

EMPLOYEE RELATIONS UPDATE – FEBRUARY 2006

WORKPLACE INVESTIGATIONS

One of the most challenging areas for any employer is the management of serious workplace complaints and the consequent detailed investigations that need to take place.

Over recent times, MJ Smith & Partners have received increased requests from clients regarding workplace investigations, many of which involve bullying. This scenario can often be a result of staff not understanding what harassment is, and the types of actions/behaviours that constitute bullying. Staff training on harassment can therefore be very useful, and should also explain to staff what does and does not constitute bullying.

Should a situation arise within your organisation that requires the conduct of a workplace investigation, MJ Smith & Partners are able to advise you of your obligations, how to ensure procedural fairness, along with the reasonable steps you may need to take in order to defend or mitigate the risks associated with vicarious liability. Additional challenges that may arise include issues associated with confidentiality, achieving a balance between rights and obligations, and importantly, managing the relationships with your employees in what is often a difficult time for those affected.

MJ Smith & Partners adopts the following process in the conduct of Workplace Investigations:

1. Receipt of Formal Complaint. This is the subject of the Workplace Investigation and Terms of Reference, which form the framework of the Investigation and are specific to organisational requirements;
2. Liaison with identified contact person to arrange:
 - o Interview dates, times and venues;
 - o Access to required documentation.
3. Drafting correspondence to the complainant and respondent, outlining the nature of the allegations and the investigation process.
4. Conduct of Interviews (including any additional interviews that may be required further to the initial interviews) and review of relevant documentation.
5. Drafting and Delivery of Investigation Report including:
 - o Report Findings (ie. investigation outcomes, whether or not specific allegations were substantiated).
 - o Report Recommendations (Recommendations as to appropriate action, if any, to address substantiated allegations. Additional recommendations are also included, if relevant, which address subsidiary issues identified during the investigation process).

MJ Smith & Partners employ qualified investigators who have extensive experience working in both Industrial Relations and Human Resources, with exposure to a wide range of industries and workplaces. This experience ensures an informed and well-rounded approach when undertaking workplace investigations.

For further information about workplace investigations, bullying / harassment training or if you have any questions about issues in the workplace, please contact Kylie Reed at kylie@mjsp.com.au or on (07) 3839 1233.