

President's Welcome

Merry Merry!

I am sure like me, many of you will be working at capacity to ensure your matters are settled, well as settled as they can be, before we all enjoy a short break with family and friends.

Take a moment to look back on all you have achieved over 2018, celebrate your successes, take account of where you can extend yourself and acknowledge those around you who provide support and direction.

The Society has certainly delivered many successes this year, and certainly there have been significant efforts from all Committee members. I acknowledge the support of our sponsors, those who have a formal partnership with us, and those who choose to contribute in an ongoing way, as they are Champions.

It was pleasing to see so many members at the AGM on Wednesday 5 December, and of course, most stayed to enjoy some Christmas conviviality. I am pleased to announce that we confirmed two well deserved Life Members at the AGM, Deputy President Ingrid Asbury and Commissioner Paula Spencer.

Each year at the AGM we announce departing Committee members and welcome new members; there are some instances where the departing Committee members have dedicated years to the Committee and the Society itself - Terriane Redman as Treasurer and John Payne as Secretary are examples of that dedication. You will both be missed, and I thank you on behalf of all IRSQ members.

We look to 2019 already, so please put 20 February into your calendars as our Annual Breakfast has a date and a speaker, Mr John Merrell, Barrister, IRSQ Champion and recipient of the ALERA Award In Recognition of Service to Employment Relations.

Take care over the break, and take a moment to reflect and regroup.

Until next year
Jo

Jo McConnell





Christmas is Coming!

Joanna Minchinton – Employment Relations Manager, Queensland Hotels Association

It's that time of the year again. Yes, it's time for Christmas parties!

While end of year parties can be great fun for all concerned, important considerations in relation to Christmas parties cannot be forgotten.

Why? Because while it may feel like a social party is not work related, where an party is organised by and paid for, or subsidised, by the employer, an industrial tribunal is likely to view the party, and any arising incident occurring during the party, as work related.

This means that an employer's usual obligations, including work health and safety toward its employees apply - regardless of whether the party is held within or outside of normal workplace hours.

Below is a list of things to consider.

1. Planning

Many of the problems that can arise from Christmas parties can be prevented by careful consideration and planning:

- Carefully consider where to hold the party. A venue that is central, easy to get to and easy to leave from is preferred;
- Set a clear start and finish time ensuring that any bar tab or access to alcohol ceases at the designated finish time. Any correspondence to employee's regarding the party should also outline these times;
- If inviting partners, ensure it is open to all partners, including same gender partners, to avoid any claim of discrimination;
- Ensure that the party has a suitable mix of alcoholic and non-alcoholic drinks available;

- Ensuring that plenty of food is available, and that the time between the party starting and food being served is not too long;
- That If there is a theme for the party ensure that it is not offensive (and possibly discriminatory) to some employees;
- Being clear when advising of the dress standard, especially if the party is themed, and any other dress standards that apply in the workplace.

2. Pre-Party Preparations

Certain steps can be taken before the party to remind employees of their responsibilities, what is, and isn't appropriate, and to outline the employer's expectations, these include:

- Consider the next day – are staff allowed to start work later as a result, or do staff need to be reminded of their obligation to attend work on time?
- Ensure staff know that 'secret Santa' gifts must not be sexually based or offensive. You could also consider an alternative to secret Santa such as a lucky dip or a charity donation;
- Talk to managers before the party as leading by example is important. Also nominate a couple of individuals within the organisation to assist in monitoring the party;
- Make sure employees clearly know what is expected of them and that same conduct rules apply to the party, even if off site, or outside of rostered hours. Re-issuing all relevant policies is a great way to do that;
- Talk to all staff about the contents of the policy and expectations of behaviour such as no fighting, no inappropriate hugging, no rude or offensive language;
- Confirm the implications for breaching the policies. A refresher education session prior to the party is a great idea for ensuring staff know what is, and is not acceptable behaviour.

3. At and Post the Party

Management's responsibilities do not end when the party begins. Employers and managers need to be vigilant at the party and should be prepared to take suitable action, stick to the pre-party preparations, and:

- Monitor the party and be prepared to step in if an inappropriate situation arises;
- If necessary, have a quiet word to employee/s that look like they may be on the road to having too good a time. This could help to head off any incidents or embarrassments;
- Ensure RSA is practiced at the party;
- Ensure that someone of suitable responsibility is present until the end of the party;
- Ensure that the finish time is adhered to;
- Organise transport for inebriated employees to make sure they get home safely.

With the above in mind, and organised, everyone can enjoy their end of year celebration.

FIVE MINUTES WITH.....



John Merrell
Barrister

John has been a practising Barrister since 2000, working mainly in the areas of Industrial Law and Employment Law.

He holds the degrees of Bachelor of Business majoring in Industrial Relations, Bachelor of Laws and Master of Laws.

Prior to going to the Bar, John was a Principal Industrial Officer with the Queensland Public Sector Union.

John is a Director on the Boards of the Queenslanders Credit Union and the Queensland Teachers' Union Health Fund.

John has been recognised in Doyles Guide as, Preeminent Junior Counsel, a Leading Employment & WHS Barrister - Queensland 2018. In addition, John is ranked as only one of five Queensland Barristers, including Silks, who are listed at the National level in this category as leaders in their field in Australia across the Bar Association of each State.

In October this year, John was the Queensland recipient awarded the inaugural Australian Labour and Employment Relations Association Award in Recognition of Service to Employment Relations.



How do you decide on your career path?

In the 1980s, I was employed as a fitter by the Queensland Railways at the North Ipswich Railway Workshops. I became interested in industrial relations through my exposure to a number of industrial disputes that occurred at that worksite. I wanted to be involved in industrial relations, in some way, from that time.

Who are the people who have influenced your career decisions?

One of my early lecturers was Professor Ted Sykes who, in the 1980s, wrote a textbook about labour law. I was influenced by Professor Sykes' thorough knowledge of labour and employment law and his interest in the subject. I decided, around that time, that I wanted to be a practitioner.

Who do you admire and why?

Any advocate, whether she or he is a lawyer or non-lawyer, who competently and diligently represents their client to the best of their ability.

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

There are a number of such issues and space does not permit a reference to all of them.

One important issue is the need for employers and employees to have clarity after they agree a person is engaged as a casual employee. In my view, the law needs to provide some certainty around this issue so that both parties, from the commencement of employment relationship, are clear about their rights, obligations and entitlements.

What do you most enjoy about your current role?

That every day is different and no one case or matter is the same. Every case, no matter how small or large, throws up its own individual difficulties and unique points. However, the most enjoyable part is working with my colleagues, both lawyers and non-lawyers, in the various commissions and courts.

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

I set out to be a reasonably competent counsel so that solicitors would have confidence in me to provide legal advice and to represent their clients.



Congratulations

ON YOUR APPOINTMENT!

The Society wishes to congratulate the following new appointees to the Industrial Court of Queensland and Queensland Industrial Relations Commission:

Daniel O'Connor - Vice President, Industrial Court of Queensland

John Merrell - Deputy President, Industrial Court of Queensland

Samantha Pidgeon - Industrial Commissioner, Queensland Industrial Relations Commission

Joint IRSQ, AHRI & SIA Event





Notable Quotes

Rohan Hilton – Industrial Officer, National Tertiary Education Union (QLD Division)

“The legislation, however, is intractable. Motive is largely irrelevant. If the meaning and effect of Mr Phillips’ words was to ask Mr Peters, on behalf of BlueScope, not to dock the pay of the day shift employees who had attended the meeting on the morning of 27 May 2016, and who had therefore engaged in unprotected industrial action, his motive or intentions for making that request are essentially irrelevant. The effect would nevertheless be that he, on behalf of an employee organisation, asked an employer, BlueScope, to make payments to employees in circumstances where BlueScope would, if it made those payments, have contravened s474. BlueScope would have contravened s474 in those circumstances because s474(1) provided, in effect, that if an employee engages in unprotected industrial action for a period of less than four hours, an employer cannot pay that employee in relation to four hours of the day on which that action occurred. That is the case even if the action was for as little as 10 minutes. While the wisdom or fairness of that law is at best questionable, that is what it provides. And it matters not, in considering whether, in making the request, the employee organisation thereby contravened s475, that the employee organisation may have been well-intentioned.”

Justice Wigney in BlueScope Steel Limited v Australian Workers’ Union [2018] FCA 1574 at 164.

“What we have to try and do is find a way of re-expressing that sort of tortuous language in something that is easy to understand...”

Fair Work Commission President Ian Ross, in an interview with ABC’s Best Practice on 2 June 2018.

“From time to time, there are disputes in which employees, either through the error or inadvertence of the employer, are overpaid and the employer seeks recovery of the overpaid amounts. In this case, however, the employee insists he has been overpaid and wishes to repay the overpaid amounts; whereas the employer claims that he has not been overpaid and refuses to accept any monies from him. A stranger industrial proposition I have not yet encountered.”

Decision of Fair Work Commission Deputy President Sams in Mr Andrew Staniforth v Qantas Airways Ltd t/a Qantas Airways [2018] FWC 2895.

“Employees are human beings and not human resources. A machine or item of office equipment might be quickly discarded if it is broken or malfunctioning. However, an employee is entitled to be treated with basic human dignity, and advice of the termination of employment by telephone or other electronic means should be strenuously avoided so as to ensure that the dismissal of an employee is not conducted with the perfunctory dispassion of tossing out a dirty rag.”

Decision of Commissioner Cambridge in Veronica Bennett v Colin Joss & Co Pty Limited T/A Joss Facility Management [2017] FWC 3669.

IRSQ 2018 Women in IR Wrap-up

Faiyaz Devjee – Principal Consultant, IRIQ Law

On October 26th 2018, the IRSQ held its annual event celebrating Women in IR.

The high tea was held at the Novotel Hotel, with Catherine Wood from Women in Super as the keynote speaker, followed by a panel discussion with Theresa Moltoni from IRIQ Law representing the private sector, and Rob Setter from the Public Service Commission representing the public sector.



John Simpson, AustralianSuper & Cate Wood, Women in Super,.



Cate Wood, Women in Super, addresses members on the "Make Super Fair" campaign.

Ms Wood was insightful and engaging in her presentation, providing informative data on the challenges faced by women in their working lives which can lead to significant inequality for female employees' super fund balances at the end of their careers. Ms Wood examined the reasons why so many women end up with insufficient funds in their superannuation funds at retirement, with the take home message being that immediate changes are needed.

She outlined some of the key changes sought by the "Make Super Fair" campaign, promoted by Women in Super and numerous industry partners, to bridge the gap and facilitate a fairer approach that ensures women are able to accumulate sufficient superannuation during their working lives and can live comfortably in their retirement years, instead of only relying on a limited pension or retiring in poverty, as many women do.



(Left to right) Cate Wood, Theresa Moltoni & Rob Setter discuss ways to improve superannuation

The engaging panel discussion which followed Ms Wood's address, facilitated by Lydia Daly, included a number of interesting questions from attendees, such as which superannuation funds were more efficient. To the surprise of many audience members, there was consensus amongst the panel members that industry funds were better performing, and that the shared responsibility model generally ensured better fund performance and lower administration costs for the benefit of members, compared to commercial financial institution funds whose focus was more likely to be shareholder dividends.



The event concluded with the usual, ever popular raffle draw, some of the proceeds of which were donated by the IRSQ to the National Breast Cancer Foundation.



IRSQ Management Committee Members (left to right) – Vaishi Raja, Julia Grant-Vicig; Cara Spence and Lydia Daly.

IRSQ Life Members

On 5 December 2018 the IRSQ Members at the Society's AGM confirmed the recommendation of the Management Committee to accept the nominations of Deputy President Ingrid Asbury and Commissioner Paula Spencer as Life Members of the Society.

Their Honours were presented with their Life Membership at the Commission on 13 December 2018.





We welcome the following new members:

- Kira Kirvan, Local Government
- Darryl Holbrook, United Voice
- Aaron Santelises, Australian Workers' Union – Queensland Branch
- Ezra Bibby
- Craig Dearing, UnityWater

If you have moved, been promoted or taken on a new challenge, email the Secretariat at irsq@irsq.asn.au for inclusion in the next edition

Social Media

The Society is on Social Media!

You can like, post and follow us on [LinkedIn](#) and [Facebook](#)



Upcoming events



The year is rapidly drawing to a close and we've had an exciting array of events so far that have included networking, educational and social events. Keep an eye on our website for further details on next years activities.

20 February 2019

IRSQ Annual Breakfast

19 July 2019

Patron's Lunch



IRSQ Management Committee

Patron

The Honourable Justice Glenn Martin, President of the QIRC and Justice of the Supreme Court of Queensland

President

Jo McConnell
Director, Member Support
Together Queensland

Immediate Past President

Joanna Minchinton
Employment Relations Manager
Queensland Hotels Association

Vice President (Employer)

Faiyaz Devjee
Principal Consultant
IRIQ Law

Vice President (Union)

Vaishi Rajanayagam
Industrial Officer / Lawyer
Independent Education Union
(Qld & NT Branch)

Vice President (Other)

Lydia Daly
Senior Associate
McCullough Robertson

Secretary

Jason Stein
Co-ordinator Member Assist
United Voice

Treasurer

Daniel Pfrunder
Human Resources Manager
HQ Plantations Pty Ltd

Employer Representative

Calum Woods
Lawyer/Senior Workplace Relations
Manager
National Retail Association

Employer Representative

Vacant

Employee Representative

Michelle Roberston
Senior Industrial Officer
The Services Union

Employee Representative

Vacant

Government Representative (Commonwealth)

Nate Burke
Conciliator
Fair Work Commission

Government Representative (Qld)

Julia Grant- Vici
Senior ER Advisor
Dept. Transport & Main Roads

Tertiary Academic Representative

Ben French
Lecturer

Griffith University

Legal Profession Representative

Dr Megan Brooks
Barrister-At-Law

General Member

Michael Thomas
Director
Together QLD

General Member

Jessika Reghenzani
Lawyer
WGC Lawyers

General Member

Tony James
Executive Director
Office of Industrial Relations

General Member

Kris Birch
Solicitor
Hall Payne Lawyers

Student Member

Vacant

Prohibition on republication

No part of this publication may be copied or reproduced without the written consent of the IRSQ Management Committee.

Disclaimer and feedback

The views expressed in this publication do not necessarily reflect the individual views of the members 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, Vaishi Rajanayagam at vraja@qieu.asn.au