



Partner

## Keta Roseby

Roberts Nehmer McKee Lawyers

### My Top Workplace Law Tips

Risks are an inherent feature of being in business but following these simple steps will genuinely and significantly reduce your legal risks of being an employer.

#### 1. Do your homework before recruiting.

Don't set yourself up for a claim! Ensure the candidate:

- can competently and safely carry out the duties of the position
- will be a good 'fit' within the culture of your workplace
- has clear expectations about what's required.

**2. Use written employment contracts.** Every workplace, no matter the size, should be using employment contracts for all employees to provide protection beyond the legislation. This puts in black and white the terms agreed to between you to remove any argument. Standard templates can be created for you to use for all your employees. Terms including warranties as to fitness for duty / compulsory medical examinations, set-off clauses for monies owed and suitable post employment restraints can all be incorporated.

#### 3. Create and enforce workplace policies.

Policies can cover key aspects of the relationship via a 'live' document that can be regularly revised and updated as needed. For example, personal leave notice and evidence requirements, drugs and alcohol, anti-bullying and harassment social media etc. Well written policies can significantly reduce the risks to an employer provided they are enforced and not just filed in the bookcase or, worse, bottom drawer.

**4. Communicate regularly.** If you have an open door policy you're far more likely to know about issues before they become a legal risk. Have that conversation you've been putting off hoping the problem will go away. Employees who feel they have been treated poorly can cause you significant damage and may look for avenues to seek 'revenge' via legal claims.

#### 5. Regularly evaluate employee performance.

You've incurred a significant cost in recruiting, inducting and training your new employee. It's in your interests to help employees 'stay on track'. If they are performing well, don't forget the obvious and tell them. If there is recent under performance, have a chat with them and discuss an action plan to get them

back on track. Please don't put your head in the sand and hope it will fix itself; it rarely does. If the under performance is longer term or more significant, disciplinary action may be required.

**6. Diarise the probationary period.** Make a conscious decision to consider the employee's ongoing employment with you before the probationary or minimum employment period expires. One day really can make all the difference.

**7. Keep good written records.** Make file notes of all major employment events, decisions, incidents and discussions and always have a second person as witness in any significant meetings with you. Think about the evidence that might be needed if things go pear shaped. Send yourself an email immediately following a discussion with an employee with details of what was said. It will show the date and time of the discussion, is quick and simple and easily filed. Trust me; you will thank yourself when your solicitor asks you for them.

**8. Make job-related decisions.** Always make decisions based on job-related criteria such as the duties required of the position and the employee's ability to perform those duties. Decisions based on the employee's personal attributes may expose you to claims including discrimination, unfair dismissal, unlawful dismissal and adverse action.

**9. Get the termination right.** Ensure you have a valid reason for dismissal and have followed due process ensuring natural justice. This step can be a risk in itself if not done correctly so please seek legal advice if you're unfamiliar with the law in this area.



ROBERTS  
NEHMER  
MCKEE  
LAWYERS

*Caring for the  
legal needs  
of North  
Queenslanders  
since 1881.*

RNM.COM.AU

BUSINESS & CORPORATE LAW  
LITIGATION & DISPUTE RESOLUTION  
FAMILY & DIVORCE LAW  
EMPLOYMENT LAW  
PROPERTY & CONVEYANCING  
ENVIRONMENT & DEVELOPMENT  
CRIMINAL DEFENCE  
WILLS & ESTATE PLANNING  
RETIREMENT LIVING & AGED CARE  
DEBT COLLECTION



Level 1, 111 Charters Towers Rd Hermit Park. Telephone (07) 4726 5000 Find us on 