

# HR POLICY AND GOVERNANCE UPDATE



## INTRODUCTION

In this week's Bulletin we advise members of the VMA HR Helpdesk operating hours over the Christmas/New Year period, we look at the RBA's Melbourne Cup day interest rate decision, a heads up on the end of year workplace functions, the increased level of claims made within the Fair Work Commission, and a decision of interest relating to redundancy and alternative employment.

## VMA HR HELPDESK – FESTIVE SEASON OPERATING HOURS

A heads up for members that our HR Helpdesk Advisory service (1800 835 167) will be operating on reduced hours during the Christmas/New Year period as follows.

Monday December 23	9am - 3pm
Tuesday December 24	9am - 12 noon
<b>Wednesday December 25 (Christmas Day)</b>	<b>CLOSED</b>
<b>Thursday December 26 (Boxing Day)</b>	<b>CLOSED</b>
Friday December 27	9am - 12 noon
Monday December 30	9am - 12 noon
Tuesday December 31	9am - 12 noon
<b>Wednesday January 1 (New Year's Day)</b>	<b>CLOSED</b>

Normal operating hours will resume from Thursday, 2 January 2025. If members have any urgent matters during that time please reach out via email [hrhelp@visualmediaassociation.org.au](mailto:hrhelp@visualmediaassociation.org.au) and the Advisory team will get back to you as soon as possible.

## FAIR WORK COMMISSION EXPERIENCES HIGHEST RATE OF CLAIMS

Unsurprisingly, the rapid pace at which the government pushed through significant legislative amendments to the workplace relations scheme throughout 2023 and 2024, has resulted in a significant increase in related claims. This wave of legislative amendments has kept the Fair Work Commission exceptionally busy. According to its 2023/2024 annual report, the Commission handled over 40,000 claims, marking the highest claim lodgement rate on record and a 27% increase from the previous year's reporting period.

Of the more than 40,000 lodgements made with Commission in the last financial year, 14,772 (37%) were unfair dismissal claims. The only other two lodgement types with more than 5,000 applications were general protections involving dismissal and support wage system agreements. There were also 987 lodgements about workplace bullying and sexual harassment, for an average of 19 such claims per week in the last financial year across the country.

## END OF YEAR FUNCTIONS

Members holding end of year functions or where your employees attend client or industry functions, there are a number of issues to consider to ensure these events don't bite you in the new year.

Members should consider applying the following mitigating steps:

- > Have clearly drafted workplace policies relating to harassment, bullying, and the consumption of alcohol. Ensure all employees are familiar with those policies.
- > Reiterate with employees, in writing, the expected standards of behaviour when attending work-related functions.

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- > Remind employees who are attending client functions that they are representing your business and need to behave appropriately.
- > Serve alcohol responsibly and provide food and non-alcoholic beverages.
- > If attending off-site premises, ensure a responsible person (probably you), as well as bar staff, cut off intoxicated employees from being served alcohol and if necessary ask them to leave the function.
- > Provide clear 'start' and 'finish' times for the function and ensure employees know that after the finish time the function is over.
- > Do not organise a company supported second site for an 'after party' as my historical list of cases evidences second sites are where inappropriate behaviour is likely to happen.
- > Ensure safe transport home from work-related functions is available, especially in the case of employees who are intoxicated and/or otherwise vulnerable.

Handled properly members can limit their liability from conduct that occurs at a work related function.

## **RBA RATE DECISION**

Earlier this month the Reserve Bank of Australia once again determined to leave the official cash rate on hold at 4.35%. The RBA has made inroads into getting inflation under control, with the RBA Board noting headline inflation was 2.8% over the year to September 2024, down from 3.8% over the year to June. However, as widely recognised by the broader economic community, the RBA noted that this fall was expected due to declines in fuel and electricity prices in the September quarter and temporary cost of living relief.

The RBA's preferred measure of inflation, the trimmed mean, moderated to 3.5% over the year to September. The RBA noted that it requires further evidence that inflation was on track toward its 2-3% trimmed mean target band before it could lower interest rates. Further, we will be entering an election phase early next year and if the current government attempt to woo voters with 'cash-splash' spending it will likely not assist with lowering inflation into the target range. As a result, and given ongoing inflationary factors, we may be waiting until at least February or even the second quarter of next year before a rate reduction occurs.

## **DECISION OF INTEREST**

### **Suitable Alternative Employment**

In redundancy situations, section 120 of the Fair Work Act provides for an employer to apply to the Fair Work Commission to determine whether an amount of redundancy pay should be reduced if the employer obtains other acceptable employment for the employee.

In a recent decision of the Commission, an employer's application to reduce an employee's redundancy payment was denied due to the 'alternative position' proposed by the employer not being suitable.

The electrical cabling employee had been working on a project for two years and that only required them to commute approximately 13kms from their home. Upon conclusion of the particular project, the employer offered them a new position that would require the employee to commute

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approximately 100kms. The employee rejected that offer stating that the significantly increased commute was unviable for him, and he should retain his redundancy entitlements.

In rejecting the employers application to reduce the redundancy entitlements the Commission considered a range of factors in its objective assessment, including the identical nature of the new role, the level of cooperation evidenced by the employee to explore alternative options, and various comparative factors between the employees current role and the position being proposed.

The Commission held that the proposed new job did not represent a reasonable alternative and required a significantly longer commute (88 additional kms) compared to the employee's previous position. The travel time would have increased substantially, thereby leading to significant inconvenience.

## **Key takeaway**

The decision highlights that when an employer is undertaking a redundancy process and are of the belief they have found 'alternative employment' so as to apply to reduce the employees redundancy entitlements if the employee does not accept that position, they must consider a range of factors. Issues such as increased travel time, potential inconveniences, the equivalency or similarity of the new role must be considered and assessed to determine whether the alternative position is in fact reasonable in the circumstances.

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## **CONTACT**

Any Industrial Relations Member who has a related query should contact the HR Hotline on 1800 835 167 or contact Charles Watson, GM – IR, Policy and Governance via email: [charles@visualmediaassociation.org.au](mailto:charles@visualmediaassociation.org.au)

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