



Everybody Out

Australian Public Transport Industrial Association

Industrial arm of the Bus Industry Confederation

PUBLIC TRANSPORT
INDUSTRIAL RELATIONS NEWS

Welcome to the November 2020 Edition of Everybody Out

PUBLIC TRANSPORT INDUSTRIAL RELATIONS NEWS

The information contained within this Edition is developed within the Bus and Coach Industry. It is not intended that the information should be relied upon without the reader first seeking their own expert advice.

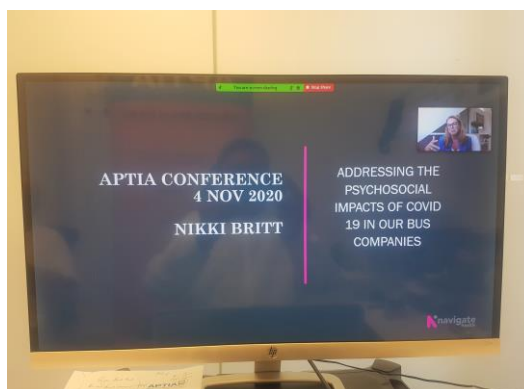


Wayne Patch, Chairperson

In this issue:

MEMBERS NEWS

- National IR Seminar



APTIA held its National IR Seminar in November via Zoom at which over 50 bus and coach operators across the Country attended and heard from industry professionals about the issues surrounding the flexibility arrangement provided by jobkeeper and also the significant health issues which employers had been confronted with during the pandemic.

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Nikki Britt and Tim Capelin, well known to the industry provided their take on our success in negotiating the pandemic whilst Ian MacDonald, BIC National IR Manager provided an update on what future IR laws might look like.

Note: It is anticipated that the proposed 'omnibus' IR Bill will be introduced into Parliament next week.

- **APTIA Annual General Meeting**



APTIA held its 10th Annual General meeting on 24 November 2020 by way of a Team video conference from its Canberra offices.

The current Council members retained their membership with elections due in August 2022.

INDUSTRY NEWS – What you need to know

- **Overtime for Casuals**

On 30 October 2020, the Fair Work Commission (the Commission) announced updates to the casual and overtime clauses in 97 awards. The updated clauses started from the first full pay period on or after 20 November 2020.

The Office of the Fair Work Ombudsman has now issued an update of their pay guide which had previously shown the payment of the casual loading for overtime worked by a casual employee.

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The new Pay Guide which can be viewed in the 'Industry News' section of the website www.aptia.com.au provides an update of the overtime payments for casual employees which excluded the casual loading.

A word of note however that when a casual works on a weekend the payment to a casual is the higher of the payments i.e. the weekend penalties which includes the casual loading or the loading for overtime which excludes the casual loading.

Note:

19.4 states: "Overtime rates and penalty rates (as set out in clauses 19—Overtime and 20—Penalty rates) are not cumulative. Where the employee is entitled to overtime and penalty rates the employee will be paid the applicable rate that is higher."

The correct rates of pay are set out below.

Grade	Hour Rates to pay	Saturday	Sunday	Public holiday	Early or late work - Monday to Friday	Overtime - public holiday -	Overtime - Monday to Friday - first 3 hours	Overtime - Monday to Friday - after 3 hours	Overtime - Saturday - first 3 hours	Overtime - Saturday - after 3 hours
1	\$26.75	\$37.45	\$48.15	\$58.85	\$29.96	\$58.85	\$32.10	\$42.80	\$37.45	\$42.80
2	\$27.40	\$38.36	\$49.32	\$60.28	\$30.69	\$60.28	\$32.88	\$43.84	\$38.36	\$43.84
3	\$28.96	\$40.55	\$52.13	\$63.72	\$32.44	\$63.72	\$34.76	\$46.34	\$40.55	\$46.34
4	\$29.98	\$41.97	\$53.96	\$65.95	\$33.57	\$65.95	\$35.97	\$47.96	\$41.97	\$47.96
5	\$31.64	\$44.29	\$56.95	\$69.60	\$35.43	\$69.60	\$37.97	\$50.62	\$44.29	\$50.62
6	\$33.03	\$46.24	\$59.45	\$72.66	\$36.99	\$72.66	\$39.63	\$52.84	\$46.24	\$52.84

- **Sick Pay for Casuals**

The Victorian Andrews Government is set to introduce a scheme providing up to five days' sick and carer's pay at the national minimum wage for casual or insecure workers in priority industries.

To be initially funded from the public purse for two years from the time of its introduction either late next year or early 2022, the 'Secure Work Pilot Scheme' will thereafter be paid for by an industry levy.

Announcing the scheme today, Premier Daniel Andrews and the Treasurer and IR Minister, Tim Pallas, said that \$5 million had been allocated in tomorrow's State budget to finalise its design.

Andrews said the scheme would address problems exposed by the pandemic, where workers with multiple jobs have spread COVID-19 from quarantine hotels to aged care homes and the broader community.

"Insecure work is toxic," Andrews said.



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"Insecure work isn't just bad for those who work under those conditions, it's bad for all of us and we all pay a price for the fact that so many people, particularly those who work in public-facing jobs, do not have sick leave, do not have sick pay or carer's pay to fall back on.

"So many workers have to choose between going to work sick or feeding their kids, paying their rent.

"Paying their bills, surviving getting to next week."

Andrews said his government will work with employers and unions on designing a trial scheme aimed at sectors where insecure work was common, such as hospitality, supermarkets, private aged care, and some security work.

He said the final list of sectors will be determined during the planning process.

Insecure workers who are accepted into the scheme will be able to access up to five days' sick leave and carer's leave, after providing standard documentation such as a medical certificate.

Casual and insecure workers in eligible sectors will be invited to pre-register for the scheme, providing their contact details and information about their employment so that applications can be fast-tracked if they need to apply for payments.

The Victorian government's COVID-19 Test Isolation Payment and the Commonwealth's Pandemic Leave Disaster Payment for people who are required to isolate after a positive diagnosis or quarantine as a close contact will remain available.

While Federal Labor IR spokesperson Tony Burke hailed the Victorian scheme as showing "real leadership" in tackling the problem of millions of workers having no access to sick leave, IR Minister Christian Porter was damning.

Porter said the Victorian proposal seemed to start with a small, government-funded pilot and finish with a "massive tax" on businesses which would be forced to pay for both a 25% loading on wages to compensate for casuals not receiving sick leave and then pay an industry levy to fund sick leave.

"After Victorian businesses have been through their hardest year in the last century, why on earth would you be starting a policy that promises to finish with another big tax on business at precisely the time they can least afford any more economic hits?" said Porter.

Porter argued that the proportion of casual employees had remained largely unchanged at about 24% for almost 25 years leading into the COVID-19 pandemic and that "the better policy approach is to strengthen the ability of workers to choose to move from casual to permanent full or part-time employment if that is what they want to do".

"This is what has been under discussion in the industrial relations working group process between government and employee and employer representatives over recent months," Porter said.

"It must surely be a better approach to let people have greater choice between casual and permanent employment than forcing businesses to pay a tax so that someone can be both a casual employee and get more wages as compensation for not getting sick leave – but then also tax the business to pay for getting sick leave as well."



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"That would be a business and employment-killing approach."

Porter said Victoria already provided a \$450 isolation payment for people waiting on COVID-19 test results and the Commonwealth offered a \$1500 payment for people who test positive for COVID-19, or are required to isolate and do not have access to paid leave.

Ai Group chief executive Innes Willox said the Victorian plan was "deeply flawed".

"Casuals receive a 25% casual loading in lieu of sick leave and carer's leave entitlement, and therefore providing a separate entitlement would be 'double-dipping'," Willox said.

"The proposal is another move away from nationally consistent employment entitlements by the Victorian Government and will cause confusion for employers and employees."

Willox said the plan to eventually fund the entitlement through a levy would be a "tax on employment".

"COVID should not be used as a cover to drive ideological agendas which raise costs for businesses and employment."

- **Rossato's case headed for the High Court**

Australian businesses have been thrown a lifeline in the fight against double-dipping claims, following the High Court's decision to grant special leave to Workpac and the Australian Government to appeal the decision of the Federal Court in the *Workpac v Rossato* case.

The Federal Court's decision exposed many businesses to the possibility of having to pay casuals twice for leave, placing both the jobs of more than a million casual employees into doubt and exposing employers to more than \$14 billion in backpay claims.

"The decision of the Federal Court in *Workpac v Rossato* upended more than two decades of widespread industry practice and called into question the viability of casual work if it is allowed to stand. Consequently, today's decision by the High Court to hear an appeal is a relief, but not yet a remedy", ACCI CEO James Pearson said.

"Thousands of businesses who believed they have fully complied with their lawful obligations under industrial awards, have instead been exposed to legal double jeopardy which could send many over the edge, as they face claims for double-dipping, paying for leave once through a 25 per cent or so casual loading, and then again through possible back-pay claims after a worker leaves their job – even if the casual employee had already pocketed and spent the casual loading.



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"No Australian expects to get paid twice for the same thing, and no business should be required to pay twice for the same entitlement.

"Casual employment will be vital to restoring jobs, and helping businesses facing headwinds to get back on their feet, as Australia rebuilds from the economic damage caused by the COVID-19 pandemic.

"So, while ACCI welcomes the High Court's decision to hear an appeal, employers and employees need to see common sense and confidence restored much sooner than the High Court appeal process will likely take.

"We call on Parliament to restore clarity to casual employment and decades of established law and practice, reversing the unexpected Federal Court decision.

"Businesses around the country currently face enormous hurdles just to keep their doors open, and with more than 950,000 Australians out of work, we need urgent legislative reform to give certainty to business and casual employees, to preserve fairness by ending double dipping claims and to encourage employers to retain casual workers and take on new employees."

- **Superannuation Guarantee Increases?**

The superannuation guarantee is due to increase to 10% on 1 July 2021 and thereafter by .5% each year until it reaches 12% by 2025.

The Federal Government's retirement incomes review, released recently, has warned that increases in compulsory super contributions will curb wage growth and reduce living standards during employees' working lives.

It raises doubts about the need for the legislated increase in contributions to 12% in 2025, saying that across most income levels, this would lead to workers exceeding the adequacy benchmark of 65% to 75% of pre-retirement earnings.

The review, by Mike Callaghan, Carolyn Kay and Deborah Ralston, suggests that rather than increasing compulsory super, a "bigger impact" on retirement incomes can be achieved through "more efficient use of savings".

"If the SG rate remained at 9.5 per cent and people made more efficient use of their retirement savings, many would have higher replacement rates than they would have with the SG at 12 per cent and drawing down their balances at the legislated minimum rate."

It says the super system is designed on the basis that "people draw down their savings in retirement".



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However, it says, if retirees "only draw down their superannuation at the legislated minimum rates, which many people currently do, those in the upper half of the income distribution will not achieve the 65-75 per cent replacement rates".

The system is designed on the basis that "people should draw down their savings to support them in retirement".

Most people in the bottom 60% of the income distribution are exceeding the replacement benchmark, suggesting "that some people may be saving 'too much' for their retirement".

"This is particularly important for lower- to middle-income earners because most of their superannuation contributions are through the SG and they do not have the option of reducing their contributions."

The review also raises questions about the equity of the current system, which provides substantial subsidies to high earners.

The review says that after a detailed consideration of the trade-off between the compulsory super system and wages, it came to the view that "the weight of evidence suggests the majority of increases in the SG come at the expense of growth in take-home wages".

"This view is based on empirical research, economic theory, evidence across a number of countries, and the original policy intent of the SG."

Treasurer Josh Frydenberg told journalists in Melbourne this morning that the Government would consider the review and other views "and make a decision on that. . . before the scheduled increase takes place [from 9.5% to 10% on July 1 next year]".

- **Paid Domestic Violence Leave**

NSW Attorney-General Mark Speakman has urged the Morrison Government to follow the State public sector's lead and introduce 10 days' paid domestic and family violence leave for all workers.

"I support my federal counterparts considering the adoption of the NSW policy as part of the National Employment Standards," Speakman said in a statement to *Workplace Express* yesterday.

The Attorney-General noted the NES operated in addition to private and public sector enterprise agreements and he commended the initiatives of large employers in providing paid domestic violence leave.

"I appreciate that the impact on small businesses would need to be carefully assessed as part of any reform to the current standards," he continued.

However, Federal Attorney-General and IR Minister Christian Porter said the Federal Government had already legislated to provide five days unpaid family and domestic violence leave for all employees as the minimum entitlement.



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"This followed the Fair Work Commission consideration of the issue based on extensive submissions from unions, employers and other interested parties, which led to the FWC deciding five days' unpaid leave was the appropriate standard entitlement for modern awards.

"This provides universal access to five days unpaid leave for all employees, regardless of the size of their employer."

The Fair Work Commission has indicated it will revisit the issue in mid-2021 and Porter said that "any further consideration at the Commonwealth level would be informed by the FWC's further consideration of the issue".

He said employers remained free to offer entitlements that suit their workplaces, with major employers including the Commonwealth Bank, having introduced paid domestic violence leave while some states had extended paid leave to their own employees and in some state awards, such as the NSW Local Government (State) Award.

Speakman said the NSW Government introduced 10 days a year of paid domestic and family violence leave per year in January last year for NSW public sector employees, including teachers, nurses, and police.

"Paid work is critical in providing financial stability to people experiencing domestic and family violence.

"The introduction of this reform to leave entitlements ensures that victim-survivors of domestic violence can seek safe housing, attend medical appointments or organise alternative care and school arrangements for their children without exhausting their other forms of leave," said Speakman who is also Minister for the Prevention of Domestic Violence.

The minister this week helped to launch a guide, Working from home when home isn't safe, developed by the ASU in association with Unions NSW and the Rape & Domestic Violence Services Australia (RDVSA).

Federal Labor will introduce a private member's Bill to include 10 days' paid domestic violence leave as a right under the National Employment Standards.

The proposed legislative change was approved by the ALP caucus today after last night being discussed by Shadow cabinet.

Opposition leader Anthony Albanese has previously called domestic violence an "epidemic" and the increased leave was in the party platform Labor took to last year's federal election.

The Bill was announced in a joint statement by four Labor shadow ministers: Tony Burke (IR), Linda Burney (Families and Social Services), Julie Collins (Women) and Senator Jenny McAllister (Communities and the Prevention of Family Violence).

The Labor frontbenchers argued that family and domestic violence is the leading cause of death, disability and illness among women aged between 15 and 44 years of age.



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"Violence against women and their children represented a national crisis before this pandemic," they said.

"In leaving abuse or violence, women incur significant time and financial costs including finding a new place to live; seeking legal support; receiving medical treatment; or enrolling their children in a new school.

"Preventing family violence is everyone's business, and it is time for the Commonwealth Government to show leadership."

Labor said the Bill will be introduced soon but has yet clarify whether this will be done in the next fortnight, after which Parliament rises for the year, or after it resumes in early 2021.

The FWC has approved awards including up to five days' unpaid leave each year and many bigger employers already provide paid family violence leave, including Medicare, CUB, Telstra, NAB, Virgin Australia, IKEA, and Qantas.

The Workplace Gender Equality Agency last week released data showing that more than a third of companies already offer some form of paid domestic violence leave, while two-thirds had a policy or strategy for it.

Some states have extended paid DV leave to their own employees and in some State awards, while NSW Liberal Attorney-General Mark Speakman last week urged the Morrison Government to extend it to all workers.

Speakman added that the impact on small businesses would need to be carefully assessed as part of any reform.

In response to the NSW call, Federal Attorney-General and IR Minister Christian Porter said last week that the Federal government had already legislated to provide five days' unpaid family and domestic violence leave for all employees as the minimum entitlement.

Porter said the FWC introduced five days' unpaid leave in modern awards and indicated it would revisit the issue in mid-2021.

"Any further consideration at the Commonwealth level would be informed by the FWC's further consideration of the issue," he said.

- **Wage Price Index (September Quarter)**

Private sector pay rates excluding bonuses increased by 0.1% seasonally adjusted and 0.5% in original terms in the September quarter, according to the ABS.

Today's quarterly Wage Price Index is the second to measure the full impact of the coronavirus pandemic, after the Bureau in the previous quarter reported the first negative result in the WPI's 23-year history, with rates of pay excluding bonuses growing at -0.1% in the private sector in original terms (with the resumption of publication of seasonally-adjusted data, the ABS says that rates *increased* by 0.1% in the private sector in the June quarter, in seasonally-adjusted terms).



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Private sector rates in the latest release grew by 1.2% annually in seasonally adjusted terms and 1.3% unadjusted.

A substantial gap has now opened up between private and public sector growth in rates, with annual increases in the public sphere of 1.8% in both seasonally adjusted and original terms.

It underlines the timeliness of the Federal Government's decision to tie Australian Public Service pay rises to private sector growth rates.

Rates excluding bonuses in the public sector grew by 0.2% seasonally adjusted and 0.4% in original terms.

Across the economy, rates grew by 0.1% seasonally adjusted and 0.4% unadjusted in the quarter and 1.4% over 12 months (seasonally adjusted and unadjusted).

Rates *including* bonuses grew by 0.6% in the September quarter in the private sector, unadjusted, after a drop of 0.1% in the June quarter.

IMPORTANT DECISIONS

- **Casual hours do not need to be predictable to be regular**

Amy Greene v Floreat Hotel Pty Ltd [2020] FWCFB 6019 (11 November 2020)

An FWC full bench has emphasised that the pattern of a casual's hours need not be consistent or predictable for their work to be regular and systematic, clearing the way for a full-time worker first engaged as a casual to file an unfair dismissal claim.

Deputy President Melanie Binet dismissed the food and beverage attendant's case in September on the basis that she had not served a minimum six-month period at Perth's Floreat Hotel in order to qualify for unfair dismissal protection.

While the attendant worked as a casual for almost a year before accepting a full-time position three months before her dismissal, the deputy president said her casual tenure could not be counted because its irregular hours meant she lacked a reasonable expectation of continuing employment on a regular and systematic basis.

Her casual hours "varied widely from week to week" without a "discernible pattern or system" of allocation, said the deputy president, adding that, "most critically", the hotel had made it abundantly clear to the attendant that she could not expect such employment as a casual.

In quashing the decision, an FWC full bench said Deputy President Binet made the same error identified in January's *Chandler v Bed Bath N' Table* full bench finding that Deputy President Amanda Mansini wrongly focussed on a worker's irregular "pattern" of days and hours in holding she had not met the minimum period (see Related Article).



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The full bench in *Chandler v Bed Bath N'Table* said by "treating the degree of regularity in the pattern of hours worked ... as the only or decisive consideration in the application of s384(2)(a)(i) (rather than merely as one of a number of relevant considerations in the analysis)", Deputy President Mansini misconstrued the provision.

It referred also to the finding in the 2006 ACT Supreme Court decision, *Yaraka Holdings Pty Ltd v Giljevicin*, that casuals' engagement on a regular and systematic basis in s11 of the ACT's Workers Compensation Act required the engagement to be regular, while the "pattern of hours worked pursuant to the engagement did not necessarily need to be regular, predictable or assured".

Vice President Adam Hatcher, Deputy President Amber Millhouse and Commissioner Nick Wilson held that Deputy President Binet wrongly "treated as the decisive consideration that the attendant's hours of work did not appear to her to be consistent or predictable from week to week".

"This was inconsistent with the proper construction of the expression 'employment. . . on a regular and systematic basis' in s384(2)(a), and indeed inconsistent with the principles concerning the interpretation and application of that expression stated in the decision by the Deputy President herself," the bench said.

The bench said the attendant's employment was in fact regular and systematic from March last year, when she was "allocated a basic roster each week and performed additional shifts as required, with her having the first choice of available hours".

It said an attendance sheet demonstrated the regular nature of the attendant's casual employment from this time, showing the hotel consistently engaged her to work substantial numbers of hours in every week and an average of about 36 hours.

It was systematic because she worked in accordance with a roster established in consultation with her, with rostered hours constituting the large majority of her actual weekly hours.

The bench said, "regular casual work undertaken in accordance with an established rostering system may reasonably be described as systematic in nature".

It was also "difficult to avoid the conclusion that she had a reasonable expectation of continuing employment on the same basis", given she was able to "select when and for how long she worked out of the available hours for each upcoming week".

Satisfied therefore that the attendant completed the minimum employment period, the bench referred her unfair dismissal application back to Deputy President Binet.

- **Alternative job allowed for reduction in redundancy payments**

ASG Maintenance Pty Ltd v Robert Lord [2020] FWC 5894 (4 November 2020)

The FWC has reduced a mechanic's redundancy pay after finding it reasonable for a rural NSW project-based company to offer redeployment that added almost two hours to his daily commute.



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Mudgee-based labour hire and hydraulic services company ASG Maintenance offered to redeploy the light vehicle mechanic to a gold mine in Tomingley or its equipment workshop in Dubbo after his work at Moolarben Coal Mine concluded.

The mechanic, who lives in the NSW Central West township of Gulgong and is the director of its local RSL Club, said his return commute to Moolarben, 31 kilometres away, took about an hour a day.

In contrast, it would take an extra one hour and 23 minutes each way to travel the 163 kilometres between his home and Tomingley Gold Operations, with that position also paying about \$30,000 less a year due to decreased hours.

The Dubbo position, situated 113 kilometres from his home, would add an extra 52 minutes each way, the mechanic said.

Arguing both positions were too far to commute safely on a daily basis before and after a 10-hour shift, he said in each case he would need to stay at least four nights a week in Dubbo to minimise fatigue and safety risks.

He would also suffer "major undesirable changes to his lifestyle" and social and community activities, especially given he could no longer perform his duties as director of the Gulgong RSL Club, the mechanic said.

ASG said, however, that his employment terms contemplated a change of location due to the project nature of its business and specified he might have to travel between areas in which it operates and spend days away.

Because he rejected both positions and it had nothing else available, the company applied under [s120](#) of the Fair Work Act to reduce his seven-week redundancy payment entitlement to zero.

Deputy President Lyndall Dean agreed with the mechanic that the Tomingley position would not constitute acceptable alternative employment, because of the substantial loss of income and significant additional travel.

She said it would "involve an approximate 326-kilometre round trip daily" from his home and "require him to drive nearly four hours each day as opposed to the one-hour trip to and from Moolarben".

But while this was "excessive and not reasonable", the deputy president held that the extra travel time to Dubbo was not excessive "taking into consideration of the nature of ASG's business and its rural location".

Satisfied that it qualified as other acceptable employment for the mechanic within the meaning of [s120\(1\)\(b\)\(i\)](#), she held there "should be some reduction" in his redundancy payment "but not a reduction to zero as sought by ASG".

Deputy President Dean found it "appropriate in all the circumstances" to reduce his redundancy entitlement to five weeks' pay.

- Is it a refusal of a lawful direction to refuse a vaccination?

Ms Nicole Maree Arnold v Goodstart Early Learning Limited T/A Goodstart Early Learning [2020] FWC 6083 (18 November 2020)

A senior FWC member has found it arguable a childcare worker unreasonably refused a lawful direction when she declined a mandatory flu vaccination, in a decision rejecting her bid for a one-day extension of time for her unfair dismissal claim.

In her rudimentary assessment of the merits of the Goodstart Early Learning group leader's unfair dismissal case for the purpose of deciding whether to extend time on the basis of exceptional circumstances, Deputy President Asbury found they were not "so apparent" as to weigh in favour of an extension.

The group leader claims Goodstart should have made reasonable adjustments to accommodate her vaccination refusal.

Deputy President Asbury also found it "strongly arguable" that the group leader cited irrelevant case law cited by the group leader as it "deals with accommodation in relation to incapacity based on mental or physical disability".

"In the present case the [group leader] did not refuse to be vaccinated for any apparent medical reason," she said.

Deputy President Asbury said she would not go so far as to say the group leader's case lacked merit.

But she ruled it at least equally arguable that Goodstart's mandatory vaccination policy is "lawful and reasonable in the context of its operations which principally involve the care of children, including children who are too young to be vaccinated or unable to be vaccinated for a valid health reason".

She said *prima facie*, the policy is "necessary to ensure that it meets its duty of care with respect to the children in its care, while balancing the needs of its employees who may have reasonable grounds to refuse to be vaccinated involving the circumstances of their health and/or medical conditions".

"It is also equally arguable that the [group leader] has unreasonably refused to comply with a lawful and reasonable direction which is necessary for her to comply with the inherent requirements of her position, which involves the provision of care to young children and infants."

The former Goodstart Early Learning group leader said she contacted five law firms in the three weeks following her dismissal, contending each of them caused "significant delay" and proved unable to assist in time.

She said lawyers were "for the most part operating from their homes" due to the pandemic at significantly reduced capacity and told her they were too busy to help or would not be available for three months.

The group leader said one law firm "knocked out 12 days" from the 21-day filing window, but then responded to her request with an invitation to join a class action.



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Another cancelled a meeting a few days shy of the deadline.

Finally, on the day after it was due, she contacted another lawyer who was able to immediately file her application.

Deputy President Ingrid Asbury refused to grant the group leader the one-day extension, on the basis that she failed to establish exceptional circumstances within the meaning of s394 of the Fair Work Act.

The deputy president found her explanation predicated on the "erroneous proposition" that she had to engage a law firm to assist with her claim and her inability constituted an exceptional circumstance.

Noting representation by a lawyer or paid agent in an unfair dismissal case is "more of an exception than a rule" and requires permission, she said there is nothing unusual about an unrepresented person filing an unfair dismissal application.

Not only are the procedures designed to be "quick, flexible and informal", she said people with poorer language and literacy skills than the group leader managed to file correctly and within time.

While she described some of the group leader's correspondence as "bizarre", Deputy President Asbury said it "does not evidence any issues with respect to literacy".

In an email to Goodstart, the group leader said she was "of the blood of the House of Arnold, relying upon the King James Version of the Holy Bible, Romans chapter 2 verse 11, which states: For there is no partiality with God. I am not the Government created entity or person, nor am I, a ward of the State. . . Therefore, I shall not be compelled to swear oaths, my word is my bond".

"I am a woman, I am a non-combatant, non-belligerent civilian. I hold no title or Military Rank, including but not limited to: Miss, Ms or Mrs," the group leader wrote.

To justify her non-consent to vaccination, the group leader cited the 1930 Forced Labour Convention No. 29, Article 2, the Nuremberg Principles No III and IV; s51, XXIII A of the Australia Constitution Act, the Universal Declaration of Human Rights, High Court judgments, medical journal articles and definitions drawn from a range of dictionaries.

Deputy President Asbury said if the group leader could send such emails and conduct the research to do so, "there is no reason why she could not have applied herself to researching remedies for unfair dismissal" and filing the application in time.

The fact that a number of law firms said they could not represent the group leader was not only unexceptional, but the deputy president considered it might have been connected to the group leader's position on vaccinations.

Noting none of the lawyers cited COVID-19 as the reason they could not represent her, Deputy President Asbury said it was "at least equally probable" they "chose not to align themselves with her views or declined to represent her for other reasons".

In any case, her evidence showed she did not in fact lose time waiting for their replies but had continued to seek assistance elsewhere.



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IMPORTANT DATES

Note: The 2021 Calendar will be provided in next month's edition.



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