

## A CHANGING CLIMATE DON'T GET CAUGHT OUT IN THE COLD

August 2018



Allegations surfaced last year concerning the sexual misconduct of Hollywood players such as Harvey Weinstein and Kevin Spacey, which brought forth the #metoo movement. Suddenly bullying, harassment, and unwanted sexual behaviour has been in the spotlight like never before, even if its existence was never justified. The effects of #metoo are certainly not confined to Hollywood and the ramifications of the movement have been felt in New Zealand, particularly in the legal industry.

### THE EFFECT IN NEW ZEALAND

Earlier this year, Dame Margaret Bazley was commissioned to investigate historic claims of sexual misconduct by lawyers at national law firm Russell McVeagh. Part of the terms of reference of the enquiry was to investigate whether the firm had sufficient policies, systems and standards in place to address this type of behaviour in the workplace, should it occur. Dame Margaret's findings in this area serve as a timely reminder for employers to ensure they have adequate documentation in place.

Dame Margaret's findings included that the firm's one page "Anti bullying and harassment policy" was deficient and did not refer to aspects such as the possibility of an independent investigation, how complainants might wish to seek independent legal representation and how they might avail themselves of

counselling services. Dame Margaret also considered it prudent for the firm to introduce two separate policies addressing bullying and harassment (rather than combining them) and also noted the absence of an alcohol policy and overall code of conduct.

Although the legal industry has been under the microscope, these sexual harassment and bullying issues can arise in businesses of all shapes and sizes. Of course, whether an employer's policy is appropriate or not depends on a variety of factors, including the number of employees and the resources the employer has at its disposal. Smaller employers will likely not be expected to have a policy as far-reaching as that of a nationwide organisation. If your business routinely provides alcohol or provides staff functions, then you may wish to consider having a specific policy addressing host responsibility and employee behaviour at such events. We encourage employers to take note of the current climate and to ensure they are not caught in the cold if an incident of bullying or sexual harassment does occur in their workplace.

### HOW WE CAN HELP

Jackson Russell's employment team can assist employers with:

- ensuring their compliance with relevant New Zealand legislation, including the Health and Safety at Work Act, Employment Relations Act and Human Rights Act.
- reviewing or drafting codes of conduct or employment policies covering the areas of sexual harassment, bullying, discrimination, alcohol, social media and health and safety at work.
- investigating and/or advising employers and employees on bullying and sexual harassment incidents in the workplace.

For further information, please call or email one of the Jackson Russell employment lawyers listed below.

### Jackson Russell

#### Key Jackson Russell contacts

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