

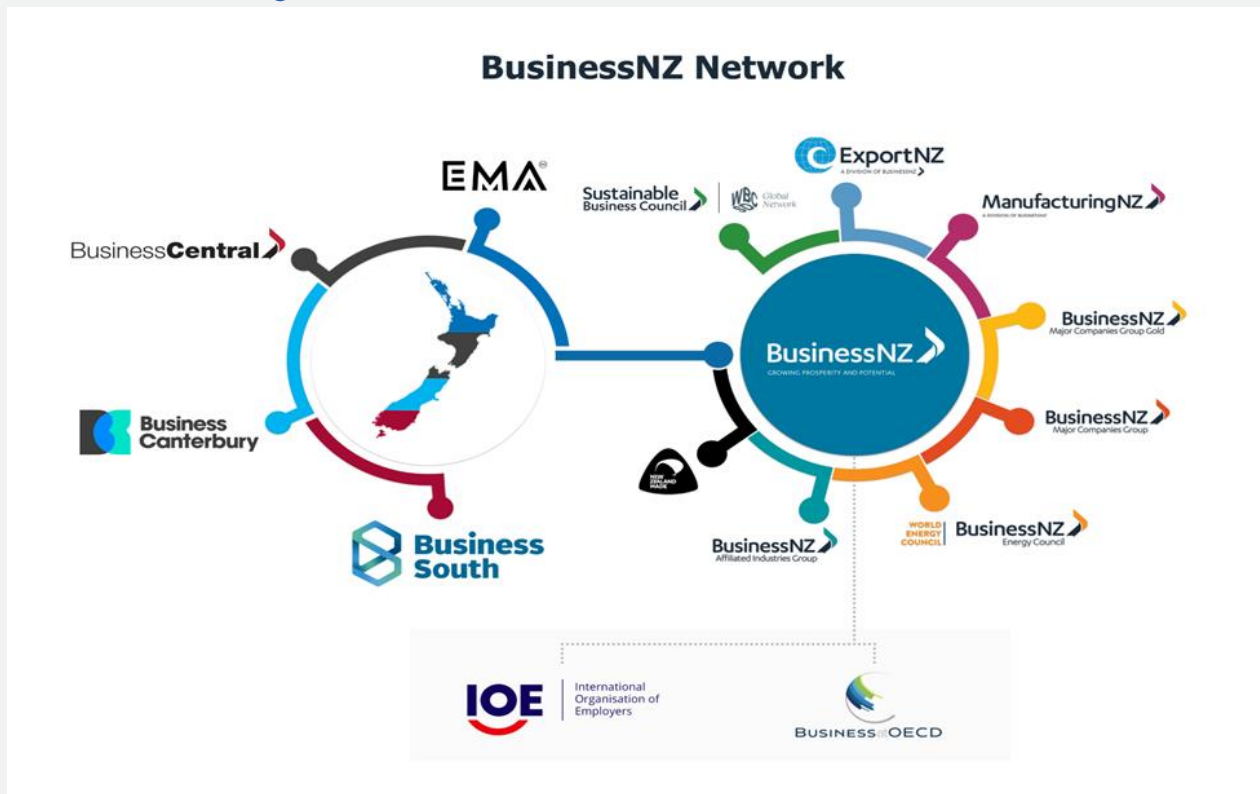
Navigating staffing challenges



Chris Longman MBA, BCom, GradDip, CMHRINZ



Our Family Tree



EMA

- NZ's oldest and largest business association
- NZ's largest employment law team
- Leading training provider & business school
- Over 40,000 calls a year to our FREE AdviceLine
- Over 50,000 downloads per annum of our 120+ employment guides

Recruitment – getting the right person



Key questions:

- Can they do the job?
- Will they love the job?
- Do you want to work with them?
- Reference checks – how does the person add value?
- Hire for **attitude**, train for **aptitude**

Recruitment: Pre-employment testing

- Make sure they can do the job
- Must ensure that any testing does not:
 - Create any commercial value for you
 - Create any confusion in their mind that they have been employed

Recruitment: Key considerations:

- Is your Employment Agreement current/compliant?
- Are you using a 90-day trial? (**correctly?**)
 - Make the whole offer early, including the agreement
 - IEA must contain 90-day trial clause
 - Allow right to seek advice, and opportunity for this
 - Agreement signed **prior** to work commencing
 - Employee must not be previously employed by the employer.

Getting the best from your people



Getting the best from your people

Organisations (like parents)
get the behaviours
that they tolerate

SOBs

- Specific
- Observable
- Behaviours

Some Helpful Questions to Ask

- What is the person currently doing that they should **STOP** doing?
- What is the person currently not doing that they should **START** doing?
- What is the person currently doing that they should **CONTINUE** doing?

Difficult Discussions



90-day trial periods

Employment agreement must specify:

- The specific period of trial (not more than 90 days) starting at the beginning of the employment; and
- During that period the employer may dismiss the employee; and
- If employer does so, employee is not entitled to bring a personal grievance or other legal proceedings in respect of a dismissal.

Significant duties of good faith remain – I.e. Dismissal cannot come as a “bolt from the blue”.

Personal Grievance Statistics & Issues



The Odds...

- 72% in favour of employees (240 cases).
- Most PGs in first 12 months (96% win rate in first 6 months).
- Average cost for employer if lose \$56,688.
- Average cost for employer if win \$19,415.
- Average Hurt and Humiliation payments \$10,360.
- Average Legal Costs \$24,784.

The Process For A PG

- PG lodged within 90 days
- 14 days to respond in writing
- Mediation
- Employment Relations Authority
- Employment Court
- Court of Appeal
- Supreme Court

Most settled at Mediation

Cost of Representation

up to \$1,500 + time

up to \$3,000 + time

ave \$20,000 + time

!!!

!!!

!!!

Upcoming employment legislation changes



What may change??

1. Holidays Act 2003

2. Employment Relations Authority/PG Reform – “make it quicker”

- Limit on income level over which you could not take a PG
- Remove remedies if an employee is at fault

3. Contractors (vs employees)

- Introduction of a ‘gateway test’.
- Clarify that if a contractor agreement is signed – it is a contractor arrangement. No ability to challenge employment status.

4. Minimum Wage increase (1/4/25 to **\$23.50**), and Living wage increase (effective 1/9/25) to **\$28.95**.

What may change?? (Continued)

5. Pay secrecy

- Employers may soon be unable to enforce pay secrecy clauses, allowing employees to discuss remuneration openly.

6. Partial deductions for strikes

- Will allow employers to make "specified pay deductions" from an employee's wages, either proportionate to the partial strike or a fixed percentage (10%), provided certain conditions are met and proper notice is given.

7. Criminal charges for non-payment of wages ('Wage theft')

- Crimes Act (1964) amended to clarify that not paying an employee their wages is theft.
- Must "*intentionally fail to pay... without reasonable excuse*"

Questions?

Where can you go for employment help?

Employers:

EMA members

Adviceline 0800 300 362

www.ema.co.nz

Employees:

Ministry of Business, Innovation & Employment

0800 20 90 20

www.employment.govt.nz

Citizens Advice Bureau

www.cab.org.nz



Lighting the Path for Business



Chris Longman MBA, BCom, GradDip, CMHRINZ

Mobile
Email

027 403 1788
chris.longman@ema.co.nz

emabop.co.nz

