

Employment & Safety Alert June 2011

Criminalisation of bullying in Victoria

On 31 May 2011, the Victorian Government passed legislation to amend the *Crimes Act 1958* (Vic) (**Crimes Act**), the *Stalking Intervention Orders Act 2008* (Vic) (**SIO Act**) and the *Personal Safety Intervention Orders Act 2010* (Vic) (**PSIO Act**) to include behaviour which is typically associated with bullying.

Background

The legislation has been called 'Brodie's Law' in recognition of Brodie Panlock, a young waitress who committed suicide following a prolonged period of workplace bullying.

As a result of recommendations from the Coroner, the Victorian WorkCover Authority prosecuted three of Ms Panlock's colleagues, as well as the owner of the cafe in which she worked. The Magistrates' Court fined the employer and co-workers a total of \$335,000.

This case triggered public discussion about whether existing penalties were sufficient to prevent workplace bullying.

Legislative changes

The changes expand the existing definition of 'stalking' in the Crimes Act to include:

- making threats to the victim;
- using abusive or offensive words to or in the presence of the victim;
- performing abusive or offensive acts in the presence of the victim;

- directing abusive or offensive acts towards the victim.

The Act also prohibits a person from acting in any other way that could reasonably be expected:

- to cause physical or mental harm to the victim, including self-harm; or
- to arouse apprehension or fear in the victim for his or her own safety or that of any other person.

These definitional changes are reflected in the SIO Act and the PSIO Act. A person subjected to workplace bullying can seek a Stalking Intervention Order, or from 1 January 2012, a Personal Safety Intervention Order.

Effect of changes

The effect of these changes is that 'bullying' behaviour, which has traditionally been regarded as a breach of occupational health and safety legislation, may now also be reported to the Victorian Police for prosecution.

A person who is subjected to such behaviour may also seek an intervention order to prevent a person from engaging in this behaviour towards them.

Considerations for employers

All employers with operations in Victoria should ensure that their policies and training regarding workplace bullying are reviewed to refer to the increased seriousness of bullying conduct.

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