

Solving employment relationship problems in ACC

What is an employment relationship problem?

An employment relationship problem is a problem between you and your manager or between you and another ACC employee or between you and ACC. It includes a personal grievance, dispute or other problem relating to or arising out of your employment relationship.

An employment relationship problem does not include any problem concerning the setting of new terms and conditions of your employment. Nor does it include an issue you may have with the tasks, responsibilities and functions of your position or with your manager expecting you to achieve these duties.

Listed below are examples of employment relationship problems:

- You think you have been treated unfairly;
- A breach of your employment agreement;
- A personal grievance;
- A dispute over the interpretation, application or operation of your employment agreement;
- A question about whether you are an employee or an independent contractor;
- A disagreement about arrears of wages or holiday pay etc;
- Your not being allowed to attend union meetings or take employment related education leave; or
- You get a warning, or are dismissed.

What is a personal grievance?

A personal grievance means any grievance that you have against ACC because of a claim that:

- You have been unjustifiably dismissed;
- Action ACC has taken disadvantages you in your employment or a term of your employment is unjustifiable;
- You are discriminated against in your job;

- You are sexually harassed in your job;
- You are racially harassed in your job; or
- You have been pressured in your job because of your membership or non-membership of a union or employees' organisation.
- A personal grievance must be raised with your Manager within 90 days of the event.

Employment relationship problem resolution process in ACC

Step 1 Clarify the problem

If you believe there may be a problem in the employment relationship, the first step is to check the facts and make sure there really is a problem, and not simply a misunderstanding.

You might want to discuss a situation with someone else to clarify whether a problem exists, but in doing so you should take care to respect the privacy of other employees and managers, and to protect confidential information belonging to the employer. For example, you could seek information from:

- friends and family
- the Ministry of Business, Innovation and Employment (call them on 0800 20 90 20 or through their website at www.dol.govt.nz/er/solvingproblems/index.asp)
- pamphlets/fact sheets from the Department of Labour
- your union (if you are a union member), a lawyer, a community law centre or an employment relations consultant.
- You raise an allegation against a colleague or manager which is of a disciplinary nature; and
 - there is some evidence that can be referred to, to support the allegation you have made.

An investigation will not normally be appropriate if the problem you raised relates to a decision ACC made to issue a warning or to dismiss.

If we are not able to resolve the problem through the steps above, a number of options exist:

Step 2 Discuss the problem

If you believe there is a problem, raise it as soon as possible. This can be done in writing or verbally. Provided you feel comfortable doing so, you should ordinarily raise the problem with your direct manager. If this is not possible, you may raise the problem with their manager, or another appropriate manager.

A meeting will usually then be arranged where the problem can be discussed between appropriate parties. You are entitled to bring a representative or support person with you to the meeting if you wish.

When raising a problem for discussion it is helpful if you can do so in writing and outline solutions that you consider may resolve it.

The parties will then try to establish the facts of the problem and discuss possible solutions. This is likely to include an exchange of views about the nature of the problem and possible solutions.

Your manager (or other appropriate manager) may wish to seek advice or consider further information to assist them in addressing your problem. They may seek assistance or information from People Services, their own manager, a specialist (if applicable), or another person involved in the problem. They may also wish to gather information including documentation to understand the issue you have raised. It may be that discussions take place over more than one meeting if progress is being made.

The manager may refer the problem on to a more senior manager or People Services if they believe someone more independent would be better placed to resolve it.

If you agree to a solution it is helpful if this is documented so it can be referred back to if required. If you are satisfied with the solution this is the end of the process.

Step 2a Investigation of the problem

Depending on the nature of the problem, it may be appropriate for an investigation to be conducted into the issues you have raised. An investigation is likely to be appropriate in the following circumstances:

- You raise an allegation against a colleague or manager which is of a disciplinary nature; and
- there is some evidence that can be referred to, to support the allegation you have made.

An investigation will not normally be appropriate if the problem you raised relates to a decision ACC made to issue a warning or to dismiss.

If we are not able to resolve the problem through the steps above, a number of options exist:

Next steps

- Either party can contact the Ministry of Business, Innovation and Employment, who can provide information and/or refer the parties to mediation.
- Depending on the nature of the problem, the issues involved may also be ones that the Labour Inspectors employed by the Ministry of Business, Innovation and Employment can assist with, ie minimum statutory entitlements such as holiday, leave or wages provision.
- Either party can take part in mediation provided by the Ministry of Business, Innovation and Employment (or the parties can agree to get an independent mediator).
- If the parties reach agreement, a mediator provided by the Ministry of Business, Innovation and Employment can sign the agreed settlement, which will then be binding on the parties.
- The parties can both agree to have the mediator provided by the Ministry of Business, Innovation and Employment decide the problem, in which case that decision will be binding;
- If mediation does not resolve the problem, either party can refer the problem to the Employment Relations Authority for investigation.
- The Employment Relations Authority can direct the parties to mediation, or can investigate the problem and issue a determination.

- If one or other of the parties is not happy with the Employment Relations Authority's determination, they can refer the problem to the Employment Court.
- In limited cases, there is a right to appeal a decision of the Employment Court to the Court of Appeal and to the Supreme Court.

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