

WHAT YOU NEED TO KNOW ABOUT ENDING EMPLOYMENT RELATIONSHIPS



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WHAT YOU NEED TO KNOW ABOUT

HEALTH AND SAFETY

RECRUITING

PAY

HOLIDAYS AND LEAVE

PERFORMANCE MANAGEMENT

ENDING EMPLOYMENT RELATIONSHIPS

▶ ABOUT THE BIG 6

The Big 6 covers six areas employers have told us they would like further assistance with: health and safety, hiring new employees, pay, holidays and leave, performance management and ending employment relationships. *The Big 6* contains checklists of the main things employers need to know and links to further information.



WHAT YOU NEED TO KNOW ABOUT ENDING EMPLOYMENT RELATIONSHIPS

↳ WHO SHOULD READ THIS?

Employers dealing with the end of an employment relationship by way of:

- resignation
- retirement
- restructuring & redundancy
- dismissal for
 - » poor performance
 - » misconduct

↳ WHY IS IT IMPORTANT?

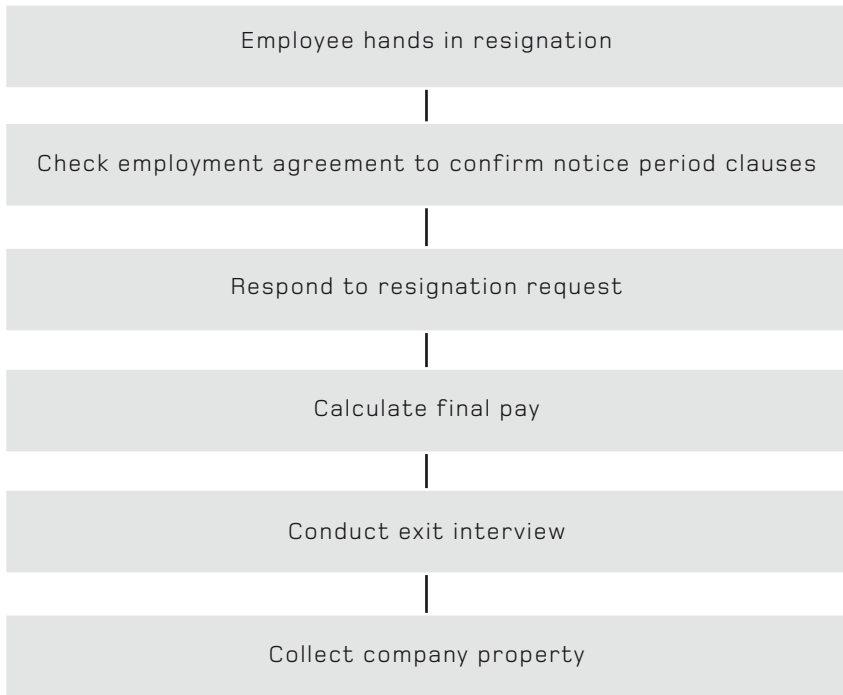
To ensure employer/employee relationships are ended fairly by following the correct processes and avoiding costly mistakes.

↳ WHAT YOU NEED TO DO

You have a core requirement to act in good faith, to follow a fair and reasonable process and have an open mind when dealing with problems, ensuring outcomes are not pre-determined. Failing to do so may lead to an employee taking a personal grievance.

- This brochure provides checklists of the key tasks involved with each of the above endings. It provides a guide to good practice behaviour in ending an employment relationship, but:
 - The guidelines are general in nature and you may need to seek professional advice regarding your specific situation.
 - The Employment Relations Act 2000 requires employers to meet standards of behaviour and, therefore, this brochure cannot be viewed as a 'definitive' set of rules.
- More detailed information is available in *A Guide to Employment Relationships* and in *Guidelines for Employers: Disciplinary Action, Dismissal, Redundancy and Ill-health*. You can also contact us on 0800 20 90 20 or visit our website: www.ers.dol.govt.nz

↳ THE RESIGNATION PROCESS



RESIGNATION CHECKLIST

The following is a guide only and outlines the actions an employer would generally be expected to take when managing an employee's resignation.

If you answer no to any of the questions you may need more information

RECEIVING NOTICE	Y	N	n/a	FINAL PAY	Y	N	n/a
Has the employee handed in notice according to the terms of their employment agreement?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Do you know how to calculate their final pay, including all holiday pay and any final entitlements, e.g. superannuation?	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Do you know what you should do if the employee does not give notice in accordance with their employment agreement or leaves work without giving notice?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	» If the notice given is in accordance with the terms of their employment agreement, the employee should be paid to the end of the notice period.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	<input checked="" type="radio"/>			» If the notice given is less than the terms of their employment agreement, the employee should be paid to their last working day.	<input checked="" type="radio"/>		
	COMPLETE			→ FURTHER INFORMATION See <i>Further information</i> box on page 17	<input checked="" type="radio"/>		
	COMPLETE				COMPLETE		
CONFIRMING NOTICE	Y	N	n/a	EXIT INTERVIEW	Y	N	n/a
Have you confirmed the resignation with the employee (in writing or verbally depending on employment agreement)?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	Have you conducted an exit interview to gain feedback that will help you improve your workplace in the future?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	<input checked="" type="radio"/>			→ FURTHER INFORMATION See <i>Further information</i> box on page 17	<input checked="" type="radio"/>		
	COMPLETE				COMPLETE		

COLLECT COMPANY PROPERTY

Y N n/a

Have you collected all company property including keys, access cards, credit cards, uniforms, computers, passwords, security codes, cell phones etc before the employee leaves?



→ **FURTHER INFORMATION**

See *Further information* box on page 17



COMPLETE

'FORCED' RESIGNATION

Y N n/a

If the employee claims the resignation is forced, are you aware of the process you need to follow to resolve this?

» If an employee has been forced to resign, they may have a personal grievance.



→ **FURTHER INFORMATION**

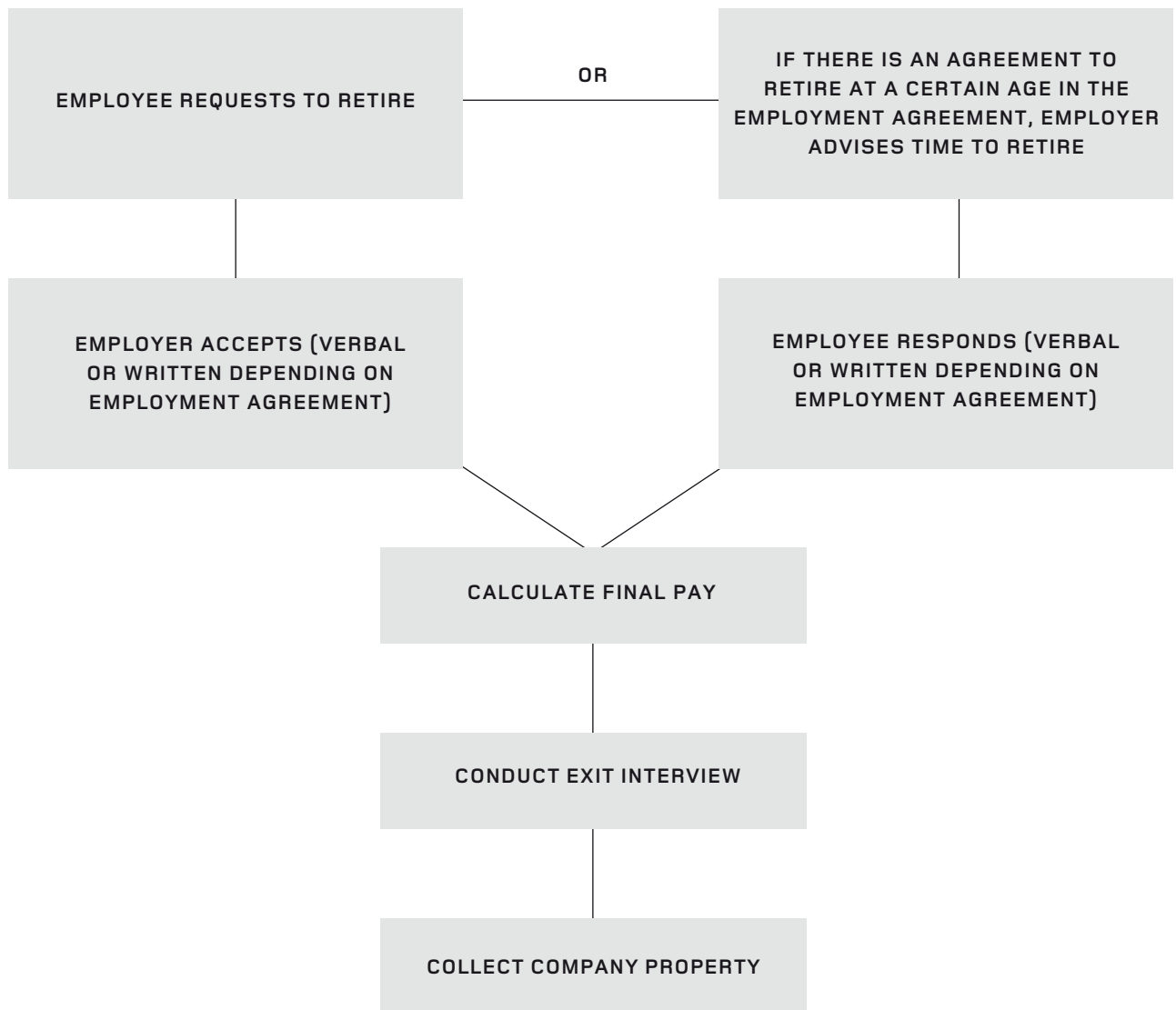
See *Further information* box on page 17



COMPLETE



THE RETIREMENT PROCESS



RETIREMENT CHECKLIST

The following is a guide only and outlines the actions an employer would generally be expected to take when an employee retires.

If you answer no to any of the questions you may need more information

BEFORE RETIREMENT	Y	N	n/a
Have you checked the employment agreement?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Is your employee ready to retire?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are you aware there is no legal set age for retirement, with some special jobs as exceptions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

EXIT INTERVIEW	Y	N	n/a
Have you conducted an exit interview to gain feedback that will help you improve your workplace in the future?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

CONFIRMING RETIREMENT	Y	N	n/a
Have you confirmed retirement with your employee, whether they have initiated retirement or you have according to the employment agreement?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

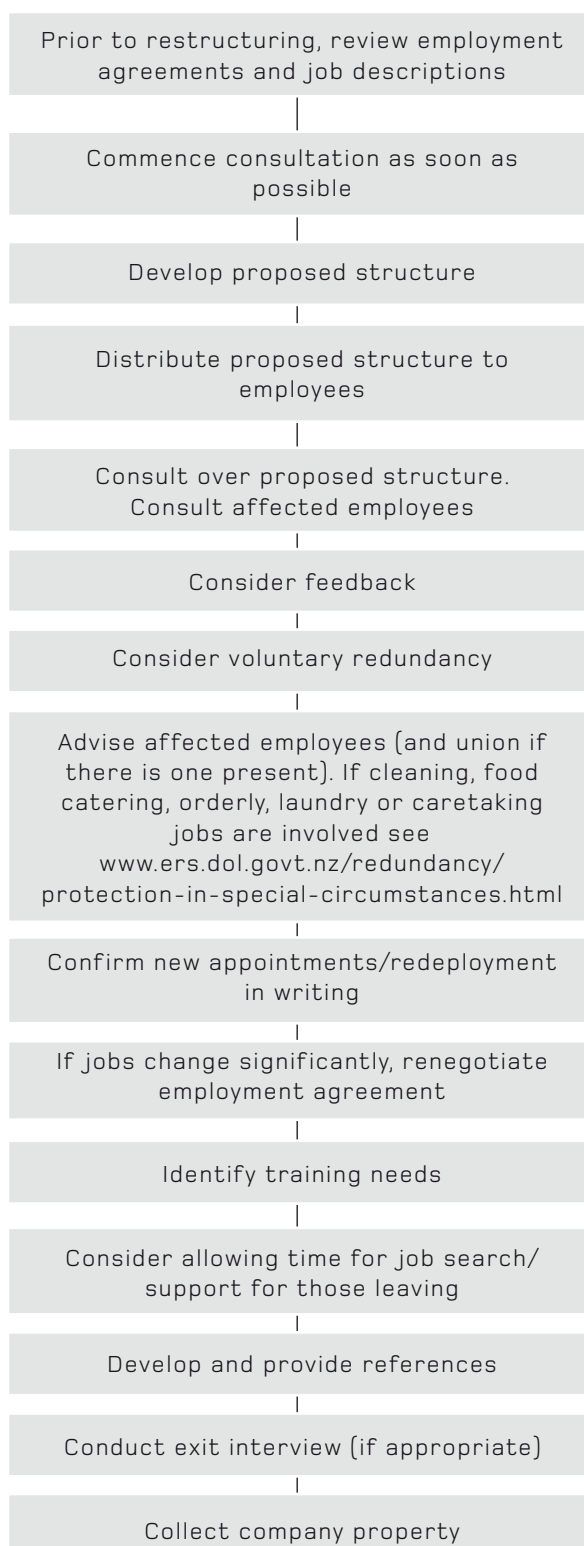
COLLECT COMPANY PROPERTY	Y	N	n/a
Have you collected all company property including keys, access cards, credit cards, uniforms, computers, passwords, security codes, cell phones etc before the employee leaves?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

CALCULATE FINAL PAY	Y	N	n/a
Have you calculated final pay including all holiday pay and any final entitlements, e.g. superannuation?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

'FORCED' RETIREMENT	Y	N	n/a
If the employee claims the retirement is forced, are you aware of the process you need to follow to resolve this? » If an employee has been forced to retire, they may have a personal grievance.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

Some employees moving towards retirement may want to work fewer hours or have flexible work arrangements. Information on flexible work and varying an employment agreement can be found on the Department of Labour's website: www.ers.dol.govt.nz

RESTRUCTURING & REDUNDANCY PROCESS




RESTRUCTURING AND REDUNDANCY CHECKLIST


The following is a guide only and outlines the actions an employer would generally be expected to take when changing the workplace in a way that affects employees. Individual cases may need further specialist advice from your employment or legal adviser, particularly in complex situations.

If you answer no to any of the questions you may need more information

BEFORE CONSIDERING RESTRUCTURING

	Y	N	n/a
Have you checked the legal requirements including the obligations and definitions in the Employment Relations Act 2000 and the employment agreement?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Are you aware of what it means to act in good faith in relation to restructuring?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have you developed a proposal?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		

ADVISING EMPLOYEES

	Y	N	n/a
Have you advised employees (and unions) whose work is potentially affected?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have you provided them with relevant information including: <ul style="list-style-type: none"> » the proposal » the roles affected » selection criteria » timeframe » options for voluntary redundancy/redeployment? 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		

SPECIAL JOBS		Y	N	n/a
Does the proposed restructuring involve the following jobs, and do you know what process you have to follow with them? (Cleaners, food catering, orderly, laundry or caretaking services)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
→ FURTHER INFORMATION See <i>Further information</i> box on page 17		COMPLETE		

CONSULTING EMPLOYEES		Y	N	n/a
Have you consulted with your employees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If unions are involved in the process, have you allowed for union consultation and meetings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Have you allowed enough time for discussion?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
→ FURTHER INFORMATION See <i>Further information</i> box on page 17		COMPLETE		

RECEIVING FEEDBACK		Y	N	n/a
Have you considered the feedback from your employees?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Have you included the feedback or response to that feedback in your proposed structure?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
→ FURTHER INFORMATION See <i>Further information</i> box on page 17		COMPLETE		

UPDATING PROPOSED STRUCTURE		Y	N	n/a
If applicable, have you provided an updated structure to your employees [i.e. taking account of employee feedback]?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
If the employees disagree with the changes, have you revisited the proposal and discussed/consulted again?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Have you considered voluntary redundancy as part of the proposal?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
→ FURTHER INFORMATION See <i>Further information</i> box on page 17		COMPLETE		

ADVISING EMPLOYEES		Y	N	n/a
Have you advised employees (and unions) whose work is potentially affected?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Have you provided them with relevant information including:				
» the proposal				
» the roles affected				
» selection criteria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
» timeframe				
» options for voluntary redundancy/ redeployment?				
→ FURTHER INFORMATION See <i>Further information</i> box on page 17		COMPLETE		

IMPLEMENTING CHANGES		Y	N	n/a
Have you confirmed the new structure, new appointments and redeployments in writing?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
→ FURTHER INFORMATION See <i>Further information</i> box on page 17		COMPLETE		

UPDATED TERMS OF EMPLOYMENT		Y	N	n/a
For employees staying and whose jobs change significantly, have you:				
» agreed on the updated terms in their employment agreements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
» gained the employee's signature				
» stored all information on file?				
→ FURTHER INFORMATION See <i>Further information</i> box on page 17		COMPLETE		

CONTINUED ON NEXT PAGE

RESTRUCTURING AND REDUNDANCY CHECKLIST CONT.

TRAINING

Y N n/a

Have you identified training needs to support employees who are in new roles?



→ FURTHER INFORMATION

See *Further information* box on page 17

COMPLETE

EXIT INTERVIEW

Y N n/a

Where appropriate, have you conducted an exit interview to gain feedback that will help you improve your workplace in the future?



→ FURTHER INFORMATION

See *Further information* box on page 17

COMPLETE

SUPPORT FOR THOSE LEAVING

Y N n/a

For those employees leaving, have you considered:

- » allowing time to search for jobs?
- » support services, e.g. counselling, career planning?
- » providing references?



→ FURTHER INFORMATION

See *Further information* box on page 17

COMPLETE

COLLECT COMPANY PROPERTY

Y N n/a

Have you collected all company property including keys, access cards, credit cards, uniforms, computers, passwords, security codes, cell phones etc before the employee leaves?



→ FURTHER INFORMATION

See *Further information* box on page 17

COMPLETE

CALCULATE FINAL PAY

Y N n/a

For employees made redundant, have you calculated their final pay to the end of their notice period, including all holiday pay and any final entitlements, e.g. superannuation?



→ FURTHER INFORMATION

See *Further information* box on page 17

COMPLETE

MANAGING PROBLEMS AND DISPUTES

Y N n/a

If there are problems in relation to the proposed restructuring which could lead to disputes, such as a personal grievance, do you know where to go for help and advice?



→ FURTHER INFORMATION

See *Further information* box on page 17

COMPLETE

POOR PERFORMANCE AND MISCONDUCT

BACKGROUND

Sometimes, you might need to raise serious concerns with your employee. In these cases, you might commence 'disciplinary action'. 'Disciplinary action' can take many forms. It should be seen primarily as a corrective measure, aimed at preventing further misconduct or poor performance. The most common types of disciplinary action are warnings and, in serious cases, dismissal. However, disciplinary action can sometimes mean suspension from work, or the removal of certain privileges, or, in rare instances, demotion.

The duty of good faith does not stop an employer from dismissing an employee if:

- the employer gives notice of dismissal before the end of a trial period, or
- there are genuine grounds for dismissal, and
- a fair and reasonable process has been followed.

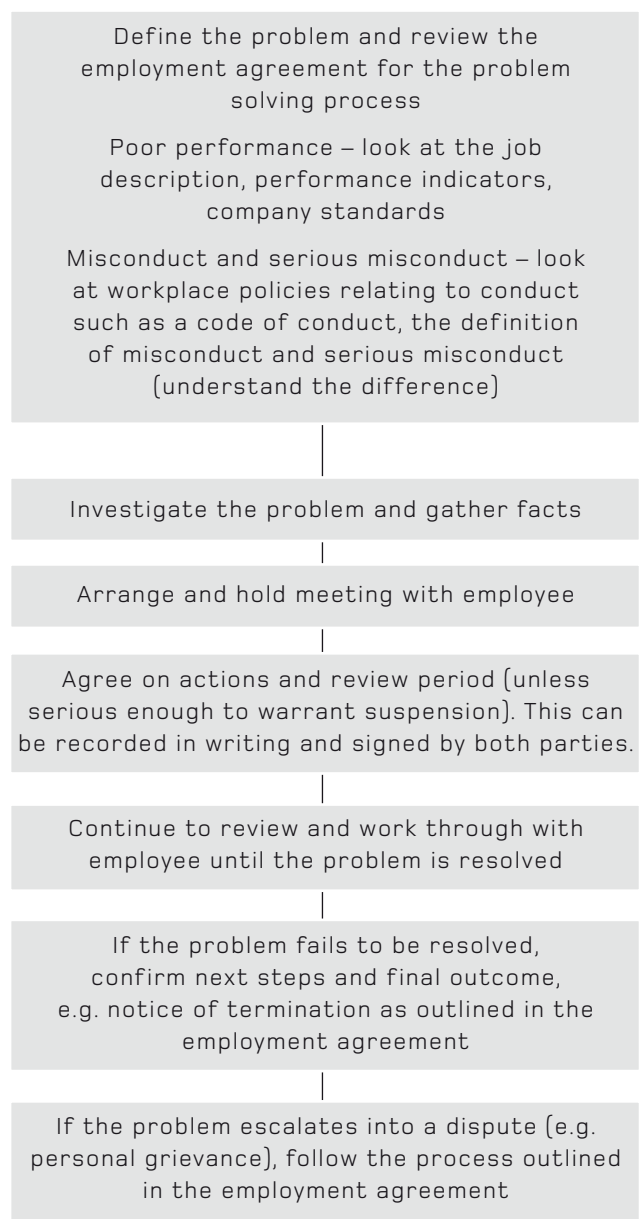
Where an employee has breached a commitment in a significant way, and the matter has been investigated and managed fairly, the result can be dismissal or other actions (e.g. warnings, placing a note on personal file, demotion).

The Employment Relations Act 2000 applies a 'test of justification' – essentially is there just reason for dismissal? Whether a dismissal is justified depends on whether your actions and decisions are what a fair and reasonable employer would have done in the circumstances. The test of justification does not apply where you have given notice of dismissal to an employee before the end of a trial period, unless issues such as discrimination or harassment arise.

The following information on employment relationship problems provides an overview of the steps that employers would generally be expected to take in managing employment relationship problems. However, individual cases may need further specialist advice from your employment or legal adviser.

MANAGING POOR PERFORMANCE AND MISCONDUCT

A generic process is outlined below. It needs to be reviewed against specific actions outlined in the overview.







POOR PERFORMANCE CHECKLIST

The following is a guide only and is indicative of the steps to follow in dealing with problems relating to poor performance. Examples of poor performance issues include failure to perform the job to expected standards, e.g. continually making mistakes, poor customer interaction.

Individual cases may need further specialist advice from your employment or legal adviser. In particular, you need to ensure that you provide the number of warnings required under the employee's employment agreement or a fair and reasonable number of warnings, and allow the employee sufficient time to respond to any allegations made against them.

If you answer no to any of the questions you may need more information

BEFORE CONSIDERING THE PROBLEM	Y	N	n/a	TRIAL PERIODS	Y	N	n/a
Have you checked: <ul style="list-style-type: none"> » your legal requirements including obligations and definitions in the Employment Relations Act (including the 'test of justification') » the employment agreement for the problem solving process » the job description, performance indicators and company standards to ensure that it is clear where performance is falling short? 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have you checked whether your employee is on a trial period?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE			If they are and you give notice within the trial period, do you know that: <ul style="list-style-type: none"> » you need to give notice in accordance with your employee's employment agreement » you do not need to provide a reason for the dismissal or follow all of the dismissal processes in this guide? 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
				→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		
FACT FINDING	Y	N	n/a	ARRANGE MEETING WITH EMPLOYEE	Y	N	n/a
Have you carried out a thorough investigation of the facts and identified the problem? For example, identified where standards are not being met and checked that training and induction occurred. It is important to keep an open mind and consider all relevant information throughout the process	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have you arranged a meeting with the employee and advised: <ul style="list-style-type: none"> » the reason for the meeting » that a support person/representative can attend? 	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have you interviewed the appropriate people?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Have you recorded that a meeting has been arranged?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Have you arranged for a witness to attend the meeting?	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE						

MEETING WITH EMPLOYEE

	Y	N	n/a
Have you held the meeting and covered the following:			
» outlined concerns	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» listened to employee	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» agreed on standards expected in the future	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» set training schedule	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» set next review meeting	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» discussed/outlined warning, if appropriate	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» recorded actions/meeting on file?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

REVIEW MEETING

	Y	N	n/a
Have you held the review meeting and covered the following:			
» provided feedback to employee on progress	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» listened to employee	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» outlined any remaining concerns	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» set further training if required	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» set next review meeting	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» recorded actions/meeting on file?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

IF IMPROVEMENTS ARE NOT MADE

	Y	N	n/a
Have you checked the employment agreement to confirm the problem solving process?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Have you arranged a further meeting and advised:			
» them of your concerns and that disciplinary action and/or dismissal is a potential outcome prior to the meeting	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» that a support person/representative can attend?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Have you recorded that a meeting has been arranged, and arranged for your witness to attend?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

FOLLOW UP MEETING

	Y	N	n/a
Have you held the next meeting and:			
» formally warned the employee (in writing unless verbal in employment agreement)	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» recorded the warning and actions on file	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» set next review date?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

IF PERFORMANCE IS STILL AN ISSUE BY REVIEW DATE

	Y	N	n/a
Have you checked:			
» the employment agreement and notice provisions	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» redeployment possibilities?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Have you arranged a final meeting, if appropriate?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

FINAL MEETING

	Y	N	n/a
If still no resolution to the problem, have you:			
» held the final meeting with the employee (including any support person/representative for the employee and/or witness for yourself) and confirmed outcome, e.g. termination of employment	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» ensured the termination is under the terms covered by the employment agreement?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	COMPLETE		

POOR PERFORMANCE CHECKLIST CONT.

CALCULATE FINAL PAY

Y N n/a

For employees whose employment has been terminated, have you calculated their final pay to the end of their notice period, including all holiday pay and any final entitlements, e.g. superannuation?



→ **FURTHER INFORMATION**
See *Further information* box on page 17



COMPLETE

MANAGING PROBLEMS AND DISPUTES

Y N n/a

If the problems above lead to a dispute, such as a personal grievance, do you know where to go to for help and advice?



→ **FURTHER INFORMATION**
See *Further information* box on page 17



COMPLETE

COLLECT COMPANY PROPERTY

Y N n/a

Have you collected all company property including keys, access cards, credit cards, uniforms, computers, passwords, security codes, cell phones etc before the employee leaves?



→ **FURTHER INFORMATION**
See *Further information* box on page 17



COMPLETE

MISCONDUCT CHECKLIST

The following is a guide only and is indicative of the steps to follow in dealing with problems relating to misconduct. Examples of misconduct and serious misconduct are breaches of company policy or law, such as dishonesty, drinking or drugs while working, breaches of safety rules.

Individual cases may need further specialist advice from your employment or legal adviser. In particular, you need to ensure that you provide the number of warnings required under the employee's employment agreement or a fair and reasonable number of warnings, and allow the employee sufficient time to respond to any allegations made against them.

WHAT IS MEANT BY MISCONDUCT AND SERIOUS MISCONDUCT?

'Misconduct' means some form of wrongdoing. Usually it will involve deliberate wrongdoing, but there may be circumstances where an employee acts so carelessly that it amounts to misconduct (i.e. gross negligence or recklessness).

'Serious misconduct' involves serious wrongdoing. Where, after a fair process, it is established that an employee's actions amount to serious misconduct, an employer may terminate the employee's employment without notice (sometimes referred to as 'instant' or 'summary' dismissal). Because of this, the misconduct must be sufficiently serious that it undermines the trust and confidence that the employer has in the employee (e.g. theft, sexual or other assault, the use of illegal drugs at work).

If you answer no to any of the questions you may need more information


BEFORE CONSIDERING THE PROBLEM	Y	N	n/a
Have you checked:			
» your legal requirements including obligations and definitions in the Employment Relations Act (including 'test of justification')			
» the employment agreement for the problem solving process as well as the definitions of misconduct and serious misconduct			
» workplace policies that are related to conduct (such as a code of conduct)?			
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		


FACT FINDING	Y	N	n/a
Have you carried out a thorough investigation of the facts and identified the issues? (It is important to keep an open mind and consider all relevant information throughout the process)			
Have you interviewed the appropriate people?			
If the allegation of misconduct or serious misconduct involves a crime, have you sought legal advice?			
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		


CONTINUED ON NEXT PAGE




↘ MISCONDUCT CHECKLIST CONT.


TRIAL PERIODS	Y	N	n/a
Have you checked whether your employee is on a trial period?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
If they are on a trial period and you give notice within the trial period, do you know that:			
» you need to give notice in accordance with your employee's employment agreement	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» you do not need to provide a reason for the dismissal or follow all of the dismissal processes in this guide	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		

MEETING WITH EMPLOYEE	Y	N	n/a
Have you held the meeting and covered the following:			
» outlined evidence			
» listened to employee's explanation, or given the employee time to gather information and respond	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» recorded actions/results from the meeting on file?			
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		


ARRANGE MEETING WITH EMPLOYEE	Y	N	n/a
Have you arranged a meeting with the employee and advised:			
» the reason for the meeting	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» that a support person/representative can attend	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
» advised that dismissal may result?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Have you recorded that a meeting has been arranged?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Have you arranged for a witness to attend the meeting?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		

IF EXPLANATION GIVEN	Y	N	n/a
Have you investigated immediately and recorded outcome and reassessed in light of investigation?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on page 17	 COMPLETE		


FOLLOW UP MEETING AND ACTIONS

	Y	N	n/a
Have you arranged the next meeting (including any support person/ representative for the employee and witness for yourself)?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<i>If no misconduct</i> - if explanation shows no misconduct have you advised the employee and removed reference from file?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<i>If misconduct is not at a level to warrant immediate dismissal</i> - have you advised the employee and issued a warning (verbal or written) and recorded on file?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
<i>If conduct is deemed serious</i> - have you advised employee of this, invited the employee to make any final representation and responded to any request for any lesser action?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
If you decide dismissal is appropriate, have you informed the employee that they are being dismissed?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on this page	 COMPLETE		

CALCULATE FINAL PAY

	Y	N	n/a
For employees whose employment has been terminated, have you calculated final pay to end of notice period, including all holiday pay and any final entitlements, e.g. superannuation?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on this page	 COMPLETE		

COLLECT COMPANY PROPERTY

	Y	N	n/a
Have you collected all company property including keys, access cards, credit cards, uniforms, computers, cell phones etc before the employee leaves?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION See <i>Further information</i> box on this page	 COMPLETE		

MANAGING PROBLEMS AND DISPUTES

	Y	N	n/a
If the problems above lead to a dispute, such as a personal grievance, do you know where to go to for help and advice?	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
→ FURTHER INFORMATION www.business.govt.nz www.ers.dol.govt.nz/relationships/employerguide.html www.ers.dol.govt.nz/relationships/ending.html#resignation www.ers.dol.govt.nz/relationships/ending.html#retirement www.ers.dol.govt.nz/redundancy/employer.html www.ers.dol.govt.nz/relationships/trialperiod.html www.ers.dol.govt.nz/problem	 COMPLETE		



▶ HOW TO RESOLVE EMPLOYMENT RELATIONSHIP PROBLEMS

You can help preserve employment relationships and save time by solving problems yourself in good faith as far as possible:

- be clear about the facts
- talk to your employee
- deal with issues promptly but allow sufficient time for both parties to seek advice and think through the issues
- if a problem is a personal grievance, the employee must raise it with the employer within 90 days of the action complained of, or after they became aware of it, unless you consent to the personal grievance being raised after the expiration period (if consent is not given, the employee can apply to the Employment Relations Authority).
- ensure you follow the process for issue resolution outlined in the employee's employment agreement
- you can call the Department of Labour to clarify your obligations (0800 20 90 20)
- if the matter is about minimum legal requirements, a labour inspector can assist to resolve the matter.

If you can't resolve the problem yourself, you can participate in mediation, either through the Department of Labour's mediation services or through independent mediators.

If this does not resolve the problem, you or the employee can go to the Employment Relations Authority for a determination.

If either you or the employee are dissatisfied with the determination of the Employment Relations Authority, the issue can be taken to the Employment Court.

For more detailed information about problem resolution check: www.ers.dol.govt.nz/problem/

↘ NOTES



▼ FOR MORE INFORMATION

If you need more information about the topics covered in this brochure:

Call us free on 0800 20 90 20

Or visit our website at www.dol.govt.nz

The Department of Labour's website contains detailed information relating to health and safety, recruiting, pay, holidays and leave, performance management, and ending employment relationships. Our website also has answers to frequently asked questions and case studies.

▼ OUR FREE ONLINE TOOLS – TO IMPROVE YOUR BUSINESS:

In addition to *The Big 6*, we also provide tools and services that are designed to make management simpler, and free up time for small business owners to concentrate on the bigger picture. These tools help you implement good health and safety, and employment relations practice.

The tools are:

- Hazard Handler
- Employment Agreement Builder
- Holidays Online Tool
- Parental Leave Calculator
- Productivity Toolkit

You can find these online tools at www.dol.govt.nz/onlinetools/

→ The content in this document is generic only. It will not answer every question and should not be used as a substitute for legislation or legal advice. The Department of Labour takes no responsibility for the results of any actions taken on the basis of information in this document, nor for any errors or omissions.

HOW DO I...?

	www.business.govt.nz	NZ Trade and Enterprise	Pacific Business Trust	Companies Office	Inland Revenue	Statistics New Zealand	IPONZ	Foundation for research, science and technology	Department of Labour	Work and Income	ACC	Sustainable Business Network	Māori Business Facilitation Service
Start a business?	✓	✓	✓	✓	✓								✓
Learn how to do business?	✓	✓	✓										✓
Learn about tax?	✓				✓								
Know what rules apply to my business?	✓			✓	✓				✓		✓	✓	
Get information about markets, population trends, customers, suppliers?	✓					✓			✓				
Find out about my competitors?	✓			✓		✓	✓						
Grow my business?	✓	✓							✓				✓
Find special expert or technical assistance and funds to help pay for it?	✓	✓											
Get help with patents and trademarks?	✓						✓	✓					
Import and/or export?	✓	✓											
Employ and manage staff?	✓				✓				✓				✓
Minimise recruitment time and cost?	✓									✓			
Make my workplace safe and save money?	✓								✓		✓		
Make my business sustainable?	✓											✓	

BUSINESS.GOV.T.NZ

www.business.govt.nz | 0800 424 946

NEW ZEALAND TRADE AND ENTERPRISE

www.nzte.govt.nz | 0800 555 888

PACIFIC BUSINESS TRUST

www.pacificbusiness.co.nz | 0800 287 7526

COMPANIES OFFICE

www.companies.govt.nz | 0508 COMPANIES (266 726)

INLAND REVENUE

www.ird.govt.nz | 0800 377 774

STATISTICS NEW ZEALAND

www.stats.govt.nz | 0508 525 525

INTELLECTUAL PROPERTY OFFICE OF NEW ZEALAND

0508 447 669

FOUNDATION FOR RESEARCH, SCIENCE AND TECHNOLOGY

www.frst.govt.nz | Auckland 09 912 6730

Wellington 04 917 7800 | Christchurch 03 963 2070

DEPARTMENT OF LABOUR

www.dol.govt.nz | 0800 20 90 20

WORK AND INCOME

www.workandincome.govt.nz | 0800 559 009

ACC

www.acc.co.nz | Publications 0800 844 657

Levies 0800 222 776 | Concerns 0800 650 222

SUSTAINABLE BUSINESS NETWORK

www.sustainable.org.nz | 09 826 0394

MĀORI BUSINESS FACILITATION SERVICE*

www.tpk.org.nz | 04 819 6000

* The Māori Business Facilitation Service is a Te Puni Kōkiri programme for Māori entrepreneurs.

