

Workplace relations

Solicitors can help in understanding workplace rights and obligations and to resolve workplace relations disputes. If you have a wage dispute, return to work or leave issue, dismissal, bullying or other problem, your solicitor can work to achieve practical resolutions and can represent you in court action if necessary.

Rights of workers

All businesses and organisations depend on their people. Our jobs are an important part of our lives. There are many laws that regulate the modern workplace relationship, primarily for employees but also for contractors. Private sector and some public sector employees are covered by the *Fair Work Act 2009* (Cth). Most state government employees are covered by state industrial legislation.

In both cases, the employment relationship is subject to:

- legislative minimum terms and conditions (eg annual leave)
- applicable industry/occupational awards (eg overtime conditions)
- applicable enterprise agreements
- individual common law contracts
- employer policies.

It's important to understand workers' rights and obligations under these often overlapping requirements.

Unfair dismissal

Employers should comply with unfair dismissal laws when terminating a person's employment. Dismissed employees may be able to bring a statutory unfair dismissal claim when a dismissal is procedurally and/or substantively unfair and certain jurisdictional requirements are met. An employee may be able to obtain reinstatement and/or capped compensation for loss of income.

There is a time limit of 21 days from the date of dismissal to commence an unfair dismissal claim.

General protections and discrimination

Employees also have legal rights of action for discrimination at work and breaches of 'general protections' rights (eg the right to make a complaint or enquiry in relation to employment). Workers may be able to take action under these provisions, not just for termination of employment but for any 'adverse action' taken against them.

There is a time limit of 21 days from the date of dismissal to commence a dismissal based general protections claim. Discrimination complaints must generally be commenced within 12 months.

Workplace bullying

It's important to address workplace bullying as it occurs. Making an internal complaint can be part of the process. If it does not address the bullying, then both private sector and public sector employees have several legal avenues open to them, including making application for stop bullying orders.

Other workplace issues

Contracts of employment are still important, particularly for employers. They can address issues such as post-employment restraints, confidentiality and above award condition. A breach of an employment contract can be addressed by action in the common law courts.

Industrial awards and enterprise agreements can also contain wide ranging dispute resolution provisions including possible mediation and referral to an industrial commission for resolution.

Solicitors can assist with advising about workplace arrangements, preparation of policies, disciplinary action and termination of employment.

Contractors

In the modern workplace, contractor work is increasingly common. Contractors have legislative rights of action in addition to contractual rights, such as general protections and sham contracting rights.

Why use a solicitor

Many solicitors are experienced in advising and assisting their clients to resolve workplace relations issues. Queensland Law Society keeps a list of solicitors who are practising in this area and a list of accredited specialists in workplace relations. A solicitor can guide you through this difficult area, whether it is in providing advice, assisting with document preparation, helping to resolve workplace disputes or taking legal action.

Useful links

- Fair Work Commission
fwc.gov.au
- Fair Work Ombudsman
fwo.gov.au
- Australian Human Rights Commission
ahrc.gov.au
- Queensland Industrial Relations Commission
qirc.qld.gov.au
- Anti-Discrimination Commission Queensland
adcq.qld.gov.au

Queensland Law Society

Contact us

1300 367 757

info@qls.com.au

Law Society House

179 Ann Street, Brisbane Qld 4000

GPO Box 1785, Brisbane Qld 4001

The information in this brochure is merely a guide. It is not meant to be a detailed explanation of the law and it does not constitute legal advice. Queensland Law Society recommends you see your solicitor about particular legal concerns.