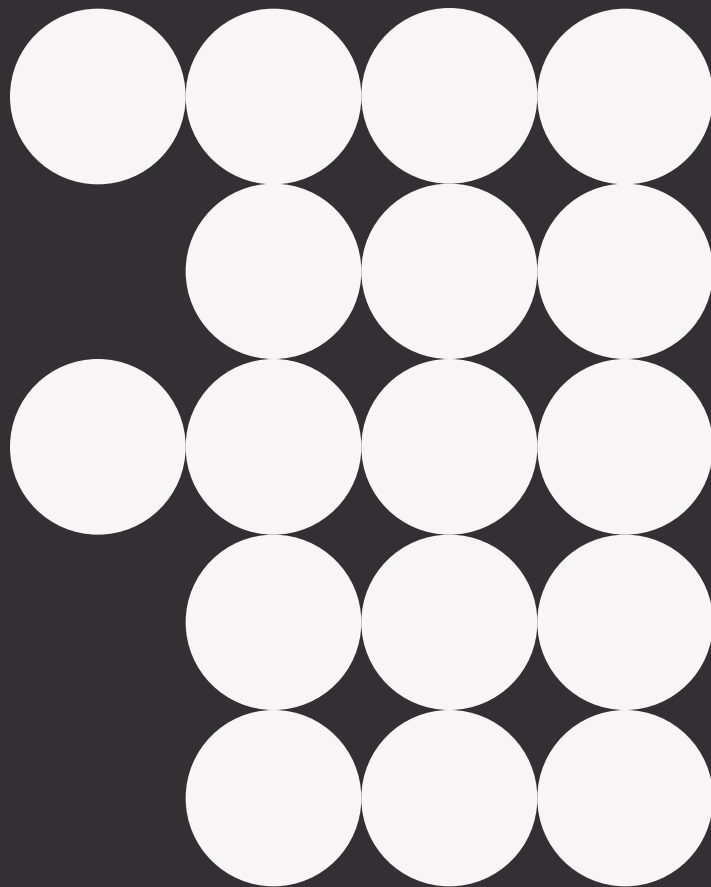


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Government webinar series.

**2025 in review: The good, the bad and unnecessary
Star Wars references**

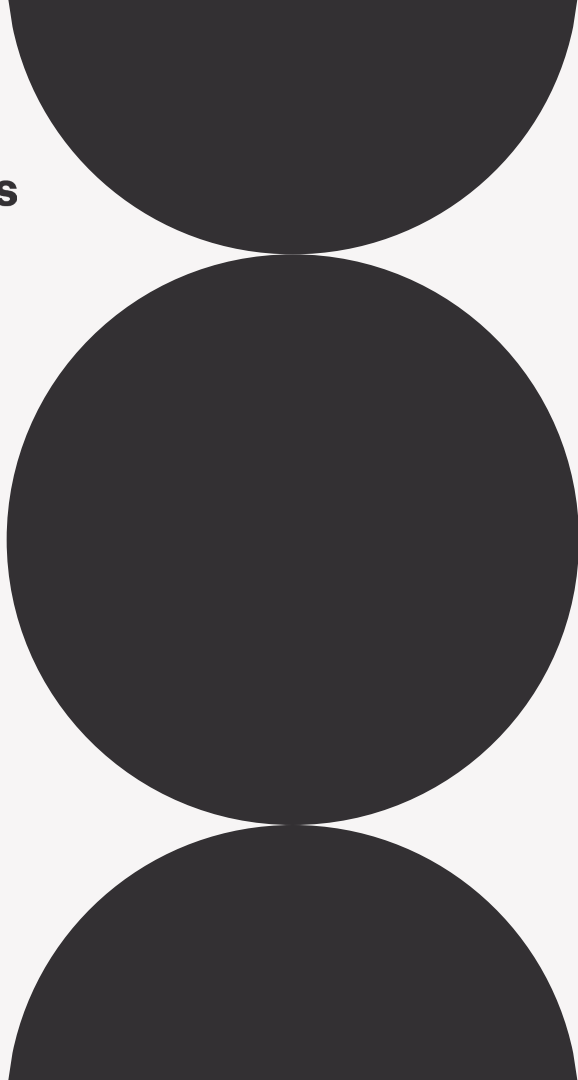
Megan Kavanagh & Matthew Giles



Agenda.



What are we seeing?	03
The Year in Review	08
How can we get it right?	14
Key Takeaways	18



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**What Are We
Seeing?**

Wage Rates

Inflation

CONSUMER PRICE INDEX

3.2%

Annual change September quarter 2025

MONTHLY INDICATOR

3.5%

September 2025

Wage price index growth

Total hourly rates of pay excluding bonuses; private and public sectors; all industries

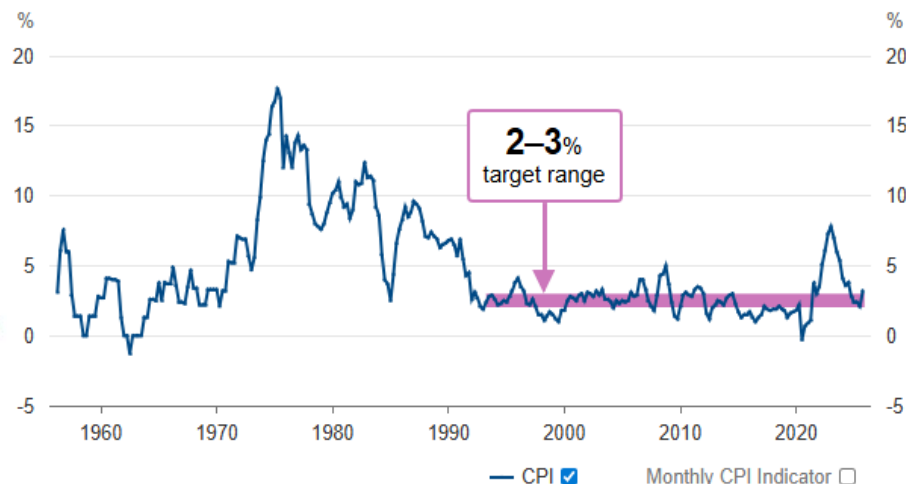


*Seasonally adjusted

Chart: Luke Kinsella, AFR • Source: Australian Bureau of Statistics

Inflation

Year-ended percentage change, excludes interest charges prior to September quarter 1998 and adjusted for the tax changes of 1999–2000



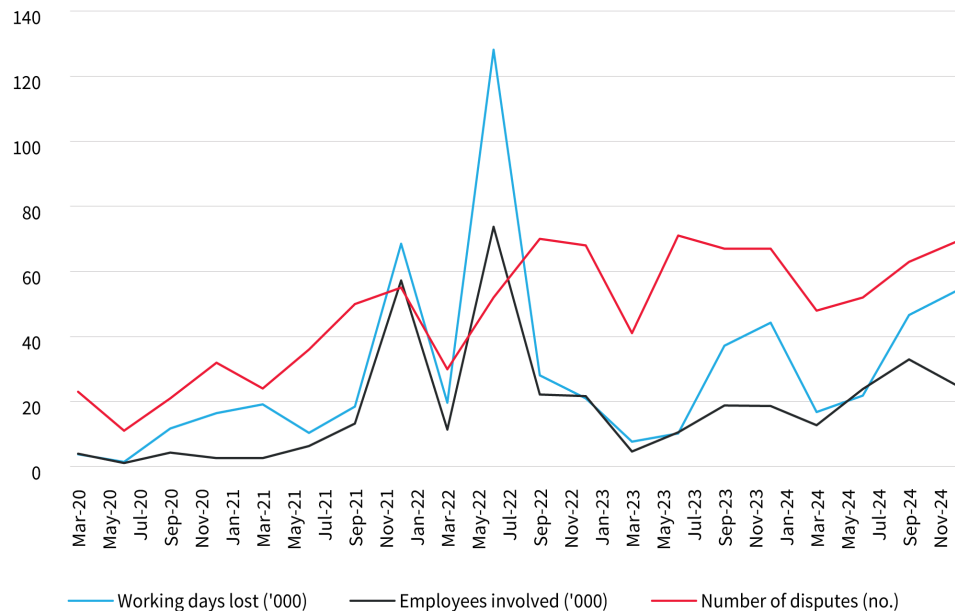
Sources: ABS; RBA

EA Pressure

Never tell me the odds (Han Solo Empire Strikes Back)

Friday, 7 November 2025:

Industrial Action Over the Years



24-hour strike by state public Queensland teachers following the rejection of their offer of an 8% pay rise over three years.

The government finalised agreements with both nurses – who won an 11% rise - and emergency medical officers, who received 8%.

Radiologists, dentists and similar health professionals took protected industrial action over stalled negotiations.

Public sector tradies took to the streets to push for deal that includes a 36-hour week.

The QPU police deal paid 8% over three years, with an \$8000 retention incentive paid in two instalments.

Flexible Working Disputes

GN Government News

Union dispute with DCJ over WFH

The NSW public service union is in dispute with the Department of Communities and Justice over its new flexible work policy.

4 Apr 2025



Gadens

<https://www.gadens.com> › legal-insights › its-my-right-t... ⋮

It's my right: The state of the debate on proposed work from ...

29 Sept 2025 — The Federal Labor **government** has rejected the Greens' proposal in the Senate, meaning that at this stage, there are no changes to legislation at ...



The Guardian

<https://www.theguardian.com> › 2025 › oct › westpac-w... ⋮

Fair Work has ruled a Sydney woman can ...

24 Oct 2025 — This week, a longtime Westpac employee, Karlene Chandler, won her Fair Work Commission (FWC) case to **work from home**, overturning an order from ...

SM The Sydney Morning Herald

Union vows to fight Dutton's five-days-in-office edict at the tribunal

Peter Dutton defended the policy, saying "it doesn't discriminate on the basis of gender" because it applied to all public servants.

4 Mar 2025

ABC Life

Working from home not going anywhere as in-office mandates fall

"Return to office" demands may have peaked, with employers accepting remote, work-from-home and hybrid working, research from the Australian...

21 Apr 2025



nr Newsroom

Business ministry 'breaches contracts' in work-from-home crackdown

Mediation between MBIE and the PSA has failed and the union is now considering legal action over a more restrictive work-from-home policy.

23 July 2025

Union wants 'presumed' right to work from home, as Labor weighs new law

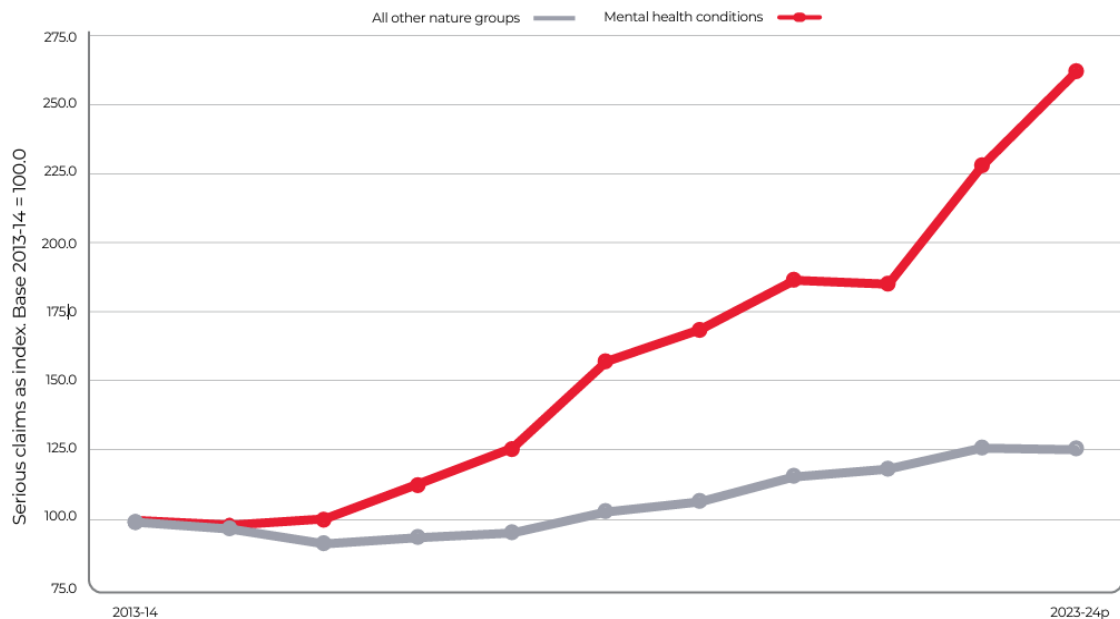
By political reporter Tom Crowley

Federal Government

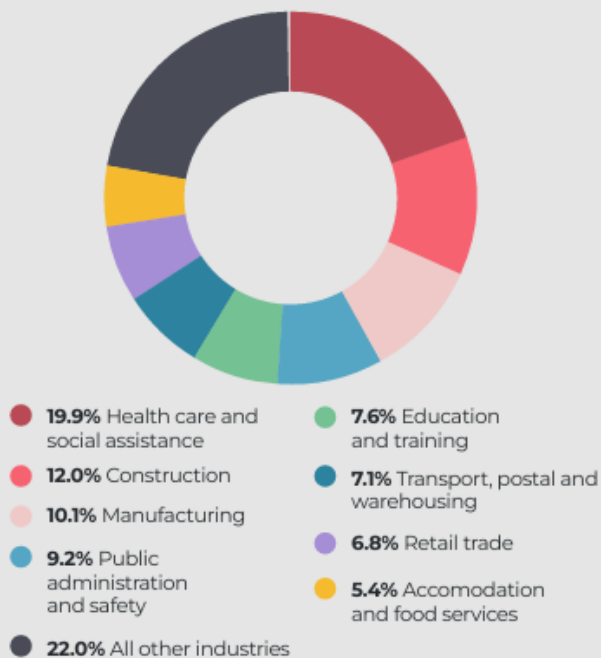
Tue 17 Jun

Emerging WHS Hazards

Index of serious claims, by Nature groupings, 2013-14 to 2023-24p



Serious claims by most common industry divisions, 2023-24p



Work-related injuries and illnesses are concentrated in certain parts of the labour market.

In 2023-24p, the 4 industry divisions¹³ with the largest number of serious claims accounted for half (75,100 or 51.2%) of all serious claims, despite representing 36.3% of filled jobs covered by a workers' compensation scheme.

Incoming Approach to NDAs

Complainant Control

Can terminate NDA after 1 year

Must be signed voluntarily

Clear Information & Review

Plain-language NDA + information statement

21-day review period

Disclosure Rights

Legal/medical/mental health professional

Family/friends (confidential)

Ministers of religion

Police

Tribunals

Scope

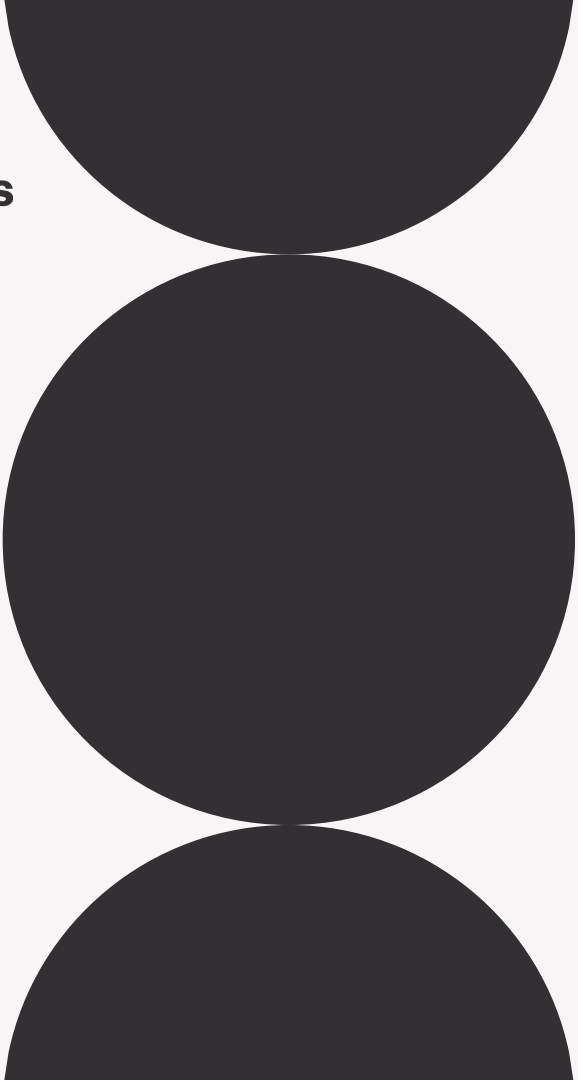
Applies only to sexual harassment

NDAs cannot block investigations or disclosure to future employers

Enforcement

Complainants can issue a breach notice

Employer must respond in 30 days or NDA becomes unenforceable



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The Year in Review - what we know now

2025 Cases

***There is no ignorance, there is
knowledge. There is no fear,
there is courage (Jedi Code)***

Servin v State of Queensland (Department of Transport and Main Roads) [2025] QIRC 275

Write everything as though it will be sent to the Jedi Council

Facts

- A senior OIR Principal Inspector sent an email inviting colleagues to join him on the “Rebel base” management couldn’t reach.
- OIR later examined his laptop and discovered both the email and a trove of Signal messages containing:
 - Plans to “bombard” HR with nuisance requests.
 - A Jabba-the-Hutt meme about a female executive director.
 - Messages saying he would “bitch-flog” her and queries about using a “4x2 with rusty nails”.

Findings

- Messages were not private: “Messages are only private until they are shared or found.”
- The conduct was not a one-off lapse: messaging spanned weeks and escalated.
- As a senior OIR inspector tasked with ensuring safe workplaces, he should have known such conduct was unacceptable.

Key Takeaway

- “Private” messaging is not a defence

Jenkins v State of Queensland (Department of Justice) [2025] QIRC 237

Always document any performance management

Facts

- A senior legal officer in the Queensland Department of Justice had been engaged on successive short-term contracts, extended eight times over two years.
- Under the *Queensland Public Sector Act*, reaching two years triggered a formal review of his non-permanent status (section 115).
- Despite repeatedly extending his contract, the department refused to convert him to permanency, citing “unsuitability”.

Findings

- Permanent employment is the default under the RNPE directive.
- To refuse conversion, performance issues must be documented, unresolved, and put to the employee in writing.
- The refusal to convert was not fair and reasonable and breached procedural fairness.

Key Takeaway

- Lack of documented performance processes is fatal
- Email corrections and routine supervisory guidance are not “performance management”
- Employers must follow the mandatory requirements in the RNPE and PPM directives

State of Queensland (Queensland Health) v Nield [2025] ICQ 21

Facts

If it's sensitive, protect it

- A nurse emailed confidential patient information to her personal email address.
- She said she did this to gather evidence to support complaints she intended to make about her manager to senior nursing leadership.
- Queensland Health began misconduct proceedings and proposed demotion.

Findings

- The seriousness of sending patient information to a private, uncontrolled device was not properly weighed.
- Misconduct does not require subjective knowledge of wrongdoing - The nurse's actions breached confidentiality, regardless of whether she meant to.

Key Takeaways

- Misconduct does not require deliberate wrongdoing
- Confidentiality policies should be STRICTLY enforced

Mr Luke Wilson (nee Miller) v Services Australia [2025] FWC 3328

When an employee is heading for the Dark Side, don't push them further

Facts

- A Services Australia acting senior project officer became distressed due to work conflict.
- He lodged a workers' compensation claim, raised complaints, and—while in crisis—resigned.
- Services Australia treated the resignation as voluntary, even contacting his doctor to check he was “of sound mind”.
- He filed an unfair dismissal claim, arguing he had no real choice but to resign.

Findings

- Employer treated his “ostensible resignation” as final without waiting to confirm genuine intent.
- His state of mind and financial pressure meant he had no real or effective choice but to resign.
- Therefore, his resignation amounted to a dismissal at the initiative of the employer.
- The dismissal was harsh, given his previous positive performance when well.
- Compensation awarded: \$33,348.62 plus super.

Key Takeaways

- When an employee is noticeably struggling with their mental health consider reducing engagement, providing space, using structured and supportive processes, and avoid treating crisis-driven communications as genuine resignation.

Vixon Kumar v Star Track Express Pty Ltd [2025]

FWC 2719

If safety breaches 'strike back,' make sure your policies are strong enough to win the final battle.

Facts

A StarTrack Express freight handler (and TWU delegate) was summarily dismissed after three safety-related incidents, all recorded on CCTV:

1. Throwing freight into a metal bin and ignoring supervisor directions to stop.
2. Operating a pallet jack carrying a 1.2-tonne load in a dangerous, uncontrolled, and reckless way.
3. Taking unauthorised video of colleagues.

Findings

- His claim of inconsistent treatment (others throwing small parcels) was rejected as not comparable.
- Unauthorised filming breached policy and contributed to valid reasons for dismissal.
- Despite long service and age, the dismissal was not harsh, unjust, or unreasonable. Unfair dismissal application was dismissed.

Key Takeaways

- Zero-tolerance must be backed by consistent enforcement; Robust investigation = your strongest defence

QLD Government prosecutions

"Much to learn, you still have."

Exposure to deadly gas

Category 2 prosecution for failing to implement processes for detecting and controlling toxic gas

Contractor engaged to perform work on underground water supply pipe - flow of water was shut down for works, but some chlorine-treated water remained in the pipe, as there was no documented procedure for isolating, tagging or locking out the water and chlorine gas valves, or a process for testing the pipe prior to repairs

WHS undertaking - minimum \$450,000 spend

Worker struck by fallen tree limb

Category 2 prosecution for failing to develop and implement safe work procedure and requiring workers to wear PPE

Three workers attended the site of fallen tree and developed a 'plan of action' - while being cut up, the trunk rolled and struck one of the spotters in the face, both of the spotters having been in the exclusion zone and not wearing hardhats

Fined \$60,000

Key Takeaways

- Despite how experienced and qualified workers may be, documented procedures are always a necessity

Cobar Management Pty Ltd - WHS undertaking

"The fear of loss is a path to the Dark Side."

Facts

Cobar charged with category 2 offence

Allegedly exposed workers to:

- High job demands (lack of staff; long working hours and demanding tasks; time pressures and time zone issues; inadequate rest opportunities; inadequate fatigue management)
- Lack of role clarity (lack of project coordination and resourcing; arrangement of meetings at short notice that clashed with other commitments; lack of clarity on future work; and lack of clarity regarding managerial responsibility)
- Poor support from supervisors and managers
- Poor organisational justice

Outcome

WHS undertaking - minimum \$1,031,060 spend; implementation of 25 rectification measures; public notice regarding breach

Key Takeaways

- Consistent oversight of and communication with staff is imperative to prevent psychosocial risks arising

Harassment prosecutions

"Fear is the path to the dark side. Fear leads to anger. Anger leads to hate. Hate leads to suffering."

Oz 22 Painting Pty Ltd

Company found guilty of breaching s 26 of OHS Act (Vic) after director's husband spent two months harassing a new employee for attention and massages

Fined \$90,000 plus \$6,792 in costs

One Two Electrical Pty Ltd

Director pleaded guilty to a breach of s 26 of OHS Act (Vic) after he sexually harassed the apprentice electrician, who was 20 at the time, through unwelcome conduct of a sexual nature that included suggestive comments or jokes, intrusive questions about her private life and body, unnecessary contact, and sexually explicit gestures

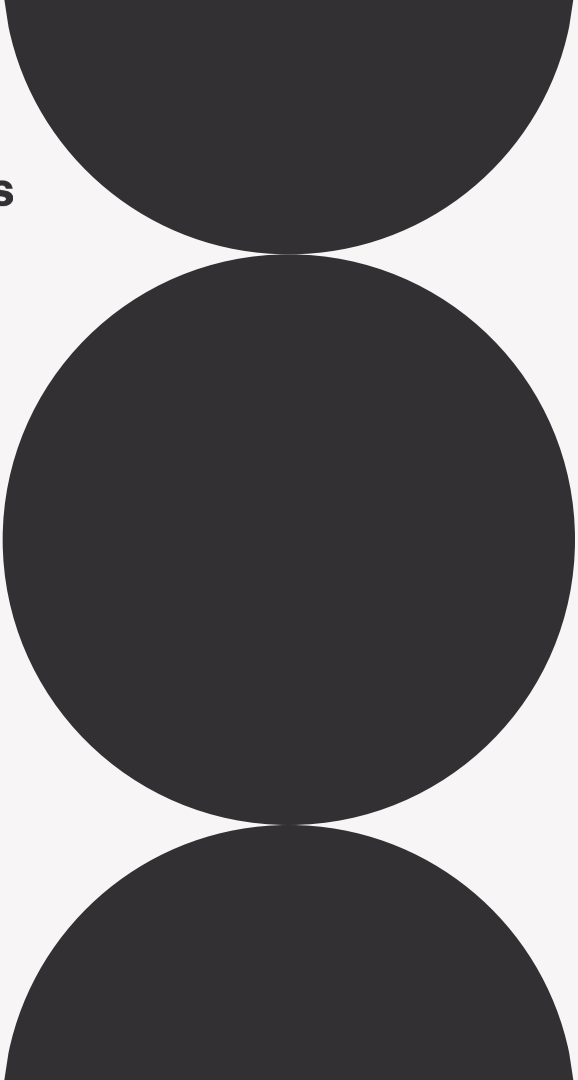
Director fined \$15,000, plus \$3,000 in costs

Failures

Both cases involved failures to have appropriate policies and procedures in place, and to implement same

Key Takeaways

- Ensure that appropriate policies and procedures are in place, that staff are trained in same, and that staff comply with same



**Colin
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& Paisley**

***Do. Or do not.
There is no try.
Yoda***

**Getting the
balance right**

Much to learn, you still have (Yoda)



Human Rights

58 Conduct of public entities

- (1) It is unlawful for a public entity—
- (a) to act or make a decision in a way that is not compatible with human rights; or
 - (b) in making a decision, to fail to give proper consideration to a human right relevant to the decision.



ACT Legislation Register

40B Public authorities must act consistently with human rights

- (1) It is unlawful for a public authority—
- (a) to act in a way that is incompatible with a human right; or
 - (b) in making a decision, to fail to give proper consideration to a relevant human right.

Victorian Legislation

38 Conduct of public authorities

- (1) Subject to this section, it is unlawful for a public authority to act in a way that is incompatible with a human right or, in making a decision, to fail to give proper consideration to a relevant human right.

Key Takeaways

Ensure adequate supervision and management of employees

Treat employee mental health like a psychosocial hazard

Review your record keeping policies and procedures

Follow your policies and procedures carefully - ensure training

Build human rights considerations into decision-making

Key Takeaways

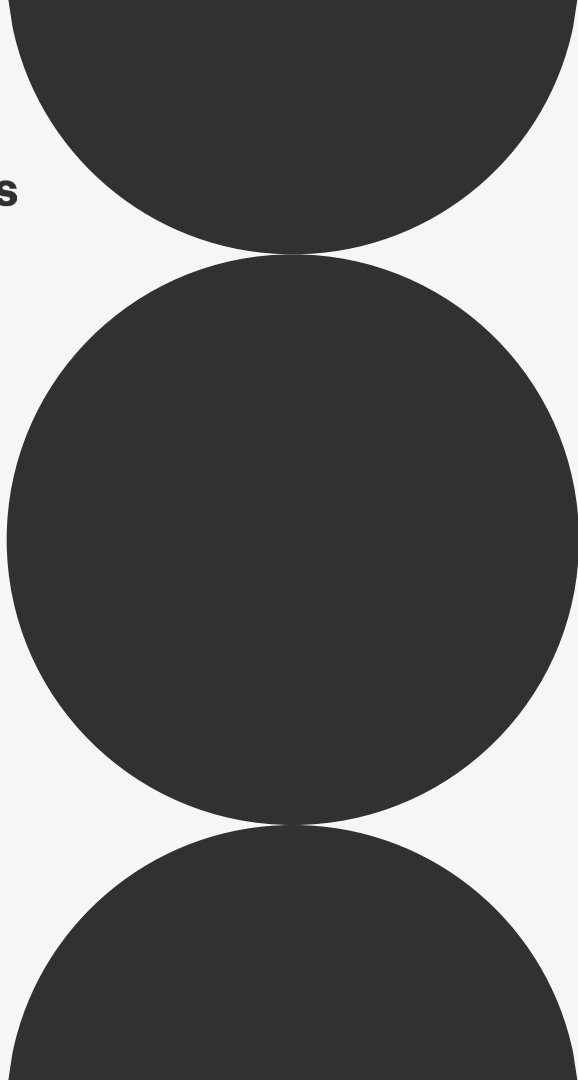
Update investigation policies and procedures

Act promptly in response to complaints/grievances

Investigate when necessary, and consider response to report

Flexible working - consider risks and respond promptly

Consider specific risks of each workplace



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Questions

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Thank you.

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