



A-Z OF EMPLOYING

House rules and employee handbook

Our guide for Employers and Managers

**SUPPORTING,
FACILITATING &
REPRESENTING
BUSINESS**

Business**Central** 

House rules and employee handbook

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This is only a guide.
It should not be a
substitute for
professional advice.

Please seek advice
from our AdviceLine
Team if you require
specific assistance.

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Overview

- 1 In this guide the terms 'Policies and Procedures' include House Rules / Employee Handbooks and Codes of Conduct which are generally interchangeable terms and refer to the policies and procedures that you and your employees may have agreed to follow in the employment relationship.
- 2 Policies and procedures should be responsive to changes in the circumstances of employment and should be updated on a regular basis.
- 3 Policies and procedures are of little use to both employers and employees if they are unknown and/or unused.
- 4 The variety of matters that may be addressed in employers' policies is diverse and extensive; employers should refer to their employment agreements when considering what and how matters should be addressed.
- 5 The ability of employers to amend and/or add to their policies and procedures without consultation and/or agreement with the employees is a matter of contractual interpretation.

Introduction

Throughout the **A-Z Guide** you will read about the importance of policies and procedures in the employment relationship to guide both the employer and employees on all matters arising out of that employment. These documents should be living documents; they should be reviewed and updated regularly. Depending on the size of your organisation it is advisable to review on an annual basis to keep up with any changes in the workplace, the law, and technology.

Your policies and procedures should be responsive to changes in the make-up of your workforce; changes to an organisation's size, focus, skill level, labour pool, or location may have an impact on your policies that renders ridiculous what was once routine.

How you decide on your policies will be dependent a range of factors including the status of those policies expressed in your employment agreements. However, where your policies affect rights and obligations it is recommended that you regard those policies as contractually binding and changeable only after there has been consultation with your employees.

In order for your policies to be effective, everyone who is bound by them must know about them and be able to refer to them for specific guidance when it is required. These should be discussed during the induction process so that the employees understand what is expected from the beginning of employment relationships and that it referred to as necessary so that their significance remains clear.

Your policies and procedures should be:

Accessible - for every employee at any time and in language that is understood

Appropriate - every workplace should design their own policies to suit and fit

Acceptable - oppressive, harsh or unfair policies will not work

Applied - failure to apply fairly and consistently could compromise your reliance on it later

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Coverage

What your policies and procedures address will be determined by the resources available at the time of drafting and the nature of the workplace. However, there are some matters that are very important and should not be omitted.

The failure to have policies on some matters may be deemed to be a breach of contract or law for which you could be liable. For example policies on forfeiture of wages or health and safety policies would be considered important requirements in the context of managing scenarios related to those matters.

The effort expended in the first instance will in all likelihood save you time and money in the long run.

The list that follows (in no order of priority) should not be taken as exhaustive, but rather a list of matters you should consider addressing in your policies and procedures. Some may be addressed in detail by your employment agreements where they are contractual terms that vary between employees.

- ▶ Accidents
 - Health and Safety
 - First Aid
 - Emergency Procedures
- ▶ Appearance and grooming
- ▶ Company property
 - Vehicles
 - Cell phones
 - Lap top computers
 - Samples
 - Gifts
- ▶ Conduct
 - Misconduct and serious misconduct
 - Harassment
 - Sexual Harassment
 - Racial Harassment
 - Attendance and absenteeism
 - Disciplinary processes

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- ▶ Confidentiality
 - Intellectual property
- ▶ Drugs and alcohol
 - Employee assistance programmes
 - Drug and alcohol testing
- ▶ Equal employment opportunities
 - Incapacity and illness
 - Religious practices
 - Family issues
- ▶ Hours of work
 - Time keeping and attendance
 - Overtime
 - Public holidays
 - Lieu days
 - Special leave
 - Annual holidays
 - Unpaid leave
 - Notice for leave and holidays
 - Leave forms
 - Approval for leave
- ▶ Insurance
- ▶ Internet and email use
 - Surveillance
 - Social media
- ▶ Performance / Appraisals / Development / Training
- ▶ Personal property
- ▶ Privacy

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- Personnel files
- Privacy officer
- ▶ Recruitment
 - Internal
 - External
- ▶ Reporting procedures
 - Whistle blowing and protected disclosures
- ▶ Security
 - Surveillance
- ▶ Smoking
- ▶ Termination
 - Notice
 - Forfeiture
 - Payment in lieu of notice
 - Exit interviews
 - Disciplinary processes
- ▶ Wages
 - Payment
 - Time sheets
 - Holidays
 - Medical certificates
 - Deductions

Having decided what you would like your policy to address and how those matters will be addressed, it is recommended that you seek a professional opinion on these matters for assurance that it does not appear to unlawfully discriminate against people in the terms defined by the Human Rights Act 1993, and is compliant with the requirements of other statutes that place obligations on employers.

Business Central Advice can assist you with the drafting of policies and procedures and employment agreements so that they complement one another. Contact the Business Central AdviceLine and ask to speak to one of our consultants.

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Contractual issues

The employment agreement forms the basis of the contractual relationship between an employer and employee. You are required under the Employment Relations Act 2000 to retain a signed copy of the employee's terms and conditions of employment.

Your employment agreements may not set out every detail of the terms and conditions of employment, and may refer to your policies and procedures. Your ability to amend and/or add to policies and procedures without needing specific agreement from your employees will depend on how this reference is framed and its interpretation within the context of the agreement.

Your obligations under the Employment Relations Act 2000 to deal with your employees (and unions) in good faith may preclude amendments or additions without consultation. As a general rule you should consider your policies as contractually binding unless there is an express statement either in your employment agreements or the policy itself that it is not.

Conclusion

Your policies and procedures should be linked to your employment agreements, and must take into account your obligations under the legislation that governs your employment relationships. They should be relevant to your particular employment relationship and/or workplace.

In many situations you are not required to seek the agreement of your employees about your policies, however you may want to consider the importance of "good faith" or good will in the ongoing employment relationships. When you want to make changes to your existing policies and procedures, or introduce new ones, it is often wise to seek objective advice.

The Business Central AdviceLine team can help you with the legality of your propositions and ensure that you consider all the wider issues that can be important in a policy and procedure change.

Other A-Z Guides which are relevant to this topic:

- ▶ Abandonment of Employment
- ▶ Absenteeism
- ▶ Accidents
- ▶ Discipline
- ▶ Drug Testing
- ▶ Employee Participation Systems
- ▶ Gifts
- ▶ Harassment
- ▶ Health and Safety at Work
- ▶ Information and Communications Technology Policies

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- ▶ Incompatibility
- ▶ Incapacity
- ▶ Individual Employment Agreements
- ▶ Jury Service
- ▶ Long Service Leave
- ▶ Medical Certificates
- ▶ Privacy
- ▶ Racial Harassment
- ▶ Records
- ▶ Redundancy
- ▶ References
- ▶ Retirement
- ▶ Harassment & Bullying
- ▶ Smoke Free Environments Act
- ▶ Suspension
- ▶ Volunteers

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Remember:

- ▶ Always call AdviceLine to check you have the latest guide (refer to the publication date below).
- ▶ Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your fact situation.
- ▶ Use our AdviceLine employment advisors as a sounding board to test your views.
- ▶ Get one of our consultants to draft an agreement template that's tailor-made for your business.
- ▶ Visit our website www.businesscentral.org.nz regularly.
- ▶ Attend our member briefings to keep up to date with all changes.
- ▶ Send your staff to Business Central Learning courses and conferences designed for those who manage employees.

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