

Employer Guidance Note – February 2025
Hazards in Home Offices

Workers' compensation liability for home office hazards

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Legal**



- Ms Vercoe was employed by the City of Charles Sturt as an Asset Programmer / Operations Programmer and regularly worked from home.
- Ms Vercoe suffered injuries when she tripped and fell over a metal pet fence while working from home. Ms Vercoe temporarily erected the pet fence as a barrier in her home so that a colleague's puppy, that she was dog-sitting for the day, could be kept away from Ms Vercoe's family pet rabbit. The fall took place during a break from work when Ms Vercoe attempted to leave her home office to make a coffee.
- The Local Government Association Workers Compensation Scheme (**LGAWCS**) rejected Ms Vercoe's claim for compensation for injuries sustained in the fall. The LGAWCS said it was not satisfied that Ms Vercoe's employment was a significant contributing cause of her injuries.
- Ms Vercoe challenged this decision in the South Australian Employment Tribunal (**SAET**). The SAET was required to consider whether Ms Vercoe's injuries arose out of her employment within the meaning of section 7 of the Return to Work Act 2014 (SA) (**RTW Act**).
- The SAET accepted Ms Vercoe's appeal. We have outlined relevant parts of the Tribunal's reasoning on the following page.

Reasons for Decision

- The SAET held that Ms Vercoe was on an authorised break within the meaning of section 7(5)(b) of the RTW Act when she got up from her home office desk and tripped over her pet fence on the way to make herself a coffee. Deputy President Magistrate Carrel took into account contemporary practices, including a contemporary understanding of matters incidental to employment, in reaching this conclusion. This included the large demographic shift among office-based workers towards working from home during the peak of the COVID-19 pandemic, which has continued to a lesser degree following the end of the acute phase of COVID-19.
- DPM Carrel went on to consider whether the Ms Vercoe’s injuries were compensable within the meaning of the RTW Act. It was relevant that the Council provided Ms Vercoe with a working from home checklist, which was intended to guard against work health and safety risks in a working-from-home context. However, the Council did not take any other steps to manage risks associated with working from home, and DPM Carrel concluded for this reason that the Council had effectively abrogated its responsibilities for the provision and maintenance of a safe working environment to Ms Vercoe.
- Accordingly, DPM Carrel rejected that the Council needed to contemplate the specific hazard in Ms Vercoe’s home (the pet fence) for an injury in connection with the pet fence to be compensable. This was “too high a bar for compensability”.
- DPM Carrel further reasoned that the pet fence was an important or influential cause of the Ms Vercoe’s injuries. As a physical workplace hazard, the pet fence met the second limb of section 7(2) of the RTW Act.

Managing a remote or hybrid workforce – what’s not enough

- Employers’ duties relating to work health and safety extend to home working environments. Providing employees who work from home with a simple checklist will not suffice to adequately manage risks associated with home offices or other remote working environments. Employers need to take more involved steps to manage risks, such as specifically approving the physical setup of remote offices, in order to adequately manage these risks. We explore some of the broader implications on the following page.

Bringing employers' obligations into focus

- Employers have substantial health and safety obligations to employees. These obligations continue to operate when employees work from home.
- Remote working poses new risks, including risks of physical injury (as this case demonstrates) but also unique psychosocial risks. For example, social isolation, and other psychological ailments can arise when individuals spend extended periods without physical contact with others. Health and safety laws pre-date these societal changes and do not contemplate large-scale virtual working.
- Employers manage health and safety risks in the workplace via supervision and by implementing safety policies and procedures. At a high level, these things require employers to exercise a degree of control. It is difficult in a practical sense for employers to exercise the same level of control over remote workplaces.
- Questions remain as to how employers can exercise sufficient levels of control over remote workplaces to meet health and safety obligations. Very few employers visit employees' homes, for example, to inspect their working environment. Physical visits would also need to be repeated over time to remain relevant. This would present a substantial compliance burden. Virtual methods of checking such as videos or photographs of remote workplaces, would, at a minimum, need to be repeated over time and sufficient to discharge health and safety obligations. In any case, very few employers have a thorough, ongoing system of monitoring virtual workplaces. This also raises the issues as to how far employers can reasonably undertake surveillance of a remote or hybrid workforce.

Where to from here?

- We will continue to see courts and tribunals grapple with these issues as time goes on, given that hybrid ways of working are likely to continue in many industries and occupations, and notwithstanding the trend towards greater in-office working.
- Any employer with a large remote or hybrid workforce should give fresh thought to its system of managing health and safety, including processes, policies and procedures. Our team is well equipped to advise on health and safety issues, including preparing and reviewing policy and related documents.

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ready to assist
you with
employment
and workplace
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Our team

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