

## Senate Standing Committee on Education and Employment

### QUESTIONS ON NOTICE Budget Estimates 2014-2015

#### Agency - Fair Work Commission

Department of Employment Question No. EM0783\_15

Senator McKenzie provided in writing.

#### FWC - Superannuation

- I refer to an article in the SMH of 11 May 2014 in which it was reported that the CBus super fund had illegally transferred personal details of members working for Lis-Con to the CFMEU, and that the CMFEU had then made contact with the Lis-Con super fund members in NSW, QLD and SA, allegedly claiming they were suing on behalf of CBus. Has the matter been referred to the Federal Police or any other enforcement agency?
- Has CBus in its submission to FWC to gain default status addressed this apparently failure in its obligation to protect the privacy of its members?
- Is this matter which FWC will address in conferring default fund status?
- What is the current state of affairs RE the FWC Super Choice Expert Panel and its consideration of round 1 Applications?
- Is its work suspended pending the outcome of the Federal Court case FSCvISN and the FWC President which is listed for hearing on 6 June 2014?
- Is it true that the number of applications for listing on various awards far exceed the number of slots available?
- Do you expect that the super default process will be able to work according to schedule?

#### Answer

1. The Fair Work Commission has not referred the matter to the Federal Police or any other enforcement agency.
2. CBus has not addressed this matter in their application. CBus have provided their Fund Governance Policies and Procedure Manual which includes sections on confidentiality and privacy as part of their application.
3. There will be an opportunity for this issue to be raised in formal proceedings before the Expert Panel.
4. Applications to include a standard MySuper product on the Default Superannuation List and applications to include an employer MySuper product on the Schedule of Approved Employer MySuper Products were due on 28 April 2014. Submissions on applications were due on 10 June 2014.
5. On 10 June 2014, Justice Ross issued a Statement that the Expert Panel as currently constituted will not deal further with the Superannuation fund review.
6. Sixty-seven applications were received to list a standard MySuper product. A further 28 applications were received to include employer MySuper

products on the Schedule of Approved MySuper Products. Section 156H(1)(b) of the *Fair Work Act 2009* requires the Commission to specify at least 2, but no more than 15, superannuation funds in relation to standard MySuper products in each modern award. However section 156(3) states that the default fund term in a modern award may specify more than 15 superannuation funds if the Commission is satisfied that it is warranted.

7. The *Fair Work Amendment Act 2012* specifies that determinations varying the default fund term of a modern award must not take effect before 1 January 2015.