

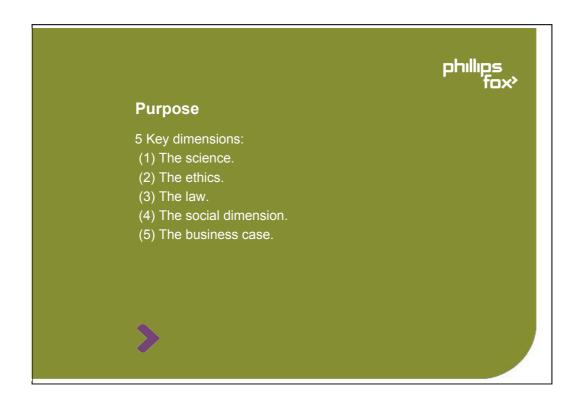
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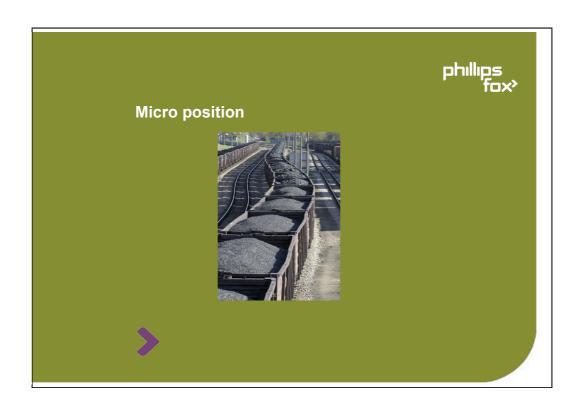
Session overview

- Purpose what is the purpose of an AOD policy?
- Micro position What is the legal form of the policy?
 How does a contractor enforce its own policy? How should a contractor deal with a breach? What are the risks?
- Macro position Requirements of CMSHA and MQSHA Acts and Regs; interrelationship between contractors' and SSE's obligations; what happens when policies conflict?









Micro position - overview - What is the legal effect of a contractor's AOD policy? - What are the consequences of a breach? - What about unfair dismissal? - Discrimination.



Micro position - legal effect and consequence of a breach

- How is the policy incorporated?
- What obligations does the policy impose?
- Can the policy be varied?
- What are the consequences of a breach?



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Micro position - unfair dismissal

- Unlawful termination not changed (other than remedy).
- Unfair dismissal has changed the following employees cannot bring a claim for unfair dismissal:

 Employees engaged for a specified task or period;

 Employees under a trainee arrangement;

 'Genuine' casual employees;

 Seasonal employees;

 Employees dismissed during a probationary period;

 Employees with less than 6 months' continuous service ('two bites at the cherry');

 Employees employed by an employer with 100 employees or less;

 Employees terminated for (or for reasons that include) genuine operational reasons;

 Employees not employed under an award or workplace agreement whose remuneration is above \$98,200.





Micro position - some unfair dismissal cases

- Shane Rolls v Macmahon Contractors Pty Ltd [2006] (U2005/246)
- Edward Hall v Ulan Coal Mines Ltd (1997) (No. 20803 of 1997)
- Worden v Diamond Offshore General Company (1999) (No 80124 of 1999)
- Robin v Worley ABB (2001) (C2001/5564)



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Micro position - discrimination

- Anti Discrimination Act 1991 (Qld)
- Meaning of 'impairment'.



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Macro position





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Macro position - overview

- Coal Mining Safety and Health Act 1999 (Qld) (CMSHA) and the Mining and Quarrying Safety and Health Act 1999 (Qld) (MQSHA) require a Safety and Health Management System (SHMS) to be in place.
- Subtle differences between two Acts and two sets of Regs.



Macro position – the Macmahon dispute - Commission decision. - A jurisdictional question. - Contractor's vs. SSE's obligations. - The Full Bench's view – some guidance? - The current status of the dispute. - The requirement of the Regs. - The future...

