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CONTACT  
Pauline Townsend  
P: 0438 503 873  
E: pauline@simplysorted.com.au

## Welcome to Simply Sorted 'News'

Welcome to the November edition of 'SS News'.

Early November saw me travel to Brisbane to undertake an inspirational Coaching Course in the FISH! Philosophy.

What is FISH! Philosophy you ask?

The FISH! Philosophy provides a set of simple, practical tools used by people worldwide to create effective work teams.

It will help you build more unified teams, clearer communication, extraordinary service and higher retention.

If you wish to build a culture

within your business that will improve morale and engagement, teamwork, customer service and employee retention, this is the coaching you've been looking for.

I'm passionate about helping people do their best work and am delighted to be able to provide this practical training to my clients and businesses of Mackay.

Contact me to learn more about this innovative and fun coaching for your business.

This month's Food for Thought section covers tips for effective staff recognition, which is an

important part of keeping employees engaged and motivated towards your company's success.

Briefing by John Lamb covers 2 subjects this month, 'Rehiring After A Redundancy' and 'Risks in Reducing An Employee's Wage'.

I've also provided some information on provision of medical certificates. A question I have been asked in the past.

And finally, an interesting article for HR Managers on Terminations.

Require any further information or advice? Ring me on 0438 503 873.

## Food for thought - Tips For Effective Staff Recognition

Recognition is an important part of acknowledging employees and keeping them engaged and motivated towards your company's success. It's simple: companies operate more efficiently when their employees are happy.

Regular recognition of accomplishments is one of the highest valued forms of non-monetary compensation for both part-time and full-time employees. However, employee recognition methods don't have to be formal or costly to be

effective. Simple measures can be equally powerful. Simple things such as:-

**Implementing flexible hours:** As long as employees are in a role where occasional flexible hours won't affect productivity or performance.

**Have fun at work:** Order in pizza for the team; or a Lunchtime barbeque.

**Say "Thank You":** The absolute easiest way to show employees that you recognize their contributions is by saying a simple thank you. It can go a long way in making them feel

appreciated and motivated.

**Provide incentives:** Again. This doesn't have to be expensive or extravagant. When an employee has exhibited exceptional work or accomplished something outstanding, reward them with something small like a gift card to the local cinema; gift basket or free lunch.

However you choose to recognize your employees, the fact that you do will go a long way toward showing them you appreciate their contribution. What does your company do for employee recognition?



## Briefing by John Lamb...Rehiring After A Redundancy

**Do you know the rules on rehiring after an employee has been made redundant?**

The full bench of the Fair Work Commission (FWC) has upheld a decision of a single Commissioner to allow a number of employees to lodge out of time unfair dismissal claims. The employees discovered that they had been replaced in their jobs a month after they were all made redundant.

This of course begs the question on how long after an employee is made redundant can an employer look to advertise and rehire someone back into the position. Under Australian law, there is no minimum time that the position has to remain vacant as is the case in some overseas countries.

The definition of redundancy is basically that the job being done by the employee is no longer required to be done by anyone, except where this is due to the ordinary and customary turnover of labour. Accordingly, where an employer makes a

position redundant and terminates the employment of the incumbent employee, there is no given time that the employer has to wait until they can back fill the position.

However, if the employee who was made redundant finds out that their old job has been back filled, they may make application to FWC claiming that they were unfairly dismissed and they should have been provided with the opportunity to reapply for their old job. The above decision of the full bench makes it reasonably certain that FWC will accept the matter under exceptional circumstances. Where this occurs the employer will need to show quite conclusively that the decision to make the employee redundant was bone-fide, an amount of time has passed making it unreasonable to rehire the past employee and possible

explain why the past employee was not considered for the job.

I will not go into details of the options FWC, the employee or the employer has, as it would depend on the matter at hand. However, due to the ongoing downturn in the coal mining industry many employers are making redundancies now and it is important for these employers to realise that should they look to rehire into redundant positions, care should be taken on how this is accomplished.

## Risks in Reducing An Employee's Wage.....

I am often asked whether due to the economic downturn an employer has the unilateral right to reduce an employees' wage/salary to an amount that the employer believes they are able to afford.

The following points highlight the exposure an employer has in carrying out such an exercise.

In effect a unilateral reduction of an employee's wage/salary would be a breach of the employment

contract under the common law as the employee has been promised a certain pay rate to carry out certain work. Prior to taking such action the employee should consider that:-

- a) The employee could resign and claim constructive dismissal;
- b) If the employee accepts the reduction without protest, then they will be deemed to have accepted the change, thereby foregoing any future action.

c) If the employee makes a protest against the change and continues to work, then they could make a claim for underpayment at a later date. This later date could be up to 6 years after the wage/salary is changed.

The above may not be relevant if the employer can show that the job the employee was doing was changed to one that is a lower classification level, which in turn would attract a lower wage/salary.

## Providing Medical Certificates – After 2 Days? 3 Days?....



Employers often think that an employee needs to take at least two days' leave before they can ask the employee to provide a medical certificate.

However, there is no minimum period of leave that an employee needs to take before their employer can ask for evidence of the illness or injury.

The Act provides that an employee who has given notice to their employer of taking paid personal or carer's leave must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken because of the illness or injury of the employee, or a member of the employee's immediate family or household.

The evidence need only be reasonable and is not limited to a medical certificate. For example, a statutory declaration may also suffice.

Although technically, you can ask employees for evidence every time paid personal or carer's leave is taken, such a requirement may be a significant burden on both the employer and the employees. For instance, administrative staff may not have the resources or time to police the provision of medical certificates for absences on each and every occasion and employees may struggle to obtain a certificate if they are absent on one day's leave with a sick family member (who may not be able to make a doctor's appointment).

As with most matters involving management of staff, common sense and flexibility about the application of the policy is advisable.

It is advisable employers implement a policy surrounding the expectations of employees giving notice of personal or carer's leave and the circumstances in which you as an employer will expect evidence to be provided. The policy should include details of the method of giving notice and to whom the notice should be given. Before any policy is implemented, an employer should ensure that employees are trained in the policy and that a copy is available to all employees.

**KNOW THE RULES!**



## Beware, HR Managers & Companies when terminating.....

### Terminating employees comes with high risks

The Federal Circuit Court has fined an HR Manager personally more than \$1,000 for providing insufficient notice when dismissing an injured employee.

The HR Manager admitted in evidence that she was aware of the relevant Legislation and was also aware that the Act had provisions dealing with minimum employment requirements, including notice. The HR manager had the authority to determine how much notice a person was given. Accordingly, she

was fined as an individual.

The company was also required to pay penalties of \$20,400 for breaches of the Fair Work Act.

It is recommended that you seek advice before terminating employees. There are many aspects to terminating an employee, including making sure the proper processes are followed, the correct notice is given and the appropriate entitlements paid. In the case above, the amount the employee missed out on was only \$188.66, but the risk to

the HR Manager and Employer was much higher.

HR Managers can be fined personally for getting it wrong, even though they are not the owners of the businesses and companies will not be excused if they rely on their internal HR Managers, if the manager makes a mistake.

(Cited from mondaque newsletters)