

Office of the Director of Public Prosecutions: Workload dispute update

As members will be aware, the PSA and the Office of the Director of Public Prosecutions (ODPP) are in dispute in relation to the non-enforcement of the current Workload Management Agreement (WMA).

The PSA is very concerned about the implementation of the new Workload Measure Tool (WMT) and accompanying Standard Operating Procedures (SOPS) as the SOPS unilaterally increase workloads by at least 20 per cent in comparison to the existing WMA.

Further to the last bulletin, which can be found [HERE](#), the parties were back in the NSW Industrial Relations Commission (IRC) before Commissioner Webster on 12 May 2021 for further conciliation. The ODPP was represented by Herbert Smith Freehills (HSF).

At the Industrial Relations Commission, the PSA was represented by our own in-house Legal Officers and we have engaged Counsel in relation to the matter generally. The PSA submitted that:

- The ODPP should comply with the WMA.
- The ODPP should explain how it has been managing workloads in the last three years, if it has not been applying the WMA.
- The ODPP needs to advise the PSA how it intends to reduce the workloads for ODPP staff.
- The ODPP should enter into consultation with the PSA about the new WMT with a view to ascertaining:
 - a) Who designed the WMT, and for what purpose it was originally designed;
 - b) In what way the WMT is intended to better manage workloads since the Early Appropriate Guilty Plea (EAGP) reforms;
 - c) If the WMT is intended to address issues that have arisen since the EAGP re-forms, what role did the WMA play in developing the WMT.

The PSA provided anonymised case studies from members who had shared their workload figures with PSA Delegates. The examples highlighted that members had workloads two to three times the prescribed limits set out in the WMA.

The PSA further advised the IRC that management has complete transparency regarding evidence of the breach of the WMA, such as flex sheets which must be signed off by management and practice data from CASES.

The solicitors for ODPP advised that the ODPP's position is that the WMA no longer has application post-EAGP reforms. This is the reason why the ODPP have introduced the new WMT. HSF advised that the WMT was more accurate in measuring workload. HSF also advised the Commission that the ODPP was confident that members had been properly consulted over the introduction of the WMT. HSF



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continued to deny there were any issues with excessive workloads and that if any solicitors felt that was the case to raise the issue with their Managing Lawyer or Mr Nigel Richardson (HR- ODPP).

In reply, the PSA made it clear that the union had not been consulted on the WMT and that individuals had in fact come forward and advised management of workload issues. The PSA emphasised that the onus was on management to provide a safe working environment, which includes workloads that are not in excess of the limits as set out under the WMA.

The PSA suggested the ODPP use empirical SAP Flexsheet data as a guide for determining whether workloads were in fact at a safe level (for example if significant Flex hours are being accrued and forfeited in consecutive flex periods, then workloads are not at a safe level).

The Commissioner agreed the ODPP needed to find ways to ensure that workload limits were being set at safe levels and was supportive of using empirical Flexsheet data for this purpose.

The ODPP also undertook to implement a 'red flag' system, whereby high individual workloads would be addressed.

As part of the dispute the PSA has also filed a summons to attain anonymised work-load data from ODPP as the ODPP has not been willing to provide the data upon re-request of the PSA.

The PSA and the ODPP return to the IRC on 2 June 2021. On 2 June the ODPP is to report back to the Commissioner indicating how it will ensure safe workloads during the WMT pilot. The parties have been directed to meet prior in respect of this issue.

Please continue to provide feedback to the Workload Weighting inbox and provide information to the PSA and/or the delegates.

Your PSA staff

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What can you do?

- Encourage your colleagues to join the PSA online at www.psa.asn.au/join
- Give a copy of this bulletin to your colleagues
- Print this bulletin and put it up on your noticeboard.

