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Workplace Disputes: HR tips to protect your occupational therapy practice



A workplace dispute is a disagreement or conflict between employers and employees, or between two employees, regarding work-related matters. A workplace claim is a formal request or complaint by an employee or employer seeking a resolution for a specific issue.

Workplace disputes are a business operational risk that can burden the resources, productivity and mental health of practice owners and employees. Following best practice HR protocols can help mitigate the risk of workplace disputes and potential claims.

This article provides an overview of common workplace disputes within the occupational therapy profession, and best practice tips to mitigate these risks. Remember, it's always advisable to seek tailored advice from an experienced HR/ER professional regarding your specific workplace issues.

The most common forms of disputes faced by occupational therapy practice owners are:

General protections claim – This is a workplace action taken by an employee alleging a violation of their workplace rights, such as discrimination, harassment, or adverse action. Adverse action refers to any action taken by an employer that may negatively impact an employee's employment or working conditions. This may include a dismissal, demotion, reduction in pay, or any other detrimental treatment that may be seen as retaliation or discrimination against an employee for exercising their workplace rights.

Unfair dismissal claim – This is a workplace action initiated by an employee who believes they were terminated from their job in a manner that was unjust or without valid reason.

Wages theft claim – This is a workplace action initiated by an employee who believes they were not paid the correct amount for their work.

Breach of award or agreement – When a practice owner fails to honour the terms of an industrial obligation such as an employment contract, award, agreement or legislative provision, or an express or implied duty, this is known as a breach. For example, paying an employee at an incorrect classification level is considered a technical breach of award.

Tips For Practice Owners:

- ✓ Develop and implement clear workplace policies, procedures and formal employment agreements in consultation with an experienced HR professional.
- ✓ Always seek professional advice before changing employment agreements.
- ✓ Keep up to date on your employer obligations and comply with workplace laws including but not limited to the National Employment Standards, anti-discrimination laws and work, health and safety (WHS) laws.
- ✓ Pay your staff at least their minimum lawful entitlements.
- ✓ Practice clear communication with your staff and maintain good employee relations with ongoing check-ins and opportunities to give and receive feedback.
- ✓ Follow procedural fairness and keep notes when handling workplace issues.
- ✓ Always seek professional advice before terminating someone's employment.

The most common form of claim faced by occupational therapists who are employees is:

Breach of contract claim – This occurs when one employee fails to fulfil their obligations as outlined in an employment contract. For example, a practice owner may initiate legal action against a former employee for breaching the restraint of trade clause in their employment contract.

Tips For Occupational Therapists (Employees):

- ✓ Always read your employment contract and make sure you understand it before you sign.
- ✓ Read and comply with workplace policies and processes and make sure you understand them.
- ✓ Attend check-ins with your employer and engage in giving and receiving feedback.
- ✓ Speak with your employer about any concerns and keep notes.
- ✓ Follow Occupational Therapy Australia's Code of Ethics and Code of Conduct, as well as national guidelines from the Occupational Therapy Board of Australia and the Occupational Therapy Council of Australia.

These tips are not an exhaustive list. Rather, they highlight common scenarios in occupational therapy practices and are intended to spark thoughtful consideration of your workplace practices and risk mitigation strategies.

Resources available to both employers and employees include the Fair Work Ombudsman, Australian Human Rights Commission, WHS regulator in your jurisdiction and an HR consultancy that works closely with the allied health sector such as WorkPlacePLUS.

OTA members receive special member benefits through WorkPlacePLUS for support with HR and IR issues.

For more information, contact Anna on (03) 9492 0958 or visit www.WorkPlacePLUS.com.au



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