



Effective Workplace Solutions

WORKPLACE MATTERS

MAY/JUNE 2014

To All of My Valued Clients

Welcome to the May/June Edition of *Workplace Matters*. The end of the financial year is approaching, and is the case at this time of the year the Fair Work Commission delivers its decision on the Federal Minimum Wage. This week the FWC announced a 3% increase to the FMW – considerably more than myself and other pundits were predicting. This increase will of course flow to Award rates of pay. What will you do with this increase? Will you need to apply the full 3% increase, or can you absorb the increase? – more details later in this edition of *Workplace Matters*.

Happy EOFY

Greg Arnold

Principal Consultant



**FWC approach to
Bullying Claims**

**3% Minimum Wage
Case Surprise**

**Managing
Discipline and
Dismissal
Workshop**

**Bullying and
Harassment
Workshops**

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FAIR WORK COMMISSION AND BULLYING CLAIMS

In the last issue of *Workplace Matters* we reported a few of the matters and Orders made by the Fair Work Commission (FWC) as a result of the new Fair Work Act provisions. It appears now that the FWC is taking a very pragmatic approach to these matters preferring to ensure that bullying and harassment claims are being dealt with at the workplace level, before wielding its powers under the Act.

Last month FWC President Iain Ross made the following comments at the NSW Industrial Relations Society Conference:

“The vast majority of claims have been resolved amicably. Anecdotal evidence has indicated that, in many cases, employers were not aware of the bullying allegations prior to Fair Work claims being filed. Once filed, employers have acted promptly to resolve the bullying concerns; and

There has been a minimal need for the Commission to exercise the coercive powers granted to it under the new legislation.”

It also appears that the inundation of claims expected by the FWC at the commencement of these new anti-bullying provisions has not materialised. The FWC has reported that in the first 5 months of these provisions being in place they have received nowhere near the anticipated claims of 300 per month – rather the amount appears to be about 50 claims per month and many have been against supervisors and captured by the “reasonable management action” exclusion.

It should be remembered however that the FWC is not the only avenue available for employees to take action for bullying and harassment claims. A recent case was reported in the Queensland Supreme Court where an employee successfully sued her employer over \$270,000 for bullying behavior by her managers and supervisors after she returned from parental leave. The clear message from this case was that the employer had failed to follow their own bullying and harassment policies.

Mitigating against and preventing bullying and harassment claims

Of all of the matters that have arisen regarding bullying and harassment, the following key measures have been identified as being essential for preventing and mitigating against bullying in the workplace.

- **Policies and Procedures** - Have clear, concise and comprehensive policies and procedures in place;
- **Education** - Ensure that all employees are aware of what bullying and harassment is and make sure they are aware of the policy and what is required in that policy;
- **Managers** – ensure that all managers and supervisors are aware of what bullying and harassment is and make sure they are aware of the policy and what is required in that policy;
- **Managers** – ensure that managers know what to do and how to handle a bullying and harassment claim.

Bullying and Harassment Workshops

Recently *Effective Workplace Solutions* was engaged by Ballina RSL in Northern NSW to undertake a series of Bullying and Harassment Workshops to assist staff and managers to understand what bullying and harassment means; to assist them in understanding the policies and procedures; and what to do

in the event of a bullying and harassment claim. The workshop looked at the workplace bullying, the legislation, case studies and we went through a series of role plays so as to bring the issues into a real life perspective.

Here's what Club General Manager Bill Coulter had to say:

“Ballina RSL has recently undertaken a series of workplace bullying and harassment workshops for all of our Managers, Supervisors and staff presented by Greg Arnold from Effective Workplace Solutions.

These workshops were conducted very professionally and the ability to conduct interactive role playing scenarios in the sessions was well received by the staff. With the positive feedback received from staff, these workshops not only helped to ensure that we are complying with the Club's legislative obligations but they will greatly assist us in preventing workplace bullying in the future.

Importantly, we believe these training costs are a small price to pay and provides us with an insurance policy in mitigating against possible claims that may cost the Club hundreds of thousands of dollars.”

*Bill Coulter
General Manager
Ballina RSL Club Ltd*

These Workshops are tailor-made to suit your business or organisation and are an integral part of ensuring that you have applied “due diligence” to the education of staff on the issue of bullying and harassment and the policies in your workplace.

If you would like to have *Effective Workplace Solutions* undertake a series of Bullying and Harassment Workshops – or if you would like assistance in developing and implementing bullying and harassment policies and procedures, please do not hesitate to contact us on 1300 749 001 or email us.

Our Services

- Unfair Dismissal Matters
- Underpayment of Wages Claims
- Enterprise Agreements (EA's) and Individual Flexibility Agreements (IFA's)
- Policy Formulation and Staff Handbooks
- Dispute Mediation and Resolution
- Strategic Organisational Change
- Workplace Health and Safety – Advice and Auditing
- Injury Management and Workers Compensation
- Employment Contracts

2014 ANNUAL MINIMUM WAGE CASE – 3% INCREASE TO ALL AWARD RATES

The FWC has now announced a 3% increase to the Federal Minimum Wage (FMW) for this year, effective from the first pay period to commence on or after 1 July 2014.

The increase was in my view and the view of many of the pundits to be above and beyond the expected 2% or just over increase. For the first time in some years, the FWC has increased the FMW by an amount in excess of CPI and current wages growth (2.9% and 2.6% respectively).

In its decision the Commission stated that it awarded a higher increase than last year's decision as it took into account the economic outlook including low inflation, projected employment growth, GDP growth and a forecasted slight increase in unemployment.

The FWC noted that average weekly earnings are the lowest in a decade and wages growth was forecast to "increase only moderately from current low levels". The FWC also noted that growth in world GDP was also expected, from "improvement in the recoveries of advanced economies".

The increase will apply to all Award rates of pay and shall be passed on to all employees on Award rates of pay. **It may be possible for the increase to be absorbed into employee's current over-Award payments, however you should seek advice before doing so** – much will be determined by the wording used in any letters of appointment or pay advices which outline the terms and conditions of the over-Award payment.

For those who have Enterprise Agreements in place, the terms and conditions of those EAs will determine whether or not any increases in the FMW should flow to your staff. Again advice may be necessary before deciding what to do.

For retained clients, the new wages rates shall be sent to you as soon as possible. It should also be noted that the transitional arrangements have now been completed and the increase should now be directly applied.



Managing Discipline and Dismissal Workshop

Effective Workplace Solutions in partnership with *NCA Consulting Pty Ltd* is conducting a **Managing Discipline and Dismissal Workshop** on **17 June 2014** at the **Ballina RSL** from **9.00 am** until **1.00 pm**.

The workshop is designed to simplify the often complex area of counselling, warnings, investigation, incident reporting and dismissal of employees, and the process and procedures needed to be undertaken. It will ensure your supervisors, line managers and managers can be more confident in their approach in dealing with these matters. The cost is \$200 per person, which I think you will find this good value as it contains vital information about this issue for Senior Managers, Line Managers and Supervisors.

The details are as follows:

Managing Discipline and Dismissal Workshop

Date: Tuesday 17 June 2014

Time: 9.00am – 1.00pm

Venue: Ballina RSL Club River St. Ballina

RSVP: If you wish to attend, please respond by email by **10th June, 2014**, ensuring to include names of all attendees.

PAYMENT: Payment for all participants **must** be made prior to the workshop. Payment will not be accepted on the day of the workshop. Payment to be made by Direct Deposit only.

Direct Deposit details:

Account Name: NCA Consulting Pty Ltd

BSB: 484 799

Account no: 506393152

Reference: Name of your organisation

A tax invoice will be forwarded to you as soon as payment has been received.

Phone: 1300 186 684

Fax: 02) 6686 7382

Email: admin@ncaconsulting.com.au

END OF FINANCIAL YEAR OBLIGATIONS

WAGES AND PAYROLL AUDITS

AND

WORKPLACE HEALTH AND SAFETY AUDITS

The end of the financial year is fast approaching and it's time to start thinking about payroll.

- Does it comply with the Award and the legislation?
- Are you paying in accordance with the Award?
- Are all of your employment contracts in place and compliant?
- Do you want to put IFAs in place before the Federal Government starts changing the goal posts?

It's also time to start thinking about the health and safety of your workplace

- Does your workplace comply with the WH&S Act and Regs and Codes of Practice?
- Are all of your safety management systems in place and compliant?
- Are you meeting your due diligence requirements?

Effective Workplace Solutions can assist with Payroll and WH&S Audits. These Audits provide peace of mind for a small fee, knowing that you are compliant (for some retained clients basic Audits are included in your retainer).

If you would like to make an appointment for an Audit, please contact *Effective Workplace Solutions* on 1300 749 001