

## *National Australia Bank v KRDV* [2012] FCA 543 (28 May 2012)

### Key Points

- Team Meetings are not RAA
- In a further blow to the management of individual performance in a team environment, the Federal Court has found that even in circumstances where an individual's performance is discussed during a team meeting, the environment of a team meeting is likely to preclude that meeting from being categorised as administrative action.

### Background

The applicant (whose name was suppressed from being published) attended a weekly team meeting that was also attended by eight team leaders and chaired by the applicant's manager. The meetings were used as a tool to assess and discuss current and anticipated workloads. The applicant asserted that she was "*picked on and singled out for criticism by Mr Daly at that meeting*". In contrast, the NAB noted that the exchanges which took place between the applicant and her manager specifically concerned her performance given her prior work performance which indicated that she was not showing the same signs of development as other teams, was not delivering on normal and basic requests and appeared unable to cope with workload.

### The Law

The NAB submitted that the exchanges which took place at the meeting had to be considered in that context so that the directions the manager issued at the meeting were in respect of but apart from the applicant's normal duties, were specific to her work and was designed to deal with her as an individual in respect of her employment. It was also argued that the directions were steps under the applicant's contract of employment, thus satisfying the requirements set out by the Full Federal Court in *CBA v Reeve*.

Justice Cowdroy did not accept those arguments. He found that the meeting was not called for the purpose of discussing the applicant's individual performance or that of her team. Rather it was a meeting attended by eight team leaders, held weekly for the purpose of planning and forecasting work load of a section and their teams. Justice Cowdroy went on to state:

*"Even if during the course of the meeting statements were made by Mr Daly which could be said to have been a reasonable appraisal of the respondent's performance, it could not be said that the AOM Meeting was something to which the exclusion in s 5A(1) had application, because it was not 'administrative action taken ... in respect of' the respondent's employment."*

## Conclusion

Justice Cowdroy found that the meeting was directed solely to the performance of the company and of the teams reporting at that meeting.

In addition, he found that even if the meeting was administrative action, it was not taken reasonably because the applicant was not provided with notice of what would be discussed.

For more information about this article, please contact:

Brett Ablong | Partner  
brett.ablong@hbalegal.com  
Direct line: (08) 9265 6001

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