

TRIAL PERIODS – THE FIRST 90 DAYS

All employers in New Zealand can use trial periods for the first 90 days of a new employee's employment. Using a trial period allows the employer to terminate an employee within this period without the employee being able to take personal grievance action for unjustified dismissal.

Arguably, making sure you get the recruitment process right in the first place is a far better option than the trial period as a 'testing' period in which to determine the suitability of your new employees. That being said, trial periods can be very useful when your new employee doesn't work out in quite the way you had hoped and planned.



If you have a trial period clause in your agreement or intend to introduce one, here are a few considerations which you should be aware of:

- You can't include a trial period for an employee who has previously worked for you
- The employee should be given employment agreement containing the written trial period provision and are made aware of the trial period provision, before they start employment. They must be given the opportunity to take advice on the employment agreement, so it is not good practice at all, to present them with the employment agreement on their start day and ask them to sign it.
- Make sure the employment agreement with the trial period clause, is signed before the employee starts
- If you do decide to dismiss an employee during the trial period, the employee should be given notice of termination (or payment in lieu, as per the trial period provision)

If you do decide to dismiss an employee within the trial period, you are not required to give an employee access to information regarding the decision to dismiss or provide the opportunity for them to comment before the decision is made. Nor do you need to provide an employee with written reasons for termination where requested following termination. However, in the employment relationship, the duty of good faith applies and the case law to date suggests that because of this, if requested at the time, a reason for termination must be given.

This resource has been kindly provided by



If you have any questions, please call 0800 CHAMBER (0800 242 623).

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