

- Employment law changes
 - Trial Periods
 - Rest & Meal Breaks
 - Triangular Agreements
 - Domestic Violence
- Compliance issues
 - Curriculum
 - Premises & Facilities
 - Health & Safety (including safety checks, measles
 - Governance, Management & Administration
- Funding survival tips

September 2019

Recent Changes in Employment Law

- Trial Periods
- Rest and meal breaks
- Triangular agreements
- Domestic Violence

Employment Relations Amendment Act 2018

- Trial Periods
 - Can only be used by businesses with fewer than 20 employees
 - Still valid if entered into before 6 May 2019 (last possible date 3 August)
 - Can use probationary periods (take care, manage carefully – usual rules around termination apply)

Rest & Meal Breaks

2 - 4 Hours	4 - 6 Hours	6 - 8 Hours	8+ Hours
1x 10-min paid rest break	1x 10-min paid rest break	2x 10-min paid rest break	2x 10-min paid rest break
-	1x 30-min meal break	1x 30-min meal break	1x 30-min meal break
-	-	-	<i>further breaks in accordance with these rules for 8+ hours</i>

Rest & Meal Breaks

- Default timing rules

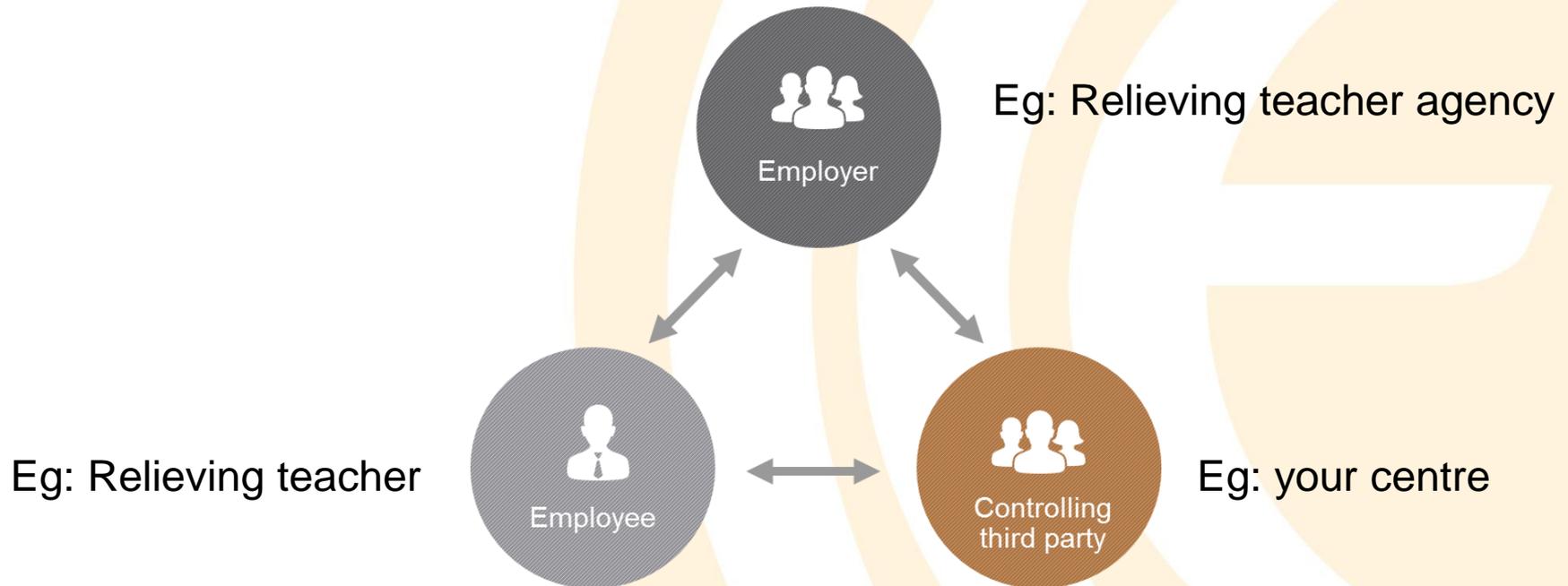
2 - 4 Hours	4 - 6 Hours	6 - 8 Hours	8+ Hours
Rest break in middle of work period	Rest break after one third of work period	Rest break halfway between start of work and meal break	Rest break halfway between start of work and meal break
	Meal break after two thirds of work period	Meal break in middle of work period	Meal break in middle of work period
-	-	Rest break halfway between meal break and finish of work period	Rest break halfway between meal break and finish of work period <i>further breaks timed in accordance with these rules for 8+ hours</i>

Other Changes

- Reinstatement restored as primary remedy for dismissal (must be "practicable and reasonable")
- Collective bargaining and union matters
- Part 6A changes ('vulnerable employees')
 - Exemption for employers with fewer than 20 employees removed
 - Time frame for employees to elect to transfer to new employer extended to 20 working days

Employment Relations (Triangular Employment) Amendment Act 2019.

- 'Triangular' employment relationships



Domestic Violence – Victims' Protection Act

- **Changes With Effect from 1 April 2019**
 - The Act gives employees affected by domestic violence the right to:
 - take at least 10 days of paid domestic violence leave. This is separate from annual leave, sick leave and bereavement leave.
 - ask for short-term flexible working arrangements. This can be for up to 2 months.
 - not be treated adversely in the workplace because they might have experienced domestic violence. This is discrimination.

- Works the same way Sick Leave works, ie: not available during the first 6-months of employment
- Employers should consider how they will implement these arrangements, including what systems and processes they will use for employees to make requests, who will receive and deal with those requests and process leave arrangements, and how employer obligations (including around providing information about relevant support services, and around privacy obligations) will be met.

Who can get domestic violence leave?

- Employees who have been affected by domestic violence can take paid domestic violence leave if:
 - they have worked for their employer for at least 6 months.
 - in those 6 months they have worked for at least an average of 10 hours a week. During this time, they must have worked at least either:
 - 1 hour each week
 - 40 hours each month.

How do they prove it?

- The Act expects both you and your staff to act in good faith. That means being open, honest and quick to respond
- The law does not state what kind of proof an employer can accept
- Examples of proof include:
 - letter or email about what's going on and how it affects the employee from reputable source
 - report from a doctor or nurse
 - a declaration – a letter of evidence witnessed by an authorised person like a justice of the peace
 - any court or police documents about the domestic violence.

10 Days Domestic Violence Leave

- You (the employer) can elect to provide more than 10 days if you wish
- let an employee take annual leave, unpaid leave or domestic violence leave-in-advance when they have used all their paid domestic violence leave
- Record all arrangements in writing

Short-term flexible working arrangements

- The employee must give these details in writing:
 - their name
 - the date they are making the request on
 - say that they are asking for short-term flexible working, as set out in Part 6AB of the Employment Relations Act 2000
 - what they want to change about their normal working arrangements
 - how long they want these changes to last – up to 2 months
 - when they want these changes to start and finish
 - how these changes will help them
 - what changes the employer may need to make to the employer's arrangements if they agree to the employee's request.

- You can refuse to give short-term flexible working arrangements to an employee, but you must give details in writing and explain the ‘non-accommodation grounds’.
- You can refuse a request only if you:
 - did not get the proof you asked for within 10 working days of getting the request
 - You cannot reasonably change working arrangements – using a ‘non-accommodation ground’.

- **Recognised business grounds or non-accommodation grounds**
 - Cannot reorganise work among existing staff
 - Cannot recruit additional staff
 - Negative impact on quality
 - Negative impact on performance
 - Not enough work during the periods the employee proposes to work
 - Planned structural changes
 - Burden of additional costs
 - Negative effect on ability to meet customer demand.

ECE Compliance Issues - update



August 2019

Curriculum

- We recommend a Curriculum Framework Policy, including:
 - How you do Te Whāriki at your place
 - How you measure and assess progress and establish learning/curriculum priorities
 - What your process is for providing positive guidance and social competence
 - Your centre's standard for Learning Stories, etc
- Must have a documented curriculum programme of your own
 - Starts with your Philosophy Statement
 - References Te Whāriki AND your Strategic Plan (values, etc)

Premises & Facilities

- Sleep area temperature monitoring
 - Use your sleep chart! Add a column, periodically record the temperature in the sleep room
 - Position thermometers at the level children are sleeping

Health & Safety

- Changes last year to the Fire Evacuation Regulations now mean plan approvals are taking 20+ days
- Maintain a good hazard and risk management plan
 - On staff and governance meeting agendas
 - Act on risks, check regularly
- Note hard foods, eg: apple, must be grated or otherwise suitable for the age of the children (choking issue – see the ECC's guidelines)

- Have an immunisation policy; include staff
 - If your centre has to close, the Ministry are working on an emergency funding option for you now and should announce this shortly
 - If your centre loses a number of children but does not have to close
 - Centres may claim funding for all sessions that a child was enrolled to attend, but was absent from, for a 3-week period beginning from the first day of absence.
 - In the event that the child's absence continues for more than 3 weeks, then apply for an exemption from the 3-week rule

- The parents should complete an EC13 form confirming that that the child is either ill with measles or must not attend because of their immunisation status. The service must also complete an EC12 form confirming the child's enrolment details and keep both documents on file to be made available to Auditors if required.

- Lockdown procedures (see the ECC's guidelines)
- Children's Act
 - Safety Checking

- New staff (since 1 July 2015)
 1. 2 forms of ID
 2. Work history
 3. Interview notes
 4. Referee(s)
 5. Professional memberships (Ed Council)
 6. Police Vet
 7. Risk Assessment

- Existing staff (prior to 1 July 2015)
 1. 2 forms of ID
 2. X
 3. X
 4. X
 5. Professional memberships (Ed Council)
 6. Police Vet
 7. Risk Assessment

NOTE:

- This includes Centre owners/Managers
- Police Vets are taking 20+ days

Safety checking non-staff

- The ECC recommends safety checking all adults working in your centre (paid or volunteer)
- Contractors working for another organisation
 - Eg: student teachers, relievers from an agency, regular contractors
 - Obtain a letter from the organisation that names the contractor, lists the safety check elements completed and the result

Children's Worker?

- **CA**

- A children's worker is a person whose work "*may or does involve regular or overnight contact with a child or children, and takes place without a parent/guardian of the child, or of each child, being present*"
- Work means paid, or unpaid as part of educational or vocational training service
- Regular or overnight contact means overnight, or at least once each week, or on at least 4 days each month.

- **Education Act**

- (If the person is NOT considered to be a children's worker, but...) they will, or may have unsupervised access to children, then they will need to be police vetted as the Education Act requires this (see sections 319D-FE)

NOT a Children's Worker; don't have unsupervised access to children? – NO SAFETY CHECK OR POLICE VET REQUIRED

Governance, Management & Administration

- Line up your Strategic Plan with the Regs/Licensing Criteria/ECE Funding Handbook/Te Whāriki
- Line up your curriculum programme and your appraisal system with your Strategic Plan and Te Whāriki
- Be clear about parental involvement and how

- Have a clear policy review process
- Show what government funding you receive and what you do with it
- Have a continuous quality improvement system in place that is part of the way your centre works, not something extra
 - Should have a monitoring framework in place so you know what you're doing well; what you're not and your plan to respond
 - This drives your service review/internal evaluation process

The new approach

- MoE – spot visits, compliance audits
- ERO – Assurance Reviews
- Heavy focus on a much more detailed compliance review
- Tendency to be “picky”
- Ask for regulatory reference if in doubt
- Call the ECC

ERO's new Quality Review

- 21 Quality indicators
- Available now for consultation
- Official launch 23rd September
- Key issues – ERO's capability and likely disparity between ERO and the Ministry, driven by government views of the moment

Compliance Library

- Check out this new feature on the ECC's website
- Contains “clarifications” from the MoE on a wide range of topics (to be published shortly)

Birth Certificates for Foreign Children	2017/08/21	Ministry would like to get a better understanding of the current situation so that we can consider opportunities to improve the sharing of health and development information. There are no visa or citizenship requirements for children under 6 in terms of attendance at ECE – all children under the age of 6 are eligible to attend and be funded to attend ECE regardless of their nationality, citizenship, visa status or financial status. This is because we believe that all children living in New Zealand should be able to access the great benefits that ECE has to offer. How services help children settle in when newly enrolled will vary and it will also depend on the service in which children are enrolling (eg it could be a service with special character). As you point out, all services need to ensure they are meeting the health, safety and well-being needs of all children attending. There is quite good information about helping children to settle in on our Parents portal (under your child at ECE, enrolling and starting your child), which could usefully be provided to parents/caregivers of children who are foreign nationals.
Building Cost	2018/10/16	No MoE advice available
Bunk Beds	2017/11/20	No bunk beds for children under the age of 9
Child Restraint	Regulation 56.III	treatment of children already prohibited the use of solitary confinement (along with guiding or controlling, subjecting to

Your Questions??



Manager Matters Briefing

Financial Tips



Funding Handbook Review

- Words not Content
- 50% ECE Rule
 - PR at all times every day while open
 - Essentially rostered/payroll 50% ECE qual
 - Can be sick/annual/other leave
 - Can be on lunch break/non contact
 - Can be out of centre on PD
 - For example, a centre with 10 Babies, 40 over 2
 - 3 must hold ECE qual
 - 3rd year training but not primary counts

Dropping Funding Bands

- Assumptions:

Under 2	2 Year Olds	20Hours
10	15	35

- 80%+ funding down to 50-79%
- Run Funding Summary report (InfoCare)
 - Use Over-Ride Rate option (similar in Discover?)

Funding at stake:

Funding		80%+	50-79%	Diff
Actual	Feb-May	\$268,393	\$240,497	-\$27,896
Advanced	Jul-Oct	\$216,166	\$193,705	-\$22,461
				-\$50,357

Things to think about:

- Four month average Target = 79.5%
 - Run Funding Hours report daily/weekly
- Discretionary Hours (adds 1-2%)
- Agency Reliever
 - $\$45/\text{hr} \times 40\text{hrs} \times 28\text{weeks} = \$50,400$

Your Questions??

