

A recent High Court of Australia decision just rewrote the rulebook for employers – and hoteliers should take note.

The court¹ overturned longstanding precedent, confirming that employers can now be held liable for psychiatric injury caused by breaches of employment contracts.

The result? AU\$1.45 million in damages awarded to an employee – covering lost past and future earnings, plus pain and suffering.

For hotel owners and operators, the message is clear – the four walls of your HR department are just as costly as your empty rooms.

Don't Let Legal Risk Check In

To reduce the risk of high-value psychiatric injury claims – and avoid being the next headline or High Court test case – here are three key areas to focus on:

1. Termination and Disciplinary Process

How your team exits or disciplines staff doesn't just impact morale or reputation – it creates legal risk. Even the perception of unfair treatment can trigger expensive claims.

TIP

Train your leaders. Your general managers and department heads must manage disciplinary processes with transparency and fairness. Document everything. It's not just HR best practice, it's your legal defence.

2. Psychosocial Risk Is Now a Legal Risk

Psychosocial risks are no longer just environmental, social and governance (ESG) talking points – they're a recognised legal liability. In high-pressure hospitality environments, mental health risks must be identified, assessed and managed just like any physical hazard.

TIP

Don't just write the policy – embed it into operations. Mental health support, complaints processes and cultural safety training should be part of daily practice, not just corporate manuals.

3. Is Your HR Manual Now a Contract?

That glossy employee handbook might be doing more than setting expectations – it could be creating enforceable legal obligations. If your employment contracts reference internal policies, courts may treat them as part of the contract, whether you intended it or not.

TIP

Review your employment contracts. Use clear, non-binding language where incorporation isn't intended. Unintentional incorporation = unintentional liability.

Owner or Operator – Who's on the Hook?

If your hotel is third-party managed, don't assume you're insulated. Allocation of legal risk between owner and operator is a separate (and critical) discussion – one for another day!

Do Your Processes Need a Legal Scrub?

With this shift in the law, now's the time to review your employment practices, contract structures and risk allocation – before you become the next test case.

Reach out to our team to audit your exposure.

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¹ *Elisha v Vision Australia Limited* [2024] HCA 50