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your workplace law experts



CCI Lawyers Work Place Law is a boutique workplace relations practice. We provide advice to a wide range of employers, from small business to multinational employers across a full range of work place matters.

Bullying Trends



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During the first nine months of the anti-bullying jurisdiction of the Fair Work Commission in 2014, the number of applications made by victims of alleged bullying has been substantially less than anticipated by FWC. The decisions on various applications made to date continue to give meaning to the relevant legislative provisions of the FW Act. They are also providing helpful guidance to business as to what is to be expected from this jurisdiction. Similarly they assist business determine what actions might be taken in order to properly address such allegations.

For instance whether bullying occurs “while the worker is at work” as required by the FW Act, has been determined to mean that the alleged bullying conduct must occur during the performance of work or when an employee is engaged in an activity that has been authorised by an employer. As such it is not confined to the physical workplace. When offensive comments are posted on facebook, FWC has determined that the comments are taken to have occurred when posted and continue for as long as they remain posted. The person bullied however needs to have viewed those comments while undertaking work or engaged in an authorised activity.

Future decisions will further address when bullying occurs through the use of social media and various forms of communication technology. At this stage employers should take some encouragement from the decisions of the FWC as it is treading carefully in interpreting these important legislative requirements.

A consequence of the commencement of the bullying jurisdiction is that businesses are continuing to put significant increased effort into promptly investigating alleged bullying conduct and then taking appropriate disciplinary action against offenders as required. A major consideration for the FWC in exercising its bullying jurisdiction is whether an employer has acted appropriately in addressing such an allegation. Employers need to continually refine their approach and procedure for the handling of complaints and managing the risk to health and safety of the workplace.



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Summary of anti-bullying applications as reported by Fair Work Commission

APPLICATIONS 2014	JANUARY – MARCH	APRIL – JUNE	JULY – SEPTEMBER
Applications to stop bullying	151	192	189
Applications withdrawn or resolved including by mediation by FWC	28	128	159
Applications dismissed by FWC	7	13	15
Application granted and orders made to stop bullying	1	0	0
Applications against fellow employee	47	48	53
Applications against managers	109	141	126

Industries with higher numbers of applications as relevant to clients of CCI Lawyers

INDUSTRY	JANUARY – MARCH	APRIL – JUNE	JULY – SEPTEMBER
Retail	13	13	17
Health & Welfare	11	24	21
Clerical	23	22	28
Education	10	14	10
Social, Community, Homecare	3	11	8
Manufacturing	2	9	10
Hospitality	4	11	14
Vehicle	1	1	2
Commercial sales	1	6	4

Size business and numbers of applications

SIZE OF BUSINESS BY NUMBERS OF EMPLOYEES	JANUARY – MARCH	APRIL – JUNE	JULY – SEPTEMBER
15-50	29	42	29
50-100	8	9	16
100+	67	99	90

Note: The above information has been extracted from Quarterly Reports of the FWC.