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Mediation – a creeping tide?

presented by Marisa Hernandez - Associate

The fundamentals of **Mediation**

Understanding the point of it all



Interpersonal vs Commercial

What's the difference?



The prospects for mediation in the *local* context?







Thank you for your time.

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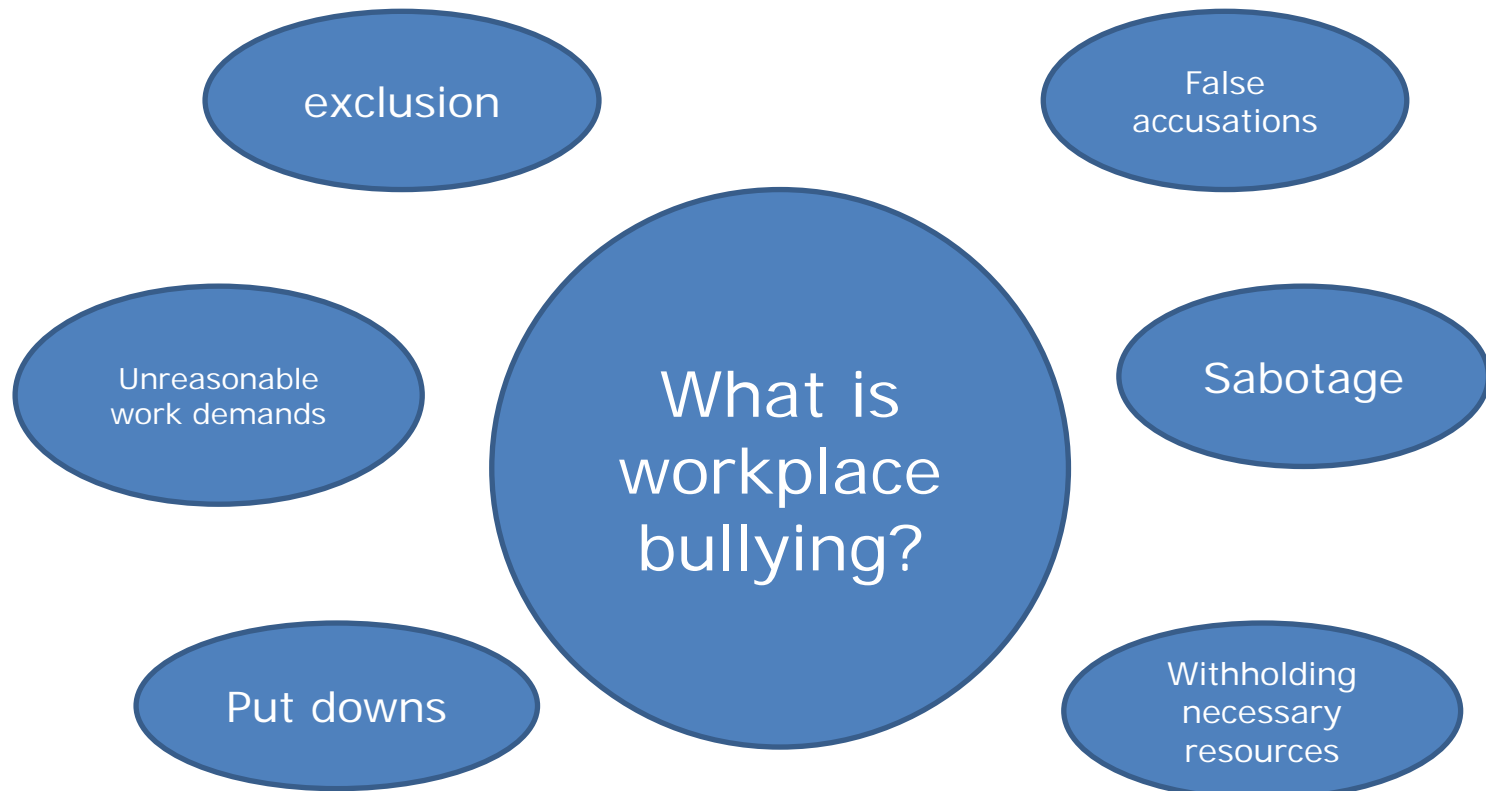
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Bullying in the Workplace

presented by Samantha Grimes – Partner

What is workplace bullying?

Some obvious, others less so...



Employment (Bullying At Work) Act 2014

Definitions

“Bullying is defined as one person “engaging in conduct which has the purpose or the effect of causing another person to be alarmed, distressed, humiliated or intimidated.”

But you can take reasonable action by way of managing and directing your employees.

Victimisation is defined as treating someone less favourably than you would treat another person in the same circumstances and you do so because you know or suspect that the person has:

- brought or intended to bring or intends to bring proceedings under the act
- given or intended to give or intends to give evidence or info in connection with proceedings brought under the act
- has otherwise done intended to do or intends to do any other thing under or by reference to an act
- has alleged or intended to allege or intends to allege that the employer or other person has contravened the act

But the above does not apply where the employee has made an allegation or gives evidence or information and that allegation evidence or information is false and not made in good faith.

How can the employer protect itself?

There are ways to minimise the risk of falling foul of the law

- At the time the acts complained...
 - Bullying at work policy;
 - Show that you took all reasonable steps to implement and enforce that policy; and
 - As soon as reasonably practicable you can show that you took all steps as were reasonably necessary to remedy any loss, damage, or other detriment suffered as a result of the ‘bullying’ act complained of.
- What if a claim is made?
- What powers does the Tribunal have?
 - Declaratory order
 - Compensation
 - Recommendation

Bullying at Work Policy - 1

- A. an explanation of the statutory right of all employees not to be subjected to bullying and victimisation and a statement that bullying and victimisation will not be tolerated;
- B. examples of the types of bullying behaviour at work and of conduct which may lead to disciplinary action;
- C. a clear statement of the procedure for bringing complaints and the manner in which they will be dealt with which must include a commitment that complaints of bullying will be taken seriously, investigated objectively and dealt with in confidence and must allow the complainant to be represented by a representative of his choice at all stages;
- D. designation of a competent person to whom complaints should be made;
- E. a clear statement of the disciplinary procedure to be followed against employees who infringe the Policy;

Bullying at Work Policy - 2

- F. details (including names and contact telephone numbers) of designated persons available to counsel, assist and advise individuals bringing complaints or those who are the subject of complaints;
- G. arrangements to train all those occupying any position of managerial authority with the employer in the Policy and to inform all employees of the Policy;
- H. annual monitoring of the operation of the Policy, to be reported to senior management and to include a summary of all complaints made under the Policy (with names of complainants kept confidential unless the complainant agrees);
- I. arrangements for consultation with trade union, safety representatives and/or other stake holders on the operation of the Policy, its implementation and any revision of the Policy in the light of its operation in practice.

The impact of bullying on the workforce?

What are the repercussions?

- Poor morale and poor employee relations
- Loss of respect for managers
- Poor performance
- Grievances – the importance of the grievance process
- Disciplinary process



A few case updates

Some examples to understand the realities...





Thank you for your time.

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