DEPARTMENT OF LABOUR EMPLOYMENT RELATIONS

Employment Relationships

GUIDE FOR EMPLOYERS

newzealand.govt.nz

Contents

HOW TO USE THIS HANDBOOK 3

GETTING OFF ON THE RIGHT FOOT 4
Setting up for success 4
Induction 5
Establishing a performance management system 6
Preventing employment relationship problems 6
Procedures for resolving employment relationship problems 7

WHEN PROBLEMS ARISE 8
Recognising an employment relationship problem 8
The risk of looking for an easy way out 9
Following a problem-solving procedure 9
Case study – good process for warnings 10
First steps in dealing with a problem 11
Changing the terms of employment 12
Case study – redundancy and consultation 12
Pitfalls in redundancies 13

TAKING ACTION 15
Can I legally dismiss an employee? 15
The "test of justification" 15
Probation or trial period 15
Explaining trial periods 16
Explaining probation periods 16
Investigating and dealing with misconduct 17
Case study – bad process for dismissal 18
Suspending an employee 19
Persistent lateness and absenteeism 21
Problems arising from employee illness 21
Conflict among employees in the workplace 21

APPENDICES 22
Appendix 1: Checklist for using a performance management system and dealing with potential problems 22
Appendix 2: Checklist for managing problems with behaviour or relationships 25
Appendix 3: Checklist for investigating serious misconduct 27
Appendix 4: Checklist for restructuring and redundancy 30
Appendix 5: Sample problem-solving procedure to include in the employment agreement with your employee 31

How to use this handbook

Building successful employment relationships is important and makes good business sense: organisations with good employment relationships tend to be more successful.

When problems emerge, they are best resolved promptly by the parties themselves. That is more likely when relationships are generally good.

Most employers and employees do a good job of preventing problems or resolving them by dealing with each other honestly, openly and with mutual respect.

Yet both employers and employees can feel intimidated when differences arise and may sometimes believe the cards are stacked against them. This can lead to actions that make it more difficult to resolve the problem effectively.

This handbook has a companion resource, How to Hire, which is designed to start the relationship off on a sound footing.

This guide starts where How to Hire finishes – by outlining the information and systems that should be established as the employment relationship begins.

It then looks at good practice in dealing with the issues that most often lead to problems in the employment relationship.

Appendices offer four checklists to help with the most common issues:

- Performance management and dealing with potential problems.
- Managing problems with behaviour or relationships.
- Investigating serious misconduct.
- Restructuring and redundancy.

This handbook finishes with a draft clause on managing employment problems. This draft meets the legal requirements to be included in your employee's employment agreement.

In employment relations, good process is essential if you want to make good business decisions and reduce the risk of problems ending up in mediation or in court, where you may incur costs for advisors, litigation and settlement.

While the information in this handbook describes the successful approaches of many New Zealand employers, it is only a guide.

Getting off on the right foot

Setting up for success

Good employment relationships begin with a good recruitment process. Recruitment should end with information and systems that establish the employee's role, your expectations and the employee's rights.

No-one wants their relationship to be bound in paper, but written documentation can help reduce the risk of misunderstandings.

On the day the employee starts working you should put together a file including:

- "must haves":
    - a signed copy of your employment agreement with the employee or details of the collective agreement under which he or she has been employed
    - a letter offering appointment
    - evidence that the employee is entitled to work in New Zealand
    - a completed tax code declaration (IR330) completed by the employee
- optional "good practice" items:
    - a job description
    - a personal profile
    - an application form
- the employee's personal information.

You must also record:

- the employee's time worked and wages earned
- holidays and leave earned and taken.

In addition, you should record:

- details of citizenship or the work permit held if you have not included this on the application form
- the anniversaries when the employee becomes entitled to conditions under either minimum legal entitlements or additional provisions in the employment agreement
- details of who to contact in case of an emergency
- details of the bank account to be credited with wages (if this is the agreed method of payment).

Keeping this file updated, and recording any changes that affect the employee or the job, sets a good foundation of facts to prevent problems and to resolve problems if they emerge.

Your employee has the right to know everything you are recording on the file and should be given the opportunity to review it.

Induction

Good induction and ongoing training are critical to help employees to understand the job and perform well in your workplace. Both set the tone and expectations for the relationship.

Key elements of induction are:

- a full health and safety briefing covering:
    - hazards within the workplace
    - how to be safe from hazards
    - the workplace evacuation plan
    - an introduction to the health and safety representative
- providing any safety or other equipment required for the job and ensuring the employee is adequately trained in its use prior to working unsupervised
- informing the employee of any reporting requirements, such as who to contact in case of absence or in an emergency in the workplace
- clarifying expectations on attendance and breaks
- outlining (preferably in writing) any on- or off-the-job training that the employee can expect to receive and is expected to participate in
- the terms of any probation or trial period, including the support and guidance the employee will receive during the period (see pages 15 and 16)
- the expected performance standards, and when and how you will review and give feedback on performance
- introducing the employee to supervisors and co-workers, and the union delegate where there is one
- making available to the employee information on any relevant policies (for example, policies on internet and email, sexual harassment, codes of conduct, reimbursement of business expenses)
- explaining and, where appropriate, signing the employee up to any benefit schemes (such as medical insurance or superannuation).

It is worthwhile following up on these issues about a month after the employee starts work. You and the employee should confirm your mutual expectations and how you will deal with each other.

Establishing a performance management system

This handbook focuses on problems in the employment relationship, but performance management is a lot more than dealing with problems after they have arisen. Positive performance management is built into your relationship with every employee and is equally important for rewarding success as it is for dealing with problems.

Performance management is an ongoing cycle (usually annual) with three basic steps:

- **Establishing agreed expectations for the job.** Apart from the employment agreement and documenting routine duties, you and the employee may also want to agree on matters like:
  - particular milestones the employee is to achieve and whether there will be extra reward for achieving them
  - any training or skill development the employee needs and how that will be accomplished
  - the employee's longer-term aspirations and how you as employer might help the employee achieve them.
- **Reviewing progress regularly and routinely.** It is important that you and the employee review progress at an agreed interval (every quarter is typical) and discuss both successes and problems. The credibility of the process can be undermined if performance reviews are only held when you get around to it or when there is a problem.
- **At each review, deal with any problems, recognise success, and revise the objectives for the coming period.** This is the opportunity for you and the employee to agree on the state of your existing relationship and to work together on what the future should be. Over time, dealing with problems and seizing opportunities will become part of the fabric of your relationship.

The level of formality should reflect the circumstances of your workplace, but having regular discussions on performance enables you to raise issues as they arise, creating an atmosphere of trust and understanding that avoids problems – and that makes the rest of this handbook unnecessary.

Preventing employment relationship problems

Problems are least likely to arise when everyone in an employment relationship acts in "good faith". This means dealing with each other honestly, openly and with mutual respect.

Acting in good faith is common sense and reduces the risk of conflict and problems. It is also a minimum requirement of the Employment Relations Act.

Some simple practices can make relationships smoother and help to prevent problems:

- Make sure your employees are well informed about their employment rights and responsibilities.
- Record agreements (and changes to agreements) in writing. This helps to prevent misunderstandings and to resolve problems if they arise later.
- Make it clear within the agreement that the terms of employment being offered are only those recorded in the written agreement, then avoid giving assurances that are inconsistent with the written agreement or that are not recorded in it.
- Your employees also have a responsibility to prevent and clear up confusion. For example, if an employee believes he or she is being paid more than the entitlements in their employment agreement, the employee should raise the error with you.
- Consult with the people potentially affected before making a significant change. Getting everyone's ideas and perspectives will often lead to better decisions. People respond better to change when they have some warning and feel they have been listened to.
- Act early when problems start to appear. Raising concerns when they first arise can help stop them becoming bigger and harder to resolve. An effective performance management system is a good way of ensuring this.
- Think about how the other people in the relationship might react to what you plan to do. If you were in their place, how would you feel?
- Take time to communicate clearly. Poor communication often causes disputes and misunderstandings.

It is a good idea to record, in writing, important communications. Where they relate to performance problems with staff (such as oral warnings), it is even more important to keep some record of what is said and when. These records do not need to be complex, but they should be dated and record what has been said, and be stored on the employee's file.

Procedures for resolving employment relationship problems

Every collective and individual employment agreement must contain a plain-language explanation of the processes for resolving employment relationship problems.

This explanation does not need to be complex or long. In fact, it should be written clearly, so that you know what processes you are required to follow, and your employees know what their rights are and what happens when a problem is raised.

An example of a plain-language explanation is contained in Appendix 5 of this handbook.

Four checklists outlining approaches to different employment relations problems are in the other appendices to this handbook.

When problems arise

Recognising an employment relationship problem

A problem includes anything that harms or that may harm an employment relationship.

While the most obvious relationship is between an employer and an employee, other examples are relationships among employees, between a union and its members, between a union and an employer, and among unions covering employees in the same workplace.

Examples of problems that can occur in the relationship from an employer's perspective include:

- poor performance or unacceptable behaviour
- lateness and absenteeism
- long-term illnesses
- failure to comply with health and safety procedures
- breaches of company policy or the law
- misconduct
- conflict between employees.

Problems from an employee's perspective can include:

- discrimination or harassment
- disagreement about whether a warning should be issued
- problems with health and safety
- disagreement about what a term in an employment agreement means
- misunderstood or poorly managed discipline, dismissals, redundancies or restructuring
- disputes over holidays or pay (including deductions from pay).

Some of these problems may be the basis of "personal grievances", which require specific treatment under the Employment Relations Act.

A number of staff in the same workplace may perceive the same problem. If so, it can help to deal with the problems collectively and to look for a solution that works for everyone. Where the employees are union members, their union can play an important part in representing their collective interests and agreeing on a sustainable solution.

Whether you are dealing with a problem involving an individual or a group, it is important to:

- deal with the issue as soon as you become aware of it
- take the time to get your facts straight

- listen and seek solutions
- make your view clear
- follow a fair process that everyone understands
- record your actions and expectations.

The risk of looking for an easy way out

Everyone can be tempted to ignore a problem and hope it will go away, but often the easy way out is really avoidance that leads to bigger problems later.

Examples of "avoidance" can include:

- selecting poor performers for redundancy rather than dealing with the performance issue directly
- giving fewer hours to a part-time rostered employee who has relationship problems with colleagues
- seeing an act as "the straw that breaks the camel's back" and pursuing discipline or dismissal without having raised previous concerns and set clear expectations for the future to help the employee to improve.

Such actions may well be unlawful and will often lead to greater problems, including personal grievances and claims of unjustified dismissal.

Avoiding underlying problems also denies the people involved the chance to resolve them. This is unfair and can be costly in other ways. For example, delay can create frustration that makes it harder to fix the problem. Also, the employee may be hurt and defensive to learn of a long-standing problem out of the blue. This may lead to "avoidable distress", with productivity, legal and cost consequences for you and your employee.

Following a problem-solving procedure

Sometimes it feels as if focusing unduly on the problem-solving procedure can get in the way of solving the problem itself, but following the agreed steps helps to:

- protect the rights of the employee
- ensure that the problem doesn't get worse through inconsistencies or misunderstandings
- give you the information and the robust process you need to support whatever decision you eventually make.

In some cases, process problems themselves can cause the breakdown of the employment relationship and lead an employee to claim unfair treatment, so it's important to get the process right.

Case study – good process for warnings

Andy designs wangles for Company A. The design team gets on really well and works collaboratively in a big open-plan office.

Last month, Andy's manager, Ngaire, received a complaint from a colleague who sits behind Andy. The colleague alleged that Andy spends an excessive amount of time sending personal emails from his work email address.

Ngaire is a bit disappointed because they've had this kind of trouble before at Company A. She specifically explained the company's email and internet policy to Andy during his induction to try and avoid a repeat of it.

After mulling it over, Ngaire decides the allegations are serious enough to warrant further investigation and possibly disciplinary action, such as giving Andy a first, verbal warning.

Luckily for Ngaire, she's had to deal with discipline problems before so she knows the best process to follow.

Ngaire arranges a meeting with Andy to tell him about the problem.

"You may be surprised by this, but we have received a complaint and need to discuss a disciplinary issue that relates to your computer usage. Here is a letter inviting you to come to a disciplinary meeting next week to discuss this further. You can bring someone along to support you during the meeting if you'd like," she explains.

At the disciplinary meeting, Andy admits that a lot of his emails are personal and related to his rugby team's poor performance this season. Ngaire listens to his explanation and then adjourns the meeting.

After thinking things over, she returns and tells Andy she will issue him with a verbal warning for breaching Company A's email and internet policy.

Andy is pretty upset when he gets the warning as he's heard through the grapevine that it's three strikes and you're out with things like this. Ngaire explains, however, that the company doesn't see it that way.

The warning is a chance for Andy to pull his socks up. It is just a verbal warning and won't be a black mark against him for ever.

Ngaire makes a written note of the warning and puts it on Andy's personal file. Keeping a record of the warning is important in case there are problems with Andy's email use further down the track.

If his inappropriate email use continues, then Company A's disciplinary policy says that Andy would need to be given a second, written warning, followed by a third and final warning, before they can consider dismissal.

Ngaire is relieved that Company A follows such a transparent process for warnings because it makes everything easier for both her and Andy in what could be a difficult and awkward situation.

Andy feels better after Ngaire's explanation that he has a chance to improve his behaviour. He understands the status of his warning and that, under Company A's disciplinary policy, it will be taken off his personal file after 12 months if he follows the company email policy in the future.

While Andy couldn't help emailing his friends to rib them about their team's poor performance, he is committed to stopping now that he's been warned.

First steps in dealing with a problem

It is critical that you don't jump to conclusions or predetermine your decisions. This applies whether you need to raise an issue with an employee or whether an employee raises an issue with you.

Your responsibility throughout the relationship is to ensure that you are making decisions fairly and consistently. This is usually not complicated – basically, you must investigate, gather information and think before you act.

Strategies include:

- Before raising or responding to a problem, you should try to identify what the problem actually is and whether in fact there is one.
- Don't rely on rumour or assumption. The facts are crucial, and generally you won't be sure of the facts until you've talked to the relevant employee and anyone else concerned.
- Promptness is important, but avoid "heat of the moment" decisions made in anger or frustration.
- Ensure that you have enough time and are free from interruptions as you deal with the employee.
- In all cases, employees should be treated with respect and consideration. Damages can be awarded against employers when they have caused distress to employees that could have been avoided.
- Deal with sensitive issues in a confidential manner – for example, by not conducting interviews in public or open-plan spaces.
- Put aside emotion and encourage the employee to do the same. You should both concentrate on identifying and addressing the underlying reasons for the problem.
- In more serious matters, you should consider raising or responding to the problem in writing.
- Have a third party present as a witness when a problem is discussed, as this can help to prevent misunderstandings.
- Encourage the employee to have a support person, union delegate or other representative present. This can also reduce emotion and misunderstandings.

Always keep a note of your meeting, the topic and any agreements reached. Make sure any such meetings and notes meet the terms of your policies and the employment agreement.

Changing the terms of employment

You may need to make changes in the workplace for a variety of reasons. Change may be driven by:

- improved technology
- more productive business processes
- product changes
- loss of suppliers or markets
- a decision to contract out or sell some or all of the business.

There are specific legal requirements in this last circumstance, and you can obtain full details of these on www.ers.dol.govt.nz.

There are also general legal requirements to provide information to employees when you are considering changes that will affect their jobs and to give them an opportunity to contribute to your decision.

The first thing that you and your employees should do is to refer to the employment agreement, since that sets out the basis for your relationship and the procedures for changing its terms.

The more significant a proposed change is, the more likely it is that it cannot be imposed without the employee's agreement. Even where the employment agreement states that certain changes can be introduced in the future, they should be introduced with early advice and discussion.

Explaining to an employee why changes are being considered, and seeking his or her views before making a decision, is consistent with the good faith requirement and can help to prevent uncertainty, distress and resentment.

Where your employee agrees to a change, it is essential to update the terms of the employment agreement, obtain your employee's signature and store the amendment to the agreement in the employee's file.

Case study – redundancy and consultation

Tight competition in the soft drink industry has seen two soft drink manufacturers merge recently. The new company, B Corporation, is excited about the change as they want to expand into the lucrative organic soft drink market.

Naturally, it takes some time for things to settle down at B Corporation after the merger. Part of the trouble is that services in many areas are now doubled up. The directors decide that they need to restructure the company in an attempt to reduce costs and gain the competitive edge they need to conquer the organic market.

News of the restructure is not very surprising for B Corporation employees, but most have not been through a restructure and don't really know what to expect, although the union has made employees aware of the provisions for redundancy in their new employment agreements.

Jim, Mike and Mary, who work as taste testers in Research and Development, are a bit concerned. They have heard through the grapevine that B Corporation really only needs one taste tester instead of three.

B Corporation sends a copy of the proposed structure to the union and asks for their feedback. The union asks for an opportunity to discuss the proposed restructuring at staff meetings, so that they can provide the directors of B Corporation with their members' feedback.

Eventually, the R&D team receives a copy of the proposed B Corporation restructure and is asked for their feedback. All the staff get a copy of the proposed changes and a statement that outlines whether their job stays the same, changes or no longer exists. All the new jobs that have been created are also listed with details as to how people will be redeployed or appointed to them.

The testing team's suspicions are confirmed. There will only be room for one of them in the new structure. They discuss the proposed changes together and attend the union presentation at their staff meeting.

The testing team accepts that, in relation to their team, the restructure makes commercial sense for B Corporation and they ask the union to reflect that in their discussions with the directors.

The union includes this as part of their submission on the proposed restructuring, which also contains a number of other suggestions on how the company can improve its competitive edge.

B Corporation wants to discuss these some more with the union but, in the meantime, the company confirms the proposed restructuring of the R&D team.

It's a tough call for Mary but she decides not to apply for the job. She's only been taste testing soft drinks for nine months and, deep down, she wants to return to university.

Consequently, she opts for the B Corporation voluntary redundancy package. The directors have made sure that she fully understands the terms and conditions of the redundancy, and they give her a glowing reference that should help her get back in to the soft drink industry after her studies are complete.

Mike, on the other hand, is thrilled. He's been redeployed to the position of Carbonation Control Officer. The new job will have a lot more responsibility and a pay increase, which will help to reduce his student loan.

Jim is also delighted with how everything has worked out. The directors decided that he had the right skills and experience to continue being the B Corporation taste tester.

"The changes are a bit sad but they have been easier to cope with because the directors were open and clear in their communications. We knew what was going on with the restructure every step of the way and always had the chance to offer our thoughts. I'm already looking forward to taste testing our latest range of drinks," he says.

Pitfalls in redundancies

When a business changes, including changing how work is carried out, jobs may become surplus. Any redundancy needs to be conducted in good faith, with advice of potential redundancy given as early as possible.

The Employment Relations Act covers the treatment of workers when a redundancy is caused by the sale of a business or the contracting out of work. This information can be accessed on www.ers.dol.govt.nz, as can other Department of Labour information and publications.

In all cases of redundancy, the process you follow should be clear and fair and be transparently driven by the work – not by the individual or their performance.

It is a requirement of legislation that information is provided to employees and consultations take place before final decisions are made, although there are provisions to allow commercial sensitivity to be considered and the requirements to provide information and consult do not apply for employees on trial periods. You can get information from the Department of Labour on www.ers.dol.govt.nz or by phoning 0800 20 90 20.

A poorly managed change process or redundancy situation does not just affect you and your employees in a personal sense – it potentially impacts on productivity during the change and your relationship with customers.

A number of simple steps can reduce problems and avoid distress:

- Think ahead by including in the employment agreement clauses on the key aspects of any potential change. These might include the consultation process that is to be followed, whether the employee is entitled to redundancy compensation and the consequences of an employee turning down an offer of redeployment.
- Follow all relevant provisions of the employment agreement before starting and during any change.
- Allow an appropriate time scale for the change – neither too fast nor too slow. Redundancies announced suddenly and without genuine consultation can cause resentment and be distressing (even for staff whose jobs will continue). Likewise, letting things drag on without direction and clear communication can cause avoidable anxiety and uncertainty.
- Potential redundancy almost always requires prior consultation with the potentially affected staff. Consultation doesn't mean you must reach agreement with employees, but it must be genuine. Consultation often covers issues such as whether redundancies are needed at all, the selection criteria that the employer proposes for deciding who will be made redundant, whether voluntary redundancies will be called for and alternatives to dismissal if an employee's position is to be disestablished.
- Any selection process used must be genuine and based on objective and fair criteria. After consultation, employees and their representatives must be informed of the final criteria that will be used in the selection process.
- If disagreement arises over issues during a redundancy situation, be prepared to listen to what the employee or his or her representative has to say, to genuinely consider what has been said and to provide a response.

Taking action

Can I legally dismiss an employee?

The short answer is "yes", but the dismissal process you must follow will depend on the situation.

The duty of good faith does not stop an employer dismissing an employee if:

- the employer gives notice of the dismissal before the end of a trial period, or
- there are genuine grounds for dismissal, and
- a fair process has been followed.

The "test of justification"

By requiring employers and employees to act in good faith, the Employment Relations Act creates responsibilities for both you and the employee. You must fulfil reasonable commitments made to each other. Where the employee has breached a commitment in a significant way, and the matter has been investigated and managed fairly, the result can be dismissal or other sanctions.

The Employment Relations Act applies a "test of justification". This "test of justification" does not apply where the employer has given notice of dismissal to an employee before the end of a trial period, unless issues such as discrimination or harassment arise. Whether a dismissal is justified depends on whether your actions and decisions are what a fair and reasonable employer would have done in the circumstances. A relevant factor to consider is how you have dealt with similar issues in the past; you should treat employees similarly when the circumstances are the same.

This "test of justification" also applies if you take an action other than dismissal that disadvantages the employee, such as delaying an agreed performance payment or an agreed promotion, or issuing a warning.

Probation or trial period?

The Employment Relations Act 2000 contains provisions for both "trial" and "probationary" periods. It is important that the employer and employee are clear about what provision applies to them.

Trial periods differ from probationary periods in that:

- trial periods are only available to small and medium-sized employers (with 19 or fewer employees)
- trial periods can only apply to employees who have not been previously employed by the employer
- there is a statutory time-limit on the duration of trial periods (up to 90 calendar days), and
- employees who are given notice of termination before the end of a trial period cannot raise a personal grievance on the grounds of unjustified dismissal.

Explaining trial periods

If you employ 19 or fewer employees and wish to hire a new employee on a trial period, the trial period must be included in the new employee's employment agreement.

You and your employee must both bargain in a fair way about a proposed trial period. This includes you considering and responding to any issues raised by the new employee.

If you have concerns about the performance of an employee on a trial period, then you should raise them with your employee.

If an employment relationship problem arises during the trial period or in relation to an employee's dismissal during or at the end of the trial period, you and your employee can access the Department of Labour's mediation services.

While your employee cannot pursue a personal grievance for unjustified dismissal if he/she is dismissed during the trial period, personal grievances may still be pursued on other grounds, such as discrimination or harassment.

Explaining probation periods

If you wish to hire an employee on a probationary period, this must be clearly recorded in the employment agreement. The agreement should indicate:

- what is expected of the employee
- what the employer is committing to (for example, in terms of training the employee to do the job)
- the length of the probationary period, which should be set at an appropriate level for the job.

You and your employee must both bargain in a fair way about a proposed probationary period. This includes you considering and respond to any issues raised by the new employee.

Probation cannot be treated as a way of avoiding using fair performance management processes.

Where concerns arise about the performance of an employee who is on probation, you should first look to the probation agreement to see what the agreed expectations and responsibilities are.

If a probationary employee is not performing to expectations, you should raise your concerns with the employee and discuss them as soon as possible. If the level of performance is unacceptable, then:

- provide the employee with reasonable guidance and assistance to help him or her to improve
- provide time and opportunity to improve

- review performance during that time and give feedback on performance.

You might also consider whether commitments given on training during the probationary period have been met.

Any discussions, performance expectations, reviews and warnings should be clearly documented.

If a probationary employee is dismissed without having been treated fairly, he or she has the same right to take a personal grievance as any other employee.

Investigating and dealing with misconduct

You are entitled to, and may be required to, investigate matters that come to your attention, such as an allegation of serious misconduct.

If you decide to investigate, it is important that you:

- collect all the facts
- keep an open mind
- make it clear to the employee what the process will be.

In potentially serious situations, you may be wise to get some initial guidance from the Department of Labour on 0800 20 90 20 or seek specific advice from another advisor, such as your local employers' organisation or industry association.

Other steps can be taken to avoid common pitfalls:

- The employee should be advised in writing that allegations have been made, what they are and what disciplinary action (including dismissal, if relevant) could result. This ensures the employee is aware at the outset of the seriousness of the situation.
- The employee is entitled to be shown any evidence of the allegations, including information provided by witnesses, and be provided with a reasonable period of time to consider that information and make a response.
- The employee is entitled to be informed of the right to be accompanied by a support person (or representative) in any investigation meeting and should be invited to bring someone along if they wish. It is preferable to record this invitation in writing.
- Equally, you are wise to have a witness present at meetings and to record in writing what is said. The record can be a summary of key points from the meeting.
- If an employee provides new or additional information in an investigation meeting, you will need to conduct further inquiries and present the findings of those inquiries to the employee.
- Encourage the employee to present a full explanation at any meeting. If your employee declines to answer questions, you should advise (preferably in writing) that, in the

absence of a response, you will have no option but to make a decision without the explanation.

- If your employee asks for time to provide a response, then you should agree to a reasonable amount of time. Both of you should be clear about the time available to respond.
- You should take time out from the meeting so you can consider an employee's explanation, before restarting the meeting to tell the employee your final decision. Any break in the meeting does not need to be for long.
- Disciplinary action must not be predetermined and must be decided upon only after the investigation is complete. Drafting a dismissal letter before an investigation is complete, or telling other staff that a dismissal will occur, indicates predetermination.
- The nature of the action you eventually decide to take (for example, dismissal or a written warning) must be seen to be fair and reasonable bearing in mind the wrongdoing and the circumstances. Relevant things to consider could include the employee's previous work history, your workplace policies and how you have dealt with similar issues in the past.
- Instant dismissal is only warranted where the serious misconduct interferes with or prejudices the safe and proper conduct of your business. Examples include theft, or physically or mentally abusive behaviour to other employees or customers.
- When a disciplinary decision is made, the employee should be treated with respect and consideration. This includes communicating and explaining the decision to the employee in a way that has due regard to privacy and feelings.

Case study – bad process for dismissal

Company X recently advertised for a new Safety Assurance Officer. The role has a lot of responsibility and reports directly to John, Manager of Safety Services.

John and the executive team of Company X employed Sarah, who was obviously the best person for the job. Sarah was not employed on a trial period. Overall, John had been really happy with her performance.

However, a safety services supervisor recently told John that he had seen Sarah taking drugs at work.

Company X has a clear no drugs policy and has always prided itself on being a drug-free workplace. John was dismayed about the allegations because he knew this was unacceptable for someone in Sarah's position.

"It's pretty obvious that I'll have to fire Sarah straight away. We just can't tolerate this kind of thing at Company X. I mean, the potential blot on our safety record could really damage the business," he told the supervisor.

John called Sarah into his office and dismissed her on the spot. After all, he thought, this is a cut and dried case.

Sarah, however, saw things a bit differently. She was pretty sure that she was entitled to a better explanation and a proper dismissal process. After seeking advice from a local community law centre, Sarah

brought a personal grievance claim against Company X for unjustified dismissal.

The company sought legal advice.

“You’d better settle this in mediation. You haven’t followed a fair process, and you’ll lose if this goes to the Employment Relations Authority,” their lawyer said.

At the mediation, Sarah and Company X considered a number of options. For both parties, the best solution was to agree on a final payment based on Sarah’s lost wages and the personal stress she had endured during the dismissal. Once this agreement had been reached, the mediator signed it off and it became a binding settlement between Sarah and Company X.

The team at Company X recognised they had a lot to learn about how they should deal with disciplinary issues in the future.

Jane, the Chief Executive Officer of Company X, decided to hold a meeting with senior management and clarify the correct procedure to follow.

“First and foremost, it’s imperative that you fully investigate any claims, big or small, that are made against a staff member. You can’t act on allegations unless there is good proof of a transgression,” she said.

“The next step is to talk to the staff member in question. It can be hard, depending on the type of claims made against them, but you must let them know what the problem is, how serious it is and what you are going to do to deal with them.

“If you believe disciplinary action is warranted, you should write to them inviting them to a disciplinary meeting, setting out your concerns and explaining the possible consequences. You should also tell them they can bring a representative or support person to the disciplinary meeting,” she explained.

Jane said all team leaders and managers needed to be conscientious about making sure staff understood the system.

“Sometimes it might seem okay to skip through it, but everyone is entitled to a fair and reasonable process when it comes to disciplinary matters,” Jane explained.

The Company X staff learnt a lot from the meeting, and John was no exception.

“It’s good to know there is a system to follow. If something like this happens again, I’ll be fully prepared to deal with it by the book,” he said.

Suspending an employee

Suspension is when an employee is excluded from the workplace and not required to do any work while certain matters are being investigated or resolved.

Suspension generally needs to be with pay. You can only lawfully suspend an employee without pay where this is permitted under the employment agreement or under a statutory power.

Suspension may be appropriate if the employer considers, given the nature of the alleged misconduct, that it would be inappropriate for the employee to carry on in the job. Suspension could be appropriate if, for example, there was risk to the company, other employees or the public or by some other compelling factor.

When an employee has been suspended, you should handle the investigation promptly and confidentially. This ensures that the employment relationship can be preserved if the suspicion is unfounded.

Suspension can have drawbacks, including:

- disruption in the workplace
- creating suspicion or rumour in the workplace
- damaging an employee's reputation with clients or workmates
- harmful emotional, social or financial effects on the employee.

Suspension can also impact, or even prejudice, the outcome of an investigation – particularly if the period of suspension is lengthy.

Issues to consider in making the decision to suspend an employee include:

- whether the allegation and/or evidence is serious enough that suspension might be required
- whether there is a legal right to suspend
- whether the proposed period of the suspension is reasonable in all the circumstances
- the impact that suspension will have on the employee.

The Department of Labour can provide guidance at this stage, as well as later in the process.

If you decide to suspend an employee, you must use processes that are as fair as those used in any other disciplinary situation. The required process includes:

- advising the employee in advance that suspension is being considered and how it might be applied
- giving the employee an opportunity to comment on whether there should be a suspension.

During the suspension period, you should make the employee aware of the progress of the investigation. The employee has the right to seek outside advice.

You should also be careful when discussing with third parties the reasons why an employee has been suspended, as this may breach privacy requirements.

Persistent lateness and absenteeism

It is important that you raise promptly any concerns over lateness or absenteeism with the employee.

You should seek to understand the problem from the employee's point of view. If there are genuine reasons, consider whether you can do something to help the employee deal with the problem.

On the other hand, if you fail to take action and bad habits are permitted to continue, remedying the problem will be more difficult, and the employee's obligations can become blurred.

Discussions and warnings should be clearly documented, so that everyone knows what has been said and what is expected.

Problems arising from employee illness

You are not obliged to continue indefinitely the employment of persistently ill employees, but any decision to terminate employment must be fair and reasonable and must be seen as reasonable in your industry or among other employers.

Factors to be considered include:

- the duration of the employee's illness to date and the effect it is having on the business
- the employee's entitlement to sick leave (paid and unpaid)
- the prospects for recovery (which should be based on objective information such as a doctor's report)
- how long the employee has worked for you
- steps you could take to aid rehabilitation, such as providing part-time or light duties
- the need to communicate clearly with the ill employee, including the employee's right to know a reasonable time in advance that employment is in jeopardy
- whether there are alternatives to dismissal that are reasonable in the circumstances
- whether the employee holds a key position for which it is especially important that the employer has a permanent employee, or a position it is especially difficult to cover for an uncertain period.

Conflict among employees in the workplace

Employees involved in workplace conflict have an obligation to work co-operatively with their colleagues and to treat fellow workers and their managers with the same respect and consideration that they themselves wish to be shown.

You need to respond to workplace conflict quickly, before people become fixed in their positions.

Make every effort to look beyond the emotion to the underlying reasons for the conflict and encourage everyone involved to do the same. It is crucial to focus on facts, rather than allegations or assumptions.

Ensure that any action you take is, and can be seen to be, even-handed for everyone involved.

It is preferable for all parties to agree to a solution. Whether a solution is agreed or imposed by you, review regularly to check that the underlying cause of the problem has, in fact, been resolved.

The Department of Labour provides mediation services to assist employers in seeking solutions to workplace conflict. Further information on mediation and how to access it is available on www.ers.dol.govt.nz or by phoning 0800 20 90 20.

Appendices

Appendix 1: Checklist for using a performance management system and dealing with potential problems

The following checklist is a guide only and is indicative of the types of steps to follow in dealing with performance management issues. Individual cases may require further specialist advice from your employment or legal advisor. In particular, you need to ensure that you provide the number of warnings required under the employee's employment agreement or a fair and reasonable number of warnings.

You can also seek further information from the Department of Labour on 0800 20 90 20.

This process can be used for existing employees or for employees recruited on an employment agreement that includes a probationary or trial period.

Problems are best dealt with in the context of a constructive performance management system that establishes expectations, reviews performance regularly, rewards success and deals with problems before they become too big (see page 6).

Remember that the Employment Relations Act applies a "test of justification" in disciplinary situations and most dismissal situations. Whether a dismissal (or lesser disciplinary action, such as giving a final written warning) is justified, depends on whether your actions and decisions are what a fair and reasonable employer would have done in the circumstances and are consistent with your treatment of other employees in similar circumstances.

STEPS FOR USING A PERFORMANCE MANAGEMENT SYSTEM AND DEALING WITH POTENTIAL PROBLEMS		TICK
1	Check the employment agreement and the problem-solving process in the agreement. For example, be prepared to follow carefully any processes for escalating from verbal to written warnings.	
2	Review the job description, agreed performance indicators, and any statements of company standards. (These are referred to below as the "performance expectations".)	
3	Either alone or with the person responsible for the employee's supervision, identify areas where the employee is exceeding, meeting or failing to meet performance expectations.	
4	Confirm that scheduled training and induction has taken place.	
5	Arrange to meet with the employee, saying you will be discussing his or her performance, and offering the opportunity to have a support person or representative present. If the issue is not urgent, this discussion might take place within the regular performance review meeting that you hold, say, every quarter. Record that the meeting has been arranged.	
6	Discuss the employee's performance, clearly identifying any areas of concern against performance expectations and listening to the employee's explanations.	
7	Agree on the performance standards to be reached in the future, any training support required and the date of the next performance review. Record the agreement on the employee's file, giving the employee a copy of what you have agreed.	
8	Do not let the date set for the performance review slip. Ensure you have tracked progress towards reaching the expected performance, and be prepared to discuss this with the employee on the set day.	
9	Arrange to meet and review progress. If you have any performance concerns that may require a warning to be issued, advise the employee that the meeting may result in disciplinary action. At the meeting, agree which performance expectations have been met and any areas that still require improvement. Identify the significance of any areas that are still outstanding. Record the outcome.	

10 Repeat steps 7 to 9 for outstanding areas, until satisfactory performance levels are reached. When this is achieved, advise the employee and record this on the file. Schedule the ongoing performance management that would normally occur within your organisation. *Generally, your process will revert to regular performance management processes at this stage. Where the agreed improvement is not reached, the process can be continued as follows. At any stage, if performance reaches the agreed level, you can terminate the procedure in this checklist and revert to standard performance management.* If you continue to have concerns, the following actions are required: • arrange a meeting, advising the employee that you will be discussing their continuing unsatisfactory performance and that disciplinary action or dismissal is a potential outcome. • advise the employee of their right to have a support person present.	
11 If performance is not improving, despite regular discussion and the implementation of an improvement regime, advise the employee of the consequences of a continuation of their current performance. Formally warn the employee that further lack of improved performance may result in dismissal and set the date for the next review. Record the warning and next review date in writing.	
12 If performance expectations have not been achieved by the review date, consider the magnitude of the underperformance against the performance expectations, the opportunities given for improvement, the progress made and the general levels of performance in the organisation. Also review the employment agreement or company policies to confirm the number of opportunities (both oral and written warnings) for improvement the employee must be given. Consider whether the performance gap is significant.	
13 If the performance gap appears significant enough to consider dismissal and you believe the employee has been given sufficient opportunity to improve, review the employment agreement and the notice provisions. Check also for any redeployment obligations in the agreement and consider any redeployment opportunities you may have for the employee.	
14 At the meeting, outline your continuing issues and listen to and consider any response. If you believe the response is unsatisfactory, outline your reasons to the employee.	

15	If redeployment is possible, raise this with the employee and discuss and agree whether this will happen. If redeployment is not possible, give notice of termination in terms no less favourable than under the employment agreement.	
16	Confirm the outcome in writing to the employee.	

Appendix 2: Checklist for managing problems with behaviour or relationships

The following checklist is a guide only and is indicative of the types of steps to follow in dealing with problems with behaviour or relationships. Individual cases may require further specialist advice from your employment or legal advisor. In particular, you need to ensure that you provide the number of warnings required under the employee's employment agreement or a fair and reasonable number of warnings.

You can also seek further information from the Department of Labour on 0800 20 90 20.

This process is applicable to issues such as absenteeism, lateness or employees behaving inappropriately to a colleague or customer. All these issues are described as "behaviour" in this checklist.

Remember that the Employment Relations Act focuses on good faith and the expectation that employers and employees will work together to maintain effective relationships.

In most cases, problems are sorted out satisfactorily. Where this does not occur, the Act applies a "test of justification". Whether any action is justified depends on whether your actions and decisions are what a fair and reasonable employer would have done in the circumstances and how you have dealt with similar issues in the past.

STEPS FOR MANAGING PROBLEMS WITH BEHAVIOUR OR RELATIONSHIPS		TICK
1	Check the employment agreement and the problem-solving process in the agreement. For example, be prepared to follow carefully any processes for escalating from verbal to written warnings.	
2	Review any relevant company codes of conduct or other statements of expectations. (These are referred to below as the "known standards".)	
3	Either alone or with the person responsible for the employee's supervision, identify the specific problem. Decide whether the behaviour has a negative effect on the company and breaches known standards.	
4	Arrange to meet with the employee, saying you will be discussing his or her behaviour, advising that this may result in disciplinary action and offering the opportunity to have a support person or representative present. Record that the meeting has been arranged.	

5	At the meeting, discuss the employee's behaviour, clearly identifying your areas of concern. Listen to the employee's explanations.	
6	If you agree that your concerns are not founded, you should note this in the employee's file. You should not raise those concerns again in any future disciplinary proceedings. If you decide that your concerns are founded, document the change in behaviour you expect, including the time frame you will allow, and advise the employee of the consequences of further similar behaviour (including that disciplinary action may follow). Note this on the employee's file. If a warning is considered appropriate, give the employee a copy of the warning (unless it is a verbal warning only).	
7	Follow any requirement in the employment agreement that requires removing warnings from the employee's file if a problem does not recur or at a set expiry date for the warnings. If you have removed warnings from the file, do not rely on those past issues in any future disciplinary proceedings. *Generally, your process will revert to regular performance management processes at this stage. Where behaviour does not reach a satisfactory standard, the process can be continued as follows. At any stage, if behaviour reaches the agreed standard, you can terminate the procedure in this checklist and revert to standard performance management.*	
8	If behaviour issues continue, assess the significance of the behaviour against known standards. Also review the employment agreement or company policies to confirm the number of warnings the employee must be given.	
9	If you have not yet provided the employee with warnings, or the behaviour does not appear significant enough to warrant dismissal, follow these steps: • Arrange to meet with the employee. • Inform them that you will be discussing the continuing behaviour, advising that this may result in disciplinary action and offering the opportunity to have a support person or representative present. • Record that the meeting has been arranged.	

10 At the meeting, discuss the employee's behaviour, clearly identifying your areas of concern. Listen to the employee's explanations. If you are not satisfied with the employee's explanations, document the change in behaviour you expect, including the time frame you will allow, and advise the employee of the consequences of further similar behaviour (including that dismissal may follow).	
11 If you have followed your process regarding warnings, and the continuing behaviour appears significant enough to consider dismissal, review the employment agreement and the notice provisions. Dismissal should only be considered where it would be considered a reasonable response to the behaviour by a fair and reasonable employer in the circumstances.	
12 Arrange a meeting, advising the employee that you wish to discuss the continuing unsatisfactory behaviour. Advise that dismissal is possible. Advise the employee of their right to have a support person present.	
13 Outline your continuing issues, and listen to and consider any response. Be prepared to take a break to consider the response. If you believe the response is unsatisfactory, outline your reasons to the employee. If you cannot reach agreement, give notice of termination in terms no less favourable than the employment agreement.	
14 Confirm the outcome in writing to the employee.	

Appendix 3: Checklist for investigating serious misconduct

The following checklist is a guide only and is indicative of the types of steps to follow in dealing with situations that may constitute serious misconduct. Individual cases may require further specialist advice from your employment or legal advisor.

You can also seek further information from the Department of Labour on 0800 20 90 20.

Serious misconduct is behaviour within the workplace that creates an immediate need to review the employment relationship. This could include theft, or physically or mentally abusive behaviour to colleagues or customers.

In such circumstances, your investigation must be thorough, well documented and undertaken promptly. This is an area where you may consider suspending the employee (see page 19) while that investigation takes place.

If the alleged misconduct is such that you may have to involve an outside party, such as the police or a professional association, you should seek advice before you get started.

Remember that the Employment Relations Act applies a "test of justification" in most situations. Whether behaviour is considered serious enough to warrant immediate dismissal,

without an opportunity for the employee to change behaviour, depends on whether your actions and decisions are what a fair and reasonable employer would have done in the circumstances and how you dealt with similar situations in the past. This does not mean you need to deal with behaviour in the same way as in the past, but you need to have set clear expectations of what behaviour is acceptable and what is not.

STEPS FOR INVESTIGATING SERIOUS MISCONDUCT		TICK
1	Check the employment agreement and the problem-solving process in the agreement. In particular, be prepared to follow carefully any processes for dealing with serious misconduct.	
2	Review any relevant company codes of conduct or other statements of expectations, including descriptions of what constitutes serious misconduct at your workplace.	
3	Either alone or with the person responsible for the employee's supervision, investigate the alleged incident thoroughly. This will generally require that you gather relevant facts and talk to any witnesses, rather than relying on assumptions.	
4	Confirm whether, on the basis of the information gathered, the incident expressly constitutes serious misconduct in your workplace or is behaviour that would generally not be tolerated in any workplace.	
5	Consider whether the allegation and/or the evidence is serious enough that the employee should be suspended during your investigation. Suspension is a serious step, and you are strongly advised to get advice from a legal advisor or an employers' association before deciding on this step. (Information about suspension is covered on page 19 of this booklet.)	
6	Arrange to meet with the employee, saying you will be discussing an issue of potential serious misconduct that could result in dismissal or other disciplinary action and making it clear that they have the right to have a support person or representative present. Record that the meeting has been arranged.	
7	At the meeting, outline the evidence of misconduct you have gathered. You must make known to the employee any information that you rely on as evidence. If you don't want to tell the employee about a piece of information, you can't use that information in making your decision. Listen to the employee's explanations. If the employee requires time to gather information to respond, then give adequate time – but a clear time should be set for a further meeting.	

8	If explanations are given, investigate them immediately and thoroughly and record the outcome of the investigation. Reconsider the seriousness of the behaviour given all the material you have now accumulated, and assess whether the misconduct was at a level that makes it impossible to continue the employment.	
9	Arrange a further meeting, again making it clear that the meeting could result in dismissal or other disciplinary action and that the employee has a right to a representative or support person. If the employee was suspended, consider whether the suspension should now be lifted.	
10	If the explanation shows: • that misconduct has not occurred, then advise the employee of this and remove all reference of the allegation from their file and do not rely on the allegations on any future occasion • that any misconduct is not at a level or of a nature to warrant immediate dismissal, then a warning should be issued and recorded on the employee's file. *Your process can revert to regular performance management processes at this stage. Where you are satisfied that serious misconduct has occurred, the process can be continued as follows.*	
11	If no adequate explanation is given, or your investigation leads you to believe that serious misconduct occurred despite the explanation, you should inform the employee of this.	
12	If you are contemplating dismissal, advise the employee of this and invite the employee to make any final representations on your conclusions, and consider and respond to any request for a lesser action. If you agree to a lesser disciplinary action, advise the employee and record this on their file.	
13	If you decide dismissal is appropriate, inform the employee that they are being dismissed and ensure that dismissal occurs on terms no less favourable than under the employment agreement. Confirm the outcome in writing to the employee.	

Appendix 4: Checklist for restructuring and redundancy

The following checklist is a guide only and outlines the actions an employer would generally be expected to take when changing the workplace in a way that affects employees.

Individual cases are likely to require further specialist advice from your employment or legal advisor, particularly in complex situations.

You can also seek further information from the Department of Labour on 0800 20 90 20.

There are no general rights to redundancy compensation or rules about selecting employees for redundancy in legislation in New Zealand. However, requirements apply for consultation with most employees over changes in the workplace that affect them.

Additionally, employment agreements must outline how the employer will deal with employees on the sale of all or part of a business, and for some specified groups of employees undertaking particular work, there is a requirement that those employees transfer to the new employer when work is contracted out.

Make sure that you follow any requirements in the relevant employment agreement (i.e. for consultation and/or payment in the event of redundancy). It is possible that requirements in the employment agreement may override the suggestions in the checklist below.

STEPS FOR RESTRUCTURING AND REDUNDANCY		TICK
1	Before you begin considering a restructuring, review the employment agreements and job descriptions of all those involved.	
2	If a consultation process is required in the employment agreement, begin implementing the process as soon as possible. Note also that any requirements of the employment agreement may override other steps in this checklist.	
3	Advise any employees whose current work may change or cease that you are considering changing the way work is organised.	
4	Focus on the work, not the individual, when you start considering your future organisational needs.	
5	Seek input from employees on possible changes. Make sure that employees have enough information (for example, about the problems you perceive and your goals) to make a meaningful contribution.	
6	Develop a proposed structure based on your future organisational needs and the submissions received.	
7	Consider whether you wish to offer voluntary redundancy and the criteria under which this will be offered. Selection for voluntary redundancy must still follow a fair process, including informing employees of the criteria.	

8	If you do not have specific redundancy provisions and wish to propose some, consider the best stage to raise this with employees.	
9	Distribute the proposed structure to employees, indicating to each employee whether their job remains unchanged, will change or will no longer exist. Identify any new jobs and the process for employees to get access to these jobs.	
10	Confirm either new appointments (i.e. redeployments) or redundancies individually to employees in writing. Provide notice of redundancy in terms of the termination and redundancy clauses in the employment agreement.	
11	If job changes are significant, renegotiate employment agreements to reflect the new responsibilities.	
12	Identify any training needs to ensure employees can perform changed duties.	
13	Consider providing time for job search and support to employees leaving the company.	
14	Develop and provide comprehensive references for employees leaving the company.	

Appendix 5: Sample problem-solving procedure to include in the employment agreement with your employee

The written employment agreement between an employer and an employee must include a problem-solving procedure, which, if the parties agree, may be similar to this sample procedure:

> If our employment relationship is to be as successful as possible, it is important that we deal effectively with any problems that may arise.
>
> This procedure sets out information on how either of us can raise problems and how we will work them through.
>
> **1. What is an employment relationship problem?**
>
> A "problem" can be anything that harms or may harm our employment relationship, other than problems relating to negotiating the terms and conditions of employment.
>
> **2. Clarify the problem**
>
> If either of us feels that there may be a problem in our employment relationship, the first step is to check the facts and make sure there really is a problem and not simply a misunderstanding.

You may want to discuss the situation with someone else to clarify whether a problem exists. In doing so, be sure to respect the privacy of other employees and managers, and to protect confidential information belonging to the employer.

For example, you could seek information from:

- friends and family
- the Department of Labour on 0800 20 90 20 or at www.ers.dol.govt.nz
- pamphlets/fact sheets from the Department of Labour
- your union, a lawyer, a community law centre or an employment relations consultant.

3. Discuss the problem

If either of us believes that there is a problem, it should be raised as soon as possible.

This can be done in writing or orally. Provided you feel comfortable doing so, you should ordinarily raise the problem with your direct manager. Otherwise, the problem can be raised with another appropriate manager.

A meeting will usually then be arranged where the problem can be discussed. You should feel free to bring a support person with you to the meeting if you wish.

We will then try to establish the facts of the problem and discuss possible solutions.

4. The next steps

If we are not able to resolve the problem by talking to each other, we each have a number of options:

- We can contact the Department of Labour, which can provide information and/or refer us to mediation.
- We can take part in mediation provided by the Department of Labour (or we can agree to get our own mediator). Mediation is confidential.
- If we reach agreement, a mediator provided by the Department of Labour can sign the agreed settlement, which will be binding on us.
- We can both agree to have the mediator provided by the Department of Labour decide our problem for us, in which case that decision will be binding on us.
- If mediation does not resolve the problem, in most situations either of us can refer the problem to the Employment Relations Authority for investigation. However, if you have been given notice of dismissal during a trial period you cannot take a personal grievance based on unjustified dismissal to the Authority, but you may take a personal grievance on other grounds such as discrimination or harassment.

- The Authority can direct us to mediation, or can investigate the problem and issue a determination.
- If either of us is not happy with the Authority's determination, we can refer the problem to the Employment Court. (The Court may also tell us to go back and have more mediation.)
- In limited cases, there is a right to appeal a decision of the Employment Court to the Court of Appeal and the Supreme Court.

5. Personal grievances

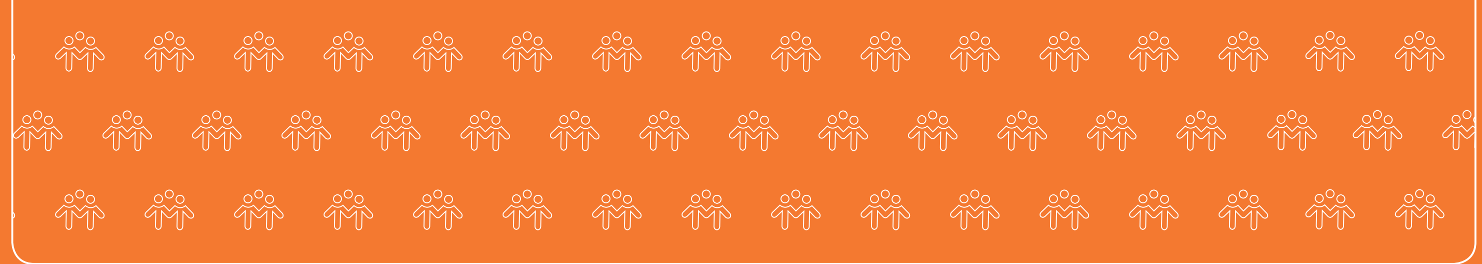
If the problem is a personal grievance, then you must raise it within 90 days of when the incidents that give rise to the grievance occur or come to your attention. A personal grievance can only be raised outside this time frame with the agreement of the employer, or in exceptional circumstances.

The content of this document covers common problems. It will not answer every question and should not be used as a substitute for legislation or legal advice.

The Department of Labour takes no responsibility for the results of any actions taken on the basis of information on this document, or for any errors or omissions

For further information on employment relations, visit www.dol.govt.nz or phone 0800 20 90 20.

FOR MORE INFORMATION ON EMPLOYMENT RELATIONS
VISIT WWW.DOL.GOVT.NZ



PLA 10382 NOV 09

newzealand.govt.nz