

Industrial Relations News



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Welcome from the Executive Director

Welcome to the August 2015 edition of *Industrial Relations News*.

Salary adjustments effective from the first full pay period on or after **1 August 2015** should now have been completed for all employees covered by the [Victorian Catholic Education Multi Enterprise Agreement 2013](#) (VCEMEA).

Schools should now be mindful of the need to make preparations for the 2016 school year, including budget planning. To assist schools, [Implementation Guide Part 3B: Salary and Allowances](#) (2016 school year) has been completed and is available on the CECV website www.cecv.catholic.edu.au under *Industrial Relations / 2013 Agreement Implementation*.

This edition of *Industrial Relations News* contains important industrial relations information, including guidance on consultation requirements and notice periods for fixed-term positions, and on the variation of hours, days and/or times of attendance of part-time employees.

Information is also provided on Occupational and Health and Safety (OHS) issues, including the administration of medication in schools and the upcoming *R U OK? Day*, an initiative designed to promote mental wellbeing.

The details of Industrial Relations (IR) and OHS training sessions for the remainder of the 2015 school year are outlined in this newsletter, and bookings can be made on My PL (IPLS) through the CECV website <http://cevn.cecv.catholic.edu.au> under *Professional Learning / My PL (IPLS)*.

If you have any questions about any of the articles in this newsletter, please contact the Industrial Relations Unit on 03 9267 0431 or ceoir@ceomelb.catholic.edu.au.

Stephen Elder
EXECUTIVE DIRECTOR

Salary Increases – August 2015

Salary increases from the first full pay period on or after **1 August 2015** have been uploaded and are listed as salaries with the suffix **AUG15** on the Online Staffing Records (OSR) on the [CEVN website](#) under *Staffing & IR / OSR*.

POL1, POL2, POL3 and POL4 allowances and other allowances as required have also been updated. These allowances are listed in the drop-down list in OSR in Allowances with the suffix **AUG15**.

Please note that salaries and allowances missing the suffix **MAY15** will not automatically be updated.

Salary Increases Not Uploaded

For those employed under the classification 'UC', 'NA' or as a Category D School Services Officer, no bulk salary changes were made in OSR.

School employees responsible for OSR need to make the necessary changes to:

- UC (unclassified)
- NA (not applicable)
- School Services Officer Category D.

These changes can be made by ending the current record prior to the first full pay period start date and commencing a new service record from the first full pay period start date in August 2015.

Also, no bulk changes have been made to allowances where a dollar amount needs to be specified.

Salary and Allowances information for August 2015 is available in [August 2015 salary advice](#) on the [CECV website](#) under *Industrial Relations / 2013 Agreement Implementation*.

Variation of Part-Time Hours

With Term 4 approaching, it is timely to outline the requirements in the VCEMEA when proposing changes to attendance for part-time employees (except for School Services Officers, who are subject to clause 68.12 of the VCEMEA, see below).

Changes may include:

- hours of work (FTE)
- days worked
- times of attendance.

Clause 15 of the VCEMEA states that such changes can only be made as a result of a change in one or more of the following:

- enrolment
- curriculum
- program
- organisation
- structure
- technology
- funding.

Consultation

Consultation should take place with the affected employees by:

- advising the employees of the reason for the proposed change (eg. enrolment or funding changes)
- advising the employees of the change to days, hours and/or times of attendance as a result of the proposed change
- giving due consideration to the impact of the proposed change on the employees' family and personal responsibilities as well as other relevant circumstances.

Required Notice

After meeting the consultation requirements, the change can proceed where the employee has been provided with at least eight weeks' written notice of the variation (i.e. before implementing the change). If that notice is not provided, then the employee's salary must be maintained for the period of notice not given.

If the employee agrees in writing to implement the change (for example, because the change suits the employee's personal circumstances) then the notice requirements do not apply.

Significant Reduction in Hours

It is important to note that if the change results in a 'significant reduction in hours' (whether as a result of the proposed change or a cumulative reduction in working hours within the preceding two years is deemed significant), then the employee can elect to either:

- accept the proposed change
- elect to receive a severance payment.

It should be noted that 'significant reduction' is not defined in the VCEMEA. Accordingly, advice should be sought from the IR Unit in these circumstances.

The table below outlines the severance payment that is payable when an employee elects to take a severance payment.

Period of continuous service	Under 45 years of age	45 years of age or over
Less than 1 year	Nil	Nil
1 year but less than 2 years	4 weeks pay	5 weeks pay
2 years but less than 3 years	7 weeks pay	8.75 weeks pay
3 years but less than 4 years	10 weeks pay	12.5 weeks pay
4 years but less than 5 years	12 weeks pay	15 weeks pay
5 years but less than 6 years	14 weeks pay	17.5 weeks pay
6 years and over	16 weeks pay	20 weeks pay
15 years and over	21 weeks pay	25 weeks pay

School Services Officers

Unlike other employees covered by the VCEMEA, the hours of School Services Officers can be changed with seven days notice, provided the needs of the school and the employee's family needs are taken into account: see clause 68.12(b) of the VCEMEA.

Consultation Regarding Fixed-Term Employment

The CECV is committed to ensuring that Victorian Catholic schools are identifying the correct employment status for all employees. To this end, the IR Unit has been meeting with the IEU to discuss the requirements of clause 11.2(g) and providing the IEU with relevant data on behalf of schools.

If you are unsure about whether to make an appointment fixed-term or ongoing, or whether a current employee has the correct employment status, please contact the IR Unit.

Redundancy Reminder

Principals should identify any potential redundancies which take effect from the start of the 2016 school year and notify affected staff.

Appendix 2 of the VCEMEA contains redundancy provisions that apply to staff employed in Catholic schools.

To assist principals, [Redundancy Guidelines](#) are available on the CECV website under *Industrial Relations / Guidelines*.

The Guidelines detail the procedures to be followed in relation to redundancies and include pro forma documentation that should be used for notifying staff.

Please contact the IR Unit if you have any potential redundancy concerns.

VIT Registration due 30 September 2015

By now, teachers should have received information from the Victorian Institute of Teaching (VIT) regarding the renewal of their teaching registration. Registration tasks must be completed online on the teacher's [MyVIT account](#), accessible via the VIT website www.vit.vic.edu.au, by **30 September 2015**.

All teachers must pay the fee stipulated on the invoice before **30 September 2015**. Payment received after this date will incur a \$30 late payment processing fee.

Teachers who fail to complete their registration tasks before 31 December 2015 will have their registration suspended and will be unable to teach.

Public Holidays 2015/2016

New Public Holidays: Grand Final Friday and Easter Sunday

The Victorian Government has confirmed its election commitment that Grand Final Friday (the day before the AFL Grand Final) will become a public holiday in Victoria beginning this year, on **Friday 2 October 2015** (as such, this new public holiday will fall within the Term 3 school holiday period). Easter Sunday will also become a public holiday from 2016 onwards.

Schools will need to ensure that the appropriate penalty rates are paid to eligible employees.

Public Holidays 2016

Following the July newsletter and the introduction of the two new public holidays, the IR Unit would like to confirm the following list of Victorian public holidays in 2016 (subject to change):

Holiday	2016
New Year's Day	Friday 1 January
Australia Day	Tuesday 26 January
Labour Day	Monday 14 March
Good Friday	Friday 25 March
Saturday before Easter Sunday	Saturday 26 March
Easter Sunday	Sunday 27 March
Easter Monday	Monday 28 March
ANZAC Day	Monday 25 April
Queen's Birthday	Monday 13 June
Grand Final Friday	TBC (day before AFL Grand Final)
Melbourne Cup*	Tuesday 1 November
Christmas Day	Sunday 25 December (Substitute: Tuesday 27 December)
Boxing Day	Monday 26 December

*(all of Victoria unless alternate local holiday arranged by non-metro council)

30 SEPTEMBER IS THE DUE DATE FOR ALL REGISTRATION TASKS.

Go to www.vit.vic.edu.au, click on the 'MyVIT' tab and follow the prompts.

You will need to complete one or more of the following tasks:

- 1** Criminal Record Check Consent Form
Incomplete
[Consent Form](#)
- 2** Registration Renewal Form
Incomplete
[Renewal Form](#)
- 3** Payment Amount Due
Outstanding
[Payment](#)

If you have changed your contact details you need to let us know.

It's easy to do - just log in to your MyVIT account and change your details.

www.vit.vic.edu.au

Victorian Institute of Teaching

Christmas Party Sacking Unfair

A team leader who swore at managers and sexually harassed colleagues on the night of his work Christmas party won his unfair dismissal case recently at the Fair Work Commission (FWC). The case demonstrates that an employee's abusive behaviours while drunk do not absolve an employer's responsibilities around work-related social events, in particular in regard to the responsible service of alcohol (RSA). Employers must also ensure procedural fairness in the investigation of complaints.

Background

Mr K, a road maintenance team leader, was one of many staff who attended a company Christmas function in December 2014. While the venue was a licensed premises, the function was held in a room with a make-shift bar, where hotel staff served alcohol behind a number of tables from a large esky. There was also evidence that company staff were able to help themselves to alcohol during the function.

Mr K came to the Christmas party under the influence of alcohol and proceeded to become more intoxicated as the party progressed, to the point that he had little memory of the night. The FWC heard evidence that he used a variety of four-letter words to describe various people and he approached various female members of staff and asked them about their underwear.

It was noted that other staff were aware that he was affected by alcohol as he was slurring his words. He caused some people to be so offended and intimidated that they left the function following conversations with him. At the end of the Christmas function some staff, including Mr K, went to another part of the hotel where they continued to drink and socialise. During this part of the night the FWC heard evidence that Mr K put his hands around another employee's head and kissed her on the lips.

Complaints

On the Monday following the party, senior management received a number of complaints of harassment, intimidation and inappropriate behaviour against Mr K from other company staff relating to

drunken incidents which occurred during and following the Christmas party.

During an investigation of eight alleged incidents, the FWC criticised the process used by the employer as the factual content of each of the allegations was not put to Mr K in a way that he could give an informed response. For example, in meetings held as part of the investigation, he was asked questions such as the following:

- 'Do you remember anything regarding an incident with Mr B.?'
- 'Did you at any point call XXXX any names that resulted in her crying?'
- 'Do you remember any interactions that made XXXX feel uncomfortable?'

Also, Mr K was not able to bring a support person to some of the meetings.

After some deliberation, Mr K was dismissed in January 2015 because his behaviour (in particular an incident of sexual harassment following the Christmas function) failed to meet the company's expectations of its employees, in relation to acting with respect and safety towards others.

Fair Work Commission Decision

The FWC found that the employer did not have a valid reason for dismissal as most of the events used as reasons for termination took place outside the allocated time of the Christmas function and in a public area, in particular the alleged sexual harassment.

The FWC criticised the employer in failing to take responsibility for ensuring Responsible Service of Alcohol, citing a number of occasions where Mr K was clearly intoxicated but still able to obtain more alcohol, leading to further incidents of inappropriate and drunken behaviour. The employer was also criticised in failing to communicate expected standards of staff behaviour, and that these standards would continue after the Christmas function until all employees were safely home that night.

The FWC did find that the alleged incidents of intimidation could have been a valid reason for dismissal as this would have constituted bullying but

this was not part of the employer's investigation or reasons for dismissal.

Employer's Responsibilities: Procedural Fairness and Responsible Service of Alcohol

Employers need to ensure that:

- only an RSA certificate holder serves alcohol
- a clearly intoxicated person is not served alcohol or allowed to access it.

Simply holding events at a licensed premise is not enough to absolve the employer's duty of care in relation to the above obligations.

The other important take-home message from the FWC decision is that all complaints of this kind of behaviour should be investigated, but in a procedurally fair manner, which allows the employee who is the subject of the complaint(s) to provide an informed response. In particular, the employee should be given an opportunity to respond to the alleged facts which form the basis of the complaint(s).

R U OK? Day

On **10 September 2015**, Australia will celebrate *R U OK? Day*, an annual day of action to promote mental wellbeing. The concept of this day is to encourage open and honest conversations, and to prevent small problems from spiralling into big ones.

R U OK? Day can be supported in the following ways:

- Download the [R U OK? Poster](#) from the [R U OK? website](#) and hang it in the staffroom or classroom.
- Donate to *R U OK? Day*.

The [R U OK? website](#) provides [guidance](#) on how to have an 'R U OK?' conversation, along with further information on *R U OK? Day* and related resources.

Administration of Medication in Schools

Schools are required to have a policy and procedure regarding medication. This includes the administration of medication to students while attending school or school-based activities.

Authorisation should be obtained from a medical practitioner to administer any medication to students.

Administration of medication during school hours should be considered only when there is no other alternative, such as when the medication is prescribed by a medical practitioner to be taken at scheduled times.

Schools should not:

- administer analgesics (e.g. aspirin or paracetamol) as a standard first-aid strategy
- allow the use of medication by anyone other than the prescribed student.

Medication Administration Requirements

Schools should ensure that:

- staff are aware of medication administration (including recording-keeping, storage and transportation) procedures;
- a written request has been received from the parent for the administration of medication. This relates to all prescription **and** non-prescription medication (including over-the-counter medication such as paracetamol, anti-histamines or alternative medicines);
- administered medication is supported by a medical authority (the original medication container with an attached prescription pharmacy label constitutes such authority).

Suggested Strategies for Medication Administration

Schools should adopt the following strategies for the administration of medication:

- Administer medication directly from the original medication container.
- If the information on the medication container contradicts the request of the parent/carer, do not administer medication and seek clarification from the parent.
- For prescription medication, ensure the pharmacy label is attached to the original container and includes the:
 - student name
 - strength and description of medication
 - dose and route (e.g. inhaled/orally) of administration

- correct storage information
- timing of medication administration
- medication expiry date
- pharmacist's details.
- Check and adhere to pharmacy label instructions prior to administration (e.g. 'to be taken with food').
- Ensure the:
 - correct **medication**
 - correct **student**
 - correct **dose**
 - correct **time**
 - correct **route** (e.g. inhaled/orally)
 - correct **documentation**.

For further information, please contact an OHS officer at the IR Unit on (03) 9267 0431.

Industrial Relations and OHS Courses 2015: Terms 3 and 4

The following industrial relations and occupational health and safety professional learning training sessions are available for Terms 3 and 4 2015:

October 2015

OHS Incident Investigation	13 October
Know Your Agreement – Education Support	21 October
OHS For School Leaders	22 October
OHS Hazard Management	28 October

November 2015

Basic Claims Management	5 November
Return to Work Coordinator Training	11 & 12 November
OHS Chemical Management	18 November

Details of Industrial Relations and OHS training sessions can be found, and bookings made through the [CEVN website](#) under *Professional Learning / My PL (IPLS)*.

BASIC CLAIMS MANAGEMENT

Do you know what to do if one of your workers lodges a WorkCover claim? This workshop provides an overview of the claims management process, including employer obligations and RTW requirements.

OHS INCIDENT INVESTIGATION

Had an OHS incident? This workshop provides knowledge and guidance on the process involved in managing /investigating workplace incidents, including incident reporting, the incident investigation process and the Victorian WorkCover Authority Incident Notification requirements.

KNOW YOUR AGREEMENT – EDUCATION SUPPORT

This session focuses on the most commonly used sections of the VCMEA by Education Support staff. Some of the key provisions covered are:

- categories and types of employment
- leave generally including parental leave
- personal leave deduction.

OHS FOR SCHOOL LEADERS

Create a safety culture in your school. This one-day course for principals, deputy principals and business managers provides an overview of the legal responsibilities for managing OHS within the school environment, including employer and employee responsibilities, strategies to address the most common OHS issues in schools and how to make safety a priority in your school.

OHS HAZARD MANAGEMENT

Avoid an OHS incident. This course provides knowledge and guidance on how to systematically identify and control hazards in the school environment, including asbestos, manual handling, slips/trips and falls, contractors and other relevant hazards.

RETURN TO WORK COORDINATOR TRAINING

Be compliant with the Act. Under current legislation, schools with \$2,254,430 or more rateable remuneration (indexed annually) must appoint a suitably trained Return to Work (RTW) coordinator.

This two-day WorkSafe approved course provides the underpinning knowledge required for RTW coordinators.

OHS CHEMICAL MANAGEMENT

Reduce the risk. This workshop provides knowledge on how to systematically store and manage all chemicals kept or used on the school site, including how to develop a chemical (hazardous substance and dangerous goods) register, what types of chemicals to include and the requirements for Material Safety Data Sheets (MSDS).

Summary of Communications: July & August 2015

July 2015

- [Increase to Salaries and Allowances - August 2015](#)
- [Discounts for the Early Payment of WorkSafe Insurance Premiums](#)

August 2015

- [Implementation Guide Part 3B: Salary and Allowances \(2016 school year\)](#)

Industrial Relations – Staff News

Doreen Cutajar has been appointed as IR Unit Senior Industrial Relations Officer following almost eight years working within the Catholic Education Melbourne Human Resources Unit, most recently as Team Leader.

Prior to joining the IR Unit, Doreen also had the additional responsibility of Executive Officer of the Catholic Education Long Service Leave Scheme (Victoria).

Doreen worked within government and private organisations in the Human Resources sector for approximately 15 years before joining Catholic Education Melbourne in 2007.†