

DATED

July 2016

TUTAKI YOUTH INCORPORATED

("Employer")

STAFFING POLICY

1. POLICY STATEMENT

- 1.1 The organisation has a sufficient body of qualified and competent staff both to deliver and to support the delivery of its services.
- 1.2 Tūtaki is committed to providing a healthy and safe working environment for all employees.
- 1.3 Tūtaki shall observe its obligations under all applicable legislation.
- 1.4 This policy shall apply to all trustees, employees and volunteers of Tūtaki.
- 1.5 This policy shall be read in conjunction with all Tūtaki policies that relate to the conduct, performance and obligations of staff.
- 1.6 All employees will be treated fairly and consistently, with respect and dignity, regardless of the position they occupy within the organisation.
- 1.7 Tūtaki will be culturally sensitive, and will acknowledge the various customs and cultural aspirations of all staff.
- 1.8 Appointments will be made on merit, in accordance with Equal Employment Opportunities principles.
- 1.9 All employees will have an individual employment agreement.
- 1.10 Employees will be remunerated fairly for the work they do.
- 1.11 Tūtaki aims to have experienced, proficient and qualified staff. Training and personal development is considered important to allow employees to reach their potential and perform their best.
- 1.12 Tūtaki endeavours to be a “family friendly” workplace, being aware of employees’ family commitments, and is willing to consider reasonably practicable arrangements wherever possible, to ensure that employees continue to perform at their best.
- 1.13 Tūtaki shall provide a sound appraisal system which shall include such factors as key task reviews, performance, and quality of work, training needs, and personal development.
- 1.14 All relevant checks and vetting that could disclose any matter that may affect an employee’s appointment with Tūtaki shall be carried out prior to appointment. This procedure shall apply to trustees, employees, and volunteers. Refer to Tūtaki Youth Inc. Recruitment, Vetting and Appointment Policy and Tūtaki Youth Inc. Children’s Protection Policy.
- 1.15 Tūtaki, will not employ any person in a paid or voluntary capacity, including Trust members, who has a conviction for sexual crimes or for any offence involving the harm or exploitation of children, and unless there are exceptional circumstances, Tūtaki will not employ any person in a paid or voluntary capacity, or as a member of the Trust, who has a conviction for violence against the person or dishonesty.

2. DEFINITIONS

- 2.1 **“Board of Trustees”** refers to the board which governs Tūtaki Youth Incorporated.
- 2.2 **“Employee”** refers to all Tūtaki staff, both paid and unpaid.
- 2.3 **“Manager”** refers to the General Manager in all situations pertaining to Tūtaki staff who are managed by the General Manager.
 - 2.3.1 When General Manager is the employee the “Manager” is the Chairperson.

3. EQUAL EMPLOYMENT OPPORTUNITY (EEO)

- 3.1 Tūtaki Youth Incorporated Trust is committed to the principle of equal opportunities in the recruitment, employment, training and promotion of its employees.
- 3.2 The Board of Trustees and General Manager have a responsibility to ensure that the principles of Equal Employment Opportunity are upheld when recruiting staff, when selecting staff for training or promotion, and all dealings with staff.
- 3.3 Equal Employment opportunities are promoted and provided within the organisation by:
 - 3.3.1 Developing, implementing and reviewing an appropriate Equal Employment Opportunity Programme.
 - 3.3.2 Fostering a positive climate in the workplace, that appreciates a diversity of background and individual contribution, and encourages employees to develop their potential.
 - 3.3.3 Selecting the best person for the job on the basis of the job requirements and the ability of that person to perform the job.
 - 3.3.4 Ensuring that all Human Resources policies, procedures and activities reflect the fundamental principles of the Equal Employment Opportunity Policy, in the recruitment, employment, training and promotion of its employees.
 - 3.3.5 Identifying and providing appropriate training programmes to enable employees to best meet the requirements of their current jobs and to develop additional skills with a view to future promotion opportunities.
 - 3.3.6 Promoting employees on the basis of performance (past, present and potential), and the willingness of the employee to accept greater responsibility.
- 3.4 Maintaining a workplace free of discrimination and harassment on the basis of race, colour, ethnic or national origin, gender, religion, marital status, family responsibilities, sexual orientation, disability or age.

4. RECRUITMENT

- 4.1 The General Manager is tasked with the management of all staff and volunteers within the organisation, notwithstanding the line management responsibilities that may be in place throughout the organisation.
- 4.2 The General Manager will make a decision whether to advertise for these positions. In the case that the General Manager's position is available for recruitment, the Board of Trustees will make a decision whether to advertise.
- 4.3 Advertisement of the position will be made internally and externally. External advertisements will be made in local and/or national publications and websites as appropriate.
- 4.4 All advertisements will be coordinated by administration staff after approval by the General Manager.
- 4.5 An induction/orientation process for employees and volunteers will be implemented immediately on employment. This will be the responsibility of the General Manager, or their line manager.
- 4.6 Job descriptions shall be reviewed, from time to time as determined by the Board of Trustees.

5. TRAINING

- 5.1 Tūtaki is committed to supporting its employees' increased efficiency and performance through personal development.
- 5.2 External supervision will be available to Staff. A written agreement between a supervisor and supervisee shall be drawn up. Supervision frequency will be recorded, and if considered appropriate, Tūtaki may ask the supervisor to provide a written report.
- 5.3 Professional development will include a minimum of required hours on an annual basis to cover topics identified by the General Manager.
- 5.4 Additional personal development will be undertaken in agreement between the employee and Manager.

6. LEAVE ENTITLEMENTS

- 6.1 Leave entitlement is identified within each employee's individual employment contract and adopting all principles according to the Employment Relations Act.
- 6.2 Any leave taken by an employee must be duly authorised by the Manager.
- 6.3 Any unauthorised absence is a serious breach of your obligations as an employee, and may result in dismissal.
- 6.4 A leave form duly signed by the Manager is evidence that the leave has been formally authorised.
- 6.5 Leave in advance and/or leave without pay will be assessed on a case by case basis and approved at the discretion of the Manager.

7. PERSONAL FILE INFORMATION

- 7.1 Tūtaki as part of its employment function maintains employee personnel files. These files are each employee's personal information and therefore subject to the Privacy Act 1993 and its applicable principles.
- 7.2 Each personal file is considered confidential information, and any employee found having unauthorised possession of a personal file will be in breach of their employment agreement.
- 7.3 These files are kept in a secure environment.
- 7.4 Files and the security thereof are maintained by the General Manager.
- 7.5 File Access:
 - 7.5.1 The General Manager has access to all files.
 - 7.5.2 The Chairperson has access to the General Manager's files.
 - 7.5.3 Individual employees have access to their own file.
 - 7.5.4 All files may be perused only in the presence of the Chairperson.

8. HEALTH AND SAFETY

- 8.1 Tūtaki is committed to providing a safe and healthy working environment for all its employees. Please refer to the Tūtaki Youth Inc. Trust Health and Safety Policy for more information.

9. SMOKE FREE WORKPLACE

- 9.1 All staff are required to adhere to the Smoke Free Environments Amendment Act 2003.
- 9.2 All events held by Tūtaki will be promoted as smoke free.
- 9.3 Tūtaki is a smoke free workplace.
 - 9.3.1 This includes all buildings, offices, corridors, toilets, kitchen and staff rooms.
 - 9.3.2 All outside areas within the grounds.
 - 9.3.3 All Tūtaki vehicles.

10. ALCOHOL AND DRUG USE

- 10.1 Bringing illegal drugs and/or using such drugs on Tūtaki premises is not permitted.
- 10.2 Alcohol should not be consumed on Tūtaki premises except for authorised or after-hours social functions.

- 10.3 Being under the influence of alcohol or illegal drugs while at work is not acceptable. This will be viewed as serious misconduct and will result in disciplinary action.

11. WORK PERFORMANCE

- 11.1 Employees are expected to meet the requirements of the job they have been appointed to do, after appropriate training. The length of time needed to reach full competence level will vary depending on the complexity of the job and the employee's previous experience.
- 11.2 The Manager has a responsibility to clearly explain what their employees are expected to do, and the standards required. He/she must inform employees of any improvements required, and provide appropriate guidance and training to enable employees to fully meet the requirements of the job within a reasonable timeframe.

12. WORKING WITH OTHERS

- 12.1 Tūtaki staff will be required to maintain effective working relationships with the people they work with as well as members of the public. Where there is a problem, it is expected that employees will take the initiative to help to solve the problem.
- 12.2 Offensive language and confrontational behaviour aimed at other employees or the public is totally unacceptable.

13. PUNCTUALITY

- 13.1 Tūtaki employees are required to observe the hours of work stated in your Employment Agreement. It is the employee's responsibility to make arrangements to be at work on time. If personal circumstances mean that an employee is experiencing difficulties being at work on time, this is to be discussed with their Manager to explore options and possible solutions.

14. PERSONAL PRESENTATION

- 14.1 Tūtaki staff are required to observe a reasonable and acceptable standard of dress appropriate to the type of work they undertake and the people they deal with. All Tūtaki trustees, employees and volunteers are a representatives of Tūtaki.

15. VEHICLE USAGE

- 15.1 All Tūtaki trustees, staff and volunteers are required to have a valid Driver's License when driving a Tūtaki vehicle.
- 15.2 It is expected that all road rules are abided by during use of a Tūtaki vehicle.
- 15.3 Tūtaki undertakes to ensure the vehicle is adequately maintained, serviced and has a current warrant of fitness and registration.
- 15.4 The nominated driver of a Trust vehicle is responsible for:
- 15.4.1 Regularly checking water, oil, and tyres.

15.4.2 Keeping the vehicle clean and tidy.

15.4.3 Adequately housing the vehicle overnight if in use.

15.5 If an employee become disqualified from driving, and would normally drive a Tūtaki vehicle, they must notify their Manager immediately. Driving a Tūtaki vehicle while disqualified will be considered serious misconduct, and is likely to result in dismissal.

15.6 Any fines or penalties incurred by employees while driving a Tūtaki vehicle are that employee's responsibility to pay.

16. COMPUTER, PHONE AND INTERNET USAGE

16.1 Tūtaki acknowledges that many staff have family responsibilities, and accepts the need for short personal local calls to and from children and/or family members.

16.2 Should employees, in any emergency, need to make a national or international toll call during working hours, they are required to contact their Manager first. Employees may receive an account for the cost of the call.

16.3 Any abuse of Tūtaki telephones for private calls is viewed seriously by the organisation, and is likely to incur disciplinary action.

16.4 The use of a Tūtaki mobile phone is for work-related purposes only, both within and outside working hours. General Private Use is not permitted, except to contact family out of hours and in justifiable emergencies.

16.5 Employees who bring their own mobile phones to work are expected to ensure it is not disruptive to their work and others.

16.6 Tūtaki computers and internet usage is for work purposes. Employees are expected to keep personal use to a minimum and do so only in break times.

17. EXPENSES

17.1 All authorised actual and reasonable expenses employees incurred while carrying out Tūtaki duties will be reimbursed by Trust. Employees are required to produce receipts for all expenses claimed.

17.2 All approved personal vehicle usage on Tūtaki business will be reimbursed.

17.3 Should employees be required to be away for work reason, accommodation should be booked in a safe, clean facility that does not exceed the mid-range pricing for that location. Factors such as availability, cost and time of transport in relation to the location being visited and the location of the accommodation should also be considered.

17.4 When travelling on Tūtaki business, staff may have breakfast, lunch and an evening meal provided. The costs of such meals should not be excessive.

17.5 The use of mini bars for either drinks or snacks will not be paid for or reimbursed.

18. TRUST PROPERTY

- 18.1 Tūtaki employees are responsible for the proper care and safe keeping of Tūtaki property (including vehicles, materials, equipment etc.) issued to them and under their control.
- 18.2 Tūtaki employees are required to report any loss, defect, or malfunction to their Manager.
- 18.3 Materials, equipment and tools must not be taken home, and must not be used for purposes other than Tūtaki work, except when the employee's Manager has expressed a prior permission.
- 18.4 At the completion of employment with Tūtaki, employees must return all Tūtaki property to their Manager.

19. OUTSIDE EMPLOYMENT

- 19.1 Employees must not engage in any paid or unpaid employment which might adversely affect the performance of the duties of their position with the Employer.

20. ABANDONMENT OF EMPLOYMENT

- 20.1 Where an employee is absent from work for a continuous period exceeding three working days without the notification to or consent from the Manager, or without good cause, such employee shall be deemed to have terminated their employment.

21. CONFLICTS OF INTEREST

- 21.1 Tūtaki employees must declare any interest in any business of any kind in which the employee may potentially be in conflict or in competition with the business of the Employer in which the employee is engaged. Further, the employee may not, whilst in the employ of the Employer, invest personal monies, obtain interest in or establish any other business that may be deemed to be in competition with the Employer or its principals.
- 21.2 Tūtaki employees must not deliberately undermine the employer's business, or bring into disrepute, or deliberately act against the employer's legitimate interest.

22. CONFIDENTIALITY OF INFORMATION

- 22.1 Any confidential information, including financial information or other information relating to the Employer's business connections, practice methods, procedures or precedents used, technical information, clients of the Employer, funders of the Employer and any private affairs acquired by the Employee during the course of employment shall not be divulged to any individual, persons or company during or after the cessation of employment with the Employer.
- 22.2 A breach of clause 22.1 may constitute grounds for instant dismissal or may give rise to post-employment litigation.

23. MEDIA RELEASES

- 23.1 Press Releases relating to operational matters are to be authorised by the General Manager.
- 23.2 Press Releases relating to governance matters are to be authorised by Chairperson.
- 23.3 Tūtaki staff approached by media seeking information about anything pertaining to the organisation are required to direct the query to the General Manager in the first instance.
- 23.4 Saying “no comment” is making a comment.

24. TŪTAKI INSURANCE

- 24.1 Tūtaki’s insurance covers employees for a variety of situations, including:
 - 24.1.1 Professional Indemnity Insurance
 - 24.1.2 To cover professional staff against potential allegations of negligence during the course of their duties.
 - 24.1.3 Public Liability Insurance
 - 24.1.4 To cover employees against accidental damage caused to a third party property during the course of their duties.
 - 24.1.5 Motor Vehicle Insurance
 - 24.1.6 To cover employees duly authorised to use a Trust vehicle.
 - 24.1.7 Material Damage Insurance
 - 24.1.8 Provides cover for employees’ personal effects in certain circumstances.

25. DISCRIMINATION

- 25.1 The Human Rights Act prohibits discrimination in relation to employment, including selection, conditions of employment, benefits, and opportunities for training, promotion and transfer.
- 25.2 It is unlawful to dismiss an employee because he or she comes within one of the categories of prohibited discrimination, or treat an employee in some detrimental way, where other similarly employed are not dismissed or treated in that way.
- 25.3 The prohibited grounds of discrimination are:
 - 25.3.1 Sex (gender), (including pregnancy and childbirth)
 - 25.3.2 Marital status
 - 25.3.3 Religious beliefs
 - 25.3.4 Ethical belief

- 25.3.5 Colour
- 25.3.6 Race
- 25.3.7 Ethnic or national origins (including nationality or citizenship)
- 25.3.8 Disability (including physical disability or impairment, and the presence in the body of organisms capable of causing illness e.g. HIV virus)
- 25.3.9 Age
- 25.3.10 Political opinion
- 25.3.11 Employment status (i.e. being unemployed, or receiving any kind of social security benefit or accident compensation)
- 25.3.12 Family status
- 25.3.13 Sexual orientation

The requirements of this legislation apply to the Trust as the employer, and to all Trust employees. All employees are therefore expected to abide by these principles, and avoid any discriminatory behaviour or language towards persons in the above categories. This includes members of the public as well as other employees of Trust.

26. SEXUAL HARASSMENT

- 26.1 Sexual harassment will not be tolerated, and Tūtaki will take all necessary steps to prevent it and stop it. It may result in the dismissal of the perpetrator.
- 26.2 Sexual harassment can be any or all of the following:
 - 26.2.1 When a person in authority (i.e. Manager) makes a request of a subordinate employee for sexual intercourse, sexual contact, or other form of sexual activity, which contains:
 - 26.2.2 an implied or overt promise of preferential treatment,
 - 26.2.3 an implied or overt threat of detrimental treatment,
 - 26.2.4 an implied or overt threat about the present or future employment of the subordinate employee.
 - 26.2.5 Sexual harassment may be by the use of words (written or spoken) of a sexual nature.
 - 26.2.6 Physical behaviour of a sexual nature, towards another person, which is unwelcome or offensive, and which is either repeated or of such a significant nature that it has a detrimental effect on this person's employment, job performance or job satisfaction.
- 26.3 It is important to understand that different people have different perceptions of what is acceptable or offensive. What is perceived by one as harmless fun or a joke can be perceived by another as deeply offensive and distressing.

- 26.4 Remarks containing sexual innuendoes should be avoided.
- 26.5 Any kind of touching of another person is best avoided as it could be misinterpreted.
- 26.6 If an employee feels uncomfortable with someone's language or behaviour (even if it is a person in authority) they should endeavour to say so clearly. If the employee does not feel comfortable or safe approaching the person directly, they should speak to their Manager, unless the Manager is the person who is making the employee feel uncomfortable, in which case they should speak to the Chairperson of the Board.
- 26.7 If the behaviour persists the employee should discuss the matter with their Manager, or if they prefer, contact the Chairperson. The facts will be fully and confidentially investigated and corrective measures will be put into place.
- 26.8 Any harassment of an employee by a member of the public, or vice-versa, is also totally unacceptable, and corrective measures will be taken by the Trust as soon as an incident has been reported.

27. ALLEGATIONS OR CONCERNS ABOUT STAFF

- 27.1 This clause should be read in conjunction with Tūtaki Youth Inc. Child Protection Policy.
- 27.2 Where an allegation of suspected abuse or neglect has been made against an employee, the decision to follow up will be made in consultation with Child, Youth and Family and the Police.
- 27.3 If it is a child making the allegation or raising the concern, or the allegation/concern regards a child accessing Tūtaki services, that child must not be exposed to unnecessary risk. This may mean suspending the employee from their duties, in line with clause 3.7 of Tūtaki Youth Inc. House Rules provided in schedule one of this document.
- 27.4 Where it is deemed necessary to pursue an allegation as an employment matter, the employee affected will be advised that they have right to seek legal advice and provided with an opportunity to respond. They will also be informed of their right to seek support from the relevant union/representative body.
- 27.5 Process follows child protection policy
- 27.6 Tūtaki is committed to promoting a safe organisational culture. Where an employee reports on concerns about the conduct of another employee, they will be protected under the Protected Disclosures Act 2000 and as detailed in clause 28 of this policy.
- 27.7 Support will be available to both the staff receiving the allegation or expression of concern and the staff member against whom the allegation is made.
- 27.8 If, following an investigation, an allegation of abuse or neglect by an employee is confirmed, the employee will face immediate dismissal, as detailed in Tūtaki Youth Inc. House Rules provided in schedule one of this document.

28. PROTECTED DISCLOSURES INTERNAL POLICY FOR TRUST EMPLOYEES

- 28.1 The Protected Disclosures Act 2000 offers protection to employees who disclose “serious wrongdoing” happening (or having happened) in their workplace.
- 28.2 Employees may wish to disclose information under the protection of this legislation if they believe that “serious wrongdoing” (see definition below) is occurring, or has occurred, at the Tūtaki, and they believe it is true, or likely to be true, and they believe that the wrong doing should be formally investigated.
- 28.3 Provided that the employee follow the internal procedure set out below, they will be protected from any potential retaliation or disadvantage caused by your making the disclosure (i.e. discrimination, lack of promotion, disciplinary action, and dismissal). The identity of the employee will remain confidential, unless they agree otherwise, or unless revealing their identity is essential to the investigation, or to prevent a risk to public safety, or for reasons of natural justice.
- 28.4 Please note that the law does not provide any protection to employees who make malicious, vexatious, or knowingly false disclosures.
- 28.5 **Definition of “Serious Wrongdoing”**
- 28.5.1 Unlawful, corrupt use of public funds or resources.
- 28.5.2 Serious risk to public health, safety or the environment.
- 28.5.3 Serious risk to the maintenance of the law.
- 28.5.4 An offence against the law.
- 28.5.5 Gross mismanagement/gross negligence by a public official.
- 28.6 **Procedure to Follow to Make a Disclosure**
- 28.6.1 A disclosure can be made verbally, but the person who receives your information may request it in writing prior to taking action.
- 28.6.2 Disclosures must be made to the following people, in this order:
- (a) First instance: Manager
 - (b) Failing satisfaction: Chairperson
 - (c) Failing satisfaction: Trustees
 - (d) Failing satisfaction: The Ombudsman, or other appropriate Authorities, such as: Commissioner of Police, Auditor General, Director of Serious Fraud Office, Solicitor General, And Minister of the Crown. (For further information, contact the Office of the Ombudsman).
- 28.6.3 Disclosures should provide detailed information including:
- (a) The nature of the wrongdoing.

- (b) The name(s) of the person(s) involved.
- (c) Relevant surrounding facts, time, place etc.
- (d) That you wish your disclosure to be protected.

28.6.4 One or all of the first three internal steps can be by-passed if it is believed that:

- (a) The person receiving the information is involved in the “serious wrongdoing”; or
- (b) The person receiving the information has a close association with the person suspected of the “serious wrongdoing”; or
- (c) Immediate reference to an external authority is justified by reason of urgency.
- (d) You may escalate to the next step if there has been no action within 20 working days.

28.6.5 You must not contact the person suspected of serious wrongdoing.

28.6.6 You must not personally conduct investigations or interviews in relation to the suspected serious wrongdoing.

28.7 Actions Required In Response to a Disclosure

28.7.1 The person who formally receives a disclosure will record the date and details of the disclosure, and provide the person making the disclosure with information and guidance about their rights under the Protected Disclosure legislation, including their right to take the matter further, to a Minister of the Crown or an Ombudsman.

28.7.2 The person will conduct a thorough investigation. Every effort will be made to protect the identity of the person making the disclosure.

28.7.3 The person will advise the person disclosing within 20 days on how the matter has been dealt with.

28.7.4 The person will advise the Manager if the matter is being taken to a Minister of the Crown or an Ombudsman.

28.7.5 In the Manager’s absence, matters should be referred to the Chairperson.

28.7.6 In the event that the Manager is allegedly implicated in the “serious wrongdoing”, all the above actions will be required by the person to whom the disclosure has been escalated (Chairperson, Trust, or Ombudsman, or Minister of the Crown).

Schedule One: TŪTAKI YOUTH INCORPORATED HOUSE RULES

TŪTAKI YOUTH INCORPORATED House Rules – Dismissal for Cause

DISCIPLINARY ACTION

If, after investigation, an Employee is found to have taken any action such as those listed below, disciplinary action will be taken against the Employee.

1. SERIOUS MISCONDUCT

- 1.1 Any of the following actions constitute serious misconduct, the penalty for which may be instant dismissal without pay (a Summary Dismissal):
 - 1.1.1 Falsification of the Employer's records (which includes any Relevant Related Company as defined at clause 34.1.4 above).
 - 1.1.2 Bringing and/or consuming drugs on the Employer's premises (which includes those drugs defined as unlawful by the Misuse of Drugs Act 1975 and any prescription drug), other than drugs prescribed to the Employee by a Medical Practitioner.
 - 1.1.3 Bringing and/or consuming alcohol on the Employer's premises without the Employer's approval.
 - 1.1.4 Unauthorised possession of the Employer's, any other employees', or any client's property.
 - 1.1.5 Wilful damage to the Employer's property.
 - 1.1.6 Misuse of fire or safety equipment likely to endanger property or any person.
 - 1.1.7 Refusal to carry out the lawful and reasonable instructions of the Employer or any delegate of the Employer.
 - 1.1.8 Sexual harassment of a fellow employee or client.
 - 1.1.9 Abuse or neglect of a child or young person.
 - 1.1.10 Unauthorised disclosure of the Employer's Confidential Information.
 - 1.1.11 Misrepresenting the Employer for personal gain.
 - 1.1.12 Deliberate acts which affect safety.
 - 1.1.13 Refusal to perform work that has been allocated.
 - 1.1.14 Theft or conversion of the Employer's, any other employees', or any client's property.
 - 1.1.15 Actions which could result in bringing the Employer into disrepute or damaging the Employer's reputation.
 - 1.1.16 Committing any criminal offence for which the Employee is convicted or charged.

2. MISCONDUCT

- 2.1 Any of the following actions constitute misconduct that will result in disciplinary action and, subject to the warning system, may result in dismissal:
- 2.1.1 Failing to comply with time recording procedures.
 - 2.1.2 Abusive language and/or obscene behaviour causing offence to another person on the Employer's premises or while in the course of the Employee's employment.
 - 2.1.3 Misuse, or unauthorised use of the Employer's property.
 - 2.1.4 Leaving an assigned place of work without the appropriate authority.
 - 2.1.5 Posting offensive notices within the Employer's premises.
 - 2.1.6 Failure to observe safety rules.
 - 2.1.7 Preventing, or interfering with, another employee carrying out his or her work functions without justifiable reason.
 - 2.1.8 Failure to report for work at the time required without notifying the Employer or the Employer's delegate of the justifiable reason for lateness within 15 minutes of the Employee's usual start time. This is subject to emergencies and any justifiable reason for failure to give notification.
 - 2.1.9 Failure to complete the contracted hours of work, unless for justifiable reason.
 - 2.1.10 Failure to report a work-related incident or accident, whether it involves personal injury or damage to property or products.
 - 2.1.11 Reporting to work in a state of intoxication from alcohol or drugs (unless as a result of the Employee's prescribed drugs and does not affect the Employee's ability to perform his or her duties).
 - 2.1.12 Boisterous play resulting in injury to a fellow employee or client.
 - 2.1.13 Violence against another person on the Employer's premises or in the course of the Employee's employment.
 - 2.1.14 Smoking in breach of the Employer's Smoke Free Policy.

3. THE WARNING SYSTEM

- 3.1 Any issues requiring disciplinary action on the part of the employer shall be dealt with promptly, fairly and consistently.
- 3.2 The process set out here will usually be followed when an employee is alleged to have breached the organisation's policies or rules, when the employee is alleged to have engaged in serious misbehaviour which does not warrant instant dismissal, and when there is unsatisfactory performance on the part of the employee, This process is not sequential and may commence at any stage.

- 3.3 **Oral Warning.** The employer or the employer's representative shall inform the employee when and how the employee's performance or behaviour is of concern to the employer. The employer shall explain to the employee what standards of performance or behaviour complained of, and shall seek to obtain the employee's undertaking to take whatever steps are necessary to achieve those standards. The employer shall warn the employee orally that a failure to meet those standards could lead to further action.
- 3.4 **Written Warning.** If the employee's performance or behaviour continues not to reach the required standards, the employer shall give the employee a written warning setting out the reasons for continuing concern and the likely consequences if the employee fails to reach the required standards. The time and date when the warning is issued shall be noted and a copy of the warning included in the employee's file. The employee shall have the right to be accompanied by a representative or support person when the written warning issued.
- 3.5 **Dismissal.** If there is a further breach, or the employee does not meet the required standards, the employer shall issue the employee a notice of termination.
- 3.6 **Warnings to lapse.** Written warnings shall lapse 12 months after the date of issue if no further disciplinary action has been taken. The employer may cancel a warning at any time and have it removed from the employee's file.
- 3.7 **Investigation and Suspension.** If the employer wishes to investigate any allegation of misconduct on the part of the employee, the employer may suspend the employee on pay while an investigation is conducted. Before deciding on suspension, the employer shall discuss the possibility of suspension with the employee and take account of the employee's views. The employee shall have the right to be accompanied by a representative or support person when the possibility of suspension is discussed.

Schedule Two: EMPLOYMENT RELATIONSHIP PROBLEM RESOLUTION PROCESS

What is an employment relationship problem?

An **employment relationship problem** is where you feel you may have been treated in an unfair manner with regard to your terms and conditions of employment or your relationship with your employer.

An employment relationship problem includes a “dispute” or a “personal grievance”, both of which are explained below.

[definition in section 5, Employment Relations Act 2000]

What is a dispute?

This is whether there is a **dispute** about the interpretation, application, or operation of your employment agreement.

[section 129 of the Employment Relations Act 2000]

What is a personal grievance?

A **personal grievance** is where you feel you have been:

- Dismissed in an unfair manner and/or without sufficient reason;
- Unfairly disadvantaged in your employment;
- Subject to illegal discrimination;
- Sexually or racially harassed; or
- Forced into membership or non-membership of a union, unfairly because of involvement in the representation of employees.

[section 103 of the Employment Relations Act 2000]

TIME LIMIT FOR RAISING A PERSONAL GRIEVANCE:

You must raise your personal grievance within **90 days** from when:

- The action causing your grievance occurred, or
- You became aware of the circumstances causing your grievance.

(see section 114 of the Employment Relations Act 2000).

Your employer can consent to you raising a personal grievance after this 90 day limit. If your employer does not consent, you must apply to the Employment Relations Authority for leave to raise your grievance out of time.

You must then lodge your grievance with the Employment Relations Authority within 3 years of first raising it.

REQUEST FOR REASONS FOR DISMISSAL

If you have been dismissed, you may request a written statement of the reasons for your dismissal within **60 days** after the dismissal or after the date you become aware of it. Where you make this request, your employer has 14 days to respond in writing.

RESOLVING EMPLOYMENT RELATIONSHIP PROBLEMS

The chart on the following page explains the services available to you to solve an employment relationship problem. Before using those services, the following 3 steps may help you resolve your problem.

FIRST STEPS

1. Talk to your manager

- Raise the problem with your manager and discuss it informally with him or his or her.
- You could ask a support person, your union or other representative to approach your manager or employer if you do not feel comfortable doing so. Alternatively, you can be accompanied by a support person, your union or other representative when you make the approach.

2. Set out your problem in writing

- If your informal discussions with your manager do not resolve your problem, you could write to your Manager setting out:
 - Your perception of what the problem is, and
 - Your suggested solutions.
- You may want to seek help from a support person, your union or other representative when writing this letter. Alternatively, a support person, your union or other representative can write the letter for you.
- Your manager will then respond to your letter within 14 days advising:
 - His or his or her views on the problem, and
 - Any suggested solutions.

3. Meet with your manager

- Arrange to meet with your Manager to discuss the problem and attempt to resolve it. This meeting should take place as soon as practicable after the exchange of letters.
- You can choose to have a representative or support person present at this meeting.

SERVICES AVAILABLE FOR RESOLVING EMPLOYMENT RELATIONSHIP PROBLEMS

If you do not resolve your problem informally with your manager, the following services are available to assist you. This chart is only a guide to those services, and you should also seek advice from your union or other representative, or refer to Part 10 of the Employment Relations Act 2000.

EMPLOYMENT RELATIONS INFOLINE

- The Employment Relations Infoline is run by the Department of Labour and provides information to employees and employers, or may refer them to the Mediation Service.
- Either the employer or employee can contact the Employment Relations Infoline on **0800 800863** or by visiting the website www.ers.dol.govt.nz



MEDIATION SERVICE

- Mediation is an important method of resolving problems. The Mediation Service has mediators who are available to assist the parties agreeing on a resolution to their problem. This can be initiated by either the employer or employee contacting the Employment Relations Infoline on **0800 800 863**.
- The parties may also choose to have the mediator make a decision about the problem which will be binding on them.



EMPLOYMENT RELATIONS AUTHORITY

- You may apply to the Employment Relations Authority who will investigate the problem and make a decision. The Infoline can assist with information on this process, phone **0800 800 863**. You must complete a form called a Statement of Problem, setting out your problem. Your employer will then fill out a statement in reply which details its view.
- The Employment Relations Authority will then investigate the problem and may hold meetings or interview anyone involved. It can also direct you to try mediation, whether or not this has already happened.



EMPLOYMENT COURT AND COURT OF APPEAL

- Either party may appeal an Authority decision in the Employment Court within 28 days, where a full judicial hearing will occur.
- This or here is a further limited right of appeal to the Court of Appeal.