

Senate Standing Committees on Education and Employment

QUESTION ON NOTICE Date of hearing: 2 May 2023

Outcome: Fair Work Commission (FWC)

Department of Employment and Workplace Relations Question No. IQ23-000224

Senator Fatima Payman on 2 May 2023, Proof Hansard page 32

2 MAY 2023 | FWC | Vaccine mandate related disputes: Data

Question

Senator PAYMAN: Thank you for that. In almost two years since the first vaccine mandates were announced, has the commission seen a substantial uptick in its work as a result of vaccine mandate related disputes?

Ms Schaffner: In terms of the workload related to vaccines, we do have some data on that between October 2021 and June 2022. We could take on notice to provide the July and August data as well; the information I have here doesn't cover that. The peak of the vaccine applications received was in December 2021 and January 2022, and it has decreased significantly since that time.

Senator PAYMAN: Thank you.

Answer

The Fair Work Commission has provided the following response.

From 1 September 2021 to 31 August 2022 the Commission tracked vaccination-related application lodgments. During that time the Commission received approximately 4,250 vaccination-related applications.

Between 1 September 2021 to 31 January 2022, the Commission received approximately 2,300 vaccination-related applications across the following 6 categories of cases: unfair dismissal claims; unlawful termination claims; general protections disputes; applications for orders to stop bullying at work; stand down disputes, and dispute notifications under a modern award or enterprise agreement.

The rate of lodgment of vaccination-related applications has declined steadily since December 2021. In the last week of December 2021, the Commission received approximately 500 vaccination-related applications within the above 6 categories of cases. In comparison, the quantity of vaccination-related applications reduced to approximately 200 in the last week of January 2022. The number of vaccination-related applications continued to decline in February, with only 90 applications received within these 6 categories received in the week commencing 28 February 2022.

The Commission stopped tracking vaccination-related applications on 1 September 2022, because the proportion of vaccination-related applications lodged had significantly reduced.

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QUESTION ON NOTICE Date of hearing: 2 May 2023

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Department of Employment and Workplace Relations Question No. IQ23-000225

Senator the Hon Matthew Canavan on 2 May 2023, Proof Hansard page 34

2 MAY 2023 | FWC | *Enterprise agreements there are with a COVID vaccine mandate: Data*

Question

Senator CANAVAN: Do you have data on how many, if any, enterprise agreements there are with a COVID vaccine mandate?

Mr Furlong: I'll ask Ms Leggett to assist.

Ms Leggett: No. We don't have a compiled list of enterprise agreements that would contain vaccine mandates. Anecdotally, I think a few. But all enterprise agreements are published on our website and can be searched with that search functionality.

Senator CANAVAN: What about just generally vaccines? Is that something you've looked at before? Do you have any data on mandates of vaccines, not just COVID vaccines, in enterprise agreements?

Ms Leggett: I could take that on notice and see whether we have any available data.

Answer

The Fair Work Commission has provided the following response:

The Commission's case management system does not collect reportable data on enterprise agreements that involve vaccination mandates.

To collate such data for all enterprise agreements would require a significant diversion of Commission resources as it would involve a manual analysis of approved enterprise agreements. In 2021–22 financial year, 4516 enterprise agreements were lodged with the Commission.

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QUESTION ON NOTICE Date of hearing: 2 May 2023

Outcome: Fair Work Commission (FWC)

Department of Employment and Workplace Relations Question No. IQ23-000226

Senator the Hon Matthew Canavan on 2 May 2023, Proof Hansard page 34

2 MAY 2023 | FWC | Data: representation of clients

Question

Senator CANAVAN: That's what is normally done. Would an employee who's bringing this normally have legal representation or normally be on their own?

Ms Schaffner: In terms of the data on representation of clients at the commission, I think we'd have to take that on notice. Anecdotally, I think it's approximately half.

Senator CANAVAN: Can people still represent themselves if it proceeds to a tribunal?

Ms Schaffner: To a court?

Senator CANAVAN: To a court.

Ms Schaffner: I think that would be a question for the courts. I also wanted to note that we do have a workplace advice service which is a service that the commission coordinates that provides our clients who are eligible with up to an hour of free legal advice in unfair dismissal, general protection and stop order applications.

Senator CANAVAN: Do you have evidence of how many people have brought issues relating to COVID vaccines that have accessed that service?

Ms Schaffner: No, we don't keep that data.

Senator CANAVAN: You couldn't provide that on notice, you just don't have it?

Ms Schaffner: No, we don't have that.

The Fair Work Commission has provided the following response:

Note: Question 1 relates to general protections applications involving dismissal under s.365 of the *Fair Work Act 2009* (see Hansard page. 34)

1. Of the general protections involving dismissal applications resulted between 1 July 2022 and 31 March 2023, the applicant was represented in approximately half of cases. This data is indicative only because it is measured at point in time, and some representatives may commence or cease representing a client at a later time.
2. We do not collect or maintain data related to issues raised by participants as part of our Workplace Advice Service, including issues related to covid vaccination.