STRATEG-EYES:

Workplace Perspectives

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WELCOME: from the Managing Principal

It is with great pleasure that I welcome you to the latest edition of PCS' flagship publication, Strateg-Eyes. As our firm approaches its sixth year in business, our commitment to thought leadership remains unwavering and our desire to redefine and modernise the provision of professional legal services in Australia is stronger than ever.

At this significant time, and within only a matter of months of setting up our office in Melbourne, we are very excited to make the threefold announcement of establishing in Brisbane, adding a new Director in Melbourne and taking further space in Sydney.

Brisbane: I am proud to announce that Susannah McAuliffe and her team from Susannah's firm Latitude Lawyers have decided to join PCS and become the Brisbane office of our firm. Susannah has had a wealth of experience across the leading employment firms in Queensland and has also headed up the provision of employment law services for a prominent employer association. Having known her for nearly 20 years I can think of no-one better to head up our firm's expansion into Queensland.

Melbourne: We are very pleased to have been joined by Deivina Peethamparam as our second Director in Melbourne. Deivina brings with her a very mature client base, particularly in regional Victoria, as well as a strong profile. We warmly welcome both Deivina and her clients to the PCS family and look forward to delivering the value creation to these organisations while maximising Deivina's personal relationships.

Sydney: To accommodate our continued growth in our place of origin we will shortly be taking additional space on our floor at NAB House in the heart of Sydney's CBD. Importantly, part of the increased space will see the creation of a state of the art training room (complete with Chalkboards to replicate the learning environment of Harvard Business School), additional meeting rooms and breakout areas for our team.

Given this will be the last Strateg-Eyes for the financial year I take the opportunity to wish all of our clients the best for the upcoming financial year and I hope to see many of you at one of our many events over the next few months.

Joydeep Hor
Managing Principal

A LOOK INSIDE:

NOTE: *In this edition, unless otherwise specified: the Act means the Fair Work Act 2009 (Cth); and FWC means the Fair Work Commission.*

I'D LIKE TO LODGE A COMPLAINT: managing serial complainers in the workplace

ERIN LYNCH, SENIOR ASSOCIATE
MICHAEL STARKEY, GRADUATE ASSOCIATE

MEET CARL

...Carl is never happy, and everybody knows it, especially Mavis. He spends much of his time complaining – not just to you, but to his colleagues. This not only disrupts his productivity, but has a damaging effect on morale throughout the workplace. Management has decided that Carl's conduct can no longer be ignored.

Employers should always take complaints seriously in the first instance and err on the side of caution. This is important not just from a legal perspective, but also from a cultural perspective. Workplaces in which communication is encouraged and employees feel management takes their concerns seriously are happier and more productive. However, there are always employees who just like to complain. The question is how do you deal with an employee who always cries wolf?

COMPLAINTS

In the world of complaints, the possibilities are endless. "The tap in the bathroom is leaking". "My manager is very rude". "Travis made a sexist joke in the lift". Employers need to be aware that there are a number of avenues through which employees can pursue complaints beyond raising them in the workplace. For example, employees may pursue a claim in the Australian Human Rights Commission under anti-discrimination legislation (such as the *Sex Discrimination Act 1984* (Cth)).

COMPLAINTS UNDER THE FAIR WORK ACT

One way in which serial complainants are increasingly taking action beyond the workplace is with a general protections claim under the *Fair Work Act 2009 (Cth)* (the "**FW Act**"). The general protections regime provides all employees with a workplace right to make a complaint in relation to their employment, and to pursue a claim if adverse action is taken in response to exercising that right.[1] The adverse action might be the employer dismissing the employee or altering their position of employment because they have exercised their workplace right to make a complaint.[2]

Because the FW Act gives employees a workplace right to make certain complaints, employers must always tread carefully. This does not mean, however, that an employer must simply withstand a serial complainant. Rather, the question becomes whether an employee's complaint, or series of complaints, is one that is legitimate or a behavioural issue that needs to be addressed.

A limited number of cases have considered what constitutes a legitimate complaint for the purposes of the general protections regime. However, it has been held in a number of instances that there is a distinction to be made between complaints pertaining to the employment relationship and complaints about valid exercises of managerial prerogative.[3]

Matters pertaining to the employment relationship, which can form the basis of a protected complaint, include the terms and conditions of employment afforded an employee by their contract, a relevant award or enterprise agreement, or legislation including the FW Act, work, health and safety legislation and anti-discrimination legislation. Complaints about such matters might be about, for example, bullying or harassment in the workplace.

On the other hand, complaints merely reflective of an employee's insubordinate and rebellious attitude, or indicative of an employee's poor attitude to reasonable management processes, may amount to behavioural issues which do not enliven the general protections regime. Employers are not obliged to continue to deal with illegitimate complaints if they arise from an employer-employee relationship that has deteriorated so as to become unworkable.

There remains some uncertainty around whether an employee's complaint must be "genuine" or made "in good faith", with guidance so far developing on a case-by-case basis. In a recent decision, the Full Court of the Federal Court held that the trial judge had erred in incorporating this requirement into the FW Act, saying "considerable care needs to be exercised before implying into section 341 any constraint that would inhibit an employee's ability to freely exercise the important statutory right to make a 'complaint.'" Rather, the question is how to best balance the legitimate interests of employers and employees when determining whether an employee had a "right" to make the complaint they did. [4]

WHAT DOES THIS MEAN FOR EMPLOYERS?

Having proper grievance policies and training employees on their rights and responsibilities under them will help employers determine the nature of an employee's complaint and what steps need to be taken in relation to it.

If the complaint appears to be one about a matter pertaining to the employment relationship, it is best practice to work with the employee, to the extent that his or her requests are reasonable and in accordance with the organisation's grievance procedure, to resolve it.

On the other hand, grievance policies should specify the consequences for employees who make vexatious complaints, for example, persistent complaints about reasonable exercises of managerial prerogative. Employees should be made aware that such complaints may result in disciplinary action ranging from counselling to termination.

CULTURAL CHANGE

While a reactive approach may help resolve complaints as they come, it is only by adopting a proactive approach that employers can prevent complaining from becoming a cultural norm in the workplace. Avoiding a "Carl strikes back" scenario will mean jumping a number of common hurdles.

One of the biggest problems is overcoming a common reservation among staff to deal with those they view as "difficult". Many organisations will have experienced circumstances where even those individuals tasked with the responsibility of identifying potential serial complainants will go out of their way to avoid doing so.

1 *Fair Work Act 2009 (Cth) ss 340, 341.*

2 See *Fair Work Act 2009 (Cth) s, 342.*

3 See, for example, *Harrison v In Control Pty Ltd [2013] FMCA 149.*

4 *Shea v EnergyAustralia Services Pty Ltd [2014] FCAFC 167.*

Another challenge is the growing number of serial complainants taking to social media to air their grievances. In increasing numbers, complainants are turning to the internet to vilify and defame the people and organisations they work with, and in the process are causing significant reputational and psychological harm to their victims.

One of the best ways to ensure that everyone in the organisation is on the same page about appropriate workplace behaviour and culture is to engage in training. This is as much about addressing the behaviour of those who deal with complaints as those who make them. Training all staff on the basics – the difference between bullying and a reasonable management action, what can and can't be posted on Facebook, the person to go to and procedure to follow if they have a grievance – will deliver noticeable improvements in workplace culture and help keep Carls at bay.

MANAGING SERIAL COMPLAINANTS: DOS AND DON'TS

- *Be prepared*: have a proper grievance policy in place. Make sure staff and management know how to make and deal with complaints in accordance with it.
- *Check yourself*: be open and communicative so staff feel their complaints are taken seriously. This does not mean tolerating unwarranted complaints, but being consistent in your treatment of all complaints based on their substance.
- *Act early, act often*: don't let unwarranted complaints affect workplace morale and productivity. Use your eyes and ears on the floor to identify serial complainants. Meet with them to address their concerns and make them aware of what is and is not acceptable workplace behaviour.
- *If it's broke, fix it*: be careful not to judge complainants off the bat. Acting on legitimate complaints quickly will benefit workplace culture, limit legal liability and earn you the respect of your staff.
- *Substance over spin*: it is the substance of a complaint that should dictate the level of resources dedicated to it, not a complainant's demands or behaviour.

WHAT YOU CAN LOOK FORWARD TO

- *Happier staff*: removing the cloud of serial complaints will leave the workpalce filled with more positive individuals.
- *Cultural change*: the sum is more than the whole of its parts. Happy workplaces are self-perpetuating.
- *Higher productivity*: a happy workplace is a more focused, more motivated and more productive workplace.
- *A better reputation*: happy employees are great spokespeople; serial complainants are not. Deal with them quickly to improve your public image.
- *Less liability*: an organisation which deals with legitimate complaints properly and serial complaints effectively will be less exposed to claims under the FW Act and other legislation.

Key Takeaways

1. A proactive approach to behaviour and culture will reduce the prevalence of serial complainants in the workplace.
2. Best-practice grievance and disciplinary policies assist employers to deal with serial complainants.
3. Employees have a workplace right to make certain complaints.

THE SQUEAKY WHEEL GETS THE GREASE:

Managing bullying when the employee won't speak out

BEVERLEY TRIEGAARDT, ASSOCIATE

MEET MAVIS

Mavis is a self confessed introvert, although everyone in the workplace is familiar with her easygoing disposition. She's a quiet contributor, just ask Carolyn, who admits that "nothing is ever too much trouble for Mavis." Mavis frequently finds Carolyn's behaviour towards her belittling and suffers anxiety at the thought of being alone with her. She feels as though she is an easy target for Carolyn's unprompted attacks. Mavis' concern for her job's security means she wouldn't dare tell anyone how she feels about Carolyn, but her employer is starting to feel the cost of the workplace disharmony.

Bullying in the workplace is not always as conspicuous as imagined. Many people may feel that piping up about a grievance at work could put their job on the line. Just because you have never had a formal complaint of bullying in your organisation doesn't necessarily mean that you shouldn't take a proactive approach to workplace behaviour and culture. In fact, it is crucial that employers have the infrastructure in place to encourage the shyest of employees to deal with their grievances constructively to safeguard against the consequences of bullying.

Being proactive about workplace bullying means educating your staff through policies and training to make clear that its occurrence in the workplace is unacceptable and will result in disciplinary action.

This is key as the adverse affects of workplace bullying on an organisation can result in:

- high staff turnover;
- low morale and motivation;
- increased absenteeism and presenteeism;
- loss of productivity;
- work disruption during investigation of complaints;
- negative media attention; and
- costly workers' compensation claims or legal action.

ANTI-BULLYING AND THE FAIR WORK COMMISSION

The consequence that should be of most notable concern for employers is the potential impact an anti-bullying order can impose upon an organisation if an employee applies to the Fair Work Commission ("**Commission**") for an order to stop the bullying they are being subjected to.

Silent victims of bullying pose a threat to organisations in that they may resort to reaching out to the Commission in the first instance, instead of resolving their issues internally. However, a workplace that encourages open conversation about bullying and sets clear expectations may be less susceptible to this risk.

Upon receiving an application from an employee that believes that they are being bullied at work, the Commission is compelled to deal with it within 14 days. If it considers it appropriate to do so, the Commission is at liberty to make any order it sees fit (with the exception of imposing a pecuniary amount) to ensure the bullying stops. This scope of power granted to the Commission means orders of almost any kind can be made if deemed necessary. How would your organisation manage if orders were made that restricted your key employees or executives from performing aspects of their role? What about if significant and costly structural changes to your organisation were ordered to separate a worker and their bully? What's more, compliance with an order is compulsory and breaches can attract civil penalties of up to $10,200[5].

5 *Based on current value of penalty unit being $170 under the Crimes Act 1914 (Cth) and contravention attracting up to 60 units.*

> **Bullying is the repeated and unreasonable behaviour of an individual or group of individuals towards a worker that creates a risk to health and safety. Where this occurs at work (or even in connection to work) an employee will have recourse under the anti-bullying jurisdiction of the Fair Work Commission.**

WHO IS AT RISK?

Workplace bullying can affect the health and safety of a range of people, from the person subject to the bullying, by-standers and an entire organisation. Bullying can affect anyone. It can occur amongst co-workers, from managers to workers and even upwards from workers to their managers. It can also occur between workers and customers, clients, contractors, work experience students and others who are present at a workplace.

The nature of a business, the industry within it operates and the types of stakeholders it has can influence who might be engaging in or affected by bullying behaviour. For example, the hospitality industry may be more exposed to employee-client bullying as opposed to traditional office environments where instances of bullying amongst co-workers may be more common.

HOW TO HANDLE BULLYING WHEN THE VICTIM WON'T SPEAK OUT

If there is a victim of workplace bullying in your organisation that won't speak out, chances are you will only learn of their circumstances once it is too late. For this reason, proactivity is key. This means taking steps to create a work environment where expectations and avenues for redress are well known and the workplace culture reflects the organisation's values.

BEST PRACTICE TIPS

Read the signs: Mavis never made a peep about Carolyn's bullying until she cited it as her reason for quitting. If only their manager had picked up on the signs such as:

- distress, anxiety, panic attacks or complaints of sleep disturbance;
- physical illness;
- reduced work performance;
- loss of self-esteem and feelings of isolation;
- deteriorating relationships with colleagues, family and friends;
- depression; and
- thoughts of suicide.

Empower your leaders: managers and supervisors are the eyes and ears of an organization. Encourage them to stop bullying in its tracks and report upwards if they recognise that someone may be suffering in silence or if workplace gossip of bullying is making the rounds.

Train for gain: ensure your policies are up to date, easily accessible and followed up with training. Consider including workplace behaviour and culture training as a compulsory part of your induction programs and follow it up with annual retraining to reinforce its importance.

Procedure is prime: design grievance procedures that don't intimidate your employees. Your processes for dealing with grievances should encourage informal resolutions in the first instance and escalate to more serious and formal investigations. Tailor the process to suit the needs of your organisation, document it in a grievance policy and circulate it widely.

Hire a "fly on the wall": if there is room for improvement in your organisation's culture but you can't quite pinpoint the issue, consider engaging a Culture Auditor to assess your workplace. This can help you gain clarity around the potential causes of bullying in the workplace and create strategies for dealing with them.

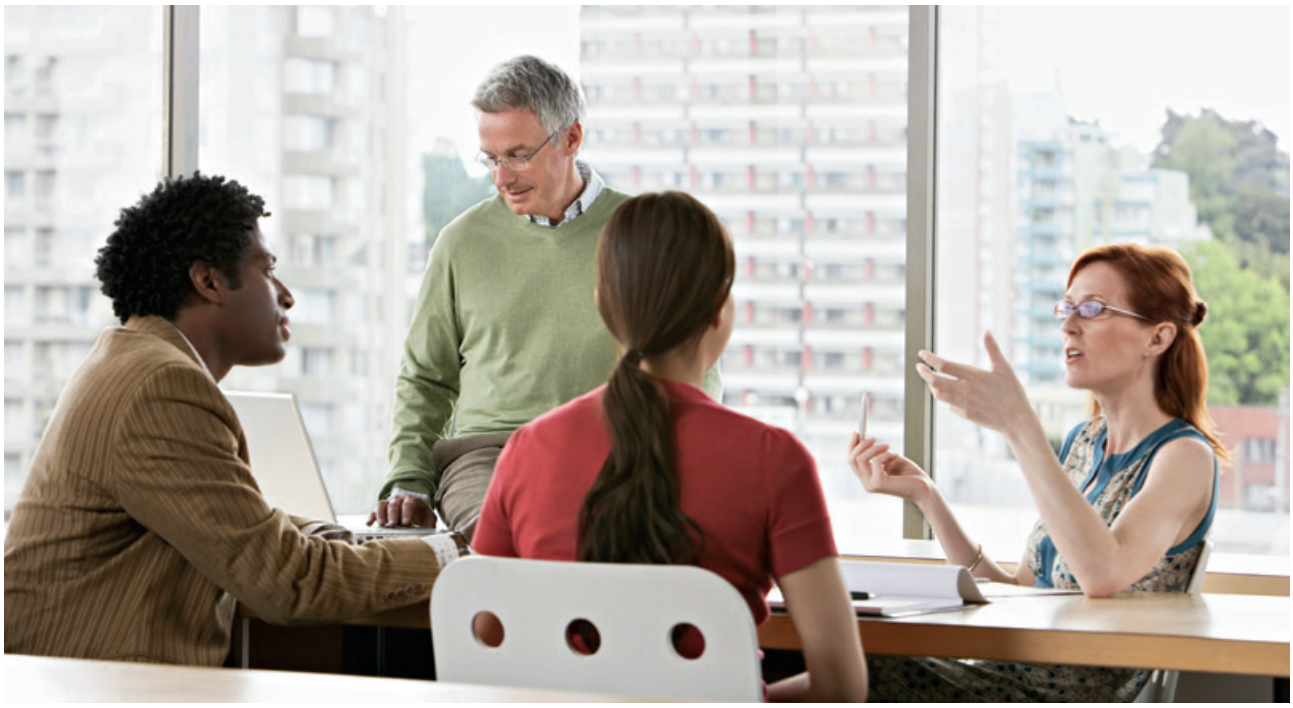
If you are in doubt as to whether your organisation is exposed to the risks of bullying, please contact People + Culture Strategies for further advice.

Key Takeaways

1. Silent victims of workplace bullying are a threat to an organisation as they may seek to resolve their grievances externally to the organisation;
2. An anti-bullying order from the Fair Work Commission can have unimaginable impacts on an organisation
3. Creating a culture of openness and respect is the best form of prevention against workplace bullying.

WHY DO YOU WANT TO KNOW THAT? HOW IS THAT RELEVANT?: Capturing diversity metrics in the workplace

JIA ALI, GRADUATE ASSOCIATE



Many organisations aspire to recruit and manage staff so as to create a culture that utilises the contributions of people with different backgrounds, abilities, genders, ages, responsibilities, experiences and perspectives. A diverse workforce is an admirable goal for any organisation, but bringing this about and substantiating claims to achieving such diversity can be difficult.

Capturing diversity information can present some challenges for an organisation, but a clear communication strategy can convey the positive benefits of knowing this information and help to manage expectations and perceptions. While some current or prospective employee may take the data collection positively and consider it an integral part of promoting diversity, others may perceive it as likely to affect their employment prospects. Therefore it is critical for employers to understand how best to convey the diversity message to their employees.

WHAT DOES THE LAW SAY?

There are federal and state anti-discrimination laws that protect workers against employment discrimination. Discrimination refers to treating a person with an identified attribute or personal characteristic less favourably than a person who does not have the attribute, or creating conditions which indirectly discriminate against those who have the particular attribute. Discrimination in employment can generally occur in three areas: pre-employment; during employment and termination. There are specific provisions in place at federal and state level which prohibit discriminatory questions being asked in the recruitment and selection process. The employment terms and conditions that they may offer to an applicant should also be free of discrimination.

While there are clear obligations regarding compliance with non discrimination obligations in Australia, there are few positive obligations on employers to review and report on the composition of their workforce.

A notable exception is the requirement to report on the gender composition of the workforce under section 13 of the *Workplace Gender Equality Act 2012* (Cth) (*"***WGE Act***"*). The WGE Act aims to promote equality for both men and women in the workplace and requires non-public sector employees with 100 or more staff (relevant employers) to submit a report to the Workplace Gender Equality Agency between 1 April and 31 may each year for the preceding 12 month period (1 April- 31 March reporting period).

HOW DO YOU CAPTURE DATA IN THE RECRUITMENT AND SELECTION PROCESS?

A risk in the recruitment and selection process is that data or information requested by the employer will be perceived as influencing selection in ways that might be discriminatory or exclusionary. This could potentially expose an organisation to adverse action claims under the *Fair Work Act 2009* (Cth) ("**FW Act**") or discrimination claims under federal state or territory anti-discrimination laws.

In 2013 it was reported in the media that, Chevron, the oil and gas giant was being challenged for recruiting information from potential employees on how many still births or abortions they had. Chevron reportedly withdrew the application forms and stated that many of the questions were not relevant to the local Australian employment situation and that they were amending the form to ask only medical information relevant to the position to ensure people are safe and fit for duty.

The goal of recruitment is to identify and attract talent from a diverse pool and to ensure that each candidate is treated fairly throughout the hiring process. The application and screening processes should be bias-free and hiring managers should not let their own biases or conscious cultural references negatively impact the hiring process. Below are ways in which employers can seek to address such issues:

1. Job description

A barrier free job description can help reduce bias in the selection process. One way to do this is by specifying the need in the job description, rather than how it is achieved e.g. instead of a valid driver's license being a requirement, ask for the "ability to travel and provide own transportation".

2. Application forms

Organisations should review and where necessary re-design application forms so that they exclude potentially discriminatory questions, for example, about marital status, number and ages of children, nationality, age and disability from the main part of the form.

Organisations should try to distinguish between information that is needed for the purpose of monitoring, and information required for the recruitment and selection process when requesting information regarding candidates' gender, age, race and whether they have a disability.

3. Interviews

In order to ensure fairness during the interview process, it is important for an organisation to ask only questions that relate to the requirements of the job and not to stray over into personal or intrusive questions that may indicate a biased view on the interview's part.

HOW DO YOU CAPTURE REPORTABLE DATA OF STAFF DURING THEIR EMPLOYMENT?

Monitoring diversity with existing employees in the workplace is equally as important as capturing data in the recruitment and selection process. Top companies make assessing and evaluating their diversity process an integral part of their management system. Below are methods by which an organisation can try to capture the data of staff as well as encouraging diversity:

1. Diversity policies

Adopting diversity policies offer clear benefits for organisations and their workforce, such as resolving labour shortages and a better image for the organisation. Such policies may boost employee morale and as a result improve communication processes and managerial styles as well as reduce staff turnover and absenteeism. Businesses that commit to and implement diversity policies are more likely to retain a committed and satisfied workforce resulting in greater profitability.

2. Employee satisfaction survey

A customised employee satisfaction survey is a means of assessing how the organisation is faring on diversity in a practical sense. This approach can help the management team determine what challenges and obstacles to diversity are present in their organisation and how to address them. Ideally such a survey would reveal what is and isn't working well within their organisation.

3. Promotion

Processes used by an employer to determine internal promotions must be non-discriminatory. The process should be transparent and readily available to all employees in order to minimise the perception of discrimination.

4. Lead by example

Leaders and managers within organisations need to imbed respect for diversity into every aspect of the organisation's operations. Attitudes towards diversity are influenced by the behaviour and practices of those at the top and can filter downwards. Management commitment and participation is required to create a culture favourable to the success of an organisation's plan.

5. Employee engagement and creating a culture of openness to diversity

Organisations should involve employees in formulating and executing diversity initiatives in the workplace so they are not afraid to express their ideas and opinions in relation to diversity. Organisations should actively seek information from people from a variety of backgrounds and cultures to create a robust team culture and should look to develop an atmosphere that makes it safe for all employees to ask for help, and to give help in return.

6. Training

Effective training programs and workshops by the organisation can encourage a culture of diversity and allow employees to be more open to such areas.

7. Review and reassess

This can be done in ways such as:

- conducting exit interviews;
- using staff surveys or a diversity audit to identify areas of weakness;
- gathering new information on demographics of the organisation when new opportunities arises;
- considering casual and part-time participation rates; recruitment, promotion, retention and separation rates for equity groups;
- assessing the rate of promotion for these groups;
- monitoring absenteeism more closely;
- monitoring more closely returns from maternity leave or leave without pay for family or carer reasons; and
- conducting regular surveys on behaviour and attitude and analysing the results from a range of perspectives (e.g. satisfaction of employees at different levels or in different locations).

Key Takeaways

1. Be aware of your legal obligations not to ask questions that could be construed as discriminatory or exclusionary in job applications and interviews.
2. Develop a culture where employees are open to diversity.
3. Review and assess any actions taken to promote diversity in the workplace.

FIVE FAST FACTS YOU MAY NOT KNOW ABOUT WORKPLACE HEALTH AND SAFETY

KATHRYN DENT, DIRECTOR
ELIZABETH KENNY GRADUATE ASSOCIATE

State and Territory work health and safety ("WHS") laws which govern work health and safety attract criminal sanctions, not the least of which are the significant penalties which may be imposed and they also confer broad powers on various persons to enter workplaces and investigate "risks" to health or safety. These laws often operate in conjunction with various other workplace laws and these "5 Fast Facts" explore the relationships as well as the various powers.

FACT 1: DID YOU KNOW THAT APPLICATIONS FOR BULLYING ORDERS CAN LEAD TO REFERRALS TO WHS REGULATORS AND THE TWO PROCEEDINGS ARE NOT MUTUALLY EXCLUSIVE?

The introduction of the anti-bullying jurisdiction under the Fair Work Act 2009 (Cth) ("the **FW Act**") has raised potential dangers for employers where anti-bullying orders are made by the Fair Work Commission ("**FWC**"). The dangers are now an increased exposure to orders under the FW Act at the same time as, prior or subsequent to investigations and prosecutions under WHS laws. The WHS laws do not allow individuals to bring civil action, however, the FW Act expressly allows prosecutions to be brought under WHS laws notwithstanding an anti-bullying application. The exposure of an employer and its employees is now significantly increased and this exposure is amplified by the ability of the FWC to refer matters to the WHS regulator.

Under the FW Act, a worker in a constitutionally covered business, who reasonably believes that he or she has been bullied at work, may apply to the FWC for an order to stop the bullying conduct. The FW Act adopts the same broad definition of worker included in the WHS Act which extends the scope of the provision to include a-typical workers such as sub-contractors, interns and labour hire workers. The FWC is required to consider specified matters, and any other matters that the FWC deems relevant in considering the terms of the order. This can extend to the FWC having regard for whether the application raises issues that might be more effectively dealt with by the WHS regulator and as such, the FWC has the additional power to disclose information to the WHS regulator. The interaction of these laws create a symbiotic relationship that facilitates the flow of information and referral of matters between the FWC and the relevant statutory WHS authority in each jurisdiction.

FACT 2: DID YOU KNOW THAT ORGANISATION OFFICIALS (SUCH AS UNION OFFICIALS) DO NOT HAVE THE POWER OF RIGHT OF ENTRY FOR WHS PURPOSES UNDER THE FW ACT?

The FW Act gives organisation officials who are "permit holders" (and federally registered) a statutory right of entry to premises for the specific purposes outlined in the FW Act. Employers should be aware that the scope of the FW Act does not extend to the right of entry of organisation officials into a workplace for work health and safety purposes. This right can be found in specific WHS laws and so it is those laws which will dictate whether there is the basis for a right of entry, what permits the person seeking to enter must have and other prescribed requirements to allow for lawful entry.

What the FW Act does impose, are further restrictions on an organisation official that wishes to enter a workplace for the purposes of work health and safety audit and compliance. An organisation official that has a statutory right under a WHS law, and thus holds a WHS entry permit as outlined by WHS law, who wishes to exercises their Federal right of entry must also hold a permit under the FW Act or a State or Territory industrial relations entry permit before entering a workplace.

It is important that employers are aware of the obligations that arise out of the interaction of the WHS Act and the FW Act and ask to see both permits in the event that an organisation official asks for access to your workplace for the purposes of work health and safety. Additionally employers should have no reservations about ensuring the purposes of the visit are lawful nor enforcing the requirements in terms of the entry itself, notice, and where the officials may visit and whom they may visit. Given that union officials may in New South Wales bring prosecutions for breaches of WHS laws, it is imperative the employers are familiar with their obligations and entitlements in relation to the various types of right of entry.

FACT 3: DID YOU KNOW THAT WORKCOVER INSPECTORS HAVE A BROAD SCOPE OF POWER TO ENTER PREMISES UNDER WHS LEGISLATION?

Under the WHS Act, an inspector may at any time, with or without consent, enter a place that is, or that inspector reasonably suspects is a workplace. An inspector who enters a workplace may do any or all of the following:

- inspect, examine and make inquiries
- take measurements, conduct tests and make sketches or recordings
- take and remove samples for analysis
- require the production of documents
- ask questions and conduct interviews
- seize anything as evidence
- request a person's name and address
- take affidavits or other witness statements
- exercise any other power that is reasonably necessary for the purposes of the WHS Act.

While inspectors are granted a broad scope of powers under the WHS Act, employers, who are a "person conducting a business or undertaking" ("**PCBU**") retain certain rights when dealing with inspectors that may wish to gain entry to their workplace. This is particularly important in the event of an investigation into a fatality or serious injury.

Firstly, upon arrival at the workplace, a PCBU has the ability to direct an inspector to undertake any relevant site induction, wear appropriate personal protective equipment or be accompanied by a management representative at all times during their visit. If an inspector wishes to inspect, examine or seize anything in the workplace, including documents, PCBUs have the right to claim legal professional privilege over documents subject to the privilege. In circumstances of a fatality or serious injury or where an employer is unsure of their obligations, it is advisable that employers appoint a lawyer to assist with interviews and investigations given the criminal consequences which may flow from any WHS risk. PCBUs should be aware that it is an offence to hinder or obstruct, impersonate, assault, threaten or intimidate an inspector and must keep this in mind when directing an inspector within their workplace.

The requirement to answer WHS inspectors' questions differ depending on the jurisdiction that the workplace is in. In New South Wales, a person must answer all questions asked by a WHS inspector, even if the answer may be self-incriminating. If a person is required to answer a question or provide information or a document, the inspector must first identify themselves, warn the person that failure to comply with the requirement to answer or produce without a reasonable excuse constitutes an offence, warn the person that they are not excused on the ground that they may incriminate themselves and advise that legal professional privilege can be claimed. It is not an offence to refuse to cooperate if this warning is not given. It is important for PCBUs to remember that the answers to these questions or any document or information produced cannot be used as evidence against the individual themselves after this warning has been given, but can still be used as evidence in the prosecution of another. Again the assistance of lawyers with this process have a multitude of benefits including becoming familiar with rights during an interview, clarification of the purposes

of the investigation, protection as is permitted and prior to any investigation ensuring that as far as possible the process and any documents produced and advice given is protected by legal professional privilege.

FACT 4: DID YOU KNOW THAT YOU CAN ASK FOR A REVIEW OF AN IMPROVEMENT AND PROHIBITION NOTICES IF THEY ARE NOT 'REASONABLY PRACTICABLE'?

Inspectors have the authority to issue improvement notices and prohibition notices as a result of enforcing compliance with WHS laws. While improvement and prohibition notices are an important enforcement mechanism, PCBUs should be aware that inspectors may sometimes go further in expected compliance measures than may be reasonable or lawful. If a PCBU knows they cannot comply with a notice, the WHS Act provides a right of appeal mechanism to have the notice reviewed and re-issued. There are also mandatory requirements of notices; the failure by the inspector to comply with them can also lead to a technical challenge of the notice.

Improvement notices are a statutory notice issued by an inspector that requires a person to carry out certain actions within a certain time. This is generally issued when an inspector believes or knows that someone is breaching, or has breached, a provision of the WHS Act or Regulations. A prohibition notice is a notice that prohibits an activity or an activity being carried out in a particular way that an inspector believes involves, or will involve a serious or immediate threat to the health and safety of any person. This may involve stopping an activity from happening or the use of an item or workplace instrument or machine. A prohibition notice stays in place until an inspector is satisfied adequate action has been taken to remove the threat.

Firstly, a PCBU must review the statutory notice and determine whether the measures are reasonably practicable to be implemented into the workplace. It may be advisable to seek advice as to whether your organisation is able to comply with the terms of the notice. If your organisation cannot meet the terms of the notice as they are not reasonably practicable, it may be appropriate to seek review of the notice by the WHS regulator. It is important not to ignore the notice as a failure to comply constitutes an offence and may result in significant penalties. "Reasonably practicable" means that which is, or was at a particular time, reasonably able to be done to ensure health and safety, taking into account and weighing up all relevant matters including the likelihood of the hazard or risk occurring, the degree of harm that might result, the availability and suitability of ways to eliminate and minimise the risk and the costs associated with available ways of eliminating or minimising the risk, including whether the cost is grossly disproportionate to the risk.

FACT 5: DID YOU KNOW THAT THERE ARE CODES OF PRACTICE THAT OFFER GUIDANCE FOR PCBUS AND CAN BE USED AS EVIDENCE IN A WHS PROSECUTION FOR PROSECUTION AND DEFENCE?

WHS Codes of Practice ("**Codes**") offer practical guidance to achieve the standards of health, safety and welfare required by the WHS Act and Regulations. These Codes are admissible in Court and can be relied on by either the prosecution or defence in proving compliance or non-compliance in a breach of WHS law. There are 24 Codes that came into effect in the Commonwealth in 2012, relating to various risks and hazards within the workplace. The Codes apply to anyone who has a duty of care in the circumstances detailed in the Code. The current Codes which may be of most application in workplaces include:

- First aid in the workplace
- Hazardous manual tasks
- How to manage work health and safety risks
- Managing electrical risks in the workplace
- Managing the risk of falls at workplaces
- Managing the work environment and facilities
- Work health and safety consultation, coordination and cooperation

Employers must be aware that an inspector can refer to a Code when issuing an improvement or prohibition notice. PCBUs should refer to the Code that is relevant to their organisation's various activities when implementing systems into their workplace to make sure they are compliant with the legislation. The admissibility of the Codes allow the Courts to refer to the guidance as evidence of what is known about a hazard, risk or control and rely on it to determine what is 'reasonably practicable' in the circumstances to which the Code relates. Therefore, the Codes can also be used as a defence by PCBUs in WHS prosecutions to show that they mitigated a risk or hazard by following the guidance set out in the Codes. However, it is possible that regardless of compliance, if other measures were reasonably practicable and not taken, a breach may still have occurred and PCBUs should maintain up-to-date records of their compliance with the Codes.

CONCLUSION

There is significant overlap in the operation of WHS laws and the FW Act particularly as regards bullying and rights of entry. Employers need to be aware of both their obligations and exposure to applications and prosecutions and ideally prevent these risks but if they occur then act to best mitigate any damage in the way they respond to complaints/grievances, notifications of incidents, WHS notices and exercises of right of entry.

A review of recent high profile unfair dismissal cases

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One of the most frequent issues we are asked as workplace lawyers to advise our clients on is that of termination of employment. The concerns around termination generally arise from the relative ease with which unfair dismissal applications can be brought and the consequences of having to compensate or reinstate an employee where the dismissal is found to be harsh unjust or unreasonable.

The case law in the Federal Fair Work Commission ("**FWC**") reveals that the unfairness in any given termination can arise in a number of ways and so risks can be minimised by understanding the deficiencies and avoiding these same mistakes. Recent cases from 2014 illustrate that a dismissal can be unfair as a result of poor management, for example where:

- an employer fails to have a substantively fair basis (reason) to terminate employment;
- an employee is not provided with procedural fairness in relation to the dismissal; and/or
- the dismissal is unduly harsh in relation to the effect it has on the employee.

Unfortunately it would appear all too common that employers focus on the reason for the dismissal rather than the other issues which are also relevant in terms of fairness, such as whether it is harsh to dismiss an employee in particular circumstances.

For example, in the case of Harbour City Ferries Pty Ltd v Christopher Toms [2014] FWCFB 6249 ("Toms"), the employee was operating a ferry that crashed into a wharf at Sydney Harbour. The employee was drug tested which proved positive for marijuana. The employee confessed that 16 hours earlier, he had smoked a marijuana cigarette at home to relieve shoulder pain. Despite there being a clear breach of the company's drug and alcohol policy, which stated that employees must be free from the presence of drugs while working, the FWC found that the employee's dismissal was harsh due to the employee's unblemished record with the company for 17 years and that rendered the dismissal unfair. The employee was reinstated, given that the company had not raised any issues about the employee's record or capacity to carry out his duties in future. However, an award for lost wages was not awarded as a penalty for the policy breach.

The decision was subsequently overturned on appeal by the FWC Full Bench, who found that the employee's serious misconduct, being "deliberate disobedience, as a senior employee, of a significant policy" was not adequately mitigated by the matters dealt with in the first instance decision, reversed the reinstatement and dismissed the employee's application

Similar to the first instance decision in *Toms*, in *Anderson v Thiess Pty Ltd* [2014] FWC 6568, the dismissal of an employee who sent offensive emails in clear breach of a company's policy, which also had the potential to cause significant reputational damage was found to be harsh and unreasonable, when taking

in factors such as his age and difficulty in obtaining other employment. FWC found that while there was a valid reason for dismissal, the termination was harsh and unreasonable given his age being 65 years and likelihood he would not find another job. The FWC denied reinstatement but compensation was reduced by a further 50% due to the misconduct of the employee.

These cases clearly demonstrate that while there may be a valid reason to dismiss, this will not always justify a termination, and that other factors must be considered. This said, as was found in the *Toms* appeal, a sufficiently serious breach of a policy, where not adequately mitigated by other relevant considerations, may defeat an unfair dismissal application.

In the case of *Chris Conlon v Asciano Services Pty Ltd T/A Pacific National Pty Ltd* [2014] FWC 2127, the FWC found that it was not unfair to dismiss a 63 year old train driver who failed to see and respond to two train signals and was 120 seconds away from colliding with another train. Looking out for signals and adjusting the speed of the train were fundamental aspects of his duties and he clearly breached company policy and safety procedures by failing to do so (all of which meant that there was a valid reason for dismissal and the facts were proven in terms of the acts alleged against him). Given the opportunity to respond in writing, the driver stated that there had been no information given to him to indicate other trains might be crossing at that particular intersection the day of the near collision. He admitted he was disappointed in himself and asked Pacific National to take into account his long and loyal service of 20 years. The FWC heard that Pacific National considered placing the driver in a suitable non-driving position, however, no such roles were available. The FWC took into account the driver's age and experience when determining the matter, however, it could not find the dismissal unfair.

Not providing an employee procedural fairness is another example which may taint an otherwise "fair" dismissal as it may be considered unjust or unreasonable to terminate where this occurs. This quite commonly happens during the investigation process. For example, although there may be a valid reason for termination, a mishandled investigation may deem a dismissal unfair, as seen in the case of *Cowan v Sargeant Transport Pty Ltd* [2014] FWC 5330. The FWC found that the lack of systematic approach to investigating the driver's actions of urinating outside the entrance to a Woolworths warehouse meant that it failed to make the employee aware of the allegations and evidence against himself or provide him with sufficient opportunity to respond or have a support person present. The company's failure to meet the driver in person denied the employee an opportunity to

> **employers need to carefully assess not just the reason for dismissal but whether it will be harsh, unjust or unreasonable.**

ensure that the HR manager and others were aware of his medical condition and the urinary urgency which he sometimes suffered as a result.

Similarly in *Farmer v KDR Victoria Pty Ltd T/A Yarra Trams* [2014] FWC 6539 a tram driver was found to be wrongly accused of using his mobile phone while operating a tram after a flawed investigation into the incident, therefore there was no substantive and valid reason for dismissal. In contrast, providing warnings before dismissal can protect an employer from reinstatement of a dismissed employee as seen in the case of *Scott Wilson v Leighton Contractors Pty Ltd* [2014] FWC 5503.

Procedural fairness may also be breached where there has been significant delay in dealing with the inappropriate conduct of employees. In *Camilleri v IBM Australia Limited* [2014] FWC 5894, the application of a "zero tolerance" policy in relation to business conduct was overridden by the FWC and the dismissal found to be unfair due to significant delays of almost three years between the first instance of inappropriate behaviour and the termination of the employment, as well as a substantial delay in notifying the employee of the termination after the decision to terminate was made. A similar situation occurred in *Cannan and Fuller v Nyrstar Hobart Pty Ltd* [2014] FWC 5072, whereby the failure of Nyrstar to deal with the bullying behaviour of two workers contemporaneously and the delay in putting specific allegations to them led to a finding that the dismissals were unfair.

In the case of *Sheldrick v Hazeldene's Chicken Farm Pty Ltd* [2014] FWC 5820, the FWC found that a requirement that an employee work additional unpaid hours and enter an on-call roster (after an employee refused to accept phone calls during his annual leave period and to sign a contract requiring him to do so which led to his dismissal) was unfair and unreasonable. The FWC stated that the company had no legal right to compel the employee to accept significantly changed terms of employment and the denial of procedural fairness were factors which led the FWC to award nearly $8,000 in compensation for lost remuneration.

In *Kirsch v ThyssenKrupp Polysius Australia Pty Ltd* [2014] FWC 8640, deliberate and manipulative actions by an employee in discussing her impending redundancy were factors that the FWC found were relevant in deciding not to grant an extension of time for filing her unfair dismissal claim (claims must be filed within 21 days of the termination taking effect). The employee was informed of her impending redundancy and was asked to attend a meeting to discuss redeployment options. On the day of the planned meeting, the employee sent a text message saying she would not be at work and sent a further email attaching a medical certificate indicating that she would not return to work for another seven days after which she was on approved annual leave. The company advised the employee that they would make their final decision about her employment on the day before her annual leave and that dismissal was the likely result. The company sent her an email and also a letter advising her of her redundancy the day before her annual leave; however the employee had left the country and did not read these emails until her return. The FWC found that the evidence established that the employee was aware that it was highly likely she was to be retrenched and did not inform the company of her travel plans. In doing so, the FWC found that the approach of the employee was wilful blindness to try and establish a right to lodge an unfair dismissal application that did not exist, and her dismissal came after the company had made every feasible effort to engage her in discussions about her redundancy to mitigate its effects.

It is evident from these cases that a termination may be unfair for a number of reasons, even if the reason to terminate is valid. Given this, employers need to carefully assess not just the reason for dismissal but whether it will be harsh, unjust or unreasonable. This includes an obligation on employers to ensure that they provide procedural fairness to an employee during any investigation into the conduct of the employee and throughout the termination process. This will minimise the chance that a dismissal that is valid is not deemed by the FWC to be unfair due to procedural or other defects.

Key Takeaways

1. Unfair dismissals can be upheld where terminations are **substantively** unfair, that is where there is no valid reason to terminate employment.
2. **Procedural fairness** is also an important consideration in determining whether are dismissal is unfair.
3. The FWC also takes into consideration whether the termination is otherwise unduly **harsh** in relation to the effect on the dismissed employee.

AN UPDATE ON THE MODERN AWARD REVIEW

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In our May 2014 issue of Strateg-eyes we provided an overview of the four-yearly review of modern awards that is being conducted by the Fair Work Commission (*"Review"* in accordance with the requirements of the *Fair Work Act 2009* (Cth)). In this issue we provide an update on the progress of the Review, and in particular its progress in respect of the "common issues" agreed by the parties in February 2014.

The four-yearly review of the Modern Awards has been underway for over a year, with the Fair Work Commission ("**Commission**") now having received submissions from many different employee and employer interest groups in their pursuit of changes to the current award system.

As any changes arising from the Review will impact the obligations of award-covered employees, it is imperative that employers keep up to date with the progress of the Review, and understand the implications of any proposed changes to the award system for their business.

"COMMON ISSUES"

In the second step of the Review process the Commission identified specific "**common issues**" which, if varied, will have a significant impact across the award system. The common issues include:

(a) annual leave;

(b) casual and part-time employment;

(c) penalty rates;

(d) public holidays; and

(e) award flexibility and transitional provisions relating to accident pay, redundancy and district allowances.

The common issues are being considered by the Commission in stand alone proceedings, as opposed to on an award-by-award basis. However, this does not mean that if variations are granted, they will apply consistently to all or even most awards.

The key developments in respect of each of the common issues to date are discussed below.

ANNUAL LEAVE

The primary issues under consideration by the Commission in respect of annual leave as part of the Review are:

(a) cashing out of annual leave;

(b) excessive annual leave;

(c) EFT payments prior to paid annual leave;

(d) annual business close downs;

(e) granting leave in advance; and

(f) the payment of annual leave entitlements on termination.

It was initially proposed that the Australian Council of Trade Unions ("**ACTU**"), the Australian Industry Group ("**Ai Group**") and the Australian Chamber of Commerce and Industry ("**ACCI**") present a joint statement of agreed issues. However, the parties were unable reach any agreement and as a consequence all matters were contested.

The matters were heard in October and December 2014 and a decision is expected to be handed down shortly.

CASUAL AND PART-TIME EMPLOYMENT

The primary issues under consideration by the Commission in respect of casual employees are minimum engagement, conversion to part or full-time employment and restrictions on casual engagement.

The Commission invited parties to make submissions regarding these issues, with the ACTU recently proposing model clauses to address the conversion from casual to full or part-time employment. These amendments would affect circumstances when a casual employee has the right to have their employment converted to full or part-time employment and when a casual employee is deemed to be employed on a permanent full-time basis after a certain length of time.

The ACTU is also seeking to establish a four hour minimum obligation, prohibitions on engaging workers as casuals or independent contractors in order to avoid award obligations and a requirement for employers to ask existing employees if they want more hours before hiring additional casual or part-time employees.

Both the Ai Group and ACCI have indicated they will vigorously oppose the changes proposed by the ACTU when the Full Bench hears these matters later this year.

PENALTY RATES

Penalty rates continue to be intensely debated during the Review. The Commission has separated the matter of penalty rates into two industry groups (Hospitality and Retail) and will also hear common evidence for issues which affect both industries. The common evidence hearing is scheduled for mid July 2015, with the hospitality-specific matters scheduled to be heard in late August 2015 and the retail-specific issues in late September 2015.

Earlier this year the Australian Retailers Association, National Retail Association and Masters Grocers Australia/Liquor Retailers Australia joined together calling for a decrease in Sunday penalty payments from 100% to 50% and these issues have also been the subject of intense media scrutiny. Expert evidence from a range of areas, including senior economists, will be relied on in support of this change during the common evidence hearing set in mid-2015.

PUBLIC HOLIDAYS

As part of the Review, employer groups are advocating for a penalty rate for the eight national public holidays and a distinct, lower, penalty rate for any additional state or territory public holidays. The Commission has ruled that these issues will be dealt with as part of the public holidays common issue as opposed to during the Commission's deliberations on penalty rates. In terms of the timing of determination of these issues, business groups have submitted that proceedings regarding penalty rates should be heard and determined prior to the public holiday submissions.

Additionally, union groups are seeking the inclusion of a clause into several awards that provides if a public holiday falls on a day an employee is not rostered to work they will be entitled to another day off in lieu or equivalent pay in lieu or an extra day added to the employee's annual leave.

FAMILY AND DOMESTIC VIOLENCE LEAVE AND FAMILY FRIENDLY WORK ARRANGEMENTS

The ACTU has made submissions to include 10 days paid domestic violence leave and a right to request a change in working arrangements in connection with their disclosure of domestic violence in modern awards.

> **‘It is crucial that you are informed of any new requirements that may impact on your business’ obligation.’**

The ACTU's claim includes incidental and ancillary provisions which, amongst other things:

(a) address evidentiary and notice requirements for an application for family and domestic violence leave;

(b) appoint a workplace contact for employees to whom applications for the leave and requests for changes to working arrangements would be made (accessing such measures would involve disclosure of domestic violence); and

(c) clarify the role and responsibilities of the contact person(s) to whom an employee has disclosed domestic violence.

In relation to what friendly work arrangements under modern awards should include, the ACTU has proposed the following:

(a) requests for family friendly work arrangements during pregnancy or upon return to work from parental or adoption leave;

(b) a right to return to substantive position and work arrangements held prior to returning to work from parental or adoption leave; and

(c) additional elements including that employees may access their personal leave to attend pregnancy, ante-natal and/or adoption related appointments.

WHAT SHOULD YOU DO?

If your business has award-covered employees and applies the terms of the award, you need to keep a close eye on changes to the system that will inevitably come at the end of the Review. Since breaches of modern awards may lead to heavy penalties being awarded against both the business and the individuals who are involved in the breach, it is crucial that you are informed of any new requirements that may impact on your business' obligation.

Alternatively, you can take steps to remove some of the confusion and uncertainty attaching to reliance on modern awards and move award-covered employees onto individual employment contracts or introduce an enterprise agreement into your workplace. It is important, however, that in doing so you ensure that your employees are not worse off than under the award.

PCS specialises in engaging with businesses to gain certainty without the complexity that so often arises under the modern award system.

IF I STILL HAVE A JOB, AM I REDUNDANT?:

A guide to knowing when a redundancy is triggered

SIOBHAN MULCAHY, DIRECTOR
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In the recent case of Serco Sodex Defence Services Pty Ltd [2015] FWC 641 Christmas came early for a number of employees when they received redundancy payments from their outgoing employer Serco Sodex Defence Services Pty Ltd ("SSDS"), despite obtaining substantially similar employment from an incoming contractor after the Australian Defence Force ("ADF") decided not to renew a number of their contracts with SSDS.

THE FACTS

In 2012 SSDS a specialist service provider to the ADF lost five of its six contracts with the ADF. As a result of the loss of contracts a number of SSDS' employees positon were identified as redundant and accordingly SSDS took a number of steps to assist affected employees in gaining employment with the incoming contractors. These steps included:

- informing employees about other contractors, advertising available positions and encouraging them to apply;
- allowing employees to attend information sessions with incoming contractors during work hours and in some cases allowing these sessions to be conducted on site;
- providing assistance to employees with their applications and online submissions as well as submitting applications to contractors on behalf of the employees;
- assisting in scheduling job interviews and medical assessments and allowing employees to attend these sessions during work hours; and
- acting as a conduit between employer and incoming contractors, after offers of employment had been made to employees by providing letters of acceptance to the incoming contractor and allowing employees to attend induction sessions and uniform fittings.

A number of employees were successful in obtaining employment with the incoming contractors in essentially the same or similar roles. Accordingly, SSDS made an application under sections 120 and 739 of the *Fair Work Act 2009* (Cth) ("**FW Act**") to have the redundancy payments owed to their New South Wales/Australian Capital Territory employees reduced, arguing that as a result of its assistance many employees had obtained acceptable employment with the incoming contractors.

Section 120 of the FW Act provides:

Variation of redundancy pay for other employment or incapacity to pay

(1) This section applies if:

(a) an employee is entitled to be paid an amount of redundancy pay by the employer because of section 119; and

(b) the employer:

(i) obtains other acceptable employment for the employee; or

(ii) cannot pay the amount.

(2) On application by the employer, the FWC may determine that the amount of redundancy pay is reduced to a specified amount (which may be nil) that the FWC considers appropriate.

(3) The amount of redundancy pay to which the employee is entitled under section 119 is the reduced amount specified in the determination.

In order for an application under section 120 to be successful, the Fair Work Commission ("**FWC**") must find that outgoing employer was responsible for securing work for the employee with the incoming employer. In particular the FWC held that "there must be a causal connection between the purpose and effort of the employer and the gaining of employment or an offer of employment, by the employee".

In his decision Commissioner Roe gave several examples of what actions may entitle an employer to an exemption to pay redundancy including:

- where the outgoing employer secures a position for its employee/employees without the need for that employee to go through a selection process;
- where the agreement made by the outgoing employer with the incoming employer causes the job offer to be made; or
- where the actions of the employer are a "strong moving force" toward the employee obtaining work with the incoming employer.

Ultimately the Commissioner Roe held he "was not satisfied that SSDS obtained suitable employment for its employees" and therefore the applications by SSDS were dismissed.

For completeness we note that Commissioner Roe did not dismiss the application made in relation to the contractor MSS and listed further a proceeding, although this proceeding has been discontinued. It should also be noted that in separate proceedings SSDS's application for Northern Territory employees has also been dismissed while applications for Queensland are yet to be determined.

KEY TAKEAWAYS

1. In circumstances where a redundant employee must compete for jobs with an unassociated entity and participate in a selection process, it will be far more difficult to argue that employer's actions were responsible for the employee securing a job.
2. It should be noted that had SSDS applied for exemptions for individuals rather than the entire group of employees, they may have had more success in outlining how their actions resulted in specific employees gaining employment.
3. Set up a document trail to assist any application.
4. Simply facilitating meetings will not satisfy the requirement of this section. Attempt to broker formal arrangements with in-coming contractors. For example by agreeing to assist with a handover in exchange for the incoming contractor engaging a number of employees.

UPCOMING Events

www.peopleculture.com.au/events

WEBINAR PROGRAM

All webinars are facilitated by members of PCS's Senior Legal Team using our interactive webinar software. This cutting edge software allows you to see the presenter and their presentation simultaneously while giving you ability to ask the presenter questions and engaging in discussion with the group.

WEDNESDAY, 20 MAY 2014

Webinar

Getting Bang For Your Buck: Where Should Your Budget Be Allocated

WEDNESDAY, 10 JUNE 2015

Webinar

We Need to Talk: Handling Difficult Conversations

WEDNESDAY, 15 JULY 2015

Webinar

How to Warm Up Cold Employees: Building Engagement for Disengaged Employees

WEDNESDAY, 12 AUGUST 2015

Webinar

Can I Have Wine With That? Drugs and Alcohol in the Workplace

WEDNESDAY, 9 SEPTEMBER 2015

Webinar

Ramming Through Change: Best Practice Change Management

WEDNESDAY, 14 OCTOBER 2015

Webinar

Mental Health Month Special: The Impacts of Bullying on Mental Health

WEDNESDAY, 11 NOVEMBER 2015

Webinar

2015 Wrap Up and the Year Ahead

PCS SIGNATURE EVENTS

These are our twice-yearly invitation only events. Our June key briefing will explore our research into approaches to employee separation and our hugely successful Hypothetical series returns for a fourth year in November 2015.

TUESDAY, 16 JUNE 2015

Signature Events

Key Briefing: Approaches to Employee Separation - *Sydney*

THURSDAY, 18 JUNE 2015

Signature Events

Key Briefing: Approaches to Employee Separation - *Melbourne*

THURSDAY, 19 NOVEMBER 2015

Signature Events

2015 Hypothetical: The Times They-Are-A-Changing
Sydney

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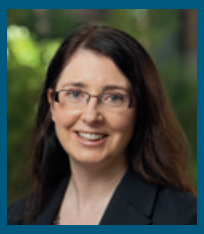

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