CRITICAL INCIDENT MANAGEMENT PLAN
Personal Grievance

Incident:

- Notification of Personal Grievance being raised by Employee or former Employee

Guiding principles:

- Employers must show good faith, doing things for good reason and using a fair process
- Information obtained during the course of any Personal Grievance investigation should be treated as strictly confidentiality
- Employees must raise a Personal Grievance within 90 days
- Employees have three years to begin proceedings in the Employment Relations Authority
- The Employment Relations Authority (ERA) is an independent organisation that sits below the Employment Court
- The personal grievance process is available only for a specific set of grounds:
    - unjustified dismissal
    - unjustified disadvantage
    - discrimination
    - sexual harassment
    - racial harassment
    - "duress" – that is, pressure from the employer about union membership or union activity
    - a breach of Employee rights around agreed hours, availability clauses, cancellation of shifts, or restrictions on other ("secondary") employment
    - retaliation against you because of a health and safety dispute.
- Be professional and ethical at all times
- Be proactive, not reactive
- Deal only in the facts
- Critical Incidents take precedence
- Document everything, including time, date, place
- Put people first
- Keep an open mind, never assume anything
- Consider preservation of your brand

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Your Key Contacts and Specialist Services:

- Mastercraft National Support Office
- Websites

  Ministry of Business, Innovation and Employment
  www.employment.govt.nz/resolving-problems/steps-to-resolve/personal-grievance

  Employment Relations Authority
  www.era.govt.nz
  Auckland: 09 970 1550
  Wellington: 04 915 9550
  Christchurch: 03 964 7850
  Employee Assistance Programme (EAPWorks)
  www.eapworks.co.nz

  Mediation Services
  www.employment.govt.nz/resolving-problems/steps-to-resolve/mediation

  Employer and Manufacturers Association
  www.ema.co.nz/services/advice

  Employment Act 2000
  www.employment.govt.nz/about/employment-law/legislation/

- Legal

  Company Employment Lawyer:
  Private Investigator:

- Public Relations

  Company Media Agent:

Your Immediate Action: (1 hour)

- Initiate your Personal Grievance procedure
- Record date, time and method of Personal Grievance notification received
- Retain a copy of the notification
- Formally advise the Employee, in writing, you have received their Personal Grievance
- Record date, time, method of notice of receipt of Personal Grievance
- Retain a copy of your reply to the Employee
- Do not enter into any other communications with the Employee at this point
- Identify and document each individual point of the Personal Grievance
- Notify relevant management of receipt of Personal Grievance
- Ask Managers not to communicate with the Employee at this point
- Notify company Lawyer
- Notify Mastercraft National Support Office
- Notify insurance company where applicable

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Following Your Immediate Action: (first 8 hours)

- Identify and secure any property or documents of relevance (electronic or physical)
    - Employee staff file
    - Employees Employment Agreement
    - Training records
    - Time sheets
    - Meeting notes
    - Performance appraisal records
    - Written warnings
    - Emails
    - Sick leave records
    - Health & safety records
    - Relevant financial records
    - Payroll records
    - Previous records of employee's failure to meet agreed standards
- Identify relevant members of staff as potential witnesses
- Identify any other potential witnesses
- Consider engaging Private Investigator to interview and record statements from witnesses

Investigate each point of the Personal Grievance:

- Seek professional assistance with investigation where necessary
- Interview and obtain a written statement from relevant other Employees
- Consider who else might be relevant to the investigation
- Interview and obtain a written statement from other relevant people
- Identify and secure any additional property or documents of relevance (electronic or physical)
- Compare your investigation findings to Complainant's Employment Agreement or other conditions of work

First meeting with the Employee:

- Arrange an appropriate time to meet with the Employee
- Advise them ahead of time they may have a support person present
- Arrange professional assistance to be present at meeting
- Arrange professional adviser
- Discuss and ascertain action sought by Employee for each point of the Personal Grievance
- Document your questions and answers thoroughly

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Continue Investigation:

- Investigate any further matters arising from the meeting
- Seek professional assistance with investigation where necessary
- Interview and obtain a written statement from relevant other Employees
- Consider who else might be relevant to the investigation
- Interview and obtain a written statement from other relevant people
- Identify and secure any additional property or documents of relevance (electronic or physical)

Conclude and Summarise your Investigation:

- Complete a documented summary of your investigation covering each point raised in the investigation
- Document your decision for each point of the investigation

Second meeting with the Employee:

- Advise the employee of your findings and decision on each individual point
- Seek and ascertain Employee agrees with each individual decision
- Document the Employee's response to each point
- For any points not agreed to suggest to the Employee taking the matter to an independent mediator
- Document the Employee's response
- Request the employee sign notes of the meeting

Mediation Process:

- Apply for a free of charge Mediator via Employment Mediation Services
- Mediation can be completed via phone or emails without needing a mediation meeting
- Parties can meet with a mediator in a semi-formal environment
- If both parties agree, you can give the mediator the power to either make a written recommendation or binding decision.
- If the parties agree to a solution, this is legally binding and prevents the matter being taken to the Employment Relations Authority
- Both parties can choose to have representation throughout the mediation process
- All documents and any terms of settlement reached in mediation are confidential
- What happens in mediation cannot be used as evidence in the Employment Relations Authority or Employment Court

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Your Legal Obligations and Considerations:

- Employers must show good faith, doing things for good reason and using a fair process

Your Financial Considerations:

- Costs of engaging professional services
  - Lawyer
  - Private Investigator
  - Human Resource consultant
- Cost of your time
- Loss of production and earnings during this time
- Recruitment cost of replacement Employee
- Potential for Employment costs and fine

Your Media Liaison Considerations:

- Protecting and preserving your brand(s) is important
- Only authorised people to speak to the media
- Contact Mastercraft National Support Office for assistance
- Consider engaging professional public relations company
- Prepare a media release
- Closely monitor and filter all relevant social media activity
- Consider engaging social media specialist

Your Human Resource Considerations:

- What implications will this have on your customers
- What implications will this have on staff morale, culture and loyalty
- A potential loss of focus by other Employees
- A potential loss in productivity by other Employees
- Will a new staff member need to be recruited to perform the Employees functions?
- Some staff may require EAP (Employee Assistance Programme) assistance
- Potential for copy cat Personal Grievances within your business
- Result of Personal Grievance could set a precedent in your business

Your Business Continuity:

- Ensure ongoing work is completed in a timely manner
- Ensure professional positive media releases are issued, where required
- Be proactive in dispelling any false information
- Where necessary, recruit for replacement Employee

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Your Moral Obligations:

- Demonstrate good faith and a fair process at all times
- Act professionally and in the best interests of your business and staff
- Keep discussions and negotiations professional, fact oriented and free from emotion
- Keep staff updated regularly with accurate information
- for a fair and reasonable outcome for the Employee and your Business

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