



HR Masterclass

Mitigating the risk of managing employees

Townsville, Queensland | 19 July 2023

Presentation partners:





Acknowledgement of Country

We respectfully acknowledge the Traditional Owners of the land and sea on which this event is taking place, and we recognise the Elders past, present and emerging.



Agenda

08.30 – *Arrival and Networking for 0845 start*

08.45 – *Introductions and Acknowledgement of Country*

09.00 – *Managing risk during performance and conduct processes led by Natalie Hope, Peak Services*

10.00 – Morning Tea & Networking

10.15 – *Managing PID & CCC complaints led by Troy Wild, Peak Services*

11.00 – *Legal Case Study: Medicinal Cannabis in the workplace led by Troy Wild, Peak Services*

11.30 – *Update on amendments to the Sex Discrimination Act 1984 (Cth) led by Natalie Hope Peak Services*

12.15 - *LGAQ Advocacy Update presented by Ellie Ackland, LGAQ*

12.45 - Lunch & Networking

13.30 – *Superannuation Update presented by David Macri, Brighter Super*

14.00 – *HR Assist Update and Feedback Session led by Natalie Hope Peak Services*

14.15 – *Open HR Roundtable Discussion, led by Troy Wild and Natalie Hope, Peak Services*

15.15 - *Close*

Peak Legal Team



Troy Wild
Legal Practice Director



Brian O'Shea
Special Counsel



Natalie Hope
Principal Workforce Advisor



Chris Lowe
Senior Associate



Paul Spoto
Associate



Jaaden Morrall
Senior Workforce Advisor

Managing illness/injury during performance and conduct process





Employee Rights and Obligations

- To take sick leave subject to notice/evidence requirements;
- New evidentiary requirements – S.41 of IR Act.
- **Now employees need to provide “sufficient evidence of the illness to satisfy a reasonable person”**

Employees must comply with lawful and reasonable directions.



Employer's rights and obligations

1

Health and Safety is number one!

2

Procedural Fairness – it is not unreasonable to delay a performance management process where employee is sick

** remind employee it will be recommenced

3

Sick leave during process – employees are entitled to be absent from work and take sick leave however they may still be able to respond to allegations in writing

4

Manage long-term illness – excess of three months unpaid sick leave and assessing return to duties





Risks of Proceeding

- a) Unfair dismissal – denial of procedural fairness;
- b) General protections – need to be clear on reasons for performance management/disciplinary action
- c) Discrimination under Anti-Discrimination Laws
- d) Workers Compensation claims – mental health injuries
- e) New Psychosocial hazard regulations effective 1 April 2023 require Councils to ensure that psychosocial hazards at work are effectively managed.

Managing allegations of workplace bullying that arise during a performance / conduct process





Performance management is an important tool, but it can be a pathway for the making of complaints.

Legislation involved: Section 272 of the Industrial Relations Act 2016:



An employee is bullied in the workplace if –

- (a) While the employee is at work, an individual or group of individuals repeatedly behaves unreasonably towards –
 - I. the employee; or*
 - II. a group of employees of which the employee is a member; and**
- (b) that behaviour creates a risk to the health and safety of the employee.*



What is “Reasonable management action”?

- The Workers Compensation and Rehabilitation Act 2003 and the Industrial Relations Act 2016 provides exemptions for ‘reasonable management action’.
- Management actions are not confined to managerial decisions but encompasses a wider range of obligations and requirements of the role, including managing conduct issues
- Undertake “an objective assessment of the action in the context of the circumstances and knowledge of those involved at the time” (DP Asbury).
- Test is whether the “management action was reasonable, not whether it could have been undertaken in a manner that was “more reasonable” or “more acceptable”.
- To be workplace bullying the employee has to show that the behaviour creates a risk to the health and safety of the employee.



Tips for Managing Complaints

- Take the complaint seriously and follow applicable policy – should be treated as a separate matter to the performance management
- Request the details of allegations
- Manage work health and safety issues i.e. reporting lines and location of employee
- Consider reallocation of performance management to one up Manager or delegate
- Do not stop performance management unless absolutely necessary
- Where issues of illness/injury are raised, obtain medical information and clearance to proceed with performance management
- Do not forget to support both complainant and respondent
- Make sure you prepare a full and accurate response to Workers Compensation claims





Relevant Decisions

Sunanda Soni v Berwick Waters Early Learning Centre [2020] FWC 4149

- Applicant, Sunanda Soni was employed by a Learning Centre as a Room Leader
- Manager had concerns about Ms Soni's performance:
 - ✓ attending work late
 - ✓ not completing work tasks
 - ✓ not complying with Health and Safety requirements
 - ✓ engaged in gossip; and
 - ✓ not contributing to teamwork
- Employer developed a PIP and took steps to support Ms Soni in the process
- Ms Soni alleged Director was bullying her and took personal leave for stress
- Ms Soni asked for particulars of alleged bullying – no allegations provided



- Employer advised Director's behaviour was not bullying and that performance management process was reasonable management action;
- Ms Soni resigned from her employment and made an unfair dismissal application to the FWC, alleging constructive dismissal because she was forced to resign as a result of bullying
- Commission found:
 - ✓ Dismissal not unlawful
 - ✓ No bullying by Director
 - ✓ Reasonable management action –confirmed that managers do not need to performance manage employees in a perfect manner, but in a reasonable one.





Relevant Decisions

Re Hohn [2020] FWC 5053

- Applicant, Katrina Hohn employed as a Test Manager at a Delivery Centre
- Manager observed the following issues with her performance:
 - ✓ not completing her work or projects within required timeframes
 - ✓ being identified as “away” on Skype for long periods of time
 - ✓ Declining catch-up meetings and other meeting requests; and
 - ✓ Creating communication barriers to other employees needing to engage with her team
- Before the scheduled performance review, lodged a bullying complaint
- Refused to participate in investigation and then withdrew complaint
- Performance was rated low by Manager and during process Ms Hohn:
 - ✓ Took significant amount of unplanned annual leave and personal leave
 - ✓ Failed to participate in coaching session
 - ✓ Refused to complete work assigned to her



- Sought internal review of her performance rating and workers compensation - failed
- Made application to the FWC for stop bullying order (sought reinstatement of previous performance rating and report to different manager)
- Managers' actions were deemed "reasonable management action"
- Commissioner critical of Ms Hohn's conduct by not appropriately engaging with managers in relation to performance shortcomings
- Commissioner observed that Ms Hohn's conduct toward Manager was not constructive and that she was intent on denying responsibility for deficient areas in her performance.





Morning tea

10am - 10.15am

Managing PID & CCC Complaints



Overview - PID & CCC Complaints

- What is the difference?
- Do these ever interact?
- What does Council need to do to comply with the legislation?
- Confidentiality responsibilities towards disclosers – a balancing act



WHAT WE FOUND²

There was a high level of interest in the online survey which was open for a three-week period between mid-May and early June 2020.³ About one in four local government employees viewed or answered parts of the survey.



8600+

local government employees viewed the survey



6515

responded to questions in the survey

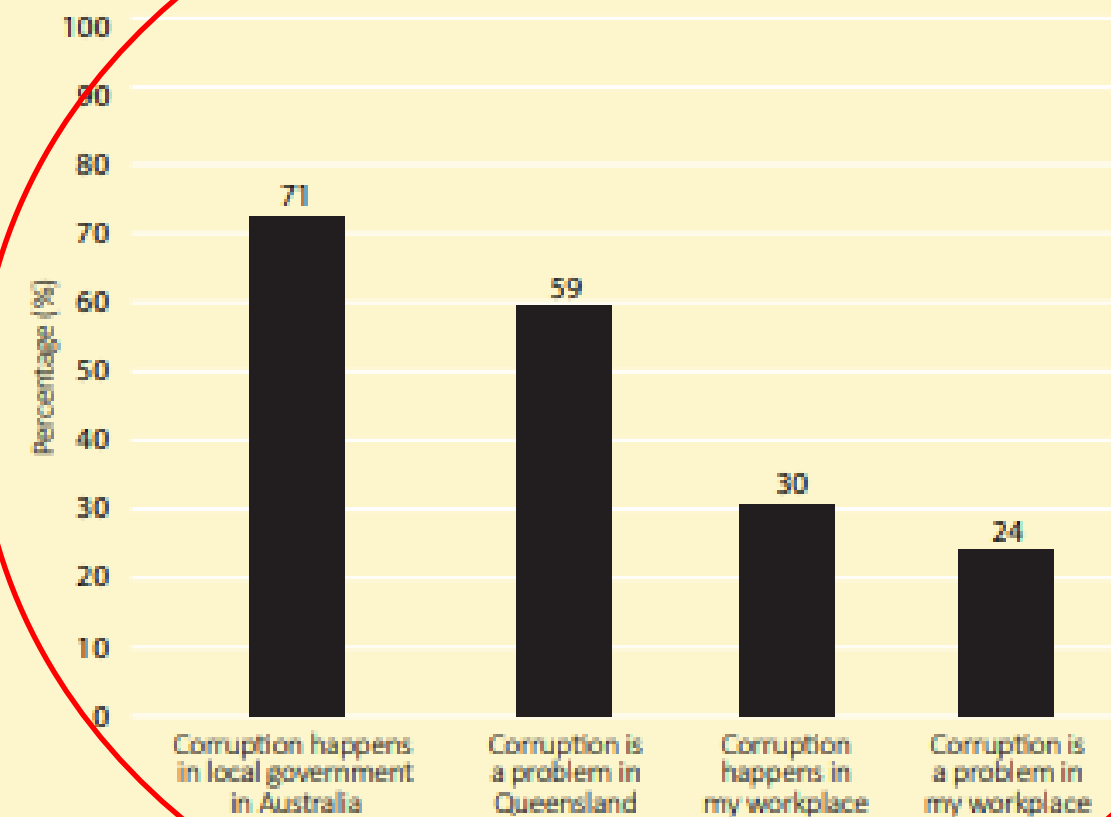


PREVALENCE OF CORRUPTION

Most local government employees identified that corruption occurs and is a problem in the broader local government sector. However, substantially fewer reported it occurs or is a problem in their workplace.

- One in six council employees believe that the level of corruption in local government has increased in the last three years and one in ten believe it has increased in their workplace.
- Generally, the impact of the current health pandemic (COVID-19) and the March 2020 local government elections does not appear to have substantially changed perceived corruption risks within local government.

Table 1: Perceived prevalence of corruption



Why is this important?

In 2020 the CCC conducted a survey of local government employees across Australia





What is the difference between a CCC complaint and a PID disclosure ?

Relevant legislation

- *Crime and Corruption Act 2001 (Qld) (CC Act)*
- *Public Interest Disclosure Act 2010 (Qld) (PID Act)*

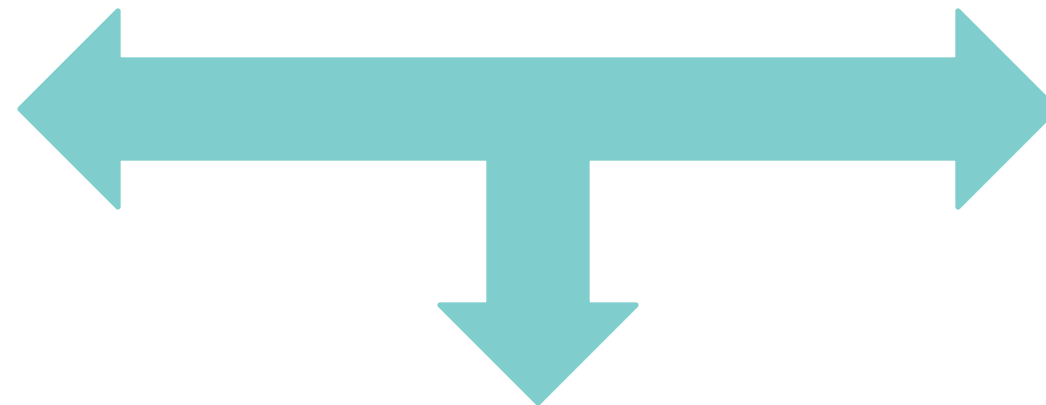
CC Act

Focuses on **identifying and investigating corrupt conduct** which adversely affects or could adversely affect the public sector.

Main differences

PID Act

Focuses on **protecting disclosers/whistleblowers** and ensuring that disclosures of wrongdoing are properly handled.



Complaints made under the **CC Act relate specifically to corrupt conduct by a person**, which adversely affects, or could adversely affect, a unit of public administration (a local government), while disclosures made under the **PID Act can relate to any information that tends to show wrongdoing**, including corruption, maladministration, or a breach of public trust.



What is a CCC complaint?

A complaint that involves corrupt conduct which adversely affects, or could adversely affect, a unit of public administration (a local government).

Under the Crime and Corruption Act 2001, there are two types of corrupt conduct.

Both Type A and Type B corrupt conduct must be either a criminal offence or serious enough to warrant dismissal

TYPE A

Corrupt conduct involves conduct that affects, or could affect, a public officer (an employee of a public sector agency) so that the performance of their functions or the exercise of their powers:

- is not honest or impartial, or
- knowingly or recklessly breaches public trust, or
- involves the misuse of agency-related information or material.

TYPE B

Corrupt conduct involves specific types of conduct that impairs, or could impair, public confidence in public administration. This may include:

- collusive tendering, or
- fraud relating to an application for a licence, permit or other authority relating to public health or safety; the environment; or the State's natural, cultural, mining or energy resources, or
- dishonestly obtaining public funds or State

Corrupt conduct is defined in s.15 of the CC Act.

- “ (1) "Corrupt conduct" means conduct of a person, **regardless of whether the person holds or held an appointment**, that—
- (a) adversely affects, or could adversely affect, directly or indirectly, the performance of functions or the exercise of powers of—
 - (i) a unit of public administration; or
 - (ii) a person holding an appointment; and
 - (b) results, or could result, directly or indirectly, in the performance of functions or the exercise of powers mentioned in paragraph (a) in a way that—
 - (i) is not honest or is not impartial; or
 - (ii) involves a breach of the trust placed in a person holding an appointment, either knowingly or recklessly; or
 - (iii) involves a misuse of information or material acquired in or in connection with the performance of functions or the exercise of powers of a person holding an appointment; and
 - (c) would, if proved, be—
 - (i) a criminal offence; or
 - (ii) a disciplinary breach providing reasonable grounds for terminating the person's services **if the person is or were the holder of an appointment.** ”





Does a person involved in corrupt conduct need to hold an appointment at the time of conduct?



Short answer - No.

s. 16 of CC Act provides:

- Conduct may be corrupt conduct even though a person involved in the conduct is no longer the holder of an appointment; and
- Conduct engaged in by, or in relation to, a person at a time when the person is not the holder of an appointment may be corrupt conduct, if the person becomes the holder of an appointment.





Corrupt conduct not affected by time limitations

s.19 of CC Act provides:

- Conduct does not stop being corrupt conduct where:
 - a proceeding or an action for an offence to which the conduct is relevant can no longer be brought or continued; or
 - action for termination of services can no longer be taken.





Duty to notify CCC

s.38 of CC Act provides:

- A public official must notify the CCC of a complaint if the public official reasonably suspects that a complaint, or information or matter, involves, or may involve, corrupt conduct.

Note: Schedule 2 of Act provides a ‘public official’ includes:

- The Queensland Ombudsman; or
- The CEO of a Local Government

Note: The duty of a public official to notify the CCC must be complied with despite any obligation the person has to maintain confidentiality about a matter to which the complaint relates – s.39 CC Act



About corruption

Corruption has been described as “the abuse of entrusted power for private gain”. Read about the CCC’s role as an anti-corruption body



Report corruption

Make a complaint of corrupt conduct or police misconduct either online (at any time) or by telephone (between the hours of 9:30am and 4:00pm on business days).



CCC – Dealing with complaints S.46

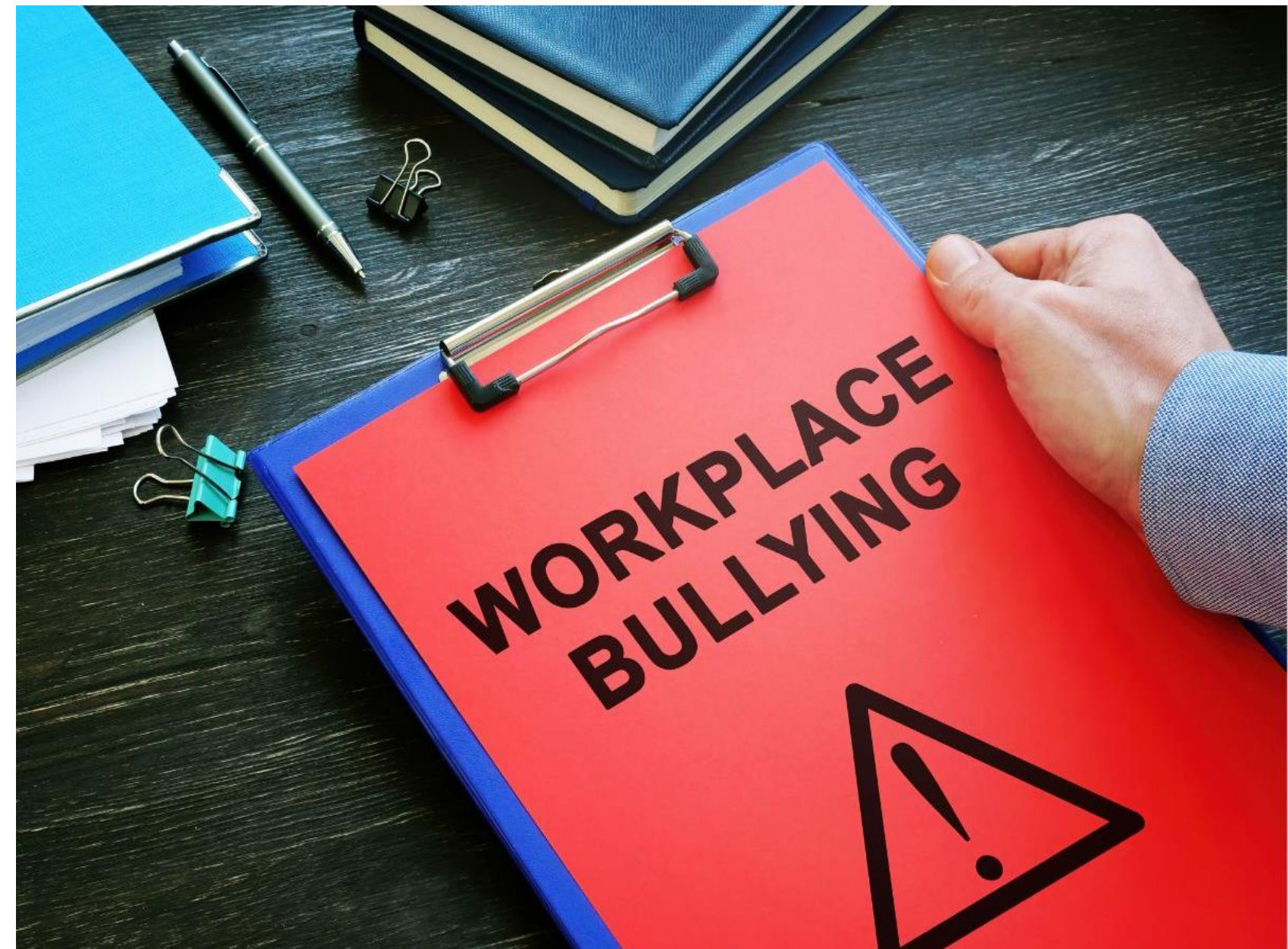
- CCC may deal with the complaint itself – i.e. more serious complaints;
 - CCC cannot investigate all complaints due to volume
 - CCC may refer complaints to another agency for action, such as the Police, the Qld Ombudsman or the Office of the Independent Assessor (OIA).
- refer the complaint back to council to investigate;
 - Council must have a policy to manage and deal with CCC complaints
- take no action or discontinue action including where:
 - complaint is frivolous or vexatious, lacks substance or credibility, not made in good faith;
 - dealing with the complaint is not in the public interest.





When does workplace bullying reach threshold for corrupt conduct?

- Must be a connection between the alleged conduct and the officer's job – that is the “breach of the trust”.
- Workplace bullying involving officers at same level is **unlikely** to amount to corrupt conduct
 - because conduct does not involve an exercise of the officer's powers, functions, duties or responsibilities
- Workplace bullying **may** amount to corrupt conduct if alleged conduct:
 - involves a breach of the trust; and
 - would, if proved, be a criminal offence OR a disciplinary breach providing reasonable grounds to terminate.
 - The latter would include conduct of a serious or systemic nature





CASE STUDY

When does workplace bullying reach threshold for corrupt conduct

- A regional council notified a complaint (of allegations of negative workplace behaviour) to the CCC in relation to the conduct of an Information and Communications Technology (ICT) manager towards one staff member in particular, as well as towards other subordinate staff.
- CCC assessed the complaint as **suspected corrupt conduct** and referred the matter back to the council for investigation, subject to a Merit and Compliance Review.
- When interviewed, the subject officer denied the allegations, however **the investigation found internal emails and text messages that corroborated the versions** of subordinate staff members. The investigation substantiated allegations that the ICT manager had:
 - Engaged in intimidating, unprofessional and unwanted contact with a subordinate employee by text message
 - Engaged in frequent and unwanted visits to a subordinate employee's office, particularly after work hours, which made the employee feel uncomfortable
 - Engaged in intimidating, inappropriate and unprofessional behaviour towards another council employee.
- The **conduct of the ICT manager was considered to be of a serious nature**, and as a result the Council lost trust and confidence in their continued employment. A disciplinary process resulted in the Council terminating the ICT Manager's employment.



What is a public interest disclosure (PID)?

- A public interest disclosure is a disclosure about wrongdoing in the public sector that serves the public interest. For an allegation to be considered a public interest disclosure under the *Public Interest Disclosure Act 2010* (PID Act) it must be:
 - public interest information about serious wrongdoing or danger;
 - an appropriate disclosure; and
 - made to a proper authority.
- There are two categories of disclosures:
 - 1. Disclosure by any person; and
 - 2. Disclosure by a public officer
 - i.e. 'public officer' an employee, member or officer of the entity, and Minister for Local Government.



Disclosure by any person – s.12

This section applies if a person (whether or not the person is a public officer) has information about—

- danger to the health or safety of a person with a disability; or
- danger to the environment; or
- the conduct of another person that could, if proved, be a **reprisal**.

Disclosure by a public officer – s.13

This section applies if a person who is a public officer has information about—

- the conduct of another person that could, if proved, be—
 - corrupt conduct; or
 - maladministration that adversely affects a person's interests in a substantial and specific way; or
- misuse of public resources
- danger to public health or safety; or
- danger to the environment.

Note: a person has information about the conduct of another person or another matter if—

- the person honestly believes on reasonable grounds that the information tends to show the conduct or other matter; or the information tends to show the conduct or other matter, regardless of whether the person honestly believes the information tends to show the conduct or other matter.





How is a disclosure made?

s. 17 of PID Act provides a person may make a PID disclosure to a proper authority (in local government):

- anonymously
- to its CEO
- to the Minister for Local Government
- if person is an officer of the proper authority, to the person's supervisor
- to Council's PID officer
- to the CCC
- to the OIA



Public Interest Disclosure Act 2010

Current as at 1 March 2023

- (3) Another disclosure relating to a judicial officer may be made only to the chief judicial officer of the relevant court or tribunal.
- (4) A chief judicial officer of a court or tribunal may receive a public interest disclosure only if the disclosure is about the conduct of another judicial officer of the court or tribunal.
- (5) The chief judicial officer may refer a public interest disclosure made to the chief judicial officer about the conduct of another judicial officer to a proper authority that is a public sector entity.
- (6) Section 31(2) to (5) applies to a referral under subsection (5) as if the chief judicial officer were a public sector entity.
- (7) In this section—

disclosure relating to a judicial officer means a disclosure where the information that is the subject of the disclosure relates to the conduct of the judicial officer.

relevant court or tribunal, for a judicial officer, is the court or tribunal of which the judicial officer is a member or to which the judicial officer is attached.

Division 3

How disclosure may be made

17 How disclosure to be made

- (1) A person may make a disclosure to a proper authority in any way, including anonymously.
- (2) However, if a proper authority has a reasonable procedure for making a public interest disclosure to the proper authority, the person must use the procedure.
- (3) Despite subsection (2), if the proper authority is a public sector entity, the person may make the disclosure to—
 - (a) its chief executive officer; or
 - (b) for a public sector entity that is a department—the Minister responsible for its administration; or



When disclosure may be made to a journalist?

s.20 of PID Act provides that a PID may be made to a journalist if:

- the person has made a PID to a proper authority; and
- the proper authority:
 - decided not to investigate or deal with the disclosure; or
 - investigated the disclosure but did not recommend the taking of any action; or
 - did not notify the person, within 6 months after the date the disclosure was made, whether or not the disclosure was to be investigated or dealt with.





Queensland Ombudsman Standards

Qld Ombudsman (as the oversight agency) has binding standards for PID management:

1. Public Interest Disclosure Management Program
2. Assessing, Investigating and Dealing with PIDs

Standards - Assessment of information

- Assess information received to determine whether it meets test of being a PID.
- Where doubt on the face of the information, treat disclosure as a PID.
- Provide discloser with reasonable information

The screenshot shows the Queensland Ombudsman website. At the top left is the logo with the text 'QUEENSLAND OMBUDSMAN'. To the right is a search bar with the text 'Search this site' and a magnifying glass icon. Below the search bar are links for 'Listen and translate' and 'Skip to main content'. A dark navigation bar contains links for 'Home', 'What we do', 'How to complain', 'Improve public administration', 'Detention inspection', and 'About us'. Below the navigation bar is a breadcrumb trail: 'Home > Improve public administration > Public interest disclosures'. On the right side of the breadcrumb trail are icons for 'AA', a printer, and a PDF icon. The main content area is titled 'Public interest disclosures' and features a large green box with the text 'Disclosing information about wrongdoing in the public sector serves the public interest.' next to a photo of a smiling woman. Below this are four white boxes with blue titles: 'What is a public interest disclosure?', 'How to make a public interest disclosure', 'What are an agency's public', and 'Legislation and standards'. On the left side of the page is a sidebar menu with categories: 'Training', 'Public administration resources', 'Public interest disclosures' (which is highlighted), 'Investigative reports and casebooks', 'Newsletters', and 'Blog'. The 'Public interest disclosures' category is expanded to show sub-items: 'What is a public interest disclosure?', 'What are an agency's public interest disclosure obligations?', 'Review of the Public Interest Disclosure Act', 'Public interest disclosure resources', and 'Legislation and standards'.

Queensland Ombudsman Standards (cont'd)

Protect disclosures from reprisal

- Assign a PID support officer
- Inform discloser of rights
- Conduct a reprisal risk assessment to the discloser, witnesses and any others
- Review the risk assessment on a regular basis
- If risk of reprisal identified, develop a risk management plan

Investigation of PIDs

- Appoint an investigator for an investigation of a PID
- Afford natural justice
- Where contemplating disclosing information that does, or is likely to, identify a discloser:
 - assess whether it is essential to do so under the principles of natural justice
 - conduct and record a risk assessment to assess the likelihood of reprisal against the discloser
 - make a decision whether and what information identifying the discloser should be disclosed
 - document the decision and the reasons for the decision
- At the conclusion of the investigation evaluate whether there is any evidence of a breach of an offence provision under the PID Act, and, if so, take appropriate action

When no action required – s.30 PID Act

A public sector entity may decide not to investigate a PID if:

- Matter has already been investigated or dealt with;
- Disclosure should be dealt with by another appropriate process;
- Age of the information the subject of the disclosure makes it impracticable to investigate; or
- Disclosure is too trivial to warrant investigation and dealing with the disclosure would substantially and unreasonably divert the resources of the entity.

If Council decides not to investigate or deal with disclosure Council must give written reasons for its decision to the person making disclosure.

A person who receives written reasons may apply to the CEO for a review of the decision within 28 days of receiving written reasons.



PID Protection (chapter 4)

- A person who makes a PID:
 - is protected from civil or criminal liability, including disciplinary action – s.36;
 - is also protected from defamation – s.38
- A person who makes a PID:
 - Does not commit an offence under any Act that imposes a duty to maintain confidentiality;
 - Does not breach an obligation under an agreement requiring the person to maintain confidentiality – s.37 of PID Act.
- However, a person who makes a PID remains liable for their conduct under the PID Act -s.39



Reprisal - s.40 of PID Act

- A person must not cause, or attempt or conspire to cause, detriment to another person because, or in the belief that—
 - the other person or someone else has made, or intends to make, a public interest disclosure; or
 - the other person or someone else is, has been, or intends to be, involved in a proceeding under the *Act* against any person.
- An attempt to cause detriment includes an attempt to induce a person to cause detriment.

Note: It is sufficient if the unlawful ground is a substantial ground for the act or omission.

Maximum penalty – 167 penalty units or 2 years imprisonment / Plus can bring civil ‘tort’ proceedings seeking damages

Note: A person may make a complaint or reprisal under the *Anti-Discrimination Act 1991* (Qld).





Vicarious liability – s.43 PID Act

- If any public sector entity's employees engage in reprisal in the course of employment, both the public sector entity and the employee are jointly and severally civilly liable for the contravention.
- It is a defence to a proceeding against a public sector entity if the public sector entity proves, on the balance of probabilities, that the public sector entity took reasonable steps to prevent the reprisal.





Reasonable management action not prevented – s.45 PID Act

- The PID Act does not prevent a manager from taking reasonable management action in relation to an employee who has made a PID.
- However, a manager may take reasonable management action in relation to an employee who has made a PID only if the manager's reasons for taking the action do not include the fact that the person has made the public interest disclosure.

45 Reasonable management action not prevented

- (1) Nothing in this part is intended to prevent a manager from taking reasonable management action in relation to an employee who has made a public interest disclosure.
- (2) However, a manager may take reasonable management action in relation to an employee who has made a public interest disclosure only if the manager's reasons for taking the action do not include the fact that the person has made the public interest disclosure.
- (3) In this section—
manager, of an employee, means a person to whom the employee reports or a person who directly or indirectly supervises the employee in the performance of the employee's functions as an employee.

reasonable management action, taken by a manager in relation to an employee, includes any of the following taken by the manager—

- (a) a reasonable appraisal of the employee's work performance;
- (b) a reasonable requirement that the employee undertake counselling;
- (c) a reasonable suspension of the employee from the employment workplace;
- (d) a reasonable disciplinary action;
- (e) a reasonable action to transfer or deploy the employee;
- (f) a reasonable action to end the employee's employment by way of redundancy or retrenchment;
- (g) a reasonable action in relation to an action mentioned in paragraphs (a) to (f);
- (h) a reasonable action in relation to the employee's failure to obtain a promotion, reclassification, transfer or benefit, or to retain a benefit, in relation to the employee's employment.



Confidentiality – s.65 PID Act

- A person must not make a record of confidential information obtained under a PID.
- However, a person may make a record/disclose confidential information:
 - to comply with the Act or another Act;
 - for a proceeding in a court or tribunal;
 - if the person to whom the confidential information relates consents;
 - If -
 - the person can not reasonably obtain the consent; and
 - is unlikely to harm the interests of the person to whom the confidential information relates;
 - for the safety or welfare of a person.





Confidential Information includes:

- information about the identity, occupation, residential or work address or whereabouts of a person—
 - who makes a public interest disclosure; or
 - against whom a public interest disclosure has been made; and
- information disclosed by a public interest disclosure; and
- information about an individual's personal affairs; and
- information that, if disclosed, may cause detriment to a person.
- Note: does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other entity that may receive evidence under oath, unless further disclosure of the information is prohibited by law.





Conclusion

What is the difference between CCC complaints and PIDs?

The focus of the Crime and Corruption Act is on identifying and investigating corrupt conduct which adversely affects or could adversely affect the public sector, while the focus of the PID Act is on protecting disclosers/ whistleblowers and ensuring that disclosures of wrongdoing are properly handled

Do these ever interact?

Yes very much as both invariably relate to corrupt conduct

What does Council need to do to comply with the legislation?

Have appropriate complaint policies in place that meet minimum legislative requirements – and follow them.

Confidentiality responsibilities towards disclosers – a balancing act

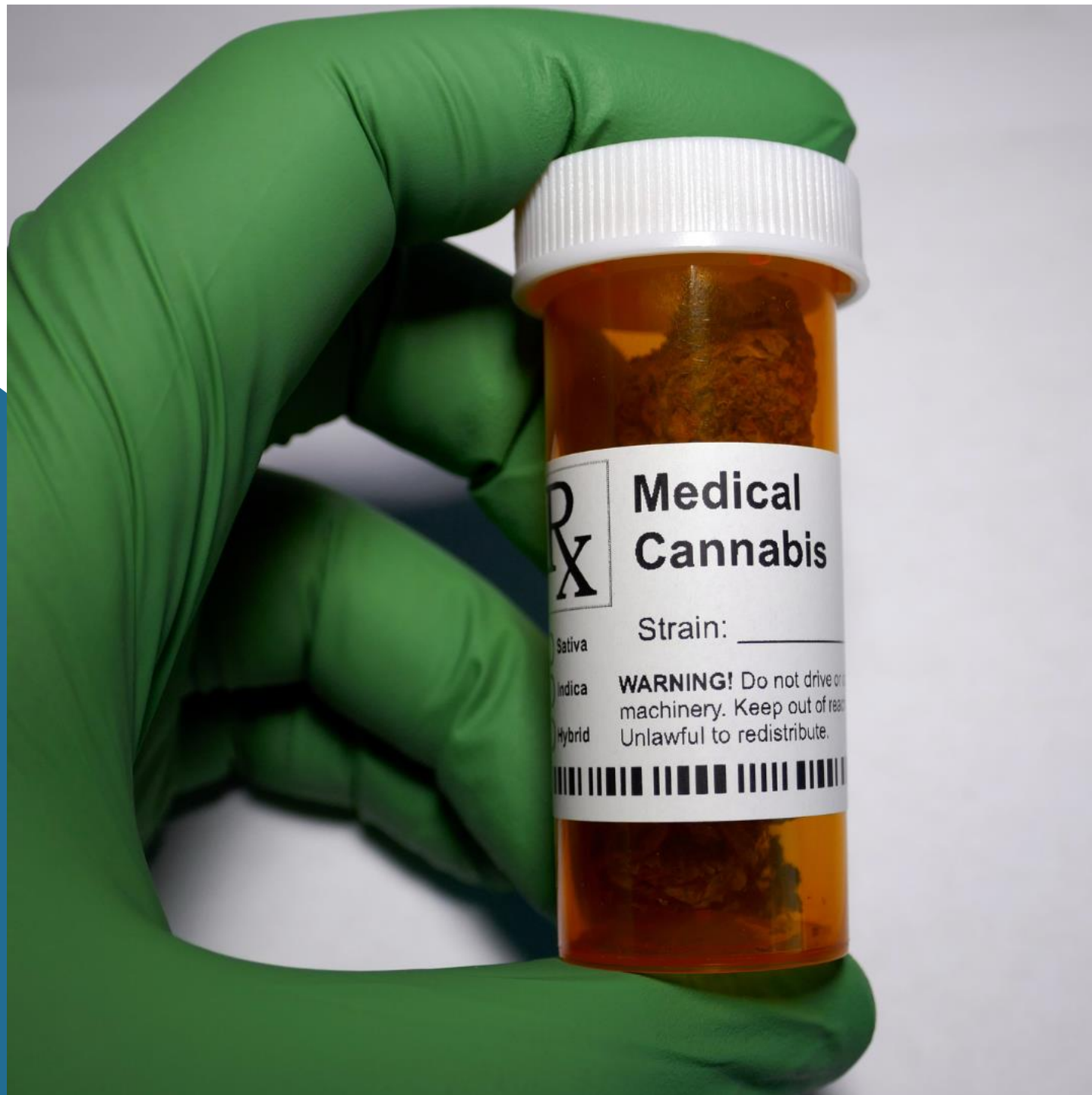
Yes – the need to maintain confidentiality is balanced against the need to afford procedural fairness to subject officer



Case Study

Medicinal Cannabis

Issues around medicinal Cannabis in the workplace



Issues Around Medicinal Cannabis

A number of Councils are requiring assistance with managing employees who test positive to THC from using medicinal cannabis.

Our experience comes from acting on behalf of the Council before the Queensland Human Rights Commission and the QIRC in discrimination claims following disciplinary action being taken against an employee who tested positive to Tetrahydrocannabinol THC.

There are currently only two matters before the Courts:

1. Rice v Queensland Rail in the Federal Circuit Court of Australia (Qld); and
2. Miller v FQM Australia Nickel Pty Ltd in the Federal Court of Australia (WA)





Authorities to prescribe medicinal Cannabis



- In 2016 the Federal Government legalised the prescription of medicinal cannabis.
- The authority to prescribe is administered by:
 - The Therapeutic Goods Administration (TGA); and
 - at a State and Territory level by the relevant medicines and poisons jurisdiction.
- Approvals are given by the TGA through either:
 - Special access scheme B (SAS); or
 - Authorised Prescribed Scheme (APS).





What is THC?

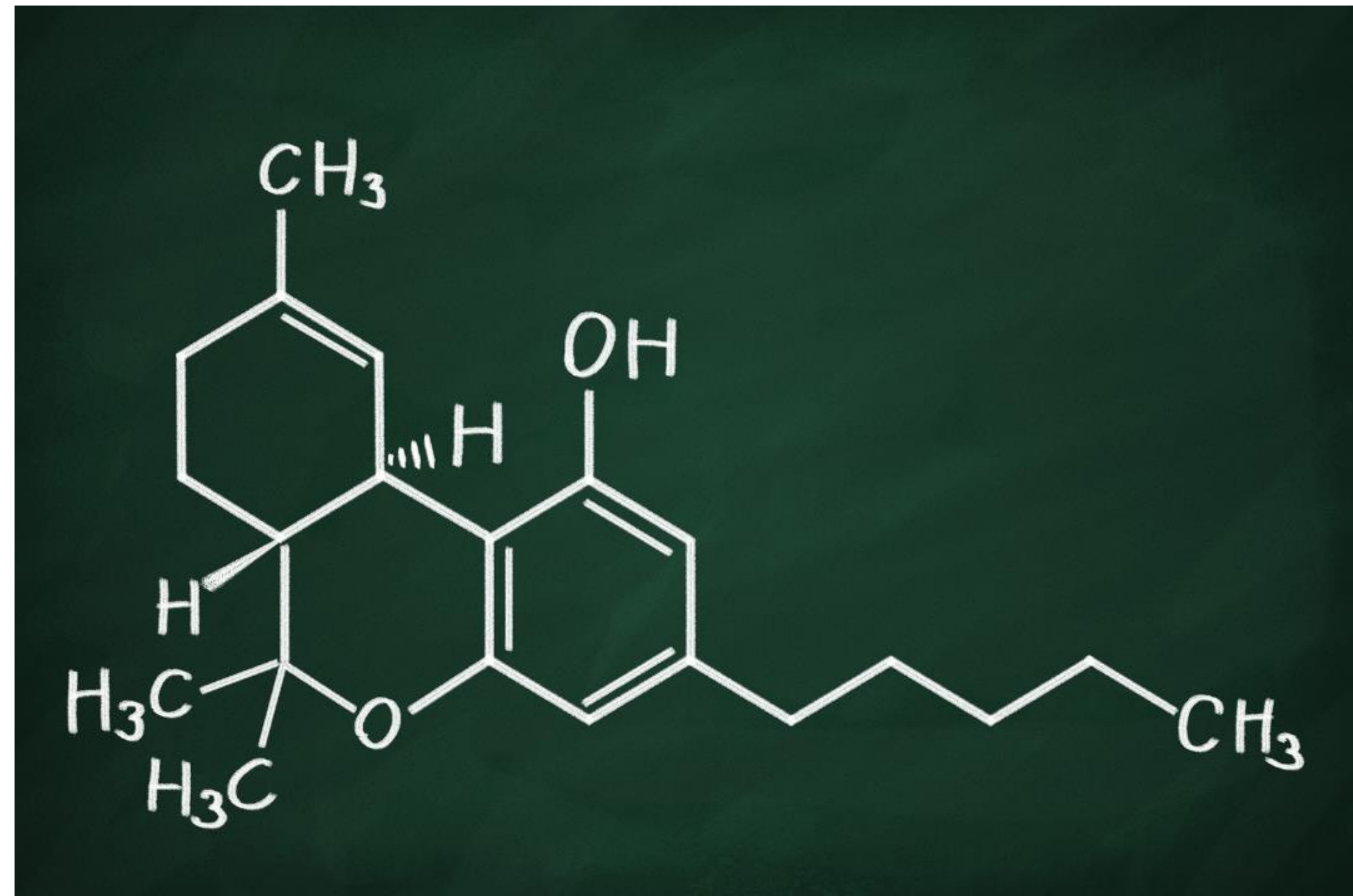
THC is a common cannabinoid found in cannabis products such as marijuana and hemp. Cannabis is a plant that makes a thick substance full of compounds called cannabinoids. There are more than 100 of these chemicals in cannabis. They cause drug-like reactions in your body.

Employee in this case was vaping flowers which is a process of heating cannabis flower at a high temperature without burning it.

The employee claimed he was being unfairly treated because of an impairment, namely **Legg Calve Perthes** disease. We assisted Council with settlement terms, amendments to Drug and Alcohol Management Procedure (DAMP), Code of Conduct and drafting Show Cause notice.

THC can be detected with saliva, urine and/or blood tests.

Urine tests may remain positive for up to 30 days.





Current Cases

Rice v Queensland Rail (Federal Circuit Court)

- This is a general protection claim under the *Fair Work Act 2009*.
- Rice has been set down for hearing before Judge Vasta in the Federal Circuit Court here in Brisbane on 25 and 26 July 2023.
- Knowing Justice Vasta as a conservative judge, I expect the court will find in favour of the employer unless procedurally, there is an issue with the employer's processes.


3/27/23, 12:05 PM Worker on medicinal cannabis sacked for failing drug test

The Sydney Morning Herald

National Courts


This was published 1 year ago

Worker on medicinal cannabis sacked for failing drug test

 **Toby Crockford**
December 12, 2021 – 2:40pm

A worker sacked after failing a drug test, because he was taking medicinal cannabis prescribed by his doctor, is taking his former employer to court.

Mitchell Rice, 26, has launched a claim against Queensland Rail in the NSW Federal Circuit Court alleging QR dismissed him and discriminated against him in contravention of the Fair Work Act.



Mitchell Rice has been his family's sole earner since his mother died in February.

He had worked as a support maintainer for the state transit authority since July 9 last year and his last day in the job was August 16, 2021.

3/27/23, 12:05 PM Worker on medicinal cannabis sacked for failing drug test

Mr Rice is seeking \$91,750 plus interest in economic loss, and a lump sum of \$150,000 for distress. In December 2020, Mr Rice began suffering from anxiety and sleep deprivation caused by his shift work and his mother's declining health after she was diagnosed with terminal cancer.

He was the main carer for his mother. His brother suffers from mental disabilities and does not work, and his father had been on a disability pension.

According to court documents, later that month, Mr Rice was prescribed medicinal cannabis, specifically THC Flower Relax Daylesford Bud, by his treating physician Daniel Van Dijk.

Dr Van Dijk advised Mr Rice to not take the medication within eight hours of starting work, to ensure he was not impaired.

Mr Rice emailed a supervisor at his Geebung depot a notice of him being prescribed the medicinal cannabis. Less than three weeks later, he was placed on light duties, court documents said.

On 21 January 2021, Mr Rice was advised that QR's chief medical officer had deemed him temporarily unfit for work and he was stood down with pay.

In February 2021, Mr Rice's mother died. As a result, her life insurance and superannuation fund payments ceased, leaving Mr Rice as the sole financial earner for his family.

Mr Rice contacted QR on February 25 expressing his desire to return to work and offering to refrain from taking his medication. He returned to work soon after.


On June 1, Mr Rice was subject to a random drug test. He declared he had taken started taking his medication again and had a dose two nights earlier. This was allegedly not noted on his form.

His test results came back positive for tetrahydrocannabinol, a main component in cannabis. That day, he received a letter from QR suspending him, according to court documents.

On August 16, Mr Rice received a termination notice.

Mr Rice's solicitor Jeremy Kennedy, who has taken on the case pro bono, said he was not aware of any similar cases and believed this would be a test case for future claims.

"The evidence is that providing the drug like any prescription, there is no impairment at work," he said.



The applicant - Mitchell Rice.



Current Cases

Miller v FQM Australia Nickel Pty Ltd

(Federal Court of Australia)

- Miller was employed by FQM as a mechanical fitter in a nickel mine on a “fly in and fly out” basis.
- He tested positive to THC which he was using daily to treat the symptoms of his Crohn’s disease.
- Miller was employed on a mine site and deals with machinery and hazardous liquids.
- Miller was unable to return a negative drug test.
- He was placed on unpaid leave on 27 July 2022 after testing positive and his employment was terminated on 21 September 2022.
- Miller commenced his complaint in the Australian Human Rights Commission on 12 September 2022. The complaint was pending at the time he was terminated.
- Miller claims that FQM failed to make reasonable adjustments to its drug testing protocol and as a result, has engaged in disability discrimination contrary to s 15(2) of the *Disability Discrimination Act 1992* (Cth).
- Unless and until the complaint has been terminated in the AHRC, proceedings cannot be commenced in the Federal Court alleging unlawful discrimination: s 46PO of the *Australian Human Rights Commission Act* (Cth).

What next?

Councils need appropriately worded DAMPs and Code of Conduct around drug testing procedures.

Eliminating reference to “impairment” greatly reduces any argument that an employee can continue work despite existence of THC in the system.

Emphasis on disclosure builds trust between Council and employees allowing parties to develop appropriate work plan moving forward.

Actions:

- Review DAMPS and Conduct of Conduct
- Provide training on drug use and testing procedures
- Develop a whole of government approach with the LGAQ.



Sexual harassment

Changes to legislation and obligations





What is the big change in managing sexual harassment?

The Old Way - A Reactive Approach:

- Employees responsible for making complaints when they experience sexual harassment
- Employers responsible for investigating and managing complaints



The New Way - A Proactive Approach: A Positive Duty on Employers and PCBUs to take action to:

- Eliminate sexual harassment from the workplace
- Eliminate hostile work environments, based on the grounds of sex

Where has the change come from?

Changes in legislation:

Industrial Relations Act 2016 (Qld) – changes to industrial law

Sex Discrimination Act 1984 (Cth) – changes to human rights law

Federal human rights legislation

Applies to all employers and employees in Australia – including those in state or local government.



Industrial Relations Act 2016 - amendments

1. **Sexual harassment now an 'industrial matter' (Schedule 1)** – unions/employees may bring disputes
2. **Purpose of the Act (section 4)** expanded to include *'preventing and eliminating sexual harassment and sex or gender-based harassment'*
3. **Sending a message that sexual harassment merits dismissal:**
 - s.121 – sexual harassment added to the list of misconduct warranting dismissal without notice (summary dismissal)
 - s. 320 – in unfair dismissal matters – Tribunal to take this into account and decide that a dismissal wasn't unfair if the conduct included sexual harassment
 - **Sch 5 Definition:** *Sexual harassment is behaviour that contravenes the Anti-Discrimination Act 1991 or the Sex Discrimination Act 1984 (Cth)*



Other legislative changes

The agent of change: the *Anti-Discrimination and Human Rights Legislation Amendment (Respect at Work) Act 2022*

Changes came into effect 12 December 2022

Amended the following Acts:

- Australian Human Rights Commission Act 1986
- Workplace Gender Equality Act 2012
- Age Discrimination Act 2004
- Australian Human Rights Commission Act 1986
- Disability Discrimination Act 1992
- Racial Discrimination Act 1975

Sex Discrimination Act 1984 – Today's focus





Why is the change happening now?

The 2020 Respect @ Work Report:

Sex Discrimination Commissioner Kate Jenkins submitted a report to parliament about the state of workplace sexual harassment in Australia.

The current system is not working to stop sexual harassment

All 55 recommendations were accepted:

- Many focused on changes to the legal and regulatory framework
- Many focused on workplace prevention and response



Why is change needed?

Sexual harassment causes significant harm to workers and the workplace:

Financial loss:

- Managing complaints and investigations
- Staff turnover

Damage to workers' health and the workplace environment

- Loss of trust in leadership
- Excessive sick leave
- Workcover claims





The current system is not working

What steps do employers currently have in place?



Sexual Harassment Training

Annual training – usually online

Induction training – usually online

Sometimes assessment is included and sometimes not.

Sexual harassment training often mixed in with bullying and discrimination training.



Is it effective or just ticking a box?



What kind of training would be better?



Sexual Harassment Policy

- Sometimes a separate policy
- Sometimes included in a Workplace bullying and Discrimination policy
- Sometimes doesn't have 'sexual harassment' in the title
- Includes definition from Anti-Discrimination Act
- Not much information in the policy to help employees understand

? What should the policy look like?

? What new inclusions should there be?



Sexual Harassment complaint management

- Employees can make complaints and sometimes these are investigated
- Difficult process – often the victim will not want to make a ‘formal complaint’ or ‘get anyone in trouble’ – however they want something to be done

Kate Jenkins, Sex Discrimination Commissioner wrote in the Respect @ work report:

“ *The current system ...places a heavy burden on individuals to make a complaint.*

Most people who experience sexual harassment never report it. They fear the impact that complaining will have on their reputation career prospects and relationships within their community or industry.

Throughout the Inquiry, the Commission heard of the need to shift from the current reactive complaints-based approach to one which requires positive actions from employers and a focus on prevention. ”



Sexual Harassment complaint management

The Respect @ Work report found that about half of all women and 30% of all men experience sexual harassment in the workplace.

However, only 17% of women and 13% of men report it by making a complaint.

These numbers based on self-reporting – likely to be far higher

Why don't people report?

- Victims likely to be lower in the organisational hierarchy – often a manager is the perpetrator
- Usually a valid fear of reprisal such as being treated badly in their jobs
- Fear of not being believed if they complain
- Poor solutions: Encouraged to 'let it go' or agree to 'make nice'; 'Mediation' sometimes suggested but not usually appropriate
- Fear that no changes will be made – business closes ranks and becomes protective (especially of high performers)**easier to just leave**



Definition of sexual harassment – the Anti-Discrimination Act QLD

- Section 119 ***Sexual harassment*** happens if a person—
- (a) subjects another person to an unsolicited act of physical intimacy; or
 - (b) makes an unsolicited demand or request (whether directly or by implication) for sexual favours from the other person; or
 - (c) makes a remark with sexual connotations relating to the other person; or
 - (d) engages in any other unwelcome conduct of a sexual nature in relation to the other person;
- and the person engaging in the conduct described in paragraphs (a), (b), (c) or (d) does so—
- (e) with the intention of offending, humiliating or intimidating the other person; or
 - (f) **in circumstances where a reasonable person would have anticipated the possibility** that the other person would be offended, humiliated or intimidated by the conduct.
- (Act contains examples and further clarification in s.120)



Definition of sexual harassment – the Sex Discrimination Act - Cth

Section 28A

A person sexually harasses another person if:

- a) The person makes an unwelcome sexual advance, or an unwelcome request for sexual favours, to the person harassed; or
- b) engages in other unwelcome conduct of a sexual nature in relation to the person harassed:

In circumstances in which **a reasonable person having regard to all the circumstances, would have anticipated the possibility** that the person harassed would be offended, humiliated or intimidated.



New responsibilities under the Sex Discrimination Act 1984 (Cth)

Responsibilities on: **Employers**

PCBUs (Persons conducting a business undertaking – includes the employer and people who can effect change) **Workers** (includes contractors and volunteers)

Employers and PCBUs must take reasonable and proportionate measures to eliminate as far as possible

- Sex discrimination in employment (responsibility of the employer)
- Sexual harassment or harassment on the ground of sex (positive duty on the PCBU)
- Hostile workplace environments (positive duty on the PCBU)
- Victimization – (positive duty on the PCBU)

(All workers have the same responsibilities as PCBUs but are not subject to compliance in the same way as PCBUs)



Definition of hostile workplace – the Sex Discrimination Act - Cth

The Sex Discrimination Act now prohibits a person from subjecting another person to a workplace environment that is hostile on the ground of sex.

A person (the first person) subjects another person (the second person) to a workplace environment that is hostile on the ground of sex if:

- the first person engages in conduct in a workplace where the first person or the second person, or both, work; and
- the second person is in the workplace at the same time as or after the conduct occurs; and
- a reasonable person, having regard to all the circumstances, would have anticipated the possibility of the conduct resulting in the workplace environment being offensive, intimidating or humiliating to a person of the sex of the second person by reason of their sex, or typical or imputed characteristics of that sex

(Dictionary definition of 'hostile' - unfriendly, antagonistic, not hospitable or compatible)

We will all be looking out for future case law applying this definition.



Definitions of harassment on the ground of sex – ST Act

For the purposes of this Act, a person harasses another person (the person harassed) on the ground of sex if:

a) by reason of:

(i) the sex of the person harassed; or

(ii) a characteristic that appertains generally to persons of the sex of the person harassed; or

(iii) a characteristic that is generally imputed to persons of the sex of the person harassed;

the person engages in unwelcome conduct of a ~~seriously~~ demeaning nature in relation to the person harassed; and

b) the person does so in circumstances in which a reasonable person, having regard to all the circumstances, would have anticipated the possibility that the person harassed would be offended, humiliated or intimidated.

Note – ‘seriously’ removed from definition in the recent amendments





The time to take steps towards change is NOW

Why should employers and leaders do anything different?

- Because the current system isn't working to eliminate sexual harassment - current approach training / policies / complaints system are unlikely to be enough to comply with the new legislation.
- Because sexual harassment causes:
 - Harm to the workplace (culture),
 - Harm to workers well-being; and
 - Harm to the financial situation of a business
- Because Employers and PCBU's are required to under the legislative changes

Don't put off starting to make change

- It may seem overwhelming but everyone is in the same boat
- It's time for a rethink and an overhaul
- If employers don't take steps to eliminate sexual harassment and toxic workplaces, they will be in breach of their compliance obligations



Enforcement by the AHRC

Employers have until 12 December 2023 to get into shape before the enforcement provisions kick in.

What are the enforcement provisions?

The Powers of the Australian Human Rights Commission are being expanded to enforce the new duties on employers and PCBUs. They will be able to:

- Conduct inquiries into whether there is compliance
- Make recommendations to achieve compliance
- Give compliance notices specifying actions to address non-compliance
- Apply to the Courts for an order to direct compliance with notices
- Power to enter into enforceable undertakings

There are also penalties for non-compliance with the AHRC

Note too, that unions can bring disputes in the QIRC regarding sexual harassment under the IR Act



What must employers and PCBUs do?

Treat this as a safety issue.

Note – new psychosocial focus in safety: New Queensland Code of Practice '*Managing the risk of psychosocial hazards at work Code of Practice 2022*' commences on 1 April 2023. (Worksafe.qld.gov.au)

The Code of Practice is not binding in itself, but is a guideline to assist employers in fulfilling the new legislative obligations around psychosocial hazards

Psychosocial hazards arise from:

- work practices;
- individual worker factors; and
- the work environment.

Factors such as bullying and sexual harassment are significant psychosocial risks in the work environment.

What is the Safety Approach?

FOCUS on PREVENTION AND ELIMINATION



Risk Assessment – the first step

Positive obligation to eliminate sexual harassment. This means that a PCBU must:

- Eliminate the risks as much as possible
- Mitigate any risk that cannot be eliminated as far as is reasonably practicable
- **What are the risks in your organisation?**

The employer needs to find out the impact and presence of sexual harassment in the workplace. How?

- Confidential Survey – *(note that it will be important to be clear that this is not an individual complaints process but rather an assessment of the workplace)*
- Review past complaints – any repeat offenders
- Assess staff turnover – is there suspiciously high turnover in any workplace groups? Exit interviews?
- Other ideas?

Then: Gap analysis – what has to be done to get things right

Involve the unions

Be open to ideas such as committees



Making changes

TRAINING – update and consider a move from online to in-person interactive training

Have frequent training for everyone: comprehensive and at least annually (*not just running through the definition*)

Practical training - for example, include discussions on:

- When, if ever, is it appropriate to touch another employee?
- What are considered inappropriate comments? – eg comments about a person's appearance?

Include training on Bystander obligations:

- Workers regulating other workers and holding each other to account.
- Workers reporting behaviour that contravenes the SD Act - we can't leave it to the victims to make complaints

POLICIES – update with new responsibilities and align with training. Policies that nobody reads (except HR) aren't much use

COMPLAINTS - Revise complaint system – consider why people don't lodge complaints.

- How can this be remedied in your organisation?
- Employees need to know that if they raise issues their employment will not be affected.
- Ensure awareness of prohibition on victimisation



Leadership has to lead

Leadership has to be on board with the changes

- Token implementation of updated policies and training that do little or nothing to eliminate sexual harassment, gender-based harassment, or toxic workplaces, likely won't be enough to comply

Leadership needs to think:

- How can we eliminate this behaviour in the workplace?
- No more protecting or ignoring bad behaviour with excuses (*"He comes from a different time"*)
- Consider making changes such as no alcohol at Council social functions
- Listen to people with ideas and enthusiasm and involve the unions in consultation about change



Checking in and reporting back

How will you monitor progress?

- Annual or biannual confidential surveys?
- Ongoing confidential alert system?

Manager KPIS – consider whether to include KPIS relating to:

- best training attendance/active participation
- best improvement in confidential survey
- Other ideas?

(don't include the number of complaints as a KPI as that might inadvertently discourage the making of complaints)

LGAQ Update

Elle Ackland
Manager, Workforce and
Industrial Relations



Every Queensland
community deserves
to be a liveable one



| We have a tough road ahead...



Two common challenges



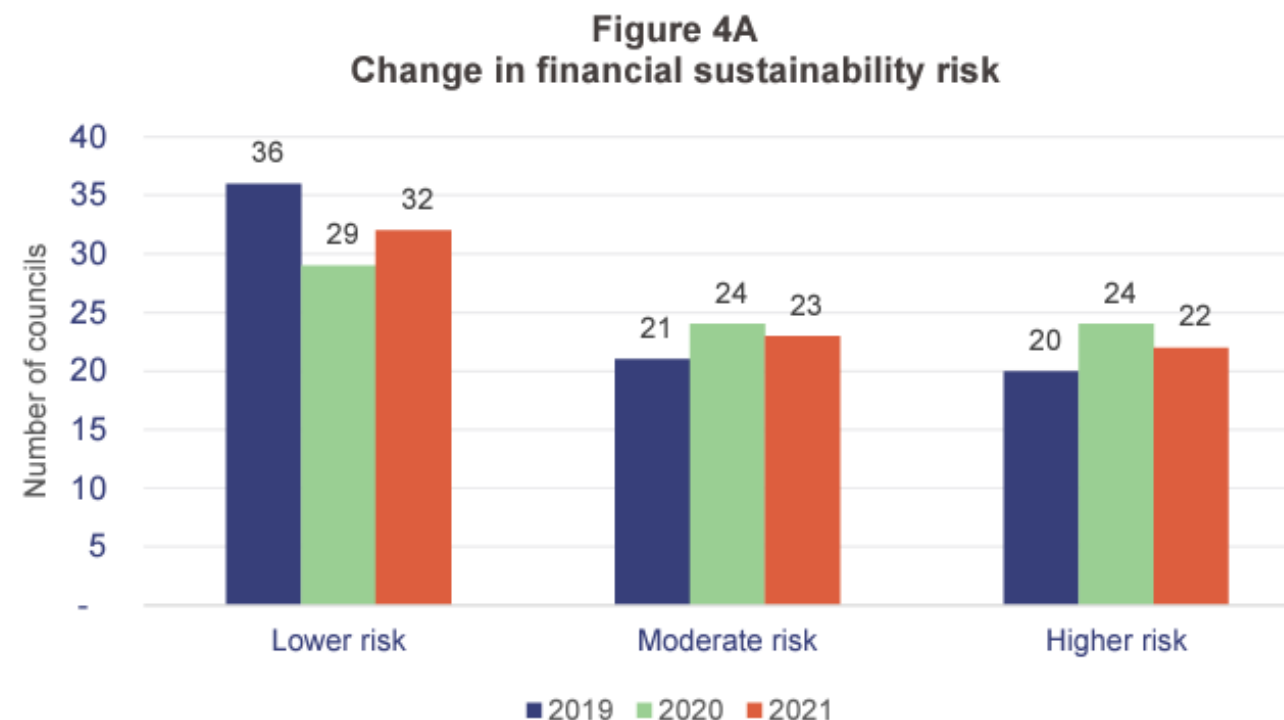
Local government 2021

Report 15: 2021–22

Queensland
Audit Office
Better public services

The sector's financial sustainability has improved since 2019–20, but is still below pre-pandemic levels

Figure 4A shows the change in financial sustainability over the last 3 years. Refer to Appendix I for definitions of lower, moderate, and higher financial sustainability risk.



Source: Queensland Audit Office.

The Courier Mail

Corrupt former Qld mayor sentenced over secret boat deal

Former Logan City mayor Luke Smith has avoided jail time after pleading guilty to corruption while he was in public office.



Corrupt former Qld mayor sentenced over secret boat deal

A disgraced former Queensland mayor will be forced to repay his debt to the society he betrayed, after being sentenced for secretly accepting a boat from a developer while in public office.

Financial sustainability has marginally improved

Councils are recovering from the financial impacts of the COVID-19 pandemic. For the 2020–21 financial year, 35 councils (2019–20: 21 councils) generated an operating surplus. As a result, fewer councils are at a moderate or high risk of not being financially sustainable (see [Appendix I](#)).

Although this is encouraging, 45 councils (approximately 60 per cent of the sector) are still at either a moderate or a high risk of not being financially sustainable.

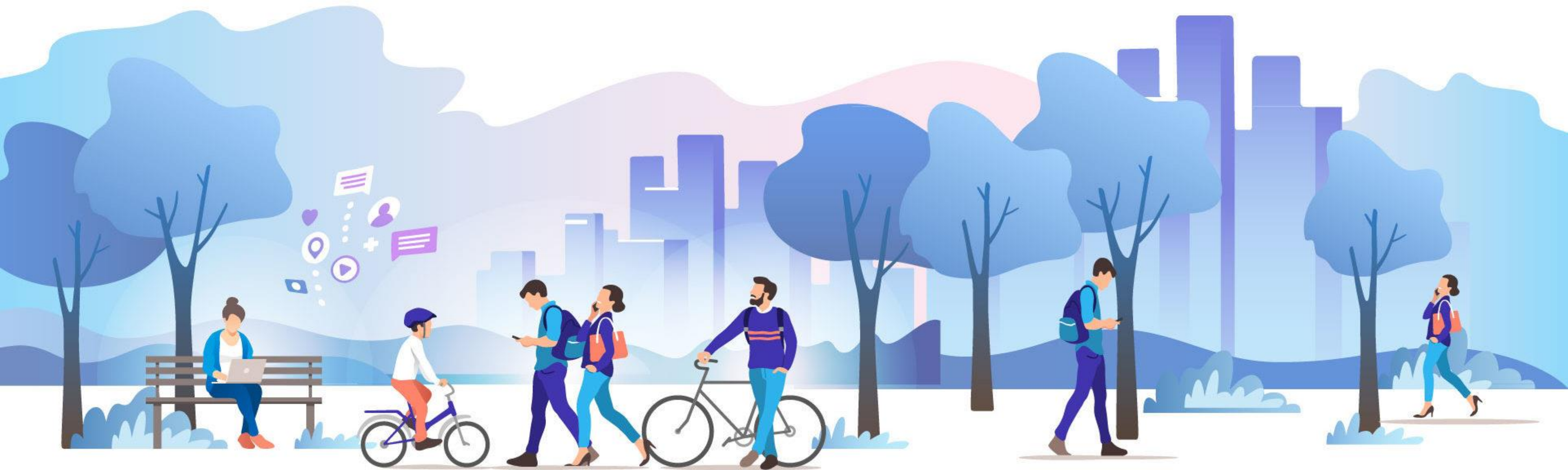
PERCEPTIONS OF CORRUPTION AND INTEGRITY IN LOCAL GOVERNMENT

Findings from a survey of local government employees

The Crime and Corruption Commission (CCC) conducted a survey of local government employees to:

- assess perceptions of corruption and integrity in the local government sector,
- identify corruption risks impacting local government,
- pinpoint barriers to reporting corruption and suspected wrongdoing among local government employees and
- inform opportunities to prevent, detect and deal with corrupt conduct in the local government sector in Queensland.

Our liveability agenda





**Every Queensland
community deserves
to be a liveable one**

Our pitch

Every Queensland community contributes to the economic fabric of this nation.

Every Queensland community deserves to be a liveable one.

The funding councils seek is critical for the liveability of every community across the state – from the outback to the coast, and from Coolangatta to Cape York.

The character and diversity of Queensland local communities are in this state's DNA.

Its what makes Queensland great.

Lets work together to protect our unique local communities for future generations.

**DON'T LEAVE LOCAL
COMMUNITIES BEHIND!**



LGAQ's Workforce Priorities

- Development of a new Workforce & Industrial Relations Sector Strategy.
 - Consultation priority
 - Feedback and input to be sought.
- Extension of First Start Program funding from \$6M to \$9M per annum & expanded funding for apprenticeships/traineeships.
- Urgent review of challenges faced in water operations space.



Lunch

12.45 - 1.30pm



right by your side

HR Masterclass 2023

SUPERANNUATION | INVESTMENT | ADVICE | INSURANCE

Before we start

This seminar provides general information only.

It has been prepared without taking into account your individual objectives, financial situation or needs. You must not rely on this information alone as a sole or primary source of advice or guidance for the purpose of making decisions about your superannuation options.

If you wish to make any changes to your superannuation, you should obtain a copy of, and consider, the relevant Product Disclosure Statement (PDS) and Target Market Determination (TMD) and seek financial advice before making any decisions. The PDS and TMD for Brighter Super can be found on our website www.brightersuper.com.au/about-us/governance/pds-and-guides



right by your side

Agenda

1. Fund Update
2. How Brighter Super can support QLD Local Government
 - Risk Management through insurance
 - Ageing workforce Support
 - Online Resources



right by your side

Our year in review



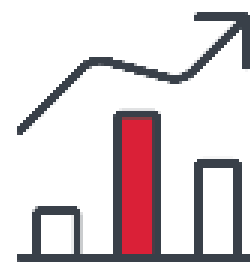
259,000

TOTAL
MEMBERS¹



\$29bn

FUNDS
UNDER
MANAGEMENT¹



7.38%

AVERAGE
RETURN
OVER
10 YEARS²



15 YEARS

RUNNING
SUPERRATINGS
PLATINUM
PERFORMANCE³



4,963

SUPER
HEALTH CHECK
APPOINTMENTS



13,279

ATTENDEES AT
WORKPLACE
VISITS



5,940

ATTENDEES
AT WEBINARS
AND SEMINARS



BEST VALUE
MY SUPER
PRODUCT

¹ Collectively across the Brighter Super Group.

² Return is for MySuper option over 10 years to 30 June 2022 (formerly the LGIASuper MySuper option). Past performance is not a reliable indicator of future performance.

³ You should refer to respective research houses (and their disclaimers) to obtain further information about the meaning of the rating and the rating scale. Ratings are only one factor to be considered when deciding whether to invest. Ratings are subject to change without notice and may not be regularly updated. Ratings are current as at date of publications. Ratings were awarded to the Fund under the LGIASuper brand. LGIASuper pays a fee to some research houses for rating our funds.



right by your side

Outstanding performance in 2023

Brighter Super's top ranked investment options in the SuperRatings SR50* Index, which rates the top 50 funds in Australia by size, included:

Investment option	National ranking SR50 FYTD	Brighter Super Performance	Industry Median Performance	Performance against Median
Brighter Super MySuper	2	8.15%	6.89%	1.26%
Brighter Super Growth	5	9.43%	8.2%	1.23%
Brighter Super Balanced	4	8.22%	6.76%	1.46%



Our default MySuper option with an 8.15% return was also judged by *Money* magazine to be the **Best-Value MySuper Product for 2023** in their 'Best of the Best' awards.



right by your side

*SuperRatings SR50 MySuper Index Funds - financial year to date returns as at 31 March 2023. Data downloaded 21/4/2023.

LGIAsuper Trustee (ABN 94 085 088 484 AFS Licence No. 230511) as trustee for LGIAsuper (ABN 23 053 121 564), trading as Brighter Super. Brighter Super may refer to the Trustee or LGIAsuper as the context may be. Brighter Super products are issued by the Trustee on behalf of LGIAsuper

Recent changes delivering fee reductions

The merger of LGIASuper and Energy Super in July 2021 has made our fund stronger. Already, it has delivered significant benefits for both funds' members. Our members have experienced fee and cost reductions over the last 12 months.

28.4%¹
FEE REDUCTION
for members
with LGIASuper
accounts

¹ This estimate is based on the total administration and investment fees and costs from LGIASuper Accumulation account Product Disclosure Statement dated 1 May 2021 and current total administration and investment fees and costs. Exact cost reductions will be different for every member, and this is used for illustration purposes only and should not be relied upon.



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Brighter Super may refer to the Trustee or LGIASuper as the context may be. Brighter Super products are issued by the Trustee on behalf of LGIASuper

How we compare

Our lower fees mean more money in your super

This means Brighter Super members may pay less in fees compared to other larger industry super funds.

TOTAL FEES AND COSTS - INDUSTRY FUND COMPARISON ¹		
Fund	Total annual costs on \$50,000 balance	Administration fees are capped at these balances
Brighter Super	\$400	\$500,000
Cbus Super	\$518	\$485,000
Australian Retirement Trust	\$557	\$800,000

¹ This estimate is based on the total administration and investment fees and costs for the MySuper product from Brighter Super Product Disclosure Statement dated 30 September 2022, Join Cbus Industry Super Product Disclosure Statement dated 30 September 2022, and Australian Retirement Trust Super Savings Product Disclosure Statement dated 1 July 2022.



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Super Guarantee Rate Increase

The SG increased from 10% to 10.5% on 1 July 2022 and is set to rise again to 11% on 1 July 2023 for the 2023–24 financial year. The SG rate is scheduled to progressively increase to 12% by July 2025.

11%

From 1 July 2023

To increase by 0.5%
each year, to 12%
from 1 July 2025

<https://www.ato.gov.au/rates/key-superannuation-rates-and-thresholds/?anchor=Superguaranteepercentage>



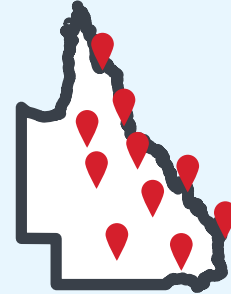
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Our continued commitment to members



We continue our proud heritage as a not-for-profit industry fund



40+ team members meeting employers and employees onsite all across QLD



Partnerships with LGAQ, LGMA, MEA, The Services Union, Mates in Energy, ElectroGroup and NECA amongst others



Most members are eligible for income protection.

If you can't work because of injury or illness, you may be eligible for income support.¹

¹Please refer to the relevant PDS on our website for further information about the types of cover, when members will receive cover, and the rules & policy terms. www.brightersuper.com.au/about-us/governance/pds-and-guides



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right by your side

How Brighter Super can support QLD local government

- Risk Management through insurance
- Aging workforce Support
- Online Resources



right by your side

Risk management for local government employees

Brighter Super offers default insurance for all council employees

The type and level of default cover you will receive is automatically calculated depending on your employment type, age, and balance.



DEATH

Pays your loved ones a lump sum if you die or become terminally ill.



DISABILITY (TPD)

Pays you a lump sum if you suffer Total and Permanent disablement (TPD).



INCOME

If you are unable to work temporarily it will pay you an income.

We can help you understand the insurance claims process so you can better support your team.

Please refer to the relevant PDS on our website for further information about the types of cover, when members will receive cover, and the rules & policy terms.
www.brightersuper.com.au/about-us/governance/pds-and-guides



right by your side

Risk management: New and young employees

New and young employees may not have insurance protection in their super ¹

Opportunity / Challenge:

- New employees may not receive insurance cover ¹
- Higher risk occupation not covered



How many people at risk:

Approx. 5% of your total workforce (new employees) may not have insurance ¹



Source: Brighter Super membership data

Help us talk to all your new employees:



New starter inductions



One on one meetings

¹ If they are under the age of 25 or have a balance less than \$6000

Contact Brendan to better understand your employee's insurance options on **0438 123 287** or brendan.laws@brightersuper.com.au



right by your side

Your workforce is getting older

Challenges / Opportunities:

- Mature employees leaving with significant experience and specialised knowledge
- Managing employees experiencing difficulty completing tasks associated with their position
- Employees working simply because they can't afford to retire or believe they have to work to pension age
- Providing financial wellness better prepares staff for retirement.
- Transitional programs to open up the pipeline for new talent

Source: Brighter Super membership data.

How many people at risk:

- 29% employees over the age of 55
- 3.9% are aged over 65
- QLD's largest employee group (783,000) are aged between 45 - 64



What challenges face your aging employees

- Fear is often a major factor preventing people from making a choice to change their employment arrangements or to retire
- It is a significant life decision for an employee to go from full-time employment to part-time or full-time retirement
- Employees are often not aware of all the options available to them to plan a successful retirement from the workforce



right by your side

How to support your aging workforce



Council to contribute towards retirement advice



Have the conversation about their age and retirement



Allowing time off for employees to meet with professionals



Offer flexible work options while transitioning to retirement



Ageing workforce workshops to targeted staff



Change of duties to a role that teaches the new younger staff and facilitates knowledge transfer



right by your side

Super Hub available for your Council

- Learning Hub modules
- Superannuation for LG employees FAQ's
- Direct access for appointment booking
- Regularly updated
- No cost to council
- Link from your intranet

The screenshot shows the Brighter Super website's Super Hub landing page. At the top left is the Brighter Super logo. The navigation menu includes 'Home', 'New to Council', 'Super Health Check', 'FAQs', 'Let's Learn', and 'Talk to us'. A 'Log in' button is located in the top right. The main banner features a photo of two workers in a factory setting. The text reads: 'Welcome to your Super Hub', 'A joint initiative by Brighter Super and your council! Book your own Super Health Check appointment, can be in person, over the phone or video.', and a 'Log in Member Online' button. Below the banner is a 'Switch to Brighter Super' section with a 'Sign Up' button and a note: 'If you would like to switch from another super fund to Brighter Super, download and complete this form'. At the bottom, there are four promotional cards: 'New to Council' (with a photo of a woman at a computer), 'Manage Your Super' (with a photo of a stethoscope), 'Referral Offer!' (with a photo of people holding coffee), and 'Download our app' (with a photo of a smartphone displaying the app).



right by your side

Let's Learn Modules (Super Hub)

Brighter SUPER

Compare Superannuation Retirement Investments Resources Member Online

Join Login

Home > Resources > Let's Learn

Let's Learn

Learn how to grow your superannuation with our educational e-learning modules. You can discover different ways to build the lifestyle you would like when you finish work.

We keep it jargon free and easy to understand, helping you to make smarter decisions about your financial future.

Let's learn. Let's grow.

All Superannuation Retirement Managing your money

Women and superannuation

Superannuation investments

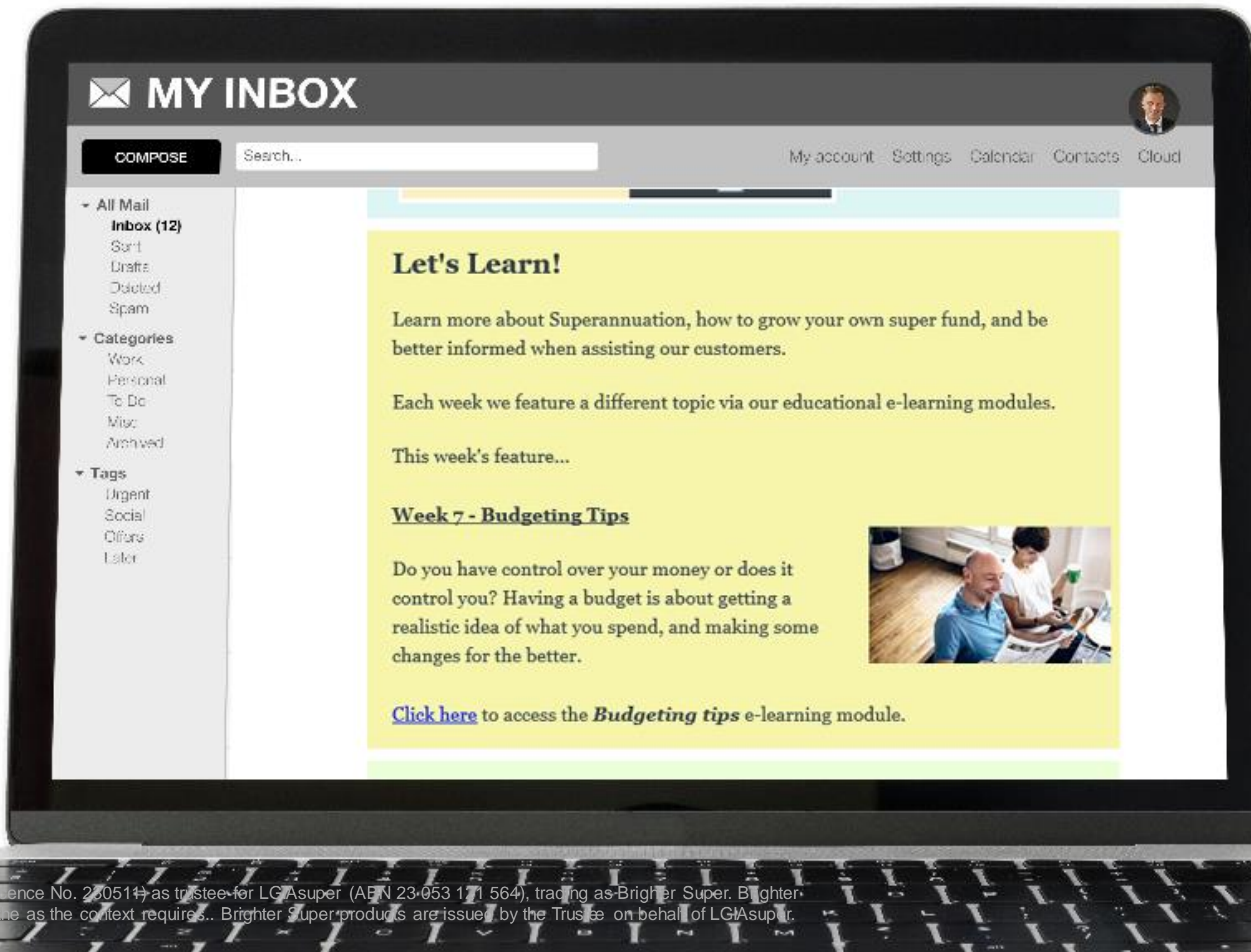
Superannuation contributions



right by your side

LGIAsuper Trustee (ABN 94 085 088 484 AFS Licence No. 230511) as trustee for LGIAsuper (ABN 23 053 121 564), trading as Brighter Super. Brighter Super may refer to the Trustee or LGIAsuper as the as the context requires.. Brighter Super products are issued by the Trustee on behalf of LGIAsuper.

How we use them with our staff



right by your side

What are the overall benefits?

Benefits for you

- **Our services come at no additional cost**
- We compliment your employee wellness or benefits programs to enhance employee retention
- Improved financial wellness leads to potential improvements to absenteeism and presentism*
- We have experience with many councils who have similar challenges
- We will tailor our services to your needs

Benefits to your employees

- Employees who have their long term financial future secured are more engaged and productive in the workplace*
- Employees with appropriate insurance and super are protected should the worse happen
- Employees could pay less tax or increase their take home pay
- Simple changes can result in improving quality of life in retirement

Source: Snell, P., 2021. *Teaching your staff personal finance skills | Insights & Expert Viewpoints*. [online] KnowledgeBrief. Available at: <<https://www.knowledgebrief.com/blog/teaching-your-staff-personal-finance-skills>>

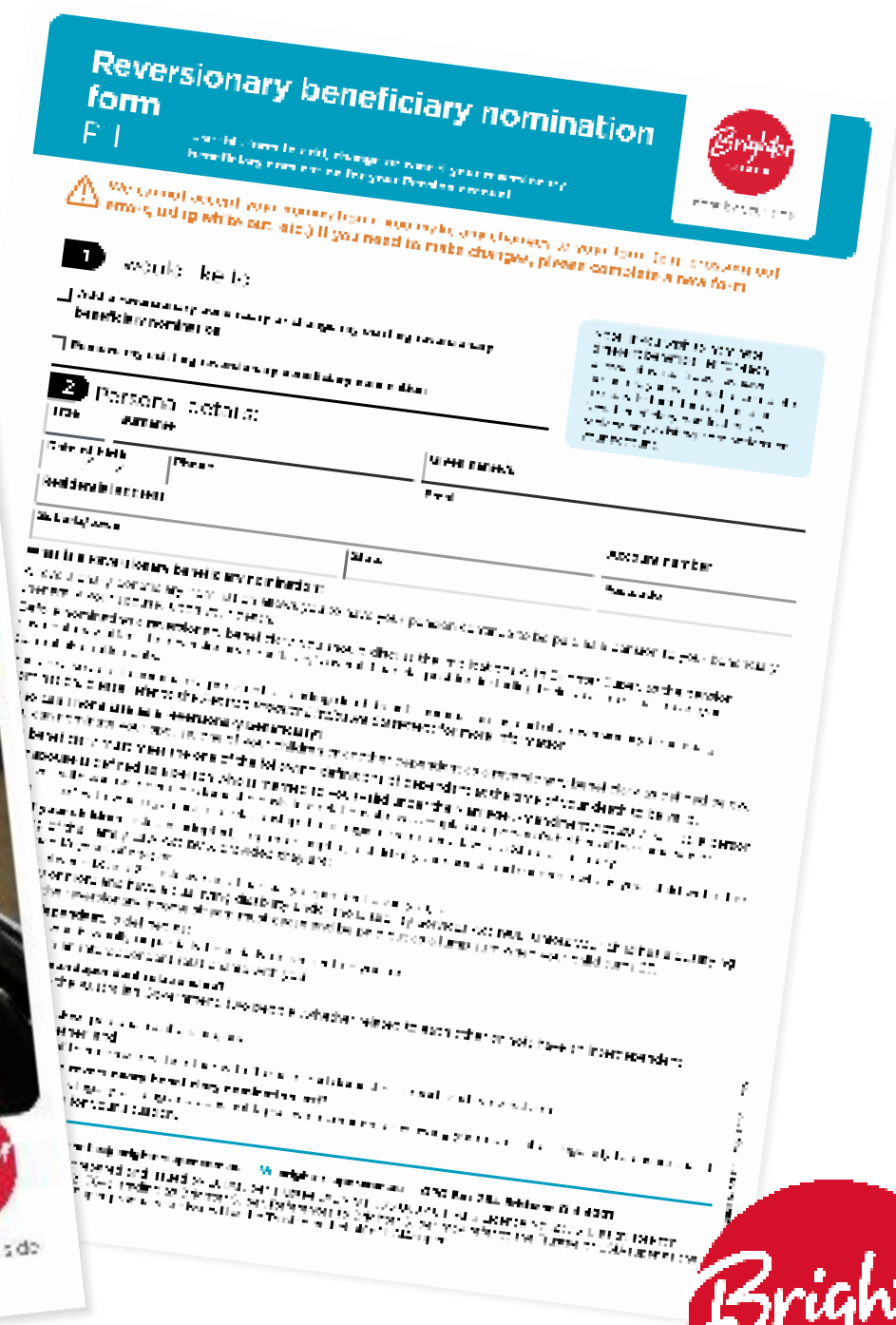
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right by your side

Have you nominated a Beneficiary?

- **Preferred nomination beneficiary**
Complete nomination via Member Online
- **Reversionary nomination form**
Complete nomination via Pension Guide
- **Binding death benefit nomination form**
 - **Non-lapsing**
 - **Lapsing**Complete nomination via Binding Death Benefit Nomination Form (M10)



BRIGHTER SUPER | SUNCORP SUPER



right by your side

LGIAsuper Trustee (ABN 94 085 088 484 AFS Licence No. 230511) as trustee for LGIAsuper (ABN 23 053 121 564), trading as Brighton Super. Brighton Super may refer to the Trustee or LGIAsuper as the as the context requires.. Brighton Super products are issued by the Trustee on behalf of LGIAsuper

Reaching your goals starts with a plan

Planning for life after work is something we are experts in.

Limited advice

- Contributions advice
- Investment advice
- Insurance advice
- Costs covered in your membership

Comprehensive advice

- Retirement planning advice
- Estate planning
- Non superannuation wealth strategies
- Fee for service

Brighter Super members
call **1800 444 396** or
email advice@brightersuper.com.au



right by your side

Let's talk about your super.

**Contact David Macri
on 0427 659 686 or**

David.Macri@brightersuper.com.au



right by your side

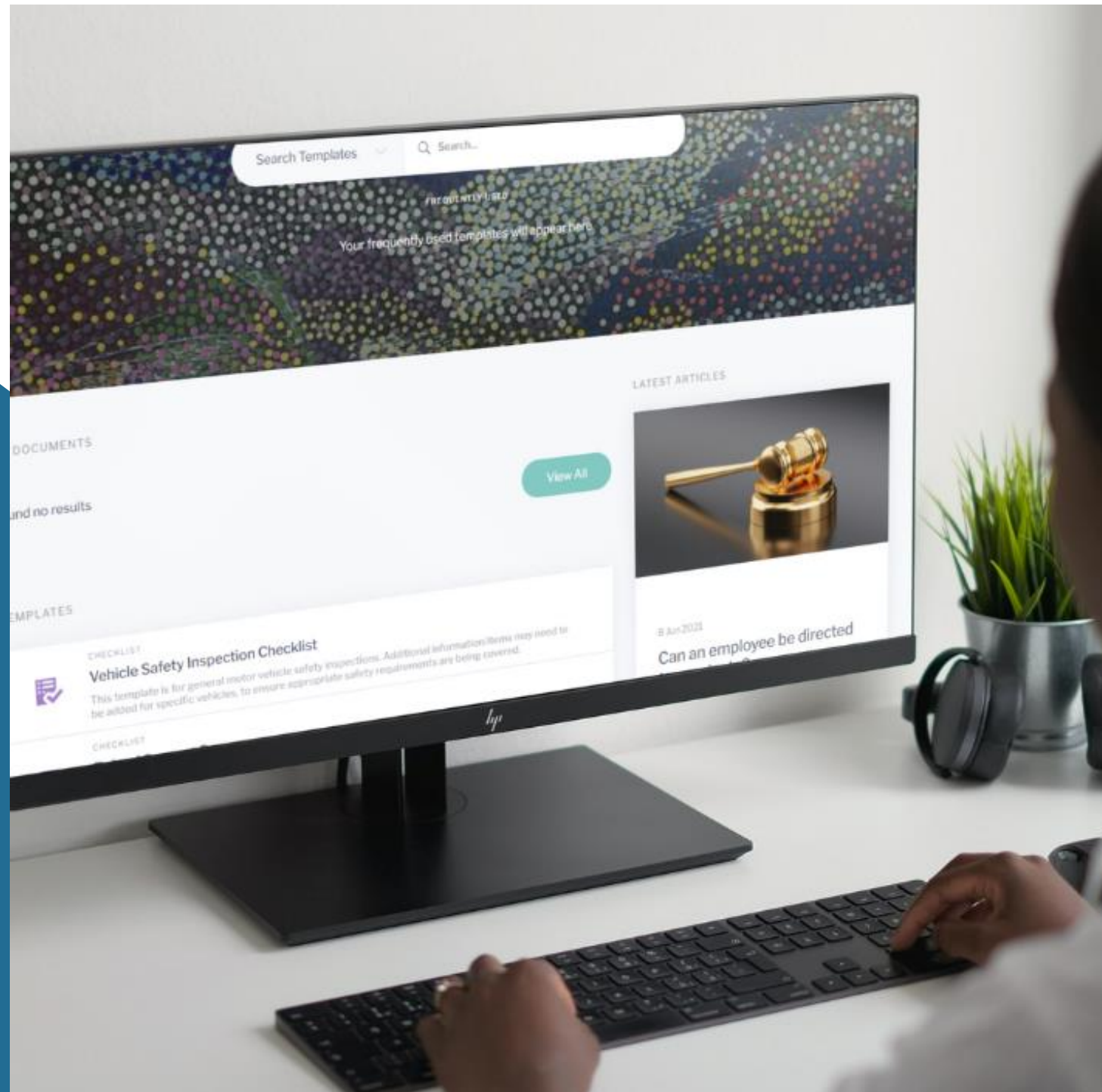
HR Assist Platform

Templates and Resources





HR Assist Platform



- Peak Services HR Assist platform is being widely utilised by Councils.
- Current membership at 53 out of 77 Councils.
- It provides **templates** for both the *Industrial Relations Act 2016 (Qld)* as well as the *Fair Work Act 2009 (Cth)*.
- **Webinars** are being introduced to this platform this year
 - let us know what topics you'd like to hear about!
- If you'd like to subscribe you can email hrrassist@wearepeak.com.au





LGAQ IR Helpdesk

- All councils are entitled to use this service.
- Provides up to **1 hour free top level HR support** and verbal advice.
- Council can use the service as much as they like (no limit).
- Service available Monday to Friday – 8.30am – 5.00pm.

The most common topics raised this year have been:

- Contracts of Employment
- Overtime/Penalties/Allowance
- Award/Agreement Interpretation

Call 1300 542 700

Select 1 for Member Services

Select 1 for IR Helpdesk

Email IRH



Payroll and HR Workshop



HR Assist Platform

- New Workshop designed for Council HR & Payroll staff.
- Can be run as a stand alone workshop or can be a combined Council session.
- 2 day course

For further information, email:

legal@wearepeak.com.au

Roundtable

Open discussion and questions from
the floor



Roundtable

Submissions:

Practical approach to the new psychosocial code of practice



Feedback

Your feedback is important to us.

Please take 3 minutes to complete this survey



or visit: [HR Masterclass - 2023 Series Survey \(surveymonkey.com\)](https://surveymonkey.com)



Contact us

Phone 3000 2148

Call 1300 542 700

Select 1 for Member Services

Select 1 for IR Helpdesk

Legal@wearepeak.com.au

