



## Stat Report 2016/15

### It Pays to Belong: Five years on – Melbourne Health Pay Redundancy

In late 2010 Western Health decided to put its pathology services out to tender. Until then Melbourne Health had been providing pathology services via a service contract between the two Health Services. This arrangement had been in place for around 10 years.

Melbourne Health employed all of the staff who worked in Western's pathology services, mainly at Footscray and Sunshine hospitals. When the announcement was made in 2011 that Western had decided to offer Dorevitch the pathology services contract, the MSAV immediately commenced discussions with Melbourne Health, Western Health and Dorevitch to negotiate agreed arrangements for a wide range of issues, including jobs, industrial agreement coverage, transfer of accruals, hours, rosters and redundancy pay.

After a particularly difficult negotiation we were able to reach agreement on all of these major issues, apart from redundancy pay. The MSAV's view was that the Melbourne Health agreement contained a provision that gave all Melbourne Health employees that would end their employment with Melbourne Health because of the new pathology services contract an entitlement to redundancy pay. The MSAV argued that the group of employees who had this entitlement included employees who transferred to Dorevitch.

Melbourne Health flatly rejected this claim and refused to make redundancy payments to its ex staff, some with over 20 years of employment. Needless to say the MSAV and members were furious with this response and decided to pursue the claim through the Federal Court. We didn't realise that it would be another 5 years before the case was finalised and Melbourne Health would be forced to make redundancy payments to this group of MSAV members.

The Federal Court proceedings were protracted, mainly as a result of the then State Liberal Government supporting Melbourne Health in arguing that although the agreement provision clearly says that a redundancy payment should have been made there were, it claimed, technical constitutional grounds for that part of the agreement being unenforceable and therefore Melbourne Health was not required to pay redundancy to members who lost their jobs. The union called this argument for what it obviously was; a nonsense! The fact that Melbourne Health had agreed to the redundancy pay provision being inserted into the enterprise agreement by consent in the first place meant that it was legally bound by the provision to make redundancy pay. In effect, Melbourne Health's refusal to pay redundancy was a breach of the agreement and the Fair Work Act.

Putting aside the technical legal arguments, we were adamant that Melbourne Health also had a moral responsibility to pay the staff it made redundant their redundancy entitlement. It is a disgrace that Melbourne Health fought for five years to avoid making these payments to a group of staff it had sacked and effectively discarded.

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After spending a large amount of tax payer money in legal fees trying to deny our members their entitlement, Melbourne Health ultimately backed-down and agreed to pay everyone we represented their full redundancy pay entitlement, plus interest calculated from 1 October 2011, the date that Dorevitch took over the contract.

In this David and Goliath struggle the MSAV is proud to have achieved a settlement of this case that involves payments to MSAV members totalling \$842,000. We are just as proud of the fact that we wouldn't give up on a fight to make sure our members received every dollar they were entitled to.

The lesson from this case is that where a health service contracts out its pathology service (or any service for that matter) it MUST pay the redundancy entitlements under our agreement to all employees who are made redundant, irrespective of whether they accept offers of employment with an incoming contractor or not. We hope this will be an effective deterrent to any public health service thinking about contracting.

## Unpaid work, workplace cultures and patients

The Union has been researching the impact and extent of unpaid work and the workplace cultures that support it. And it won't come as a surprise to anyone that there is a disturbing trend emerging across all health services to rely on unpaid work to fill gaps in rosters.

It would be simple to lay the blame at the continued cuts to healthcare. The truth is that the cuts to healthcare are a big driver behind health services wanting more staff to do more unpaid work, but as we know, this push to do unpaid work has been going on for a long time.

It goes much deeper than just budget cuts.

The issue around unpaid work is also about the workplace cultures that have developed over the past decade. And it's fair to say that this workplace culture has been encouraged as health services look for ways to do more with fewer resources.

As we look into the data from our research into unpaid work, and from our public sector enterprise bargaining survey, we can see there is a greater awareness among members about the perils of unpaid work. Through our research it's not uncommon to read member comments that they're expected to do unpaid work; and that when everyone else is doing unpaid work you end up doing it too. In effect, members are describing a dangerous workplace culture that says whilst we don't like it, we just do unpaid work.

One of the most frightening comments came from a young new scientist in a pathology service who commented that she started doing unpaid work because she thought from day one that was what everyone did – she thought it was normal.

Unfortunately the sad truth is that while you are working longer hours with growing workloads, doing more and feeling more anxious or stressed will not help patient care. In fact by working until you are sick means that you are letting patients down. If you're not at the top of your game it is easier to make mistakes and you know how mistakes can have a detrimental impact for patients; and the potential to lead to disciplinary action.

Here are a handful of the responses we had when members were asked about unpaid work and workloads:

- To get work done
  - Unable to achieve all tasks within hours
  - I feel pressured by colleagues to do unpaid work because they are
  - Feel obliged to in order to meet minimum patient care and complete other tasks requested
  - To reduce workload the next day
  - Inadequate hours of paid work to complete allocated tasks
  - I cannot keep on top of the job unless I work through lunch and at home
  - To get the work done so testing does not fall behind
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- In order to complete the daily influx of work and in order to that the TATs are hopefully maintained. There is guilt if one leaves work for the next day
- To keep up to date
- To ensure ability to leave on time for child care reasons
- To get results out to patients in a timely fashion. Given we are understaffed and all overworked it seems unfair to pass this work onto colleagues
- Unmanageable caseloads
- To support colleagues. To ensure proper patient care. To help out
- Patient care would be compromised if unpaid work is not performed.
- To keep up with workload and lessen admin for clinicians
- Pressure from management to get tasks done
- Due to increase demand and client care
- Staff shortages
- Not enough staff to keep up with workload
- Feel necessary for patient safety and expectation
- The service would collapse without it
- High workload, shortage of staff
- Lack of staff and management who believe that staff “live to work” rather than “work to live”

At this year’s Annual Conference we will spend time unpacking issues like unpaid work and workloads and what we can do about them; and explore workplace cultures. And this year’s Annual Conference gives us an opportunity to truly delve into such issues as members highlight workload and fatigue, job security, hours of work and career advancement as key issues.

We will also discuss at Conference the need to learn to say “NO WAY!” to unpaid work, and the positive impact this has on forcing health services to properly staff our services.

## Easter payments and Monash Health

Well after Easter the Union is still dealing with health services that have refused to adhere to the Union’s agreement.

But the good news for members at Monash Health is that common sense has finally prevailed. Due to the unwillingness of Monash Health to honour our agreement, the Union was forced to lodge notification that we would take the matter up through the Fair Work Commission. In fact the Union was due to attend the Fair Work Commission early this week in pursuit of public Holiday payments for our members at Monash Health.

However, late on Friday afternoon last week the Union received very late notification that Monash Health now intends to pay its outstanding Easter Holiday payments. Apparently the error was due to a misunderstanding in relation to the interpretation and traditional treatment of the subject clause in the agreements. We’re uncertain how such misunderstandings occur given our agreement hasn’t changed and the same clause has been in place for a number of years.

Monash Health tells us that they have conducted a review of the decision to not make the Easter Sunday payment and they can confirm that the payment for Easter Sunday in 2016 will now be made in the next pay cycle.

Monash Health also wanted to assure us that steps have been taken to ensure future Easter Sunday payments are correctly and promptly processed. Given the history of Monash Health failing to honour these payments in the past we will have wait and see if this matter has been resolved.

In order to make sure you are being paid correctly, please notify the Union immediately if after your next pay you have not received the correct payment for the Easter period.

## Profiling your work and educating the public

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For many people health care is defined by doctors and nurses because they are the professionals most visible to people who access health care. But as people inside the health industry, we know that it takes many people in many professions to deliver world-class health care.

It's important that more people have a better understanding of the many different professionals it takes to deliver world-class health care. That's why the Union is creating member profiles so we can better educate people about the many different professionals working in health care.

If you're interested in participating in this project please contact Alex on 9623 9623 or at [alexs@msav.org.au](mailto:alexs@msav.org.au)

## We Are Union – Join the Campaign

The federal election is in full swing and there are lots of ways you can help protect Medicare and Australia's universal healthcare system.

Joining the We Are Union campaign means you'll be helping to make sure that more voters hear about the cuts to essential services, the cuts to education and the cuts to healthcare. Plus it's your opportunity to speak with voters about the Liberals forcing up the cost of pathology tests and increasing the cost of visiting their GPs.

Check out what's happening and how you can get involved at: <http://www.weareunion.org.au/when>

## Support the Healthy Futures campaign



The Union strongly believes that climate change is union business. We know that climate change threatens our health by increasing the risks of heatwaves, bushfires, droughts and storms, displacing people and straining our health systems.

And right now HESTA and First State Super (FSS), Australia's biggest health industry super funds, are investing our money in fossil fuels - coal, oil and gas.

**Join us in asking HESTA and FSS to divest from fossil fuels at [www.healthyfutures.net.au/divest](http://www.healthyfutures.net.au/divest).**

## Psychologists: If you need help at work you need the VPA Inc.

If you are a psychologist and not in the VPA, you are taking unnecessary risks with your reputation and career. [Download an application form and join today.](#)

### **Common beaches of employment entitlements and negotiation of enterprise agreements**

In addition to the above, VPA routinely assists members over issues such as harassment and bullying, under classification, organisational re-structuring, incorrect calculation of leave entitlements and health and safety. In addition, it negotiates enterprise agreements for psychologists in the public and private sectors to ensure that rates of pay and conditions remain up to date.

## Worth Reading: Telstra Health will hold Australians' cancer details, so we need to ensure their privacy is protected

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“The [Department of Health recently announced](#) that Telstra had won a [A\\$220 million contract](#) to manage the register for the [National Bowel Cancer and Cervical Screening Programs](#).

[Telstra Health](#) – the company’s health arm – will aggregate and manage data currently held by various state registries into one national database. There is potential that other cancer screening registries, such as breast screening, might also be contracted to Telstra Health in the future.

The registries not only contain personally identifying information, such as names and addresses, but also the results of pap smears that allow inferences about a person’s sexual status.”

Read the entire article by Stephen Duckett in The Conversation at:

<https://theconversation.com/telstra-health-will-hold-australians-cancer-details-so-we-need-to-ensure-their-privacy-is-protected-60104>

## Worth Reading: Turnbull’s ‘Jobs And Growth’ Mantra Is A Faith, Not A Plan

“Many faiths believe mantras have special psychological and supernatural powers. Derived from the root meaning “that which protects the mind”, mantras are often meaningless. First composed by Hindus 3,000 years ago, they are also used by Buddhists, Jains, Sikhs, and now by neoliberal ideologues.

Apologies for tarnishing the wisdom of these ancient religions by associating them with Matthias Cormann, but by my last count government ministers have used the phrase “Jobs and Growth” more times than “Om” has been uttered in all of human history.

And what is “Jobs and Growth” if not a meaningless magical phrase repeated ad nauseam to protect the minds of Liberal leaders and their acolytes from the economic realities of the 21st century?

A \$50 billion dollar corporate tax cut is not a plan for jobs and growth. It’s highway robbery.”

Read the entire article by Liam McLoughlin in New Matilda at:

<https://newmatilda.com/2016/06/01/turnbulls-jobs-and-growth-mantra-is-a-faith-not-a-plan/>

## Join the Union

**Are your workloads increasing? Are your stress levels increasing? Are you doing longer hours at work? Join the Union for work pain relief!**

To protect our professions and stand up for our rights at work we must strengthen our collective voice and strengthen our bargaining position by increasing our membership. And you can help right now by sharing one of the images below through Facebook.

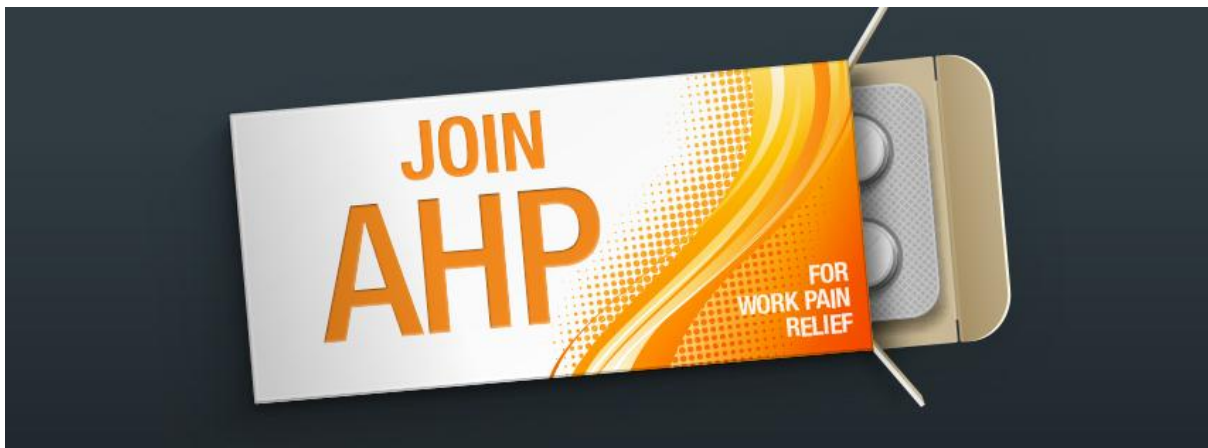


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## Your Union is on Facebook

Keep up to date with what's happening by liking us on Facebook

[Medical Scientists Association of Victoria](#) | [Victorian Psychologists Association Inc](#) | [Association of Hospital Pharmacists](#)

## Get the most out of the Union's website

The Union's website has a number of special features for members. These features, like the Members section and the Forums, require you to have a log-in and password.

But to ensure that your privacy is protected we have created the website in such a way that you will need a separate log-in and password for the Members section and the Forums section. It might seem to be inconvenient but it does better protect you and your private information. It also means that we can be more certain about the source of a hack if such an event is ever to arise.

## Australian Unions Member Benefits



## Share STAT Report

Is there a copy of STAT Report on your Union noticeboard or in your staff room?

## app

Over the last month Australian Unions launched some new and exclusive Member Benefits - did you see our recent email telling you about this? If not, check your inbox! Search for "Lifestyle Rewards" for your login code.

Our program has expanded to include:

- Discounted movie tickets for Village, Hoyts, Palace and Event cinemas.
- Discounted electronic gift cards including major theme parks, zoos and aquariums.
- A discounted accommodation booking site.
- A new secure member only website and smart phone app.

All this is free to all members of affiliated unions. If you have not got a login and would like join in [register for Member Benefits now.](#)

If not print out a copy and leave it on the noticeboard or in the staff room for your colleagues.

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