

## Crown Solicitor's Office bulletin

The PSA and your delegates met with CSO management on Friday 24 November. This meeting followed the direction by Commissioner Newall conciliating our dispute at the Industrial Relations Commission on 2 November.

The direction was the CSO consult with the PSA on 'industrial matters' arising from the proposed open plan office. Commissioner Newall defined 'industrial matters' under Section 6 of the Industrial Relations Act 1996. These are matters or things affecting or relating to work done or to be done, or the privileges, rights, duties or obligations of employees and employers. The section provides a non-exhaustive list of examples that includes conditions of employment (that includes manner of work). Commissioner Newall also stated that the Commission has no jurisdiction to involve itself in the Property NSW policy underpinning the CSO's move to open plan. However, it is up to the parties should they wish to consult about that.

### We raised:

#### » **Specific operational requirements per the Property NSW policy**

CSO management was 'bewildered' we hadn't raised operational requirements such as confidentiality of Cabinet-in-confidence matters, terrorist threats and police witnesses on witness protection previously. We indicated these matters had in fact been raised in negotiations since September. CSO undertook that if senior solicitors from each team raised 'specific operational requirements' support enclosed offices with their directors, and those

directors in turn raise these issues with Tom Gilmartin, these concerns would be considered. We have sought that these issues are discussed at future meetings.

#### » **Risk assessments**

We are concerned that risks faced by solicitors working in open plan will not be properly considered by the CSO. It understands general health and safety risks such as the proposed temporary relocation to Bridge Street and risks of lifting boxes. It appears to be unaware of specific risks solicitors may face working in open plan, including psychological risks. We will review the material provided at the Wednesday 29 November risk assessment workshop. We have sought risk assessments to be a standing agenda item at future meetings. This may become the basis of future dispute as risk assessments are clearly an industrial matter.

#### » **CSO indemnifying solicitor's duty of confidentiality**

We are greatly concerned about solicitors working on confidential matters in open plan. CSO advised a protocol will be put in place requiring solicitors to not open confidential communication until they are in a private room they have booked. We advised the obvious problems where confidential information is urgent and private rooms are not available. The CSO must indemnify its solicitors fully from possible breaches of confidentiality due to the open plan. This is a further issue for future meetings and potentially grounds for future dispute.



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### » CSO taking into account lower productivity when assessing work performance

We are further concerned that open plan will lower solicitors' productivity. That is obvious with unpacking and packing up files at the start and end of the day. The CSO does not consider that the open plan will reduce concentration and hence no productivity loss. We contend there will be and work performance may be assessed as requiring remedial action. Again, the CSO says such open plan issues will be addressed by protocols. We contend that any policy dealing with unsatisfactory performance must be amended with lower productivity. This is another issue for future meeting and grounds for future dispute.

We have written to the CSO seeking consultation on the above, and the recently released architect's sketch plans. We will advise further after that meeting. In the interim we strongly advise that you put forward to your senior solicitor 'specific operational requirements' on why you require an enclosed office. Your senior solicitor should raise that with their director. You should also provide a copy of your reasons to your delegates. We will then have an idea if directors are raising these with Tom Gilmartin.

