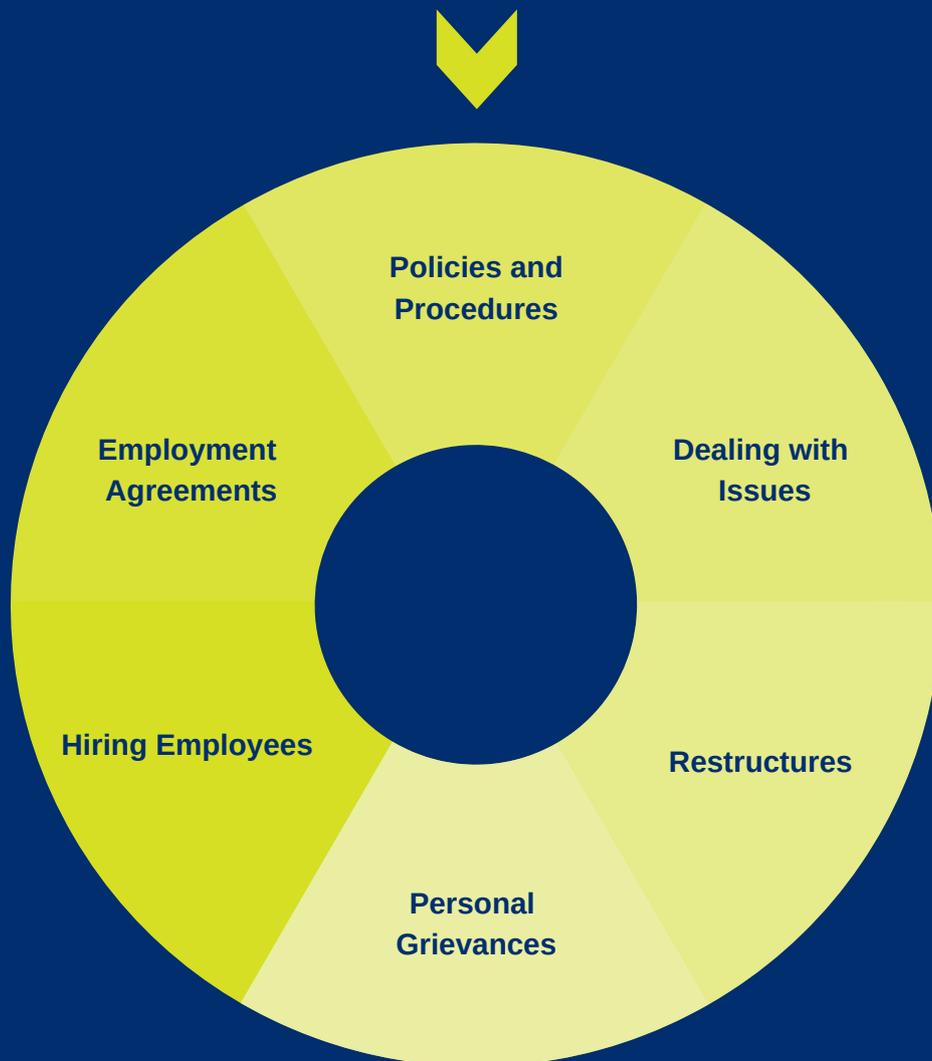


# 'Back to Basics' Employment Law Series

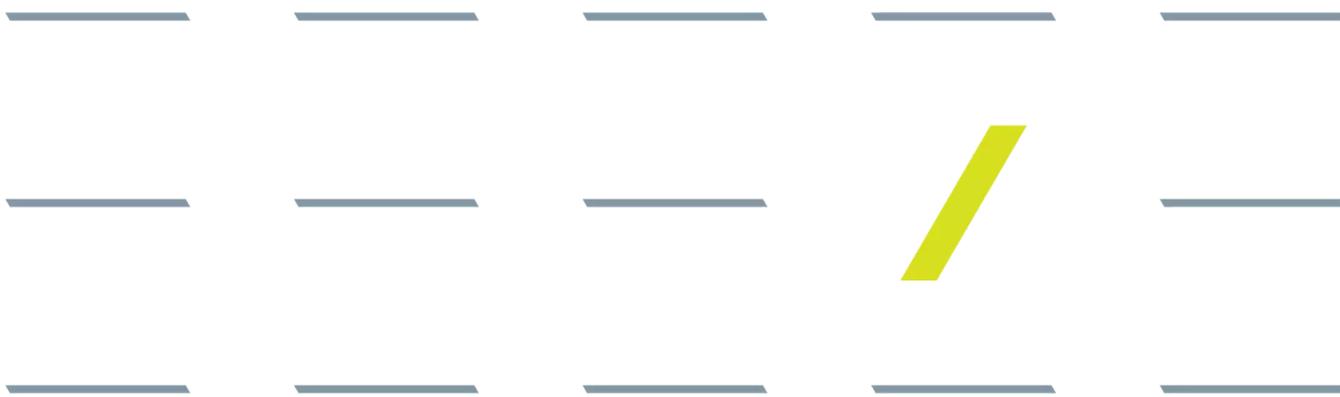
Edition Three: Policies and Procedures



# Edition Three: Policies and Procedures

Welcome to the third edition of our 'Back to Basics' series. In this edition we focus on company policies and procedures, and answer all of your frequently asked questions on the topic.

In a nutshell, policies and procedures are stand-alone written guidelines and rules set by employers that support employment agreements and ensure that employers and employees are on the same page when it comes to a particular part of the employment relationship. Breaches of policies and procedures can lead to disciplinary action for misconduct or serious misconduct, in the same way that a breach of an employment agreement would.



# So, do employers have to have workplace policies?

Technically, employers are not required by law to have any policies and procedures.

However, for workplaces that operate in a safety sensitive industry, it would be risky not to have a robust health and safety policy in place.

Beyond that, policies are not compulsory, but are good to have. One of the biggest benefits of policies is that they are simple to introduce, update, or even remove entirely.

In comparison, it is much harder and labour intensive to reissue new employment agreements every time that an employer wants to clarify something or introduce new rules to employees. Employment agreements also tend to be lengthy enough without recording policies and procedures within them.

## What policies and procedures should employers consider?

This depends on how each employer operates and the type of industry and business that they operate in. For this reason, we recommend that employers seek specific advice on what policies and procedures may be good for their business, as well as having their policies reviewed regularly to ensure that they remain fit for purpose and compliant with ongoing changes to employment law.

From a general perspective, employers should ensure that they have well drafted policies and procedures to cover any aspect of their business

which poses a risk of harm or may be ambiguous, or any area that they want to place additional emphasis on. Therefore, there are some general policies and procedures that we suggest for all businesses, such as a health and safety policy, and a policy dealing with bullying, harassment and discrimination. We also recommend a code of conduct as employers can use this to set general standards of behaviour and cover off a range of ad hoc topics.



# Some other policies and procedures that are worth considering are:



Drug and alcohol policy



Privacy policy



Social media policy



Company vehicle policy



Incentive schemes policy



Dress code policy



Progression policy



Training and development policy



Flexible working policy



Travel policy



Disciplinary policy



Diversity / Equal opportunity policy



Covid-19 related policies



Conflict of interest policy



Fraud policy / Credit card use policy



Recruitment policy

Whilst these are common policies, an employer can essentially create a bespoke policy to cover any part of its business. It is also important to understand that not all policies will be appropriate for all workplaces. For example, if employees do not regularly use company vehicles as part of their employment, then a company vehicle policy would not be necessary.

# What should a policy include?

Generally, a policy should explain the following:

The purpose of the policy

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Why the policy was developed

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Who the policy applies to

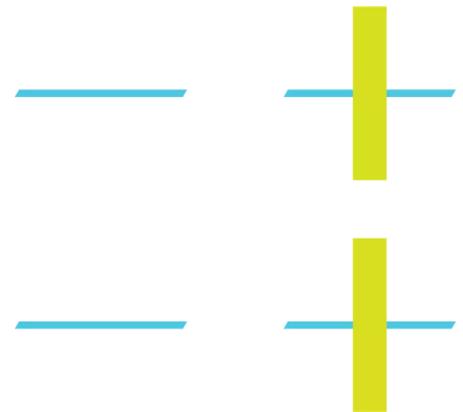
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What is acceptable or unacceptable behaviour under the policy

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The consequences for non-compliance under the policy

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# How do employers introduce new policies and procedures or change existing ones?

An employer should consult with employees when introducing new policies. This means that employers should provide draft policies and procedures to employees, give employees a reasonable amount of time to provide feedback on the proposed policy, and then genuinely consider all feedback before formally implementing the policy (subject to any changes that may be made as a result of the consultation process). The same process should be followed when varying or removing existing policies also.

In reality, a full consultation process may not always be required, and sometimes just advising employees of the change will be enough. In saying that, we recommend consulting wherever possible, and especially where new policies and procedures, or amended ones, will have a significant impact on the day-to-day role or behaviour of employees. For example, a drug and alcohol policy can impact significantly on an employee's privacy and personal time, and a full consultation process would be required before implementing such a policy.

Employers are also expected to make it known to employees that policies and procedures exist. There are a few different ways to do this, for example by providing employees with copies when they start their employment, or by showing new employees where to find company policies and procedures on their first day and providing them with time to read them. It is important that all company policies are easily accessible by staff at all times.

# How strictly should policies and procedures be applied by employers?

The answer to this is straightforward – when employers implement policies and procedures, they need to follow them. This is why it is so important to ensure that policies are fit for purpose from the outset and to regularly have them reviewed.

If an employee does act in breach of a policy or procedure, then a disciplinary process would need to be followed to investigate the breach and discipline the employee where necessary. A breach of a policy should be dealt with promptly, and according to any procedures set out in the policy. We will cover the disciplinary process in more detail in one of our upcoming editions.

In a leading case on this topic, an employer dismissed an employee for failing a drug test under its drug and alcohol policy. However, the employer did not follow its own testing procedures recorded in its policy. The Employment Court went as far as saying that a failure by an employer to comply with its own policy is *"likely to render a dismissal as unjustified"*.

# Summary

To end, we thought we would finish with some dos and don'ts when thinking about workplace policies.

Do	Don't
Think about your organisation's requirements	Assume that employees will know what to do and how to act in particular situations
Think about the workplace culture that you want to create or maintain	Introduce policies that aren't necessary for your business just for the sake of having policies
Think about any gaps or areas of the workplace that could be better clarified to employees	Hide policies away – they should be easily accessible to staff at all times
Think about the industry you operate in, and whether there are any commonly used policies in that industry	Introduce important policies without consulting with employees first



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