

Our October edition of Vision includes:

- Confidentiality bid "futile": FWC;
- Landmark Working From Home Term Commences for Clerical Employees;
- Stevens & Associates Team Update.



Confidentiality bid "futile": FWC

The Fair Work Commission (FWC) has highlighted the significant employment consequences that can flow particularly from where allegations invoke serious misconduct in the banking and finance, or other heavily regulated, industries. The same may cause reputational harm arising from its disclosure in published dismissal decisions.

In Pravin Kumar Malik v Westpac Banking Corporation [2026] FWC 3742, Commissioner Sarah McKinnon refused a former loan manager's application to have his name removed from a published unfair dismissal decision, despite accepting that the decision may make it more difficult for him to secure future employment in the banking industry. The original decision had upheld his dismissal for serious misconduct involving customer payments, conflicts of interest and unauthorised communications with customers.

Background

The employee had been employed by Westpac for approximately 20 years before being dismissed following an investigation into a range of integrity and compliance concerns.

The investigation found that he had accepted personal payments from customers while assisting them with loan-related activities, including a $2,000 cash payment and a separate transfer of $7,500. Westpac also found that he failed to declare conflicts of interest, engaged in work-related communications with customers through WhatsApp on his work device, and failed to comply with various internal governance requirements.

Westpac concluded that the conduct breached several key policies, including those relating to anti-bribery and corruption, responsible lending, conflicts of interest, gifts and hospitality, technology use and employee conduct.

Following the unsuccessful unfair dismissal proceedings, the employee sought orders requiring his name to be replaced with initials or a pseudonym across the Commission's records. He argued that continued publication of the decision



was causing significant psychological harm, damaging his employment prospects and exposing his family to reputational harm.

The Commission's Reasoning

Commissioner McKinnon accepted that publication of the decision had caused the employee distress and acknowledged that one consequence of the decision may be difficulty obtaining future employment within the banking industry.

However, the Commission was not satisfied that the circumstances justified departing from the principle of open justice.

Importantly, the Commissioner found that the employee's situation was not materially different from the adverse consequences that commonly arise where parties pursue public litigation. While the decision referred to medical conditions including chronic insomnia and restless leg syndrome, that information had been placed before the Commission by the employee himself and had become part of the public record.

The Commission also rejected submissions that the decision would operate as a permanent barrier to employment generally or that the employee's family members faced any legitimate risk of public criticism.

A notable aspect of the decision is the Commission's acceptance that the findings may carry ongoing consequences within the banking sector. That observation reflects the importance placed on integrity, conflicts management and anti-bribery compliance within financial services roles, where employers are subject to extensive governance, regulatory and financial crime obligations. Banks commonly adopt a zero-tolerance approach to bribery, corruption and undisclosed conflicts of interest because such conduct can expose institutions to significant legal, regulatory and reputational risk.

The Commission ultimately concluded that confidentiality orders were neither necessary nor desirable, particularly given the practical difficulty of anonymising a decision that had already entered the public domain.

Implications and Key Takeaways

This decision serves as a reminder that integrity-based misconduct can have lasting career consequences, particularly in highly regulated industries where trust, ethical conduct and compliance form essential requirements of employment.

For employers, the decision reinforces the importance of maintaining robust anti-bribery, corruption and conflict-of-interest frameworks. Where misconduct involves personal benefits received from customers, undisclosed conflicts or conduct capable of undermining regulatory compliance, disciplinary action, including dismissal, is likely to be viewed seriously by the Commission. Banks in particular operate under stringent anti-bribery and corruption expectations and generally



maintain a zero-tolerance approach to such conduct.

The decision also highlights that successful defence of an unfair dismissal claim may not be the end of the matter for employees. Findings concerning integrity and compliance failures can remain publicly accessible and may continue to influence future employment opportunities, particularly within industries where rigorous probity requirements apply.

For employees, the case underscores the importance of understanding and complying with gifts, benefits, anti-bribery, conflict-of-interest and communications policies. Conduct that may be viewed as informal or relationship-driven in other contexts can be treated as serious misconduct where it compromises, or appears capable of compromising, the integrity of customer-facing decisions.

Ultimately, the decision demonstrates that where misconduct findings relate to core trust and integrity obligations, the Commission will be reluctant to shield employees from the reputational consequences that ordinarily accompany public litigation. The public interest in transparency will generally outweigh concerns about future employment prospects, even where those prospects may be adversely affected as a result.

If you have questions about how this decision may affect you as an employee or employer, please contact Nick Stevens or Evelyn Rivera.



Landmark Working From Home Term Commences for Clerical Employees

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A significant new working from home ("WFH") term will commence in the Clerks – Private Sector Award 2020 from next week, following confirmation by a Full Bench of the Fair Work Commission ("FWC") of its earlier decision to introduce a dedicated framework dealing with WFH arrangements.

The new term represents one of the most significant developments in modern award regulation of remote work since the COVID-19 pandemic and may ultimately serve as a model for similar provisions across other modern awards covering white-collar employees.

The FWC's decision follows an extensive review process, including research, consultation and submissions from employer groups and unions



regarding the role of remote work in modern Australian workplaces.

Why the Change?

The FWC observed that a substantial proportion of employees covered by the Clerks Award regularly perform work remotely and that technological developments have enabled many clerical and administrative functions to be performed effectively outside a traditional office environment.

Research considered by the Commission indicated that WFH arrangements had become a common feature of clerical employment, delivering benefits for both employers and employees. Employees reported improved work-life balance and reduced commuting time, while many employers identified productivity and recruitment benefits.

Importantly, the Commission noted that employees covered by the Clerks Award are predominantly engaged in work performed using digital technology, making the award an appropriate starting point for introducing a dedicated WFH framework.

What Does the New WFH Term Provide?

The new provision introduces a formal mechanism for employees to request a WFH arrangement. However, unlike some proposals advanced during the proceedings, it does not create an automatic right to work remotely.

Instead, the framework is based on agreement between the employer and employee.

Key features of the new term include:

- employees may submit a request to work from home;
- requests must generally be made in writing;
- any approved WFH arrangement must be recorded in writing;
- employees may work from their home residence or another location approved by the employer; and
- employers retain the ability to determine whether a proposed arrangement is operationally suitable.

The Commission specifically rejected proposals that would have created a broader statutory-style right to request WFH arrangements similar to those found in section 65 of the Fair Work Act 2009. Instead, it adopted a more balanced framework focused on flexibility and mutual agreement.

What Does This Mean for Employers?

Employers with staff covered by the Clerks Award should review existing hybrid work and remote work arrangements to ensure they align with the new award requirements.

Many organisations already operate under informal WFH arrangements. The introduction of a dedicated award term means employers should consider



whether those arrangements are appropriately documented and whether internal policies remain consistent with award obligations.

Employers should also be prepared to establish processes for receiving, assessing and responding to employee requests for remote work.

The decision does not prevent employers from requiring attendance at the workplace where operationally necessary. However, it does establish a clearer framework for discussing and documenting remote work arrangements with award-covered employees.

A Potential Model for Future Award Reform

While the new provision applies only to employees covered by the Clerks Award, the decision is likely to be closely watched by employers, unions and policymakers across a range of industries.

The FWC identified the Clerks Award as a suitable test case because of the nature of the work performed and the prevalence of remote work within the sector. The approach adopted by the Commission may influence future discussions regarding whether similar provisions should be introduced into other modern awards covering white-collar occupations.

The decision reflects the continuing evolution of workplace flexibility in Australia and recognises that remote work has become a permanent feature of many modern workplaces rather than a temporary response to the pandemic.

As WFH arrangements continue to expand, employers should ensure that their employment contracts, workplace policies and management practices remain compliant with changing workplace laws and award obligations.

If you have questions about how this decision may affect you as an employee or employer, please contact Nick Stevens or Evelyn Rivera.





Stevens & Associates Team Update

Annie Sun

We are delighted to welcome Annie Sun to Stevens & Associates Lawyers as one of the newest members of our team.

Annie brings a unique combination of workplace relations experience, legal innovation exposure, and outstanding academic achievement to the firm.

Prior to joining Stevens & Associates Lawyers, Annie worked as a Workplace Adviser with the Housing Industry Association (HIA), where she advised members on a broad range of employment and workplace relations matters. Through this role, she developed practical experience assisting businesses to navigate workplace obligations, manage employment-related risks, and address day-to-day industrial relations challenges.

Annie has also gained valuable exposure to legal innovation through her role as a Legal Technology Intern at MinterEllison, where she worked at the intersection of law and technology and developed an appreciation for the evolving role of innovation within modern legal practice.

Academically, Annie has demonstrated an exceptional commitment to excellence. She completed a Bachelor of Economics and Bachelor of Laws at the East China University of Political Science and Law, graduating in July 2021 and achieving first place in Economics. She has also completed a Juris Doctor at the University of New South Wales, further strengthening her legal expertise and complementing her international legal education with qualifications in the Australian legal system.

Annie's diverse professional experience, impressive academic background, and passion for employment and workplace relations make her a valuable addition to our growing team. Her strong analytical skills, commercial perspective, and commitment to delivering practical outcomes position her well to support clients across a broad range of employment and workplace law matters.

We are excited to have Annie join the firm and look forward to the contributions she will make to both our team and our clients.

Please join us in welcoming Annie Sun to Stevens & Associates Lawyers. We are thrilled to have her on board.



Evelyn Rivera

We are proud to announce the promotion of Evelyn Rivera to Senior Solicitor, a well-deserved recognition of her outstanding contribution to Stevens & Associates Lawyers and her continued commitment to delivering exceptional outcomes for our clients.

Since joining the firm, Evelyn Rivera has established herself as a highly skilled employment and discrimination lawyer, bringing a wealth of expertise, professionalism, and dedication to every matter she undertakes. Her promotion reflects not only her legal ability and technical knowledge, but also the trust she has earned from clients and colleagues alike.

Admitted as a Solicitor of the Supreme Court of New South Wales in 2022, Evelyn's pathway into law is unique and impressive. Before commencing her legal career, she worked in research and pathology, completing a Bachelor of Medical Science (Honours) before going on to obtain her Juris Doctor from the University of Technology Sydney.

Throughout her legal career, Evelyn has developed extensive experience in employment and discrimination law, assisting clients across a broad range of workplace matters including adverse action claims, unfair dismissals, workplace disputes, and discrimination and sexual harassment claims. Her practical approach, strong advocacy skills, and genuine commitment to achieving fair and equitable outcomes have made her an invaluable member of the team.

Beyond her legal expertise, Evelyn is known for her compassion, integrity, and commitment to supporting individuals through challenging circumstances. Fluent in Spanish and passionate about assisting migrants and minority communities, she consistently embodies the firm's values of excellence, service, and client-focused advocacy.

Evelyn's promotion to Senior Solicitor recognises the significant contribution she has made to the firm, the strong relationships she has built with clients, and the leadership she demonstrates within the team. We are excited to see her continue to grow in this role and contribute to the ongoing success of the practice.

Please join us in congratulating Evelyn on this well-earned achievement. We are incredibly proud of her accomplishments and look forward to her continued success as a Senior Solicitor with Stevens & Associates Lawyers.