



Dear Member,

AAT News

Welcome to the September 2019 edition of the AAT Australia's eNews and Views. In this edition you'll find out all about:

- STP reporting deadline extension expiring 30 September
- The Fair Work Commission reviews annualised salary model clauses
- From Cointree: Bitcoin and cryptocurrency. Got questions? We've got answers!
- Family businesses: some conflict is healthy
- Dismissals and terminations

STP reporting deadline extension expiring 30 September

The ATO are reminding employers that the extension provided to prepare for the STP reporting regime, expires on 30th September 2019. ATO Assistant Commissioner Jason Lucchese said now is the time for small employers to be aware of their options and take the right steps to get ready.

"More than 400,000 employers are already reporting their employees' tax and superannuation information digitally through STP, but we understand all employers operate in slightly different ways and every industry has unique challenges which can affect their payroll processes," Mr Lucchese said. "Regardless of whether you're ready to start reporting, or if you still need more time to get ready, there are options available to you."

All employers irrespective of size need to understand their STP transition plan, and there are several options depending upon the employers' circumstances.

- Start reporting now using STP compliant software – The ATO have provided a list of [low and no cost software](#) ready for use.
- Consider if a concessional reporting option is applicable for the employer – there are several concessional reporting options to assist employers in their transition, including:
- Quarterly reporting for micro-employers (<4 employees) who lodge their STP reporting obligations via a tax professional. This option is available until 30 June 2021. To take up on this option, the employer must have applied for the concession via their tax professional prior to 30 September 2019 and report via an STP compliant software on

or before the BAS lodgement deadline. This option is only available for employers whose other payment and lodgement obligations are up to date.

- Micro-employers in the agriculture, fishing and forestry industry as well as not for profit organisations may report their STP obligations quarterly, as long as their other reporting and payment obligations are in order.
- Closely held payees are not required to be reported via the STP regime until after 1 July 2020. Any other 'at arms-length' employees of family businesses must be reported under the STP requirements from 1 July 2019.
- Seasonal and intermittent employers, who employ 5-19 employees for less than three months per year can apply for a concession for deferral.
- Employees of Multinational employers who are placed in different tax jurisdictions are known as *inbound assignees*. The processing of these payrolls can be complex and are often calculated outside of a payroll system and manually entered later for reporting and reconciliation purposes. These employers may be entitled to reporting concessions providing them with more time and flexibility in reporting for STP purposes.

If your employers need more time, they must apply to the ATO for either a [deferral](#) or an [exemption](#)

Source: [ATO Concessional reporting](#)

The Fair Work Commission reviews and changes annualised salary model clauses

Modern awards are regularly reviewed as part of a four-year process and the Fair Work Commission (FWC) has handed down changes related to annualised salaries for 19 modern awards, including the Clerks - Private Sector Award 2010.

The changes intend to protect employees who are paid annualised salaries to ensure that they are better off when compared to what they would otherwise have been paid under a modern award, once penalties are applied to their actual hours of work.

These changes will only be included in modern awards that already contained annualised salary clauses. There are 4 model clauses to be implemented, one for employees working relatively regular hours and a second for those employees working highly variable hours, or significant amounts of ordinary hours that would attract penalty rates under the modern award.

The remaining two model clauses are applicable only to the Marine Towing Award 2010 and the Hospitality Industry (General) Award 2010. These require a minimum percentage increment to be added to the base award rates for annualised salaries.

These model clauses will impose a number of compliance obligations on employers engaging employees on annualised salary contracts, including:

- Employers must advise employees in writing of the arrangements
- Records must be retained relating to:
 - A detailed calculation for the salary including breaking down of the wage categories and the overtime or penalty assumptions
 - The upper limit of ordinary hours requiring penalty rates under the award

- The upper limit of overtime hours which the employee may be expected to work in any pay period without receiving payments in addition to salary
- Employers are required to make additional payments to employees where hours are worked outside of the upper limits specified in their agreements
- Employers keep a record of start and finish times along with any unpaid break times
- Employers must conduct a reconciliation of the salary paid versus what would have been paid if all of the penalties and provisions of the applicable modern award were applied. If there is any shortfall, this amount must be paid within 14 days.

Employers offering annualised salary arrangements should review their processes to ensure that the above requirements are met in transitioning to the new model clauses.

From Cointree: Bitcoin and cryptocurrency. Got questions? We've got answers!

'Money makes the world go 'round'.

Throughout history, money has come in many different forms. Grain. Cattle. Gold. Currency. However, it has always had the same purpose: to make trade happen.

In 2009, a new form of money emerged - this time, a cryptocurrency: [Bitcoin](#). Today, Bitcoin is but one of many [cryptocurrencies](#) used every day around the world.

So, what is cryptocurrency?

Put simply, a cryptocurrency:

1. Is digital money; and
2. Uses cryptography -- the science of encoding information to keep it private -- to ensure that digital transactions are secure.

Making sense of digital dollars

We live in an increasingly digital world. Online platforms are making everyday tasks, interactions and transactions quicker, easier and more convenient.

And in this era of globalised citizens and economies, discontent with traditional currencies and financial institutions have fuelled desires to explore new ways of transacting.

Practically speaking, traditional currencies and transaction methods often attract high transaction fees. Transaction rules and regulations can seem prohibitive and arbitrary. Lag times common to transfers - particularly international transfers - can be stressful and inconvenient.

The decisions of governments and political interests also impact traditional currencies, inflating or deflating the value of money at a moment's notice. Take, for example, Zimbabwe's one trillion dollar note.

So, what if there was a way to transact without banks, governments and other third-party institutions?

Given the digital age we live in, what if there was a way to transact online using digital money?

This is the very proposition that spurred thinking around the creation of cryptocurrencies, *completely decentralised* digital money and payment networks.

Efforts to develop the first cryptocurrencies began in the 1980s. However, it wasn't until 2008 when a white paper titled, 'Bitcoin: A Peer-to-Peer Electronic Cash System', was published under the alias, Satoshi Nakamoto, that cryptocurrencies truly gained traction as legitimate currency options.

The public launch of Bitcoin in 2009 made transactions using digital money - without the need for third party oversight or services - possible for the first time.

Since then, the number of cryptocurrencies in circulation and their usage has increased exponentially.

The case for cryptocurrencies

In a global and digital age, cryptocurrencies are making it easier to transact and trade online.

Cryptocurrencies are:

- Fast

Forget two-or-three-day transfer delays between banks. Because [cryptocurrency is transferred directly between parties](#), transaction-processing times are drastically reduced.

- Easy

Users can transact anywhere they have access to the internet - without the hassles of exchange rates, frozen accounts, transfer limits and other frustrating and seemingly arbitrary rules and regulations.

- Cheaper

With [third party supervision of transactions unnecessary](#), cryptocurrency eliminates many of the fees common to traditional transactions. Cryptocurrency takes the 'middle-man' out of online transactions.

- Secure

The decentralised, public nature of the cryptocurrency software and systems means that anyone can check the validity of transactions at any point in time. This makes the system extremely secure. In addition, the maths behind cryptocurrency transactions makes [fraudulent activity absolutely infeasible](#).

What about you?

Making trade and transactions possible wherever, whenever and between whomever, cryptocurrencies are digital money for a digital age.

Are you ready to make these endless trade and transaction possibilities a reality?

Source: Laura Hawting, Cointree

Family businesses: some conflict can be healthy

“If there’s one thing that was loud and clear from the [KPMG Enterprise and Family Business Australia \(FBA\) 2017/18 survey of family businesses in Australia](#), it was that good communication, and even healthy conflict, between family members is vital to boost the sustainability of the business and wellbeing of the family.”

The joint survey and subsequent report written by KPMG Enterprise, Family Business Australia and the University of Adelaide’s ‘Family Business Education and Research Group (FBERG) is a very engaging and interesting read. Establishing that Socioemotional wealth (SEW) is key to both long and short term success for the prosperity and longevity of family businesses. Mr Bill Noye, Partner, KPMG Enterprises says that “Introducing families to the concept of SEW and how to develop it is a foundational issue that is key for the long-term success of the family business”.

In the context of family business success, the survey found that the top SEW objectives included:

1. Emotional attachment between family members
2. Family control and influence
3. The renewal of family bonds through dynastic succession.

The report goes on to identify that communication in a business environment “involves some level of conflict”.

Michelle De Lucia, Director, KPMG Enterprise suggested that family business colleagues should “not be afraid of some conflict as it can lead to better outcomes.

“If we can get everyone to acknowledge different styles, and we can get a good healthy debate around the table, then you’re halfway there on the communication piece,” she said.

I have certainly witnessed many family conflicts in my career as a bookkeeper, mainly working with mum and dad businesses. In fact, I have often thought a qualification in counselling is not a bad consideration for a bookkeeper!

One of the outstanding suggestions, in my view, from the consortiums report is that of a ‘family council’. Mr Noye says, “a family council is focused on the family and how it interacts with the business and it helps in getting the balance. The caveat is to make sure the same person is not running the business board and the family council. Keep the roles and perspectives quite separate.”

Source: [‘Family business – the balance for success’](#); KPMG Enterprise, Family Business Australia and The University of Adelaide

Dismissals and Terminations

Fortunately, employees perform their duties well with little need to take corrective action. There are times, however, where an employee is not meeting either performance or behaviour expectations, it is critical to act. Coaching and retraining are often all that is required to bring about an improvement in the employee’s behaviour or performance. There are occasions

when this type of supportive action does not result in positive changes leaving a manager to take some form of disciplinary action to correct the less than expected employee output. Disciplinary action is a formal process many managers find difficult and time consuming to implement.

And a word of caution...

Three strikes and you're out – this is a myth!

From time to time, there are misunderstandings about employer and employee rights and obligations at work. For example:

Myth: *As an employer you have to give employees three warnings before terminating their employment.*

Fact: *There is no legal requirement to give three warnings. The exception may be the inclusion of a disciplinary process within an enterprise agreement and in this case, it is legally binding.*

This update focusses on bringing about changes where an employee is not meeting business expectations and coaching and retraining has not brought about the desired improvements. We also seek to dispel the myth of needing to have three warnings in a process leading to termination of employment.

Why should I take disciplinary action?

As difficult as it often is, taking disciplinary action with an employee, who is underperforming or behaving badly, is designed to bring about change. Sometimes we incorrectly mix attitude with performance and behaviour. Attitude is both difficult to measure objectively and difficult to modify whereas assigned tasks and expected behaviours are very easy to measure and apply.

If we fail to take action to bring about change, we are exposing our business to potential harm and expectations start to diminish across the whole workforce becoming quite hard to re-introduce. For example, if we accept poor behaviour, others start to modify their own behaviours to a lower standard and soon, many expectations are lost. Imagine the pet dog who digs up your garden; if not checked and even disciplined, eventually your garden has lost all its charm and becomes a pile of dirt.

When we engage people, we introduce them to the business through an induction and we talk about expectations and workplace standards. The aim of any good people management approach is to maintain those standards, consistently and fairly. At times, this may require being quite firm and direct with employees in disciplining them.

Before embarking on disciplinary action, you should consider these two factors carefully:

- Is the underperformance or unsatisfactory behaviour characteristic of this employee in the past and what actions were taken then?
- If the current situation is not characteristic or typical of this employee, what additional support and guidance might I need to introduce to bring about improvement?

Your consideration of these may lead to providing more coaching and training for the employee or even allowing the employee more time to improve prior to taking disciplinary action. If you feel these factors have limited application or lack relevance, proceed with taking disciplinary action.

What are some outcomes of a disciplinary process?

The aim of any corrective or disciplinary activity is to bring an employee's performance or behaviour back to acceptable standards.

Sadly, and often despite best efforts, an employee may not respond to attempts to correct poor performance or unacceptable behaviour and corrective action in the form of termination of employment may need to be considered. If this is the case, a manager must be certain every attempt has been made to correct the issue and that the underperforming or misbehaving employee understands termination of their employment is a possible outcome if no improvements are made.

Making an employee aware of the possible outcome being termination of employment is termed "issuing a warning". The aim of a warning is to jolt an employee into making positive change. A warning must be in writing and a copy provided to the employee after the meeting.

Warnings will generally energise an employee into making changes and the resultant improvement is beneficial for both the employee and the employer. Where a warning has been issued and there has not been sustained improvement, you need to review the following:

In your judgement, is there a strong likelihood of improvement by this employee?

- If so, grant the employee more time and remind them they need to make improvements. Reinforce your message by indicating you may issue a further warning. Remind the employee that termination of employment is a likely outcome if no improvement is made.
- If not, is it appropriate to consider termination of employment as the next and most appropriate step?

A further warning won't have the desired effect; what next?

You may feel that issuing a further warning will have limited or no benefit. This would occur where there has been very little improvement or unsatisfactory attempts at making improvements. In this case, you should consider termination of employment as the possible next step. Before taking any action, you need to ensure your actions comply with any terms of an enterprise agreement (if one applies) or an employment agreement or the requirements of a business policy. If you are not sure, we recommend you obtain HR advice before proceeding further.

Why can't I just 'sack' someone?

This is often asked and the correct answer is that "you can". However, the more complete response needs to consider the legal and moral frameworks in which we employ people in this country.

There are many factors to consider:

- Is the employee still in their probationary period?
- Has the employee been advised they are not meeting business expectations in relation to behaviour and/or performance?
- Is there a process where an employee's performance or behaviour has been discussed with them and agreed actions have been put in place?
- Has the employee been warned about their unsatisfactory performance or behaviour?
- Is the employee aware that their employment is under scrutiny and that termination of employment is a possible outcome?
- Has the employee been given an opportunity to respond to allegations of poor performance or behaviour?

- Has the employee been offered a support person in a potential termination discussion?
- Has the employee indicated to you why termination would cause them harm; that is, have they had the chance to explain why you should not terminate their employment?
- Is the employee at an age when I need to consider alternatives to termination, or the amount of notice may need to be checked?

These above points stem from current Australian employment laws such as the *Fair Work Act 2009* and the many hundreds of cases where employers have needed to defend their decision to terminate an employee's employment in the Fair Work Commission, the Federal Court and similar jurisdictions.

In addition, there are other factors to consider such as the impact a decision to terminate employment may have on the workplace, the nearby community and the potential impacts on reputation of the company and financial implications. Whilst these may be quite secondary, they are important factors to consider and, in some cases, a termination of employment may lead to workplace disharmony or even industrial action. These factors should not prevent a proper decision being made; they may require putting contingencies in place to minimise further business risk.

What about a situation that is really bad; can I sack an offending employee more easily?

There are some employee actions that are deemed as 'serious misconduct'. These are behaviours that are totally unacceptable and include but are not limited to theft, serious safety breaches, fighting at work, fraudulent activity, sexual harassment, refusing to perform reasonable tasks assigned to them and similar behaviour problems.

Serious misconduct is a class of behaviour(s) where the employment relationship between the employee and the employer becomes very fragile (or damaged) and for it to continue would be unreasonable.

There are still procedural steps to be taken when dealing with serious misconduct.

These are:

- the employee is made fully aware of the allegation of serious unacceptable behaviour **and** is given an opportunity to respond to the allegation
- the employee is made aware that the termination of their employment is a very real possibility
- the employee has had the opportunity to have a support person present in the meeting with the employer about the serious misconduct
- the employee has the opportunity to "show cause". That is, they are given opportunity to explain why they feel termination of employment is too harsh **and** that the employer seriously considers their show cause response (this can be best handled, for example, by asking the employee "Tell me why I shouldn't terminate you?")

In most cases, termination of employment resulting from serious misconduct means the employee is not paid notice of termination. They will still receive other entitlements such as payment of accrued annual leave. Again, before taking any action, you need to ensure your actions comply with any terms of an enterprise agreement or the requirements of a business policy. We recommend you obtain HR advice before terminating an employee's employment.

If demotion is the desired action to be taken, what else do I need to consider?

An employer may be faced with the prospect of demoting an employee, be it for example, for disciplinary reasons or because an employee's position has become redundant. While this may be viewed by the employer as preferable to the dismissal of an employee, there are a

number of implications of which an employer should be aware when considering the demotion of an employee.

If you are considering demotion as an option, we strongly urge you to seek advice by calling [AAT HR Advice powered by AB Phillips](#) so we can provide advice and processes to follow on how best to manage this change based on your unique situation.

So, how many warnings are necessary?

There is sometimes the mistake made of creating unnecessary disciplinary restrictions in workplace policies. Some employers mistakenly include a process of 'three warnings' in workplace policies as well-intentioned guidance for their managers to follow and because of this, the process can easily become stuck because of the need to comply with an internal policy or procedure at all times. For example, a restriction like needing to issue three warnings could leave a manager without any ability to take action when faced with serious misconduct or a serious underperformance situation. As indicated above, sometimes an enterprise agreement may specify the need for three warnings; in this case it would need to occur.

The Fair Work Act does not indicate any minimum amount of warnings; the focus of this legislation with unsatisfactory performance or unacceptable behaviour relates to the potential end point of dismissal and whether or not it was fair. The number of warnings given to an employee (if there is a need for more than one) will depend on the nature of the unsatisfactory performance or unacceptable behaviour.

In considering unfair dismissal applications, the Fair Work Commission is required to take into account whether a dismissed employee had been warned about the unsatisfactory performance/conduct before the dismissal. The number of warnings that are appropriate before an employer may dismiss a misbehaving or underperforming employee, will depend on the facts and circumstances of each case.

Needing advice and help?

If you would like assistance with managing performance issues including termination of employment or if you are interested in introducing terms and conditions of employment to support workplace standards, please contact our team of advisors at AB Phillips, Monday to Friday between 9:00 am and 5:00 pm AEST by phone on 1300 208 828 or email advice@abphillips.com.au or subscribe to [AAT HR advice powered by AB Phillips](#).

Please note that the above information is provided as comment and should not be relied on as a substitute for detailed professional advice from AB Phillips or professional legal or financial advice on any particular matter. Where you would like additional information and support about the content in this document please contact AB Phillips.

Join our Facebook Discussion Group

Feedback from members indicates that community is very important to accounting technicians. In response, the AAT Team has established a Facebook group especially for AAT members to join in an online community and discuss your successes and your not-so-successes, ask questions, give support to your colleagues and enjoy networking with your

peers. We will be posting articles, information pieces, event details plus more. Click through here to join in today:

[AAT Facebook Group](#)

Continuing Professional Development

- [Berwick/Narre Warren Discussion Group Meeting](#)
- [Complex payroll scenarios and HR - hands on workshop - Adelaide](#)
- [Complex payroll scenarios and HR - hands on workshop - Perth](#)
- [Complex payroll scenarios and HR - hands on workshop - Brisbane](#)
- [Complex payroll scenarios and HR - hands on workshop - Sydney](#)
- [Complex payroll scenarios and HR - hands on workshop - Melbourne](#)

Feedback

AAT welcomes your feedback. Please share your thoughts and ideas, let us know what your concerns are as well as the support and CPD that you need, so that we can deliver the best possible outcome for all of our AAT community. [Contact us](#)



[Our Website](#) | [Login](#) | [Contact Us](#) | [Manage Details](#) | [Privacy Policy](#)

The AAT has your email address on record as supplied by you via your membership application.

Having trouble viewing this email? [View Online](#)