Smart Guide No. 3

Handling Grievances and Disputes, Workplace Investigations, Union Influence/action and Right of Entry, Industrial Action

Supporting documentation and proforma letters may be found in Tool Packs No.1 and 2.

This will be indicated in the text by the following: (TP1) or (TP2).

All information contained in this guide is current at time of release.

Handling Workplace Grievances and Disputes

One of the most common forms of disruption at the workplace is when a grievance or dispute occurs which disrupts the normal flow of work and affects relationships between staff and management. Workplaces are microcosms of society in general and despite the best efforts of any organisation, there are a myriad of trigger points which can give rise to a workplace grievance or dispute. These include but are not limited to:

- Union influence/action
- Disputes over workplace wages or conditions (including enterprise bargaining)
- Demarcation issues
- Management action (restructuring, downsizing)
- Disciplinary action and performance management
- Bullying, harassment, or discrimination
- Disputes between employees
- Personal disputes brought into the workplace
- Cultural differences
- Workplace health and safety issues or incidents

When faced with an employee grievance or dispute it is important to follow a grievance procedure or policy so all parties are clear on how their grievance may be dealt with and what their options are.

Workplace Investigations

When a situation or incident occurs at the workplace which involves a disputed depiction or version of events it is necessary to establish and record the facts so that appropriate action may be taken, and policies and procedures are followed.

This is critically important in the case of workplace bullying or workplace discrimination, terminations and even workplace health and safety matters.

Some of the more common matters that might give rise to a complaint that requires a workplace investigation are:

- Assault
- Absenteeism
- Dishonesty

- Corrupt behaviour
- Harassment
- Abuse
- Diminished performance
- Breaches of policy
- Breaches of confidentiality
- Fraud or theft

In the case of a workplace dispute or grievance such as bullying or discrimination, once a complaint or allegation has been received it must be investigated, dealt with, and recorded in accordance with any policies or procedures that may be in place in the organisation.

The key purpose of conducting an investigation is to eliminate issues of:

- Emotion
- Perception
- Malice
- Discrimination
- Pranks

The findings of investigations carry different burdens of proof with criminal proceedings requiring 'beyond reasonable doubt' and employment related proceedings being determined on the 'balance of probabilities'.

These distinctions on the respective burdens of proof can be essential if the matter progresses to a court or industrial tribunal.

Some definitions to assist you in the process include:

A fact: something that has really happened or is the case (the reality), an actual or alleged physical or mental event or existence as distinct from a legal effect or consequence.

Evidence: that which is,

- Written
- Said
- Not said
- There or
- Not there

What is not considered evidence:

- Thoughts
- Rumours
- Innuendo
- Hearsay
- Opinion
- Assertions that it must have happened in this way

> ***Did you know?***
> In Queensland there is no legal obligation to report suspicion of criminal conduct but there is in the other states. Section 133 of the Criminal Code (Queensland) makes it an offence to seek some benefit in exchange for not reporting suspected criminal conduct. This means that a statement that no action will be taken if stolen company property is returned could breach Section 133 of this code.

When conducting an investigation, it is important that the facts are considered, and these are differentiated from what is not considered evidence. Through this process you must also be aware of your own biases to ensure the investigation is fair and has legal standing.

Depending upon the circumstances, it may be practical to stand down the parties until the investigation is completed. Generally, this is paid time and the terms of the stand down will depend upon the parties' employment status.

If it is not possible to stand down the parties involved in an investigation, all steps should be taken to minimise their contact by physically separating them while at work. This must be done giving due consideration to confidentiality and the impact it may have on involved parties and other members of the workplace.

In the first instance, the main points to consider when commencing a workplace investigation are:

- What are the issues, claims or allegations?
- What are the applicable organisational policies or legislative requirements that apply?
- Who are the parties to be interviewed and in what order?
- What are the crucial questions that you intend to put to the complainant and the respondent?
- If the case involves fraud or theft, are third parties or agencies such as the Taxation Department, ASIC, or the Police to be informed / involved?

In the case of serious criminal activity, it may be necessary to involve the police in the first instance rather than before investigating internally. If this occurs it is best to seek advice from an HR/IR or legal professional or the police before proceeding.

The parties should be advised in writing of the nature of the complaint, who has made the allegations, what the allegations are in detail, who will be investigating the matter, what the general timeframes for the investigation will be and copies of any relevant workplace policies and procedures.

The parties should also be advised that the process is confidential, and they should not discuss the matter with other members of the workforce and particularly with other parties who may be interviewed or requested to provide a witness statement.

It is crucial that in any interview, staff are given the opportunity to have a support person present. A support person may be a workmate, family member or friend (in the case of a disputed dismissal it may not be a lawyer at the first interview). The role of the support person is to be there for support only and to witness the events and the discussion; they are not there to be the employee's advocate or representative and therefore should not speak on behalf of the employee. It may be necessary to clarify understanding of these roles at the start of the interview or before it commences.

All investigations should be carried out fairly and impartially without any bias or prejudgement. The onus of the investigation will be on 'procedural fairness' to those involved. Failure to apply due process and to apply the principles of natural justice through the process of an investigation may inhibit the ability to uphold the outcome of an investigation.

Depending on the nature of the business and the complaint, an external investigator may be engaged to run this process. This may be particularly useful in complicated complaints, or where a higher level of impartiality is required. Before you commence an investigative process, be aware of any bias or conflict of interest you may have and if you feel you cannot be impartial, it would be wise to seek external services to assist in the process.

It is not good practice for the investigator to be a person to whom the respondent reports, as this can portray a conflict of interest. The investigator should have some form of training and/or experience in conducting investigations and should have no conflict of interest with any parties involved.

If the issues involved are complex, major, or highly sensitive it can be beneficial to attain advice from legal or other related professionals such as IT or accounting.

Lawyers can be useful to advise on police involvement, the level and extent of possible criminal offence (particularly in bullying/harassment cases) and general legal practice.

The role of investigator is to:

- Gather the facts and any documentation or evidence available
- Review the facts and let them present their own theory
- Avoid preconceived theories
- Utilise facts to test the veracity of the theory
- Not jump to premature conclusions
- Keep an open mind until all facts are presented, all interviews are conducted, and all evidence is supplied

Once the parties have been identified and notified and the interview commences you should:

- Introduce yourself and any other party that may be present such as a HR representative, management representative or advisor
- Explain to the parties your role and the terms of reference that the investigation will follow including the proposed timeframes
- Explain the confidentiality process and advise of your role - you will interview the parties and establish the facts as far as practicable
- Declare that you have no conflict of interest, you have the authority to investigate the matter and ask if they have any objections to you being the investigator
- Ask the respondent if they are aware of the details of the allegation or complaint (if they say that they do - request that they tell you in their own words so that you can evaluate their understanding, if they say no - summarise the complaint or allegation for them and confirm understanding)
- Ask if they would like to have a support person present during the investigation interview (if this has not been established)
- Before proceeding, ask if they are in agreement with the process that you have outlined, your role as investigator and whether they are prepared to proceed with the interview
- Explain in detail the process you intend to follow including statements and note taking, what happens to the statements or notes after the interview and what will happen next including the timeframe to complete the investigation
- Ask if the respondent has any questions before you commence the interview

Once the interview has been completed you should:

- Ask if the respondent has any concerns with your handling of the interview and the process used
- Once again reinforce the need for confidentiality and what consequences may occur if this confidentiality is breached including the rights of all parties and the risk of victimisation

Obtaining documents relevant to an investigation

Potential documents that may be useful when conducting an investigation include:

- Business records
- Personnel records
- Roster or shift records
- Payroll or pay office records
- Accounts
- Private files kept by Management
- Diaries and diary notes
- Electronic diary entries
- Emails
- Security records
- Time records, Bundy clocks, timesheets etc.
- Financial records such as mobile phone, company credit card, expense reports and bank statements

Where there is any suspicion that email, or internet misuse has occurred it is important to examine the hard drive of relevant computers. It is relatively easy for the entire contents of a computer hard drive to be recovered, although this usually requires specialist software and the assistance of an external agent to recover the material. Depending on the size of the organisation, the IT team may be able to restore the email system back to a certain date or time to recover any emails which have been deleted.

Other factual evidence to be considered:

- Corroborative evidence from other parties
- Evidence of other parties which tends to disprove the complaint
- Events/items which go to the credibility of persons giving statements
- Events/items going to the credibility of the allegation which is being made

All statements should be signed and dated, and interviews recorded with a recording device (with the parties' permission) or at least by handwritten notes.

Once the interview/s have been completed it may be necessary to review the process to establish whether:

- Any questions should be repeated
- Any issues identified which need clarification
- Any further information that should be put to the witness
- Whether there are any further inquiries to be made or additional witnesses to be questioned

It should also be recognised when conducting a workplace investigation that all the material collected is discoverable and you may need to provide evidence to justify the investigation and its process. Essentially - you may be cross examined on your investigations.

The most effective method to retain your position through cross examination is to conduct the investigation thoroughly and follow the above processes.

Once the investigation has concluded it may be useful to have an appropriately qualified third party review the findings and make the final decision on the outcome and course of action. By engaging a third-party decision maker in the process, you will not only strengthen procedural fairness but also ensure any biases which could develop through the interview process do not affect the outcome of the decision.

Sometimes your investigation may rely on external investigations which have already been conducted by:

- Police
- Criminal Justice Commission
- Centrelink
- Workplace Health and Safety
- Private Investigators
- Taxation officials
- Other external bodies

Some basic tips to summarise the process

- Always investigate a complaint
- Carefully document the investigation

- Plan the investigation and ensure that the selection of the investigator and /or the team does not create any charges of bias or unfairness
- Do not raise the expectations of the complainant or delay the investigation process
- If the respondent to the complaint is a senior person in the organisation be careful to allay any assertions that the investigation went easy on that person because of their position in the company
- Always enforce the confidentiality of the process to all parties
- Ensure that the respondent is fully aware of the case against them and that they are given the right to respond to the complaint
- All statement should be factual and not contain unnecessary or irrelevant comments
- Make sure that a decision is made following the investigation and that this decision is communicated to the relevant parties

Bullying and harassment investigations

The amendments to the Fair Work Act from January 2014 allows a worker who reasonably believes they have been bullied at work to apply to the Fair Work Commission (FWC) for an order to stop the bullying. The FWC must investigate the claim within 14 days and eligibility to apply for relief under the new rules is open to any person who carries out work in any capacity for a person conducting a business or undertaking.

All applications must be accompanied by a fee and eligible categories also include:

- Contractors
- Students gaining work experience and
- Volunteers

These categories were previously covered under anti-discrimination and bullying legislation but were generally dealt with in the Anti-Discrimination Tribunals or the Human Rights and Equal Opportunity Commission. The difficulty with these bodies and tribunals is that the majority of outcomes are monetary settlements rather than solution-based outcomes.

The amendments introduced to the Fair Work Act in relation to bullying have clearer guidelines for applications, where an individual or a group of individuals must repeatedly behave unreasonably towards the worker (as defined) and that behaviour must create a risk to health and safety.

It must also be demonstrated that the behaviour has to be repeated and unreasonable and may include actions that are:

- Victimising

- Humiliating
- Intimidating or
- Threatening

The bullying must occur while the person is engaged by one of the following:

- A ‘constitutional corporation’
- The Commonwealth
- A ‘commonwealth authority’
- A body corporate incorporated in a territory or
- A person conducting a business or undertaking principally in a territory or Commonwealth place

The coverage of the new anti-bullying laws will be less than that of the Fair Work Act. Access will not be available to persons working for individuals or partnerships outside the NT or ACT.

As of January 2014, the FWC also have the powers to arbitrate before commencing court proceedings and to award costs based on the conduct or motive for lodgement being unreasonable.

Considering these developments and with increased access, employees have two avenues when they believe that they have been subject to unfair or bullying behaviour. It is important to examine your workplace policies and procedures and ensure that they are up to date and cover all the required circumstances.

You must also conduct relevant training on the policies and procedures and ensure that all employees, contractors, students, and volunteers have access to these documents. This is usually completed at the induction stage as soon as possible after the employee’s commencement, with refresher sessions every few years, or as changes are made.

Having policies and procedures in place which have not been properly maintained or communicated to employees, is of little use if an incident occurs and a formal defence is required.

It is important for management to understand that most management actions are not grounds for bullying or harassment. This is assessed on whether the action is considered reasonable and conducted in a fair and reasonable manner. Some considerations might include a performance management process and equal treatment of staff in a similar situation.

There are many aspects of the new laws that can provide long term benefits to an organisation and although there is a perception that the new laws and the Fair Work Act are weighted towards the employees, employers are still able to conduct their business in the way that they see fit and

deal with employee performance issues, redundancies, dismissals and workplace health and safety matters so that they achieve the best outcomes possible.

The key differences revolve around the processes and procedures that are adopted in carrying out these actions and this is where most employers face their difficulties. Employers must be aware that when dealing with these matters there is a higher level of compliance and adherence to be followed, which in most cases requires careful analysis and planning before action.

Union Influence/Action and Right of Entry

Union membership in Australia is not particularly uniform or consistent with approximately 1.8 million trade union members which represents approximately 1 in 5 workers. Trade union membership was more popular with full-time workers, with 21% belonging to a union compared with 15% of part-time employees. About 4 in 10 public servants and teachers belonged to a trade union. Conversely, the private sector average was 14%. Only 4% of people in the science and technical services fields were part of a union.

Union membership generally fluctuates according to the political and financial status of the country and there was a definitive increase in union membership at the latter stages of the Howard Government and the introduction of Work Choices.

The larger the organisation the more likely it is to have an organised union presence which requires an extra level of skill when dealing with workplace grievances. In some cases, the option of dealing with a union can be beneficial to the organisation as they can provide a structure to the processes and are often trained in dealing with workplace matters. This can be useful especially when dealing with enterprise bargaining issues and the negotiation of new and/or replacement agreements where it is common for employee expectations to be in excess of the organisation's position and offers in relation to wages and conditions.

The best way to deal with a negative union presence is to mirror some of their more successful practices such as grass roots communication to not only keep employees informed but to genuinely listen to their grievances and proactively deal with them. Even in cases where employee claims are not agreed to, the process of delivering the message in a factual and non-antagonistic fashion quite often goes a long way to minimising the likelihood of an industrial flashpoint.

Employee newsletters and staff meetings at least once a year assist in employee relations by showing employees that their services are valued, and that the organisation keeps them informed of the company's well-being and the stability or otherwise of their positions.

All modern Awards have dispute and consultation clauses contained in them and all enterprise agreements are required to have these clauses. The model clause below may be used in an enterprise agreement or as the base for a workplace specific grievance and dispute policy.

Workplace Dispute Model Clause

Dispute resolution

40.1 Clause 40 sets out the procedures to be followed if a dispute arises about a matter under this award or in relation to the NES.

40.2 The parties to the dispute must first try to resolve the dispute at the workplace through discussion between the employee or employees concerned and the relevant supervisor.

40.3 If the dispute is not resolved through discussion as mentioned in clause 40.2, the parties to the dispute must then try to resolve it in a timely manner at the workplace through discussion between the employee or employees concerned and more senior levels of management, as appropriate.

40.4 If the dispute is unable to be resolved at the workplace and all appropriate steps have been taken under clauses 40.2 and 40.3, a party to the dispute may refer it to the Fair Work Commission.

40.5 The parties may agree on the process to be followed by the Fair Work Commission in dealing with the dispute, including mediation, conciliation, and consent arbitration.

40.6 If the dispute remains unresolved, the Fair Work Commission may use any method of dispute resolution that it is permitted by the Act and considered appropriate for resolving the dispute.

40.7 A party to the dispute may appoint a person, organisation or association to support and/or represent them in any discussion or process under clause 40.

40.8 While procedures are being followed under clause 40 in relation to a dispute:

(a) work must continue in accordance with this award and the Act; and

(b) an employee must not unreasonably fail to comply with any direction given by the employer about performing work, whether at the same or another workplace, that is safe and appropriate for the employee to perform.

40.9 Clause 40.8 is subject to any applicable work health and safety legislation

One of the common areas of workplace disputation (particularly where unions are involved) occurs where employees believe they have not been consulted about any changes in the workplace which may affect their employment. Employees may also have access to the General Protections provisions (Adverse Action) contained in Division 3 of the Fair Work Act 2009 under these circumstances.

Highly unionised workplaces are generally well regimented and aware of their rights and responsibilities due to the union structure of elected officials and workplace delegates. They also usually have award coverage and grievance and dispute handling policies which can assist employers when disputes arise.

Unions have specific rights to represent their members and employees have freedom of association rights to choose to belong or not to belong to a union.

The Right of Entry provisions are contained in Part 3-4 of the Fair Work Act 2009 and these provisions allow union accredited officials permission to enter a workplace in the following circumstances:

- For the purpose of investigating a suspected breach of the Fair Work Act 2009 or an instrument covering employees working at the site/workplace
- To inspect any work, process, or object relevant to the suspected breach
- To discuss or interview any person about the suspected breach who the entry permit holder is entitled to represent or who agrees to be interviewed
- For the purposes of investigating possible breaches of The Workplace Health and Safety Act

Division 4 of Part 3-1 contains the freedom of association protections which provide protection against adverse action where action has been taken against a person in relation to the following:

- The person is or is not a member of an industrial organisation
- Engages in, has engaged in or proposes to engage in industrial activity
- Does not engage in or has at any time not engaged in or proposed to not engage in industrial activity
- A person has taken part in an industrial activity
- A false or misleading representation has been made to coerce a person to take part to participate in an industrial activity (Section 348)

Section 481 of the Fair Work Act (FWA) allows a right of entry permit holder access to enter premises for the purpose of holding discussions with:

- One or more employees who perform work at the workplace
- Those whose industrial interests the permit holder's organisation is entitled to represent
- Those who wish to participate in discussions with the right of entry permit holder

With the implementation of the Fair Work Amendment Bill there are additional changes to union rights of entry and the role of the FWC to handle related disputes.

After this date, the following also applies:

- If the business and permit holder are not able to come to an agreement regarding room use for member discussions and investigations, a break area such as a lunchroom or cafeteria will be made available.
- The FWC can deal with disputes relating to the frequency of the visits
- If the site or business is in a remote area the employer must provide accommodation and travel costs/transportation to the permit holder and the FWC will deal with any related disputes.

In the case of *Hogan vs. Riley 2010 FCAC 30* the Full Court of the Federal Court handed down a decision based on an appeal that union officials were entitled to enter a site without prior notice for the purposes of investigating WH&S breaches in this case under the provisions of the ACT Occupational Health and Safety Act 1989.

If you are unsure about the right of entry conditions of a union or union official there are a range of protections for employers that remain to prevent unauthorised entry and associated potential industrial unrest. This includes:

- A requirement upon request for the union official to produce a right of entry permit if they want to be granted access to employee records or any other related documents
- The union official must be a 'fit and proper person' without a history of misuse of an entry permit

It is possible to apply to the Fair Work Commission (FWC) to have conditions imposed or entry permits refused or revoked under Section 508 of the FWA if you have the required evidence.

Section 487 of the FWA provides that a right of entry permit holder must give the employer an entry notice at least 24 hours but not more than 14 days before the entry. The entry notice should set out the reasons for the required entry and any details of alleged breaches as well as a declaration that the right of entry permit holder has the entitlement to represent an affected member at the location.

Sections 481 and 483A of the FWA also require that the right of entry permit holder must 'reasonably suspect' that a breach or breaches have occurred in order to proceed. The employer also has responsibility to ensure that they do not 'refuse or unduly delay entry onto premises by a permit holder who is entitled to enter the premises' as contained in Section 501 and in Section 502 'must not intentionally hinder or obstruct a permit holder exercising rights in accordance with this part'.

While there are a multitude of actions available to resist or restrict right of entry to union officials these actions require technical application and/or assistance and can often inflame a situation to where the dispute grows around right of entry issues rather than dealing with the actual issues. This can prove counterproductive in the long term.

Unless there are historical or genuine industrial reasons to resist right of entry of union officials it is best to deal with them and any union members at the workplace in a professional and courteous manner. If relationships deteriorate you can seek a remedy through the FWC and the FWA. They are able to enforce right of entry provisions and industrial action is well regulated with severe penalties for significant breaches.

Industrial Action

The number and intensity of workplace strikes, and unlawful and disruptive industrial action has dramatically declined over the last twenty years where previously, walking off the job and national union stoppages were part of the industrial landscape in Australia.

There has been a gradual tightening of the laws which limit the ability for employees and/or unions to take strike action which may damage the employer and associated entities. There are significant restrictions on the ability to take protected industrial action and the penalties for breaching these provisions can be legally and financially dramatic for the offender/s and /or their organisations.

Both the previous Work Choices Act 2005 and the Fair Work Act 2009 contain provisions to limit the ability of employees to withdraw their labour as a bargaining tool against their employer. The current legislation attempts to restrict the ability to take industrial action to the negotiation phase of the enterprise bargaining process.

These laws do not apply to work health and safety disputes and concerns over unsafe practices or worksite as these are covered under workplace health and safety laws.

The difference in these new laws is that if the correct process is followed, employees have the legal right to take protected industrial action without fear of retribution.

The level of industrial action has remained steady since the Coalition was elected to government in the Federal election in 2013. Labor's Fair Work regime was not replaced, mainly due to the Modern Award system and how it hands back some of the state powers in industrial relations which has resulted in a more streamlined and efficient framework being difficult to reinstate.

When compared to 2009 (the year the Fair Work laws started to take effect), days lost to industrial action in 2015 are very similar. Data from the Bureau of Statistics shows that industrial action is rarer than it was 20 years ago, when many more employees were members of unions.

In 1992, nearly 1 million days were lost to industrial action.

A concerning statistic as presented by the Master Builders Association is that disputes in construction were at a seven-year high during 2012 and this area remains one of the most highly unionised and industrially volatile working sectors with 39% of the total days lost in 2016. Although there are significant penalties for taking unauthorised or illegal industrial action, it is still very difficult to progress claims against an individual or union where the stoppages are sporadic and not part of a formal process.

Often the cost of proceeding with action under the legislation is cost and time prohibitive, however the correct process that must be followed by employees to take protected industrial action is as follows:

- It must be part of a collective bargaining process
- It must be in support of a bargaining process
- The claims must be 'permitted' matters
- It must be organised by a Bargaining Representative or employee
- It must not relate to a demarcation dispute
- The action cannot relate to a 'greenfields' agreement
- There must be a genuine attempt to reach agreement
- All required notice periods must be met
- No orders in relation to the industrial action are to be contravened
- The action must not take place before the nominal expiry date of an enterprise agreement
- No other orders, suspensions or agreement terminations are in place

In order to apply for protected industrial action it is necessary for the accredited Bargaining Agent to apply to the FWC. The application must detail who is covered by the application and whether they request the Australian Electoral Commission to conduct the ballot or the name of an alternate person.

No application for protected industrial action may be applied for under 30 days prior to the expiry of an enterprise agreement existing at the workplace. A copy of the application must be supplied to the employer concerned within 24 hours of the application being lodged.

To be eligible to vote in the ballot determining the outcome of the request to take industrial action, the person must be an employee who would be covered by the terms and conditions of the agreement. The ballot must be conducted in accordance with the procedures described in S437 of the FWA.

The taking of protected industrial action will be authorised where a majority in excess of 50% of the employees eligible to vote voted in favour of taking industrial action. If the vote is successful and industrial action is to take place, it must proceed within 30 days from the date the ballot was commenced.

Pattern bargaining (bargaining that affects more than one employer and seeks to claim similar items) is not protected under these provisions, nor is the pursuit of claims which are unlawful.

The protected industrial action may be suspended on application to the FWC if the action is causing economic harm to the employer or to the employees.

If there is no likelihood of the dispute being resolved in the near future or there is significant harm being caused to third parties as a consequence of the industrial action, the FWC also has the power under Section 425 to suspend the industrial action as a 'cooling off' process. This may be done to allow work to resume for a period and the parties to reconsider their respective positions without the heat of a work stoppage. Penalties for breaching these provisions are severe and they include a fine or injunction imposed upon the parties by the Federal Court or Magistrates Court.

Although the laws relating to and allowing the taking of protected industrial action are quite strict, employers must be aware of these rights when contemplating strategies in relation to enterprise bargaining agreements and avoid the negotiations deteriorating to the point that they face a sanctioned workplace stoppage.

Many workplace disputes arise where there have been decisions and/or changes made which the employees are aggrieved about and will or may impact their duties or future with an organisation. Downsizing, restructuring, rightsizing, up skilling, multi-skilling, and demarcation are some of the main issues which give rise to disputes of this nature.

All modern awards include a consultation clause which seeks to reduce the likelihood of disputes where change occurs, and a consultation clause is required to be inserted in all enterprise agreements.

The clause below may be used as a model clause in an enterprise agreement or as the base for a workplace specific consultation/workplace change policy.

Model consultation terms

Consultation about major workplace change

38.1 If an employer makes a definite decision to make major changes in production, program, organisation, structure or technology that are likely to have significant effects on employees, the employer must:

(a) give notice of the changes to all employees who may be affected by them and their representatives (if any); and

(b) discuss with affected employees and their representatives (if any):

(i) the introduction of the changes; and

(ii) their likely effect on employees; and

(iii) measures to avoid or reduce the adverse effects of the changes on employees; and

(c) commence discussions as soon as practicable after a definite decision has been made.

38.2 For the purposes of the discussion under clause 38.1(b), the employer must give in writing to the affected employees and their representatives (if any) all relevant information about the changes including:

(a) their nature; and

(b) their expected effect on employees; and

(c) any other matters likely to affect employees.

38.3 Clause 38.2 does not require an employer to disclose any confidential information if its disclosure would be contrary to the employer's interests.

38.4 The employer must promptly consider any matters raised by the employees or their representatives about the changes in the course of the discussion under clause 38.1(b).

38.5 In clause 38 **significant effects**, on employees, includes any of the following:

(a) termination of employment; or

(b) major changes in the composition, operation or size of the employer's workforce or in the skills required; or

(c) loss of, or reduction in, job or promotion opportunities; or

(d) loss of, or reduction in, job tenure; or

(e) alteration of hours of work; or

(f) the need for employees to be retrained or transferred to other work or locations; or

(g) job restructuring.

38.6 Where this award makes provision for alteration of any of the matters defined at clause 38.5, such alteration is taken not to have significant effect.

Consultation about changes to rosters or hours of work

39.1 Clause 39 applies if an employer proposes to change the regular roster or ordinary hours of work of an employee, other than an employee whose working hours are irregular, sporadic or unpredictable.

39.2 The employer must consult with any employees affected by the proposed change and their representatives (if any).

39.3 For the purpose of the consultation, the employer must:

(a) provide to the employees and representatives mentioned in clause 39.2 information about the proposed change (for example, information about the nature of the change and when it is to begin); and

(b) invite the employees to give their views about the impact of the proposed change on them (including any impact on their family or caring responsibilities) and also invite their representative (if any) to give their views about that impact.

39.4 The employer must consider any views given under clause 39.3(b).

39.5 Clause 39 is to be read in conjunction with any other provisions of this award concerning the scheduling of work or the giving of notice.

The use of these clause places onus on the employer to ensure that a consultation process is entered into to reduce the possibility of industrial unrest.

Consultation clauses must also include 'genuine' consultation with employees if there is a change to working hours or rosters. Employers will be required to notify employees, seek feedback on how these changes might affect them and consider the impact of these changes on staff.

In the case of a redundancy occurring, it is important to follow the required consultative process and ensure that the following occurs:

1. There is consultation with the affected employees in accordance with the terms of any applicable award or enterprise agreement covering these employees (TP2)
2. Consideration is given to the option of relocating or retraining the employees within the organisation and if this option exists, an offer is made to the affected employees.
3. You meet the obligations of any affected employees who may be on parental leave by discussing and providing information on any relevant changes which may affect the position of the employee on parental leave
4. If their pre-parental leave position is going to be made redundant, they are entitled to return to an available position that is closest to their pre-parental leave role, providing that a position is available, and they are suitably trained and qualified to perform the duties of the alternate role
5. If the employee/'s position is to be made redundant, you ensure that the employee receives the appropriate redundancy payments either under the terms of the National Employment Standards (NES) or any applicable contract or company policy

When determining the actual employees to be made redundant there are a number of recognised methods which are deemed to be acceptable by the relevant tribunals including:

- **Seniority or 'last on first off' principle**: although this method was once the standard practice it has now been recognised that this approach may give rise to age discrimination claims and it can also deplete the corporate knowledge of the business
- **Job performance:** this method should be undertaken so that the poorest performing staff are made redundant to improve the overall efficiency of the organisation, but it must be handled carefully and be procedurally correct in its application

- **Potential:** this method is where the employees identified to have the least potential are made redundant and requires the procedure to be handled carefully and be procedurally correct in its application
- **Voluntary redundancy:** this method is widely used but can create expectations in the workforce and can also result in a mass exodus of the more experienced staff that are more likely to be able to find alternative employment

It is important in this process to ensure that staff understand that the employer retains the power of veto over voluntary redundancy applications and that their application is an expression of interest only. There should be a fixed period of time for the applications to be submitted and the responses supplied and employees on leave must not be excluded from the process.

Careful planning and costing of all options should take place prior to implementing a redundancy program to ensure:

- The cost effectiveness of the process and the required outcomes are identified and achievable with clear timeframes and costings
- There is a corporate communication strategy to deal with the process
- All other contingencies have been considered
- Especially in the case of a voluntary redundancy program, the capture and retention of corporate knowledge of individuals is considered and managed
- Contingencies are in place to deal with sudden changes in the market or client needs to handle operational variances and commitments
- All the correct notification and technical steps are followed
- Management representatives are briefed and/or provided with the required information to deliver to employees so that the communication is timely and consistent
- All employees are treated with dignity and respect

In the case of an unfair dismissal or anti-discrimination claim arising from a redundancy situation it will be up to the employer to demonstrate that procedural fairness was applied. Adherence to the principles outlined in this clause also greatly reduce the possibility of claims in relation to unfair dismissal (especially in the case of redundancies), adverse action and discrimination.

If the redundancy process results in 15 or more employees being made redundant, Section 530 of the FWA provides that the employer must provide written advice to Centrelink outlining the details of the proposed redundancies.

Some employers (depending upon the composition and number of employees to be made redundant) provide employment counselling services to employees to assist them in finding

alternate employment. This applies more for senior executive roles and for employees engaged under a management contract, but it can be a useful tool in assisting with the implementation of a large-scale redundancy project.

One of the most often forgotten consequences of a redundancy project is the outcome and effects it has on the remaining employees. This hangover from the redundancy process is loosely called the 'survivor syndrome' and generally applies to those employees whose positions have remained.

These remaining employees often feel the organisation has let their colleagues down and they may have lost friends and workmates in the process. They may also feel increased pressure is being applied to their role to take on additional tasks previously performed by retrenched employees and/or there may be an element of resentment and anger at the way the process was handled and the impact that it will have on their future with the company.

The 'survivor syndrome' if not effectively managed can create a negative and non-productive period immediately following a redundancy process and requires structured intervention and management support to gain back the confidence of employees.

Employers who are correctly focussed on the financial and operational outcomes of the redundancy program may suddenly find that productivity and morale has dropped, and they are faced with a whole new set of workplace problems. The best way to deal with these issues is to keep employees informed as much as possible about the position of the company and the need for the changes. Involve the employees who were not part of the redundancies in planning the next phase of the business and listen to their concerns about how the process was handled and how they can contribute to the new restructured organisation.

If these remaining employees are to be the core of your restructured business, then it is counterproductive to have them seeking other employment opportunities and/or promoting a negative working environment.

Good change management processes and a clear corporate communication strategy should always accompany a redundancy or retrenchment program (see Change Management in Workplace Guide 4).

Employee Related Grievances and Disputes

Many workplace grievances arise because employees are either concerned about their roles and responsibilities or lack structure in their roles and responsibilities particularly in areas where there is the need for change or radical improvement.

What are workplace grievances generally about?

- Poor work performance
- Misconduct

- Neglect of duties
- Disobedience
- Lack of professionalism
- Use and abuse of alcohol and other drugs

Legal and Industrial bodies related to workplace grievances

- Federal Industrial Relations Tribunals (Fair Work Commission)
- Anti-discrimination Tribunals (Human Rights and Equal Opportunity Commission Vic & ADCQ Qld)
- Civil Court System (damages, defamation)
- Workplace Health & Safety Tribunal and Work Cover claims
- Apprenticeship and Licensing Boards

Identification of problems and behavioural indicators

It is important to consider whether there any indicators present as to why performance is deteriorating. This could include:

1. Unclear or misleading job description or tasks
2. Poor communication
3. Improper or no induction
4. Lack of training
5. External influences

Employees (particularly younger employees) respond to positive reinforcement and feedback for work well done. It can be useful to establish what type of personalities staff display and how should this be taken into account in dealing with them on a daily basis.

In order to understand why someone is behaving in a particular way you need to determine three things:

1. What is the behaviour they are exhibiting?
2. What need are they trying to satisfy?
3. What do they think will happen as a result of their behaviour?

Challenging behaviour can be identified by being:

- Difficult to understand
- Difficult to cope with

- Difficult to change

The consequences of challenging behaviour may be:

- Actions or outcomes which cause damage, harm or injury to the health, welfare, image, or reputation of the individual
- To other people or animals
- To objects or property

Learned behaviour is just as challenging because it is behaviour based on past experiences both good and bad. In order to deal with poor behaviour and its consequences, the behaviour needs to be analysed by reviewing the following traits:

- When does it happen?
- What is causing it?
- What is keeping it going?
- Is it always the same?
- How often is it happening?
- How long does it last, on each occasion?
- What makes it stop?

Before choosing to intervene, the following should be considered:

- Would interference now lead to needing less interference later?
- Is interference leading them closer to being their own master or is it reinforcing that we are really the boss?

Quite often punishment does not teach useful behaviour and depending upon the circumstances it may be a more constructive strategy to stop concentrating on the challenging behaviour and start thinking about behaviours that you would like the person to use instead. This approach can teach the affected individuals an acceptable alternative behaviour.

Some other useful strategies are to:

- Where possible assign a mentor to employees
- Consider a formal mentoring program (See Mentoring in Workplace Guide no.4)
- Try to find out why a particular behaviour or attitude is present through communication and referral where possible

If you think intervening to try and change or control someone's behaviour serves natural justice, has mutual benefit for all parties and builds their autonomy then you may be right to plan an intervention.

Counselling

Counselling is a method of helping others to deal with their problems, it entails focusing on the individual and their needs and in involving them in finding a solution or the best option to a particular problem.

The important consideration with counselling is that the manager is concerned with solving the problem. This means that the person doing the counselling does not have to have detailed knowledge of the area under consideration nor does s/he have to develop a solution to the problem. Their role is to help someone else develop a workable solution to which they will feel committed.

External Influences

There are a range of external influences which can impact the way an employee behaves in relation to work and/or fellow employees or clients. This can include:

- Family issues
- Alcohol and other drug issues
- Relationship issues
- Financial Issues
- Health issues
- Appearance issues (eating or exercising disorders)

These external influences can have a dramatic effect in the workplace particularly if one or more employees are having a negative impact on others. When any of these issues or employee disputes or grievances arise, and you are considering intervening or taking disciplinary action the following points should be considered:

- Have you provided a number of ways that employees in your area can be aware of the rules that apply e.g., training?
- Procedure manuals and appropriate workplace policies
- Lunchroom/water cooler meetings
- Newsletters
- Mentoring arrangements
- Induction programs

- Notice boards

Some examples of workplace issues or behaviours that give rise to workplace grievances are:

- People leaving early on Friday (or any other day)
- Using the phone to make private calls
- Inappropriate use of the internet
- Drinking alcohol at lunchtime
- Inconsistent behaviour towards one or more employees especially in relation to staff privileges such as car parking or flexible duties and/or working arrangements

Some strategies for changing behaviour before taking disciplinary action include:

- Talking informally to supervisors and staff about your desire to change a specific practice or action
- Ascertain how strongly committed to the practice the workers are
- Formulate a position
- State the position unequivocally
- Provide a phase out period
- Monitor compliance
- Revisit fundamental objectives
- Collaborate and consult
- Follow through with the change process until satisfied with the result

If an incident or action arises where termination is the chosen option, ensure that natural justice is applied. This can be done by presenting the allegations in a clear, concise, and calm manner and offering the employee concerned the option of having a representative present when the allegations are delivered. Employees can have another person present to support them in circumstances where dismissal is possible, however the person cannot be a lawyer acting in a professional capacity. Before commencing, ensure you check the company policy, award, contract or agreement grievance and dispute handling process.

Although there is no prescribed formal warning process for dealing with employees there is a reasonably uniform approach which is adopted and accepted for use which consists of a three-step warning process as follows:

1. First warning (may be verbal but must be recorded)
2. Second or final warning (written)(TP2)

3. Termination

Organisations may include one or more additional warnings and may have more specific details in relation to their particular operations or circumstances in their policies and procedures, however it is crucial to follow closely any existing policy or procedure to reduce the likelihood of the action being successfully challenged.

If the decision is to proceed with termination, it is important to:

- Allow the employee to respond to the allegations
- Allow sufficient time to consider the response
- Communicate the response to the employee within 24 hours where possible
- Finalise the termination and provide a letter of termination which sets out the effective date of the dismissal, the reason for dismissal and the entitlements due to the employee

Claims for constructive dismissal may occur where an employee believes that they have been forced to resign or leave their position and where an employee alleges that natural justice was not applied in their termination process.

If an employee believes that they have been unfairly dismissed or treated, applications can be heard in any or all the tribunals. Current unfair dismissal laws in the FWC are restricted to certain employers and employees but unlawful dismissal applications can be lodged where there is a breach of contract or disputed worker's compensation matters involved. Unlawful dismissal applications can be more difficult and costly than unfair dismissal applications.

The rights of an employee to challenge a dismissal by an employer on the grounds that it is 'unfair or harsh, unjust or unreasonable', has been amended and broadened under the Fair Work Act 2009 reforms.

Employees may only make an unfair dismissal claim after six months service with the employer for businesses with less than 15 employees and 12 months service for businesses within excess of 15 employees unless the contract states otherwise.

The Small Business Fair Dismissal Code now must be applied to all dismissals under 15 employees; this is available for downloading from the Fair Work Commission website https://www.fwc.gov.au/about-us/legislation-regulations/small-business-fair-dismissal-code

The Small Business Dismissal Code contains a checklist which should be completed at the time of dismissal by the employer in the event that a claim of unfair dismissal is lodged with the FWC or other body.

The FWA redundancy guidelines state that any redundancy 'must be a genuine redundancy' which includes an assessment of a reasonable opportunity to have been redeployed within the

employer's enterprise. Consultation with the affected employee or employees concerning the possible redundancy and available options is mandatory.

Redundancy pay and notice periods have now been mandated into the National Employment Standards which apply to all employees.

Unlawful Termination

Unlawful termination claims are investigated by the Workplace Ombudsman and must be lodged within a period of 21 days from the date of termination.

An employee cannot be dismissed for the following reasons:

- Temporary absence because of illness or injury (currently 6 months)
- Union membership
- Non-membership of a union
- Acting as an employee representative
- Making a legal complaint against the employer
- Race, colour, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction, social origin
- Absence from work during maternity or parental leave
- Temporary absence from work to engage in a voluntary emergency management activity
- Filing a complaint or participating in proceedings against an employer
- Certain acts outside of work hours

Employees who believe that any of these employee rights have been breached are able to lodge an adverse action application with the Fair Work Commission. Both parties can agree to have the matter arbitrated.

Before contemplating any disciplinary action, determine the correct dispute resolution/grievance handling process relative to the employee/s as contained in the relevant award, employment agreement, contract, or employer body.

It is also important to ensure that all the facts in relation to the matter are thoroughly investigated and recorded in the event that the matter progresses to a dispute, and you are required to produce evidence of your investigation and provide reasons for your actions.

Quite often claims are made which, upon investigation are found to be untrue or exaggerated and once the facts are established it is possible to successfully deal with the matter without escalating to a dispute.

If possible, through following a standard grievance policy or procedure, some issues can be resolved at the workplace. This can be done by meeting with both parties, going through the outcomes of the investigation into the claim/s and conducting a low-level mediation process where each party is given the opportunity to voice their concerns and try to reach a mutually agreeable outcome.

If this fails or you feel the situation requires it, it can be beneficial to seek the assistance of an external professional mediator who is skilled and experienced in reaching settlements in these matters.

The expense of engaging an external mediator can be much less than defending a matter in the courts or tribunals.

For a dismissal to be lawful, an employer must:

- Have a valid reason relating to the employee's capacity or conduct, or the operational requirements of the business
- Give the employee the chance to respond to allegations about conduct or work performance
- Give the required notice or compensation in lieu of notice
- Not be any unreasonable refusal by the employer to allow the employee to have a support person present to assist in any discussions relating to dismissal

The size of the employer's enterprise and the degree to which the absence of HR management specialists or expertise would be likely to impact on the procedures followed in effecting the dismissal is also taken into account.

Employees who are excluded from these provisions include:

- Those engaged on contract for a specified period and/or task (limited tenure contracts)
- Those on probation
- Casual employees
- Trainees
- Daily hire employees in the building and construction industry and the meat industry
- Non award employees who earn in excess of the prescribed high-income threshold exemption level for employees covered by an employment agreement which is indexed on 1 July each year for employees not covered by an award or enterprise agreement

High income employees who are covered by a modern award can agree to avoid or modify the award. The employer must provide a written undertaking guaranteeing annual earnings at least

equal to the high-income threshold. However, these employees remain covered by the award and may access unfair dismissal provisions.

The Fair Work Act, section 332, defines the meaning of "earnings" to include:

- The employee's wages; and
- Amounts applied or dealt with in any way on the employee's behalf or as the employee directs (salary sacrifice arrangement)
- The agree money value of non-monetary benefits

The employee's earnings do not include:

- Payments the amount of which cannot be determined in advance (e.g., commissions, incentive-based payments and bonuses, and overtime (unless the overtime is guaranteed)
- Reimbursements (e.g., meal allowance, motor vehicle allowance, travel allowance)
- Employer contributions to a superannuation fund

Unfair Dismissal claims must be lodged within 21 days of the termination taking place although applicants have the ability to apply for an extension to this timeframe. There is a requirement for applicants to pay a lodgement fee to progress with an unfair dismissal claim.

Section 611 of the FWA allows parties to lodge a claim which seeks to recover costs from the applicant where the application has been made 'vexatiously or without reasonable cause' and where the application 'had no reasonable prospect of success'.

Unfair dismissal matters may proceed to the FWC for arbitration, the Federal Magistrates Court (or equivalent) or Federal Court.

Businesses are required to have adequate policies and procedures in place and can be penalised in circumstances where they are not in place or not followed e.g., unfair dismissal claims, bullying and harassment and worker's compensation claims.

In assessing the merit of these unfair dismissal applications, The Fair Work Commission will take into account whether human resources policies and procedures are in place and whether human resources advice was sought during the process. The maximum compensation payable is 26 weeks' pay, or 50% of the high-income threshold, this is indexed on 1 July each year.

Sham Contracting Arrangements

The new legislation prohibits the use of 'sham contracts'. These apply where contracts are for labour only usually with a single person for an extended period.

Just calling a tradesman a contractor and using them in the same way you would use an employee is seen as a sham contract under the new legislation.

There are a number of rules governing these types of arrangements such as the 80/20 rule (if a contractor earns 80% or more of their income over a 12-month period form one employer they may be deemed to be an employee for taxation purposes) and control tests with different deeming criteria e.g., WH&S, taxation and industrial.

Sections 357 and 358 of the FWA set out provisions to prevent misrepresenting employment as an independent contracting arrangement and dismissing or threatening to dismiss an employee in order to re-engage the employee under the terms of an independent contractor or to persuade the employee to enter into an independent contractor agreement.

These provisions are in place to stop the practice of employers claiming that specific roles are independent contractor positions when in fact they may be found to be employees.

Some of the basic definitions of a contractor are:

- Has their own business and has the opportunity to make a profit or loss on the job
- Paid to achieve a specific result
- Provides skilled services
- Generally, controls how the services are provided
- Free to subcontract work to others
- May supply tools, material, or special knowledge
- Responsible for risk and repairs
- Is able to advertise their services to the broader community
- Has no right to employee benefits
- Generally, has an Australian Business Number
- Carries out the work under a business name, partnership, or company
- They negotiate their own fees
- Have their own insurance and indemnity policies
- Are only paid for work that they complete
- Do not take paid leave
- No tax is deducted from their payments
- They develop goodwill with clients/customers
- They are GST registered

If an employer uses a contract or contractor to disguise an employment relationship to avoid paying employee entitlements such as superannuation, employee leave entitlements, and payroll and other taxes the arrangement may be found to be a sham contract.

Some of the liabilities that may arise if a contractual arrangement is found to be an employment relationship can be:

- The person would be entitled to employment benefits such as long service leave, annual leave and superannuation and depending upon the relationship and payment arrangements, overtime, and other penalty payments
- Access to unfair dismissal rights
- Possible breaches of income tax withholding obligations and payroll tax obligations
- May have implications in relation to the possible breach of employer obligations through inaccurate representation of their wages bill when calculating worker's compensation insurance
- May be vicariously liable for any negligent acts performed by the individual

Even in cases where the individual is a contractor and not an employee, they may still have an entitlement to superannuation and worker's compensation coverage as well as payroll tax implications.

A word of CAUTION for those who think they do not need an employment contract for their employees.

A word of caution for those who think they do not need an employment contract for their employees. Or have the belief that 'It's just a piece of paper, or 'It's ok we understand each other and they're a good person' or given the fact that they are covered by an award, you don't need one, please think again…… Employment contracts protect your business.

Employment Contracts are more than a letter of offer or terms and conditions of employment. Not only do they provide a formal record of both parties' expectations and agreements either at commencement or if negotiated and changed during the course of employment on important terms and conditions of employment such as hours of work, leave, award coverage, remuneration, employment status, position, notice periods and position description, they also usually contain information to protect your business, some of which are unique to your business. This can include conditions relating to the requirement to have a driver's license, the use of a motor vehicle, mobile phone, property, protection of clients and staff, confidential information, intellectual property, restraints and so on. There are also other important clauses.

An Employment Contract can make sure you stay out of the Fair Work Commission and relevant Courts and tribunals and prevent you from paying additional monies at the end of employment.

Not only do they have to be lawful, but they need to see the bigger picture beyond the law. Are bonus arrangements correctly drafted? Are they linked to productivity / performance? Are they actually going to achieve the desired results? Are they based on revenues or after-tax profits? How often are they payable? Regarding notice of termination periods, have you considered whether you are happy to give the same amount of notice that you require your employees? Is your employee casual or are they actually part time?

Here are some recent examples of situations, which could have been prevented through the use of a well thought out, commercially astute, customised employment contract.

- If you believe you are covered when you are paying over-award entitlements, you are not when your contract does not properly outline how and what those entitlements are. This can result in costing client's additional entitlements outlined in the award at the over-award rate!
- Not having an employment contract at all and therefore having a dispute based around entitlements on termination of employment, has resulted in clients having to pay unexpected additional monies for entitlements for the period of employment.
- Bonus arrangements need to be carefully and correctly drafted. Not doing so has created instances where employment contracts have entitled employees to bonuses based on gross revenue. This cost the client a lot!
- Expecting employees to provide long notice periods, for example, 6 months. This might seem like a great thing at the time, but not when you are the employer who had to terminate and pay 6 months in lieu of notice.
- Employment contracts which the employer intended to be for a fixed term. In many instances where 'fixed term' employment contracts are incorrectly drafted it can result in the employee actually being considered an ongoing employee, entitled to notice of termination and with the ability to make an unfair dismissal claim.

Legislation and Awards protect employees. Employment contracts protect employers. An employment contract certainly is not an unnecessary expense, it protects your business and can ultimately save you money.

Summary

Although some of the items covered in this document can be legally and technically complex, legislation is not in place to resolve workplace differences and disputes; it is there merely to provide a framework for employers and employees to follow in order to ensure that fair practices prevail.

The onus is on the participants to ensure that they follow the correct procedures when dealing with industrial relations issues and in particular when dealing with workplace disputes.

The key to success is in following the required processes when dealing with grievances and disputes so that if there is further action your decision-making process is transparent and technically correct.

There has been a move back to a significant reliance on procedural fairness and the principles of natural justice especially in unfair dismissal matters where although the reasons for dismissal may have been valid, quite often the decisions are overturned because one party or another has failed to follow due process.

With the current changes to the Fair Work Act 2009, bullying and harassment claims will now be heard in the Fair Work Commission. It is essential that workplace investigations are carried out quickly and professionally to allow any disputes or grievances to be dealt with in a manner that either resolves the issue or provides a framework for a technical or legal defence.

It is a cost effective and sound strategy to create and sustain a workplace environment that minimises employee grievances and industrial disputation through effective communication, sound management strategy and adherence to workplace policies and procedures.

It is much easier for all parties to resolve workplace disputes and employee grievances where there is a professional and consistent approach to these matters and where all parties have confidence that their issues will be dealt with quickly and fairly.

Table of Amendments

PAGE NO	AMENDMENT	NEW VERSION	DATE AMENDED
Many	Replace Fair Work Australia with the Fair Work Commission	1.1	12/03/2014
14	Union right of entry changes	1.1	12/03/2014
19	Consultation clause	1.1	12/03/2014
27	Unfair dismissal application date	1.1	12/03/2014
28	Option for arbitration	1.1	12/03/2014
29	High income threshold	1.1	12/03/2014
29	High income threshold to $133,000	1.2	26/08/2014
29	High income threshold to $136,700	1.3	01/07/2015
16	Update statistics	1.3	01/07/2015
28-29	Additional statements added to high income thresholds and unlawful termination	1.4	01/11/2015
30	FWC Compensation Amount and date	1.4	01/11/2015
29	High income threshold to $138,900	1.5	01/08/2016
30	FWC Compensation Amount $69,450 and date	1.5	01/08/2016
All	General updates and overhaul of content	1.5	01/08/2016
29	High income threshold to $142,000	1.6	01/07/2017
30	FWC Compensation Amount $71,000 and date	1.6	01/07/2017
29	High income threshold to $145,400	1.7	01/07/2018
30	FWC Compensation Amount $72,700 and date	1.7	01/07/2018
29	High income threshold to $148,700	1.8	01/07/2019
30	FWC Compensation Amount $74,350 and date	1.8	01/07/2019
33	A word of CAUTION……	1.9	21/05/2020
All	General updates and overhaul of content	1.9	21/05/2020
All	General updates and overhaul of content	2.0	06/10/2021