The Fair Work Commission’s Triage Team – What is it?

Members who have recently bargained or are currently bargaining a new Enterprise Agreement, would be aware that a new review process has been introduced by the Fair Work Commission (FWC) to the Enterprise Agreement approval process – the FWC Triage Team.

The Triage Team was first piloted by FWC in October 2014 as part of the Commission’s Future Directions program, in which 30 initiatives were identified for implementation between May 2014 and May 2016. These initiatives were all proposed with the intent of finding efficiencies across the functions and services of the FWC. The Enterprise Agreement approval process was identified as one of the areas where there was potential for administrative reform to improve the process and a pilot project, establishing the Triage Team, was launched in 2015.

A review of the initial Triage Team pilot program in May 2015 identified the following benefits as a result of the program:

- as a result of the BOOT assessment being completed by a dedicated team, FWC Members are available to spend more time focussing on complex matters;
- approximately 50% of agreements submitted for approval were finalised within 3 weeks;
- trends were able to be realised with respect to common mistakes made during bargaining. The Fair Work Commission now provides dedicated education and training on these common areas that often result in agreements not being approved.

As a result of these findings, in October 2016, a new Member Support Team (also referred to as the Triage Team) became a permanent fixture in the FWC approval process.

The Triage Team is responsible for assessing all Enterprise Agreements that have been submitted to FWC for approval. This assessment includes:

- reviewing whether all Enterprise Bargaining statutory requirements (such as the NERR, bargaining in good faith, voting etc.) as Bas detailed in the Fair Work Act 2009 and the Fair Work Regulations 2009 have been complied with throughout the bargaining process;
- performing the Better Off Overall Test (BOOT) by analysing the Enterprise Agreement for approval against the applicable Modern Award.

The Triage Team records their assessment on specific templates that are then provided to a Member of the FWC. Based on this assessment, the Member will then determine whether it is appropriate to approve the Enterprise Agreement or whether the Enterprise Agreement needs to be listed for hearing prior to approval.

For further information about the Triage Team, click here.