



# Mana Whaikaha

Enabling Good Lives

## Guide to Employing Staff

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**This guide was developed with the help of Enabling Good Lives Waikato**

*Disclaimer: All information in this document is correct at date of issue, and is therefore subject to change. This document is intended as a guide, and although comprehensive, is not exhaustive. This document does not replace legal advice*

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## 1. INTRODUCTION

First things first - congratulations! You are taking control of your Mana Whaikaha budget and creating the plan and systems to provide the best outcomes for you.

When you come on board with Mana Whaikaha there are a number of processes to set up and documents you need to have ready to create what you need.

As part of your plan with Mana Whaikaha you have decided to be responsible for recruiting, employing, managing and/or paying your own assistance/support staff. This guide gives you information about employing staff.

## 2. EMPLOYMENT HUB

The Mana Whaikaha Employment Hub provides information, advice and support to promote positive employment relationships between employers and employees in the prototype. The Employment Hub includes:

- Information about employment
- An orientation to Mana Whaikaha for employees and employers
- Employment advice for employees and employers
- Access to training for support workers
- Access to union support
- Dispute resolution
- Contact for enquiries

The Employment Hub can be accessed through Mana Whaikaha – [www.manawhaikaha.co.nz](http://www.manawhaikaha.co.nz) or by calling 0800 MANA 55 (0800 626255). This guide references where you can contact Mana Whaikaha's Employment Hub for more information.

## 3. BECOMING AN EMPLOYER

To employ your own staff there are two options available to you:

1. You can request someone else or a provider to do this for you.
2. You can do this yourself.

### 2.1 USING A PROVIDER OR SOMEONE ELSE TO EMPLOY STAFF

A provider or someone else is able to manage part or all of the employment process for you. They are able to employ staff and pay them on your behalf, or are able to manage a part of the process for you such as payroll. There are a number of disability providers who are willing to do this for you and they charge an agreed fee to provide you this service. If you are interested in using a provider we recommend you talk through this with your kaitūhono as they will have further information for you.

### 2.2 EMPLOYING STAFF YOURSELF

If you prefer to take care of employing and paying your staff yourself, there is a lot of information in this guide that will assist you to manage this process and meet your legal obligations. You can also contact the Employment Hub if you need additional information or support.

## 2.3 REGISTERING AS AN EMPLOYER WITH THE IRD

To become an employer the first step is to register yourself as an employer with the IRD ([ird.govt.nz](http://ird.govt.nz)). To do this you will need to complete an online form in myIR, or an Employer Registration Form IR334 and submit it to the IRD. Before you fill in the form or application online, make sure you have your IRD number and contact information on hand. You can complete the form online here: <https://www.ird.govt.nz/cgi-bin/form.cgi?form=ir334>

## 4. RECRUITMENT

Recruitment, or hiring, means the overall process of finding, interviewing, screening and appointing suitable people for jobs. As a Mana Whaikaha participant you can choose to recruit new staff yourself, or you can ask someone else or a provider to do this for you. The Employment Hub has information about recruitment for employers and employees.

## 5. KEY QUESTIONS TO CONSIDER BEFORE HIRING STAFF

Before you start finding a new staff member, it's important to consider a few key things before you begin. How you answer the following questions will determine how you approach finding the right person:

- What do you want the person to do? If you write these down as notes, they can become part of the job description later on.
- What sort of person do you want to employ? For example someone who is self-motivated and honest
- What times do you need the person to work, including how often? Answering this question will determine the type of employment arrangement you need to set up, which is detailed in the section below.
- How much will you pay? If they are doing care and support work, you must pay the equivalent pay equity rate to meet your legal obligations and to ensure that you can find suitable people.
- Is having previous experience important to you?

## 6. TYPES OF AGREEMENTS/EMPLOYMENT ARRANGEMENTS

There are three types of arrangements you can set up with the people who will work for you. You can find out more information on these types of arrangements at [employment.govt.nz](http://employment.govt.nz). These arrangements are:

1. Employee
2. Independent Contractor
3. IR56 Employee.

To help you decide if people are employees or independent contractors, the Ministry of Business, Innovation and Employment (MBIE) has provided some information which we've put into a checklist.

<b>EMPLOYEE</b>	<b>INDEPENDENT CONTRACTOR</b>
A person employed to do any work for hire or reward under an employment agreement. The pay is always a wage or salary.	A contractor is engaged by another party to perform services under an independent contractor agreement.
Has all minimum employment rights under employment laws (e.g. the Employment Relations Act 2000, Minimum Wage Act 1983 and the Holidays Act 2003).	Is self-employed and earns income by invoicing for their services. A contractor typically pays their own tax and ACC levies.
Usually has little or no control over the work to be done, ie where, when, what, as the employer largely directs their work. An employee will generally have set times and days to be at work.	Generally has more discretion regarding when and how much time is spent at work and about the work to be done.  Has their own 'plan' of what work to do each day and which site to work at. They are usually a specialist in their field of work.
Generally has to request permission from their employer to take time off work and change employment conditions.	May make themselves unavailable on certain days of the week, or for a longer period because they're going on holiday.
The employer usually provides all tools and equipment to do the work.	A contractor generally provides their own tools and specialist equipment.
More likely to be reimbursed for work-related expenses such as mileage and travel costs.	For a contractor, these form part of the costs of running their business or is part of the contract for services.
An employee usually gets paid automatically, and -can ask for pay information to be available.	A contractor usually issues invoices setting out their fees or charges in order to get paid.

It is important to understand the difference between hiring an employee and hiring a contractor. If you hire someone as a contractor, when the real nature of the relationship is employment, they could be deemed an employee, you may be held liable for minimum employment standards and entitlements.

## 6.1 EMPLOYEE

An employee is a person employed to do any work under an employment agreement for a wage or salary. If you are going to hire a person as an employee you are required to provide an employment agreement for the staff member. Further information on this is covered in types of employment agreements for your staff in section 11 below. You can find an employment agreement builder on <https://www.employment.govt.nz/starting-employment/employment-agreements/employment-agreement-builder/>

## 6.2 INDEPENDENT CONTRACTOR

An independent contractor is engaged by you to perform services under a contract for services (commonly called an independent contractor agreement). A contract provided by you will need to be signed by both you and the contractor. The terms are to be agreed between you and the person contracted. The contract agreement will usually include the duration of the work agreed, the amount being paid, any disbursements and the scope of work to be carried out.

The scope covers what will be included so both parties are clear on what is expected, and what is not. Although you are required to provide the agreement, the person being contracted can amend and suggest terms which will be agreeable to them. These may include the hours of work, and the location of work.

Contractors are not covered by most employment-related laws. This means they don't get things like annual leave or sick leave, they cannot bring personal grievances, they have to pay their own tax, and general civil law determines most of their rights and responsibilities. Businesses don't have to hold contractor records. It is up to the person being contracted to ensure the hourly rate agreed will include provision for any sick days they may need, public holidays and ACC. The agreement will also need to confirm if the total payment amount includes GST. An independent contractor is responsible for their own tax, and whether or not they want to opt in to KiwiSaver by contacting a KiwiSaver scheme provider directly themselves.

### 6.3 IR56 EMPLOYEE

An IR56 employee is a staff member who is responsible for paying their own tax to the IRD ([ird.govt.nz](http://ird.govt.nz)). They are not self-employed and you must have an employment agreement with them.

In New Zealand if you are a part-time private domestic worker who works for 30 hours or less per household, then you are an IR56 employee. If you meet this criteria then you are required to pay your own tax on your salary to the IRD using an IR56 form.

IR56 taxpayers are not self-employed. If this is your situation, your staff member is responsible for registering themselves as an IR56 tax payer with the IRD. They are responsible for completing their IR330 tax code declaration and keeping a copy of this for their records. They will work out their own PAYE amount each month to send to the IRD based on the earnings you pay them. An IR56 employee is responsible for ACC levy payments. This will be invoiced to them directly by ACC. An IR56 employee can only opt into KiwiSaver by contacting a KiwiSaver scheme provider directly themselves. You are responsible as their employer to pay their annual leave and sick leave as per a standard employee.

More information is available on the IRD webpage here:

<http://www.ird.govt.nz/forms-guides/keyword/employers/ir56/ir356-guide-ir56-handbook.html>

## 7. SOME OPTIONS FOR FINDING STAFF

Once you've decided to hire someone, and you've figured out what type of employee you need, what they'll do, and what type of employment relationship you'll have with them, you need to go through the process of hiring them.

There are different types of work arrangement, which includes casual, permanent full time, permanent part time, fixed term (full and part-time). See <https://www.employment.govt.nz/starting-employment/who-is-an-employee/types-of-employee/> for more information.

There is some really good advice regarding the hiring process on the Business New Zealand website. This includes information on writing a job description, advertising the position, interviewing and choosing someone, and contacting referees. Also on this page are details about requesting criminal record details and using the police vetting service

<http://www.business.govt.nz/staff-and-hr/hiring-an-employee/overview-of-the-hiring-process>

There is no right or wrong way to find staff. Here are some ideas.

### People you know

Ask your friends and family if they would like to work for you. You can employ anyone as long as they are not your partner, parents or family members who live with you.

Use social media to let people know you are looking for staff. This is a great free way to advertise and utilise your social networks. You can make a Facebook status asking for staff. Tag a few people who might know other people in your status update and also ask people to like and share. You can also post about it on a group page for people who live near you.

### **People in your community**

Put a notice up at your school, church, supermarket or favourite café. This is usually free to do. Put a notice in your school, church or club newsletter. This is also usually no cost.

Neighbourly is a free website for community listings. [www.neighbourly.co.nz](http://www.neighbourly.co.nz)

Manawatu TimeBank is a time banking system. Time banking is a way to trade your time for someone else's. It can be used as an alternative to employing and contracting staff, as instead you trade your time to ask someone else for assistance. In the TimeBank everyone's time is worth the same amount, for example one hour of dog walking is worth the same as one hour of teaching. Anyone can join Manawatu TimeBank and time banking is free. Visit the webpage here <https://www.timebankmanawatu.org.nz/home>

### **Volunteers**

If an employer is thinking of having somebody do an unpaid work trial or internship, or work experience, they should:

- Make it clear that the position is a volunteer position, and that the person does not expect payment or other reward. This should be done in writing.
- Make sure that the volunteer does not receive any payment.
- Avoid getting an economic benefit from the work done by the volunteer
- Avoid having the volunteer do work which is integral to the business, such as work that an employee would ordinarily do
- Limit the duration of work and the hours worked by the volunteer. The longer a person volunteers and the more hours they work, the more likely they are to be an employee.

A volunteer is not an employee, so employment law does not apply to them (with the exception of Health and Safety law).

If the parties want a volunteer relationship, it's important they make it clear that the worker does not expect payment and does not receive payment. Otherwise, the worker may be judged to be an employee and will be entitled to minimum entitlements. For example, they will have to be paid minimum wage and cannot be dismissed unless it is justified.

HelpX is a website for people who want a volunteer to stay with them short-term and work about 4 hours a day to get free accommodation and meals in return. [www.helpx.net](http://www.helpx.net)

Volunteer Resource Centre Manawatu and Districts advertises for volunteers. They normally cater to organisations, but may be able to work for you. Their website is <https://www.vrcmanawatu.org.nz/>.

### **Places to list job ads for free**

Student Job Search is a free job listing website where voluntary or paid jobs can be listed. Only tertiary students can apply for the jobs on Student Job Search. To use Student Job Search you will need to register as an employer. Tick that you are a private household employer. Student Job Search staff are really helpful on the phone. If you need any help call them on 0800 757 562, or visit [www.sjs.org.nz](http://www.sjs.org.nz)

### **Manawanui**

e-Mploy is an online job matching service developed for Manawanui clients and available to all of the disability community. It is a place where people who are looking for support can advertise a position and manage the applications they receive. <http://www.incharge.org.nz/services/e-mploy/>

### Work and Income

Work and Income can provide you with a free recruitment service. If you hire one of their candidates you can get post-placement to help you manage any challenges that come up.

<https://www.workandincome.govt.nz/employers/>

### Websites that list job ads for a cost

- Trade Me - You can list a job on Trade Me for \$206 (including GST). [www.trademe.co.nz](http://www.trademe.co.nz)
- Seek - You can list a job on Seek for \$242 (including GST). [www.seek.co.nz](http://www.seek.co.nz)
- Do Good Jobs - You can list a job on Do Good Jobs for \$114 (including GST). [www.dogoodjobs.co.nz](http://www.dogoodjobs.co.nz)
- Job Café - Cost for a Single Job Advert \$120+GST. 5 Job Pack \$300+GST, 10 Job Pack \$500+GST. [www.jobcafe.co.nz](http://www.jobcafe.co.nz)

If you need help with finding staff, the Employment Hub may be able to help you at [www.manawhaikaha.co.nz](http://www.manawhaikaha.co.nz) or 0800 626255.

## 8. GUIDE TO WRITING A JOB ADVERT

Here are some things to think about when writing a job ad:

- Use language that is attractive to the people you are hoping to find
- Make sure the job ad says what you want people to do, and when
- Include the sort of skills you are looking for
- Include confirmation that you carry out pre-employment background checks

There are things you can and cannot legally do or say when hiring staff. You cannot hire, or choose not to hire someone based on their age, gender, race, colour or ethnicity, religious or ethical beliefs, sexual orientation, disability, marital status, family status, or political opinions.

You can only ask a job applicant to give you personal information in an application or interview if it's relevant to the job, and you need the information to make a hiring decision. For example, you can ask if the person holds a full drivers licence and has their own transport.

You can find more information about hiring at <https://www.employment.govt.nz/starting-employment/hiring/>

A guide on equality and fairness in job applications for employers and employees is available from the Human Rights Commission. See the link to this resource here:

[https://www.hrc.co.nz/files/1514/6889/8404/HRC\\_A-Z\\_Booklet\\_2016.pdf](https://www.hrc.co.nz/files/1514/6889/8404/HRC_A-Z_Booklet_2016.pdf)

## 9. JOB DESCRIPTION CHECKLIST

It is in your best interest as an employer to provide a job description that clearly states your needs and expectations for each staff member. This can assist both in recruiting staff and in managing expectations of employees. The Employment Hub has a template job description which you could download and use.

## 10. JOB INTERVIEWS

### 10.1 JOB INTERVIEWS

A common way to meet and find out more about people interested in working for you is to arrange a job interview with them.

### **10.11 QUESTIONS TO ASK AND CONSIDERATIONS WHEN YOU INTERVIEW PEOPLE**

Draw up a range of questions about each person's experience and skills. Include some open-ended questions so they have the opportunity to talk about themselves and their goals. For example:

1. Ask them about their successes. Encourage them to talk about their achievements, even those outside work. A well-rounded individual should be a useful addition to your life and help provide good supports. If you have more than one person working for you, you may want to think about how they would work well as a team.
2. Enquire about hobbies and interests. Employees with good work-life balance tend to be more productive and creative than those who are fixated on their careers. Find out what they read, what they watch, how they learn new skills.
3. You could go for a walk with them, give them a tour of your home or take them out for a coffee. You'll get a better idea of their personality than you will in a formal interview environment.

### **10.12 WHAT TO LOOK FOR SO YOU CAN HIRE THE RIGHT PERSON**

Hiring the wrong person can be expensive in terms of money and emotional stress, especially if the relationship doesn't work. So take the time to get it right. Some further things to consider include:

1. Personality. Is this person going to fit into your existing team or will there be a personality clash? In a small team this can be a critical issue.
2. Flexibility. The ability to adapt to new and different tasks is a valuable skill.
3. Problem-solving ability. Look for someone who uses logic and lateral thinking to overcome challenges.
4. Communication skills. Knowledge is of little use unless it's communicated. You need someone who's approachable and easy to talk to.

The right person will almost certainly feel right to you, as well as ticking all the boxes for experience, qualifications, skills and personality. If you have doubts about someone's suitability to the role you're offering, it's probably best not to hire them.

## **10.2 CHECKING BEFORE YOU EMPLOY SOMEONE**

Choosing and employing who supports you, or your family member, gives you a high level control over the quality of support. However you need to recruit the right person to start with. You want a person who is safe and will not put yourself or your family at risk of harm. Most people who want to work in support roles with disabled children, young people and adults do their work with care and are honest and committed. Many people you employ will be known to you. However there is always the potential for abuse of children and adults who are vulnerable.

It is recommended that you conduct reference checks before you employ someone. Ideally you should speak to at least two referees before hiring someone. You may want to ask open-ended questions which give you the details you want, e.g. 'tell me what x's time management is like'.

Employment New Zealand has some sample interview questions you could use <https://www.employment.govt.nz/starting-employment/hiring/selecting-and-appointing/>.

You may also want to check the criminal history of your potential employee, especially if they are working with young children. You may want to check for previous criminal history through the Ministry of Justice Criminal Record Check. This check shows you the previous criminal history of your employee. It excludes convictions covered under the Criminal Records (Clean Slate) Act 2004. You can find more information about obtaining criminal history here <https://www.justice.govt.nz/criminal-records/>. This may cost a fee. More information about these services can be found here <https://www.employment.govt.nz/workplace-policies/tests-and-checks/criminal-record-checks/>.

### 10.3 OFFERING THE PERSON THE JOB

Once you have decided on the best person for the job and have made any checks that you want to, you can go ahead and offer them the job. Let them know the job title, the pay rate, the location of the job, their hours of work, and the start date. It can be a good idea to put some of this in writing for the person you are hiring to take away with them. The letter of offer that you give your new employee should also include a copy of the employment agreement they are being offered, and any relevant job descriptions and policies that form part of their employment agreement.

## 11. EMPLOYMENT AGREEMENTS

If in section five above, you decided you needed an employee, this section details what you need to know about employment agreements. You can find more information about building employment and contractor agreements here <https://eab.business.govt.nz/employmentagreementbuilder/startscreen/>

### 11.1 ABOUT EMPLOYMENT AGREEMENTS

Good staff relationships begin with a good employment process that ensures everyone has clear expectations about the role, working conditions and employment rights (<https://www.employment.govt.nz/starting-employment/employment-agreements/>). A clearly written employment agreement can help reduce the risk of misunderstandings. Every employee is legally required to have a written employment agreement, which must be signed by both the employee and the employer.

As an employer you are required to keep a signed copy of each employment agreement or the current signed terms and conditions of employment. You as the employer must retain the “intended agreement” even if the employee has not signed it. All employees are entitled to hold a copy also.

There are some provisions that must be included in employment agreements by law, and there are also a number of minimum conditions that must be met regardless of whether they are included in the agreement. These are outlined in the Employment Relations Act 2000.

When finalising employment agreements, it is important that you negotiate with your new staff in a fair and transparent way. This is called acting in good faith. When negotiating a new employment agreement or a change to an existing agreement, an employer must make sure that unfair bargaining does not take place. The best way to avoid unfair bargaining is to ensure employees receive independent advice before signing an employment agreement. You can find out more information on how to avoid unfair bargaining here <https://www.employment.govt.nz/starting-employment/employment-agreements/unfair-bargaining/>

Experience has taught us that if you treat your staff well, things will work better for you. A good clear fair start continues on, and is beneficial for both you and your staff.

## 11.2 TYPES OF EMPLOYMENT FOR YOUR STAFF

There are three types of employment you can set up for your staff ([employment.govt.nz](http://employment.govt.nz)). These are:

1. Casual employee
2. Permanent Part time employee
3. Permanent Full time employee
4. Fixed-term employee (Full and part time).

### 11.21 CASUAL EMPLOYEES

A casual employee is employed to work as and when required. This can sometimes happen because it is hard for the employer to predict when the work needs to be done. The employee has no guaranteed hours of work, no regular pattern of work, and no on-going expectation of employment. The employer doesn't have to offer work to the employee, and the employee doesn't have to accept work if it's offered.

An employer and a casual employee can agree that an additional 8% will be paid on top of wages or salary, instead of taking annual holidays.

### 11.22 PERMANENT PART TIME EMPLOYEES

A permanent part time employee is permanently employed to work part time hours, which are usually 10 to 29 hours per week, to an agreed schedule. For example, a part-time permanent employee is someone who regularly works the same three days a week for eight hours each day, for a total of 24 hours a week. Work could change over a fortnight or month, to an agreed schedule.

### 11.23 PERMANENT FULL TIME EMPLOYEES

A permanent full time employee is permanently employed to work full time hours, which are usually 30 or more hours per week. For example, a full-time permanent employee might be someone working 9am to 5pm, five days a week.

Whichever type of employee you require, this needs to be clearly defined in the employment agreement.

### 11.24 FIXED TERM EMPLOYEE

A fixed-term employee can be either a full or part-time employee. Fixed-term employment ends on a specific date, or when a particular event occurs. In order for an employee to be fixed-term, there must be a genuine reason for ending the employment. Some examples for what a genuine reason may be are:

- The fixed-term employee was covering for another employee on parental leave. In this case, the fixed-term employee's agreement should state that in the event that the employee on parental leave returns to work early, the date of ending the fixed-term agreement will also move forward.
- The date that a project ends could be seen as a particular event where the fixed-term employment ends early.

You cannot use a fixed-term agreement instead of a probationary period to test whether or not an employee is right for the job. This would not be a genuine reason for fixed-term. Fixed-term employees have the same rights and responsibilities as permanent employees.

## 11.3 EMPLOYMENT AGREEMENT BUILDER

To assist all employers, the Ministry of Business, Innovation and Employment has designed a step by step employment agreement builder, which we recommend you use for every employment agreement. You can access this here:

<http://employment.govt.nz/er/starting/relationships/agreements/builder.asp>

**Hot tip: The Employment Agreement Builder is a great resource to use. Remember to keep a paper record of all your employment contracts and documents.**

## 11.4 THE 90 DAY TRIAL PERIOD

### 11.41 WHAT IS A 90 DAY TRIAL PERIOD?

Currently all employers can hire new employees on a 90 day trial period. However, from 6 May 2019, only employers with fewer than 20 staff can employ new employees on a trial period of up to 90 calendar days ([employment.govt.nz](http://employment.govt.nz)). As part of an employment agreement, parties can enter into a written agreement that, for the agreed number of days, the employer can dismiss the employee without the employee being able to take a personal grievance for reasons of unjustified dismissal.

The trial period must be in the employment contract and the contract must to be given and signed before the employee starts working. An employee can still take a personal grievance under the other personal grievance provisions in the Employment Relations Act 2000, for example for racial or sexual harassment, and unjustified action causing disadvantage.

### 11.42 DISMISSING STAFF DURING THE 90 DAY TRIAL PERIOD

If the trial period isn't going well and the employer decides to dismiss the employee, they must give notice to the employee that they will be dismissed. The notice:

1. Must be the amount of notice in the employment agreement. If the employer doesn't give the employee the right amount of notice then the trial period is invalid and the employee will continue to be employed. For example, the employer can't tell the employee that they are dismissed effective immediately if there is a 1 week notice period in their employment agreement.
2. Must be given within the trial period, even if the actual dismissal takes effect after the trial period ends. For example, if the trial period is 8 calendar weeks and the notice period is 1 week, the employer must give notice to the employee before the end of the eighth week, even though the employee won't leave until the end of their notice period.

If the trial period isn't going well, it is good practice to tell the employee why they are being dismissed and employers must give a reason if the employee asks for one.

## 11.5 KIWISAVER

All new staff being employed in New Zealand are automatically enrolled into KiwiSaver, which is the government voluntary, work-based savings initiative to help New Zealanders with their long-term saving for retirement. If the staff choose to stay in KiwiSaver, the employer must make compulsory contributions to an eligible employee's KiwiSaver scheme as required, currently at a rate of 3% on top of their salary or wage.

The employee must decide how much their contributions will be (3%, 4% or 8%) and the employer will deduct this from their pay. If the employee does not specify this, the default rate is 3%.

Here's a link to the [KS1 form](#)

Here's a link to the [KS2 form](#)

## 11.6 SIGNING THE EMPLOYMENT AGREEMENT

The written employment agreement must be signed by both you and your employee at the beginning of your employment relationship, before the new staff starts work. A signed employment agreement at the beginning of the employment relationship helps everyone involved to have a better understanding of the terms of the employment relationship.

## 12. OTHER IMPORTANT INFORMATION FOR EMPLOYERS

Here is some other information that Mana Whaikaha considers important for you to know as an employer.

### 12.1 HEALTH AND SAFETY

As an employer you are required to all practicable steps to ensure the safety of employees while at work ([employment.govt.nz](https://www.employment.govt.nz)). This is to:

- provide and maintain a safe working environment;
- provide and maintain facilities for the safety and health of employees at work;
- ensure that machinery and equipment in the place of work is designed, made, set up, and maintained to be safe for employees;
- ensure that systems of work do not lead to employees being exposed to hazards in or around their place of work; and
- develop procedures for dealing with emergencies that may arise while employees are at work.

It is important to remember here that the standard of care that is required of all employers is that they take "all practicable steps" to keep their employees safe. This means doing what is reasonably able to be done in the known circumstances.

For more information about keeping a safe workplace please refer the Worksafe website, on this link: <https://worksafe.govt.nz>

### 12.2 PROTECTIVE CLOTHING AND EQUIPMENT

Health and safety requirements include providing your employees with protective equipment and personal protective clothing. Where a worksite has significant hazards that could result in harm to an employee, the employer must provide suitable protective equipment and/or suitable personal protective clothing at **no cost** to the employee.

As an employer you need to consider what your staff will need to do their job safely. Some examples of this are hand wash, slip mats, ramps and hoists.

If an employee genuinely and voluntarily prefers to provide their own protective clothing they may do so, instead of the employer providing it. However, the employer must still ensure that the protective clothing offers adequate protection and that it is worn to minimise the hazard.

If the employee later asks the employer to provide protective clothing and gives a reasonable period of notice, the employer must provide it and pay for it. This applies only to personal protective clothing. The employer must always provide any necessary protective equipment.

Along with this a standard first aid kit must be available at the workplace and in any vehicles used.

## 12.3 TRAINING FOR EMPLOYERS

It is good to be continually improving and growing your knowledge and developing new skills. Here are some training options available to you as someone who is an employer. There are lots of free workshops and seminars available to small business owners. It's also worth considering finding a mentor. The Employment Hub has information on training for employers.

### **Manawanui**

Manawanui Workshops – Manawanui offers a range of workshops aimed to assist you. The topics range from self-direction to EMA workshops.

<http://www.incharge.org.nz/news-and-events/events/>

### **Employment Services**

Free employment e-learning interactive modules are available, so you can understand your rights and obligations. Each module takes from 10 to 20 minutes to complete and you can choose which module is relevant to your situation.

<https://employment.elearning.ac.nz/>

### **Chamber of Commerce**

Your industry body and local Chamber of Commerce will be good places to ask if there are any relevant workshops and seminars coming up.

<http://www.newzealandchambers.co.nz/>

### **Inland Revenue**

Check out Inland Revenue's free tax seminars and workshops held throughout the country.

<http://www.ird.govt.nz/contact-us/seminars/waikato/>

### **New Zealand Institute of Management**

The New Zealand Institute of Management runs courses, functions and events.

<http://imnz.net.nz/event-list/all/>

### **A Business Mentor**

A mentor is someone you trust, and who you can consult for business advice. A mentor should usually be someone outside your immediate circle of contacts. Things to look for in a good mentor are the person is a good listener, with the experience to suggest practical solutions, set an example and challenge your ideas in a productive way. Most mentors are found through word of mouth, so tell your contacts and friends if you are looking for a mentor. Usually a mentor will assist for free and set aside an hour per month to assist you.

### **EMA – Employers and Manufacturers Association**

The Employers and Manufacturers Association (EMA) provides its members with employment relations advice, training and conferences and workshops. At their regular regional briefings you'll get the latest in employment information and be kept up-to-date with the New Zealand business scene. The fee to join is \$511.75 incl. GST per year.

The Employers and Manufacturers Association website is [www.ema.co.nz](http://www.ema.co.nz).

## 12.4 TRAINING FOR EMPLOYEES

Training is something that is often not prioritised by employers. Staff training and development really benefits everyone including you as the employer, and your staff can build staff confidence and skill level. If you employ care and support workers, you are obligated to provide training to your employees under the Care and Support Workers (Pay Equity) Settlement Act 2017. More

information on fulfilling these obligations can be found here <https://www.health.govt.nz/new-zealand-health-system/pay-equity-settlements/care-and-support-workers-pay-equity-settlement/information-individualised-funding>

Training is also something that's often left by many employers because it can be time consuming or expensive. There are however plenty of options to help your employees gain or improve skills. Some of the more common ones include:

- off-the-shelf training courses — one-size-fits-all courses run by training companies, e.g. a generic course on customer service
- in-house training — usually done on the job, by a more experienced employee. Employees can learn at their own pace and apply new knowledge immediately
- conferences, seminars, workshops and courses
- online courses — a cost-effective way of introducing new ideas and approaches.

For more information on staff training go to the Government's website for small business here: <http://www.business.govt.nz/staff-and-hr/employee-and-team-performance/training-and-development>. The Employment Hub also has information on training for employees.

## 12.5 JOINING A UNION

A union is an organisation that supports employees in the workplace by acting as an advocate for them collectively (and with the consent of the employee, individually). Unions bargain for collective employment agreements with employers and help employees with information and advice about work-related issues. The employee has to pay a fee to be a union member.

There are unions for different kinds of workplaces and jobs so if your employee thinking about joining or setting up a union, they should find out about the ones that cover the type of work you do. For more information about unions, visit NZCTU at [www.union.org.nz](http://www.union.org.nz)

An employee has the right to choose whether they want to be part of a union. An employer cannot discriminate against an employee in their employment because they are a union member.

The Ministry of Business, Innovation and Employment has more information about union membership here <https://www.employment.govt.nz/starting-employment/unions-and-bargaining/unions/>.

## 12.6 EMPLOYMENT RESOURCES

There are great resources you can access provided by the Ministry of Business, Innovation and Employment and the Inland Revenue Department.

### **Ministry of Business, Innovation and Employment**

<http://employment.govt.nz/>

Their role is to work to help employers and employees with employment conditions, and define minimum legal requirements for employment. You can find out on their website about employment agreements, including a step by step employment agreement builder.

### **Inland Revenue Department**

<http://www.ird.govt.nz/>

They provide information and services related to taxes for employees and employers so people can meet their tax requirements. On their website you can access employer and employee tax forms, and KiwiSaver information and forms. They also have an online PAYE calculator to assist with wage payment calculations for employers.

## 12.7 EMPLOYMENT LAW

There is a range of information about employment law in New Zealand. This information can be accessed from:

### Ministry of Business, Innovation, and Employment

<http://employment.govt.nz/>

Their website has some great comprehensive resources that are easily available.

### The New Zealand Immigration Service

<https://www.newzealandnow.govt.nz/work-in-nz/employment-rights>

Employment rights information is detailed here.

### Citizen's Advice Bureau: Employment and Business Section

<http://www.cab.org.nz/vat/eb/Pages/home.aspx>

### Community Law

<http://communitylaw.org.nz/>

They provide free legal help throughout New Zealand. Eligibility criteria include clients affected by mobility issues.

There are also a range of lawyers available in the Manawatū area who specialise in Employment Law. These can be found in the yellow pages.

## 12.8 INSURANCE

You may wish to be covered by insurance as an employer. Hosts are able to provide insurances. You can talk to your connector/kaitūhono about insurance. You might want to look into it further, or look at hosts who have insurances you can purchase.

### 12.81 BUSINESS LIABILITY INSURANCE

This can help protect you for your legal liability for accidental damage to other people's property that you or your employees cause in the course of your business. The cost for annual business liability insurance starts at around \$500 per annum. There are a range of insurance companies offering these types of insurance policies.

### 12.82 EMPLOYERS LIABILITY INSURANCE

This form of liability cover operates in the event that one of your staff members is injured in a workplace accident. You will be covered from damages that may be awarded against you as a result of employees being injured, and for any legal defence costs. If your employee is unable to return to work for a period, ACC will cover 80% of their loss of income. Employer liability insurance will allow you to cover the remaining 20%, if you wish. The cost for annual business liability insurance starts at around \$120 per annum.

You would be able to purchase insurance out of your budget. You can investigate this, or hosts have insurances you can purchase.

## 12.9 REVIEWING STAFF PERFORMANCE

Reviewing staff performance is important to ensure employees have clear targets and perform to agreed standards. This will enhance their contribution in their job, helping you to achieve what you need to. It is also more likely to result in higher productivity and motivation through increased job satisfaction. Managing performance in a fair and clearly defined way can also help avoid problems later if an employee is not meeting agreed standards.

## 12.91 HOW TO REVIEW STAFF PERFORMANCE

Performance management is an on-going process, with a formal review at agreed intervals during the year (<https://www.employment.govt.nz/workplace-policies/employee-performance/>). The degree of formality will vary depending on how you manage your staff, but it's important to ensure employees clearly understand what is expected of them. This is best done through regular discussion about their performance.

It is important to:

- plan for reviewing staff performance, which includes giving staff good notice of any meetings
- give regular and specific feedback on good performance
- manage poor performance
- recognise and reward good staff performance in a way of your choosing

## 12.10 HOW TO HANDLE DIFFICULT SITUATIONS WITH EMPLOYEES

At some time you may have a difficult situation with an employee. Here are some tips when confronted with a difficult situation:

1. Listen. Our best shot at improving the situation comes from understanding the situation. Start a conversation with asking your employee how they think things are going.
2. Give clear, behavioural feedback. Talk about the scenario's that have actually happened rather than them personally, e.g. "I notice you have come to work late several times over the last month" rather than saying "you have a really lazy attitude towards work". Being specific allows you to be clear about what you want the employee to do differently.
3. Document what is happening. Write down the key points. This may seem a very formal thing to do particularly if early on, but at least you will have a record of dates and situations if you need this in the future. If things resolve you can simply file the document at the back of your files and forget about it.
4. Be consistent. If you have an expectation, ensure you always have the same expectation. This communicates a clear message to your employee.
5. Make sure you are not talking negatively about the employee to others in your work environment as this can have a negative effect. It can be good to have someone to discuss the situation with or receive advice from, just make this someone who you trust and who is removed from the immediate situation.
6. Be courageous, and take the next steps to correct the employee if the situation is not remedied.

If you need further assistance with handling difficult situations, go to the Employment Hub at [www.manawhaikaha.co.nz](http://www.manawhaikaha.co.nz) or call 0800 626255. You can talk to someone in Mana Whaikaha who has experience with dispute resolution. Mana Whaikaha can also refer you to the Ministry of Business, Innovation and Employment's employment mediation service (<https://www.employment.govt.nz/resolving-problems/steps-to-resolve/mediation/what-is-meditation/>).

More information about resolving employment issues can be found at <https://www.employment.govt.nz/resolving-problems/>

## 12.11 GUIDE TO ENDING EMPLOYMENT AGREEMENTS WITH STAFF

When it comes to ending an employment relationship with a staff-member, your responsibilities as an employer may change depending on each circumstance (<https://www.employment.govt.nz/ending-employment/>). It is important to know the rights of your staff, and your rights and obligations as an employer when a staff member is leaving. Dispute resolution processes can also be set out in employment agreements, which allow the employer and employee to be on the same page. You can also talk to the Mana Whaikaha Employment Hub staff if needed.

### **12.11.1 EMPLOYEE RESIGNATION OR RETIREMENT**

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An employee can resign at any time and will usually do so by telling you verbally. This will need to be followed by written confirmation from them stating their last day of employment, and they will need to give at least the amount of notice that is listed in their employment agreement. If an employee leaves without giving notice you don't have to pay them for any outstanding leave owing, or for any more work time than their last actual work day. They may also give notice of their retirement from work if applicable. This same process will apply in this case.

### **12.11.2 EMPLOYEE REDUNDANCY**

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If you are considering restructuring or redundancy we recommend you seek advice on this before you begin.

In order to make a staff member redundant, you first need to go through a restructure process, which includes the following:

1. Document your proposal
2. Invite people to a meeting
3. Hold the meeting
4. Gather feedback
5. Genuinely consider feedback
6. Confirm the structure

Once you have been through the restructure process it may be required to make a staff member redundant. If this is the case, we recommend at this stage you seek advice to check your plan and process. You will need to confirm the new structure in writing including notice period. Meet the staff member to discuss the redundancy if they request this. Then complete the usual requirements for a staff member leaving.

### **12.11.3 EMPLOYEE DISMISSAL OR TERMINATION**

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Having to dismiss an employee isn't what anyone wants to do, but sometimes it's the only option. Following the right process and working within what is written in their employment agreement can ease the stress of the situation.

#### **Reasons for Dismissal**

There are a number of reasons you may need to dismiss an employee. Whatever the reason, make sure you follow a proper, fair process.

Misconduct – includes things like:

- on-going poor performance (despite repeated attempts by you to help them improve)
- minor breaches of employment agreement clauses, e.g. inappropriate clothing
- unsafe behaviour
- confidentiality breaches.

If you've followed the right process, and given your employee a good opportunity to improve their behaviour, on-going misconduct can lead to dismissal. You'll need to give them the amount of notice stated in the dismissal clause in their employment agreement.

Serious misconduct - is so serious that it may warrant immediate dismissal. This could include:

- behaviour that endangers the health and safety of the employee or others
- violence in the workplace, and bullying and harassment
- theft or fraud
- serious breaches of employment agreement clauses.

Whatever the behaviour, you need to follow a full, investigative process before you dismiss someone. If the process finds that your employee's actions amount to serious misconduct you can terminate their employment agreement without notice.

If you are considering misconduct proceedings we suggest you first discuss this with a person or organisation that has expertise in these matters. For example, EMA if you are a member.

#### **12.11.4 DISMISSING AN EMPLOYEE — THE STEP-BY-STEP PROCESS**

You can only consider dismissal if your employee's performance has not improved despite repeated attempts with a performance management plan which you have recorded, and you have warned them that dismissal was a potential outcome.

1. Investigate the matter. Document this including the date of the incident, what time it happened and a description of the alleged behaviour.
2. Check your employment agreement documentation.
3. Provide written findings: set out the details in a letter to the employee and keep this in your records.
4. Meet with the employee on the date stated in your letter. You can both have a support person or representative there, if you want to. Discuss the reason for the meeting, the allegations against the employee and the possible consequences if the allegations are confirmed. Give your employee the chance to tell their side of the story. At the end of the meeting, let them know how long you'll take to consider the situation (normally a day or two), and when you'll inform them of the outcome.
5. Make your decision and give written notice. Consider all the evidence and decide what the outcome will be. You may decide that a final warning is an acceptable consequence, or you may opt for immediate dismissal.

When deciding how to deal with the behaviour, try to be objective, and reasonable.

#### **Important points to remember**

To reduce the risk of a personal grievance, aim to avoid these common errors:

- dismissing someone for misconduct not serious enough to warrant instant dismissal
- not providing adequate support or training during your performance management process
- not giving your employee enough time to improve during the performance management process
- using warnings that are not recent enough to demonstrate your employee's on-going misconduct
- not following the right process. Even if there is good reason for dismissal, you need to complete all the steps, in the right order.

For more information please go to the business.govt.nz website here:

<http://www.business.govt.nz/staff-and-hr/ending-employment/dismissal-or-termination>

#### **12.11.5 EMPLOYEE EXIT CHECKLIST AND INTERVIEW**

Before a staff member leaves they should complete any reasonable tasks and handovers. You could:

- assign their on-going tasks to another person
- conduct an exit conversation, to get any final feedback from the employee
- hold a farewell morning tea.

On their last day you should collect any assets i.e. computer, phone, books, keys etc. You could provide a reference or offer to act as a referee. You must calculate their final pay, including holiday leave owed, and pay it - you can do this on their final payday rather than their last day.

## Exit Interview

Exit interviews are interviews carried out with departing employees, just before they leave. From the employer's perspective, the main aim of the meeting is to learn reasons for the person's departure, which will be helpful for improvement purposes.

### Examples of exit interview questions

- Why attracted you to this job?
- What were your best experiences here?
- What were your worst experiences here?
- Do you have any feedback for me upon your departure?
- If a friend asked you, would you recommend that they take a job here?

After the staff member has left you must provide a statement of employment, if they request it. Update their personnel file with:

- their last day of work
- last pay amount
- final pay out of all holiday pay

Archive their personnel file and records (make sure you keep them for seven years).

More information is available online here: <http://www.business.govt.nz/staff-and-hr/ending-employment>

## 13. RELEVANT LINKS

Inland Revenue. *Your IRD number.* <http://www.ird.govt.nz/how-to/irdnumbers/yourirdnumber.html>

Accident Compensation Corporation. *Business descriptions and industry codes.* <http://www.acc.co.nz/publications/index.htm?ssBrowseSubCategory=Business%20descriptions%20and%20industry%20codes>

Ministry of Business, Innovation and Employment. *Types of employment.* <http://employment.govt.nz/infozone/myfirstjob/employees/prior/kinds-of-employment.asp>

Inland Revenue. *IR56 Guide.* <http://www.ird.govt.nz/forms-guides/keyword/employers/ir56/ir356-guide-ir56-handbook.html>

Inland Revenue. *Registering as an employer.* <http://www.ird.govt.nz/payroll-employers/become-employer/register/emp-become-employer-registering.html>

Ministry of Business, Innovation and Employment. *Different kinds of employment.* <http://employment.govt.nz/infozone/myfirstjob/employees/prior/kinds-of-employment.asp>

Ministry of Business, Innovation and Employment. *Employment agreements.* <http://employment.govt.nz/infozone/businessessentials/employ/employment-agreements/>

Ministry of Business, Innovation and Employment. *90 day trial period.* <http://www.dol.govt.nz/workplace/knowledgebase/item/1517>

Inland Revenue. *KiwiSaver for employers.* <http://www.ird.govt.nz/kiwisaver/employers/ks-emp-index.html>

Ministry of Business, Innovation and Employment. *Personnel files and record keeping.*  
<http://www.business.govt.nz/staff-and-hr/managing-employees/personnel-files-and-record-keeping>

Ministry of Business, Innovation and Employment. *Provision of personal protective clothing and equipment for all employees.*  
<https://www.employment.govt.nz/workplace-policies/work-equipment-and-clothing/>

Inland Revenue. *Mileage rate for self-employed people and reimbursing employees.*  
<http://www.ird.govt.nz/business-income-tax/expenses/mileage-rates/emp-deductions-allowances-mileage.html>

Ministry of Business, Innovation and Employment. *Performance reviews.*  
<http://employment.govt.nz/infozone/businessessentials/manage/motivate-and-retain/performance-reviews.asp>

Anderson, E. (2016). *9 ways to deal with difficult employees.*  
<http://www.forbes.com/sites/erikaandersen/2013/11/21/9-ways-to-deal-with-difficult-employees/#64eeb630610d>

Ministry of Business, Innovation and Employment. *Ending employment.*  
<http://www.business.govt.nz/staff-and-hr/ending-employment>

Ministry of Business, Innovation and Employment. *Training and development.*  
<http://www.business.govt.nz/staff-and-hr/employee-and-team-performance/training-and-development#options>

*Disclaimer: All information in this document is correct at date of issue, and is therefore subject to change. This document is intended as a guide, and although comprehensive, is not exhaustive.*

For more information,  
please talk to your connector /  
kaitūhono  
or call us on

**0800 MANA 55**  
**(0800 626255)**



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