

HR HOTSPOTS 2019

KEY TAKEAWAYS

WORKPLACE FLEXIBILITY

- One in five Australian workers request flexible working arrangements each year.
- Access to flexible working arrangements enhances employee well-being and work-life balance, as well as positively assisting in reducing labour turnover and absenteeism.
- Requests for flexible working arrangements can be refused by an employer on reasonable business grounds, subject to certain procedural requirements being met.
- In light of recent changes to most modern awards that came into effect on 1 December 2018, employers must now follow additional procedural steps to that which are set out in the Fair Work Act 2009 (Cth), prior to refusing a request for flexible working arrangements.
- Consider whether a workplace policy may assist in ensuring compliance with the recent developments in law in relation to responding to (and managing) requests for flexible working arrangements.
- It is important for employers to get the procedural steps right, particularly where it decides to refuse a request. This is because an employee may seek dispute resolution through the Fair Work Commission or seek to assert a contravention of the applicable modern award in court, which can add time, stress, expense and cost to your business.

WORKPLACE BULLYING

- The Fair Work Commission has had the power to deal with bullying matters since 2014.
- There is no scope for an order of financial compensation in the anti-bullying jurisdiction. Instead, the remedy ordered by the Fair Work Commission will be in the form of an order to stop bullying, to regulate workplace behaviour.
- The statistics show that the vast majority of anti-bullying applications before the Fair Work Commission settle through alternative dispute resolution processes. Indeed, this is our experience.
- Resolution of an anti-bullying application can be costly, complex and protracted, sometimes requiring more than one conference to resolve proceedings.
- There has been a recent increase in anti-bullying claims being filed by aggrieved employees and we have defended a number of proceedings in the past twelve (12) months, on behalf of our clients.
- It is important for employers to ensure that they have robust workplace policies in place to prevent workplace bullying and harassment and should consider formal training for employees.

- It is almost always the case that the Fair Work Commission will ask to see a copy of an employer's anti-bullying policy in dealing with and resolving any anti-bullying application, that is brought before it.

WELLNESS AT WORK

- There is no prescriptive approach to workplace wellness.
- Knowing your workforce and its management is key and managing your workforce correctly will have the greatest impact.
- Providing Yoga rooms or morning tea or offering other health and lifestyle benefits (like gym memberships) might work for your business.
- Manage workloads, offer access to flexibility and consider whether providing your employees access to a confidential counselling service, such as an Employee Assistance Program, may assist in maintaining and/or enhancing wellness at work.
- It is important to regularly review your workplace wellness strategies. Workplace wellness may also positively assist in reducing labour turnover and absenteeism.

PAYROLL TAX

- In 2016/17, Revenue NSW audited 7,957 payroll tax businesses:
 - Almost a third of these businesses were unregistered;
 - 97% of those unregistered businesses were found to be required to be registered.
- Australia wide, 95% of State tax investigations identify non-compliance. Anecdotally, the number is higher for payroll tax.
- Revenue NSW will increase its use of data matching to find non-compliant payroll tax businesses.
- Payroll tax represents a key compliance challenge for employers, as it often sits uneasily between HR and Finance functions of a business.

SPEAKERS



Matthew McKee

Partner

Taxation Law

+61 2 9394 1027

mpm@bwslawyers.com.au

[Profile](#)



Matthew McKee is an experienced tax and superannuation lawyer who regularly provides tax and commercial related advice to accountants, financial planners, small to medium enterprises and private clients.

Matthew has a particular expertise in New South Wales state taxes (duties, payroll tax and land tax) and advises on all aspects of taxation law, including income tax, capital gains tax (CGT), GST and the SIS Act.



Dean Schubert

Associate

Workplace Relations

+61 2 9394 1090

dxs@bwslawyers.com.au

[Profile](#)



Dean is an experienced workplace and employment lawyer who regularly provides advice, assistance and representation to clients that include small and medium sized businesses and national and international premium retail brands on a broad range of employment related issues.

Prior to joining Brown Wright Stein, Dean worked as a solicitor at a specialty Workplace law firm and Fair Work Australia (now, the Fair Work Commission) as an Associate to a Presidential Member.



Merilyn Speiser

Catalina Consultants
Principal Consultant

Merilyn founded Catalina Consultants in 2012 on the belief that all organisations, regardless of size, should have access to top quality, bespoke HR services. She enjoys working closely with her clients and believes that the best results are built on relationships of rapport, trust and authenticity.



L A W Y E R S

About Brown Wright Stein

Brown Wright Stein isn't just another commercial law firm. We are your trusted legal advisors. We stand with you, your business and your family.

Our firm is built upon our deep and long-term commitment to our clients, their businesses and personal interests. We are proud of these long-term commitments. Our clients include public companies, small and medium sized enterprises, owner managers, high net worth individuals and investors.

We offer a strategic, practical and very personal approach, striving to ensure our advice fits within your wider business and personal needs. We see the whole picture. We speak your language. Our team's broad expertise and understanding of business and tax issues enables us to always provide the right solution for you.