

May 2014 Essential Update

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This month's update has a focus on getting the right policies in place – the whys the whats and the hows.

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Helpful Hint

Policies – why have them?

When my son started school, he needed very clear boundaries, which he would adhere to (or knowingly cross). But when told he couldn't play in one part of the playground "on Thursdays", he was completely thrown - he never knew what day of the week it was – so unintentionally often did not comply. If a policy is similarly unclear – if there is a piece of the puzzle missing or if a directive lacks clarity – Employees may misunderstand, ignore or flout the policy, thus making it totally ineffective.

Hear the word "policy" at work, and it'll likely be accompanied by a groan – employment policies have a bad name! Many are created and implemented ineffectively, so it's really no surprise. Some employees and management view policies as a pain. They can be seen as restrictive, impossible to keep updated, reflecting a lack of trust in employees, or just as a general attempt to force everyone into a box (and interfere with "teamwork"). And indeed, they can.

So:

Why have them? Because policies can give staff guidance, avoid most misunderstanding (if written properly!), build consistency, and enable empowerment by providing parameters for work and behaviour. They can also be changed without having to negotiate agreement with staff, which makes them more responsive to the business. And often, in legal cases, employers can struggle to support their case if no clear policy existed when one should have been in place. Court cases are more likely to succeed for the employer if they had a policy and kept to it.

What are they? Policies are statements of commitment; or of required process – but they can't include things that affect the basic rights and obligations of someone's job. They're guidance in companies, above and beyond saying "well, this is the way things have always been done here!"

How do you create, present and use reasonable policies? How do you make sure that your employees know what to do without feeling micromanaged by your company's policy? The answer lies in a reasonable balance. An effective policy will ensure staff are clear on matters of importance, but the level of detail is not such as to stifle them. This ensures empowerment, but within parameters acceptable to you and the company.

A handbook is the most common way to outline the essential

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<http://www.essentialhr.co.nz/news/>.

This month I have posted on:

- Dairy Farm Employment Compliance and Effectiveness
- Budget 2014
- Employing Skilled Workers
- Minimum Wages per fortnight

Mike's Whereabouts

Ashburton: June 4/5th, 11th, 17th, 25th

Westport: Week beginning June 9 or 16?

Did you Know?

By analysing when people were most likely to consult them about their workplace rights, Citizens Advice have identified that Monday lunchtime – 1.42pm, to be precise – is ***the time that workers are the most fed up*** with their jobs and likely to be thinking about leaving. They start to feel better as the week progresses and 6.08pm on a Friday is deemed the magic moment when employees are at their happiest ... TGIF!

Source: HRM On-line

Stop Press

- IRD's Parental leave payments will increase by 3.3% from 1 July.
- Minimum wages can be averaged fortnightly from 26 June

policies to employees – something that is generally given to new employees in their first week. And having select policies in place, specific to your work environment, is more beneficial than none. These essential policies cover things like conduct and discipline, care for company assets (like tools and vehicles); drug testing; return from injury – generally, the things that managers often get wrong.

We can help you with selecting and crafting the right policies for you and your company, and the implementation of them into your business – just ask!

Legal Latest

Company policies can guide the outcome of legal proceedings: In the recent case of *Fatukala vs Goodman Fielder*, an investigation by the Employer concluded that Mr Fatukala was guilty of sexual harassment. Goodman Fielder's Code of Conduct policy defines sexual harassment as serious misconduct and as a result he was dismissed. The Authority upheld the dismissal, pointing out the clear wording of the Code of Conduct that such behaviour could result in dismissal.

Similarly, in *McKenzie v Dawsons Catering Ltd*, the Authority referred to the Company's policy documents to determine which of the allegations against the Employee constituted misconduct vs serious misconduct. Often, the difference between the two is critical in determining whether a dismissal is justified or not - and ultimately whether the Employer is liable to pay penalties.

The importance of having policies well known to all employees: One case involved a car valet for the Koru Club at Auckland Airport, who lost his job after he was caught changing the radio station in a client's vehicle. The Employer had a very strict 'don't touch' policy under which drivers were forbidden to touch anything inside a customer's vehicle, including the stereo, mirrors and air conditioning settings. In deciding that the dismissal was justified, the Authority concluded that the rule was well known to the employee and that he clearly breached it.

Policies must be relevant, well communicated and readily available to employees – it's no use spending time and money putting together an impressive tome of policies, only to have it gather dust in a disused corner of an office somewhere! They are living documents that should evolve over time – reflecting what is important to an organisation and providing a consistent guide for employees. We can help you introduce policies or review and update your existing ones if you wish.

Sleeping Over

A new case has focused on "sleeping over" pay for a camping ground manager who claimed he was at work for 24 hours a day through the busy season. The Court considered three determinants: the "constraints placed on his freedom"; the "extent of his responsibilities" and the "benefit to the employer" of his being on site. Interestingly although he could not leave the camp unattended he was considered to be able to largely carry on a normal family life overnight; he had limited responsibilities for campers as they cared for themselves; and he provided little real benefit to the employer overnight – so he **was considered to not be at work**.

Essential Essentials

You can have a policy about anything at all – well almost – you may not have one that discriminates on a prohibited basis. Businesses will typically create policies where staff need clarity on expectations, or to set the environment for a company value or required process. They should ideally be positively worded – "this is what we want to happen" rather than negatively "this is what must not happen". Some common examples follow, but we have a whole manual of samples!

Drug and Alcohol Testing – *to ensure staff have an obligation to be tested*

"The Company has zero tolerance for staff under the influence ... The company will take a reasonable approach and is committed to rehabilitation ..."

Use of Company Vehicles – *to ensure they can be tracked and taken back if need be*

"Company cars must be ... used only for work purposes, ... available for others when required by the company, ... Non-compliance breaches your agreement ..."

Timesheet completion - *to ensure timesheets are accurate; on time; and are not fraudulent.*

"All timesheets must be submitted each week by 3pm on Friday ... failure to do so may result in your pay being delayed. Falsifying timesheets is serious misconduct ..."

Training - *to support individual development while still protecting company interests.*

"Actual and reasonable costs incurred while training will be reimbursed if approved in advance. Where the employee leaves within 6 months they may be required to reimburse some of the costs (refer agreement)..."

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