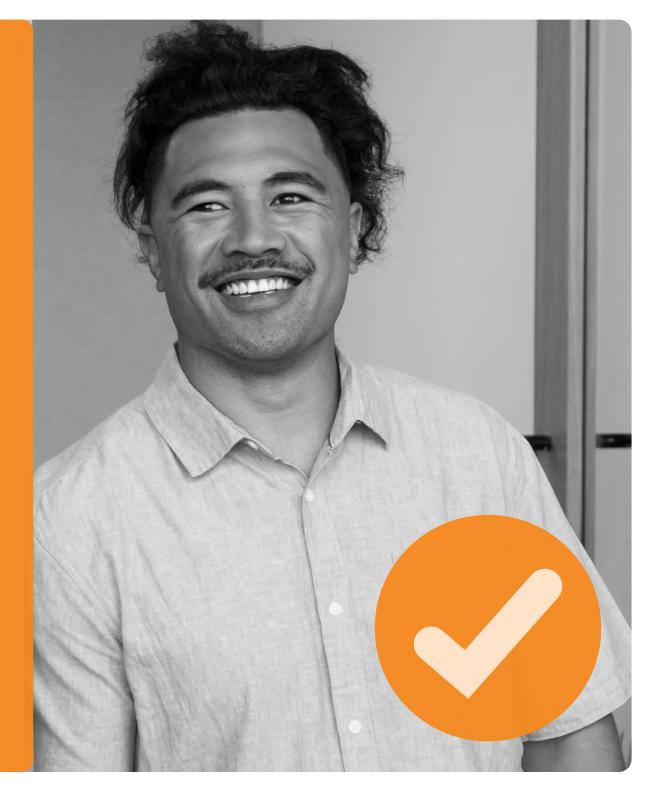**Ethical and sustainable work practices**

A guide for
Directors

April 2022

This guide helps you as a director understand ethical and sustainable work practices from a labour and human rights perspective. Find out what those rights are and why they are important for you.

EMPLOYMENT NEW ZEALAND

Ethical and sustainable work practices

A guide for **Directors**

Understand ethical and sustainable work practices

Today's consumers, employees, procurers and investors expect certain ethical standards. They increasingly want businesses to treat workers fairly, ethically and sustainably – not just their own workers but also the workers in the organisations they engage with.

New Zealanders are becoming more aware of exploitation and mistreatment of workers, especially of migrants, and do not want to engage with businesses that exploit their workers. When deciding where to shop, consumers consider how businesses treat their workers.

A 2021 Colmar Brunton survey found New Zealanders want fairer businesses.

> 59% of respondents wanted their future employer to be socially and environmentally responsible.

> 73% would stop buying from a company that was irresponsible or unethical.

What ethical and sustainable means

Having ethical work practices means treating your workers legally, fairly and with dignity. It includes providing safe working conditions and meeting or exceeding all minimum employment standards.

Sustainability means working in a way that meets the needs of your business or industry now and in the long term.

Exploitation, child labour, forced labour, human trafficking and slavery are the opposite of ethical and sustainable work practices.

> **Ethical and sustainable work practices**
>
> or go to www.employment.govt.nz and search for 'ethical and sustainable practices'

Why good work practices matter

Behaving ethically and sustainably is the right thing to do.

Good work practices help create a level playing field where those who meet employment obligations cannot be undercut by those who cut corners using unfair work practices. Good work practices can have a positive impact on customer goodwill, loyalty and demand for your goods and services. They can also help to attract and retain good workers. On the other hand, employment practices that are not legal, ethical or sustainable can hurt your reputation and brand. This could reduce your company's revenue, profit, financial viability and market value.

Businesses that have been penalised for exploiting or mistreating their workers are identified in publicly available information. The law fines and penalises these businesses, and prevents them from supporting visa applications from overseas workers for a specific period.

Ethical and sustainable work practices

A guide for **Directors**

Understand who a director is

You are a director if you have been appointed to govern an organisation's business and affairs.

Your duties will include:

› making high-level decisions about the direction of the organisation

› keeping records and filing statutory documents with the Companies Office or other agencies

› ensuring the organisation complies with all relevant legislation and legal obligations

› making sure your organisation and supply chain are ethical and sustainable.

Sione is a director of an investment firm. He helps to oversee the strategic direction of the business, setting its goals for the future. For instance, he has recently decided with the other directors that the business will aim to increase revenue by 5% in the next year.

Why ethical and sustainable work practices are important for directors

Directors must exercise reasonable care, skill and diligence, and uphold ethical standards in the organisation they direct. Ensuring that the organisation's managers are behaving ethically and sustainably is not only the right and legal thing to do, it is part of your responsibilities as a director.

You must ensure your organisation's work practices create a fair environment and make it harder for others to get away with unfair work practices. Unethical and unsustainable practices can hurt your reputation as a director.

If your organisation has a reputation as an ethical and sustainable employer, it will be more attractive to talented workers. For example, offering the living wage or more will help your organisation stand out in the job market and attract more skilled and talented workers.

Directors and other key people in an organisation can be held personally liable (responsible) for breaching employment standards under the Employment Relations Act 2000. Since 2016, courts have found directors personally liable several times and made them pay fines, penalties and other costs.

Your organisation may have responsibilities under Australian law too.

Sione knows consumers, workers and organisations are becoming more aware of ethical standards. He wants to make sure he stays on the right side of the law, and exceeds consumers' expectations. One day, Sione reads on a business news website about a director being fined for a breach of the Employment Relations Act. He decides it is time to ask some hard questions in his company.

Manage risk if you are a director

Start checking if your organisation has ethical and sustainable work practices by examining what your vision, mission and values statements say about how your organisation values and treats workers.

These statements set the scene for everything that happens in your organisation, so it is important that they are explicit.

These are questions that you can ask as a director, and the answers you can expect.

You can ask. . .	The answer should. . .
1. Do we have a code of conduct or policy outlining our expectations of how workers should be treated?	. . .include details of your organisation's code or policy about how workers are treated – ask for the most recent examples of these documents.
2. Does everyone in our organisation know our code of conduct? Have we shared our policy with important contacts, like suppliers and partners?	. . .include who you have told, when and how (including where they can find the information), and how you share policies with new workers and suppliers.
3. Do we regularly report on social sustainability, including fair treatment of workers?	. . .explain what you report, when and how – ask for the most recent example of the report.
4. Which areas in our operations and supply chain are most at risk of unethical and unsustainable work practices, such as breaching employment standards for New Zealand employees?	. . .include information that you have identified in a map of your supply chain or in a risk table. (A risk table compares how likely risks are with how severe their consequences could be. By clarifying the risk levels, risk tables help you make better decisions.)
5. Do we have systems and processes in place to identify and mitigate non-compliance?	. . .explain how you identify and manage risk, and how regularly you review systems and processes. The answer should also identify possible gaps.

Why a code of conduct or policy is important

A code of conduct tells workers what your organisation's goals, values and rules are. It can also empower workers to speak up if the code is breached.

Sione decides it is time to create a code of conduct. He thinks about the kinds of problems that an investment firm could run into and how to prevent them. One problem he knows other investment firms have encountered is accusations of exploiting graduates. He makes it clear in the code that workers can access a confidential 'whistleblowing' email address if they have a concern like this.

⊕ Create a code of conduct

or go to www.employment.govt.nz and search for 'Create a code of conduct'. Go to the search result 'Identify and minimise labour rights issues in your business'. In the middle of the page, you'll see a heading 'Developing the content of a code of conduct'.

How to identify areas of risk

Identify and assess risk in your supply chain

Your organisation should identify businesses, employers and suppliers across your supply chain. Identify labour rights risks in your organisation and the supply chain, and the actions you can take to mitigate them.

Examine the overall situation to identify risks. We cannot give you a formula but we have listed general examples of greater and lesser risks below. How they affect your organisation depends on your industry.

Examples of risks that could have a greater impact on your organisation

Risks that could have a greater impact on your organisation include:

› relying on a workforce with mostly migrant workers – they may not be as aware of their rights, which could mean they are reluctant to voice concerns

› relying on a workforce with a high percentage of young, old, female, or unskilled workers – these groups can have limited employment opportunities and may not be able to risk losing their jobs. This could mean they are reluctant to voice concerns

› supply chains with many layers of subcontractors – having oversight of all organisations involved will be harder.

Examples of additional risks that could have an impact on your organisation

› a non-unionised workforce – they may not be able to raise concerns collectively

› businesses with a head office in another country – they may be used to different standards

› high set-up costs for workers – a high level of personal financial investment (such as having to buy tools) may make workers reluctant to complain

› businesses or workers in isolated locations, or who do not work in an office environment – they may find it harder to know where to find information or what to do when they have a problem.

How to educate and set expectations

Directors can set standards by ensuring the company shares its code of conduct – this tells workers what your organisation expects.

Make workers and managers aware of their responsibilities and rights. Your organisation can offer work-based learning and development, such as encouraging them to do our free online courses (learning modules). Email us to create an administration account for the courses. An account will let you register, monitor and generate reports on workers' learning.

⊕ **Educate and train**

or go to www.employment.govt.nz and search for 'labour rights issues'

⊕ **Email employment.govt.nz**

or type 'employment@employment.govt.nz' into your email

How to report on social sustainability

Your organisation may be required to provide an annual report to your customers, shareholders and investors. Include information on topics such as the fair treatment of workers in the annual report, or in your corporate social responsibility (CSR) or sustainability report.

How to identify and minimise labour rights issues

Ensure your organisation is examined thoroughly from end to end and regularly audited, to identify possible gaps in systems and processes. Here are some steps to consider.

Plan ahead

Forecast what resources your organisation needs, such as numbers of workers, timelines and budgets.

Think about what you expect from suppliers. For example, what labour rights and environmental standards are important? State your expectations when you go to tender or ask for an expression of interest.

Think about how you can encourage the supply chain to show they are complying.

Manage risk through codes of conduct, audits and worker feedback

As a director, you can collect and analyse data from the processes below and from other relevant channels, so you always know how your organisation and supply chain are performing. In your code of conduct, set out and document the behaviours you expect for:

› business ethics

› employment practices

› treatment of workers (including employment standards and good worker conditions).

Explain what actions you will take if someone does not comply with your code of conduct.

Require suppliers to tell your organisation if the Labour Inspectorate investigates them. They should also report if the Labour Inspectorate, Employment Relations Authority or the Employment Court finds that they have breached any legislation.

Ask that auditors check if suppliers and their supply chains comply with employment law. We recommend third party or independent audits. If a full audit is not possible, ask suppliers for an annual report on their assurance systems, the issues they identified and how they solved them.

Survey workers to gather feedback and identify potential employment issues. A survey can be included in an annual audit, or used alongside it, to confirm its findings and identify areas to investigate.

Provide a hotline or a whistleblowing channel so workers can report employment issues to someone who can address them. Make the hotline or channel available any time, not just as part of a survey.

As well as offering the whistleblowing email address, Sione decides to survey the firm's workers every year. He knows that some people may feel more comfortable giving their opinions if their colleagues are doing it at the same time.

End-to-end assurance systems and processes

or go to www.employment.govt.nz and search for 'end to end'

Show you take social responsibility seriously

You can work towards certificates that prove your organisation makes a positive environmental or social impact. These include ISO 26000, Global Reporting Initiative, Integrated Reporting and B Corp Certification.

While it can be very time-consuming to gather the evidence needed for these certificates, talking to your management team or human resources department can help you find out what you need to know.

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sustainable
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Learn more and use our free resources

Resources on our website

If you are reading a printed version of this brochure, go to www.employment.govt.nz and search for key words.

To learn about...	...search for	What you'll get
Director's approach to assuring ethical and sustainable work practices	Directors approach to work practices	A web page
Identifying and minimising labour rights issues in your business, including creating a code of conduct and educating workers	Labour rights issues	A web page
Risk factors to manage	Risk factors to manage	PDF, 533KB
Employees' minimum rights	Minimum rights	A web page
Meanings of terms	Glossary	A web page

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