



MEMBER UPDATE

AFPA Industrial Dispatch #34 19 September 2018

Welcome to edition 34 of the AFPA Industrial Dispatch, a regular bulletin from the Legal and Industrial Team to keep our members up to date with significant industrial issues.

CURRENT SIGNIFICANT ISSUES

Unpaid Overtime Project

The AFP is undertaking an *Unpaid Overtime Project* to ensure employees on the Operations or Rostered Operations working patterns are remunerated for overtime worked in previous averaging periods.

Manager People Strategies, Luci Henson, has informed the AFPA that the Project Team have gained access to a newly developed reporting feature to more accurately identify where members did not receive overtime payments. Once the data has been verified using the new system, affected employees will receive payment.

The AFP advises that the Project Team is working to finalise the project as quickly as possible with an estimated completion date by the end of this calendar year.

Right to defer Professional Standards Interviews

Under the AFP Act, Professional Standards (PRS) have the authority to direct a member to provide or furnish information in the form of a minute or interview. If you are directed to participate in an interview at short notice, you have the right to defer the interview until you have had the opportunity to seek advice from your Association.

It is in your best interest to contact the AFPA as soon as you receive a PRS direction to ensure we can provide you with advice and organise an appropriate support person for you.

Mandatory Rest Days

The Enterprise Agreement requires employees to have an annual leave balance of below 228 hours on 1 March and 1 September to receive their MRDs. Clause 40(2) of the Enterprise Agreement states:

Two Mandatory Rest Days will be credited to Employees on the following days of each year to which this Agreement applies:

- (a) 1 March; and*
- (b) 1 September*

provided that the Employee has (on that day) an Annual leave balance of no more than 228 hours (6 weeks).

The interpretation of “*on that day*” can cause issues for members. The MRD credit dates coincide with the accrual of annual leave, which occurs on the first day of every calendar month. This means that if members reduce their annual leave balance to below 228 hours prior to 1 March or 1 September, but the simultaneous accrual of annual leave brings them over the 228-hour threshold, they may not accrue their MRDs.

This was the experience for several AFPA members at the start of this month. Fortunately, the AFP agreed this strict interpretation of the EA was unreasonable and affected members were credited their MRDs.

Additionally, it is important to use MRDs within a six-month period otherwise you will lose them, in accordance with clause 40(3) of the EA. If you are unable to do so, you can apply for an exemption through your chain of command.

If you did not receive your MRDs on 1 September, contact your Pay Roll team in the first instance. If you are unsatisfied with their response, please contact the AFPA for advice.

Definition of “bullying and harassment”

You have the right not to be bullied or harassed in the workplace. Since the publication of the Broderick Report, the AFP has taken numerous steps to address workplace bullying, from the creation of Safe Place to a proposed re-categorisation of the AFP Code of Conduct. However, workplace bullying continues to be a problem for members at all levels of the organisation.

The Fair Work Commission states that workplace bullying occurs when:

- An individual or group of individuals repeatedly behaves unreasonably towards a worker or a group of workers at work; and
- the behaviour creates a risk to health and safety.

According to cases heard in the Fair Work Commission and other jurisdictions, the following behaviours can constitute workplace bullying if they occur repeatedly:

... intimidation, coercion, threats, humiliation, shouting, sarcasm, victimisation, terrorising, singling-out, malicious pranks, physical abuse, verbal abuse, emotional abuse, belittling, bad faith, harassment, conspiracy to harm, ganging-up, isolation, freezing-out, ostracism, innuendo, rumour-mongering, disrespect, mobbing, mocking, victim-blaming, discrimination, practical jokes/initiation, exclusion from work-related events, and unreasonable work expectations.

Reasonable management action performed in a reasonable manner does not constitute workplace bullying.

If left unchecked, workplace bullying can have a damaging impact on an individual’s physical health and emotional well-being. Health consequences can include depression, anxiety, sleep disorder, nausea, musculoskeletal complaints, and muscle tension. It is important to note that under anti-bullying laws, an individual only needs to demonstrate that the bullying caused a risk to health and safety, rather than proving it resulted in actual harm to health and safety.

If you think you are experiencing workplace bullying or harassment, please contact the Team.

Closure of Team Leader/Sergeant Recruitment Pool (VRN 0391/17)

On 24 August, the AFPA contacted National Manager, People, Safety and Security Philippa Crome regarding the closure of the pool of successful candidates for Team Leaders and Sergeants (VRN 0391/17) prior to the usual 12-month open period. The AFP has explained its reasons in the email exchange which we have reproduced in full below.

If this exchange and the AFP’s explanation raises any issues for you that you would like to share, please send them to: vicki.linabury@afpa.org.au.

From: Vicki Linabury [<mailto:Vicki.Linabury@afpa.org.au>]
Sent: Friday, 24 August 2018 3:58 PM
To: Crome, Philippa
Subject: VRN 0391/17 Team Leader/Sergeant - closure of pool

Hi Phillipa.

Thank you for your earlier advice that the delegate had decided to close the pool of successful candidates for VRN 0391/17 (Team Leader/Sergeant) prior to the usual 12 month open period.

As we have received a number of queries from our members about why the pool was closed, could you please provide the reasons for this decision in accordance with clause 15.11 of the AFP National Guideline on recruitment.

Kind regards

Vicki

From: Henson, Luci <Luci.Henson@afp.gov.au>
Sent: Tuesday, 11 September 2018 1:11 PM
To: Vicki Linabury <Vicki.Linabury@afpa.org.au>
Cc: Industrial-Relations <Industrial-Relations@afp.gov.au>
Subject: Response - Team Leader/Sergeant - closure of pool [SEC=UNCLASSIFIED]

Hi Vicki

Thank you for your email below dated 24 August 2018 in relation to the closure of the merit pool for VRN 0391/17 Team Leader/Sergeant. NMPSS has asked that I reply on her behalf, noting she is currently interstate.

The decision to close the abovementioned merit pool was made by NMPSS as the delegate after all successful candidates were made an initial offer. The decision was made in consultation with the AFP Performance and Budget Monitoring Committee (PBMC) after considering staffing requirements across the AFP and our planned commencement of a new police Team Leader/Sergeant process shortly after. This is in addition to the Tactical Response Sergeant (applications closed 9 August), PSO Sergeant (applications closed 16 August) and Close Personal Protection Sergeant (applications closed 23 August) rounds that are currently underway. While each of these processes will be finalised at different times, due to the variance in application closing dates and applicant volumes, we expect that all processes will be finalised and new pools created this calendar year.

The decision to close the VRN 0391/17 Team Leader/Sergeant pool was communicated to all National Managers for information and sharing with their teams who had impacted employees, prior to the applicants that were remaining in the merit pool being notified.

Regards

MS LUCI HENSON
MANAGER, PEOPLE STRATEGIES
PEOPLE, SAFETY & SECURITY

From: Vicki Linabury [<mailto:Vicki.Linabury@afpa.org.au>]
Sent: Wednesday, 12 September 2018 8:13 AM
To: Henson, Luci
Cc: Industrial-Relations
Subject: RE: Response - Team Leader/Sergeant - closure of pool [SEC=UNCLASSIFIED]

Hi Luci.

Thanks for your email, which explains how the decision was made to close the pool. However we still don't understand why the pool was closed regardless of other processes going ahead, given there were highly suitable candidates still available and, we understand, a number of unfilled Sgt/TL vacancies.

Can you please clarify?

Kind regards

Vicki

From: Henson, Luci <Luci.Henson@afp.gov.au>

Sent: Wednesday, 12 September 2018 2:57 PM

To: Vicki Linabury <Vicki.Linabury@afpa.org.au>

Cc: Industrial-Relations <Industrial-Relations@afp.gov.au>

Subject: RE: Response - Team Leader/Sergeant - closure of pool [SEC=UNCLASSIFIED]

Hi Vicki

As per my email below [11 Sept 2018, reproduced above], the pool was closed based on consideration of the future staffing requirements across the AFP and that a planned commencement of a new police Team Leader/Sergeant process would commence shortly.

Regards

MS LUCI HENSON

MANAGER, PEOPLE STRATEGIES

PEOPLE, SAFETY & SECURITY

INDUSTRIAL QUERIES

If you have any industrial queries or queries about issues raised in this Dispatch, please contact Sharon, Anish, Matt or Sam at afpa@afpa.org.au or call us on (02) 6285 1677.



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