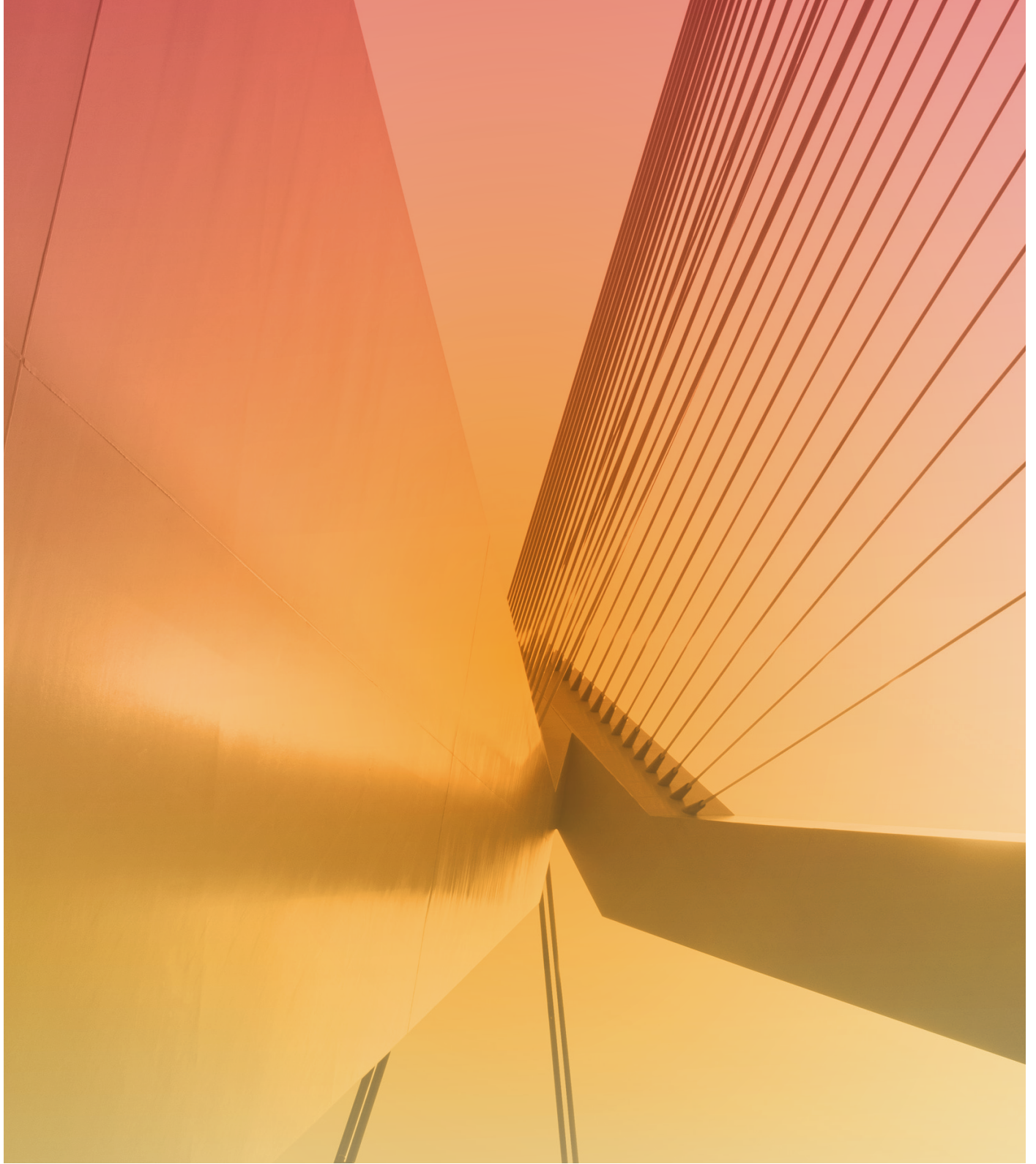
Are you looking for HR assistance?

Visual Media Association members have access to the online HR/IR Advisory Service and Member Advisory hotline:

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