



EMPLOYER NEWS 2022

PERRIAM & PARTNERS

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SPOTTING THE SIGNS OF DISTRESSED STAFF— SIGNS TO LOOK FOR



Temperament

Get to know your staff well so you can notice any change in mood or behaviour. Look for changes. For example, those who are normally outgoing becoming withdrawn, or the opposite.

Appearance

A lack of grooming, or no longer taking care of how they appear can be a sign. I can recall this personally many years ago when I was in a workaholic phase and not in a good head space. I would dress all in black, my hair in the same bun every day so I didn't have to style it, and never wore make up. It was a symptom of feeling overwhelmed and lacking time or effort to even do the basics. Wearing black certainly isn't a sign, but changes in people's standards of personal grooming is.

Lacking of interests

Take note if your staff are no longer taking part in the hobbies they used to. If you ask how their painting is going, what's growing in their garden, or where they've been mountain biking lately, and they respond in a flat uninterested way or say that they haven't made time for it lately, that's a sign to watch for.

Change in decision making ability

There are two ends of a spectrum with this one. Watch for people being overly rash and making lots of hasty decisions. Also watch for people being excessively indecisive, procrastinating or having an inability to make decisions.

Pace

Sometimes people speed up their pace in an attempt to try and fit more in, and stop themselves reflecting on how they feel. They can appear "hyper" in their actions and their speech.

Control

People might lack the ability to control their emotions, becoming upset for seemingly no reason. At the other end of the spectrum, people may seem overly controlled, or stoic and not displaying any emotion. Trying to hold everything in.

Memory

Becoming forgetful and missing small day-to-day things can be a sign. Ongoing stress interferes with the brain's ability to think clearly. It impacts on decision-making, reasoning, and memory. Watch for confusion or regularly forgetting things.

More frequently unwell

Ongoing mental distress can suppress the body's immune system function. Take note if you hear staff complaining of ongoing minor illnesses or are increasingly taking sick days.

Source: NZ Business

UNION WINS AGAINST EMPLOYER FORCING STAFF LEAVE



The Employment Court has ruled that during the COVID-19 level 4 lockdown in 2020 Carter Holt Harvey (CHH LVL) acted illegally when requiring staff to take leave. Even though they gave 14 days' notice.

E tu Union took CHH LVL to the Employment Relations Authority (ERA) over their forcing of staff to use 8 days' of annual leave during the level 4 lockdown in 2020. The ERA referred this onto the Employment Court as a case of significant public interest.

Initially the union had argued the employer had not given the required 14 days' notice, acted in bad faith having not sought agreement and argued that employees were unable to benefit from the intended nature of leave as they were in lockdown.

The Court found the employer had actually given 14 days' notice and it was not an employer's problem as to how staff can or can't use their leave when taking it. The problem the Court identified was the fact that the employer had not sought to consult with staff about taking the leave and actually ignored the Union's request to negotiate. This was considered bad faith.

The strong takeaway from the case is that although the law does allow for an employer to direct staff to take their annual leave with at least 14 days' notice, there has to be demonstration and genuine attempt in good faith to negotiate to get staff to agree to take their leave in the first instance. Only following such a consultation could an employer be entitled to direct staff to leave with at least 14 days' notice.

Source: Employers.co.nz

MOST COVID-19 RULES HAVE NOW ENDED

New Zealand's COVID-19 Protection Framework (traffic lights) ended at 11.59pm on Monday 12 September.

With case numbers falling, a highly vaccinated population, and increased access to antiviral medicines to treat COVID-19, public health experts say it is safe to remove most COVID-19 rules and end border restrictions.

Please note that the following still applies:

- You must still isolate for 7 days if you have COVID-19.
- You must wear a face mask in healthcare facilities, such as hospitals.

Source: employment.govt.nz

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TOP TIPS FOR RECRUITING THE RIGHT TALENT DURING A LABOUR MARKET SHORTAGE

With our small and medium businesses hit hard by Covid-19 and more jobs listed than ever before, it's bloody tough out there. It's clear that finding the right talent is becoming harder than ever. There are a number of causes for the talent shortage, such as border closures meaning there are approximately 80,000 fewer workers in the country, plus many Kiwis simply aren't leaving their current jobs in favour of prioritising job security and fear of future lockdowns.

So what can you do to help the recruitment process and make sure you get the talent you need?

Find the right partner who understands your business

Before bringing a recruiter on board, make sure to do your homework. It's important to find someone who understands your industry, business goals and matches your ethos. It can take time to understand a business and its key points of difference, especially in the current saturated market.

Be honest about the environment

Let the recruiter know what kind of skills, and person, you're looking for but equally what kind of working environment potential employees will be stepping in to. The recruiter must have a good understanding of the company's culture in order to accurately promote the role to the right candidates.

Be transparent about the management, the wider team and the overall culture (not everyone has ping-pong or pool tables in the lunchroom). Being upfront about the type of culture and environment will help to ensure the person you do find is the right fit for your business. They'll also be much more likely to stay for a longer period. If you are engaging a new recruitment partner, it can also be a good idea to have them meet the whole team.

Consider what you have to offer candidates

In a labour-short market, you need to put your best foot forward to attract top talent. If your budget is tight, consider other perks your business has to offer. Data from Seek shows after a turbulent 2020, Kiwis have clear expectations about what perks they expect from a workplace. Flexibility – both working hours and location – is a big perk as is mental health support, learning and development programmes, mentorship and coaching and car parks.

There is also a trend emerging with talent wanting to work for an organisation with values that align with their own. The appetite for people to work for organisations making a difference to the lives of New Zealanders and our beautiful country is growing.

Source: Stuff, Bridget Cooksley

LABOUR INSPECTORATE ENFORCEMENT YIELDS \$313,000

Enforcement action has recovered wage arrears and penalties in excess of \$313,000 from the owner of a Dunedin-based Bakery.

The enforcement activity follows a decision by the Employment Relations Authority (ERA) in November 2021.

A Labour Inspectorate investigation found that the employer had failed to pay its employees the correct wages, holiday and sick leave pay, in breach of the provisions of the Employment Relations Act 2000, the Minimum Wage Act 1983 and the Holidays Act 2003.

The ERA ordered the owner of the bakery, as a person involved in the breaches, to pay penalties of \$158,000 and a total of more than \$193,000 to the three employees in minimum wage arrears, as well as \$40,000 in leave entitlements.

Regional Manager Southern says the case sends a clear message to businesses who exploit their workers that they will face severe penalties, which will be vigorously enforced.

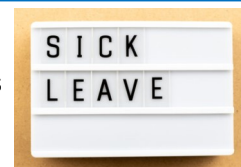
In the ERA hearing, the Labour Inspectorate had argued for penalties to be imposed at the higher end of the scale. The total amount received to date is approximately \$351,000, which – while short of the total awards of around \$392,000 – is a significant outcome.

The Ministry of Business, Innovation and Employment's finance team is continuing to work to ensure the employees in the case are paid their full minimum wage arrears and portion of the total penalties. Their leave entitlements have already been paid by the employer.

The Labour Inspectorate encourages anyone concerned about their employment situation or the situation of someone they know to contact the Employment New Zealand service centre where concerns are handled in a safe environment.

Source: employment.govt.nz



MANAGING SICK LEAVE: AN EMPLOYERS GUIDE TO ABSENTEEISM

Sick leave is paid time off work when an employee, spouse, partner, dependent child or other dependent is unwell or injured.

Minimum sick leave entitlements

Under the Holidays Act 2003, most employees are entitled to 10 days of sick leave a year (this increased from 5 days on 24 July 2021). Here's a breakdown:

- **Permanent employees** - regardless of whether they work full-time or part-time once they have worked continuously for the same employer for 6 months.
- **Casuals** - once they have worked for the employer for 6 months for an average of 10 hours per week, and at least one hour in every week or 40 hours in every month.
- **Independent contractors** aren't entitled to sick leave.

Unused sick leave can accrue to a maximum of 20 days. Sick leave is not pro-rated in any way, so part-time employees who might only work a few days a week still get 10 days' sick leave a year (and can accumulate up to 20 sick days a year).

Notifying the employer

If an employee is sick or injured and intends to take sick leave, they should notify the business as soon as they can (either before they start work or as soon as possible afterwards).

Proof of sickness

An employer can request proof that an employee is sick or injured once he or she has been on sick leave for three or more consecutive days. The proof is usually a medical certificate. In certain circumstances, an employer can request proof of illness or injury within three consecutive calendar days, but the employer must agree to pay the person's reasonable expenses, such as medical fees. In all cases where an employer requires proof, you must inform the employee as soon as possible.

If an employee won't provide proof of sickness (or falsifies the proof), you could consider taking disciplinary action. However, we recommend first taking a more informal approach to work with the person to improve their conduct and/or performance.

Payment

Sick leave payment is calculated using either relevant daily pay (what they would have earned if they were at work on the day) or, if that's not possible or practicable, average daily pay (a daily average of the employee's gross earnings over the past 52 weeks).

Unused sick leave

Employees aren't entitled to any form of payment for any unused sick leave at the time their employment ends unless this is specified in their employment agreement.

What if a person is sick and has no sick leave?

If an employee has not qualified for sick leave or has none left, the employer and employee can agree to use annual leave (if available), or take unpaid leave.

What happens when a person works a few hours and then goes home sick?

Sick leave is only described in the Holidays Act in terms of days, not part days or hours. So, if an employee worked until lunchtime and then went home sick, this is counted as using a whole day of sick leave. However, the employee and employer can agree to break the entitlement down into hours or part days, e.g. the employer can agree to only deduct a half day of sick leave and pay them for this half sick leave day.

Can I ask an employee who says they are sick to come to work?

No, but you can ask them to provide proof of illness or injury (as above).

Can I ask a sick employee to work from home?

No. The golden rule is that employers should never require (or knowingly allow) anyone to work while they are sick, regardless of whether or not working remotely is a possibility. Employees can choose to work from home if they feel well enough or are improving, and we encourage employers to support them by providing options for working reduced or intermittent hours.

Do I have to give employees time off to see a doctor?

Employers aren't legally required to give employees time off work to visit the doctor or dentist unless the employment agreement says so. If there is nothing specified in the employment agreement, the employer and employee can negotiate. If the employee is sick or injured, they could use sick leave to attend the appointment.

What should I do if I suspect someone is abusing sick leave provisions?

Employers have the right to request proof of sickness or injury. If the person has been sick for less than three days in a row, you will have to meet the costs of them getting proof, e.g. a doctor's visit. If it's three or more days in a row, they will have to meet the costs.

HAVING TROUBLE FINDING AND RETAINING TALENT? LEVERAGE THE "SME ADVANTAGE"

97% of all Kiwi companies have fewer than 20 staff - and these small and medium-sized enterprises (SMEs) may struggle to weather rising costs and labour shortages or to offer the top-dollar pay packets large corporations can. For those businesses who are having difficulty attracting and retaining skilled staff is to leverage their "SME Advantage". This entails determining the smaller and more meaningful perks employees and job hunters value and tailoring a unique package for each individual. Stock-standard benefits no longer cut the mustard and require an added layer of personalisation and creativity. Let's explore this in more detail.

Look beyond the pay packet

The good news? It's not all about the money. We often talk about pay being a 'basic hygiene' factor for businesses, in that you don't want to get it wrong, but there are many other things that are just as, or more important, to people. Trade Me's 2022 Employer & Job Hunter Intentions Report looked at the key factors driving job hunters, and the pay rate or salary package rated way down at #7. Work-life balance was #1, followed by job security and stability and the nature of the work the person will do.

Personalise your offerings

Everyone is different, so you should determine what benefits and support are meaningful to each employee. Put simply, it's about applying a "tell us what you want, and we'll make it work" approach to remuneration. This is a SMEs opportunity to shine. You might not be able to compete with larger companies' pay packages, so get creative with your offerings, play to your strengths and win the talent.

Build trust and support your staff

No one likes to lose talented people and the impact is even more acute for SMEs. We can't stress enough how important it is to support your people and get the basics right from the start. Establish a solid basis for every employment relationship by ensuring all the legal aspects are locked down and do what you say you will do, from the hiring process on. Set performance expectations, get onboarding right, and ensure people can raise any issues. This all builds trust and confidence which flows into higher staff retention.

Flexibility is key

Our research and other reports show that work-life balance is now top of mind for employees, and flexible work arrangements and remote working is now expected by many, at least some of the time. Many companies are responding by offering a hybrid work model, where people come to the workplace some days and work from home on others (don't forget to ensure the remote work environment is as well-equipped and safe as the workplace).

Build your mission and culture

Small businesses are often run by passionate people and the ability to articulate a clear vision of why you are in business and what you are aiming for provides clarity and purpose for employees who know how they can contribute. Research proves that people now want to work for an enterprise that does good.

Dynamic team culture is another thing SMEs often excel at. Colleagues don't all have to be best mates, but little things add up, like having team lunches, organising small events, or celebrating achievements.

Source: myhr.co.nz

WHAT TO DO WHEN AN EMPLOYEE WON'T WORK THEIR NOTICE PERIOD

What are notice periods?

"Giving notice" is when an employer tells an employee, in advance, that they are going to end their employment or an employee resigns. The notice period is the length of time between giving notification and the date the employment relationship actually ends, e.g. 3 weeks.

A notice period is always necessary and is usually specified in the employment agreement for all employees (including casual, part-time, and fixed-term). It could be based on the length of one pay period or how long it might take you to find a replacement.

If the employment agreement doesn't define the notice period, fair and reasonable notice must still be given. Depending on the role, 2 to 4 weeks' notice is considered fair. Always give and get notice in writing.

Options instead of working out the notice period

Normally, the employee would meet the obligation to work for the notice period, but the employer and employee can agree to:

- Pay the employee instead of them coming to work for some or all of the notice period. This can only be done if it's in the employment agreement or is agreed to by both parties.
- Waive all or some of the notice period if the employee asks or agrees. In this situation, the employee won't be paid for the portion of notice period they don't work.

Any agreement which deviates from what's in the employment agreement should be in writing and signed by the employer and the employee.



Your rights if the employee doesn't work out the notice period

While you can't force employees to stay in their role if they want to leave, failing to turn up for the notice period is a breach of their responsibility to act in good faith. In the first instance, you should endeavour to keep lines of communication open and contact them to see if anything is stopping them from coming to work.

If this fails and the employee doesn't work for the agreed amount of notice, you aren't obliged to pay them for time after the last day they actually worked (but you cannot withhold or make any unilateral deductions from their owed wages or entitlements, e.g. unused annual leave).

Source: myhr.co.nz

