



# SafetyWeek

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## Payouts And Actions Against Bosses For Bullying On The Rise

17 May 2007

Australian bosses are sitting on top of a financial time bomb with bullying incidents landing businesses in serious legal and financial trouble. Awards of compensation with penalties in the hundreds-of-thousands, if not millions of dollars, are now a reality and there is an increase in the number of actions in this area against employers according to Harmers Workplace Lawyers, Australia's leading workplace law firm.

Shana Schreier-Joffe, Partner of Harmers Workplace Lawyers, says that employers have a responsibility to their workers to foster an environment and culture where bullying and harassment does not occur and if it does, occurrences are reported and appropriately dealt with, each and every time, no matter the type or frequency of the bullying.

In one case in 2006, against a prominent investment banking and securities firm in Australia, an employee was awarded over \$500,000 by the Federal Court of Australia because the court found that the company had an anti-bullying policy, which was implied in the employee's employment contract, yet the Company did nothing to protect him against bullying.

Whether the complaint occurs in the largest multi-national corporation, or the average SME, employers must investigate every single complaint of misconduct, even complaints of one-off incidents.

The courts do not look favourably upon any organisation, regardless of its size, that has an incident of bullying, but has no policy or procedure in place informing its employees how to deal with and report incidents of bullying or harassment. Similarly, employers must ensure such policies are very clearly understood, and enforced.

"Investing time in creating a policy outlining employees' rights when it comes to bullying; what happens when an employee does file a complaint, and ensuring all employees feel comfortable in reporting such incidents, is a small price to pay in return for avoiding an extremely hefty court-enforced award for doing the wrong thing by an employee.

"The cost of bullying to employers is not just the potential financial penalties. Bullying in the workplace can lead to unmotivated staff, staff that take more days off from work and ultimately the company will experience a high level of staff turnover.

"If bullying is occurring in a work environment, it is up to the employer to change the culture of the workplace, or face the consequences. If an employee is too scared to talk to their boss, or their boss' boss about a bullying incident, the employer may be liable. If an employer gives any indication that a bullying incident is not their problem, the employer will be as liable. Change cannot happen overnight, but concerted efforts by employers must be made." Source: Harmers Workplace Lawyers via MarksonSparks

### SA WorkCover ineffective and non-competitive says business

ADELAIDE, May 15 2007

South Australia's business group wants an overhaul of the state's workers compensation scheme, branding the current system ineffective and non-competitive.

Business SA today launched a campaign to pressure the SA government into

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## Upcoming SIA Events

### “Incident Notification and Sentencing Options”

In conjunction with the Safety Institute of Australia (Geelong Branch), the Geelong Occupational Safety & Health (GOSH) will be conducting a Breakfast Meeting on “Incident Notification and Sentencing Options”.

Speakers Geoff Rivett and Jonathan Gray from WorkSafe Victoria will lift the veil on organisational responses to the legislation in the Geelong region and the sentencing options should a breach of the Act occur.

Registration confirmations will begin at 7.00-9.00 am on Wednesday May 30 2007

(Breakfast will start at 7.15am)

Geelong Conference Centre, Adams Court, Geelong East (Melways Ref: Map 452 G5)

For further details please contact Phil Royce MSIA on

(03) 5227 5113 before 28th May

## SafetyWeek Changes

You might have noticed some changes to the Safety Institute’s weekly OHS bulletin.

### Technology Upgrade

**SafetyWeek** will also have a technology upgrade over the next few issues. The file will be configured to version 7 of Acrobat Reader for increased compression. This will allow for higher resolution at smaller file sizes.

### PDF File Readers

As one reader has suggested, there are a range of PDF reader

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reforming the system the group says will have an unfunded liability of \$1 billion by July.

“South Australia’s workers compensation scheme is the worst performing in the country,” said Business SA president Rob Chapman. “Injured workers in this state are not returning to work soon enough, because our current legislation does not provide the incentives needed to get our injured workers rehabilitated and back to work as soon as possible.

“The South Australian business community, which after all bears the cost of this scheme, can’t afford for it to be so ineffective and non-competitive.”

Mr Chapman said WorkCover’s unfunded liability had jumped from \$20 million to \$700 million in the past five years and would increase by a further \$300 million this financial year.

He said a Business SA review of the system found 42 per cent of SA’s injured workers were receiving weekly compensation payments - nearly double that of any other state.

Business SA proposes to: reduce the weekly benefits to employees; cut-off employee benefits at 104 weeks based on impairment; increase incentives to return to work; and, halve the employer’s obligation to provide re-employment from one year to six months. SA Unions secretary Janet Giles has blasted the proposals, saying injured workers should not be further penalised by cuts to compensation payments.

Ms Giles said Business SA effectively wanted to punish workers who were injured by denying them rightful support.

“It’s bad enough that workers are injured in the first place, without compounding their grief by ripping off their compensation and framing them as the cause of the problems instead of the victims,” she said.

SA Opposition Leader Martin Hamilton-Smith called for the immediate sacking of Industrial Relations Minister Michael Wright for failing to investigate the scheme earlier.

“Minister Wright has completely bungled the management of WorkCover and must be sacked by the premier who, despite all the warnings, has displayed a similar lack of resolve on this issue,” Mr Hamilton-Smith said.

A spokesman for Mr Wright said a review of WorkCover had begun in March and all proposals to improve the system would be assessed. He said the review would be completed by November.

AAP

## Look At Volunteering In Work Life Balance

16 May 2007

SafeWork SA is looking closely at the role volunteering can play in promoting a healthy work-life balance for South Australians.

As part of its mission to promote safe, fair and productive working lives in South Australia, SafeWork SA is undertaking a major initiative on work-life balance.

Overseeing SafeWork SA’s project is Michelle Hogan, who will help develop a South Australian work-life balance strategy embracing both the private and public sectors.

To coincide with National Volunteering Week, SafeWork SA has identified the capacity to volunteer as one of the beneficial spin-offs of employers providing more flexible working arrangements.

In partnership with Volunteering SA, Ms. Hogan is collecting case studies of organisations that have supported work-life balance initiatives, which allow employees to participate in a range of voluntary community activities.

These might include particular leave arrangements and flexible working hours to enable employees to undertake emergency or community service roles. The case studies will be included in the promotional campaign around work-life balance initiatives.

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softwares available for free from the Internet. We encourage you to find the best and cheapest solution that meets your needs.

### Privacy

While on administrative matters, it is worth reiterating that the publishers have no access to SIA member details. The PDF file is distributed through the SIA Secretariat.

### Letters

It is very important that the voices of SIA members are heard and listened to. There are formal communication avenues through

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Ms. Hogan's work forms one of the targets of the South Australian Strategic Plan, and comprises:

- defining work-life balance
- determining ways to measure and evaluate it
- confirming the need for such a strategy
- examining other such initiatives
- recommending future courses of action.

Ms. Hogan was previously Director of the Dale Street Women's Health Centre, and has worked across vocational training, women's employment and community health over several years, participating in a number of projects that linked work, health and gender.

Source: SafeWork SA

## Worker Loses Fingertip While Safety Guard Sits Unused 16 May 2007

SafeWork SA is reminding employers of the dangers to their staff in neglecting the necessary checks for safety guarding on their plant and machinery.

This week, a prominent mid-north firm was fined by the SA Industrial Relations Court over an incident nearly two years ago, in which a female worker lost the tip of her right index finger while cleaning a machine.

On Monday, Golden North Pty Ltd was fined \$15,200 after pleading guilty to Section 19 of the Occupational Health Safety and Welfare Act 1986, in failing to ensure the safety of an employee whilst at work.

The incident happened at Golden North's ice-cream factory at Laura in October 2005. The court was told that while cleaning splashes of ice cream from a small moving conveyor belt, the woman's right index finger was trapped and crushed by an unguarded part of the machine.

While investigating the incident, SafeWork SA found that a removable guard for the machine was stored in a shed and had never been used, nor was the worker told that the guard even existed.

The particulars of the charge noted:

- a failure to maintain the machine in a safe condition
- a failure to provide instruction pertaining to a guard for the machine
- a failure to provide instruction on how to install it
- a failure to provide instruction on how to check it was properly in place.

Industrial Magistrate Stephen Lieschke said a simple check would have revealed the danger:

"...it is my view that the danger was obvious, and the most basic hazard identification process involving a visual inspection would have revealed the danger."

While the woman returned to full duties after a month and the company reimbursed her family for lost income during her treatment, SafeWork SA says

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State Divisions that we strongly encourage you to follow but there may also be safety-related issues and opinions that you want share with your safety colleagues. Please consider sending a letter to the editor

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it could all have been avoided.

“The machine guard was there on the premises to be used, but it was ignored and a worker suffered a distressing disfigurement as a result,” says Executive Director, Michele Patterson. “Those involved must ask themselves now whether it might have been worth taking the time for a simple hazard identification and risk assessment in the first place.”

Source: SafeWork SA

## Chadstone... fashion, food and workplace safety

May 2007

Chadstone Shopping Centre is to become Victoria's first major retail centre to be targeted by WorkSafe's successful Safer Work Zones campaign.

Safer Work Zones seeks to maximise safety improvements in a concentrated area in a short period by concentrating on risks known to cause serious injuries and deaths.

“It is a stimulus for employers and employees to take stock and address risks proactively and not as a result of someone being hurt,” WorkSafe's Executive Director, John Merritt, said.

Up to 10 inspectors would visit businesses from 11–15 June. Information packs outlining the campaign will be distributed on 17 May.

“Past Safer Work Zones projects have focussed on suburban and regional industrial estates, but we believe the concept can be successfully extended to retail areas. Centres like Chadstone are self-contained towns or suburbs with retail, entertainment, commercial kitchens, construction, manufacturing, warehousing and transport sectors all under one roof. They can set the standard for safety in Victoria's retail sector.”

Mr Merritt said most employers wanted to do the right thing, but didn't always know what to do. “Dealing with most safety matters can be done for little or no cost. Employers and employees need to sit down and talk about the known and potential hazards in their business, identify ways to overcome them and develop plans for achieving it.”

Between July 2001 and June 2006, there were 11,500 workplace injury claims reported from Victorian retail workplaces, costing employers nearly \$154-million in treatment, rehabilitation and compensation costs.

“In the retail sector, about 70% of workplace injury claims relate to injuries caused by strains, slips, trips and falls. What concerns us is that there has been no real change in the number of injuries over the past six years. Experience shows us that most of these injuries could have been prevented.”

WorkSafe's website, [www.worksafe.vic.gov.au](http://www.worksafe.vic.gov.au), has information on a wide range of safety topics. The telephone advisory service can be called between 7am and 5pm on 1800 136 089.

Source: WorkSafe Victoria

## WorkCover SA Recovery and Return to Work Awards launched

17 May 2007

WorkCover SA today launched the inaugural Recovery and Return to Work Awards recognising the outstanding efforts of South Australian Scheme participants who have demonstrated excellence in recovery and return to work and the community.

Nominations for the awards open

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**QUEENSLAND SAFETY CONFERENCE**

Presented by **Dates: 19-21 June 2007**  
**Venue: Brisbane Convention & Exhibition Centre**  
**Website: [www.qldsafetyshow.com.au](http://www.qldsafetyshow.com.au)**

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# Safety Week

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today and close in August 2007. Winners will be announced in conjunction with the WorkCover best practice conference, Return to work is part of the recovery in September 2007.

“The vision for these inaugural awards is to recognise and celebrate excellence in the field that results in improved return to work outcomes,” said WorkCover CEO Julia Davison. “Our objective in creating these awards is to reward excellence in injury management, return to work and services to injured workers and employers, as well as to promote and raise awareness of best practice in the field – all leading to improved return to work outcomes,” she said.

WorkCover’s claim statistics indicate that when a worker stays away from work for more than three months after an injury they have only a 50 per cent chance of returning to work within the following three months.

The longer the worker is away, the probability of returning to work decreases – until after two years there is only a 12 per cent probability of returning to work in the following three months.

“That’s why returning injured workers to safe employment, and the community, promptly is so important. Recognising the achievements of those successful in returning to work, or supporting an injured worker back to work, is an inspirational way we can share learnings and achieve better outcomes for all,” Ms Davison said.

The awards categories are:

Individual achievement	Self-insured employer
Employer achievement	Service provider achievement
Small employer	Claims manager excellence.
Large employer	

Applicants need to meet a variety of criteria including a strong commitment to recovery, and an outstanding standard of practice.

“We encourage individuals, employers, claims managers and health providers to nominate themselves or someone else if they believe they have excelled in aspects of recovery and return to work or the community,” Ms Davison said.

Source: WorkCover SA

## Supreme Court Confirms Lukin Company Conviction 18 May 2007

A Full Court of the South Australian Supreme Court has unanimously dismissed an appeal by a major Port Lincoln fishing company over a safety breach at sea.

Today Justices Gray, Layton and Kelly ruled in favour of SafeWork SA, which had prosecuted Dinko Tuna Farmers Pty Ltd. The decision ends a 5-year process, involving the investigation, prosecution and several appeals.

The incident concerned a 20-year-old male deckhand, who fell overboard in June 2002, while cleaning the deck of the company’s vessel off Port Lincoln. He was fortunate to survive after being spotted by a passing diving vessel despite not wearing a personal flotation device, and his absence from his own vessel going unnoticed.

In June 2005, Dinko Tuna Farmers Pty Ltd was convicted and later fined \$45,000 for breaching Section 19 of the Occupational Health Safety and Welfare Act 1986, in failing to ensure the safety of an employee whilst at work.

The original conviction by an Industrial Magistrate was appealed and overturned by a single judge of the Industrial Court. A Full Bench of the Industrial Court then reversed that decision, restoring the conviction and penalty. Today’s decision by the Supreme Court means the conviction and penalty stand.

In appealing, the company had argued that it had done all that was reasonable under the law by relying on a buddy system to ensure the safety of crew on deck.

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## Adobe Acrobat V7.08 Information

Some readers have expressed difficulty in upgrading to the latest version of Acrobat Reader with one of the problems being that the download can be over 20 megabytes - a substantial burden to dial-up internet connections.

Safety At Work publishers are now allowed to distribute the latest edition of Acrobat Reader on a CD. If you want a copy of Acrobat Reader 7.08 please email me at [natadmin@sia.org.au](mailto:natadmin@sia.org.au) and include your full postal address. A CD will be mailed to you shortly after.

The CD won't be pretty as it is a burnt copy of the software that Adobe permits us to distribute. It is not allowed to be given to anyone other than the person requesting the CD and all CDs will be checked for viruses before distribution. For those readers who are unconcerned about download limits, the latest version of Acrobat Reader is available for free from <http://www.adobe.com/products/acrobat/readstep2.html>

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SafeWork SA argued that the risk of such an event was serious and foreseen. It said better systems should have been in place requiring personal flotation devices to be provided and worn, and that the 'buddy system' had not been effectively maintained.

SafeWork SA was represented during the appeals by Solicitor-General, Chris Kourakis QC, while Dinko Tuna Farmers Pty. Ltd. was represented by Michael Abbott QC.

"This decision clearly defines the requirements placed on employers under our occupational health and safety laws," says SafeWork SA Executive Director, Michele Patterson. "SafeWork SA is fully prepared to follow the legal process to its fullest extent in order to secure appropriate outcomes on matters of extreme importance.

"The fact remains and is now confirmed by the state's highest court, that there were clear deficiencies in this company's safety practices that very nearly cost a man his life. Self-inflating personal flotation devices are readily available, which do not impede employees in shipboard work, while offering them an added level of personal safety," Ms. Patterson says.

Source: SafeWork SA

## Smoking Gun Revealed For Maralinga Veterans!

15 May 2007

A direct link between British nuclear tests and long-term illness amongst exposed servicemen has been revealed by landmark research to be released today by New Zealand's Massey University. This is a hugely significant report for our long suffering servicemen exposed to radiation by nuclear detonations in Maralinga in the 1950s and 1960s, said Australian Democrats Leader, Senator Lyn Allison.

The Australian Government can no longer claim the tests are not linked to cancer. The New Zealand study examined the genetic effects of sailors exposed to a series of nuclear bombs in the Pacific and painstakingly gathered a control group to authenticate the study.

Unlike the flawed study undertaken by our government last year that only counted numbers and provided the result it wanted, the New Zealand study funded by their government is proof-positive that long-term genetic damage is a consequence of veterans performing their service duties. This research is the smoking gun for veterans in Australia who have been forced to wage a sustained battle for their rights with a miserly Howard Government.

This Government, despite its constant rhetoric of a fair go has fought compensation claims by veterans of the Maralinga tests every step of the way. But no longer can they get away with the claim that no links exist or by supplying Gold cards to shut veterans up. Instead this may well give way to massive claims of compensation as in New Zealand.

In the meantime the veterans of the Maralinga tests continue to suffer physically from their medical conditions and mentally from a distinct lack of support from our shameful Government, said Senator Allison. Source: Senator Lyn Allison, Parliamentary Leader and Democrats Senator for Victoria

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