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THE NEXT PRESIDENT OF FAIR WORK AUSTRALIA – HARD TO GET THE RIGHT PERSON

John Lloyd, Director of the Work Reform and Productivity Unit at the Institute of Public Affairs commented today on the appointment of a new President of Fair Work Australia (FWA).

Mr Lloyd said: “The selection of the next President of Fair Work Australia will be an important appointment. However, the reliability of the selection process to pick the best qualified person is open to question.”

FWA has become very newsworthy in recent weeks. Its role in both the Qantas and the Victorian nurses’ disputes has been pivotal.

FWA is also at the centre of a fierce political debate.

Unions want increased access to arbitration by FWA. The ALP conference endorsed this policy last weekend. Employers argue that a greater reliance on arbitration will undermine genuine bargaining and agreement-making. It is clear that Gillard’s Fair Work system is flawed and changes are inevitable.

A small advertisement has appeared calling for expressions of interest in the position of President.

The candidates will have to submit an application outlining their claims against the position’s selection criteria. Those shortlisted will have to front a committee of public servants. Referee checks will be carried out. Then another shorter list will be submitted to the Minister. He and the Cabinet will choose the appointee. The Opposition spokesperson will be consulted.

The ALP Government has applied this process for the appointment of ten fresh Commissioners to FWA. The protocol of past years of maintaining a respectable balance between appointees with employer, union and government backgrounds has been trashed. Persons with union backgrounds dominate the ten fresh appointments. The selection of another person with a union background as President would not augur well for the standing of the tribunal in future years.

In any case the procedure is unsuited to entice persons of the calibre required for the job. The appointee should be drawn from current judicial officers, experienced workplace relations practitioners or current members of FWA. The appointee should be a person who is resilient, independent, economically literate, who understands modern workplaces and appreciates the challenges confronting Australian industries.

Are such people likely to go through a process more suited to recruiting senior departmental officials? Some may, but many will decline. A more direct selection method that involved taking confidential soundings from key industry and union personnel would be preferable.

In any case names are being put forward as tips for President. Most have a union or labour law background. But as Australia is headed for tougher economic times an understanding of business and wealth creation issues would be desirable. A legal qualification is no longer mandatory for appointment as President. If FWA is led as an institution fixed in the dogma of inflexible labour market regulation, its reputation will inevitably suffer as being out of touch with the challenges facing Australian businesses and their workers.

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