

## **Senate Standing Committee on Education and Employment**

### **QUESTIONS ON NOTICE Additional Estimates 2015 - 2016**

#### **Agency - Fair Work Commission**

**Department of Employment Question No. EMSQ16-000214**

**Senator McKenzie provided in writing.**

#### **Question**

##### **FWC - Right of entry forms**

Regarding the circumstances of the application by the CFMEU of the right of entry permit for Luke Collier. Mr Enright previously indicated that Dave Hanna from the CFMEU and Mr Collier signed a right of entry permit application but the application failed to disclose that Mr Collier had a criminal history and that the matter had been referred to the AFP for investigation.

- o Please provide an update on whether the AFP have finalised their investigation, and whether there has been an outcome?
- o At previous Estimates hearing the Commission stated that the right of entry application form now states it is a criminal offence to lie on the form – has the form been changed to require the applicant to outline what “enquiries” they have undertaken that satisfies them the official is a fit and proper person?
- o If not, why not?
- o Since the permit for Luke Collier was suspended on application by the FWBC, has the FWC refused or suspended any other permits for failure to disclose information or incorrect information being submitted on permit applications?
- o If so, which unions applied for a permit and for whom was the permit sought?
- o How was it discovered that there had been a failure to disclose or that incorrect information had been submitted?

#### **Answer**

1. On 24 March 2015, the Fair Work Commission (FWC) formally referred the failure to disclose relevant material in an entry permit application by Mr Luke Collier and Mr David Hanna to the Australian Federal Police (AFP) as a potential contravention of 136.1 of the Commonwealth Criminal Code. On 19 February 2016 the AFP advised that a decision had been taken to finalise the matter and suspend the case with no further action.
2. No.
3. On 18 December 2015 the FWC Rules and Benchbooks Committee met and among other things, agreed that the Form F42 be amended to require an applicant for an entry permit to outline the steps undertaken to ensure the proposed permit holder met the permit qualification matters set out in s 513 of the Fair Work Act 2009. The draft amended Form F42 is currently being considered ‘out of session’ by the Rules and Benchbooks Committee. The amended form will become operative if approved by the Committee and endorsed by the President of the FWC. The FWC is separately examining recommendations by the Trade Union Royal Commission in its final report published on 31 December 2015 in relation to entry permit applications.

4. Since Luke Collier's permit was suspended on 29 January 2015, the FWC has refused or suspended other permits as set out below.
  
- 5.-6. The following table includes nine (9) people who have either been refused or had their entry permits revoked since 29 January 2015 for reasons (not necessarily the main or only reason) which included the failure to (fully) disclose information or for information lodged being incorrect.

	<b>Name</b>	<b>Permit Number</b>	<b>Event Type</b>	<b>Event date</b>	<b>Reason</b>	<b>How discovered</b>
1	Diana Asmar (HSU)	RE2013/426	Permit revoked	26 June 2015	Inaccurate declaration	Inquiry commenced by Fair Work Commission
2	Dean Sheriff (HSU)	RE2013/580	Permit revoked	13 February 2015	Request for revocation made by applicant following inquiry relating to incorrect information	Inquiry commenced by Fair Work Commission
3	Nick Katsis (HSU)	RE2013/583	Permit revoked	26 June 2015	Inaccurate declaration	Inquiry commenced by Fair Work Commission
4	Darryn Rowe (HSU)	RE2013/730	Permit revoked	13 February 2015	Request for revocation made by applicant following inquiry relating to incorrect information	Inquiry commenced by Fair Work Commission
5	David Eden (HSU)	RE2013/747	Permit revoked	13 February 2015	Request for revocation made by applicant following inquiry relating to incorrect information	Inquiry commenced by Fair Work Commission
6	Michael Myles (CFMEU & CFMEIUEQ)	RE2015/486; RE2015/487	Application dismissed – Found to be not a fit & proper person	20 July 2015	Determined not to be a fit and proper person – issue of non – disclosure discussed in decision	Issue of full disclosure raised by FWBC at time of initial application
7	Edward Bland (CFMEU & CFMEIUEQ)	RE2015/117; RE2015/118	Application dismissed – Found to be not a fit & proper person	5 November 2015	Determined not to be a fit and proper person – issue of non disclosure discussed in decision	Issue of full disclosure raised by FWBC at time of initial application
8	Andrew Temoho (CFMEIUEQ & CFMEU)	RE2014/467; RE2014/468	Application dismissed – Found to be not a fit & proper person	9 July 2015	Determined not to be a fit and proper person – issue of non-disclosure discussed in decision	Issue of full disclosure raised by FWBC as one ground in Appeal
9	Timothy Jarvis (CFMEU)	RE2014/531	Application dismissed – Found to be not a fit & proper person	9 July 2015	Determined not to be a fit and proper person – issue of non-disclosure discussed in decision	Issue of full disclosure raised by FWBC as one ground in Appeal