



DYHRBERG DRAYTON
EMPLOYMENT LAW

Practical Guidance for Employers Following a Natural Disaster

Following the magnitude 7.5 earthquake in the early hours of Monday 14 November 2016 many people and businesses in the lower North and upper South Island were severely impacted. People suffered through aftershocks all through the night and were forced to evacuate due to tsunami warnings. Wellington CBD was shut down, schools widely closed, buildings were damaged and roads closed. However, life goes on and it is important to know your obligations and duties as employer following any disaster.

How to Manage Employees

Employees may be available and ready to attend work, but the workplace has not yet been assessed as safe. The first step is to managing this situation is to check your employment agreements.

Generally you must pay an employee who is ready and willing to work. In these circumstances, you would be entitled to ask your employees to do what work they can from home, provided their home is safe and it is practicable for them to do so.

It is important to remain in contact with employees to find out what is happening with them. If an employee cannot attend work because they are stressed, injured, or dealing with stressed or injured dependants, then they are entitled to sick leave in accordance with the Holidays Act. It would be charitable to take a generous approach to sick leave and to not require medical certificates during what can already be a very stressful time.

Even if the workplace has been assessed as safe to re-enter by an appropriate expert (e.g. a structural engineer), employees may themselves not be able to attend work due to damage to their property or looking after children who can't go to school. In these circumstances the employer and the employee may agree to treat the time as annual leave or unpaid special leave.

Ultimately however, if the workplace is safe and the employer is wanting the employee to return to work, then the employee will need to take annual leave. Communicate with these employees and discuss timeframes, so everyone knows where they stand.

If your workplace is severely damaged and may be closed for some time, and reasonable alternatives are not available or practicable, we advise taking legal advice on your options. We advise taking a common-sense approach to the situation, consulting and communicating with employees in a good faith

manner, and bearing in mind the difficult situation which everyone has encountered.

If your business is likely to be impacted medium to long-term, you may need to reevaluate your staffing requirements. This will require good faith consultation.

Health and Safety Concerns

Health and safety is extremely important in times like this. The first concern is ensuring the workplace is safe to return to. We recommend having an engineer or other qualified person assess the building, to ensure it is safe for employees to return to.

If your workplace is unsafe or has not yet been assessed as safe for re-entry, you should direct employees not to come to the premises, given an employer's obligations under the Health and Safety at Work Act. If your buildings are damaged then you will have to consider alternatives, such as relocating employees to a reasonable alternative, sharing premises with another business, setting up a temporary office or having employees work from home (if their home is safe).

Disasters can have varying psychological impacts on employees. It is important to acknowledge and to recognise the impact on employees, including the different situations and feelings. People can be dealing with anxiety and stress due to aftershocks. Consider whether you can offer employees EAP or provide information about counselling services.

Now is a good time to assess whether your workplace is '*disaster ready*'. Ensure your office is equipped with an emergency survival items kit. Educate employees on evacuation procedures and what action to take in the event of an emergency or disaster.

It is also wise for employers to review their insurance cover, including their business interruption insurance. In some circumstances government assistance may be available to employers during these difficult times.