

## Workplace and insurance briefing

# Managing employee complaints and inquiries

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Employers should be well prepared and know how to handle a situation where an employee exercises a workplace right under the general protections of the *Fair Work Act 2009 (Act)* by making a complaint or inquiry about their employment.

The Act does not define what constitutes a complaint or inquiry but recently the Full Court of the Federal Court of Australia held in *Alam v National Australia Bank Ltd* that a complaint that an employee is able to make in relation to his or her employment is not 'at large', but 'must be founded on a source of entitlement (whether instrumental or otherwise)'.

Poor handling could lead to an employee making a successful general protections claim if they argue that the complaint or inquiry either lead to the employer taking adverse action against them such as dismissal, change in position, or discrimination.

Employers must ensure they have detailed policies and procedures in place and a thorough internal system for dealing with employment-related complaints and inquiries. Employers must make this system known to all employees and record and document each stage of the complaint handling process and the outcomes reached.

Each complaint or inquiry should be taken seriously and dealt with fairly to avoid a successful general protections claim.

General protections claims can be very costly. There is no cap on compensation and the Court can award general damages and pecuniary penalties and in some cases reinstatement.

A Court is less likely to find in favour of the employee if the employer can produce clear documentation supporting the reasons for any valid action taken by the employer and disproving that the action was taken because the employee exercised a workplace right.



Employers must have in place, communicate, and practise detailed employee complaint and inquiry handling procedures and document the findings.



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