

11 July 2024

Leigh Hubbard
Senior Industrial Officer
Australian Nursing & Midwifery Federation
Victorian Branch

Dear Leigh,

Re: Your Notice of Intention to commence Protected Industrial Action

I refer to your letter of 9 July regarding the above issue.

Bolton Clarke notes that industrial action will commence at 7.00am on Monday 15 July 2024.

Bolton Clarke further notes that the ANMF has given notice that industrial action as described in each of items (1) to (19) within your notice will commence at that time.

In giving notice in this general manner Bolton Clarke is concerned that the notice fails to give Bolton Clarke an adequate opportunity to prepare for and/or respond to the industrial action to be taken on any day. That is and in effect, your notice does not give Bolton Clarke advance notice of what industrial action will be taken, when or where the industrial action will be taken, or in fact if the industrial action will be taken at all.

For this reason and in addition to the statutory requirements, Bolton Clarke requests that the ANMF advise the Employee Relations team (via employeerelations@boltonclarke.com.au) of the specific action that the ANMF will be asking its members to take on any day.

In considering this request, Bolton Clarke advises that an assessment of the ANMF's complete list of industrial action has also been undertaken and that certain of those actions will result in employees being unable to be usefully employed for the period that the employee participates in that action.

In those circumstances, Bolton Clarke proposes to take employer response action under section 411 of the *Fair Work Act 2009*, by way of lockout. Bolton Clarke now gives notice of that response, which will occur after industrial action is taken by an employee.

The following items have been identified as periods where employees will be subject to employer response action:

1. Administrative ban – refusal to collect, record or document non-clinical administrative information including invoicing or accounts, start and finish times in Procura, outcome measures and vehicle logbooks.

2. A ban on the collection and/or entry of any data (that is not required by law to be entered into the patient/resident record or related directly to patient/resident or staff safety) and a refusal to record, collect or complete data required by the employer.
3. A refusal to implement any workplace or system change* proposed by management, subject to the discretion of the ANMF Branch Secretary in circumstances where the Secretary is satisfied that if the change did not proceed, it may negatively impact on staff or patient/resident safety.
4. A ban on the completing of any paperwork or electronic forms in residential aged care other than that directly related to the documenting of resident care.

*Bolton Clarke notes that the ANMF has previously undertaken to the Fair Work Commission that industrial action is not intended to interfere with the implementation of its new Victorian payroll system and related processes, i.e. 'Human Force'.

In compiling this list, Bolton Clarke has addressed only the types of action notified in your letter. Other action subject to the PABO process will need to be considered in due course.

Bolton Clarke also wishes to confirm its view that some of the action anticipated in your letter would not necessarily be protected, in accordance with decisions of the FWC. By way of example only, item 4 anticipates stoppages for the purpose of writing messages of support on Bolton Clarke property. While Bolton Clarke accepts that a stoppage is a ban, the activity proposed during the stoppage will not necessarily qualify as industrial action.

With a view to being practical, Bolton Clarke wishes to make clear that nothing should involve damage to Bolton Clarke property, in the sense of not being able to be removed easily afterwards. Messages which are easily wiped off afterwards are unlikely to cause any concern but anything else is likely to be a problem.

Leigh, whilst Bolton Clarke would obviously prefer that industrial action is avoided, we respect the right of employees to take protected industrial action in support of their bargaining claims. We hope however, that together with the ANMF we can minimise unnecessary disruption to Bolton Clarke's vulnerable residents, clients and employees during this challenging period.

Please do not hesitate to contact me if you have any questions or concerns regarding this matter. Both my team and I are committed to resolving this issue as quickly and efficiently as possible.

Yours sincerely,



Carly Carloss
Head of Employee Relations & Remuneration