



Advice from Alan

Correct employment processes

by Alan Knowsley, consultant, Rainey Collins Lawyers

It is very important for employers to follow the correct steps to ensure a fair process. This is

especially so when dismissing an employee or undertaking a disciplinary or performance process. An employee can raise a personal grievance if they feel they have been treated unfairly or unreasonably. Personal grievances handled incorrectly can result in significant costs for an employer.

Employers have an obligation to act fairly and reasonably. The employment agreement may provide steps to take during a disciplinary procedure. There should be open communication with the employee. Having a discussion with the employee may also get ahead of the problem and resolve it short of a formal investigation or personal grievance.

The employee must also be fully informed if any disciplinary process is being undertaken, including exactly what the allegations are, and they should be aware of its potential outcomes. Employees must also be allowed to have their say throughout any process and be given a chance to explain their side of the story. An employee must also be informed they are allowed a support person or

representative at any formal meetings with the employer.

During any of these processes, a decision must not be made until all factors are considered. This requires a genuine investigation into any alleged behaviour by the employee, as well as any evidence from the employee themselves. Evidence should be collected to reach a conclusion on what actually happened.

It is absolutely vital not to take shortcuts throughout this process. The employment landscape is literally littered with employers who reasonably had problems with an employee but got key elements of the processes wrong.

It is recommended to implement clear and effective procedures before those processes are required. This ensures that there is a step-by-step process to follow and there are likely to be fewer issues. It is also recommended to keep a record of any serious interactions or conversations with employees, and that all paperwork is accurate and well organised. I have a free step-by-step guide to the disciplinary and performance processes at www.raineycollins.co.nz in Your Resources/Guides.