

Employment and Industrial Relations Client Alert

9 February 2010

Consequences of Bullying in the Workplace

A company and four employees charged with breaches of the *Occupational Health and Safety Act 2004* (Vic) ("**OHS Act**") have been convicted and fined after pleading guilty in the Melbourne Magistrates Court. The Coroner's Court found that the bullying of an employee in the workplace led to her suicide, which resulted in the employer being charged with failing to provide and maintain a safe workplace and the employees charged with failing to take reasonable care for the health and safety of another employee. The company was convicted and fined \$220,000 while four employees were convicted and fined a total of \$115,000. This case highlights the importance of the prevention of bullying in the workplace by employers.

Occupational Health and Safety ("**OH&S**") laws place employers under a general duty to provide and maintain, so far as is practicable, a working environment that is safe and without risks to the physical or psychological health of employees. Employers also have a duty to monitor the health of employees and workplace conditions. Breaches of OH&S laws have significant consequences which range from WorkSafe Investigations, criminal prosecution, civil penalties and potential coronial inquests. Monetary penalties range up to \$221,958 for individuals and up to \$1,051,380 for corporations. Further to this, stress related injuries suffered by employees arising out of or in the course of employment leads to costs being incurred through WorkCover claims.

Bullying in the workplace not only has legal ramifications for employers. The organisation itself can suffer setbacks as a result such as lower workplace productivity and efficiency, high staff turnover and increased sick leave of employees.

The best way for employers to deal with workplace bullying is to take steps to prevent its occurrence before it becomes a health and safety risk. However, response by employers in instances where bullying has already occurred is just as important. Employers must ensure that they have an adequate bullying and workplace violence policy in place that clearly sets out the responsibilities of employees within the workplace and the methods the employer will utilise to address cases of workplace bullying.

In particular, employers need to ensure that employees are aware of their duty to take reasonable care for the health and safety of others in the workplace and to co-operate with the employer to allow the employer to comply with the legal requirements under OH&S laws. Penalties facing employees can be as significant as those facing employers, including monetary penalties of up to \$210,276.

While the suicide of an employee and subsequent coronial inquests resulting from bullying may be a rarity, this case emphasises the potential effect and consequences of workplace bullying that is neither prevented nor dealt with effectively.

For any further information, please contact the Employment and Industrial Relations Team at Russell Kennedy on (03) 9609 1555.

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The information contained in this alert is intended as general commentary and should not be regarded as legal advice. Should you require specific advice on this topic, please contact the author directly.