



Employment Law for HR Professionals

NAVIGATING THE LEGAL COMPLEXITIES OF YOUR HR PRACTICE

Don't miss this opportunity to:

- Examine how to apply best practice HRM when **drafting employment contracts**
- Maximise efficiency through legally effective **performance management systems**
- Unravel the intricacies of **fixed-term contracts and restraints of trade**
- Develop an effective redundancy strategy which addresses a reasonable 'redundancy selection criteria'
- Learn how to eliminate **workplace bullying & harassment** as part of your organisational OHS commitments
- Fine-tune your HR practice in view of federal and state laws on **employee privacy**
- Discover what you need to include when drafting an effective **EEO policy**
- Ensure your workplace agreements pass the 'no-disadvantage' test

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Human Resources
AUSTRALIA'S LEADING HR PUBLICATION

1 April 2009, Crowne Plaza Darling Harbour, Sydney

2 April 2009, Stamford Plaza, Brisbane

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John Lunny, Consultant, DLA Phillips Fox

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Ian Humphreys, Partner, Blake Dawson

Breen Creighton, Partner, Corrs Chambers Westgarth Lawyers

Darren Gardner, Partner, Maddocks

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Employment Law for HR Professionals

NAVIGATING THE LEGAL COMPLEXITIES OF

8.30 Conference registration

8.50 Opening remarks from the Chair

Brian Williamson, Managing Director, **Workplace Law** (Sydney)

John Scoble, Director, **HR Advantage** (Brisbane)

Peter Fotiades, Former HR Director, **MCL Australian Taxation Office** and **Andrew Douglas**, Principal, **Douglas Workplace & Litigation** (Melbourne)

9.00 Achieving organisational objectives through well-structured and clearly defined employment contracts

Companies which have not properly thought through the details of their employment contracts could find themselves in hot water, and not least because of the shrinking company purse resulting from rectifying contracts which have not been carefully crafted.

- Is every worker an employee? Examining the fine line between the contract *of* service and the contract *for* service
 - Distinguishing your obligations under and implications of the different employment contracts
 - When you need to shelve *off-the-shelf* contracts to comply with the law
 - Employment contracts and implied terms: determining mutual obligations of trust, confidence and fair dealing
 - Applying best practice HRM when drafting an employment contract:
 - Probationary Period
 - Terms of Employment: Wages, Salary, Hours of Work, Annual Leave
 - Disciplinary Procedures
 - Withdrawing an Offer of Employment
 - Union Membership
 - Updating employment contracts as working conditions evolve
- Andrew Gray**, Partner, **Mallesons Stephen Jaques** (Sydney)
John Lunny, Consultant, **DLA Phillips Fox** and Contributing Author, *Laws of Australia* (Brisbane)
Sean Selleck, Special Counsel, **Mallesons Stephen Jaques** (Melbourne)

9.45 Performance management – you can run but you can't hide.....

Performance management remains a key workplace issue. Unfortunately it also remains an area which many employers fail to handle effectively, creating real risk for the organisation. We will explore the legal framework surrounding this issue and will provide practical guidance about how to identify and mitigate the associated risks:

- The views of the courts and tribunals (with reference to recent cases)
- The 'left field' issues: illness/absence, grievances and bullying complaints
- The common but precarious performance management tool known as redundancy
- Practical tips on handling and navigating an effective performance management system

Kristy Edser, Partner, **Minter Ellison Lawyers** (Sydney)

Samantha Betzien, Partner, **Minter Ellison Lawyers** (Brisbane)

Caroline Ishkan, Partner, **Minter Ellison Lawyers** (Melbourne)

10.30 Morning tea

11.00 Examining the intricacies of fixed-term contracts and contractual restraints of trade and how businesses can protect their intellectual property and information



In current times, where there is an ever-increasing shortage of specific skills and trained staff, employers are increasingly leaning toward arming themselves with the security of fixed-term employment contracts, which aim to bind employees to the organisation for a minimum period, accompanied by post-employment restraints of trade. In addition, employers are more aware than ever of the importance of protecting their intellectual property and information. The effectiveness of such practices is still being tested sporadically with some interesting results...

- Consideration of the implications of:
 - Fixed Term Contracts and Negative Covenants
 - Post Employment Restraints of Trade – Non-Competition and Non-Solicitation clauses
 - Garden Leave
 - Confidential Information and Intellectual Property
- Examining the enforceability of post-employment restraints of trade
- Considering what constitutes a fair restraint of trade?
- Whose idea is it anyway? Determining the legal options available to employers in respect of confidential information and intellectual property, and how businesses can best protect themselves

Brett Feltham, Director - Legal, **PricewaterhouseCoopers** (Sydney & Melbourne)

Dr Louise Floyd, Barrister, **Supreme Court of Queensland** and Director of Research, **James Cook Law School** (Brisbane)

11.45 Ensuring lawful termination and avoiding disputes

Issues such as remuneration, termination payment, employment policies and human resources management impact everybody in the workplace. The laws of redundancy and unfair dismissal interact in such a way that it is imperative lawful termination of employment is carried out with procedural fairness.

- An overview of fair and unfair dismissal laws and what to be mindful of when terminating a contract of employment
- Establishing good faith and avoiding claims based on harsh, unjust or unreasonable grounds for redundancy
- Understanding the statutory framework which protect workers whose employment is terminated for technological, structural or economic reasons
- Termination of a 'letter of offer' post-medical examination: what are your rights and will you be liable under the framework of unfair dismissal?
- What constitutes serious and wilful misconduct?
- Developing an effective redundancy strategy: formulating a redundancy selection criteria

Stephen Woodbury, Partner, **Blake Dawson** (Sydney)

Ian Humphreys, Partner, **Blake Dawson** (Brisbane)

Jennie Mansfield, Partner, **Blake Dawson** (Melbourne)

12.30 Networking lunch for speakers and delegates

1.30

IR Law Update: Forward with Fairness & the National Employment Standards

This session will examine how the new IR Laws will affect your organisation during the transitional period by focusing on some key considerations. Ensure that you are fully informed about the pending legislative changes and explore the future of workplace relations from a range of perspectives:

- The award modernisation process
- Dispute resolution alternatives
- Working within the National Employment Standards framework
- Individual Transitory Employment Agreements
- Understanding the challenges key reforms will bring to your organisation
- Key issues and developments in the public service
- How the new IR framework will affect you as a HR practitioner in the public and private sector
- Ensuring your workplace agreement passes the 'no-disadvantage' test
- Deriving lessons from serious penalties handed down to breaches of IR laws

Jack de Flamingh, Partner, **Corrs Chambers Westgarth Lawyers** (Sydney)

Andrew Dungan, Director of Policy, **QLD Department of Employment and Industrial Relations** (Brisbane)

Breen Creighton, Partner, **Corrs Chambers Westgarth Lawyers** and Author, *Australian Journal of Labour Law: Special Issue* (Melbourne)

2.15

Eliminating workplace bullying and harassment as part of your organisational OHS commitments

There is growing recognition of bullying and harassment as a significant occupational health and safety issue in the Australian workplace. Often the results can be severe, resulting in increased absenteeism, psychological injury and work-related stress. Besides hours of lost productivity, nowadays more often than not, you might find a lawsuit on your hands for failing to discourage or repudiate adverse behaviour in your workplace. How can you prevent it from happening at all, and what steps should you take when faced with the reality of adverse behaviour?

- Bullying or harassment – understanding the differences between them and recognising the common threads embedded in each
- Considering bullying within concepts defined in OHS legislation
- What is 'implied duty of trust and confidence' and can it end up in Court?
- Protecting an employee's right to dignity at work: developing effective policies and practices to safeguard your organisation from legal exposure
- Is mediation an alternative when faced with claims of 'psychological injury' in the workplace?

Darren Gardner, Partner, **Maddocks** (Sydney)

Andrew Tobin, Partner, **HopgoodGanim Lawyers** (Brisbane)

Kim Grady, Solicitor, **Freehills** (Melbourne)

3.00

Afternoon tea

3.30

Employer's right to snoop v Employee's right to privacy: how far can you really go?

Employee monitoring is one of the most contested and ambiguous issues in HR as technological advancements and concerns for employee privacy collide. What are your rights in monitoring telephones, computer terminals, voice mail and e-mail and what do the Courts say? Examine both sides of this controversial issue and stay on firm ground in relation to your rights and the law.

- Understanding your rights as recognised by the Courts
- How far can you extend your surveillance and when will you be considered as in breach of the law?
- Balancing employee expectations of privacy and the organisational requirements of employers
- A snapshot of the interrelation between federal and state view on privacy: understanding the laws and fine-tuning your practice
- Effectively handling and managing confidential data
- Managing employee conduct after hours: lessons from the Courts

David Cross, Partner, **Deacons** (Sydney)

Martin Osborne, Partner, **Deacons** (Brisbane)

Sarah Ralph, Partner, **Deacons** (Melbourne)

4.15

Implementing effective workplace diversity and EEO programs to comply with legislative requirements

Under federal and state legislation, discrimination occurs when a potential or current employee is subject to less favourable treatment based on their race, colour, national or ethnic origin, gender, pregnancy, marital status, disability, religion or sexual preference. It is imperative that organisations take all reasonable steps to avoid disadvantage to or less favourable treatment of an employee based on any of the reasons listed above. Lawsuits can be filed with hefty penalties imposed for both recurring and one-off behaviour. As a HR manager, you must ensure that a comprehensive anti-discrimination strategy is not only established but actively implemented within your workplace.

- What exactly does workplace diversity mean and how can you be sure that management is complying with the law?
- Protecting your organisation from vicarious liability
- Taking steps in effectively dealing with complaints of discriminatory conduct or harassment
- Dealing with employees involved in behaviour discriminating or harassing other staff
- What to include in an effective anti-discrimination and EEO policy
- Achieving a harmonious and diverse workplace environment by monitoring employee conduct

Bruce Heddle, Partner, **Clayton Utz** (Sydney)

Hedy Cray, Partner, **Clayton Utz** (Brisbane)

Dr Graham Smith, Partner, **Clayton Utz** (Melbourne)

TIPS AND TRAPS

5.00

Closing remarks from the Chair

5.10

Close of Conference

Priority registration form Employment Law for HR Professionals

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Position: _____

Organisation: _____

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Who Should Attend

- Directors, Managers, Practitioners, Consultants and Policy Officers from:
 - Human Resources
 - People & Performance
 - Learning & Development
 - Reward & Recognition
 - Talent Management
 - Performance Management
 - Business Strategy

PROGRAM CHANGES

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CANCELLATION

Your registration will be confirmed in writing when full payment is received. We will refund your registration in full less a \$165 administration fee if notification is received in writing by 3 March 2009. If we receive written notification between 4 March and 18 March 2009 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 18 March 2009. You may nominate a replacement however no refund will be issued.

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