

SCHOOL BUSINESS MANAGERS

July 2019

WHAT IS EDUCATION LAW?

- .Legal Literacy
- .Reading
- .Professional Development
- .Networking

LEGAL RISK MANAGEMENT

- .Policies

- .Procedures

- .Insurance

- .Professional Advice

DOMESTIC VIOLENCE -VICTIMS PROTECTION ACT 2018

.Provides an employee affected by domestic violence to take up to ten days leave in each 12 month period.

.It is a separate entitlement to “sick leave”

.An employee may apply for a short term variation of employment terms, hours, location up to two months.

DOMESTIC VIOLENCE

.Domestic Violence need not be current.Leave can be taken to deal with the effects of past violence against an employee,but also against a child who resides with that employee.

SCHOOL CONSIDERATIONS

.Qualifying period 6 months continuous employment for at least an average of ten hours per week.

.Cannot carry forward and does not accrue.

.If already on annual leave, bereavement or sick leave can convert that leave into 'domestic violence' leave.

SCHOOL CONSIDERATIONS

.Where leave requested employer can require proof (within 3 working days)

.If proof not provided employer can refuse to pay.

No definition of what is proof.

GROUNDS FOR REFUSAL FOR FLEXIBLE WORKING HOURS

.Where proof is requested but is not produced within 10 working days.

Request cannot be reasonably accommodated with existing staff.

.Burden of additional cost.

.Detrimental impact on quality or performance.

EMPLOYMENT LAW

- .Procedural Fairness
- .Particularise Concerns
- .Communicate Concerns
- .Set out required standard
- .Reasonable Time(10 weeks)
- .Support and Guidance
- .Keep employee informed.

EMPLOYMENT LAW

.Distinguish Appraisal from Competency.

.Notify competence process in writing.

.Ask, has the employer contributed to the problem?

.After 10 weeks don't move automatically to dismissal. Seek submissions on report and penalty.

EMPLOYMENT LAW

Rollercoaster Effect



1. Has the employee substantively reached the required standard?
2. If not, could they with a further period of support and guidance?
3. If not, dismissal with notice.

SERIOUS MISCONDUCT

.Don't codify in policy, give examples but list not exhaustive.

.Distinguish between-

.Initial Meeting-Non legal-No Rights

.Disciplinary Meeting-legal-Rights

.Always put the charge and evidence.

.Right to representation.

.Delegated authority.

YOUTUBE VIDEO - LEAN ON ME



YOUTUBE VIDEO - MR G RESIGNS



CIVIL & CRIMINAL INVESTIGATION

.Criminal:

Beyond Reasonable Doubt

.Civil:

On the Balance of Probabilities

SUSPENSION ON PAY

- .Primacy given to health and safety of students and staff.
- .Effect on career and reputation of employee.
- .Whether other duties can be assigned.
- .Contact M.O.E about reliever prior to suspension.

STRESS CLAIMS

Quantum of damages

Attorney General v Gilbert 2002 IERNZ 31

TEST AND CONSIDERATIONS

.Not 'stress' but unreasonable 'stress'.

.Establish a recognized medical or psychiatric disorder e.g P.T.S.D clinical depression.

.Substantively caused by work not outside factors e.g financial pressures, family, etc.

.Liable if you knew, or ought to have known, obvious signs and symptoms.

.Industry standard -Band of tolerance

TEST AND CONSIDERATIONS

- .Support within your resources.
- .Cause may be incompetence-time management.
- classroom management.
- .E.A.P in place (Employee Assistance Programme)
- .Tension between:
 - S.M.T raising standards and performance expectations.
- .Bullying v Autocratic Oppressive workplace.

EMPLOYMENT LAW

.Competency

School

Substantive Fairness

Procedural Fairness

E.R.A

Procedural Fairness

Substantive Fairness

PUBLIC LIABILITY INSURANCE

- .Early notification clause.
- .Contributory negligence.
- .Media comment.
- .Outside uses of school property.
- .Added risk.
- .Infringing copyright.

EMPLOYERS AND SOCIAL MEDIA

.Balance between 'freedom of expression' and posts which cause reputational damage and evade the relationship of trust and confidence between employer and employee.

.Well developed and promulgated complaint.

.Employers, N.Z Teachers Council not moral police of staff. Teachers do have a right to enforce a 'Code of Conduct.

.Professional Boundaries and Social Media.