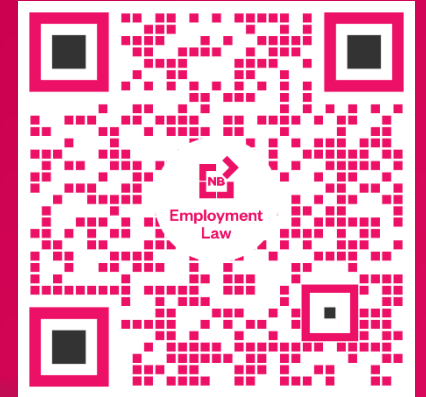




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Employment
Law



LGMA HR Forum

From Tension to Strategy: Dealing with Escalating Complaints

PRESENTED BY:

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A photograph of a city skyline at sunset, featuring a bridge in the foreground and several skyscrapers in the background. The sky is filled with dramatic, orange and grey clouds, and the water in the foreground reflects the warm light of the setting sun.

BEFORE WE START

- Slight decrease in QIRC disputes but more complexity especially in Discrimination, WHS, harassment and bullying
- Matters could have been prevented with difficult conversations
- More disputes been “weaponised”
- We will look at an important department head QLD Council case

Round 1

X X X X X

FAMILY FEUD

Unfair dismissal/
General Protections

30

WHS - Psychosocial

10

Illness

25

Discrimination or
CCC complaint or dispute

5

Bullying

20

Process/PIP/Investigation

15



SHOW QUESTION

HIDE QUESTION



Frustration, Delay and Getting it Right



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Complaint Process

Informal Discussions – difficult conversation about performance or conduct/behaviour

Further informal meeting on areas to improve

Verbal Warning

Formal meeting with formal allegations and grievances

Counter bullying claim against manager and others

Swearing in the presence of a Councillor escalated to a show cause letter and process

Investigation into Workplace bullying claims

Suspension of show cause process

Completion of workplace bullying investigation
Sick leave by employee which became a Workcover application

Awaited the finalised Workcover application – which was rejected – Reasonable management action

Eventually had to direct an IME

Finalise disciplinary process – medical advice for the completion of process

Once given the ok – disciplinary action was termination of employment



The employee filed an Application for Reinstatement on various grounds – untrue allegations, the workplace bullying claim, “adverse action” and lack of procedural fairness – what were the QIRC findings?

- A. Unfair Dismissal due to several grounds and the employee was successful in an unfair dismissal claim and given compensation of 12 weeks pay
- B. Unfair Dismissal found on grounds of the bullying claim and reinstatement ordered
- C. Unsuccessful due to allegations substantiated, reasonable management action, and action was proportionate
- D. Unsuccessful due to allegations substantiated, followed policy and process, reasonable management action and excellent legal advice



The employee filed an Application for Reinstatement on various grounds – untrue allegations, the workplace bullying claim, “adverse action” and lack of procedural fairness – what were the QIRC findings?

D. Unsuccessful due to allegations substantiated, followed policy and process, reasonable management action and excellent legal advice

*costs also successful

Alderton v Fraser Coast Regional Council [2019] QIRC 137

Patience vs Risk



Reasonable management action does need to be “perfect”



Counter complaints need to be dealt with separately with allegations



Manage WHS/Psychosocial Risks



Illness – medical evidence required for disciplinary process



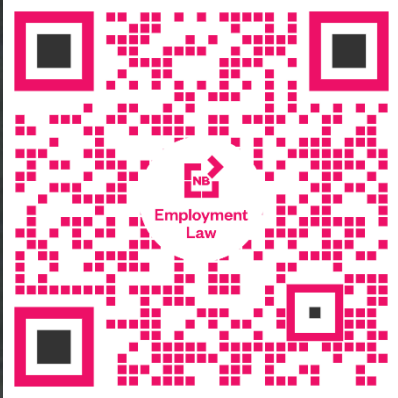
Consider management training on process and legal risks



What would the QIRC say about the steps you have taken?

a way forward





Conundrum for Department Heads



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Senior Officer Exemption

- ❖ *Queensland Local Government Industry Award (Stream A) Award – State 2017* – senior officers are exempt
- ❖ Terms on contract of employment
- ❖ Is a Tourism Team Leader considered a Department Head?
- ❖ Case of *Barbara v Paroo Shire Council (No. 2) [2023] QIRC 273*





Arguments made

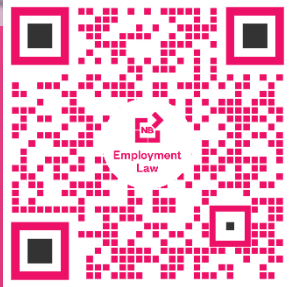
- ❖ Employee is a Tourism Team Leader and fits the description of Department Head – leading the Tourism Department the largest department for Council
- ❖ Reported directly to CEO
- ❖ Took care of a sizeable and large budget
- ❖ The contract of employment stipulated clearly she was a senior officer
- ❖ Annual reports and other material did not say specifically she was a senior officer but she was treated like one



Council Won

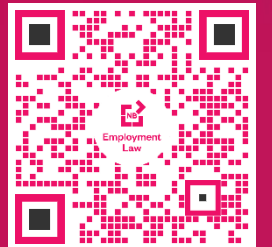
Employee Won

What did the QLD Industrial Relations Commission say?



WHY?

- Was not considered a part of the Executive Leadership Team
- Reported to the COO not the CEO (and so did 3 others)
- Had a BIG budget and HUGE department BUT required approval for decisions
- Delegated budget
- Other issues around annual reports and interview panel (limited weight to this)



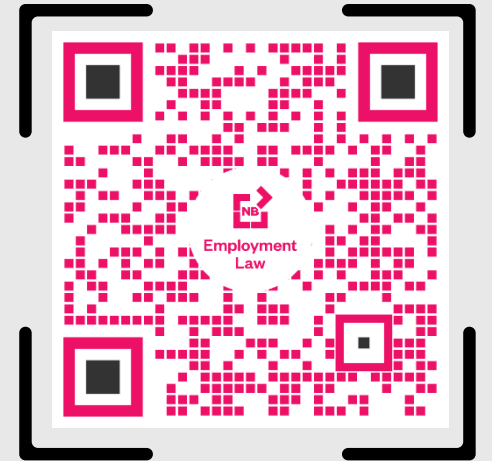
Deep Dive into Council Compliance: Awards and Senior Officers

Online Session for 1.5 hours

WHAT'S INCLUDED

- ✔ Limit to 5 participants each session
- ✔ Online session deep dive into case
- ✔ Identify any potential issues
- ✔ Dive into *Barbara v Paroo Shire Council (No. 2) [2023] QIRC 273*
- ✔ Special discounted Offer for LGMA attendees only
- ✔ 2 Dates - 7 March and 18 March at 12.30

Scan this QR code
to get on the waitlist
– limited spots





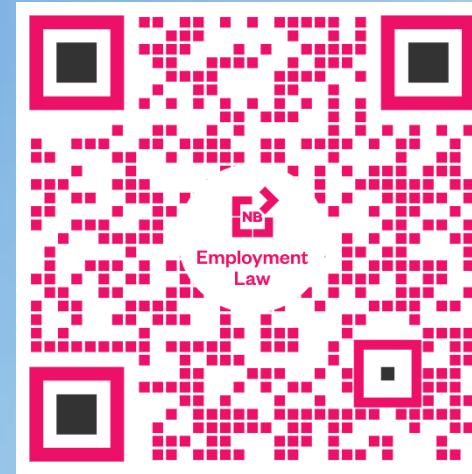
Questions

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Deep Dive into Council Compliance: Awards and Senior Officers

