

Intimidating WHS inspectors not acceptable

A recent decision made by the Industrial Court acts as a strong deterrent to anyone using intimidating or improper behaviour to hinder SafeWork SA's work health and safety (WHS) inspectors, whilst executing their regulatory duties.

The Industrial Court convicted Gepps Cross based businessman Mr Angelo DiCesare under section 190 of the *Work Health and Safety Act 2012* (SA) for attempting to intimidate a SafeWork SA inspector, imposing a fine of \$5 000 plus court costs.

On 4 June 2015 Mr DiCesare used offensive and aggressive behaviour towards a SafeWork SA inspector who was visiting his earthmoving equipment maintenance and service business premises in response to a reported complaint about a number of matters including unguarded plant, workplace overcrowding and a lack of work health and safety induction.

When considering the question of a conviction, Presiding Magistrate Lieschke stated that the inspector's position and role when visiting the defendant's business was comparable to that of a police officer, and the court should not afford any lesser level of disapproval of offensive behaviour towards a WHS inspector.

"She (the inspector) was acting as a public officer, conducting her duty to assist in maintaining compliance standards of workplace health and safety in furtherance of the public interest of avoiding, wherever reasonably practicable, personal injury to employees and others who may be impacted by a business's operations," said Magistrate Lieschke.

"This is the very important context of the inspector's activities. Intimidating such a public officer performing this important work is not acceptable ... by anybody," Magistrate Lieschke said.

SafeWork SA confirms that the inspector was following procedure, and reminds business owners not to view work health safety compliance as an intrusion or something that can be opposed or dismissed.

"The inspector was investigating a complaint and protecting the identity of the complainant and should not have been the subject of aggressive or offensive behaviour," said SafeWork SA Executive Director, Ms Marie Boland.

"Our inspectors play a very important role in ensuring the health and safety of workers; they are performing a significant public service, and in this case a number of Prohibition and Improvement Notices were subsequently issued to the business owner," Ms Marie Boland said.

Anyone can report a matter of concern by calling SafeWork SA on 1300 365 255 or emailing help@safework.sa.gov.au.

Background

The maximum penalty for this offence is a two-year term of imprisonment and a \$50 000 fine.

ENDS

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