Risk: A Commercial Perspective

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Types of risk

Legal risk

> Organisation liability
> Personal liability
> Vicarious liability

Reputation risk

> Adverse publicity
> Employer brand
> Attrition
Sources of legal risk

- **Work Health and Safety Bill 2012 (SA)** [see also **Work Health and Safety Act 2011 (NT)***]
  > Duty of care imposed on both the University as a “person conducting a business or an undertaking” and a separate duty imposed on the “officers” of the organisation

- **Fair Work Act 2009 (Cth)***
  > Liability imposed on the employer for breaches of the Act and potential for the prosecution of persons “involved with” or “knowingly concerned”
Sources of legal risk

State and Federal Equal Opportunity and Discrimination Laws

> Liability on the part of the University as the employer (or service provider)

> Vicarious liability applies in relation to the act of one employee against another unless the employer can establish that reasonable steps were taken to prevent the conduct complained of

Other sources...

> negligence/public liability, defamation, IP disputes…. to name only a few!
What you can do to avoid risk

- Be able to recognise a situation that presents risk
  - you don’t need to know the answer/solution the key is to recognise the risk

- Don’t be afraid to ask for expert assistance
  - if in doubt ask someone

- Following policies and procedures
  - might not be apparent on the face of it, but procedures are designed to minimise risk
  - don’t take short cuts!
What you can do to avoid risk

- Take notes
  - but be aware of discovery obligations

- Consider whether legal professional privilege is relevant
  - what is LPP
  - why is it important
  - how it is broken and implications