



Employment Law Matters

We hope 2018 has started well for you! 2018 will be a year in which we'll see significant changes to IR/ER/HR law - including new approaches to agreements, workplace mental health, performance management, terminations, workplace investigations, harassment, bullying, sexual harassment, injury management, and redundancies or redeployments.

2018 will be an interesting year, with a more systematic approach to compliance needed for new provisions relating to Modern Slavery, adverse actions, and accessorial liability. We're seeing a renewed focus on sexual harassment in the workplace, and what's next?

In our November-December newsletter we talked about FWA changes, discussed new case law relating to Accessorial Liability, employer RTW obligations in New South Wales, and WHS law changes in Queensland. We also had an in-depth look at gender balance and the topic of diversity and inclusion.

For this January newsletter, we're highlighting a handful of the key emerging workplace law issues shaping HR, as they will be analysed at the HR Law Masterclass Conference being held nationally in March.



CONFERENCE PROGRAMME

BRISBANE: MARCH 12

SYDNEY: MARCH 14

CANBERRA: MARCH 15

MELBOURNE: MARCH 20

PERTH: MARCH 22

Employment law trends over the next year, and the future of work:

We'll be listening very closely to what is discussed during the panel discussions by **top legal minds from Ashurst, DLA Piper, Herbert Smith Freehills, and local specialist firms. They'll discuss, predict and debate what may happen in 2018.** If an early election is held, what may be the new employment law related issues under a change of Government? They'll also look at the rise of portfolio careers, increased casualisation, increased flexibility, and how that affects you. Will there be broader ranging implications from the Fair Work Amendment (Protecting Vulnerable Workers) Bill 2017? Will wage growth and pay equity become hotter issues? How much will HR have responsibility for supporting employees identifying as domestic violence in the future? What are potential legal liabilities and consequences? Importantly, they'll also discuss increased accessorial liability risks, and personal implications for HR and payroll managers.

Mental health and wellbeing in the workplace – Your duty of care:

Firstly, congratulations to law firm Ashurst, which was named Australia's healthiest workplace in 2017 by AIA Vitality. **Who better to hear from at the national HR Law Masterclass national conference roadshow about Mental health and wellbeing in the workplace.** Their focus will not be from a case study perspective, but senior experts from Ashurst will be providing legal insights on:

- Managing complexities of cases involving mental health factors such as stress, anxiety, fatigue, and bullying
- Best managing situations when investigative processes lead to stress and psychological injury claims or other worker's compensation matters
- Looking at links mental health of workers, and WH&S legislation

The Weinstein Effect: Managing inappropriate conduct In the workplace.

Gain Clarity on how to manage sexual harassment, assess legal risk, conduct investigations, assess adversarial liability, and deal with historical claims. For a preview of up to the minute insight to be delivered by the team at Clayton Utz see their recent blog post [here](#).

Misconduct-based workplace investigations - procedural fairness and duty of care:

Partners from Norton Rose Fulbright will deliver key insight on the following:

- Assessing when a formal investigation is appropriate, or if it has potential to be punitive
- What are other legally acceptable avenues for conflict resolution?
- Setting expectations of people involved in investigation processes
- Procedural fairness, and ensuring independence, transparency, & fairness
- Discussing workplace investigations and adversarial liability

Adverse Actions: Triggers; Procedural Issues; Remedies And Penalties

If there is one issue which is opaque and can find HR management personally culpable it has to be adverse actions. Gain clarity from Harmers Workplace Lawyers and Kennedys.

- Defining actions which can constitute or trigger adverse action: from terminations, to reduction in benefits, inadequate training, and performance management processes
- Does the probation period adequately protect you from adverse actions?
- Identifying new possible directions for adverse actions. Can they extend beyond employees, to contractors and even prospective employees?
- Overcoming procedural issues re adverse actions, and the reverse onus of proof to demonstrate lawful and reasonable actions
- Comparing the increased remedies and penalties under adverse actions, with those relating to unfair dismissal claims

Bullying and harassment prevention and management.

A broad variety of behaviour can lead to a bullying claim. Leading law firm network ADVOC (Maddocks, Colin Biggers Paisley, & Kott Gunning) will provide you with case law examples to support best practice for workplace guidelines, policies, thresholds and procedures. They will also provide invaluable advice on claims handling processes and grievance management systems, and dealing with allegations.

For more information, please click here: [HR Law Masterclass](#) – a national conference roadshow

Current early bird rates end January 31st. Save \$500

Brisbane 12th March; Sydney 14th March; Canberra 14th March; Melbourne 20th March; Perth 22nd March

Other upcoming events which may be of interest to you:

[Preventing & Managing Sexual Harassment](#) – a masterclass for HR Professionals

Perth 26th February; Melbourne 28th February; Adelaide 2nd March; Brisbane 5th March; Sydney 7th March; Wellington NZ 10th April; Auckland 12th April

[Performance Management re-design Masterclass](#)

Brisbane 12th & 13th March; Sydney 15th & 16th March; Melbourne 19th & 20th March; Perth 22nd & 23rd March

Workplace Diversity & Inclusion Conference

[Hong Kong](#) 18th – 19th April; [Singapore](#) 23rd – 25th April; [Sydney](#) 21st – 23rd May

[Employment Law Matters Annual Forum, New Zealand](#)

Wellington 9th April; Auckland 18th – 20th June

Managing Difficult Employee Behaviour Workshop

Brisbane, 14th May; Sydney, 16th May; Melbourne, 21st May; Perth, 23rd May
Auckland, 21st May; Wellington, 23rd May