

SPEAKOUT

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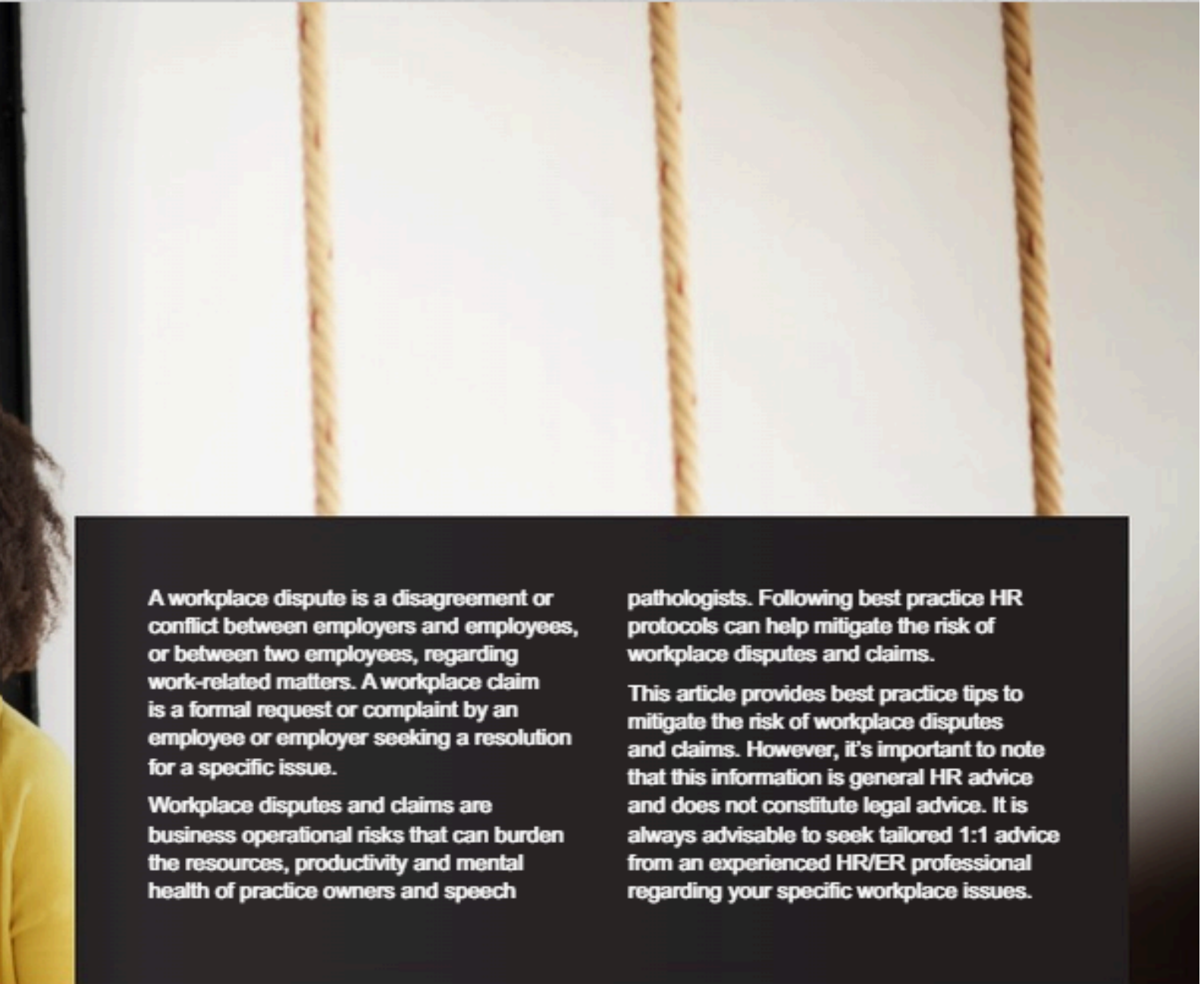


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DOS AND DON'TS TO AVOID A WORKPLACE CLAIM

BEST PRACTICE HR TIPS FOR SPEECH PATHOLOGISTS AND PRACTICE OWNERS



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 and claims are business operational risks that can burden the resources, productivity and mental health of practice owners and speech

pathologists. Following best practice HR protocols can help mitigate the risk of workplace disputes and claims.

This article provides best practice tips to mitigate the risk of workplace disputes and claims. However, it's important to note that this information is general HR advice and does not constitute legal advice. It is always advisable to seek tailored 1:1 advice from an experienced HR/ER professional regarding your specific workplace issues.

THE MOST COMMON FORMS OF CLAIMS FACED BY SPEECH PATHOLOGY PRACTICE OWNERS ARE:

General protections claim – This is a legal 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 legal 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 legal 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 SPEECH PATHOLOGISTS (EMPLOYEES):

Do

- ✓ Always read your contract and make sure you understand it before you sign.
- ✓ Ask questions and seek advice before signing a contract.
- ✓ Read the workplace policies and processes and make sure you understand them.
- ✓ Comply with the workplace policies and processes including notice periods.
- ✓ Ask questions if you don't understand the workplace policies and processes.
- ✓ Follow SPA's ethical and professional guidelines.
- ✓ Attend check-ins with your employer and engage in giving and receiving feedback.
- ✓ Speak with your employer about any concerns and keep notes.
- ✓ Review your employment agreement before ending your employment.

Don't

- ✗ Sign any contract that you haven't read or don't understand.
- ✗ Take actions that are in breach of the law, your workplace policies or your employment contract.
- ✗ Withhold workplace concerns from your employer.
- ✗ Quit your job on a whim or without seeking professional advice.
- ✗ Make a claim against your employer without seeking professional advice.

The most common form of claim faced by speech pathologists who are employees is:

Breach of contract claim – This occurs when one party fails to fulfil their obligations as outlined in a legally binding agreement. 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 PRACTICE OWNERS:

Do

- ✓ 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.

Don't

- ✗ Operate without having clear workplace policies and procedures, and formal employment agreements in place.
- ✗ Make changes to employment contracts on your own without seeking professional advice.
- ✗ Make unlawful business decisions.
- ✗ Make knee-jerk decisions or terminate someone's employment on the spot.
- ✗ Terminate someone's employment while they are on leave.
- ✗ Terminate someone's employment via text message.
- ✗ Terminate someone's employment without seeking professional advice.

These tips are not an exhaustive list of dos and don'ts. Rather, these tips highlight common scenarios in speech pathology practices, and are intended to spark thoughtful consideration of your workplace practices and risk mitigation strategies. This may include considering other types of claims such as workers compensation, WHS, discrimination, sexual harassment, and others.

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](#).

All SPA 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

Anna Pannuzzo
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