Resilience through Leadership

Tools and Law for Employers to start creating better workplaces



Introductions

- Carren McDonald (LLB)
- Employment Law Specialist
- Working with small and medium size employers in manufacturing, service and construction who are facing employee and culture challenges.
- My focus is on supporting these employers to get a workplace they like going to and feel confident to make decisions for.

Roadmap for Talk

- Why resilient employers should rely on employment law

- Effective Policy Change - Three topics
  - Why can’t I just tell them what to do?
  - Planning for successful policy change
  - The (legal) process for implementing policy change

- Putting it all together: Vaping Example

What is a resilient employer?

An employer with the ability to respond well and adapt in the face of adversity and stress

The three defining factors of resilience

The person or business…

1. Can form an objective assessment of reality

2. Has strong purpose/meaning to carrying on

3. Will improvise with what is available to them and create options

The Resilient Employer

- Options for the workplace must be created with the law in mind
  - What do we want to do and how can we do it within the law?
  - Employment law has ALL the answers for working with employees

- Resilient employers are NOT businesses that are full of resilient employees. They are businesses that have the internal capability to adapt by way of its culture, policies, procedures and relationships.

Why can’t I just tell them what to do?



Employment Law and Contracts

- Employment Agreement Terms
- Employment Relations Act 2000
  - Good faith requirements
  - Fair and reasonable employer requirements

Good Faith

Reciprocal Obligations:

1. Communicative and Responsive
2. Active and Constructive
3. Cannot Mislead or Deceive

Additional Employer Obligation:

Consult when making changes that may negatively affect the employee's conditions of employment.

What is Consultation?

- Consultation is the presentation of information to the employee that is relevant to the decision you want to make. The employee is given an opportunity to comment on the information and possible outcome before you make a final decision.

- You (as employer) are entitled to have a working plan in mind when you enter this consultation – and you should, it’s your business after all

- The purpose is to check for better ideas or considerations you didn’t factor in.

Importance of consultation



Credit to: Tim Dodd, Everyday Astronaut

Available on Youtube ‘EverydayAstronaut’ and everydayastronaut.com



Consultation is important for confident decision making

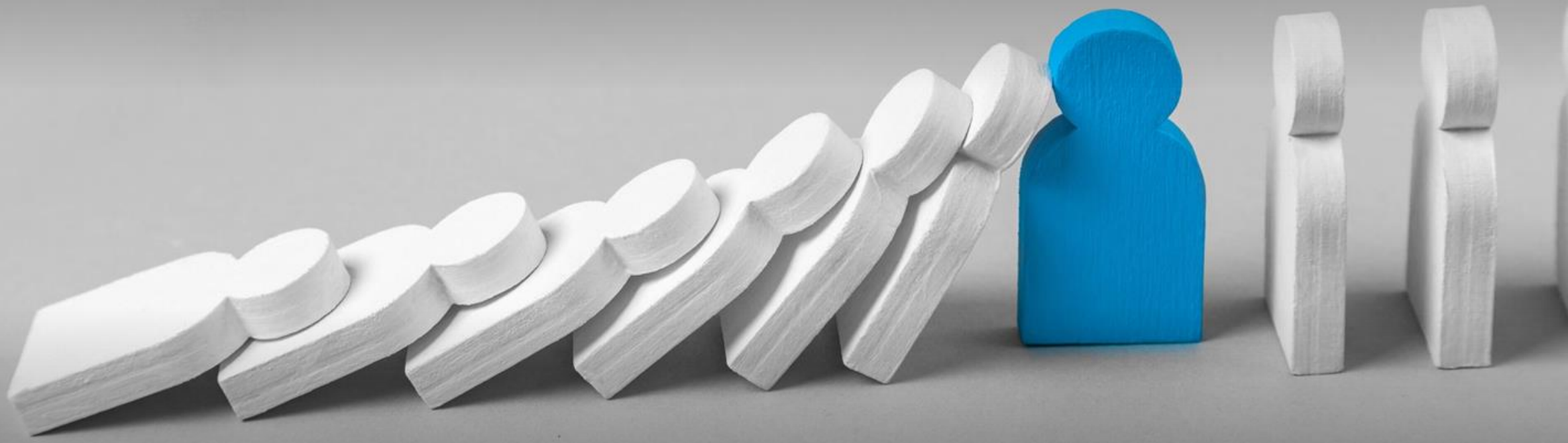
Planning for successful changes

Factors to Change Employee Behaviour

Three factors to Policy Change Leadership

1. The actual thing(s) that is changing
2. The employee mindset about the change
3. The legal requirements to change the expectation

Successful long-lasting change is about changing the work environment, practices, interactions and culture at the same time.



Four Factors to Employee Behaviour Change

There are four factors that you need to prepare for when making changes in the workplace:

1. Role Modelling
2. Storytelling
3. Training & Resources
4. Reinforcement

5 Step Consultation Process

- Investigate matter
- Specify the problem and provide relevant information
- Set a consultation meeting time or feedback period
- Consider the comments and feedback
- Make final decision

Completing a full and fair consultation process is essential



Employer C has a vaping problem…

Initial Response

- C approached some individual staff it had good relationships with to instruct them about eliminating personal phone use and vaping during work time. This went well.

- C anticipated more push back from the remaining vaping employees. HR drafted a policy and told C to consult with the remaining staff about the policy.

- C called a meeting to discuss the new policy with this group and was met with confrontational and aggressive resistance to the proposed change. The meeting did not progress well and eventually C closed the meeting with the staff threatening a mutiny if C tried to stop them from vaping during work time.

Three factors to Policy Change Leadership

1. The actual thing(s) that is changing
2. The employee mindset about the change
3. The legal requirements to change the behaviour

The actual thing that is changing

- What is the desired result and why?

Four factors of behaviour change

- What role modelling issues are there?
- What is the story our staff are telling themselves that lead to them thinking their current behaviour is okay?
- What training and resources have we provided to let them know this is not how they should behave?
- What enforcement has been taken in the past to prevent this behaviour?

The legal requirements to change the expectation

- Investigate matter
- Specify the problem and provide relevant information
- Set a consultation meeting time or feedback period
- Consider the comments and feedback
- Make final decision

And…. You must follow through with the plan! Do what you say.

C’s Second Consultation Plan

- Role modelling
  - talk about how other staff had accepted the limitations.
- Story telling
  - used a strong legal basis for requiring a change to the behaviour.
- Training and Resources
  - Proposed Policy document
- Reinforcement
  - Possibility of Theft of Time concerns – possible serious misconduct

C's 2nd Consultation Process

- Consultation
  - Used the same draft policy
  - Called a group meeting with the same employees
  - Spoke through the purpose of the policy and its effect
  - Asked for feedback, specifically from those who had challenged it at the last meeting.
  - Responded using the pre-planned behavioural change elements
  - Kept control of the meeting by providing space for answers and discussing them – keeping an open mind for something we had not considered.
  - Closed the meeting with a further timeframe for feedback.
  - After consulting with all staff, made decision to implement the no vaping during work time policy.

C's 3rd Consultation

- **Individual Consultation**

With those employees who were particularly affected by the proposed policy, C also took the opportunity to have a 1:1 consultation. This provided a chance for a more focused conversation about individual concerns and to work on their self story telling about the proposed change.

Personal Consultation

C talked about storytelling elements:

- elevating everyone to their potential which couldn't happen if people were deliberately working ineffectively.

- creating fairness in the team (between vapers and non-vapers) regarding payment for work.

- addressing the 'they are, so I can' mindset.

And

- allowed C to address personal health situations (relevant for smoking/vaping which is highly addictive and should never be discussed in a public forum)

References

- Three defining factors of resilient people. HBR Article: *How Resilience Works* by Diane Coutou.(2002)
- Starbase Tour with Elon Musk (Part 1) - Youtube Channel, Tim Dodd, Everyday Astronaut

Podcast I recommend for leadership

- Worklife with Adam Grant (also called Rethinking with Adam Grant)

Adam is an industrial psychologist who talks about how leaders and managers can improve their understanding of leadership, employment relationships and how to make a great workplace. He is based outside of NZ.