

THE MANUAL

BY MARQUE LAWYERS

ISSUE NO. 4 LOCKDOWN 2.0

Victoria and Greater Sydney are back in familiar territory: a lockdown. And although we are much better at this than we were over a year ago, the effects of lockdown still hit hard, both at home and at work. And while we hope everyone is taking care of each other, here is a helpful refresher for businesses that are trying to manage staff through these tough times.

What is the top priority?

WORKERS' HEALTH AND WELLBEING

Regardless of how hard your business has been hit, staff health and safety remain your top priorities. This means that if staff can work from home, even if inconvenient, they must work from home. For anyone coming to work, make sure the business and each employee follows all public health order requirements including QR check-ins and masking up.

Can we stand employees down?

YES, BUT NOT DUE TO A DOWNTURN

While the pandemic is back, JobKeeper is not, nor are the flexible employer directions that came with it. This means businesses no longer have a broad discretion to stand employees down without pay or unilaterally reduce their hours. Instead, we have reverted back to pre-pandemic stand down rights and obligations, which allow employers to stand employees down without pay if, for reasons beyond the employer's control, the employees cannot be usefully employed.

While a decline in business will not justify a stand down, any business that is forced to fully or partial close due to the growing government restrictions will be able to stand down affected employees without pay. A self-imposed closure by a business that does not deem itself "essential" will also likely be able to justify a stand down.

What are the alternatives to a stand down?

EXPLORE OPTIONS WITH STAFF

If you cannot, or would rather not, stand staff down, talk to them about agreeing to interim measures such as reducing hours, leave without pay arrangements, or pay cuts. We all know, mostly from first-hand experience, the impact of the pandemic. Therefore, staff may be more accepting of these temporary measures.

Anything else?

POTENTIAL AWARD CHANGES OR REDUNDANCIES

The Fair Work Commissions are unions are currently holding crisis talks to see if they can rush through temporary changes to modern awards that would assist businesses and employees get through the current lockdowns. However, if the above options are not workable and you cannot wait for the results of these discussions, redundancies are an available response that can be considered.

QUESTIONS?

Get in touch with our workplace team
Wesley Rogers | wesleyr@marquelawyers.com.au
Courtney Divani | courtneyd@marquelawyers.com.au