

Safety and wellbeing concerns before IRC



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The Department has failed to adequately address Federation's concerns regarding the safety and wellbeing of vulnerable teachers during the COVID-19 pandemic and Federation recently escalated the matter to the Industrial Relations Commission (IRC).

The dispute centred around the implementation of ever-changing guidelines issued to schools by the Department and the shifting nature of definitions coming from the Australian Health Protection Principal Committee (AHPPC). Particular attention was drawn to the definition of "vulnerable worker" and requirements for teachers meeting this definition to work on site.

The obligation transferred from the employer to the local school level and to principals requiring the collection and verification of medical details. Frequently changing modes of teaching, learning and school operations was also raised as a part of the dispute.



Federation asserts that senior executives of the Department had failed to exercise "due diligence" as Officers under the Work Health and Safety Act 2011.

The Department's failure to provide Federation with written assurances and evidence that it had met its obligations in relation to the health and safety of its employees, and specifically the health and safety of its employees who are considered to be at increased risk, had been the subject of discussions and correspondence between the parties since April but remained unresolved.

Federation outlined to the Commissioner the fast-paced nature of change in schools during COVID-19, which included 46 emails from senior Department executives requiring action in the period between 1 March and mid-June; 50 per cent of these emails landing outside of school hours and most with only a two- or three-day turnaround for implementation in schools.

As a result of Federation lodging a dispute with the IRC, the Department provided Federation with the confidential and extensive work health and safety processes and procedures that were, and continue to be, undertaken in relation to these categories of teachers.

Federation is provided with daily reports of the numbers of staff who are currently classified as "vulnerable" who are working on site.

Simultaneously, and throughout the term, Federation has been working with Safework NSW and other unions to inform the Draft Code of Practice in relation to the management of risks to the psychological health of our

members.

Federation has continuously argued that the need remains for the model work health safety laws to be amended to specifically refer to a regulation for psychological risks.

In the absence of any such regulation, the Draft Code of Practice must provide a robust framework to ensure that employers in NSW meet their obligations to eliminate or minimise psychological hazards in the workplace.

In Federation's view, the current work health and safety provisions have not been adequate to support members to ensure that the Person Conducting a Business Undertaking (PCBU) — in this context, the NSW Department of Education and TAFE NSW — takes appropriate action to minimise psychosocial risks consistent with the primary duty of care. Numerous examples of the psychological injuries faced by teachers were provided to Safework NSW as evidence for the need for change in this area.

The responsibilities of the PCBU to put measures in place to manage workload and prevent increased hours, "administrivia" and complexity of work from affecting the psychological health of workers was also pursued by Federation as matters this code must address.

Federation presented key findings to Safework NSW from its commissioned report in 2018 titled *Understanding work in schools: the foundation for teaching and learning*, which was underpinned by evidence from more than 18,000 member responses. More than 97 per cent of all respondents indicated that administrative demands had increased over the past five years since the introduction of the devolutionary Local Schools, Local Decisions policy that resulted in 700 so-called "back office" staff positions cut and more responsibility and accountability pushed back to principals and schools.

The increased work on administration and data collection was reported as obstructing a focus on student learning and the capacity to sustain quality teaching and learning, teachers' primary task and source of job satisfaction. High workload, a focus on compliance and new administrative demands were three factors seen to be hindering teaching and learning.

These tasks are consistently more monotonous, less fulfilling and provide teachers with little control over their daily work and are known psychological hazards in the workplace.

In particular, and as a result of our members in schools and TAFE experiences in this area, a Code of Practice must outline clearly the duties of Officers of the PCBUs and have a robust mechanism for compliance, as well as prosecution where breaches have occurred.

The Department's emphasis on the provision of "wellbeing" and "resilience building" resources to staff in terms of eliminating and minimising psychological hazards in the workplace, was highlighted as totally inadequate to Safework NSW.

Federation will continue to put its members' interests at the forefront of all work, health and safety matters in schools and TAFE, including disputing policies, processes and procedures where necessary.