BusinessCentral

EMPLOYER BULLETIN

14 October 2024
A Weekly News Digest for Employers

EMPLOYER NEWS

Brighter days ahead for Kiwis

Friday's cut in the Official Cash Rate (OCR) to 4.75 percent is welcome news for families and businesses, Finance Minister Nicola Willis says.

"Lower interest rates will provide much-needed relief for households and businesses, allowing families to keep more of their hard-earned money and increasing the opportunities for businesses to invest and innovate.

"New Zealanders have been doing it tough over the last few years with the economy in recession, high interest rates and sharply rising prices.

"That is changing as inflation falls towards the target level, interest rates come down and businesses have the confidence to invest and hire again.

"Last week's ANZ Business Outlook showed that businesses are feeling more positive and looking to invest in the future which is good news for all Kiwis. The Mood of the Boardroom echoed this, showing that confidence in the economy has reached its highest level since 2016."

To read further, please click here.

Strengthened cyber security support for New Zealand businesses

The Government has reaffirmed its commitment to ensuring New Zealand is a safe and secure place to do business with the launch of new cyber security resources, Small Business and Manufacturing Minister Andrew Bayly says.

"Cyber security is crucial for businesses, but it's often discounted for more immediate business concerns. That's why we've developed these practical, easy-to-use resources to help businesses safeguard themselves against cyber threats."

The programme, Unmask Cyber Crime, offers a series of short, educational videos that have been designed to raise awareness and provide small to medium business owners with the confidence to adopt effective cybersecurity practices. It comes as New Zealand businesses are increasingly identifying cyber security as a key concern for their business.

"Cyber-attacks can severely impact businesses and business owners, leading to financial losses and reputational harm. Many New Zealand SMEs are especially vulnerable due to limited resources. This initiative equips them with the tools to understand and mitigate these risks."

To read further, please click here.

Apprenticeship Boost targets key occupations

Investment in Apprenticeship Boost will prioritise critical industries and targeted occupations that are essential to addressing New Zealand's skills shortages and rebuilding the economy, Tertiary Education and Skills Minister Penny Simmonds and Social Development and Employment Minister Louise Upston say.

"By focusing Apprenticeship Boost on first-year apprentices in targeted occupations, we are providing employers in critical industries with the certainty to hire and retain first-year apprentices, and confidently hire new ones," Ms Simmonds says.

"Having the confidence to build and strengthen your team is important, especially when many businesses are doing it tough right now."

The National-NZ First Coalition Agreement includes a commitment to continue Apprenticeship Boost, with $64 million allocated to initiative in Budget 2024.

"The previous government had set time-limited funding until the end of 2024.

"Our investment in Apprenticeship Boost, reinforces this Government's commitment to fostering a skilled workforce in sectors that are critical to economic growth. First-year apprentices in key industries and occupations will continue to benefit," Ms Simmonds says.

To read further, please click here.

Tatauranga umanga Māori – Statistics on Māori businesses: June 2024 quarter

In the June 2024 quarter, around 1,450 Māori authorities and related businesses were in the Tatauranga umanga Māori population.

All figures are actual values and are not adjusted for seasonal effects.

In the June 2024 quarter compared with the June 2023 quarter:

- The total value of sales by Māori authorities was $1,057 million, up $4.3 million (0.4 percent)
- The total value of purchases by Māori authorities was $774 million, down $25 million (3.2 percent)
- The total number of filled jobs for Māori authorities was 12,100, up 390 jobs (3.3 percent)
- The total value of earnings by employees of Māori authorities was $219 million, up $15 million (7.4 percent)
- Māori authorities exported $216 million worth of goods, up $5.6 million (2.7 percent).

To read further, please click here.

Human Rights in Aotearoa New Zealand falling behind

Extensive law and policy changes, accompanied by new austerity measures by the New Zealand Government, have meant human rights in Aotearoa are falling behind, the United Nations (UN) has been told.

Acting Chief Commissioner Saunoamaali'i Dr Karanina Sumeo was commenting on the Government's formal response to the 259 recommendations made by UN member states in May to improve New Zealand's human rights.

Every five years New Zealand is reviewed on the global stage for its human rights record, through a process called the Universal Periodic Review (UPR), overseen by the UN Human Rights Council.

To read further, please click here.

Unlocking the potential of ethnic businesses

Last week's inaugural Ethnic Xchange Symposium explored the role that ethnic communities and businesses can play in rebuilding New Zealand's economy, Ethnic Communities Minister Melissa Lee said.

"One of my top priorities as Minister is unlocking the economic potential of New Zealand's ethnic businesses," said Ms Lee.

"Ethnic communities contributed an estimated $64 billion to New Zealand's economy in 2021. Ethnic communities are also the fastest-growing population group in New Zealand, tripling in size since 1996, and our country's migrant employment rate is the highest within the OECD.

"It's clear that there's vibrant potential within our ethnic communities. This symposium focuses on unleashing that potential."

The symposium, delivered by the Ministry for Ethnic Communities, brought together Government and business, community, and industry experts to discuss how we can supercharge the economy through boosting trade, investment, and innovation.

In addition to Ms Lee, ministers speaking at the symposium included Finance Minister Nicola Willis; Regulation Minister David Seymour; and Science, Innovation and Technology Minister Judith Collins KC.

To read further, please click here.

Fast-track projects released

The 149 projects released on Friday for inclusion in the Government's one-stop-shop Fast Track Approvals Bill will help rebuild the economy and fix our housing crisis, improve energy security, and address our infrastructure deficit, Minister for Infrastructure Chris Bishop says.

"The 149 projects selected by the Government have significant regional or national benefits. They will make a big difference in the regions by delivering jobs and growth and develop a pipeline of major projects to help boost the economy," Regional Development Minister Shane Jones says.

"The projects have been selected through a thorough and robust process which included an open application process run by Ministry for the Environment, analysis by officials, an independent assessment and recommendations process by an independent Advisory Group, and final decisions by Cabinet.

"The 149 projects chosen by Cabinet to be listed in the Bill will be listed in Schedule 2 of the Bill once the Bill is reported back from the Environment Committee in mid-October. Once the Bill is passed, they will be able to apply to the Environmental Protection Authority to have an expert panel assess the project and apply relevant conditions.

"As we've publicly said before, the Government is also recommending to the Environment Committee that expert panels have the ability to decline approval for projects."

To read further, please click here.

EMPLOYMENT COURT: ONE CASE

Court overturns Authority on when a grievance was raised

Mr Putaanga suffered a head injury on 28 September 2019 while working for MOVe Freight Limited (MOVe). He raised a claim in the Employment Relations Authority (the Authority) for unjustified disadvantage, arguing MOVe failed to adequately protect him from harm at work. He also advanced claims for unjustified dismissal and disadvantage around his return-to-work programme.

In its preliminary decision, the Authority found the claim regarding MOVe not keeping Mr Putaanga safe was raised in a letter dated 18 May 2021, which was outside the 90-day limit for raising personal grievances. It was this matter that the Employment Court (the Court) was asked to consider.

The key to Mr Putaanga's claim in the Court was that he raised a personal grievance immediately after the accident. He had discussions with Ms Valdes, the company's health and safety manager, who investigated the accident at the time. Mr Putaanga also asked the Court to consider a claim of harassment and bullying against Ms Valdes. about a series of calls she made to him following the accident.

The Employment Relations Act 2000 (the Act) states that an employee wishing to raise a personal grievance with their employer must do so within the employee notification period. In accordance with established case law, the grievance process is designed to be informal and accessible. A personal grievance may be raised orally or in writing.

There is no particular formula of words that must be used. Where there had been a series of communications, the Court examined both individual instances and the totality of the communications to determine whether the employee raised a grievance.

Further, it also did not matter whether the employer recognised the complaint as a personal grievance. If the nature of the complaint was a personal grievance within the meaning of the Act, the issue was whether the employee's communications conveyed the substance of the complaint to the employer. The employer must know what it is responding to. It must be given sufficient information to address the grievance.

The Court heard that Mr Putaanga had three phone conversations with Ms Valdes about his accident, and held a meeting with her on 4 October 2019, which she relied on to prepare her report. This was not a matter that had come out of the blue for the employer. Mr Putaanga raised the issue again a year later, and then finally in a letter dated 18 May 2021.

The company knew about the concern from 4 October 2019, when Ms Valdez's report was compiled. The employer was provided sufficient information to respond to the employee's concern. The Court found Mr Putaanga raised his grievance well within 90 days, and the Authority had erred in its decision with respect to this narrow issue. The issue was referred back to the Authority to deal with the substantive claim.

The Court then turned to the matter of the alleged bullying and harassment by Ms Valdes. Mr Putaanga submitted that he felt harassed and pressured by Ms Valdes shortly after the accident and that he had indicated to her that he was not happy with her approach. Ms Valdes gave evidence that she had shown regard for Mr Putaanga's wellbeing and that she had attempted to complete the investigation as expediently as possible.

The Court felt Mr Putaanga did not provide enough information about the nature of his complaint to enable Ms Valdes to understand his concerns. This was apparent from Ms Valdes' genuine surprise at reading the allegation during proceedings. That could be contrasted with Mr Putaanga's other complaints, which she recalled, understood and noted at the time.

The Court addressed whether Mr Putaanga put his employer on notice about the complaint of harassment. Mr Putaanga agreed that until his letter of 18 May 2021, he had not raised his concerns about Ms Valdes with anyone other than her. The Court considered it was not sufficient to simply raise it with Ms Valdes, when it was her conduct that was in issue.

Finally, the Court considered whether exceptional circumstances existed which prevented the grievance being raised within 90 days. While the Court acknowledged that Mr Putaanga was potentially impaired as a result of the accident which caused his delay in raising the claim in time, the Court ultimately decided he had capacity to raise the issue if he had wanted to, meaning he was not prevented by exceptional circumstances from raising the grievance. The claim of unjustified disadvantage arising from allegations of bullying and harassment was dismissed. The court made no findings relating to costs.

Putaanga v MOVe Freight Limited [[2024] NZEmpC 99; 10/06/24; Judge Beck]

EMPLOYMENT RELATIONS AUTHORITY: FOUR CASES

Restructuring process results in unjustified dismissal

Mr Park was employed by Data Insight Limited (DI) as a senior data engineer and architect on 24 October 2022 until his dismissal by way of redundancy on 14 June 2023. The reason given for the proposed change was that Mr Park had not achieved the level of billable hours necessary to sustain his role. This came as a surprise to Mr Park as his employment agreement lacked any such targets for either him or his team.

Once the decision was taken to disestablish Mr Park's role, he sought redeployment to a senior insight analyst role. In assessing his suitability for this role, DI relied on Mr Park's CV which he had submitted for his original role and, based on that document, assessed him as not being suitable. DI also submitted that any change to this new role would require significant training.

Mr Park raised a personal grievance with the Employment Relations Authority (the Authority) alleging unjustified dismissal. He sought reinstatement, loss of wages and compensation. DI contended that Mr Park's job was a new role created to offer data engineering and architecture services which after four months was not considered feasible when the expected pipeline of work could not be achieved. It denied Mr Park was unjustifiably dismissed.

The Authority was critical of the proposal put to Mr Park that there was insufficient work to sustain his role. The evidence established that Mr Park worked in a role where there was never sufficient client work for him to perform. It was logical that Mr Park opposed the asserted genuineness of his redundancy.

DI had never made clear to Mr Park that the role was conditional on the expected securing of a pipeline of work, not even at the commencement of his employment. It was fair and reasonable for Mr Park to seek to understand why at this point the role was no longer sustainable. The Authority highlighted that in good faith DI was obliged to raise these matters with Mr Park in a timely manner, including from the time the employment relationship was entered. These matters which existed from the outset defined the viability of his employment.

Mr Park raised repeatedly through consultation that his data engineering skills and experience, which he had exercised in his role and brought to the workplace in his interactions with other team members, was fully integrated into the day-to-day work of DI. DI did not engage meaningfully with this fundamental concern.

The Authority was also critical of how DI assessed Mr Park for the senior insight analyst role. DI argued that it gave Mr Park every opportunity to submit additional information in support of his redeployment request. Even with this opportunity, DI assessed Mr Park based on his CV and did not discuss his skills and the degree to which he may need upskilling. This was not consistent with DI's good faith obligations.

On the evidence the Authority found Mr Park had established a claim for unjustified dismissal. The Authority did not support Mr Park's claim for reinstatement. The general view was that trust and confidence between the parties was significantly deteriorated and reinstatement would therefore be unreasonable. It also did not support Mr Park's claim for legal costs in the form of special damages.

DI was ordered to pay Mr Park $16,000 in compensation for hurt and humiliation, as well as three months' lost remuneration (minus ACC payments in the time), and holiday pay and KiwiSaver contributions calculated on the lost remuneration. Costs were reserved.

Park v Data Insight Limited [[2024] NZERA 334; 07/06/24; M Urlich]

Heated exchange leads to unjustified dismissal

Mr Waite was employed by Fonterra Brands (New Zealand) Limited (Fonterra) as a production supervisor and had worked at Fonterra for 27 years when a heated discussion between himself and his manager, Ms Beck, led to his dismissal for serious misconduct. In the lead-up to the incident, Mr Waite had been away from work on sick leave, but Fonterra suspected his leave was a planned absence to disrupt production. Fonterra sent a text message to three employees raising its suspicions. Mr Waite was upset about the implication his sick leave had not been genuine, and upon his return to the office, the exchange in question took place.

On 8 February 2022, Mr Waite was invited to meet with Mr Fryer, the site manager. He thought this meeting related to the text message he received. However, Mr Fryer wanted to discuss the argument between him and Ms Beck, which she had brought a complaint for. The meeting did not go well. Mr Fryer shut it down and suggested reconvening at a later time.

The following day Mr Waite was suspended on full pay. Fonterra reasoned that it needed to ensure the health and safety of staff and have the ability to run a clean investigation. Mr Fryer said he was going on planned leave which could delay the investigation, but Mr Waite disputed that this was disclosed at the meeting.

On 6 May 2022, Fonterra decided to terminate Mr Waite's employment. It explained that it had lost trust and confidence in him, and it could not be confident that his aggressive and intimidating behaviour would not be displayed again.

Mr Waite raised a claim with the Employment Relations Authority (the Authority) alleging he was unjustifiably dismissed. He also argued he had been disadvantaged by the investigation process undertaken by Fonterra, which disputed his claim.

Mr Waite claimed he suffered a disadvantage because the meeting of 8 February 2022 was disciplinary in nature, and he had not been told of this in advance of the meeting. Further, he thought the meeting related to a different issue. While the Authority accepted there was miscommunication about the nature of the meeting, there was no disadvantage to Mr Waite. Once Mr Fryer realised there was a misunderstanding, he shut down the meeting and did not reconvene until the next day.

The Authority also dismissed that the length of Mr Waite's suspension caused disadvantage. While there was conflict in the evidence about whether Mr Fryer indicated he was going on leave for two weeks, the Authority found it more likely than not that he did advise this. The Authority also observed that the delay was not unreasonable.

The Authority found Fonterra's process had been insufficient. The key reason Fonterra relied on for its decision to dismiss Mr Waite was the seriousness of his alleged behaviour in a one-off incident, and particularly its impact on Ms Beck. It concluded Mr Waite presented a real health and safety risk to Ms Beck, others at the worksite, and potentially even other employees at other worksites, to justify its decision to dismiss.

The Authority observed that Ms Beck had apologised to Mr Waite and then returned to the office. Further, Fonterra's claims that Mr Waite presented a health and safety concern were not supported, as it had allowed him to return to their shared office.

Fonterra singularly focused on the 8 February 2022 incident which excluded proper investigation of the catalyst for the incident, being the text message threatening disciplinary action for Mr Waite's absence.

The Authority was also critical that Fonterra had not passed all relevant information to Mr Waite. The ultimate decision maker, Ms Pearce, had held discussions with staff while Mr Waite was suspended. However, these conversations were not documented or provided to Mr Waite for his response.

The Authority concluded that Mr Waite had established a claim for unjustified dismissal. Fonterra had not considered his previous good work record or established that he presented a future health and safety concern. Mr Waite had also offered to have a mediated discussion with Ms Beck to resolve matters and Fonterra had failed to give this option proper consideration.

Fonterra was ordered to pay Mr Waite compensation for humiliation, loss of dignity and injury to feelings in the amount of $20,000, lost wages for the three months following his dismissal in the amount of $19,211.46 and employer contribution (less tax) of Mr Waite's superannuation fund for the three-month period following his dismissal. Costs were reserved.

Waite v Fonterra Brands (New Zealand) Limited [[2024] NZERA 342; 11/06/24; N Szeto]

Employee allowed to ''double dip'' with IEA and CA

Mr Fernandes had worked for Coca Cola Europacific Partners New Zealand Limited (CCEP) since 2005 as an equipment service technician. Mr Fernandes had previously joined the union E tū in 2016 and left in 2020. However, after learning that he would not be getting a pay rise through the individual annual review, he rejoined E tū in February 2022.

CCEP and the union E tū signed a collective agreement (CA) in July 2022 that covered equipment service technicians. A term of the CA was for a pay rise of 3.5%, effective from November 2021. Mr Fernandes had therefore been an active union member for five months before the CA was signed.

However, after the CA was signed, Mr Fernandes was not given a 3.5% pay rise, and neither was he given any back pay for wages from November 2021. CCEP said that this was because Mr Fernandes had not been a union member in November 2021 – the date the pay rise was said to be effective.

The issue was then brought before the Employment Relations Authority (the Authority), where it was held that Mr Fernandes had been entitled to the pay rise under the CA.

The Authority referred to the Supreme Court's explanation on legal principles that guide the interpretation of collective agreements. The Authority applied three principles. They included the requirement to consider the ordinary and natural meaning of terms, the context of the CA as a whole and any relevant background knowledge or special meanings which might be relevant.

First, the Authority considered the ordinary and natural meaning of the phrase ''all paid and printed wages rates for permanent employees will be increased by 3.5% effective 1 November 2021''. At the time the CA was effective, Mr Fernandes was employed at "Tech Level 3". Under the CA, employees at that level would have a minimum base rate of $67,176 following the 3.5% increase.

However, Mr Fernandes was already paid $68,700 on his individual employment agreement. Therefore, the 3.5% increase would take it to $71,104.50. CCEP argued that the word ''paid'' referred to base rates

under the CA, and not those of individual employment agreements. The Authority rejected this because a natural and ordinary reading of the clause did not support this.

The Authority also examined the context of other terms in the CA. The coverage clause clearly included Mr Fernandes, as it stated the agreement would cover all equipment service technicians. The application clause stated that the agreement would supersede all previous terms and conditions of employment, but that the agreement could be varied by agreement between the employer, employee and the union. The Authority noted that there had been no such consultation with Mr Fernandes to vary the CA.

CCEP referred to a clause for employees to abide by all company policies, stating that they had a ''historical agreement'' that employees on individual employment agreements were restricted from opting out during annual reviews. This was to prevent employees from "double-dipping" and joining unions if unsatisfied with their individual reviews. However, the Authority rejected that this was a policy as CCEP had never written it down nor consulted with employees about it. Additionally, the CA had a clause that only allowed the agreement to be varied with written agreement. Mr Fernandes never agreed in writing or otherwise to be excluded from the pay rise.

The Authority then considered the nature and effect of the conversation that Ms Sandilands, CCEP's capability and engagement manager, had with Ms Tata, an E tū organiser, before they signed the CA. They had discussed Mr Fernandes' situation, with Ms Sandilands claiming that they had verbal agreement he would not be eligible for the pay rise. Ms Tata denied this, and said they agreed Mr Fernandes would be eligible for a pay rise from February 2022. Emails exchanged between the representatives also failed to show any agreement to exclude Mr Fernandes from any term of the CA. The Authority deemed the uncertain, oral terms of the agreement between Ms Sandilands and Ms Tata as insufficient and irrelevant.

The Authority therefore ordered CCEP to comply with the CA and pay Mr Fernandes the amounts due to him. The Authority also applied a presumption that the parties would bear their own costs.

Fernandes v Coca Cola Europacific Partners NZ Ltd [[2024] NZERA 325; 04/06/24; R Arthur]

Decision reversed due to Inland Revenue providing incorrect advice

Ms Foo had been receiving parental leave payments and wanted to transfer those payments to her husband for six weeks so that he could take some time off work. When her husband returned to work, Ms Foo tried to transfer the payments back to herself. However, the payments stopped entirely.

When Ms Foo enquired with Inland Revenue (IR) on why the payments ceased, she was told that payments could not be transferred twice. IR had not informed her of this prior, and as a result Ms Foo lost 18 weeks' worth of payments. The Ministry of Business, Innovation and Employment (MBIE) has narrow discretion for irregular applications, but decided not to exercise its discretion and did not allow a transfer back. As a result, Ms Foo asked the Employment Relations Authority (the Authority) to intervene.

The Authority looked at whether Ms Foo was able to transfer payments twice under the Parental Leave and Employment Protection Act (the Act). Through the Act, Ms Foo was entitled to 26 weeks of payments. The Act also allows for an eligible employee to transfer all or part of their payments to their eligible partner.

However, the Act states that a person is disentitled to payments if they have previously received payments for that child. The Act also refers to there only being two continuous payment periods in the case of a transfer. The Authority deemed that on the face of it, a transfer can only go one way, once.

The Authority then listened to a call Ms Foo made to IR about the transfer. She had made it clear that she only wanted to transfer 6 weeks of her entitlement to her husband. Ms Foo told IR that she wanted to put an end date to the transfer, but it kept taking her to the end of her approved parental leave period. Instead of informing Ms Foo that this was because payments could not be transferred twice, IR simply manually entered the dates into the system.

IR acknowledged that they failed to advise Ms Foo she would be unable to transfer payments back to herself. MBIE also acknowledged that Ms Foo could have been provided with additional information about this. If not for the incorrect advice from IR, Ms Foo would have waited until she had received 20 weeks' worth of payments before transferring them.

The Authority therefore deemed it appropriate to exercise its discretion in this situation, as there had been an unacceptable interaction with IR that resulted in lost entitlements. The Authority reversed the decision by MBIE and ordered them to ensure that Ms Foo received her further 18 weeks of payments. The Authority also ordered MBIE to reimburse Ms Foo for her filing fee as she had represented herself.

Foo v Chief Executive of the Ministry of Business, Innovation and Employment [[2024] NZERA 386; 01/07/24; L Vincent]

LEGISLATION

Note: Bills go through several stages before becoming an Act of Parliament: Introduction; First Reading; Referral to Select Committee; Select Committee Report, Consideration of Report; Committee Stage; Second Reading; Third Reading; and Royal Assent.

Bills open for submissions to select committee: Seven Bills

Marine and Coastal Area (Takutai Moana) (Customary Marine Title) Amendment Bill (15 October 2024)

Regulatory Systems (Primary Industries) Amendment Bill (18 October 2024)

Arms (Shooting Clubs, Shooting Ranges, and Other Matters) Amendment Bill (29 October 2024)

District Court (District Court Judges) Amendment Bill (29 October 2024)

Sentencing (Reform) Amendment Bill (29 October 2024)

Parliament Bill (6 November 2024)

Building (Overseas Building Products, Standards, and Certification Schemes) Amendment Bill (14 November 2024)

Overviews of bills-and advice on how to make a select committee submission-are available at: https://www.parliament.nz/en/pb/sc/make-a-submission/

The purpose of the Employer Bulletin is to provide and to promote best practice in employment relations.

If you would like to provide feedback about the Employer Bulletin, contact: comms@businesscentral.org.nz
or for further information, call the AdviceLine on 0800 800 362

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ADVICELINE

AdviceLine is your link to first-rate employment relations advice. Business Central understands the difficulties employers can have with managing employees, so supports you with dedicated employer advisors.

TRAINING SERVICES

Our training team provide you with practical training solutions across various employment topics to help upskill your staff, giving your business a competitive edge.

OCCUPATIONAL HEALTH AND SAFETY CONSULTANTS

Health and Safety and the well-being of your employees should be of paramount importance to any employer. To help you along the way, we have a friendly and knowledgeable Health and Safety Consultant.

EMPLOYMENT RELATIONS CONSULTANTS

Employment Relations can be a difficult area to navigate. When you need close guidance on employment matters, you can rely upon our seasoned ER Consultants to be there to help.

LEGAL

When employees test the waters with a personal grievance, Business Central Legal are here to help. We offer representation in all employment law matters.

ENTERPRISE SERVICES

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ADVICELINE

AdviceLine is your link to first-rate employment relations advice. Business Central understands the difficulties employers can have with managing employees, so supports you with dedicated employer advisors.

This service is 100% inclusive of your membership. There is no time limit to your call, and the team is available 8am–8pm Monday to Thursday and 8am–6pm Friday.

Our Employer Advisors are well trained and comprise a mixture of legal and business backgrounds. They understand your issues and can help advise you on legal requirements and best practices. They are backed up by a large resource base they can call on to support with you with written resources, guides, and templates.

TRAINING SERVICES

Our training team provide you with practical training solutions across various employment topics to help upskill your staff, giving your business a competitive edge.

Whether it be best practice processes under the Employment Relations Act and the Health and Safety at Work Act, leadership training or personal development, the Business Central training team are dedicated to facilitating your business's professional learning.

For more information about Business Central's public and customised in-house courses, or to register for a course, contact the team today.

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Health and Safety and the well-being of your employees should be of paramount importance to any employer. To help you along the way, we have a friendly and knowledgeable Health and Safety Consultant.

Adrienne has extensive experience with helping companies navigate Health and Safety requirements. She understands companies need to see sound return on investment for their well-being initiatives. Adrienne offers full support with compliance issues such as induction training and hazard identification and management. Additionally she can help with preparation for ACC 'Workplace Safety Management Practices'.

EMPLOYMENT RELATIONS CONSULTANTS

Employment Relations can be a difficult area to navigate. When you need close guidance on employment matters, you can rely upon our seasoned ER Consultants to be there to help.

Having someone equipped to help you do the work can take the stress out of a tricky situation.

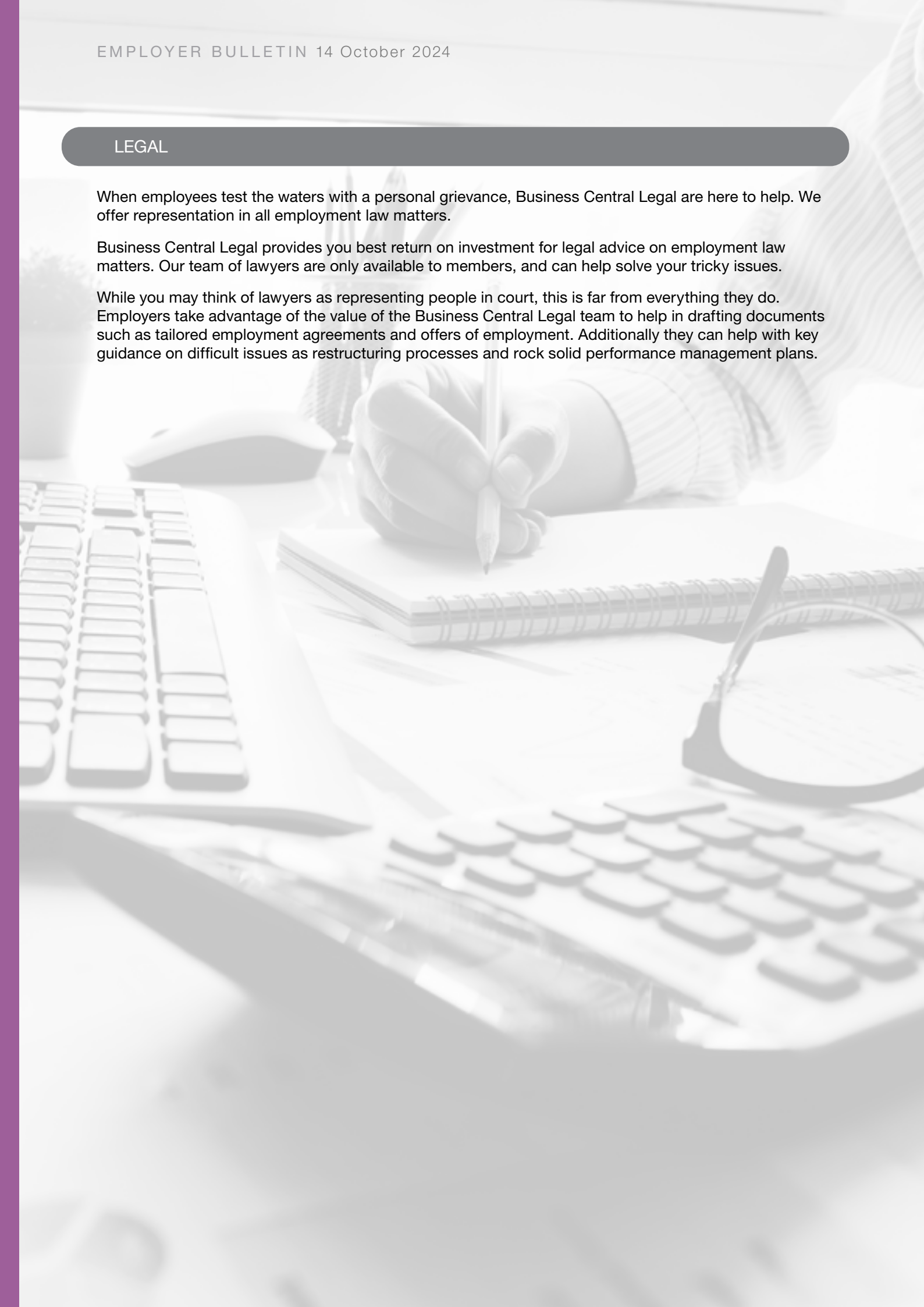
Our Consultants have a wide range of experience and are prepared to help. Whether you need to update your agreements or policies, or embark on performance management, they have the experience to make a difference. There are so many areas they can help; it may be union issues and managing a difficult relationship or it could be confirming a restructuring selection matrix.

LEGAL

When employees test the waters with a personal grievance, Business Central Legal are here to help. We offer representation in all employment law matters.

Business Central Legal provides you best return on investment for legal advice on employment law matters. Our team of lawyers are only available to members, and can help solve your tricky issues.

While you may think of lawyers as representing people in court, this is far from everything they do. Employers take advantage of the value of the Business Central Legal team to help in drafting documents such as tailored employment agreements and offers of employment. Additionally they can help with key guidance on difficult issues as restructuring processes and rock solid performance management plans.



A QUICK GUIDE TO HOLIDAY PAY PRACTICES IN NEW ZEALAND

CHRISTMAS AND NEW YEAR PUBLIC HOLIDAYS 2024/2025

Christmas Day Wednesday 25 December 2024
Boxing Day Thursday 26 December 2024
New Year's Day Wednesday 1 January 2025
2 January Thursday 2 January 2025

PUBLIC HOLIDAYS

All employees for whom the day would otherwise be a working day and do not work on that day, will be entitled to a paid public holiday not worked.

All employees for whom the day would otherwise be a working day and do work on that day, will be entitled to at least time and a half for the hours worked on that day and an alternative holiday.

Employers therefore need to consider whether the day on which the public holiday falls is otherwise a working day for each employee in order to determine public holiday entitlements. The otherwise working day test applies to all employees regardless of whether they are permanent, fixed term or casual employees, or have just commenced employment.

OTHERWISE WORKING DAY

In most situations it will be clear whether the day on which the public holiday falls would otherwise be a working day for an employee.

However, if it is not clear an employer and employee should consider the following factors with a view to reaching an agreement on the matter.

- The employee's employment agreement;
- The employee's work patterns;
- Any other relevant factors, including:
    - whether the employee works for the employer only when work is available;
    - the employer's rosters or other similar systems;
    - the reasonable expectations of the employer and the employee that the employee would work on the day concerned;
- Whether, but for the day being a public holiday, the employee would have worked on the day concerned.

CHRISTMAS/NEW YEAR CLOSEDOWN AND PUBLIC HOLIDAYS

If a public holiday falls during a closedown period, the factors listed above, in relation to what would otherwise be a working day, must be considered as if the closedown were not in effect. This means employees may be entitled to be paid public holidays during a closedown period.

ANNUAL HOLIDAYS, PUBLIC HOLIDAYS, TERMINATION OF EMPLOYMENT

A public holiday that occurs during an employee's annual holidays is treated as a public holiday and not an annual holiday.

An employee who has an entitlement to annual holidays at the time that their employment ends will be entitled to be paid for a public holiday if the holiday would have:

- Otherwise been a working day for the employee; and
- Occurred during the employee's annual holidays had they taken their remaining holidays entitlement immediately after the date on which their employment came to an end.

When applying the provision, you are only required to count the annual holidays entitlement an employee has when their employment ends (not accrued annual holidays). Employees become entitled to 4 weeks annual holidays at the end of each completed 12 months continuous employment.

PUBLIC HOLIDAY TRANSFER

The Holidays Act 2003 allows an employer and employee to agree in writing to transfer a public holiday to any 24-hour period.

This means, with agreement, a public holiday may be transferred:

- By a few hours to match shift arrangements; or
- To a completely different day

In the absence of a written agreement, a public holiday is observed midnight to midnight.

Please note that this guide is not comprehensive. It should not be used as a substitute for professional advice. For specific assistance and enquiries, please contact AdviceLine.