

MEDIA STATEMENT

16 February 2017

Early exit of presidential members continues unabated - Fair Work Commission in crisis

*AMMA – Australia's resource industry employer group
Statement by Steve Knott AM, Chief Executive*

THE continued early retirements of presidential-level members from the Fair Work Commission – with Senior Deputy President Matthew O'Callaghan today bringing the number to seven and counting – provides the Turnbull Government with an opportunity to overhaul a tribunal in crisis.

AMMA [outlined](#) to Minister for Employment Michaelia Cash in October 2016 that we were aware of several FWC members who were considering resigning from the tribunal well before their statutory retirement dates.

Our advice followed SDP Richards' departure in September 2016 and came prior to Vice President Graeme Watson's highly-publicised [resignation](#) earlier this year.

There have now been [15 total departures](#) from the FWC since March 2014 and only eight replacements. There is a minimum of a further six retirements scheduled during this current term.

In light of this turnover, and with more early retirements to be expected, AMMA encourages the Turnbull Government to consider the following actions which would help alleviate concerns that the FWC is, as described by VP Watson, "partisan, dysfunctional and divided":

- Stop the growth and reach of paid conciliators, some of whom remain politically active, who are doing work that should be solely in the remit of sworn FWC members (for example, unfair dismissal conciliations);
- Urgently fill vacancies on the tribunal created by the high volume of departures and the unexpected early resignations of Watson, Richards and O'Callaghan and more;
- Appoint new FWC members to 'commissioner' level, given the tribunal currently has 'too many chiefs, not enough Indians', with 21 Commissioners and 20 Presidential members;
- Seek new appointees with real experience running businesses and employing people rather than recruiting from the 'IR Club' of ex-trade union bosses and labour lawyers; and
- Pursue the creation of a new, separate appeals jurisdiction to ensure consistent decision making and send clearer signals about employment to business owners and managers.

In recent years, particularly during the Rudd-Gillard-Rudd government, employer confidence in the FWC has been shaken by an unedifying politicisation of the appointment process, an unprecedented restructuring of its leadership, and a myriad of inconsistent decisions often out-of-touch with community expectations.

Undertaking these actions would go a long way to restoring confidence, independence and credibility in the Fair Work Commission.

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