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# ALLA Events

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## Panel Discussion: Union responses to COVID-19

### Additional Questions from the Audience

*The Australian Labour Law Association was proud to host ALLA Vice President, **Professor Anthony Forsyth** exploring **Union responses to COVID-19** in discussion with **Tim Kennedy**, National Secretary, United Workers Union; **Sarah Roberts**, Assistant Secretary, National Tertiary Education Union (Victorian Division); and **Denis Matson**, Senior Industrial Officer, Independent Education Union Victoria Tasmania.*

*On the night we did not get to all questions submitted by the audience, Sarah and Denis have generously provided answers to those questions below.*

***What do the panellists expect from the discussions with the government, ACTU, unions and business? How do you see the rebuilding of jobs?***

We went some way to answering this on the day. The IEU expects very little. Four of the five working groups are built on employer claims straight out of the Work Choices playbook. As Tim said, the idea that Awards require even more simplification after 25 years of repeated award simplification, modernisation, and stripping is absurd. The fact that Woolworths (for example) claim that, despite having complex international supply chains and contractual arrangements, labyrinthine tax arrangements and managing huge numbers of gambling licences, that they can't read a one-page pay table exposes all we need to know about the claim of Award complexity. Yet it's one of the five matters so important that the government has set up a working party on it, along with other employer claims for change. Cleaning up the abuse of "casual" employment where the employees are actually working regular hours would be a leap forward, but that is the opposite of the outcome employers are seeking, so it's impossible to see how agreement could be reached on casuals. Other than casuals, the topics are micro-reform items and bound to have no real impact on unemployment, jobs or the economy. – **Denis Matson**

It's not clear that any agreement will be reached in the government proposed working groups. It's likely the terrain upon which agreement could be reached is very limited given the extremely differing views that come to the table. This is not the Accord which was unions negotiating with the political party representing working people. It's unions negotiating with the political party representing the bosses which is an entirely different beast. So yes, of course the union movement will continue to push for broader social reform on every front, seeking an end to inequality and one of inequality's most important levers and instruments – our broken industrial relations laws. – **Sarah Roberts**

***The government proposed working groups are limited to specific areas which don't seem to capture the serious reforms required to create jobs. Will the union movement be looking to engage in a broader collaboration with other groups as occurred with JobKeeper to push platform for broader change in terms of ongoing stimulus, continued higher JobSeeker payments? Will the union movement take a broader approach to societal reform beyond industrial relations framework required to put Australia on a progressive pathway forwards out of the recession?***

Yes. Different unions and union officers are always engaged in dialogue with all manner of organisations seeking change for the better. While our efforts to bring about positive social change are rarely reported in the mass media, we are always working at a much broader agenda. Whether this coalesces into any single movement-wide campaign, such as around JobKeeper, remains to be seen. – **Denis Matson**

As above. – **Sarah Roberts**

***Another consultation query please - for the purpose of consultation on change provisions, would returning employees back to the workplace (following a period of working from home in response to COVID-19) be seen as a significant change that would require extensive consultation with unions?***

Probably not, provided that returning to the workplace is returning to “normal” rather than implementing major change with significant effects. However, the employer that implements a return to work without broad consultation is disclosing poor judgment and a lack of managerial acumen. As widely reported, schools across the country moved to “on-line learning” and very broad working-from-home arrangements. They have all now returned to “normal” attendance. Most, regardless of consultation obligations, engaged in extensive consultation with staff in the lead-up to returning and in the early weeks of being back in school. The problems with excessive staff fear, resentment, conflict over policies, confusion, conflict over medical certification, staff refusing to attend and so on have all occurred at schools that engaged in little or no consultation. The pattern is astoundingly consistent. The lesson (pardon the pun) is consult anyway. – **Denis Matson**

It's possible but unlikely in our industry – consultation around change provisions tend to go to changes which have impacts on jobs rather than ways of working. OHS provisions could of course be used to dispute returns to work in circumstances where it is unsafe. – **Sarah Roberts**

***What are the best ways to prevent injury/illness to the psychosocial/mental health of workers during a global pandemic? Our members are on the frontline and providing services to the community.***

While this will depend on the industry and nature of the workplace, the key is consultation. (see above). Workers are in the best position to identify risks and are in the only position the concerns they have that could present psychosocial/mental health risks. The opportunity to participate before decisions are implemented – to understand the issues and have input - is demonstrably one of the best antidotes to workplace psychological injury. – **Denis Matson**

Being better prepared for future pandemics in terms of building supports to combat declining mental health and suicide, especially in regional areas (suicide being set to cause more deaths in the aftermath of COVID-19 than the virus itself). Which entails having a government more inclined to dip into the public purse to maintain welfare payments for those out of work. Also, we have to provide better virtual ways of people checking in with each other if that can't be done face to face. – **Sarah Roberts**

***Why do you think that many NTEU members have campaigned against the national framework that the NTEU negotiated?***

Unfortunately, communications with members around the union's strategy to save jobs did not begin to resonate with the membership until negotiations were quite far advanced. While there was formal communication with members about the strategy, there was insufficient time to properly engage with members in the way we normally would when embarking on a bargaining round. This was because of the short time frame available to achieve a deal to save as many jobs as possible. The result of this fast-moving decision-making was that some members did not feel adequately consulted about the strategy and became entrenched in their opposition to it. Added to this was the far-left elements of our union who under no circumstances would accept negotiations with the employers if the result was any type of concession, even if that concession was to save jobs. These two elements of our union combined at a time when all the union's meetings were held online, which is a difficult platform upon which to make well-informed, robust and representative decisions about a hotly contested topic like the Jobs Protection Framework. – **Sarah Roberts** Assistant Secretary, National Tertiary Education Union (Victorian Division)

***What's the strategy to dispute redundancies for fixed term employees?***

Where the Jobs Protection Framework NTEU has negotiated is incorporated into an Agreement by variation, there will be additional protections for fixed term employees. At those institutions, where the work continues and it was usually performed by a fixed term employee, it must be retained by that employee and not passed on to permanent staff, meaning that employee's contract must be renewed. At other institutions where this protection does not exist, there is little technically standing in the way of an employer who wishes not to renew a fixed term staff member's contract. However, we can dispute workload provisions which may be a back door way of protecting fixed term employment: this would look like ensuring those permanent staff who are threatened with being loaded up with the extra work are not overloaded, meaning the employer may have no option but to retain the fixed term employee. In addition, of course there are our usual campaign, name-and-shame methods. – **Sarah Roberts**, Assistant Secretary, National Tertiary Education Union (Victorian Division)

