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**HRD**  
HUMAN RESOURCES DIRECTOR

# Employment Law masterclass 2017



**8 November**

Dockside Darling  
Harbour Sydney



**14 November**

Melbourne  
Exhibition Centre



**16 November**

Pullman Brisbane  
King George Square



**30 November**

Mercure Perth

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**FRAGOMEN**  
WORLDWIDE

Presented by

**HRD**  
HUMAN RESOURCES DIRECTOR  
AUSTRALIA



- 8:15am **Registration opens**
- 8:45am **Opening remarks from the Chairperson**  
**Brisbane** Dianne Hollyoak, Director, Australian Business Lawyers & Advisors  
**Melbourne** Joe Murphy, Director, Australian Business Lawyers & Advisors  
**Sydney** Joe Murphy, Director, Australian Business Lawyers & Advisors  
**Perth** Mark Cox, Director, MDC Legal
- 9:00am **Adverse action: Clarifying areas of ambiguity and complexity**  
General protections continue to present considerable risks for employers. This session will discuss the ramifications of several recent court decisions relating to adverse action.  
  - What is the definition of a workplace right?
  - How have the courts been approaching general protections claims?
  - Can union representatives encourage unlawful adverse action? Implications of *Australian Building and Construction Commissioner v Moses & Ors*
  - Can a secondment constitute adverse action? - *McJannet v SBS [2016]*
  - What is considered a 'termination' under adverse action laws - *Klein v Australian Baseball League Pty Ltd [2016]***Brisbane** Hedy Cray, Partner, Clayton Utz  
**Melbourne** Dr. Graham Smith, Partner, Clayton Utz  
**Sydney** Abraham Ash, Partner, Clayton Utz  
**Perth** Anna Casellas, Partner, Clayton Utz
- 9:45am **Mental health: Managing stress leave during the disciplinary process**  
When an employee applies for stress leave during disciplinary proceedings, HR professionals should tread carefully to avoid legal risks.  
  - What is the legal definition of work-related mental stress?
  - General guidelines for dealing with employees who take stress leave during disciplinary proceedings
  - What can you legally do if you think that employee stress leave is not genuine?
  - What medical information can employers request of employees who take stress leave?
  - Can you proceed with disciplinary proceedings in writing if the employer refuses to attend disciplinary meetings?**Brisbane** Megan Kavanagh, Partner, Colin Biggers & Paisley  
**Melbourne** Cathryn Prowse, Partner, Colin Biggers & Paisley  
**Sydney** Bruce Heddle, Partner, Maddocks  
**Perth** Greg McCann, Partner, Colin Biggers & Paisley
- 10:30am **Morning refreshments & networking break**
- 11:00am **Workplace bullying: How to deal with bullying complaints made during disciplinary proceedings**  
The subjectivity of bullying claims makes them notoriously difficult to handle. When employees lodge anti-bullying applications to slow or halt disciplinary action, the situation becomes very complicated.  
  - How should you treat an employee's bullying complaint if it is made during a disciplinary process? Ramifications of *Lynette Bayley [2017]*
  - Should a workplace investigation continue alongside the investigation of a bullying complaint?
  - How do the states differ in their treatment of bullying cases?
  - How to ensure that a workplace investigation does not, in itself, constitute bullying**Brisbane** Martin Osborne, Partner, Norton Rose Fulbright  
**Melbourne** Helene Lee, Partner, Norton Rose Fulbright  
**Sydney** Sally Woodward, Partner, Norton Rose Fulbright  
**Perth** Samantha Maddern, Partner, Norton Rose Fulbright

11:45am

**Discipline and unfair dismissal: Overview of recent Fair Work Commission decisions**

Unfair dismissal is still one of the most common legal claims in today's workplace. This session will discuss recent Fair Work Commission cases and the lessons for employers in each case.

- How long can you take before issuing a warning? *Ms Belinda Brown v Park Beach Bowling Club Ltd; Ms Kelly Walcot and Mr Grant Walden [2017]*
- What is a "valid reason for dismissal"? – Ramifications of *Mary Conelius v Southern Suburbs Football Club Inc [2017]*
- What constitutes objective evidence to establish a "valid reason for dismissal"? - *Colby Somogyi v LED Technologies Pty Ltd [2017]*
- What are the consultation obligations in cases of redundancy? - *Laura Wrzoskiewicz and Easy Payroll Perth Pty Limited [2017]*
- Due process issues to consider during dismissal - *John Finnegan v Komatsu Forklift Australia Pty Ltd [2017]*

**Brisbane** Ian Humphreys, Partner, Ashurst

**Melbourne** Karli Evans, Partner, Maddocks

**Sydney** Kristen Lopes, Partner, Colin Biggers & Paisley

**Perth** Renae Harding, Partner, Jackson McDonald

12:30pm

**Networking lunch**

1:15pm

**PANEL DISCUSSION: Perspectives on enterprise agreements and good faith bargaining**

Employers are experiencing ongoing difficulties in negotiating and gaining approval for enterprise agreements. Is enterprise bargaining still a worthwhile exercise in today's environment?

- Lessons from WorkPac Pty Ltd and the CFMEU- Is there an obligation on the bargaining representatives to reach agreement?
- How many meetings should you hold to satisfy good faith bargaining requirements?
- How is the Fair Work Commission applying the Better Off Overall Test (BOOT) test?
- Ramifications of *SDAEA v Beechworth Bakery [2017]*
- Is it worthwhile even negotiating agreements with unions at the present time?

**Brisbane**
**Panellists:**

Samantha Betzien, Partner, MinterEllison  
 Rohan Doyle, Partner, Herbert Smith Freehills  
 Tim Longwill, Partner, McCullough Robertson  
 Heinz Lepahe, Partner, HWL Ebsworth

**Moderator:**

Dianne Hollyoak, Director, Australian Business Lawyers & Advisors

**Sydney**
**Panellists:**

Paul Brown, Partner, Baker McKenzie  
 Harriet Eager, Partner, MinterEllison  
 Drew Pearson, Partner, Herbert Smith Freehills  
 Trent Sebbens, Partner, Ashurst

**Moderator:**

Joe Murphy, Director, Australian Business Lawyers & Advisors

**Melbourne**
**Panellists:**

Lisa Anaf, Partner, Mills Oakley  
 Jane Harvey, Partner, Ashurst  
 John Tuck, Partner, Corrs Chambers Westgarth  
 Anthony Wood, Partner, Herbert Smith Freehills

**Moderator:**

Joe Murphy, Director, Australian Business Lawyers & Advisors

**Perth**
**Panellists:**

Nicholas Ellery, Partner, Corrs Chambers Westgarth  
 Rob Lilburne, Partner, Ashurst  
 Anthony Longland, Partner, Herbert Smith Freehills  
 Michael Stutley, Partner, K&L Gates

**Moderator:**

Mark Cox, Director, MDC Legal

- 2:00pm **Migration law – Update on 457 visas**  
Earlier this year, the government announced sweeping changes to the employer-sponsored skilled migration program. As further details emerge, we look at the implications for HR departments.
- Timeline of reforms and their ramifications on HR departments across Australia
  - How will the Short-term Skilled Occupations List (STSOL) and the Medium and Long-term Strategic Skills List (MLTSSL) change in the future?
  - How is the department applying the 'caveats' that restrict the usage of certain occupations?
  - What are the time frames and details of labour market testing requirements?
- Brisbane**
- Melbourne** Chris Spentzaris, Partner, Fragomen  
Rupert Timms, Partner, Special Counsel
- Sydney** Teresa Liu, Co-Managing Partner, Australia & New Zealand, Fragomen  
Sasko Markovski, Partner, Fragomen
- Perth**
- 2:45pm **Afternoon refreshments & networking break**
- 3:00pm **WORKSHOP: Conducting effective workplace investigations**  
Investigating allegations in the workplace requires good judgement, professionalism and a solid understanding of the concepts of procedural fairness. In this interactive session, you will be taken through practical exercises to fine tune your investigative skills.
- How to ensure that your investigation is procedurally fair
  - What evidence should be gathered during the investigation?
  - Practical tips for interviewing complainants, respondents and witnesses
  - How to deal with conflicting witness evidence
- Brisbane** Samantha Betzien, Partner, MinterEllison
- Melbourne** Joelle Grover, Partner, MinterEllison
- Sydney** Veronica Siow, Partner, Allens
- Perth** Craig Boyle, Partner, MinterEllison
- 3:45pm **Accessorial liability for HR professionals: What is your personal liability?**  
With increasing penalties for non-compliance and a widening net of culpability, HR professionals can be held personally liable for breaches of the Fair Work Act.
- Overview of the *Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017*
  - What constitutes a "serious contravention" under the Bill?
  - What should you do if you are forced into situations at work where your HR advice is ignored?
  - At what point should an HR professional resign?
  - Implications of *Fair Work Ombudsman v Blue Impression Pty Ltd & Ors* [2017] FCCA 810
- Brisbane** Nicholas Turner, Partner, DLA Piper
- Melbourne** Nicholas Turner, Partner, DLA Piper
- Sydney** Kathy Dalton, Partner, DLA Piper
- Perth** Leanne Nickels, Partner, DLA Piper
- 4:30pm **Conference concludes**

# INTRODUCTORY SUPER SAVER OFFER until 8 September 2017

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## ADDITIONAL DELEGATES

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Surname _____	Surname _____	Surname _____
Job title _____	Job title _____	Job title _____
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- 14 November 2017 – Melbourne Convention Centre**
- 16 November 2017 – Pullman Brisbane King George Square**

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