

PWUA's legal advice on 'compulsory' overtime

"Deliver Agents are entitled to elect not to work overtime". This is the advice to the PWUA from an Auckland barrister engaged by the PWUA. The PWUA provided this legal advice to NZ Post last year.

NZ Post appears not to have any legal opinion of its own that overtime for DAs is compulsory. After a number of requests from the PWUA the company is obliged to reveal to the union whether or not it has a legal opinion.

DAs in different parts of the country are working in under-resourced branches.

In some branches DAs have elected to decline overtime, which has focused management's attention on the under-resourcing problem and resulted in additional staff being employed.

This has led to improved service to customers and happier employees.

The union's Barrister explained in writing on 14 September last year that DAs have the right to refuse overtime under Section 67E of the Employment Relations Act.

The Barrister also wrote that DAs cannot be required to work longer hours on some days to make up for shorter hours on light mail days.

The PWUA has suspended the Court proceedings on these matters until the end of August to allow the High Performance High Engagement process a chance to resolve the two issues (see back page).

Any DA who acts on the Union's advice that they are entitled to decline overtime is protected by the law against any allegation of misconduct for refusing overtime.

First CEA for DX Mail

A series of ratification meetings are about to begin for PWUA members at DX Mail. The Collective Employment Agreement will be the first CEA at DX.

The CEA will give union members at DX Mail a basis for recruitment of more DX Mail posties, sorters and mail room staff which will assist union members to be in a stronger bargaining position to improve their wages and conditions.

NZ Post fails Government audit on leave payment calculations

A 2016 audit by the Labour Inspectorate of the Ministry of Business, Innovation and Employment found that NZ Post had not complied with the Holidays Act in two important areas:

- Some employees have been underpaid for their annual holidays because NZ Post did not calculate average earnings over the last 4 weeks in cases where it should have
- NZ Post failed to recognise an "otherwise working day" so failed to pay some employees for public holidays not worked.

The company has accepted that it breached the Holidays Act for current and past casual and on-call employees and in March 2017 provided MBIE with an "Enforceable Undertaking" to rectify the breaches.

However, the PWUA has seen no evidence that MBIE accepted NZ Post was promising to rectify all its breaches, and the deadline of September 2017 for having a process in place to correct the underpayments has passed without any apparent progress being made by the company.

Employees have not received the backpay owing.

The PWUA believes that the underpayments identified in the MBIE audit apply equally to permanent and temporary employees of NZ Post.

The Union asked the company a month ago to provide evidence that permanent and temporary employees have not been underpaid, but the union has received nothing.

MBIE allows an employer to ask the union to agree to a 'global fix' with an average payment made to all those employees affected by the incorrect calculations.

NZ Post had offered to calculate the exact amount owing to a small sample of employees as the basis for an average payment, but the PWUA has not received these.

Calculations of all back pay owing cannot be made until the company payroll system has been upgraded to be fully compliant with the Holidays Act for future payments.

MBIE requires NZ Post to review the records of current and past employees back to May 2010 and to pay them what they are owed.

Individual employees would still have the right to ask for their own recalculations.

Tracking scam mail by visiting its Malaysian 'office'

A PWUA organiser on annual leave in Malaysia made an interesting discovery while tracking down the "White Glory Holiday" scam letters that have been coming into the country through NZ Post. The organiser had himself received a scam "2nd prize - US\$180,000".

A number of other front companies have been using different names but identical wording in their promotional 'holiday tour' material.

White Glory Holiday gave its address on the 'winning' ticket as Integra Tower, Jalan Tun Razak in central Kuala Lumpur. However the scammers had used a non-existent street number for the Integra Tower.

The 44 storey Integra Tower is actually owned by the Malaysian

Government's Pension Fund.

With the help of a local friend the organiser met with a senior public relations consultant at the Malaysian Government's Pension Fund and explained that superannuitants in New Zealand were getting the scam letters coming from the address of the Malaysian Government's Pension Fund.

The PWUA organiser discussed with the Pension Fund representative making a complaint to the National Bank of Malaysia about the use of a Malaysian Government Agency to try to provide cover for the scams.

This is the same group of scamming companies in Malaysia which the PWUA had made a complaint about to NZ Post early last year.

The PWUA and "High Performance"

During the 2017 Collective Employment Agreement negotiations the PWUA agreed with NZ Post that a more constructive "engagement" process would benefit both the union and the company. What then became a "High Performance High Engagement" (HPHE) Charter was launched at NZ Post House on 25 May.

Agreement was reached with NZ Post to produce a poster for workplace noticeboards. The company and each of the two unions provided a 250 word

statement for that purpose.

The PWUA made it clear that its 250 word statement would give a basis and context for the PWUA involvement in HPHE. No longer could the company simply "consult" with the union and continue to make its own decisions but the parties are required to try to reach agreement - consensus.

The parties continue to have access to legal and other dispute processes where consensus is not reached on issues taken up through HPHE.

Drug and Alcohol policy and the HPHE process

The PWUA strongly disagrees with NZ Post's current use of its Drug and Alcohol Policy. The union has received many complaints from members about being required to provide urine samples for what they believe to be minor incidents.

Members comment not only on the intrusive nature of the testing, the obvious cost to NZ Post for the testing, but also the lost time and failed delivery caused by the tests.

NZ Post has invited the PWUA to join a review of the current Drug and Alcohol policy beginning on 27 July.

The PWUA wants the HPHE process followed in the review - not simply consultation, but by trying to reach agreement by consensus.

PWUA "250 word" statement for HPHE poster

"The PWUA welcomes HPHE with its new processes for the unions and company to work together progressing the interests of union members, the company and customers.

"Before finally agreeing to join the HPHE the PWUA had many discussions within the union including about ensuring the ability of the union to simultaneously maintain the traditional options open to unions to resolve disputes, while legal and industrial rights of the union and the employer are not compromised by the HPHE.

"Discussions with NZ Post in the run up to the establishment of the HPHE process included the unions and company working together on the HPHE principles, structure, union and company representation, and the Charter itself.

"HPHE moves the relationship between the company and the union beyond the limitations of

simply being *consulted* by the company, to decision-making by *consensus* - a constructive process to try to reach agreement while working through issues toward a solution. HPHE can also consider new proposals intended to lead to improvements for the company, the union parties and customers.

"HPHE applies not only to meetings between management and union officials but also to decision-making at all levels at NZ Post.

"The PWUA recognises that there will be some conflict between the interests of employers (the maximisation of profits) and employees (income, terms and conditions). However there will also be significant issues of mutual interest including building and maintaining a safe, efficient, sustainable and trustworthy postal service for which the HPHE has already begun to play a key role."

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POSTAL WORKERS UNION OF AOTEAROA (NORTHERN)

PO Box 95211 Swanson Auckland 0653

I hereby appoint the Postal Workers Union of Aotearoa incorporated to be my authorised representative under Sections 18 and 236 of the Employment Relations Act 2000. For the purpose of this authority any duly appointed representative of the PWUA is empowered to act on my behalf in any matters related to or arising out of the negotiation and application of any Employment Agreement or any other matter relating to my employment at my request. This authority shall continue in force until revoked by myself, giving two weeks notice.

Name (PLEASE PRINT)

Signed

Date Appointment No.

Employer

Branch

Home Address

Phone

Deduction Authority for

Postal Workers Union of Aotearoa (Northern)

I authorise my employer to deduct:

\$5.95 per week when I am employed for 30 or more hours per week, or

\$2.95 per week when I am on-call, or employed for less than 30 hours per week from my pay and credit the Postal Workers Union of Aotearoa Northern District.

Please stop any other deductions from my pay to any other union.