

What was the biggest legal issue in terms of HR for businesses in 2015?

Brismark Industrial Relations
Human Resources



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Human Resources - Legal Lessons from 2015

What was the biggest legal issue in terms of HR for businesses in 2015?

The most common legal issue, in regard to HR, was around bullying and harassment in 2015.

Why? Time and resources are increasingly being spent by businesses on both developing strategies to prevent these behaviours occurring, as well as working out how to manage claims sensitively and appropriately when they arise.

What has led to the increased focus?

1. There is greater awareness in workplaces of the effects of bullying and harassment on individuals, teams and company culture
2. Psychological and stress-based illnesses at work no longer carry the stigma they once did
3. The introduction of the Fair Work Commission's specialist anti-bullying jurisdiction in 2014 has provided a dedicated forum for raising and resolving complaints

What lesson can employers learn from some of the cases heard in 2015?

Employers need to be aware that there have been an increasing number of cases where management, including operational managers and company directors, have been found to be personally liable for breaches of section 550 of the Fair Work Act 2009, which deals with 'accessorial liability'. This is where a business or individual is found liable as an accessory to a breach of federal workplace laws.

While company directors and business owners should have been aware for some time that they potentially bear personal liability for compliance breached under workplace relations legislation, a number of decisions in 2015, particularly those arising from Fair Work Ombudsman prosecutions, have seen lower-level managers personally prosecuted and fined for breaches of these provisions.

All managers need to ensure that their management decisions do not contravene legislation, and also take care not to inadvertently involve themselves in a potential contravention. For example, entering into a contractor arrangement with a labour hire company at an hourly rate that does not meet the minimum modern award rate of pay.

The simple solution is to ensure all of your Supervisors and Managers are aware of workplace relations legislation, how this interacts with the day to day running of the business and impacts on their roles and the success of all in the business.

If you are interested in 'upskilling' your supervisors and managers in current workplace relation legislation, contact Brismark Business Services on 3915 4213 or esm@brismark.com.au, we can assist by conducting some training sessions for your business.

Note: The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Source: HC Online, by Chloe Taylor (based on information from Rod Marshall - FCB Group), 15 December 2015