

WILLIAMS LOVE & NICOL
LAWYERS

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**Formal Management of
Workplace Behaviour**

Basis for the Workshop

- Many of us have worked in troubled workplaces
- Some of us have been asked to provide advice on how best to manage workplace conflicts.
- Managers and workers alike quite often do not understand either their rights or obligations.
- Problem resolution can be more effectively when those involved simply follow established procedures and due process.
- When problem resolution fails, it is time for formal processes.

Purpose of Workshop

- This is a presentation about practical issues designed to help both managers avoid the pitfalls of workplace behaviour problems.
- It is intended to provide a commonsense understanding of how to deal with a range of issues, including grievances, harassment, bullying, unethical conduct, underperformance and even criminal conduct.
- It is aimed to link back into your own workplace and provide you with insight applicable in any Australian workplace.

Structure of the Workshop

- Discussion and shared experiences to give you personal context
- Examples and comparisons
- Break for morning tea
- Some quick syndicate work
- Q & A

Introduction

- Background to problem behaviour in the workplace
- (De)Motivators
- Contributing factors
- Personal & team dynamics
- Methods of early resolution
- Background structures
- Formal processes

Background to problem behaviour

- Occurs at any level
- Climate or individually driven
- Intentional or not
- Temporary, occasional or ongoing
- May be capable of resolution in the workplace but also may not
- Can manifest itself in any of a number of ways, ranging from poor performance all the way through to crime, including violence

(De)Motivators

- Personal health issues
- Home problems including financial
- Dependent behaviour
- Workplace relationship issues
- Job dissatisfaction or imbalance
- Apathy or resentment arising from perceptions, e.g. missed opportunities
- Overwork/poor home-work balance
- Poor team dynamics

What are some of the signs?

- Poor work performance
- Absenteeism
- Punctuality issues
- Appearance suffers
- Workplace relationship breakdown
- Bullying and harassment
- Grievances
- Misconduct or misbehaviour
- Crime, including theft, fraud, information leaks, threats and even violence

Discussion

- Contributing Factors
- Methods of Early Intervention

Individual –v- Team Problem

- How do you determine?
 - Myers-Briggs Type Indicator (myersbriggs.org)
 - DISC (disconline.com)
 - Johari Windows (openwindows.se)
 - Holland Occupational Themes (kyvc.org)
 - Belbin Team Inventory (belbin.com.au)

Why bother?

**What happens if
this doesn't work?**

Background Structures?

- Workplace policies & procedures
 - Bullying, Harassment
 - Conduct
 - Performance Management
- Certified Agreement/Enterprise Bargain
- Individual employment contract
- Workplace Code of Conduct
- Integrity & Ethics
- Criminal Law

So what happens when all else fails?

- Often the employee may be encouraged to 'move on' voluntarily
- Provided with an 'Export-Only' reference
- Passing on the problem (pass-the-parcel)
- Reluctance to proceed formally
- Everyone else suffers
- Formal performance management
- Workplace investigation

Progressive Disciplinary Action

- A structured process for dealing with job-related behaviour where that behaviour does not meet expected and communicated performance standards
- The primary purpose for progressive disciplinary action is to assist the employee to understand that a performance problem or opportunity for improvement exists and to take positive action to resolve the situation

Understanding the formal processes

- Underperformance
- Grievances
- Misbehaviour
- Code-of-conduct and ethics breaches,
- Criminal conduct (including violence & fraud)

What do you need to do?

- Create and publish procedures so that staff, managers and the unions know what is required.
- Know and follow your published procedures.
- This is not a personal issue, so don't treat it as one. You need to remain professional.
- Do not rush to pre-judgment. Why?
- The devil is in the detail – so document everything!

What else to you need to do?

You need to call us!

- If your car needs repairs, you go to a motor mechanic.
- If you are ill, you go to a doctor.
- Why then do people who are untrained and inexperienced think they can conduct their own investigations?
- Answer – They watch too many police shows on TV (blame CSI!) 😊 😊 😊

Why Williams Love & Nicol?

- There are other legal firms – but they do not have an expert investigation practice.
- There are other investigation firms – but they do not have professional legal backing.
- We are the only firm that can provide you with an expert investigation practice that is underpinned and backed by a the best employment law practice in town.

QUESTIONS