

# **Employment relationship problem resolution**

## **Explanation of services available for resolution of employment relationship problems**

The following includes a plain language explanation of the services available for resolution of employment relationship problems. This will form part of the individual employment agreement between a school board and their employee.

## **What is an employment relationship problem?**

It is a problem arising from the employment relationship between employee and employer and includes a personal grievance or a dispute about the meaning or application of any provision of the employee's employment agreement.

The Ministry of Business, Innovation and Employment (MBIE) provides information about employment rights and obligations at <https://www.employment.govt.nz/>.

## **Notification of personal grievance**

A personal grievance may arise, for example, where an employee believes he or she has been unjustifiably dismissed, unfairly treated or discriminated against or sexually or racially harassed.

If an employee believes they have a personal grievance, then they must notify the employer within ninety (90) days from the date when the alleged action giving rise to the grievance occurred (12 months in the case of a personal grievance in respect of sexual harassment), or when it first came to the employee's notice, whichever is the later date.

The personal grievance must be raised in such a way that the employer fully understands that a grievance has been raised and the reasons for it.

The employee must clearly state what their complaint is and the reasons why they believe they have a grievance. It is best to do this in writing so that everyone is clear.

The employee must give enough detail about the problem for the employer to respond to the issues. If the employee does not raise the grievance clearly enough, or with enough details, it could mean that they are unable to take legal action.

The employee should keep a copy of the letter or email for reference. If they raise the grievance verbally, both the employee and their employer should take notes of what was said in case there is a dispute later.

## **Dismissal**

Employees who have been dismissed may ask the employer for a written reason for the dismissal within 60 days after the dismissal or after the date they become aware of it. The employer must give this written statement to the employee within 14 days after being asked.

## **Resolving an employment relationship problem**

Before taking further steps, and where appropriate, both the employee and employer should try to resolve any workplace issue by discussing and reaching an agreement within a reasonable timeframe.

Both the employee and employer can have a representative at any stage of the process.

MBIE provides information about how to resolve problems at

<https://www.employment.govt.nz/resolving-problems/how-to-resolve-problems>.

The Human Rights Commission Te Kāhui Tika Tangata also offers a free and confidential dispute resolution service for complaints in employment about unlawful discrimination and other prohibited behaviours under the Human Rights Act. The Commission can help resolve complaints relating to breaches of human rights and privacy in employment, for example:

- unlawful discrimination
- sexual or racial harassment.

### ***Mediation***

MBIE provides an independent mediation service to assist in the resolution of employment relationship problems and the smooth conduct of employment relationships generally.

These mediation services are free.

Where mediation assistance has been requested, then the mediator will determine the type of mediation having regard to the nature of the problem, the needs of the parties and the importance of resolving problems promptly and effectively. Any documents disclosed or statements made in the course of the mediation in relation to an employment relationship problem are confidential unless otherwise agreed.

A settlement reached in mediation and signed by the mediator at the request of the parties is final, binding and enforceable. This means that neither party can take the matter any further and either party can be made to comply by court order.

More information on mediation, including how to apply for it, is available at

<https://www.employment.govt.nz/resolving-problems/how-to-resolve-problems/mediation>

### ***Employment Relations Authority***

Either party is able to apply to the Employment Relations Authority to investigate and determine any unresolved employment problems. More information on the Employment Relations Authority is available at <https://www.employment.govt.nz/resolving-problems/how-to-resolve-problems/escalating-unresolved-issues> and at <https://www.era.govt.nz/>.