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HR Highlights Series.

End of year wrap up

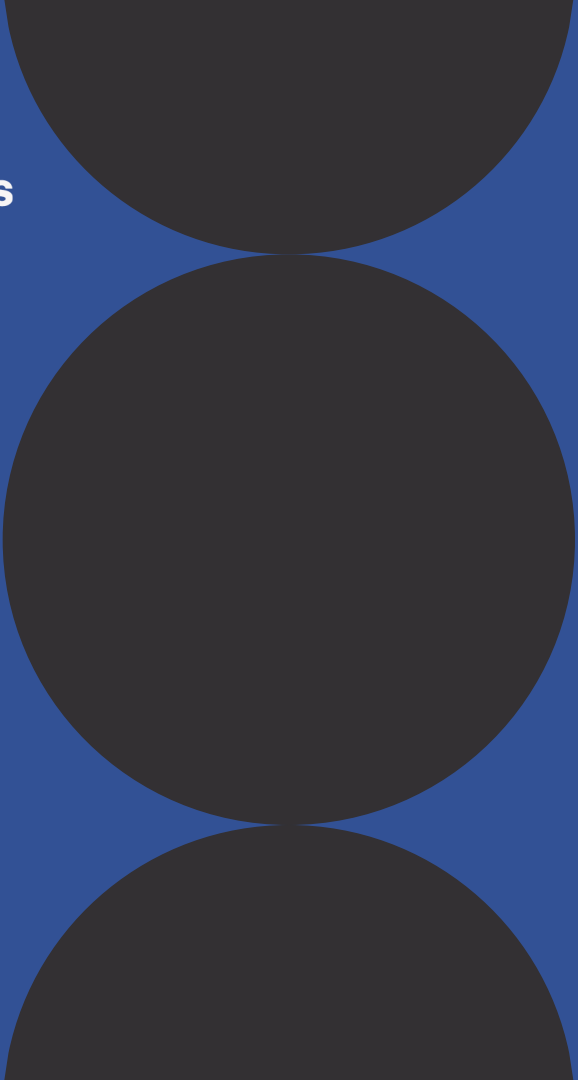
Kristen Lopes & Megan Kavanagh



Agenda



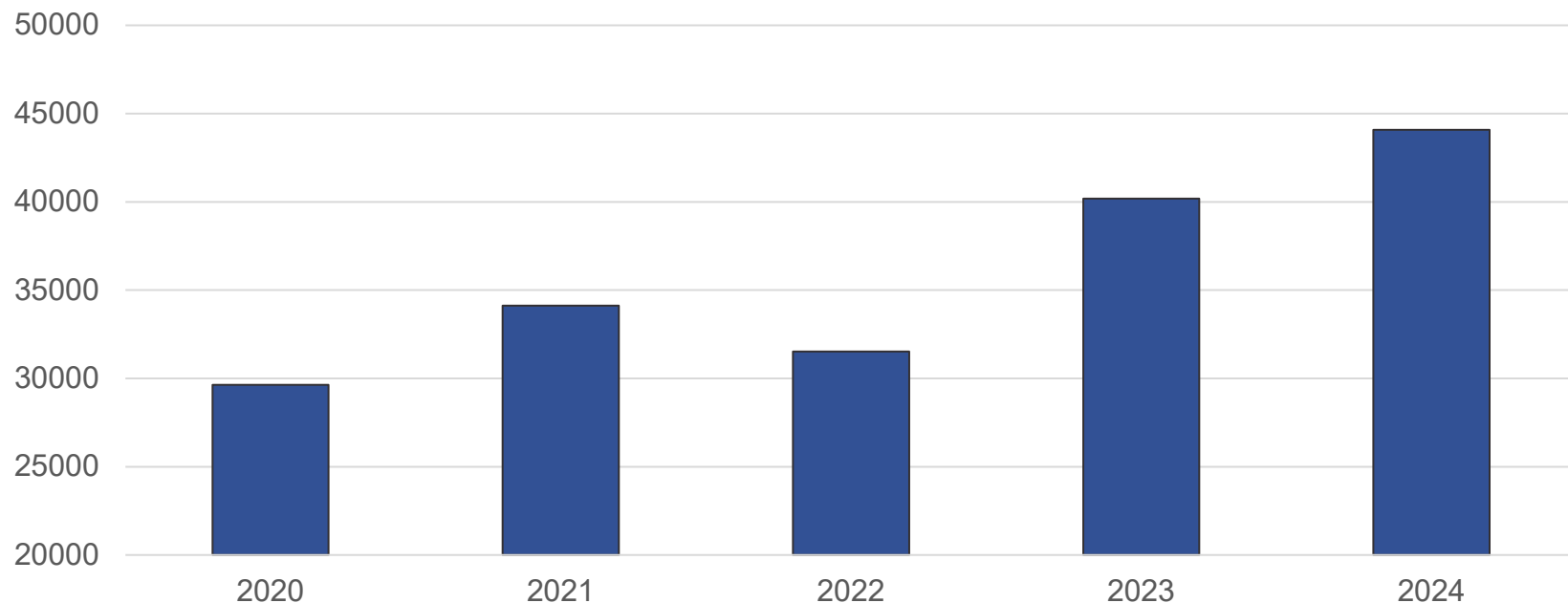
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Compliance Trends.

Total FWC Lodgements Over the Years



Recent Fair Work Trends

FW Act	2021-2022	2022-2023	2023-2024	2024-2025
Unfair Dismissal (s 394)	13,096	11,012	14,772	16,500
General Protections - involving dismissal (s 365)	5,010	4,964	5,477	6,209
Stand Down Dispute (s 526)	164	22	20	22
Unlawful Termination Dispute (s 773)	141	141	127	138
Order to Stop Bullying (s 789FC)	602	681	883	1,037
Order to Stop Sexual Harassment (s 789FC)	5	11	9	7

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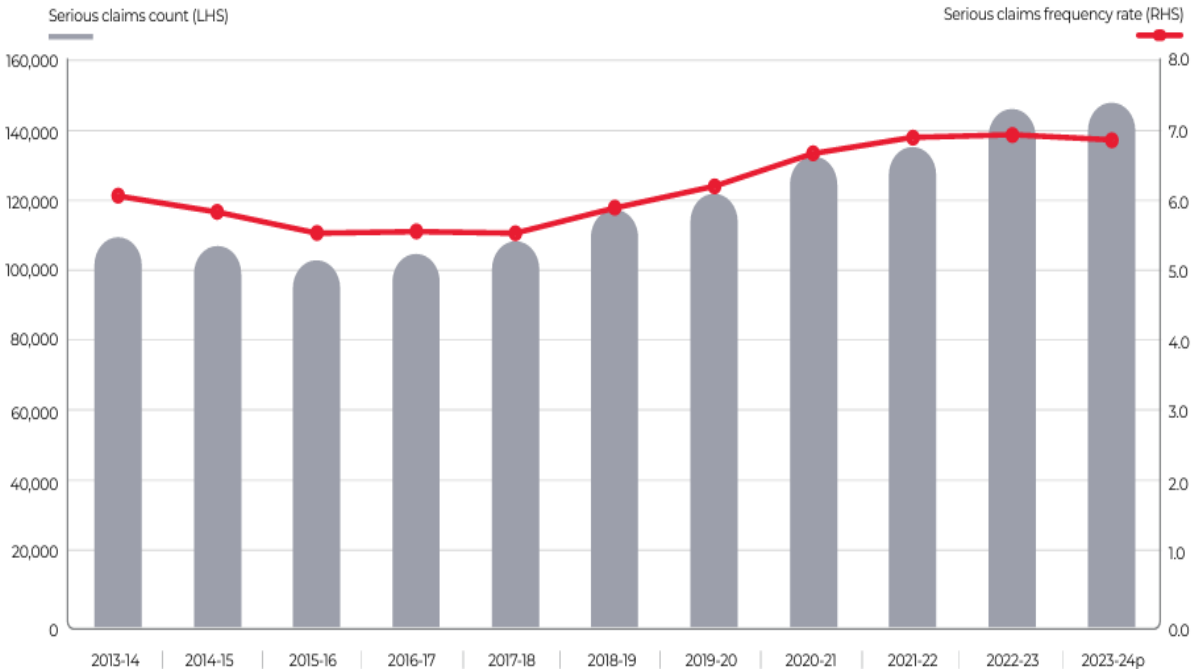
FW Act	2021-2022	2022-2023	2023-2024	2024-2025
Enterprise Agreement Applications (s 185)	4,125	3,892	4,494	4,058
Flexible Work Arrangement Disputes (s 65B)	*	6	207	306
General disputes (s 739)	1,574	1,257	1,213	1,458
Application for WHS entry permit (WHS Act s 131)	39	36	63	64
Industrial Disputes	52	67	69	*

Industrial Action On the Rise

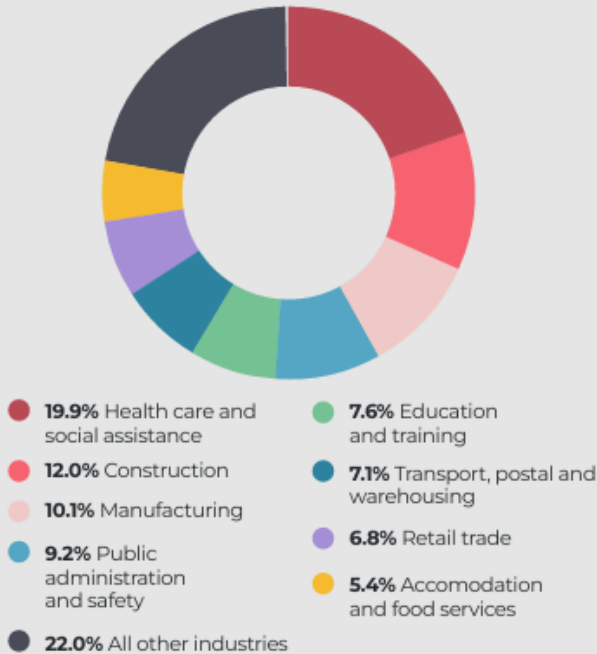


Work Related Injury and Illness

Serious claims count and frequency rate, 2013-14 to 2023-24p



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

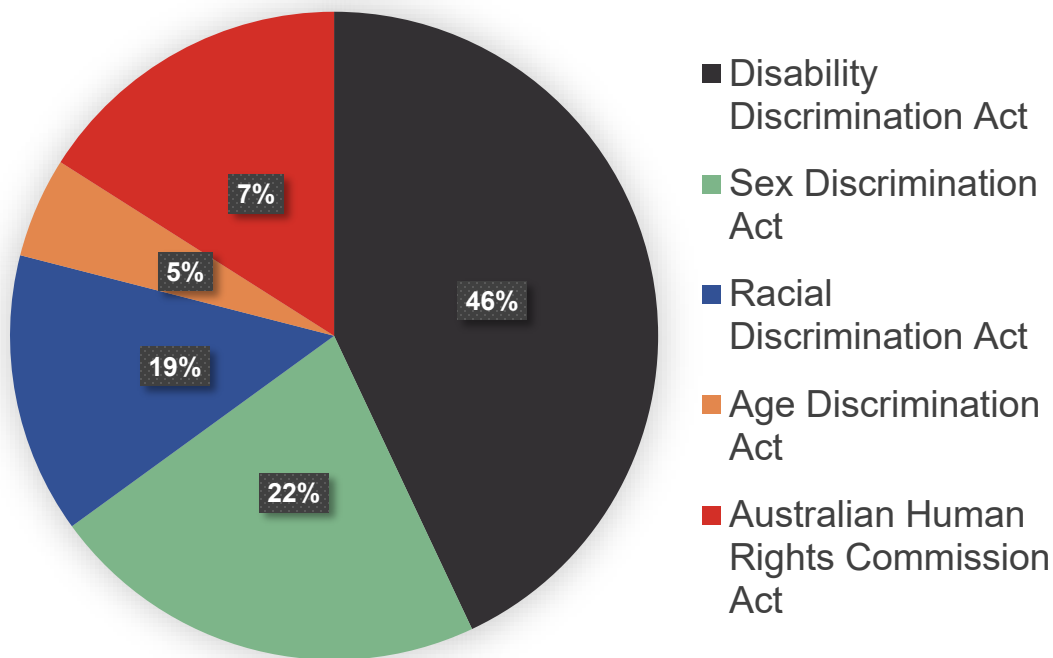


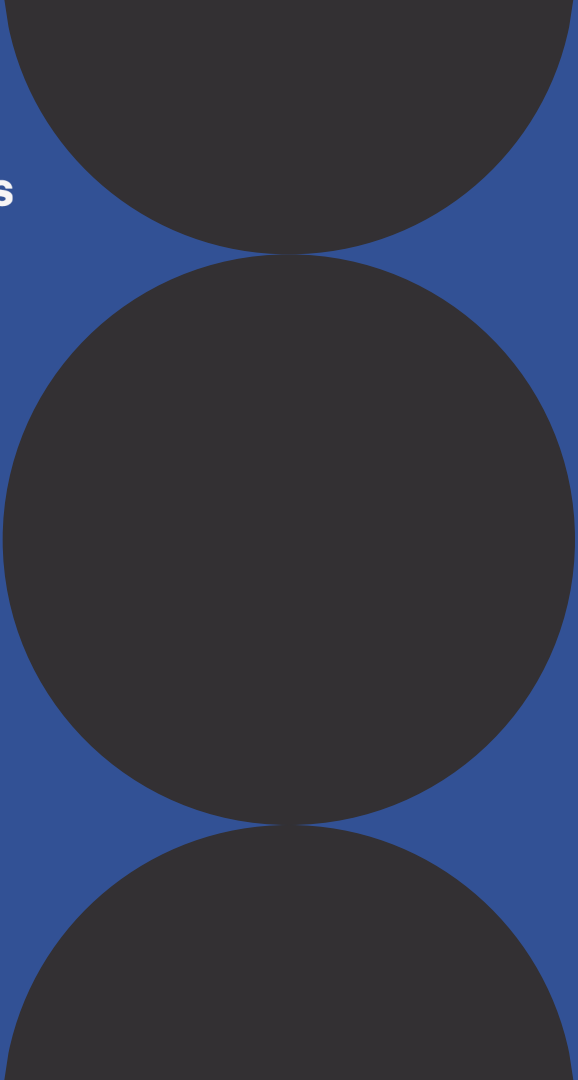
Work-related injuries and illnesses are concentrated in certain parts of the labour market.

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.

AHRC Discrimination Statistics

State of origin	No.	Percentage
NSW	944	35%
VIC	448	17%
SA	170	6%
WA	379	14%
QLD	582	21%
ACT	59	2%
TAS	44	2%
NT	57	2%

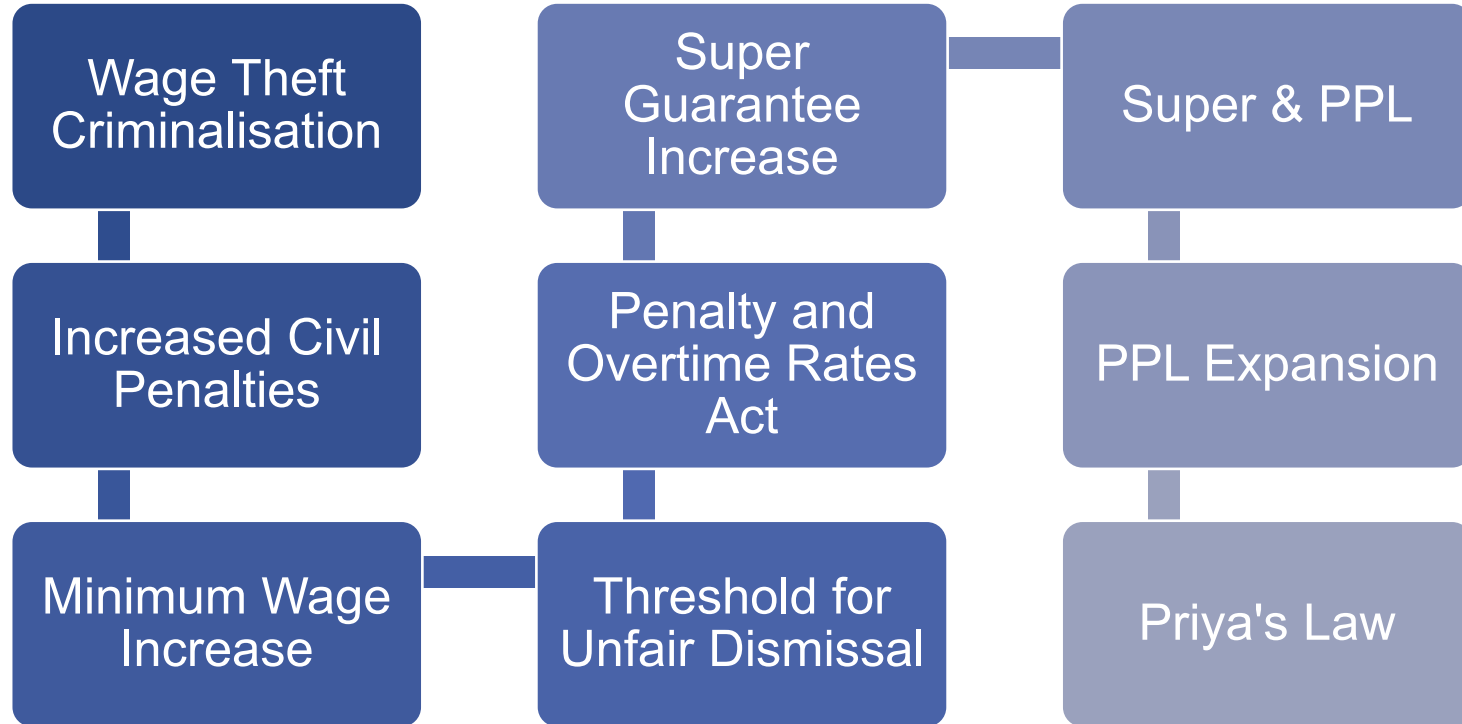




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Legislative Reform.

Wages, Pay & Entitlements



Employment Types & Working Arrangements



Casual Employment Pathways



Enterprise Agreement Model Terms



Regulated Worker Protections



Right to Disconnect



Work From Home Clause

Workplace Health & Safety



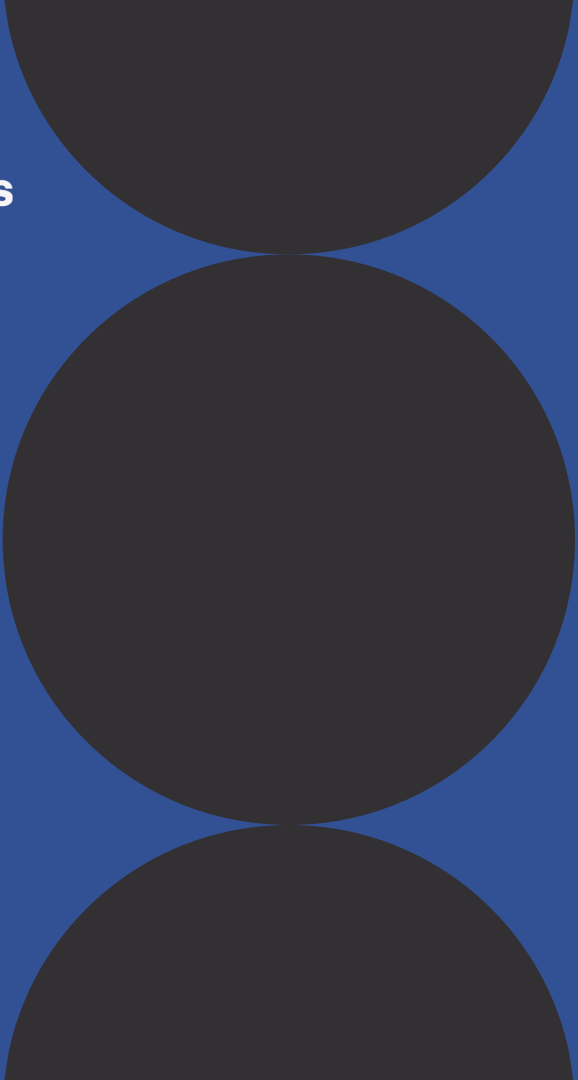
Proactive Prevention of Sexual
Harassment and Sex or Gender-
Based Harassment

Sexual Harassment Prevention
Plans



Anti-Vilification Protections

Victorian Psychosocial Regulations



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**Landmark
Decisions.**

James Crafti v Cohealth Limited [2025] FWC 3285

Peeking under the veil of legal professional privilege

Dismissed worker challenged their termination and applied to the FWC to obtain the full investigation report. Cohealth refused, claiming legal professional privilege.

Issues:

1. Whether the dominant purpose of commissioning the investigation was to obtain legal advice, and
2. Whether cohealth had waived privilege by revealing parts of the report in its correspondence to the worker.

The Commission found that Cohealth waived their privilege by revealing too many details in the results letter and ordered Cohealth to produce the external investigation report to the worker.

Key Takeaway:

Establish privilege over your investigations, BUT! Ensure your processes are squeaky clean regardless.

Hayley Lord v Millet Hospitality Geelong Pty Ltd

AI is not your HR manager yet

[2025] FWC 2740

Redundancy email drafted with the help of ChatGPT, stated worker's position "would be removed effective June 26" and offering potential alternative roles (e.g. part-time or casual).

Findings:

- Consultation obligations breached.
- Redundancy not genuine.
- Dismissal unfair.

Remedy:

- One week's compensation (\$1,162), plus super.
- Commissioner noted that even with proper consultation, her employment would have only continued for one additional week.

Key Takeaways:

- Follow consultation requirements and treat employees with decency.
- Using AI tools like ChatGPT to draft sensitive communications does not excuse poor HR practices.

Magar v Khan (Mad Mex) [2025] FCA 874

Impotency is not an excuse

Ms Magar was an employee of Mexicali Enterprises Pty Ltd, a franchise of Mad Mex Franchising Pty Ltd, owned and controlled by Mr Khan.



Allegations of discrimination on the basis of sex and sexual harassment.



Awarded Ms Magar \$305,000 in damages plus costs.

Key Takeaway: Zero tolerance is the standard

Coles & Woolies Case

[2025] FCA 1092

Underpayment is expensive

Facts:

- The Fair Work Ombudsman (FWO) (and class-action claimants) initiated a claim against Woolworths and Coles.
- Alleging historical underpayments to “salaried store team leaders” / salaried managers who were covered by the General Retail Industry Award 2010 (GRIA).

Findings:

- Employers must pay all entitlements (overtime, penalty rates, allowances, etc) within each relevant pay period, and accurate employment records are required.

Key Takeaways:

- Conduct regular payroll audits
- Be vigilant, know your legislative requirements

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Where To From Here?

How Can We Respond?

Know your record keeping requirements (review the FWA)

Review your pay records

Conduct regular pay roll audits

Review your investigation process and procedures

Consider carefully what you let AI help you with

Consider what standard you set for discrimination and how you can improve it

Pay Roll Changes



From **1 July 2026**:

- employers must pay superannuation guarantee at the same time as salary and wages;
- employers will be liable for the superannuation guarantee charge if the amount is not received by the super fund within 7 business days of payday; and
- super funds must improve their error messages to ensure employers can better understand why a super contribution was rejected and what needs to be done to rectify the same.

Banning Non-Compete Clauses

Non-Compete Clause: Restricts employees from working for competing businesses or starting their own competing ventures for a period after they leave their current job.

Will apply to workers earning less than the high-income threshold.

The government is also looking to close loopholes in competition law that currently allow businesses to:

- Fix wages by making anti-competitive arrangements that cap workers' pay and conditions, without the knowledge and agreement of affected workers.
- Use 'no-poach' agreements to block staff from being hired by competitors.



Protecting Business Interests

Consider the Privacy Act:



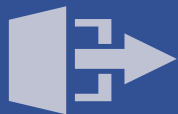
Client & contact lists contain personal information → must be secured under Australian Privacy Principle 11.



Access controls, monitoring & training now explicitly part of compliance obligations.



Audit trails and restricted access support both privacy compliance and protection of commercial information.



Privacy Impact Assessments and clear exit protocols help prevent data misuse when staff leave.

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Some Final Tips.

Key Takeaways

Look at your record keeping requirements in FWA & Privacy Act

Update confidentiality policies and standards

Keep an eye out for information on upcoming reforms

Be careful with what you trust AI with

Regularly review your policies and procedures

If something happens, act quick (notify insurance, get advice)

Presenters.



Kristen Lopes

Partner | Employment & Safety
Sydney



Megan Kavanagh

Partner | Employment & Safety
Brisbane

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Thank you.

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