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LawTalk Blog



Cancer and the workplace

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Many of us have a friend or family member who has been affected by life-threatening cancer or another serious illness. This year [Daffodil Day](#) will be held on Friday 26 August and it is a day to reflect on the approximate 350 Australians who are diagnosed with a form of cancer every day and to remember those who have lost their battle with the illness.

At Andersons, we work with many clients who have suffered from illnesses like cancer, and their diagnosis has had a profound impact on their employment. Cancer is not just a personal problem affecting only the individual and their family, but it can also have a profound impact on the workplace and colleagues.

It is important for cancer sufferers to have support from their employer during their period of treatment and their return to work following treatment. Around 40% of people diagnosed with cancer are working at the time of diagnosis. Fortunately, survival rates continue to improve, and this means it is more important than ever for employers to turn their mind to issues regarding productivity and address continuing employment of cancer sufferers and survivors.

Studies have shown that 67% of cancer sufferers continue to work through their treatment; they find that ongoing employment provides a sense of normalcy to their life interrupted by a horrible disease. Only 10% of cancer sufferers do not return to work post treatment. In addition, 94% of carers or cancer patients continue to work whilst also undertaking carer responsibilities.

What role does the employer have with a worker with cancer?

Employers should do whatever they can to communicate with the affected employee and colleagues in a sensitive manner, whilst also ensuring they maintain privacy and avoid sharing personal information with others without the consent of the specific employee affected by cancer. It is crucial that employees are aware of their [industrial entitlements](#), including [sick leave](#), [annual](#)

[leave and carer's leave](#) as well as any potential benefits through their [superannuation](#) policy; for example income protection, total and permanent disablement insurance or early access to super funds).

Many workers are fearful of losing their job if their diagnosis becomes known to the employer, so employers should create an environment where workers feel comfortable approaching management to discuss personal health issues.

Employers should be cognisant of the effects of cancer treatment including surgery (which can cause ongoing pain), chemotherapy, radiotherapy, steroids, etc. Common side-effects of cancer treatment include:

- Fatigue;
- Nausea/vomiting;
- Diarrhoea;
- Loss of concentration/memory;
- Depression and related psychological deterioration;
- Increased risk of infection;
- Hair loss and other changes to one's appearance.

Side-effects can even continue long after the treatment has ceased.

Employers should develop work strategies in the event that a staff member falls ill, including allowing flexibility to attend appointments, alter duties (particularly if the worker is suffering fatigue), allow the worker to work from home if necessary, allow the worker to take rest breaks as needed, etc. Importantly, employers should always encourage other sick staff to remain away from work whilst they recover, as a cancer patient's immune system is often very low, and they are susceptible to germs spreading around the office.

"Employers have been known to attempt to terminate employees after a cancer diagnosis, or terminate them due to absences for treatment. "

Good employers will keep in touch with the family during periods of absence and will provide counselling to colleagues who may be upset with their co-worker's illness. It is also important to be realistic that not everyone survives a cancer diagnosis and everyone responds differently to grief and loss.

Whilst many or most employers would deal with staff illness positively, there are other employers whose actions are deplorable.

[Discrimination](#) is far too common, and cancer patients are also victims of discrimination in the workplace.

Employers have been known to attempt to terminate employees after a cancer diagnosis, or terminate them due to absences for treatment. In a 2013 case of *AJR Nominees* the employer [sacked](#) a long term employee for asking to use accumulated sick leave to obtain cancer treatment. This gave rise to significant claims for compensation and judgment of the Court was scathing against the heartless employer.

So cancer and other serious illnesses are often relevant to workplace relations and at Andersons we fight to ensure that workers' rights are protected. If you or a family member have suffered discrimination or other work related problems as a result of an illness or injury, contact today's blog writer, Associate in Civil Litigation, [Michael Irvine](#).

** Statistics provided in this article were obtained through a Cancer Council of Australia seminar.*

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to Australian Federal legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.