



# EMPLOYER NEWS 2020

PERRIAM &amp; PARTNERS

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## TOP FIVE EMPLOYMENT TIPS FOR CHRISTMAS YOU NEED TO KNOW

These top five employment tips can help employers and employees prepare for the Christmas period.

### A BUSINESS MAY CLOSE DOWN OVER THE HOLIDAY PERIOD

Businesses can have an 'annual closedown' for their whole business or a part of it, but they must give at least 14 days' notice in writing. If a business closes down over the holiday period, employees are required to use their existing annual holidays to cover the closedown period. If an employee doesn't have sufficient leave, they can take leave without pay or the employer and employee can agree to use annual leave in advance.

### IN MOST CIRCUMSTANCES EMPLOYEES DON'T HAVE TO AGREE TO WORK ON A PUBLIC HOLIDAY

An employer can only make an employee work on a public holiday if the public holiday falls on a day the employee would otherwise have worked; and the requirement to work on the public holiday is noted in their employment agreement. Otherwise, an employee does not have to agree to work during a public holiday.

### ALL EMPLOYEES SHOULD BE PAID TIME AND A HALF FOR WORKING ON A PUBLIC HOLIDAY

If the public holiday falls on the day an employee would normally work, an employee is entitled to be paid time and a half for all the hours worked, plus a paid day off at another time. If the holiday does not fall on a day they normally work, the employee is entitled to just be paid time and a half.

### EMPLOYEES CAN ASK TO CASH-UP SOME OF THEIR ANNUAL HOLIDAYS

Employees can request to cash up to one week of their four weeks' annual holidays in any entitlement year, providing the employer agrees. If an employer declines, they must do this in writing, but they don't have to give a reason.

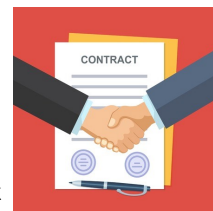
### CANCELLING APPROVED ANNUAL HOLIDAYS IS A MATTER OF NEGOTIATION

An employer cannot cancel an employee's approved annual leave, unless they agree to it. An employee may have already arranged their holiday, for example, paid for accommodation, or organised a holiday with friends or family. If an employer would like an employee to cancel their leave, they should approach the employee in good faith and make sure that there are no consequences if the employee declines to cancel their leave.

Source: [www.employment.govt.nz](http://www.employment.govt.nz)

## DISMISSING CASUAL STAFF

The nature of a true and legitimate casual relationship between an employee and employer, is that the employer offers work/hours on an irregular basis to the casual employee, who can then choose to accept or decline the offered work/hours. There is no expectation of continuous work from either party.



In the case of the casual employee falling sick, they will only be entitled to sick leave benefits if the ailment falls within the period that the casual employee is actually scheduled to work - following 6 months' service with the employer.

When a casual employee transgresses the rules and regulations of the employer, the employer is within their right to take disciplinary action against the casual employee. The employer must however follow exactly the same process they would if it were a permanent employee transgressing. The rules and process must be identical for both issuing warnings and terminating employment regardless of the employment relationship status (permanent or casual).

As with everything involving employment law, each case should be assessed on its own merits. Where you have a pool of casual employees and you are intending not to engage with one of them anymore due to disciplinary or performance issues, you will have to follow the disciplinary process as the casual employee still has the right to a fair termination process.

However, if an employer no longer requires the services of a casual employee, there is no need to terminate the relationship. The employer would simply not offer the casual employee any further hours/work, and this is often the recommended solution to cease using casual staff rather than the more protracted and potentially risky disciplinary route. We do however recommend communicating such a decision with the employee.

Terminating staff is the most contentious and risk prone exercise for an employer potentially exposing the company to thousands of dollars in costs if they get even one step of it wrong, not to mention the cottage industry of vexatious personal grievances from employee advocates.

It is very important to correctly classify and treat an employee as a casual and then to offer them the correct agreement from the beginning. If not, when challenged, the employee is often classified as a permanent employee, with all the rights and benefits of a permanent employee from the outset.

If you are faced with any of the scenarios mentioned, we recommend that you talk to us first.

Source: [www.employers.co.nz](http://www.employers.co.nz)

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## WHY INVESTING IN YOUR STAFF IS THE SMART MOVE TO MAKE



Owen Embling, managing director of Convex, says businesses can't afford not to train people so need to look at how they can achieve it.

Owen Embling has lost count of the number of times he's sat at industry round tables where the discussion kept returning to concerns over New Zealand's skill shortage – a topic he reckons can easily be addressed.

"I used to sit in these meetings and think, 'I don't have a problem with that'. If you train people from scratch and help them grow, you don't have this complaint."

Embling is managing director of Convex and during his 30 years with the company that prides itself on producing innovative plastic packaging, he's maintained an equally innovative approach to investing in staff training.

His office walls are lined with photographs of staff receiving awards for achieving in everything from basic numeracy and literacy training to full engineering qualifications.

"I reckon we need to take the long-term view that communities where everybody is employed are significantly better than those that aren't. Anybody involved in personal development in any way is going to be more fulfilled.

"When you have a company of young people who are being trained and developed, they are empowered to work together," he says.

"If you sit with people and say you believe in what they can do, it has a really powerful motivating effect. They walk out of here after making bags or running extruders and go home and pass that positivity on because they believe they have had a fulfilling day."

When it comes to success stories, Embling doesn't need to look far. He wouldn't be where he is today if an employer hadn't seen his potential, and he's committed to passing that on.

Embling is familiar with arguments against staff training, and the concerns over cost and time. He's particularly familiar with the complaint that if you train people up, they'll leave.

"I say, 'But if you don't train them they might stay!' But seriously, if they stay for two years and give you an engaged workforce, what's wrong with that? If they leave and add value to another company in the country, is that really a problem?"

He says Convex isn't immune to the challenges of keeping the factory going while staff are off the line upskilling.

"But I say we can't afford not to train people so we need to look at a way we can do it, rather than how hard it is." While there's a cost in training people from the inside, Embling points out the cost of integrating new hires and doing without necessary talent are significant.

"That's why I tell people to look long-term and engage with staff through training and personal development. You'll never look back."

Source: Stuff



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**THE SECRET TO TEAM PERFORMANCE (AND 5 STRATEGIES TO ACHIEVE IT VIRTUALLY)**

When Google HR hired a group of psychologists and sociologists to look for patterns in their highest performing teams, they thought team success had something to do with the mixture of personalities, backgrounds, and motivations within the team. After almost 200 team interviews, they still hadn't found any discernible patterns to confirm their theory. Instead, they found that successful teams all shared one thing in common: a high degree of *psychological safety*.



Psychological safety is a sense of trust teams establish where people do not feel insecure or embarrassed by the possibility of failure. Studies show that on teams where people feel psychologically safe, people are more willing to share their perspective, take calculated risks, ask questions, admit mistakes, make jokes, challenge each other, and learn from one another.

Of course, developing this degree of trust within a team takes effort. With teams switching to virtual work, the effort to establish trust narrows to time spent on video calls, which can feel more convoluted and distant. To help get your virtual team moving in the right direction, we've compiled five concrete ways to build psychological safety in virtual meetings.

**RECREATE TEAM CHATTER**

Chatting around the table or in the hallway before a meeting doesn't just pass the time as the group files in. Chatter actually quiets stress in the brain, relaxes people, and builds their courage to share later on during the meeting. To recapture your team's lost chatter, manufacture it. Kick off meetings by having each person share something unrelated to work. Host a virtual happy hour or online game night. Close meetings by sharing weekend plans. The idea is to build group comfort and get people talking freely and just for fun. Then, when the discussion turns from light to consequential, people are already feeling more comfortable and therefore poised to contribute.

**BREAK OUT IN SMALL GROUPS**

Who is quick to speak out among the 32 faces across two screens? No one, usually. People feel safer in small groups, and when people feel safe, they are more likely to open up. This opening up in small groups actually translates back to the big group. When people report out to the big group, they tend to stand firmer with what they discussed in their breakout. That's partially because the representative wants to stay true to their discussion group, and it's also because they feel more supported by the group than they would feel speaking on their own behalf. Breakouts also prevent social loafing in bigger team meetings where many people feel that their individual contributions "aren't worth the group's time".

**MAP THE CHECK-IN PROCESS**

Research shows that rules around communication reduce uncertainty and help build trust. Don't just assign work vaguely with an arbitrary deadline. Agree to check-in points, check-in subgroups, and a process for completion. This helps hold people accountable as the task moves from hand to hand.

**REWARD PEOPLE FOR RISK-TAKING, CANDOR AND FEEDBACK**

Be sure to reinforce teammates who show vulnerability and risk-taking, even if you might not agree. Some teams even designate someone to "tell it like it is". This person may call out things left unsaid, play "devil's advocate," and point out when other team members hog the stage, stay too quiet, or criticize unconstructively.

**BREAK THE MEETING ROUTINE**

Regularly scheduled meetings and check-ins can easily become routine, possibly becoming monotonous. To avoid people zoning out and counting the minutes, break the cycle: cancel a meeting occasionally, hold an impromptu team meeting to celebrate a goal reached, call together a small group to devise a plan for a difficult problem, or even try scheduling monthly one-on-ones between randomly assigned team members to build internal relationships.

**FROM INSIGHTS TO ACTION**

These strategies for creating team trust and safety may seem easy, but the challenge lies in upholding them over time. Commit to these strategies and give them time to grow into a natural part of how your team works together. Each one can make a big difference in your team dynamic and performance.

Source: Talentsmart.com

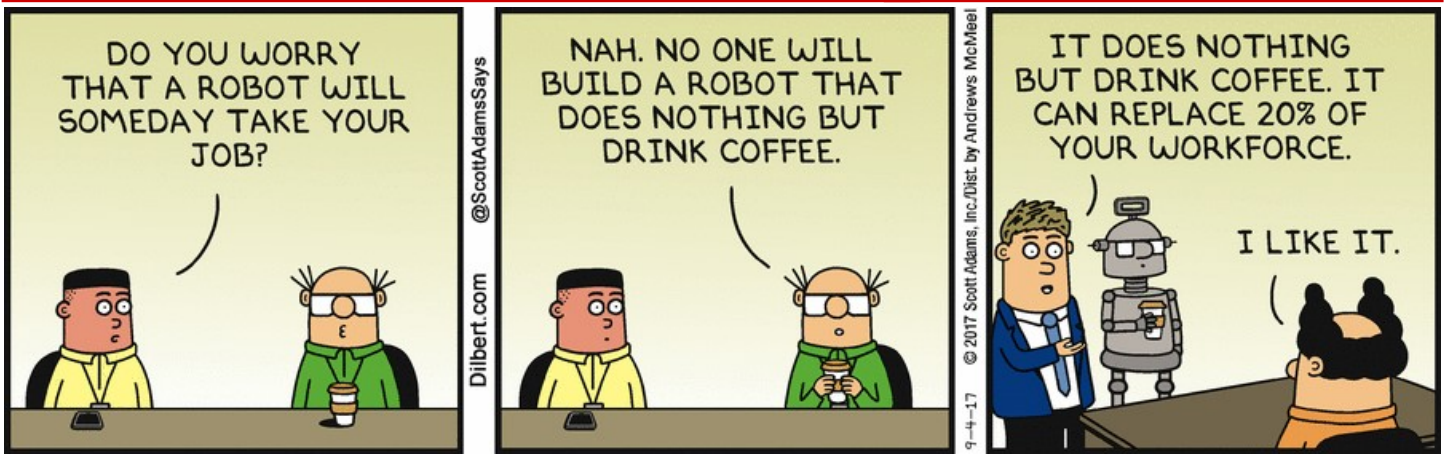
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## LABOUR'S EXPECTED CHANGES

The election result, with its significant Labour majority, puts the Government in the position of being able to deliver on its promises. With many of the employment policy pledges being consistent with those expressed by the Green Party it may be prudent to expect a large number to be put into law. The following is a short summary of some of those pledges.



**Minimum Wage** – we can expect the minimum to increase to \$20 per hour on 1 April 2021 because that is consistent with the rollout of increases over the last few years. The Labour Party has pledged to increase the minimum wage beyond this level. It could be that the “living wage” is the new target, and this currently sits at \$22.10 per hour.

**Dependant Contractors** – the pledge is to provide such contractors with access to employment rights such as paid annual leave, sick leave, grievance rights and the like and to extend collective bargaining rights to these classes of worker. The Employment Court judgement on 7 May 2020 (*M Leota v Parcel Express Limited* [2020] NZEmpC61) added significant weight to the argument that some contractors are to be considered employees at law, depending on the nature of the relationship with the Principal.

**Fair Pay Agreements** – this is a return to unionised bargaining for wages and conditions potentially across industries or sectors and covering multiple employers, the old industry collective agreement regime. The pledge is to strengthen the law to encourage this type of bargaining and to put in place barriers to prevent such agreements being undermined. Considering that collective bargaining is the strongest desire of the Labour Party's biggest support group, the Unions, we should expect to see a rise in claims to start bargaining for a collective agreement.

**Pay Equity** – this is a continuation of gender and ethnicity pay equity strategies that have been debated for decades. The issue is very wide ranging covering not just the divide between male and female pay rates but also between occupational classes. Various initiatives have been implemented over many years to address these imbalances including anti-discrimination laws and negotiated pay changes to realign some occupational classes with others i.e. the changes to aged care worker pay rates and most recently the rates paid to teacher's aides. While we can expect this activity to continue and maybe increase in some sectors the new pledge is to require employers to report on pay equity initiatives. No real details are available on how onerous this will be other than it looks to add another level of bureaucracy to the web of red tape that currently binds SME's.

**Paid leave** – the pledges are to introduce a new public holiday (Matariki), double the entitlement to paid sick leave and to review the current Holidays Act. The possibility of doubling the sick leave entitlement to 10 days per year is highly likely based on the Prime Minister's statements to business leaders in Auckland on 5 November. Employers should be proactive with leave management, especially sick leave, and any increase in this entitlement makes extra vigilance imperative.

The pledge to review the Holidays Act continues. The complexity over pay rates for the different leave types continues to cause significant problems resulting in large arrears payments for many employers and on-going arguments over entitlements. The simple concept of ensuring that an employee should be no worse off financially when taking any form of paid leave is proving to be legislatively difficult in today's increasingly flexible work arrangements.

**Other stuff** – we could see an increase in the protection offered to some classes of worker such as further restrictions on the type of work a person 16 or under may perform and including security guards as vulnerable workers.

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