

# Poor processes lead to large claim

A claim against the Order of St John emphasises the importance of taking bullying allegations seriously and following fair processes, says **Paul Robertson**.



## BULLYING WAS THE FOCUS

of the complaints in a recent case involving a charitable organisation. The case emphasises the serious financial consequences of not running a fair and reasonable process when investigating complaints.

Mr Hilford was an ambulance driver. Over 2013 and 2014, he complained about the behaviour of a dispatcher at St John. He alleged bullying because the dispatcher assigned him jobs before he was ready, hung up on him, sent abusive messages and did not always give him a copy of his work roster.

St John investigated and spoke to the dispatcher, but Mr Hilford complained that the conduct continued. Against that background Mr Hilford was taken to task for a performance issue which he took very badly.

Mr Hilford was concerned that his complaints against the dispatcher were not being taken seriously. He sent his manager an email with a picture to demonstrate how he was feeling. The picture depicted the dispatcher as a panther attacking St John's frontline team drawn as soldiers

holding up a shield. Attached was a soundtrack of Gangsters' Paradise to express the situation as Mr Hilford saw it.

The management of St John became concerned about Mr Hilford's behaviour and health. There was to be a health and wellness referral, but this never happened and no steps were taken to address Mr Hilford's concerns.

Mr Hilford believed he was being watched and monitored. The Authority member subsequently held that he was correct in this assumption. Mr Hilford raised a personal grievance alleging he was being bullied and treated unfairly by management. This led to a formal investigation by St John. None of the complaints were upheld because the conduct complained of could not be classified as bullying in terms of the definitions provided by WorkSafe New Zealand.

Mr Hilford raised a second personal grievance because St John's refused to pay him sick leave. There was an unsuccessful mediation, then Mr Hilford returned to work in mid 2015.

Mr Hilford was dismissed the

following month because of a complaint he had taken home a green 'carbon' of a patient report form. Mr Hilford argued that there was no clear procedure with those forms and that St John had used this as a pretext to dismiss him. Mr Hilford raised a third personal grievance alleging unjustified dismissal.

The investigation before the Authority went badly for St John. It had not followed its own procedures when responding to the concerns of bullying by Mr Hilford and it had failed to take all reasonably practicable steps to prevent harm. Even if there was no bullying, it should have organised a meeting with the persons he complained about.

Then the investigation was conducted poorly with many procedural errors; Mr Hilford was not spoken to, no notes were kept of discussions with witnesses, Mr Hilford was not provided with all the information, the investigator was biased and inconsistencies in the evidence were not questioned. Insufficient support was given to Mr Hilford upon his return to work and then he was dismissed, with

St John repeating most of the previous procedural errors and several more. All the personal grievances were upheld.

Mr Hilford was very upset by what happened to him; he had for a time received psychiatric care at a facility. Mr Hilford was awarded compensation for the salary losses he had sustained while on unpaid sick leave, lost wages over six months following his unjustified dismissal and \$35,000 for hurt, humiliation and distress. The total compensation award was approximately \$80,000.

The claim against the Order of St John highlights the importance of taking allegations of bullying seriously and following a good procedure when investigating complaints.

**Hilford v The Order of St John Northern Region Trust Board [2018] NZERA Auckland 190**



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