

COVID-19 Series

Restructure & Redundancy

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- Complying with the Employment Law is still crucial even with the Wage Subsidy Plan
- Adhere to normal types of procedures in relation with good faith and consultation with employees
- Ensure any decision made is procedurally correct and substantively justified
- Having a process mitigates risk if Personal Grievance is raised
- Restructures require genuine business case and consultation:
 - Develop business case for proposal
 - Outline rational and what you proposing to do (important to be specific and have proper outline about potential impacts)
 - Send out proposal to potentially affected staff outlining position of company, how positions may be disestablished and seeking feedback



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- Organise consultation to allow employees to provide feedback before final decision making
 - Supply supporting information is helpful, it doesn't have to be commercially sensitive: Business cases and rational for restructure proposal
 - Employee will have ability to request information which is evidence and support the case you're having for restructure
 - Process:
 - Send letter > Consultation > Answer Question & Listen to Feedback > Decision Making
 - If they are 5 similar position and required to disestablish 2/3 position:
 - Undergo proper selection process, objective and measureable criteria to look why to disestablish
 - Once decided > send confirmation to employees > discuss about contractual entitlement, if they are entitled to redundancy compensation, notice period
 - Wage subsidy can't be used for redundancy compensation/contractual entitlement



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- Wage Subsidy rules changed on 27th March, 4.00PM
 - Before: One of the criteria was predicted or actual revenue loss of 30% or more, intention for employee retention
 - After: Employers will retain the employee employment for the 12 weeks subsidy period
 - Employment rules and law have not change
 - Mutual agreement required for everything & it's important to demonstrate good faith from both side
 - Section 103A of Employment Relations Act 2000 still applies.
 - Have robust rational proposal and provide honest feedback on the business's position to employees.
 - Can't vary someone's terms & conditions unilaterally, and need their consent to apply for wage subsidy due to supplying personal information (IRD, bank details etc.) for application
 - Consent for wage reduction is crucial (Get agreement & documenting)
 - Can't force anyone to take Annual Leave unless following correct process after consulting with employee and proper 14 days' notice of company's requirement.

