

Welcome

To the January/February edition of *The IR Advocate*.

Happy New Year!

After a big 2014 where the IRSQ hosted the ALERA National Conference in August, and we successfully ran a number of existing and new educational programs, 2015 is going to be another good year for the IRSQ. The Management Committee has been planning its 2015 events program – details of which you'll find in this edition.

During 2014 two of our key Committee members moved on to take up new challenges, and I would like to acknowledge and thank both Cara Spence (Vice President – Employer, and editor of *The IR Advocate*) and Shelley Brace (Treasurer) for their contribution to the Committee.

Theresa Moltoni has returned to the Committee as Vice President – Employer, and has also taken on *The IR Advocate* editor's role (this is her first edition), and Terrienne Redman has generously moved into the vacant Treasurer's role for 2015.

In 2014 I had the honour of being ALERA President. Both professionally and personally I found the position a positive challenge and I look forward to continuing my involvement with ALERA as both the Past President, and one of the IRSQ's representatives to ALERA National Council. The other representatives are John Payne (IRSQ Secretary) and Terrienne Redman.

I hope that you find this edition of *The IR Advocate* interesting, and that we'll see you at one of our upcoming events.

Joanna Minchinton

IRSQ President

Event Review

ADVOCACY COURSE



QIRC and FWC Members, IRSQ Convenors (left to right): Janis Bailey, Commissioner Simpson, Commissioner Neate, Deputy President Asbury, Deputy President Kaufman, Lydia Daly and Deputy President Bloomfield.

The IRSQ's skills-based advocacy course was held late last year, on 1 – 2 and 7 November 2014.

Sponsored by Workplace Express, the course was highly successful with 35 IR professionals attending. Also participating were two full-time IR students, who were successful in obtaining full scholarships to attend the course.

The 2-day weekend theory component of the course was held in the inspiring surrounds of the Queensland Art Gallery, with breakout sessions in the sculpture court yard.

Guest speakers included Shannon Moody, John Merrell, John Dwyer, Simon Ong and Andrew Herbert who covered various topics including, 'opening submissions and evidence in chief', 'cross-examination', 'witnesses and evidence' and 'conciliation conferences, mentions and mediations'.

Participants were also captivated by the highly entertaining presentations given by Commissioner Fisher, QIRC and Deputy President Asbury, FWC, who both offered their top tips and pet hates for advocates running matters in the tribunals.

The theory component of the course was followed up by moots in the FWC and QIRC. Teams represented either the employer or the employee in an unfair dismissal hearing.

The factual scenario concerning a termination for serious misconduct as a result of social media comments about colleagues by the employee in his private capacity.

Deputy President Kaufman, Deputy President Bloomfield and Commissioner Neate from the QIRC, as well as Deputy President Asbury and Commissioner Simpson from the FWC generously gave of their time to hear the 10 moots, giving individual feedback to advocates and the teams.

Participants' reactions were very positive; for example, two participants commented:

"Every topic was very; thorough and presented very interestingly. Different presenters helped keep levels of attention high."

"Moot is an excellent way to apply skills and open up access to how the Commission works, and lets us get our first advocacy go out of the way in front of the Commissioners, in a relaxed and constructive setting."



Advocacy Course Participants.

The event concluded with a presentation ceremony, followed by drinks and lively networking at the Pig 'N' Whistle pub at Riverside.

Upcoming Events ANNUAL BREAKFAST

IRSQ is proud to host our Annual Breakfast on Tuesday, 10 March 2015 at the Royal on the Park Hotel.

Our guest speaker will be Joellen Riley, Dean and Professor of Labour Law, The University of Sydney who will talk on the topic "Good faith in employment relationships?".

The High Court of Australia's 2014 decision in *Commonwealth Bank of Australia v Barker* canned any obligations of 'mutual trust and confidence' in Australian employment contract law. Is there still room for any enforceable obligation upon employers to deal fairly with senior employees? Or is a 'fair go all round' restricted to those who can bring unfair dismissal proceedings to the Fair Work Commission?

Don't miss out on this outstanding opportunity to enhance your professional development and network with other Industrial Relations practitioners.

Date: Tuesday, 10 March 2015 at 7:00 am for a 7:30 am start.

Venue: Royal on the Park, Corner Alice and Albert Streets, Brisbane

Cost: Member - \$55.00pp or Non-Members - \$85.00 pp.

Ready to register? Click [HERE](#) to do so today!

Our Annual Breakfast sponsored by

**kb. KÄDEN BORISS
BRISBANE**

December
Christmas Function

EVENT CALENDAR

April
Twilight Event

May
YERN Trivia Event

June/July
IRSQ Patron's Lunch

August
Twilight Event

October / November
Women in IR
Advocacy Course
Ray Dempsey Memorial Golf Day

HR New Year - head the problems off at the pass

By Stephen Mackie



Stephen Mackie is a Brisbane-based barrister specialising in industrial relations and employment law. Previously, he was a Senior Associate at Norton Rose Fulbright, where he primarily assisted employers with industrial and employment issues.

Ah, the start of a new year. A time for reflection, renewal and, of course, New Year's resolutions.

But rather than go with the traditional ones that you have no intention to keep (are you really going to use that gym membership?), why not start 2015 off on the right foot with some HR-style New Year resolutions? Here are three suggestions that could save you a lot of trouble in the year ahead.

1. Review your employment contracts

Employment contracts do not last forever. There are far too many senior employees who have been promoted "up the ranks" on woefully outdated contracts. Remember, it's a short jump from "outdated contract" to "no contract" (*Quinn -v- Jack Chia (Australia) Ltd [1992] 1 VR 567*).

Identify your "at risk" employees and see if it's time for a new contract. Typical culprits include long-serving employees, employees who have moved through a number of roles, and those on an open-ended "secondment".

2. Review your policies and training documentation

The only thing worse than no policy is a poorly implemented one. Long-past

review dates and sloppy training records are a frequent headache - see, for example, *Chew and Leong -v- Qantas Airways Ltd [2014] FWC 4885*.

Spend some time reviewing both the extent and content of your policies and, most importantly, whether your training documentation is complete. If you cannot prove that your employees were recently trained in your policies, then it's time to roll out your training again.

Don't forget to tidy up or delete old policies with questionable relevance - it may be time to ditch your swine flu policy, for example.

3. Look for red flags

Do you have an employee who's working unreasonably (or unbelievably) long hours? Is there a manager with unusually high staff turnover? Is there an employee in a sensitive position who never, ever takes leave?

Most HR professionals know what the red flags are, but don't go actively looking for them. It's worth setting some time aside to see if you are missing the obvious, because what seems subtle today is often glaring in hindsight.

We all know how quickly the New Year ramps up, and it's hard to be forward-thinking once more pressing problems arrive on the scene. But the start of a new year is a great opportunity to invest some time into defusing issues before they become problems. You'll thank yourself later on, trust me.

IR World Roundup

Royal Commission

Royal Commissioner Dyson Heydon released an interim report on 19 December in regards to the Royal Commission into Trade Union Governance and Corruption in which he made recommendations that a number of matters be referred to the (Commonwealth or State where

relevant) Directors of Public Prosecution for consideration of charges. The Government has extended the Royal Commission by a further 12 months. You can find a copy of [the Interim Reports here](#).

Job Application Discriminatory

QCAT has found that Woolworths discriminated against job applicants by requiring they provide certain information in order to submit an application for employment with the Retailer. Whilst Woolworths provided explanations for asking for information such as gender and date of birth, QCAT found that these could have been asked at the time of making an offer of employment or later in the recruitment process. **Willmott v Woolworths Ltd [2014] QCAT 601 (11 November 2014).**

Bullying Order Revoked

In an order that demonstrates the Fair Work Commission is having some success in the area of Workplace Bullying, SDP Drake has recently revoked its only substantive bullying order after the employee advised the Fair Work Commission that "*the past year of intervention from Fair Work has been very positive and helpful.*" **[AB2014/1052]**

Acts Interpretation Act Not Reliable in Interpreting Enterprise Agreements

A Full Bench of the FWC has found that Enterprise Agreements are not "made" by the FWC therefore the Acts Interpretation Act does not apply. The Full Bench also clarified in what circumstances evidence of prior negotiations for an enterprise agreement might be relevant to the interpretation of the agreement. **The Australasian Meat Industry Employees Union v Golden Cockerel Pty Limited [2014] FWCFB 7447 (27 November 2014).**

Five Minutes With ... John Battams



John Battams was the General Secretary of the Queensland Teachers Union for 21 years, from 1990-2011. A member of the QTU since 1976, he has been part of and witnessed many changes within the QTU and the teaching sector including the transformation of the

QTU from a conservative, letter-writing organisation to a dynamic union. John Battams has been President of the Queensland Council of Unions since 2009.

How did you decide on your desired career path?

Originally I accepted a teachers' scholarship to the University of Queensland. A scholarship was the only way I was going to get to University.

When I began teaching I immediately became involved in my Union the Queensland Teachers' Union (QTU). In my fourth year of teaching in Moranbah, (a coal mining town in Central Queensland) I was involved in leading a week long strike by teachers. All of this activity pointed towards a role within the union movement. I loved teaching but knew I could have a greater impact on improving education as a QTU Official.

Who are the people who have influenced your career decisions?

Obviously my background was important, coming from a Labor household. The Secretary of the QTU and Deputy Secretary Arch Bevis strongly encouraged me to join the union as an Organiser and five years later to run for the job as Secretary which I held for 21 years.

Who do you admire greatly and why?

Probably Gough Whitlam given he was the leader of the Opposition in my senior high school years and led the ALP out of the wilderness. I greatly admired his commitment to education and equality.

What do you consider to be the most important issues in industrial relations at the moment?

I think the fact that conservative governments and the corporate sector have moved so far to the right on industrial issues. As a consequence the ability of trade unions to represent members and the community generally is constantly under attack.

What do you most enjoy about your role as head of the Queensland Council of Unions?

Probably being able to play a role in the debate around the big issues in Queensland and traveling around the state meeting unionists and their families from all walks of life. It's great to have a role ensuring that we continue to live in a civil society.

When you started in your role, what did you set out to change and why?

My move to the QCU from the QTU coincided with a change in the direction of the QCU whereby it moved from an organisation largely servicing unions to a campaigning organisation on behalf of unions. We put more emphasis on the public face of the movement, and campaigning around issues.

What advice can you give to graduates commencing in the field of employment/industrial relations?

It is important to be true to your principles and beliefs regardless of what position you are put in, by your employer

Job Advertisement

Griffith University

Paid Part-Time Work and Work Experience Sought for Griffith University IR Students

Griffith University's Department of Industrial Relations is always seeking part-time work (such as call centre work) and work experience for its students. The Department operates a student E-list to advertise these opportunities, and to advertise full-time jobs. The list contains a number of recent (and past) graduates, as well as current students. Opportunities in Brisbane and at the Gold Coast are sought.

Contact Dr. Janis Bailey, j.bailey@griffith.edu.au or 07 5552 7748.

Notable Quotes

I am not satisfied that it is desirable for the Commission to make confidentiality orders for the hearing to be held in private, for the publication of the names of persons attending the hearing to be prohibited or restricted, or for the prohibition or restriction of the publication of the names of any persons referred to in decisions in relation to this matter. This is because the mere embarrassment, distress or damage that may be caused to the Respondents by the publication of these allegations is not sufficient to displace the presumption in favour of the open administration of justice. Lewin J in [Hankin v Plumbers Supplies and Ors \[2014\] FWC 8402](#)

While there may be a select number of union officials that do the wrong thing, I believe this problem is not systemic ... (most) people involved in the union movement do the right thing by the workers they represent. Ricky Muir, Australian Motoring Enthusiast Party Senator as quoted in the article "Crossbench senators seeking a compromise on restoring ABCC" published in The Australian on 26 December 2014.

Finish each day and be done with it. You have done what you could; some blunders and absurdities have crept in; forget them as soon as you can. Tomorrow is a new day; you shall begin it serenely and with too high a spirit to be encumbered with your old nonsense. Ralph Waldo Emerson



He described to me how crocodiles kill more people than sharks. There are just a lot of things in Australia that can kill you. US President Barack Obama at the Brisbane G20 UQ Speech, on then-NT chief minister Paul Henderson taking out crocodile insurance for an earlier Australian visit.

Disclaimer and Feedback

The views expressed in this edition of the IR Advocate do not necessarily reflect the individual views of the IRSQ Management Committee and do not represent the collective stance of the IRSQ Society as a whole, which aims to be impartial. Feedback, suggestions and improvements, including material for upcoming editions can be emailed to the Editor, Theresa Moltoni at theresa.moltoni@iriq.com.au You can also follow us on our [Facebook page](#)

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