

Sexual harassment claims in the spotlight

The high profile David Jones sexual harassment claim is a sharp reminder to employers of the perils of improper behaviour at work.

Yes, the AU\$850,000 settlement to the aggrieved employee was high - but it pales against the potential damage to large Australian retailer David Jones' reputation under the glare of the media spotlight. The playing out of this case in the media was an unusual aspect.

And, one day, it could happen here.

The message is clear. Employers need to review their sexual harassment policies, reporting and investigation methods to ensure that risks, issues and complaints are dealt with promptly and correctly. Appropriate policies and management training is important to ensure managers 'walk the talk'.

Identify and manage any potential or known areas of risk (even where formal complaints have not been raised) and consider methods of minimising their risk. These include: Christmas parties/other workplace functions where alcohol features; any parts of the organisation which may be known for having a culture of banter or rude jokes; and individuals against whom complaints, formal or informal, have previously been made.

Sexual harassment is widely defined by law and encompasses not only unwanted sexual advances, but also things like rude jokes, bottom pinching, flirting, comments about a person's appearance and 'banter' in the workplace. Many of these things are common in New Zealand workplaces.

The way in which all of the above are viewed is highly subjective. What one person may see as harmless fun, another could find unwelcome and offensive.

Christmas parties, where the line is sometimes blurred between



joking, friendliness and going too far, can provide an environment ripe for sexual harassment claims. Employers can be liable for the actions of their employees at the Christmas party - a timely reminder of appropriate behaviour is well worthwhile.

YOUR EMPLOYMENT CONTACTS



Scott Wilson

Partner

s.wilson@
DuncanCotterill.com



Raewyn Lovett

Partner

r.lovet@
DuncanCotterill.com



Ken Brotherson

Partner

k.brotherson@
DuncanCotterill.com



Mark Lawlor

Partner

m.lawlor@
DuncanCotterill.com



Aaron Dearden

Partner

a.dearden@
DuncanCotterill.com



Sarah Townsend

Associate

s.townsend@
DuncanCotterill.com



Kirsty Marshall

Associate

k.marshall@
DuncanCotterill.com

This newsletter provides general information and is not intended to be comprehensive or a substitute for legal advice. Legal advice should be sought before applying it to particular circumstances. Whilst care has been taken in the preparation of this newsletter, no liability is accepted for any errors. © Duncan Cotterill Lawyers 2010

www.DuncanCotterill.com