

QUARTERLY NEWSLETTER

Vol.4, 2009

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FROM THE DIRECTOR

Workplace Bullying – Address it now!!

Twelve months ago in our newsletter we talked about the seriousness of workplace bullying. Since then have worked with a number of organisations to develop and implement workplace bullying policies and processes. However, it appears industry is simply not doing enough. In early December Melbourne was shaken by news of the death of a 19 year old waitress who was being bullied at work.

Bullying has now become very topical in the media and the extent of it is now more recognised as a major and public concern.

What many employers fail to understand is that they don't have to be directly involved or aware of an incident to be liable. They can be prosecuted for an incident that happens between other staff members as well as for not providing employees with adequate information and training.

Workplace bullying is defined as repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. Commonly, behaviour that offends,

humiliates, intimidates or undermines a person.

The following types of behaviour could be considered Workplace Bullying (where repeated or part of a pattern of behaviour):

- Verbal abuse;
- Excluding or isolating employees;
- Psychological harassment;
- Intimidation;
- Assigning meaningless or impossible tasks unrelated to the job;
- Deliberately withholding information that is vital for effective work performance.



Management of Workplace Bullying is not intended to diminish any managerial prerogatives to direct or control how work is undertaken and does not cover instances of performance management process or disciplinary action. Reasonable actions performed in a reasonable way are not bullying.

Prevention is the key and therefore organisations need to have well developed policies and procedures in place outlining prevention strategies, training, incident reporting and investigation, and resolution processes.

Policies and procedures must be developed consultatively.

Risk Strategies works collaboratively with employers to ensure they understand their rights and fulfil their obligations.

For assistance in preventing or managing bullying in your workplace contact us.



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Nanoparticles: The unknown unknowns

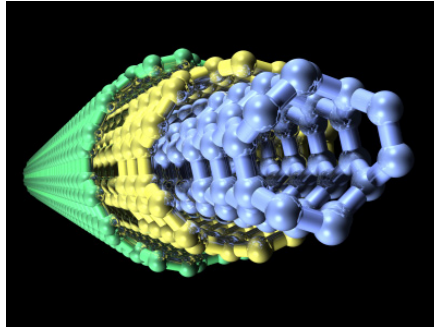
Nanoparticles are particulate materials with at least one dimension of less than 100 nanometres (nm). By comparison, a human hair is approximately 70,000 nm in diameter, and inspirable asbestos particles are typically 5,000 nm in size.

Properties of existing materials can be radically altered through the use of nanoparticles. New materials can also be produced.

Nanotechnology, the science of making and using nanoparticles, is expected to lead the main technological innovations of the next 20 years. Global expenditure on research and development in this field is increasing almost tenfold year on year at present.

New materials made up of, or containing nanoparticles are already used in construction of space vehicles, and are being used or their use explored for many more common products including foods and clothing. Nanoparticles include carbon nanotubes, metal nanowires, semiconductor

quantum dots and other nanoparticles produced from a huge variety of substances.



There is a need for informed debate as the potential upsides and downsides in their deployment are great. Responsible development of any new materials requires that risks to health and the general environment associated with the development, production, use and disposal of these materials are addressed. This is necessary to protect workers involved in production and use of these materials, the public and the ecosystem.

At present we don't know what we don't know. There is research being done. Safe Work Australia have recently release two research reports on engineered nanomaterials. At present the research suggests some health effects from carbon nanotubes for example but this is far from quantified. We do know that nanoparticles can potentially travel deep into our lungs and migrate through our skin. Research has also begun looking at potential social and environmental impacts. The area is complex and the implications enormous. Your risk management approach must be adaptable to the availability of new knowledge, changing circumstances and include contingency plans for dealing with a wide variety of potential consequences. It is an area that we all need to be attuned to.

For further information, contact Risk Strategies on 03 98638401 or at riskstrategies@riskstrategies.com.au.

On Harmonised OHS Legislation

Despite ACTU's ongoing concerns, the Workplace Relation Minister's Council has enacted the "agreed" model OHS Act. The Safe Work Australia Council signed off on the draft harmonised laws mid December, and voted to present them to the workplace relations ministers for approval.

At a WRMC meeting in Melbourne, all states and territories, apart from Western Australia, agreed to enact the legislation. Julia Gillard was quick to play down Western Australia's reluctance to accept the proposed model Act. "Importantly, Western Australia has agreed to continue to aim for national harmonisation of occupational health safety laws and continue to participate in Safe Work Australia," she said.

Safe Work Australia members signed off on the draft harmonised OHS Act prior to

presenting it to the workplace relations ministers for approval.

Some 480 submissions were received following the 6 week period of public comment of the draft model legislation in September 2009. These have informed a host of amendments.

Some of the amendments included:

- the adoption of a definition of "officer" in accordance with the Commonwealth Corporations Act 200, and a definition of "due diligence" to clarify officers' duties;
- a duty for the persons conducting a business or undertaking (PCBU) to consult not only with workers, but with other duty holders who have a duty in relation to the same matter;
- the removal of union-right-of-entry

requirements which are already prescribed under the Fair Work Act 2009;

- penalties for non-duty-of-care offences for corporations ranging from \$10,000 for minor administrative breaches to a maximum \$500,000 for serious breaches; and
- dropping the term "occupational health and safety" wherever it used within the draft provisions in favour of "work health and safety".

The SWA Council also agreed to establish a "strategic issues group" charged with guiding and advising on planning and policy development for the harmonisation of workers' compensation laws.



Risk Management in Franchising

As an employer, you are responsible for the health, safety and welfare of your employees while they are at work. Although this is generally an accepted fact for franchisees, not many truly understand their obligations and how to adequately fulfil these requirements.

Being in a franchise arrangement does not lessen the health and safety obligations of businesses. In general, businesses in franchise arrangements have the same obligations and responsibilities as any other business in the state or territory. What is at times confusing in this business model is where the responsibility for OHS lies. Is it the franchisee who employs people or the franchisor, who potentially defines systems of work, prescribes which equipment is to be used and imposes the review and monitoring regime.

A good case study to illustrate this is the Pizza Hut's prosecutions of 2002-2003. Rozman Holdings Pty, a franchisee of Pizza Hut outlets, was charged and pleaded guilty to failing to provide a safe working environment and failing to provide safe plant and systems of work following an incident where a 15 year old employee's hand was caught in a dough rolling machine causing her to sustain permanent injuries. Rozman Holdings Pty was convicted and fined \$10,000.

The owner of the Australia wide franchise of Pizza Hut, Yum! Restaurants Australia Pty Ltd was consequently charged, pleaded guilty, and were fined \$15,000 for a breach of occupational health and safety laws. Yum! Restaurants was charged because it was deemed to have occupational health and safety obligations through its franchising arrangements with Rozman Holdings. The arrangement determined the type of equipment to be used and specified preventative maintenance schedules.

The repairs to the equipment were estimated to cost \$1,800 and it was reported that Yum! Restaurants had been aware of the faults with the machine dating back to 1991 and similar faults were also found with the dough rollers at other Pizza Hut outlets. Yum! Restaurants stated they had warned the outlets including Rozman Holdings Pty to take action about the faulty equipment, however had not followed through.

Understanding health and safety legislation and obtaining guidance is important as the franchising agreements are generally silent on the subject and Operations Manuals provide limited information, if any.



Health and safety legislation always takes precedence over the franchise agreement. Each state and territory in Australia has an Occupational Health and Safety Act that outlines the duties of all those involved, including the employer, occupier, suppliers, manufacturers and employees.

Although injury prevention may feel like yet another extra cost on your business and an overwhelming exercise, not implementing injury prevention strategies can result in even more costly outcomes. Achieving compliance in OHS need not be

complex or overwhelming. A good place to start is to gain an understanding about what the requirements are for you as the employer or the employee.

With years of experience in the franchising industry, Risk Strategies can assist you to fulfil your responsibilities under the OHS legislation by assessing your current systems and arrangements and supporting you in improving and closing the gap.

For further information, contact Risk Strategies on 03 98638401 or at riskstrategies@riskstrategies.com.au.



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ENVIRONMENTAL MANAGEMENT

EEO – Important Deadline Approaches

The Commonwealth's Energy Efficiency Opportunities program applies to corporations in all sectors of the Australian economy and encourages large energy-using businesses to improve their energy efficiency. Participation in Energy Efficiency Opportunities is mandatory for corporations that use more than 0.5 petajoules (PJ) of energy per year.

For corporations participating in the Energy Efficiency Opportunities program the following important compliance deadlines approaches:

Reporting

2005-06 trigger-year participants

2005-06 trigger-year participants are reminded that their second Public Reports are due for publication no later than 31 December 2009.

2006-07 trigger-year participants

2006-07 trigger-year participants are reminded that their first Public and Government Reports are due for publication/submission to the Department no later than 31 December 2009.

Assessment & Reporting Schedule (ARS)

2007-08 trigger-year participants

2007-08 trigger-year participants are reminded that your ARS is due for submission to the Department no later than 31 December 2009.

If you are having trouble achieving these timeframes, contact Risk Strategies on 03 98638401 or at riskstrategies@riskstrategies.com.au.



Season's Greetings from Risk Strategies



We would like to take this opportunity to thank all of our clients, friends and partners for your support and ongoing dedication in the past year.

Risk Strategies will turn 5 in January 2010 and we are now not only walking steadily but running. With many large and interesting projects successfully completed and exciting prospects for the coming year, we look forward to continuing to work with our industry partners and providing superior quality service to our clients.

2009 was an exciting year for us – we now have a NSW presence and Susan Penfold, our new Principal Consultant, has been an invaluable addition to our team. Our set of skills is growing and capacity to deliver timely, efficient and quality service is better than ever.

Speaking of additions, there will soon be a pitter patter of little feet at Risk Strategies. We would like to congratulate our Senior Consultant Joanna Tedesco and her husband Peter on the impending addition to their family.

We wish the readers of our newsletter, our clients and partners and their families a very joyous and safe Festive Season and a happy and prosperous 2010! We look forward to working together next year!

Risk Strategies Team



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