INFORMATION KIT

- Getting Members Better Pay
- Improving Workplace Conditions
- Protecting Your Rights
- Standing Up to Workplace Bullying
- Occupational Health & Safety

To join call (03) 9341 3300 or go to hwu.org.au
**IMPORTANT UNION INFORMATION**

- The HWU prefers to communicate important information with members via email and sms. Please ensure we have your correct mobile phone number and email by calling us on (3) 9341 3300.
- The Union receives approximately 200 calls per day from members into our member assist call centre. Our standard operating hours are from 8.30am to 5.00pm, Monday to Friday. Please note that peak call times are between 8.30am – 10.30am and again from 3.30pm – 5.00pm.
- If you require urgent assistance out of business hours, email info@hwu.org.au
- Members who change industry or retire and seek to resign their membership must do so in writing, in accordance with Union rules. You can view all HWU rules, policies and financial statements at hwu.org.au

**YOUR UNION OFFICE HOLDERS**

- **President**
  Rhonda Barclay  
- **Senior Vice President**
  Lee Atkinson  
- **Junior Vice President**
  Sherida Jacks  
- **Assistant Secretary**
  David Eden  
- **Secretary**
  Diana Asmar  
- **Branch Trustees**
  Andrew Hargreaves  
  Susan Stone  
- **Branch Committee of Management**
  Lisa Fisher  
  Velda Mitchell  
  Andrew Hargreaves  
  Nick Katsis  
  Susan Stone  
  Declan Keane  
  Evan Lambrou  
  Diane Stratton  
  Koula Vasilias  
  Lance Smith  
- **Branch Delegates to National Council**
  Diana Asmar  
  Dennis Cross  
  Nick Katsis  
  Steve Mitchell  
  Tim Rowley  
  Agnes Smith  
  Danny Harika  
  Nurije Almi-Aslan  
  David Eden  
  Toula Legassick  
  Maria Rotherham  
  Gavin Sharpe  
  Donna Turvey  
  Lee Atkinson

**UNION CONTACTS**

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  Level 5, 222 Kings Way, South Melbourne, VIC 3205  
- **Postal Address:**  
  PO BOX 1088, South Melbourne, VIC 3205  
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  **Email:** info@hwu.org.au

[www.hwu.org.au](http://www.hwu.org.au)  
[Health Workers Union](https://www.hwu.org.au)
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Together we are stronger

With over 100 years of history behind it the Health Workers Union ranks as one of the older unions in Australia. As we move into our second century it is time to take stock both of our current position and our future goals.

Our Members – The Backbone

The Health Workers Union is a strong and growing union that aims to use its combined power to improve working conditions and to maintain reasonable wages and benefits for our members. The Health Workers Union (HWU) of Victoria represents a broad spectrum of workers employed in public and private hospitals, pathology, dental, community health, aboriginal, disability and aged care services.

The following list includes most of the professions that are under HWU coverage, but the list is not exhaustive:

- Aboriginal Health & Community Workers & Liaison Officers
- Activities Assistants & Coordinators
- Administration workers (all levels)
- Allied Health Assistants
- Anaesthetic Technicians
- Animal House Attendants
- Bank Staff (Casuals)
- Biomedical & Electronic Technicians
- Bus & Truck Drivers
- Chefs
- Cleaning & Environmental Services Workers
- Clinical Assistants
- Cooks
- Couriers
- Dental Assistants
- Dental Technicians
- Dietary Supervisors
- Disability Support/Services/Care Workers
- Enrolled Nurses
- Domestic Services & Support Services Assistant
- Food and Domestic Services Assistants
- Food Monitors
- Gardeners & Maintenance/Handypersons
- General Services
- Home Care Workers
- Instrument Technicians
- Interpreters
- Laboratory Assistants
- Laundry Operators & Services
- Leisure & Lifestyle Workers
- Medical receptionists
- Orderlies/Cleaners
- Orthotic Technicians
- Pathology Technicians & Collectors
- Patient Services Assistants
- Patient Transport Officer’s
- Personal Care Workers
- Pharmacy Technicians
- Renal Dialysis Technicians
- Security Officers
- Store Persons
- Theatre Technicians
Our Future

Facing us in the future there are two immediate needs – to ensure the continued existence and viability of the HWU and to ensure that our members are properly paid and have decent working conditions.

These two goals are necessarily inter-related. The achievement of good wages and working conditions requires an active and effective union, and for a union to be active and effective it requires a strong and active membership.

Active Support

The Health Workers Union is not some organisation that acts apart from and independently of its membership. Our ongoing success as an organisation depends on your active participation and involvement.

Yours in unity,

Diana Asmar
HWU Secretary
Our Union’s Proud History

The origin of the Health Workers Union (HWU) is recorded by the Victorian Trades Hall Council. Archive Correspondence Records give us the names of early Presidents and Secretaries of the Union. The Union’s own records are sketchy and limited.

Conditions for Eligibility

What we do know is that the union existed in some form before its registration in 1911. When we were first registered as an organisation of employees under the Arbitrated and Conciliation Act, we were then called The Hospital and Asylum Attendants and Employees Union of Australia. The conditions of eligibility then were “Any person employed in hospitals, Dispensaries or Asylums throughout the Commonwealth shall be eligible for admission to this Union, providing that all applicants for membership of the union shall be employees while in the meaning of the Commonwealth Conciliation and Arbitration Act 1904-1910, together with such other persons employed in the Industry or not as have been appointed officers of the Union and admitted as members thereof.”

The President of the union at that time was W. Pederson and the Secretary was George Pitt.

Early Records Sparse

The earliest records we have are based on meeting minutes. These minutes are often extremely brief. It is therefore difficult to gain a clear and accurate picture of the events of the times.

At the first meeting of the Hospital Asylum Attendants Union in January 1914 Mr Chas Gray, the secretary of the Trades Hall Council presided. It was moved:

“That in the opinion of this meeting it is desirable that a union of all workers in hospitals and asylums be formed and that all present pledge themselves to become members of same.”

This was carried unanimously. At this meeting an entrance fee was set for members of the union. Males were charged one shilling entrance fee and sixpence per week, and females paid sixpence entrance fee and threepence per week.

Mass Meeting Elects Executive

On the 12th of February 1914 at a mass meeting the President, Vice-President, Treasurer, Secretary and committee were elected for a period of twelve months. Mr Cripps was elected as President, Mr Borgan and Mr Wright were both elected as Vice Presidents and Mr D. McLaughlin was elected as Secretary.

The Secretary’s position was the only paid position and he received 15 shillings per week. In April 1914 the union decided they would affiliate with the Trades Hall Council and the Union’s first Trades Hall delegate was Mr Astell who worked at the Melbourne Hospital (now known as the Royal Melbourne Hospital) as a dresser.

The membership at the time covered wardsmaids, porters, washers, wardsmen, cooks, chambermaids and gardeners from a variety of metropolitan hospitals such as the Alfred, Austin, Melbourne, Woman’s, Children’s, Queen Victoria and also country hospitals such as Swan Hill.

Membership Expansion

Over 100 years of existence the union has continued to expand its membership coverage. It started with a couple of hundred members, and now is approximately 15,500.

During this time the union moved from being a left-wing union to supporting the ultra-conservative
forces of the DLP in the 1950’s and then back to a progressive stance in the 1980’s. In the early years the union was extremely active in the ALP, contributing to policy changes and involvement within the party at a union level but also as individuals. The union often assisted in elections and stood its own members for positions within the ALP bureaucracy and even state elections.

Union Participation

The Union participated in various campaigns and subscribed to various organisations. Some of the campaigns were the eight-hour day, workers compensation and anti-war campaign (1930s). In 1933 the union endorsed and supported the strike of the unemployed workers who were working for the dole. In those days they called the “susso workers”. In supporting the susso workers it was agreed that the union recommended to the membership “that they subscribed at least one shilling per member per week for the wives and children of the unemployed who have been struck off the sustenance scheme through their resistance to the work for the dole scheme”. The Secretary reported that he had received to date 17/7d from the Melbourne, 11/0 from the Alfred, 8/0 from Fairfield and 2/6d from himself.

The union’s involvement not only extended into various campaigns for their members and the broader community, but also into subscribing to various organisations, political parties and labour organisations.

All in all, the union over the last 100 years has been consistent in its work and actions – its priority has always been to serve the interests of its members.
Union Achievements

So many things we take for granted that are now enshrined in law were secured for working Australians by workers in unions. Unions work to defend and improve these conditions for all working Australians! Health workers have been at the forefront of these improvements.

Equal Pay for Women
Equal pay for women was finally adopted by Australian Conciliation and Arbitration Commission in 1969. As little as 50 years ago, it was legal to pay women less for doing exactly the same work!

Annual Leave
Paid Annual Leave was first won in 1936. The Arbitration Commission granted workers paid leave, which was then gained by other workers through their unions in different industries. Annual leave loading of 17.5 per cent was first won by workers in 1973.

Awards
Awards maintain the minimum entitlements for workers in every industry. Since 1904, awards have underpinned the pay and terms and conditions of employment for millions of workers. Awards are unique to Australia and integral in ensuring workers get ‘fair pay for a fair day’s work’.

Penalty Rates
Penalty rates were established in 1947, when unions argued that people needed extra money for working outside normal hours. Tens of thousands of health workers rely on penalty rates to survive.

Parental Leave
Australian unions campaigned hard for the Paid Parental Leave Scheme. Working parents (regardless of sexuality) of children born after 1 January 2011 are now entitled to a maximum of 18 weeks pay on the National Minimum Wage.

Superannuation
Superannuation became a universal entitlement after the ACTU’s National Wage Case. Employers had to pay 3% of workers’ earnings into Superannuation. This later increased to 9% and on November 2, 2011 the ACTU and its unions’ “Stand Up for Super” campaign celebrated another win for working Australians, when the Labor Government moved to increase the compulsory Superannuation Guarantee to 12% over 6 years from 1 July 2013 to 1 July 2019.
Health and Safety and Workers’ Compensation
In Victoria, legislation was introduced in 1985 which saw the active role of workers in maintaining safety on the job.

Sick Leave
Before sick leave, you turned up to work if you were sick, or you went without pay! Sick leave provisions began to appear in Awards in the 1920’s and unions have campaigned hard for better sick leave conditions over the years.

Long Service Leave
In 1949 workers went on strike over a 35 hour week and long service leave. Long service leave was finally introduced in 1951.

Redundancy Pay
The Arbitration Commission introduced the first Termination, Change and Redundancy Clause into awards, entitling workers to redundancy pay.

Allowances: Shift Allowance, Uniform Allowance
Many workers who are required to wear uniforms in their jobs, get an allowance for this rather than having to pay for uniforms themselves. Shift allowances is money that’s paid for working at night or in the afternoon.

Meal Breaks & Rest Breaks
Before unions agitated for meal breaks and rest breaks to be introduced, workers were required to work the whole day without a break.

Collective Bargaining
Enterprise Bargaining was introduced in 1996 which allowed workers and their unions to negotiate directly with their employer over pay and conditions. Evidence shows that collective bargaining delivers better wages than individual agreements for ordinary workers.

Unfair Dismissal Protection
Unfair Dismissal Protection came from the concept of a “fair go all round”. Since 1971, unions have campaigned for laws that reflect that ‘fair go’ principle, which is about having a valid reason to sack someone and that the dismissal cannot be harsh, unjust or unreasonable.

Domestic Violence Leave
Unions recognise that employees sometimes face situations of violence or abuse in their personal life that may affect their attendance or performance at work. That’s why we’ve fought to include family violence leave clauses into all workplace agreements. The Victorian public hospital workers agreement, for instance, provides up to 20 days leave. Family violence leave was recently made mandatory in all modern Awards.
MEMBERS COME FIRST.

HWU Structure

Unions are democratic organisations, which means that all members have an equal say in who is elected to represent them. The Health Workers Union has a national office (Health Services Union) with branches in each state.

**National level**

Unions are governed by a national council and the national committee of management who are elected by members of the union.

**Branch level**

As well as a national office, unions have state branches. The members of each branch elect a committee of management to manage the business of that branch.

**Full-time officials**

The Health Workers Union also has full-time employees.

- The president of the Health Workers Union role is to chair the Branch Committee of Management and ensure that the union rules are being adhered too.
- The secretary is responsible for the overall management and development of the union. The secretary is elected directly by all members of the union every four years. Then there is the assistant secretary, organisers and industrial officers, health and safety officers, officers, education officers, and research officers.

**Workplace level**

In workplaces union members elect union delegates and members of local workplace union committees.

**Delegates**

Union delegates act on behalf of the union in matters and to act as a link between the union’s central office and the members in the work place.
Membership Application Form

I wish to become a member of the Health Workers Union

HSU VICTORIA NO 1 BRANCH, Level 5, 222 Kings Way South Melbourne 3205. info@hwu.org.au

Surname  
Given Name(s)  
Mr, Mrs, Ms, Miss

Date of Birth  
Occupation/Classification

Name of workplace

Employment status (Please tick) Full Time  Part Time  Casual  Hours worked per week

Home Address  
Town/Suburb  
Postcode

Email

Home Phone  
Mobile

Work Phone

NOTE: Your contact details will only be used for union correspondence and WILL NOT be disclosed to third parties

Yes, I have a pre-existing workplace issue that requires union assistance. (Please tick only if Yes)

Please choose from one of the following two payment options:

Credit Card Payment/Payment Schedule  Fortnightly  Date of first payment

Please charge my  Mastercard  Visacard  American Express  $

Card Number  Expiry Date

Direct Debit Request Service Agreement  Fortnightly  Date of first payment

Surname  
Given Name(s) “you”

request and authorise HSU VICTORIA NO 1 BRANCH 466179 to arrange, through its own financial institution, a debit to your nominated account any amount HSU VICTORIA NO 1 BRANCH has deemed payable by you.

This debit or charge will be made through the Bulk Electronic Clearing System (BECS) from your account held at the financial institution you have nominated below and will be subject to the terms and conditions of the Direct Debit Request Service Agreement.

Financial institution name

Address

Name/s on account

BSB number (must be 6 digits) -  Account number

By signing and/or providing us with a valid instruction in respect to your Direct Debit Request, you have understood and agreed to the terms and conditions governing debit arrangements between you and HSU VICTORIA NO 1 BRANCH as set out in this Request and in your Direct Debit Request Service Agreement.

Signature  
Date  
Position

Name  
Address

*The information collected on this form is confidential and subject to the Union's Privacy Policy and is only used to further the purposes of the Union and its membership. The policy can be viewed at hwu.org.au.

Authorised by Health Workers Union Secretary, Diana Asmar - Level 5, 222 Kings Way, South Melbourne, Victoria 3205
This is your Direct Debit Service Agreement with HSU VICTORIA NO 1 BRANCH, 466179 & ABN 92468160237. It explains what your obligations are when undertaking a Direct Debit arrangement with us. It also details what our obligations are to you as your Direct Debit provider. Please keep this agreement for future reference. It forms part of the terms and conditions of your Direct Debit Request (DDR) and should be read in conjunction with your DDR authorisation.

Definitions
account means the account held at your financial institution from which we are authorised to arrange for funds to be debited.
agreement means this Direct Debit Request Service Agreement between you and us.
banking day means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.
debit day means the day that payment by you to us is due.
debit payment means a particular transaction where a debit is made.
direct debit request means the Direct Debit Request between us and you.
us or we means HSU VICTORIA NO 1 BRANCH, (the Debit User) if you have authorised by requesting a Direct Debit Request.
you means the customer who has signed or authorised by other means the Direct Debit Request.
your financial institution means the financial institution nominated by you on the DDR at which the account is maintained.

1. Debiting your account
1.1 By signing a Direct Debit Request or by providing us with a valid instruction, you have authorised us to arrange for funds to be debited from your account. You should refer to the Direct Debit Request and this agreement for the terms of the arrangement between us and you.
1.2 We will only arrange for funds to be debited from your account as authorised in the Direct Debit Request or
We will only arrange for funds to be debited from your account if we have sent to the address nominated by you in the Direct Debit Request, a billing advice which specifies the amount payable by you to us and when it is due.
1.3 If the debit day falls on a day that is not a banking day, we may direct your financial institution to debit your account on the following banking day. If you are unsure about which day your account has or will be debited you should ask your financial institution

2. Amendments by us
2.1 We may vary any details of this agreement or a Direct Debit Request at any time by giving you at least fourteen (14) days written notice.

3. Amendments by you
3.1 You may change, stop, defer a debit payment, or terminate (cancel) this agreement at any time by providing us with at least 14 days notification by writing to info@hwu.org.au or by telephoning us on (03) 9341 3300 during business hours; or arranging it through your own financial institution, which is required to act promptly on your instructions.
*Note: In relation to the above reference to ‘change’, your financial institution may change your debit payment only to the extent of advising us HSU VICTORIA NO 1 BRANCH of your new account details.

4. Your obligations
4.1 It is your responsibility to ensure that there are sufficient clear funds available in your account to allow a debit payment to be made in accordance with the Direct Debit Request.
4.2 If there are insufficient clear funds in your account to meet a debit payment:
   a) you may be charged a fee and/or interest by your financial institution;
   b) you may also incur fees or charges imposed or incurred by us; and
   c) you must arrange for the debit payment to be made by another method or arrange for sufficient clear funds to be in your account by an agreed time so that we can process the debit payment.
4.3 You should check your account statement to verify that the amounts debited from your account are correct.

5. Disputes
5.1 If you believe there has been an error in debiting your account, you should notify us directly on Kerry Georgiev and confirm that notice in writing with us as soon as possible so that we can resolve your query more quickly. Alternatively you can take up directly with your financial institution.
5.2 If we conclude as a result of our investigations that your account has been incorrectly debited we will respond to your query by arranging for your financial institution to adjust your account (including interest and charges) accordingly. We will also notify you in writing of the amount by which your account has been adjusted.
5.3 If we conclude as a result of our investigations that your account has not been incorrectly debited we will respond to your query by providing you with reasons and any evidence for this finding in writing.

6. Accounts
You should check:
   a) with your financial institution whether direct debiting is not available through BECS on all accounts offered by financial institutions;
   b) your account details which you have provided to us are correct by checking them against a recent account statement; and
   c) with your financial institution before completing the Direct Debit Request if you have any queries about how to complete the Direct Debit Request.

7. Confidentiality
7.1 We will keep any information (including your account details) in your Direct Debit Request confidential. We will make reasonable efforts to keep any such information that we have about you secure and to ensure that any of our employees or agents who have access to information about you do not make any unauthorised use, modification, reproduction or disclosure of that information.
7.2 We will only disclose information that we have about you to:
   a) to the extent specifically required by law; or
   b) for the purposes of this agreement (including disclosing information in connection with any query or claim).

8. Notice
8.1 If you wish to notify us in writing about anything relating to this agreement, you should write to info@hwu.org.au
8.2 We may send notices either electronically to your email address or by ordinary post to the address you have given us.
8.3 If sent by mail, communications are taken to be received on the day they would be received in the ordinary course of post.

Please forward completed forms to the union office via one of the following options
POST: PO Box 1088 South Melbourne, Victoria 3205 EMAIL: info@hwu.org.au FAX: (03) 9341 3334 or HAND IT to your union organiser. For more information call (03) 9341 3300.

Authorized by Health Workers Union Secretary, Diana Asmar - Level 5, 222 Kings Way, South Melbourne, Victoria 3205
The Importance of Workplace Delegates

In workplaces where the Health Workers Union (HWU) has a presence, workers that are members of the HWU may be represented by a Workplace Union Delegate or shop steward. The HWU acknowledges that there may be a number of unions with members in any particular workplace and respects the right that each union is represented by its own union delegate.

The term ‘delegate’ is used to refer to a wide range of HWU activists who might also be called departmental representatives, union contacts, shop stewards, and so on. As a consequence, the workplace delegate becomes a vital link or conduit of information between the union’s members in the workplace, the HWU representatives (organiser) and other union structures, such as the Branch Committee of Management (BCOM).

The HWU is a democratic organisation, which means that all its members have an equal say in who is elected to represent them. The HWU recognises that workplace union delegates must be provided with appropriate training and support that empowers the delegate to conduct their roles with confidence. The HWU expects its workplace delegates to represent union members and conduct their duties in a professional, enthusiastic, effective and conscientious manner.

The workplace union delegate must be an employee of the workplace and not a full-time paid official of the HWU. A delegate is an active union member who is recognised in the workplace as the local union contact.

The HWU expects the Union delegate to have a strong grasp of the English language and to be a proficient communicator and able to:

- Use appropriate verbal and non-verbal communication skills;
- Demonstrate leadership qualities and have the ability to work within groups; and
- Develop and use strategies to ensure that the delegate is effective within the organisation.

Please find workplace delegate nomination form by clicking this link.

Training for the HWU Delegate

The HWU encourages the HWU workplace delegate to regularly participate in professional development activities related to Leadership and Industrial Relations (and other related courses). The HWU will assist as required to ensure that the HWU workplace delegate can achieve the above standards and participate in professional development activities. HWU delegates have the right to reasonable paid time off to attend endorsed union professional development or training. Please visit the ACTU Education & Training page for more course information.

Rights and roles of a HWU workplace delegate

The HWU delegate has certain rights under the Fair-Work Act (2009) and various Enterprise Agreements. These rights allow the HWU delegate to carry out their roles and responsibilities.

1. The HWU delegate must be treated equitably and allowed to perform their role as union delegate without any interference or discrimination from their employer.

2. The employer must formally recognise endorsed union delegates are entitled to represent the members of the HWU employed in his or her area in dealings between those members and management.

3. Take all reasonable and necessary steps to educate new employees about the benefits of union membership and enrol as members all eligible employees in their work area.

4. Ensure that all members in his or her area are and remain financial (union dues are up to date).

5. During the process of representing and consulting with union members, the HWU delegate is entitled to reasonable paid time off to participate in the operation of the union.

6. In conjunction with the union Organizer and/or Industrial Team must bargain collectively on behalf of those they represent.
What to do if you receive a disciplinary?

It’s important to know what to do if your manager formally asks you to attend a meeting to discuss your performance. It may be for a serious matter, it may not. But it’s important you take it seriously. Here is some advice about what to do in the first instance. Remember to call the union on (03) 9341 3300.

What is a disciplinary meeting?
A disciplinary meeting is when the employer formally requests an employee to attend a meeting to discuss work performance; for example, to discuss something inappropriate that the employer believes the employee has done or a complaint that has been made against the employee.

Always make sure you have a clear understanding of the purpose of the meeting
Always ask that any allegations be provided to the member in writing

Who can represent you in a disciplinary meeting?
A HWU Delegate can attend a disciplinary meeting with a member, if requested by the member. A HWU Organiser may also attend a disciplinary meeting with you, if given sufficient notice.

What to do during a disciplinary meeting?
A member may call for a break at any time during the meeting, should either the member or the HWU Delegate wish to discuss matters without management. You should also:
- Seek supporting documents/evidence be provided
- Clearly re-iterate and note any agreements on a course of action agreed to during the meeting
- Take notes
- Keep language professional at all times
- Agree on terms to move the issue forward, sum up items for follow up and ensure there are timelines for further action that are agreed by each party

It is ok if a resolution is not made at the end of the meeting. Be sure to make a time for another meeting and seek further advice from the HWU. If at any stage of the process you are unsure of how you should proceed, it is your right to seek that any discussion is postponed until you can seek further advice.

How can you ensure a fair disciplinary meeting?
The principals of natural justice and procedural fairness must be adhered to in a disciplinary process. This means that the member must be:
- Advised of their right to have representation including union representation
- Advised purpose of the meeting
- Given information or a summary of the allegations in writing

It is also important to have a copy of the employers’ policy and procedures and ensure that these policy and procedures are upheld.

Do I have to attend a disciplinary meeting?
An employer has every right to ask a member to attend a meeting, and the member should follow this instruction. However, this does not negate the members right to refuse to talk about any issues which they have not been made aware of in writing.

What if natural justice/procedural fairness doesn’t happen?
If a member is not afforded natural justice, they or the HWU Delegate (on behalf of the member) are within their rights to refuse to discuss any issues which they have not been given the details to prior to the meeting and to request that the proper processes be followed.

Summary and further tips to get the best outcome from a disciplinary meeting:
- If the matter is to become part of a formal process, an Employee must receive notice of any meeting in writing - contact your Delegate or Organiser immediately to get them to represent you at the meeting. If they can’t make it, ask for the meeting to be moved to another time - you have the right to ask for this.
- At any time the meeting may be paused for the Employee to discuss a matter with the Union representative, or if they need
Dorevitch Pathology workers pay and conditions were set by an agreement which dates back to 2007. For over a decade, whilst the company raked in big profits it stonewalled pay rises through a new workplace agreement for its employees. Enough was enough. By 2017, the Health Workers Union had no option but to take on Dorevitch Pathology, one of the Victorian health industry’s worst employers. Over 600 members went on strike and the company’s CEO, Neville Moller was sacked. The industrial action was so effective it was terminated by the Victorian Government on the grounds of patient safety. This is the story of how, one way or another, our united HWU members got their well overdue pay rise.

Pathology workers across Victoria had enough. Some 70% of all medical diagnoses rely on pathology. If the services of pathology workers are so highly regarded, why then were they so poorly paid?

The answer to this question is Dorevitch Pathology. The company had deliberately stalled wages for over a decade, through whatever tactic it can – delaying, bullying, intimidating or manipulating workers. Leading the charge was long time CEO, Neville Moller (now dumped). He’d been a poster boy for fat cat CEO’s disrespectful of their workers.

Most Dorevitch workers earnt approximately $21 an hour. They earned nearly $7000 less per annum than the industry standard. Other major pathology providers like Clinical Labs and Melbourne Pathology were struggling to compete on major contracts, as Dorevitch had the ability to undercut the whole industry because of its suppressed wages. Dorevitch were leading a race to the bottom. They were dragging the whole industry down.

The Health Workers Union had its eye on Dorevitch for a long time. Union Secretary, Diana Asmar, is a former phlebotomist and was once on Dorevitch’s payroll. She had firsthand experience in dealing with their mistreatment and bullying of workers.

Senior HWU officials developed a plan to secure these workers a pay rise. This planning would take 18 months. It would be the biggest industrial battle the HWU had faced in over a decade. Dorevitch had a history of hurting their workers.
For over twelve months, the HWU attempted to negotiate in good faith with Dorevitch’s CEO, Neville Moller. Not surprisingly, calls were not returned. The HWU would require a ‘Majority Support Determination’ to bring Dorevitch to the bargaining table. The union would need to show the Fair Work Commission that the majority of Dorevitch employees supported a new agreement. The union sent our organisers to over 350 Dorevitch sites to collect employee signatures and phone numbers on a petition calling on negotiations for a new agreement to begin. The response was overwhelming with close to 1000 workers signing the petition. The HWU presented this to the Fair Work Commission.

Fair Work ordered that Dorevitch sit down with the HWU and bargain in good faith for a new agreement. Month after month, Neville Moller and his industrial advisers and Human Resources Manager sat silently in meetings, with arms crossed, never giving an inch. Not once did they put a pay rise offer on the table. All the while, the HWU quietly built its Dorevitch army. HWU Organisers, working with their workplace delegates, quietly quadrupled the union’s membership over a twelve month period.

By the winter 2017, we were ready. Enough was enough. The union had strength, our members were united and we ready to fight for a pay rise. On Monday, August 7, the union took protected industrial action. Over 600 HWU members went on strike. All over Victoria, pathology collection centres shut.

Close to 200 members rallied on Dorevitch Headquarters in Heidelberg. Another 60 Gippsland members rallied in Traralgon. TV cameras and radio made sure our voices were heard across Victoria. Dorevitch knew they had a fight. Their response was disgusting, if not predictable.

On Monday evening, they “locked out” 66 workers. Then a further 10 on Tuesday and another 13 by Wednesday. In total, 89 workers were not allowed to return to work until the union withdrew its industrial campaign. Dorevitch CEO Neville Moller used “Employer Response Action” provisions in the Fair Work Act to single out union activists. It is a tactic designed to intimidate other striking members. It is entirely legal. He did not care if single mums working part time would struggle to feed their kids or pay their bills. He wanted to send a message: he would not budge.

The ‘lock out’ backfired. The mantra of “touch one, touch all” came to the fore. By the Tuesday, the 511 other HWU members took “Employee Response Action” by going on strike for a week. We were all in this together.

Dorevitch scrambled to stay operational. It flew in pathology workers from interstate. Agency nurses were brought in, at a cost to the company of $60 an hour. Exhausted middle managers worked round the clock. Non-union members that did go to work were shuffled around the state like pawns on a chess board to keep centres open. They ran advertisements for phlebotomists on seek.com.
The union kept up its campaign. Locked out workers and volunteers handed out ‘Ditch Dorevitch’ flyers to the community – outside train stations, shopping strips and pathology collection outlets. Members marched on the offices of Jangho, the Chinese company that was looking to buy Primary Health (the parent company that owns Dorevitch).

Union members returning to work gave Dorevitch one more chance. Either return the locked out workers and put a pay offer on the table or face an indefinite strike. Again, Neville Moller would not budge. Even though the company was in turmoil.

Finally, with a flu epidemic gripping the State, the Victorian Government decided the industrial action posed a risk to the health and wellbeing of the community. The government lodged an application in the Fair Work Commission to terminate all industrial action.

On the same day, Primary Health dumped Neville Moller as CEO. Dorevitch simply stated that “Mr Moller has left the company”.

The Victorian Government’s application was heard in the Fair Work Commission. The commission agreed with the government and decided that all industrial action was now terminated. The HWU and Dorevitch would now have 42 days to negotiate an outcome. What was not agreed to, namely pay rates, was eventually decided by the Fair Work Commission.

They determined pay increase to Dorevitch workers of up to 20% (depending on classification and experience), allowance increases of up to 30% and backpay.

Our Dorevitch HWU members have proven their worth to the community and to each other. Throughout this process, they stuck together. Because they know that united, workers will never be defeated. We are always stronger when we stick together. Our proud and determined Dorevitch members prove the power of belonging to a union.
Getting Members More Money!

Negotiating your Enterprise Agreement

Enterprise bargaining is a legislated process of negotiation that occurs between the employer, employees and their Union with the specific goal of creating an enterprise agreement.

The duration of Enterprise Agreements varies from between one to four years. Enterprise Agreements are usually renegotiated prior to their expiration date. For example, on the 5th September 2016, our Secretary Diana Asmar renegotiated the Victorian Public (Health Sector Health and Allied Services, Managers and Administrative Officers) Enterprise Agreement 2016-2020 with the Victorian Hospital Industry Association (representing Victorian Public Hospitals). It was agreed that the Enterprise Agreement would be a four-year agreement, which expires on September 30, 2020. Once established, Enterprise Agreements are legally binding on employers and employees. Most Enterprise Agreements can be found on the Fairwork Commissions website.
What is an Enterprise Agreement?

Put simply, it is an agreement between one or more employers and their employees. Enterprise agreements are negotiated by the parties through collective bargaining in good faith, primarily at the enterprise level. Under the Fair Work Act (2009), an enterprise can mean any kind of business, activity, project or undertaking.

An enterprise agreement can be seen as a workplace rule book that sets out the conditions of employment, including pay and leave entitlements, disciplinary processes and the roles and responsibilities on employees and their employer.

How is an Enterprise Agreement made?

The Fair Work Act (2009) provides a clear and flexible structure to guide employers and employee representatives (usually Trade Unions) about how the parties must conduct the negotiation process. For example, the Fair Work Act (2009) includes rules about bargaining (in good faith), the content of enterprise agreements, and how an agreement is made and approved.

In order to begin the process, an employer must inform their employees of their right to be represented by a bargaining representative (for example, a Trade Union). This must happen as soon as possible, and not later than 14 days after the notification time for the agreement. The notification should be given to all workers that will be covered by the enterprise agreement.
Enterprise bargaining is a legislated process of negotiation that occurs between the employer, employees and their Union with the specific goal of creating an enterprise agreement.

What’s the Difference between a Modern Award and an Enterprise Agreement?

Although Modern Awards cover minimum pay and conditions for a particular industry, enterprise agreements can cover specific arrangements for a particular organisation.

Enterprise agreements cannot offer less than is specified within the base standard stipulated by the National Employment Standards or less than the minimum standards set by an Award.

A registered agreement sets out the terms and conditions of employment between employees and their employers.

Who can be a Bargaining Representative?

A bargaining representative can be a person or organisation that each party involved in the enterprise agreement may appoint to represent them during the bargaining process. The Fair Work Act 2009 identifies the following two as bargaining representatives:

- An employer that will be covered by the agreement;
- A trade union who has a member that would be covered by the agreement (unless the member has specified in writing that he or she does not wish to be represented by the trade union, or has appointed someone else);

If an employee is a member of a trade union, the default bargaining representative is their trade union unless the employee appoints another person.
A new study from the Centre for Future Work at the Australia Institute, has calculated that as many as two-thirds of Australian workers are now regularly expected to put in some form of unpaid overtime.

This may be the current modern world of work, but that doesn’t make them acceptable.

Unpaid overtime takes $116 billion from household incomes every year. The annual loss to a full time works is calculated at $10,641, or a weekly loss of $205. For a part-time or casual worker, its $7,840 annual loss and a weekly loss of $151.

It’s time theft. If a worker stole $10,641 from their employer they would get sacked and face criminal charges. Why is it acceptable for an employer to steal this sort of money from the pockets of their employees?

The study showed some disturbing trends for Australian workers. About half of all workers don’t use their holiday leave, with 59% saying they are overworked, and 14% saying it would harm their job security.

Dr Stanford of the Centre for Future Work at the Australia Institute said the situation is getting worse, not better.

“If you are a full-time worker, on average you are reporting about six hours a week of unpaid work for your employer,” he said.

“That’s a fair amount in a week, but add it up over a year and it’s staggering — that’s over 300 hours.”

Calculated at the average Australian wage, that represents around $12,000 worth of labour per year per employee, Dr Stanford said.

“If most Australians thought who could they give a generous gift of $12,000 to, their employer wouldn’t be at the top of the list,” he said.

Dr Stanford said part-time and casual workers, who might only get 10 or 15 or 20 hours a week, are the most vulnerable. They are being asked to stay longer and work for free,” he said.

What’s worse, the union has had issues with insurers not accepting WorkCover claims if someone was injured whilst working out of hours they were not asked to.

The Health Workers Union asks all members to never do any work or overtime that is unpaid. For info, or to read the study in full go to www.gohomeontimeday.org.au.
After more than two years of argument, the Fair Work Commission has recently ruled that Modern Awards should enable casual employees engaged in regular patterns of work to request permanent positions after 12 months.

The Commission recognised that some employers indefinitely engage persons as casuals who may be (and who may want to be) employed permanently.

The vast majority of HWU members are covered by workplace Agreements that already have the right to request casual conversion (typically after six months regular work).

However, for workers covered by Awards, the Fair Work Commission’s decision is good news. The Commission’s consideration of the issue of casual conversion was part of the ‘4 Yearly Review’ of Modern Awards by the Commission.

The decision was a good step forward, but did not go as far as the ACTU wanted. Specifically, unions sought an absolute right for casual employees to be converted to permanent employment after six months of regular work and a standard four-hour minimum engagement period for casual and part-time employees.

The Commission rejected this claim, instead deciding that for those Modern Awards that do not currently have any minimum engagement period, a minimum engagement period for casuals of two-hours should be included.

It should be noted that the Commission only determined that workers had a right to request casual conversion. It also provided for employers to refuse such requests on the grounds that:

- it would require a significant adjustment to the casual employee’s hours of work to accommodate them in full-time or part-time employment; or
- it is known or reasonably foreseeable that the casual employee’s position will cease to exist; or
- the casual employee’s hours will significantly change or be reduced within the next 12 months; or
- it is reasonable in the circumstances based on facts which are known or reasonably foreseeable.
The decision of the Commission is important recognition of the value of secure work. Job insecurity, combined with record low wages growth, is a familiar combination for too many households. Workers are too often finding themselves in casual work, fixed term contracts, seasonal work, contracting or labour hire.

In its ruling, the Fair Work Commission appeared to recognize this challenge:

“In our view, the disadvantages of long term casual employment for employees far outweigh the advantages to be gained by employers who wish to persist in using casual employment as a vehicle for virtual permanent employment, whatever their reason for doing so may be.”

As the Fair Work Commission points out, 59 per cent of casuals are in the 25-64 year old age group. Data from the ABS this year shows that since August 2012, the number of casual workers and independent contractors has risen by 110,000 and 51,300 respectively. This has coincided with 113,000 less workers getting full leave entitlements.

The notion of ‘flexible’ work is on the rise. This is fine, if that is what a worker chooses. But what we are increasingly seeing is under-employment – that is, people who want more work but cannot find it – at record highs. There are now more than one million Australians in this category!

As University of Melbourne Professor of Economics, Jeff Borland, notes in his paper Part-time Work in Australia: A second look, between 1986 and 2016 the percentage of employment in Australia accounted for by part-time work increased from 18.9 to 31.6 per cent."

This is one of the highest part-time rates of any developed country. And not all part-time workers are happy with their lot – around one-third say they want more hours, and many more want more regular and fixed hours. To help address this, the HWU has been successful in negotiating a review of part-time hours into many of our new Agreements, which allows part-timers to convert hours regularly worked over their contracted hours to permanent hours.

Ultimately, insecure work means less pay and fewer rights and entitlements, which can lead to worker exploitation. The Fair Work Commission’s decision reduces insecurity to some extent and is a step in the right direction.
Occupational Health & Safety
Knowing the Law

What is the “OH&S Act”? 

The Occupational Health and Safety Act 2004 (called the OH&S Act for short) covers most workplaces in Victoria including offices and hospitals where employees or self-employed people work.

The Government, employers and unions developed the OH&S Act through talking and working together.

The Act allows employers and employees to deal with workplace health and safety through consultation (discussion) and co-operation (team work). Consultation between employers and employees in workplaces is very important. The Act encourages discussion, particularly through employee health and safety representatives and joint health and safety committees, made up of both management and employee representatives.

Under the Act, everyone involved with work has responsibilities for occupational health and safety.

What are Occupational Health and Safety Regulations?

Regulations are laws made by government to support Acts – in other words, to set out more detailed requirements which will help to an Act to achieve its objectives.

The OH&S Act is supported by the Occupational Health and Safety Regulations 2007, which make specific requirements in regard to hazards, including:

- manual handling
- noise
- plant
- prevention of falls
- hazardous substances
- asbestos
- lead

Hazard identification, risk assessment and risk control are made compulsory for employers in all workplaces by the Regulations.

The Regulations also address things like the issuing of licences for erecting scaffolds, operating cranes and forklifts and other potentially dangerous work.

Key point: Regulations are laws to protect people from occupational injury and disease. Every workplace in Victoria must obey all the laws relevant to their work.

The OH&S Act and Regulations are legally enforceable, and employers can be prosecuted if they do not meet their obligations.

These laws give every person in every workplace a right to be involved in health and safety through a process of consultation and co-operation. They also provide penalties for any employer or employee who tries to prevent this process from happening.

Key point: Employers and employees should work together to eliminate hazards and to find practical ways to protect the health and safety of everyone in the workplace, including members of the public.

What is Duty of care?

The Occupational Health and Safety Act 2004 contains sections that describe the responsibilities of:

- employers
- employees
- self-employed persons
- persons who have control of workplaces (e.g. owners or managers)
- persons who manufacture or supply plant (machinery or equipment tools) and substances used at work
- persons who design or construct buildings and structures

These responsibilities are known as ‘duties of care’. The duty of care applies to each person ‘as far as is reasonably practicable’.

‘Practicable’ means reasonable measures must be taken, bearing in mind:
Workplace Representatives

What is a Designated Work Group?
A Designated Work Group (DWG) is a negotiated and agreed grouping of workers who share similar workplace health and safety interests and conditions.

It may be made up of workers in one or more workplaces operated by a single employer or workers of multiple employers at one or more workplaces. There can be more than one DWG in a workplace.

A DWG is established to form the ‘electorate’ that may elect health and safety representatives (HSRs). A HSR is a person who has been elected by the workers in his or her DWG to represent the DWG on occupational health and safety (OHS) issues.

Who can initiate negotiations for establishing DWGs?
A worker may ask his or her employer to establish a DWG or an employer can initiate the negotiation to establish a DWG.

How long does an employer have to start negotiations?
Upon receiving a request to establish a DWG from a worker, an employer must do everything reasonable to ensure that negotiations start within 14 days after the request.

However, it is not necessary to wait 14 days to start negotiations – employers can start negotiations immediately upon request or at their own initiative where there has not been a request to establish a DWG.

Who can negotiate a DWG?
A DWG can only be negotiated between the employer (or the employer’s representative) and the workers (or the workers’ representative- Health Workers Union).

Can anyone represent workers and an employer in DWG negotiations?
A worker or group of workers may be represented by any person authorised by them. An authorised person can be a Health Workers Union official or any other person. An employer can authorise any person to represent their interests. This could include an official from an industrial association or employer body.

What needs to be negotiated in a DWG Agreement?
The Occupational Health and Safety Act 2004 (the Act) states that negotiations concerning DWGs must only be about:

- How to group workers into one or more DWGs at one or more workplaces in a way that best and most conveniently enables the workers’ OHS interests to be represented and safeguarded; as well as best takes account of the need for a HSR of the DWG to be accessible to each member of the group
- The number of HSRs (must be at least one) and deputy HSRs (if any) for each DWG
- The term of office (not exceeding three years) of each HSR and deputy HSR
- Whether the HSRs are to be authorised to also represent independent contractors engaged by the employer and their workers who work at the workplace.

These are the only matters that can be part of an agreement.

What factors must be taken into account when grouping workers into DWGs?
The Act specifies factors that must be taken into account in negotiations concerning groupings for DWGs. These are:

- the number of workers at the workplace(s)
- the nature of each type of work performed at the workplace(s)
- the number and grouping of workers who perform similar types of work or working under the same or similar working arrangements
- the areas at the workplace(s) where each type of work is performed
the nature of any hazards
overtime or shift work arrangements
whether other languages are spoken by the workers.

What if workers are from a non-English speaking background?

Languages spoken in the workplace must be considered when negotiating DWGs. This is to ensure that the interests of workers from culturally and linguistically diverse backgrounds are properly represented.

Why do workers need ready access to a HSR?

Workers need ready access to a Health and Safety Representative (HSR) so that they can raise any concerns regarding their health and safety and so that they can readily be consulted by the HSR in relation to OHS matters in the workplace. WorkSafe considers accessibility to mean both direct contact (face-to-face) and indirect contact (email or phone). It is, however, desirable that there be as much opportunity for face-to-face contact as possible.

Can there be more than one HSR in a DWG?

Yes. If agreed in the negotiations (or determined by an Inspector where agreement cannot be reached), more than one HSR may be elected for each work group and they may perform their roles concurrently.

In what circumstances does a deputy HSR carry out the HSR’s role?

It will not always be possible for the elected HSR to be present and available to represent their DWG when needed. In the HSR’s absence, a deputy effectively becomes the HSR and has all the powers of that role.

What happens when a DWG is agreed?

The employer must establish the DWG by giving notice to the workers in writing as soon as possible.

Can the agreed DWG be changed at any time?

Yes, this is known as a ‘variation’. Once DWGs are agreed, variations to the agreement may be required if circumstances change or if the existing arrangements are found to be unsatisfactory. A variation to a DWG agreement may be negotiated at any time. Variations are negotiated in the same way as an initial DWG. HSRs must be involved in
the negotiations to modify a DWG agreement. If a variation is agreed, the employer must vary the agreement by communicating the change to the workers in writing as soon as possible.

What happens if there isn’t agreement on the DWG?
Any of the parties involved in the negotiation may ask WorkSafe to arrange for an Inspector to assist if agreement hasn’t been reached within a reasonable time. What is considered ‘reasonable time’ will vary depending on the circumstances in the workplace. The Inspector will determine the particulars that are unresolved (as set out in section 44(1) and section 46 of the Act).

Once the Inspector arrives at a decision about the unresolved particulars, written notice must be given by the Inspector to the parties and the parties must give effect to the determination. In other words, the parties are bound by the Inspector’s decision, subject to appeal.

Can an Inspector’s decision regarding DWGs be appealed?
Yes. The Act allows for an Inspector’s decision in relation to a DWG to be reviewed by the Internal Review Unit of WorkSafe Victoria. A worker or employer whose interests are affected by the Inspector’s decision may apply for review.

Prohibition on coercion
The DWG agreement reached at the end of negotiations must be the result of genuine consent and agreement between the parties. The Act prohibits coercion of workplace parties when they are attempting to establish or negotiate DWGs, vary DWG agreements, and in relation to representation in negotiations. Coercion is a serious offence – significant penalties apply for a breach of this provision.

It is an offence under the OHS Act to coerce, or attempt to coerce another person:

- not to make, or to withdraw, a request for a DWG;
- in the conduct of negotiations concerns a DWG;
- in relation to representation in the negotiations.

WorkSafe will treat any allegation of coercion seriously and, under its compliance and enforcement policy and general prosecution guidelines, will prioritise allegations of coercion for comprehensive investigation.

To report a problem please contact our advisory service between 7.30am to 6.30pm Monday to Friday on

1800 136 089
HSR Election Process

Background

Health and safety representatives (HSRs) play an important role in making Victorian workplaces safer. HSRs are elected by workers in their designated work group (DWG) to represent them in health and safety matters. DWGs are an agreed group of workers at one or more workplaces that conveniently enables the OHS concerns of those workers to be represented by one or more HSRs.

HSRs should be accessible to each member of their DWG and provide workers with a way to have their views and concerns about health and safety heard by their employer. The Occupational Health and Safety Act 2004 (the OHS Act) recognises the benefits of worker involvement in OHS matters and states that:

- workers are entitled, and should be encouraged, to be represented in relation to health and safety issues
- employers and workers should exchange information and ideas about risks to health and safety and measures that can be taken to eliminate or reduce those risks.

When do HSR/deputy HSR elections typically occur?

HSR and deputy HSR elections are required:

- after a DWG is established or varied
- when a HSR or deputy HSR ceases to hold office
- when the term of office expires for an existing HSR or deputy HSR
- when there is more than one candidate for each HSR and/or deputy HSR position.

What happens if there is more than one DWG?

If there is more than one DWG in a workplace, the OHS Act provides for separate elections to elect one or more HSRs and/or deputy HSRs in each DWG.

How are deputy HSRs elected?

Deputy HSRs may be elected in the same way as HSRs. If an election is required for both roles in a DWG, two separate elections are encouraged to allow a person wishing to be nominated for both roles to be considered.

Who is eligible to vote in a HSR/deputy HSR election?

Only the members of the DWG the HSRs will represent.

Who decides how a HSR/deputy HSR election is conducted?

The members of the DWG determine how the HSR/deputy HSR election is to be conducted. The process may be informal (show of hands) or follow a more formal process (ballot papers and ballot box). Please find poster for elections in the centre lift out.

What if the DWG does not agree on how to hold an election?

If members of a DWG cannot agree on how to conduct the election within a reasonable timeframe, any one member of that DWG (this does not need to be a majority decision) may request WorkSafe to arrange for an inspector to conduct an election.

When a DWG requests WorkSafe to conduct an election, WorkSafe will either appoint an Inspector to conduct the election or, if it is more appropriate, the Inspector may appoint another person to conduct the election.

What is a ‘reasonable timeframe’ to reach agreement on the conducting of a HSR/deputy HSR election?

A ‘reasonable timeframe’ will vary depending on
circumstances in the workplace. As a guide, WorkSafe considers two weeks to be a reasonable period.

**How long is a HSR’s term of office?**

The term of office for a HSR or deputy HSR must not exceed three years. HSRs and deputy HSRs are eligible to be re-elected when their term of office expires.

**What may an Inspector do?**

The Inspector may first attempt to get all members of the DWG to reach agreement on how to conduct the election. If this is not achievable, the Inspector may determine an appropriate election process to be followed by management and members of the DWG.

A typical election process may incorporate the following main points:

- DWG members may nominate themselves or another member of the DWG for election as the HSR(s) or deputy HSR
- nominations must be given in writing to the inspector or other appointed person
- the Inspector or other appointed person will verify nominees are eligible and willing to stand
- the election will be conducted by secret ballot
- each member of the DWG may only vote once in the election
- all members of the DWG will be given the opportunity to vote
- voting is by attendance at a specified location(s) at the workplace on specified date(s)
- attendance at voting must be treated as paid working time
- voting is not compulsory.

**Is the decision by an Inspector to appoint another person to conduct an HSR election a reviewable decision?**

Yes. Employers or workers with interests affected by the Inspector’s decision to appoint a person to conduct a HSR election may seek a review of that decision.

**What if there is a challenge to the election process after the election?**

In such an event, the matter should be raised by the dissatisfied party or parties with members of the DWG and a decision made whether another election is conducted with the necessary process improvements. The decision whether to accept current election results or conduct another election is encouraged to be a majority DWG decision. Options for polling this decision may be informal (show of hands) or a formal confidential process (ballot papers and ballot box).

Should the decision be to hold another election, the DWG may again decide the process or ask WorkSafe to conduct the election.

Please find OH&S Rep Election notice by clicking this link.

**The Health Workers Union Recommends:**

**The Victorian Trades Hall HSR Initial OHS Training Course.**

This course is approved by WorkSafe Victoria under Section 67 of the OHS Act.

This course provides HSRs with an understanding of the objectives of the OHS Act 2004 and their role under the Act

- Interpreting the OHS legislation framework and its relationship to HSRs
- Identifying key parties and their legislative obligations and duties
- Establishing representation in the workplace
- Participating in consultation and issue resolution
- Representing DWG members in any OHS risk management process undertaken by the appropriate duty holder/s
- Issuing a PIN and directing the cessation of work.

Under section 67 of the OHS Act (2004), HSRs & deputy HSRs are entitled to undertake a WorkSafe approved course of their choice, in consultation with their employer.

For training, HSRs are entitled to time off work with pay. The employer must meet the costs associated with the initial or refresher course, in accordance with the *Occupational Health and Safety Act 2004*.

For Course dates please visit: [https://www.ohsrep.org.au/hsr_initial](https://www.ohsrep.org.au/hsr_initial)
Injured?  We can help.

Have you or a family member suffered a work-related injury or illness? You need expert WorkCover advice.

For more than 40 years we have helped union members access the compensation they deserve. Our service is No Win, No Fee.

Members of our team are Accredited Specialists in Personal Injury Law and are recognised as industry leaders.

For advice, contact your HWU representative or one of our friendly WorkCover team members.

Call and speak directly to a lawyer now (03) 9321 9988.
Dealing With Workplace Bullying

Workplace bullying is a risk to health and safety. It can seriously affect the mental and physical health of workers. Every worker can help to ensure workplace bullying does not occur. Under work health and safety laws, workers must take reasonable care that their behaviour does not adversely affect the health and safety of other people.

What is workplace bullying?

Workplace bullying is defined as repeated and unreasonable behaviour directed towards a worker or a group of workers that creates a risk to health and safety. Not all behaviour that makes a person feel upset or undervalued at work is classified as workplace bullying. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include, but are not limited to:

- abusive, insulting or offensive language or comments
- unjustified criticism or complaints
- deliberately excluding someone from workplace activities
- withholding information that is vital for effective work performance
- setting unreasonable timelines or constantly changing deadlines
- setting tasks that are unreasonably below or beyond a person’s skill level
- denying access to information, supervision, consultation or resources to the detriment of the worker
- spreading misinformation or malicious rumours
- changing work arrangements, such as rosters and leave, to deliberately inconvenience a particular worker or workers.

It is important to note, a single incident of unreasonable behaviour is not considered to be workplace bullying however it may have the potential to escalate and should not be ignored.

How to respond to bullying?

When bullying does occur, there are many ways to respond to it. Like other OHS risks, workplace bullying is best managed by dealing with it as soon as the problem exists. An employer’s failure to prevent or address workplace bullying may contribute to a working environment that creates a risk to health and safety.

Workplace bullying may be raised with an employer in a number of ways, including:

- telling the other person to stop
- a written or verbal report
- directly observing behaviour
- a health and safety rep raising an issue
- a workers’ compensation claim being made

Effectively responding to issues when they are raised can stop the situation happening again and reinforce for employees that workplace bullying is dealt with seriously by their employer.

Effective response involves selecting an approach to deal with the issue, either through early intervention or a formal investigation. Early intervention usually suits situations where behaviour may have just occurred or has not escalated. Formal investigation should be used for serious allegations.
Early intervention

Early intervention is a way of solving an issue without a formal report, investigation or discipline being taken against an individual. Early intervention can be achieved through an individual self-managing a situation or seeking help from someone else to raise the issue. Generally, employers will encourage self-management as a first step to resolve an issue.

Self-management

Self-management is an informal approach to address workplace bullying. It involves the individual who experiences the negative behaviour directly telling the other person that the behaviour is not welcome and it should not happen again. It should be done in a calm and professional way (e.g., telling the person about the impact of the behaviour and asking them not to do it again). If the behaviour continues or gets worse then a formal report should be made.

If an individual doesn’t feel confident enough to manage a situation themselves, the issue can be raised through another person. This includes:

- your union delegate
- a health and safety rep
- a supervisor or manager
- human resources department.

How should bullying be investigated?

The aim of a bullying investigation is to work out what happened and what the appropriate course of action is. Where a serious allegation has been made, an investigation should be the first step taken. An investigation should be used:

- for reports that cover a long period of time
- for reports that include threats
- for reports against a number of employees
- when an early intervention approach has not addressed the issue.

The investigation should also:

- treat all matters being investigated seriously and confidentially
- examine matters impartially and in a timely way
- allow for appropriate time
- identify and speak to relevant witnesses
- inform everyone involved of the possible investigation results and outcomes
- assess reports on their merits and facts
- hear parties separately (versions of what allegedly happened may differ)
- record the facts surrounding the matter.
- describe the allegations/what was reported
- describe the investigation processes
- outlines all relevant evidence (including who was interviewed)
- concludes whether workplace bullying can or cannot be substantiated

Taking the matter further?

Some bullying is so serious that workers feel that they can no longer work in that particular workplace and they are compelled to lodge a workers compensation claim. The union can provide members with advice in relation to this course of action if it is required by calling on (03) 9341 3300.

Most claims that are unsuccessful due to the lack of documentation of facts surrounding the matter or lack of evidence or witnesses to the bullying. It is important to record ALL facts and all incidences of bullying. This will greatly improve the chances of success if the claim should go to a court.

Matters involving allegations of physical assault, damage to property, sexual assault or stalking in the workplace are criminal matters and should be referred to the police immediately.

If you have any questions about workplace bullying, please call our union on (03) 9341 3300.

Emergency Phone Numbers

Worksafe Bullying Hotline: 1800 136 089
Crisis Contact Centre: 1800 627 727
Beyond Blue: 1300 224 636
Lifeline: 131 114
FairWork Ombudsman: 13 13 94
Sexual Assault Hotline: 1800 806 292
Crisis Accommodation: 1800 825 955
Flexible Working Arrangements

Certain employees have the right to request flexible working arrangements. Employers can only refuse these requests on reasonable business grounds.

What are flexible working arrangements?
Examples of flexible working arrangements include changes to:
- hours of work (e.g., changes to start and finish times)
- patterns of work (e.g., split shifts or job sharing)
- locations of work (e.g., working from home).

Who can request flexible working arrangements?
Employees who have worked with the same employer for at least 12 months can request flexible working arrangements if they:
- are the parent, or have responsibility for the care, of a child who is school aged or younger
- are a carer (under the Carer Recognition Act 2010)
- have a disability
- are 55 or older
- are experiencing family or domestic violence, or
- provide care or support to a member of their household or immediate family who requires care and support because of family or domestic violence.

Examples: Eligibility for flexible working arrangements
Greg wants to start work at 10am instead of 9am so he can take his son to preschool. He can request flexible working arrangements to help him care for his son.
Shirley is 60 years old and wants to finish early on Wednesdays so she can volunteer at her local hospital. She can request flexible working arrangements because she is over 55 years old.

Casual employees
Casual employees can make a request if:
- they’ve been working for the same employer regularly and systematically for at least 12 months
- there’s a reasonable expectation of continuing work with the employer on a regular and systematic basis.

How do employees request flexible working arrangements?
Requests for flexible working arrangements have to:
- be in writing
- explain what changes are being asked or
- explain the reasons for the request.

What should employers do with a request?
Employers who receive a request must give a written response within 21 days saying whether the request is granted or refused. They can only refuse a request on reasonable business grounds. If a request is refused the written response must include the reasons for the refusal.

Best practice tip
Employers don’t have to choose between accepting or rejecting a request in full. Once a request has been made, employers and employees can discuss and negotiate to come to an arrangement that balances both of their needs.

What are reasonable business grounds?
Reasonable business grounds can include:
- the requested arrangements are too costly
- other employees’ working arrangements can’t be changed to accommodate the request
- it’s impractical to change other employees’ working arrangements or hire new employees to accommodate the request
- the request would result in a significant loss of productivity or have a significant negative impact on customer service.

Do state and territory laws still apply?
If a state or territory law provides an employee with a better entitlement to flexible working arrangements this will continue to apply.

Source reference: Fair Work Act 2009 (Cth) clauses 65-66
Reasons to join the HWU

The Health Workers Union is:

- Dedicated to protecting and fighting for your workplace rights.
- Improving your bargaining power with your employer.
- Support campaigns for better private and public health, aged care and disability services.

Working with your colleagues to achieve your collective industrial and workplace objectives including:

- Negotiating workplace agreements and better pay
- Improving occupational health and safety
- Negotiating better working conditions
- Ensuring realistic workloads
- Pursuing group reclassifications.

You’ll have access to a range of individual industrial services. The HWU works with individual members to:

- Resolve workplace problems, such as bullying and rostering issues
- Provide advice, support and advocacy
- Offer representation in the Fair Work Commission on issues including workers compensation, unfair dismissals, reclassifications and other problems at work
- Negotiate workplace contractual issues.

Other Valuable Membership Benefits:

- Legal Advice & Free Wills
  A FREE consultation with a lawyer.
  A FREE standard Will pack and savings on legal matters.
- Workcover Advice & Legal Support
- Discounts on Products & Services
  HWU members can now access a range of discounted products and services by visiting www.unionshopper.com.au
- Bereavement Benefit Fund
  Up to $5000 paid to your dependents should you pass away.

Union fees are 100% tax deductible
Member Savings with Union Shopper

Great discounts & deals on a HUGE range of products & services for HWU members.

- Electrical
- Motor vehicles
- Travel
- Accommodation
- Cameras & computers
- Professional services
- Leisure
- Shopping & gift cards
- Health
- And lots more

Visit the Union Shopper website or give us a call and start saving today!

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Over the Christmas and New Year period, some entire businesses may close down temporarily. This is referred to as a “close down”, which has a technical definition in the *Fair Work Act 2009* (Cth) (the Act). Whether or not it is reasonable for the employer to require an employee to take annual leave will depend on their industrial instrument.

**Direction to take annual leave**

Section 93 of the Act permits that a modern award or enterprise agreement include a term which requires an employee to take paid annual leave in particular circumstances, but only if the requirement is reasonable.

Let’s first look at whether the employee is covered by an enterprise agreement or a modern award.

**Public sector employees**

With the exception of dental assistants employed by DHSV, the *Victorian Public Health Sector (Health and Allied Services, Managers and Administrative Workers) Single Interest Enterprise Agreement 2016 – 2020* does not include a clause which can require an employee to take annual leave in any circumstances. As such, any request to take annual leave must be by agreement and must be reasonable.

**Other enterprise agreements**

Always look to the Agreement in the first instance to confirm whether there is:

1. A specific Christmas/New Year close down provision;
2. A clause which permits the employer to require the employee to take annual leave in any circumstance;
3. An excessive annual leave provision, which permits the employer to direct the employee to take annual leave in particular circumstances.

The presence of one of more of these clauses may single a right for the employer to require an employee to take paid annual leave during a close down period (if implemented correctly).

**Award covered employees**

Those employed under the *Aged Care Award 2010*, the *Social, Community, Home Care and Disability Services Industry Award 2010* and the *Health Professionals and Support Services Award 2010* are provided annual leave in accordance with the NES. Each of these Modern Awards include clauses which permit the employer to direct an employee take annual leave in the event they have excessive annual leave (excessive annual leave is more than 8 weeks and 10 weeks for a shift worker). However, there is no general right to require an employee to take annual leave.

**Award/agreement free employees**

For those members not covered by an enterprise agreement or a modern award, s 94(5) of the Act provides that an employer may require an employee take a period of paid annual leave, but only if the requirement is reasonable.

**When is it reasonable to require an employee to take leave?**

If the industrial instrument does provide the right to require an employee to take annual leave, this requirement must still be reasonable. The requirement may be reasonable if the:

- Business is being shut down for a period between Christmas and New Year;
- A worker has accrued excessive annual leave (with no plan to reduce the balance);
- A worker is given reasonable advance notice of the close down period, and are therefore able to plan their lives;
- A worker is advised in writing; and/or
- A worker is given the option of accruing leave in advance.

**What if you don’t have any annual leave?**

If you do not have sufficient annual leave to cover the period, and there is no entitlement to accrue annual leave in advance, a worker cannot be forced to take unpaid leave. If an agreement cannot be reached, a worker must be paid their ordinary pay for the period of leave.
So You've Been Stood Down?
So You’ve Been Stood Down?

Many Health Workers Union members have sought advice about their rights when they have been “stood down” by their employer.

The following information is intended to clarify the difference between the ‘stand down’ provisions in the Fair Work Act 2009 (Cth) (the Act) and being ‘stood down’ with a direction not to attend work”.

Stand down – No right to pay

Section 524 of the Act provides employers the right to stand down employees in very discrete circumstances. If these circumstances arise, the employee may not be entitled to be paid.

The only circumstances in which an employer may stand down an employee include:
1. Industrial action (other than industrial action organised or engaged in by the employer);
2. A breakdown of machinery or equipment, if the employer cannot reasonably be held reasonable for the breakdown;
3. A stoppage of work for any cause for which the employer cannot be held reasonably responsible.

The Act also requires regard for any provisions in an enterprise agreement. However, if one of these situations arises, the employer may be able to stand down an employee, and not pay them for the period.

Stood down (direction not to attend work) – Must be paid

The Act does not provide an employer the right to stand down an employee without pay beyond the limited scope provided for in s524. When an employee is stood down pending the outcome of an investigation, for instance, this is a direction not to attend work for a limited and reasonable period. If they are being directed to perform any task, they need to be paid for this direction, even if it is to stay at home. If an employee is ready, willing and able to attend and perform work, they need to be paid.

To be clear, an employer has no right not to pay an employee who is ready to attend and perform work. Should they refuse to pay an employee who is capable of working, this gives rise to an underpayment, which can be recovered in the Federal Circuit Court by way of a claim for underpayment.

If you have any questions, please call the HWU on (03) 9341 3300.
FACT:
UNIONISED WORKPLACES GET PAID BETTER

“The key to better pay is union membership. We can negotiate a better pay deal if we have collective strength in that workplace.”

(HWU Secretary, Diana Asmar)

☑ More Members Equals Better Pay
☑ Stronger Together
☑ Negotiated Workplace Agreements
☑ Better Pay and Conditions

JOIN THE HEALTH WORKERS UNION TODAY!

“We care for the carers”