

Safety issues, workplace diversity and flexible work practices

Queensland Mining Industry Health and Safety
Conference

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What will we cover ?

- What contributes to workplace diversity ?
- What safety obligation do you owe ?
- What diversity obligations do you owe ?
- How can you meet the daily challenges – a case study ?
- Where do you draw the line ?

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What contributes to workplace diversity ?

- age
- race
- gender
- impairment
- family/carer responsibilities

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What is your safety obligation ?

- Statutory tests:
 - ensure risk to workers is at an acceptable level
 - strict (or almost strict) liability
- Common law
 - take reasonable care for employees' safety to avoid exposing employee to unnecessary risks of injury or damage to health
 - cannot delegate the duty

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What are your diversity obligations ?

- not to unlawfully discriminate in:
 - offering work
 - terms and conditions of work
 - termination of work
- on grounds which are specified: eg
 - age
 - impairment
 - race
 - gender
 - family/carer's responsibilities

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How do you meet the challenge ?

Case study – John

- What are the diversity issues?
- What safety concerns arise ?
- What options do you have to manage the safety risks in this case study ?
- Where would you draw the line in this case study ?

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Lessons to learn - where do you draw the line in daily operations ?

- treat each situation on its own facts
- ensure consistency of management approach
- whilst the safety obligations usually prevail over the diversity issues, this may not always be so
- to defend a challenge to a decision about a mine worker's employment based on safety concerns you must be able to show:
 - a real risk to safety
 - consideration given to all relevant factors
 - consistency of approach

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