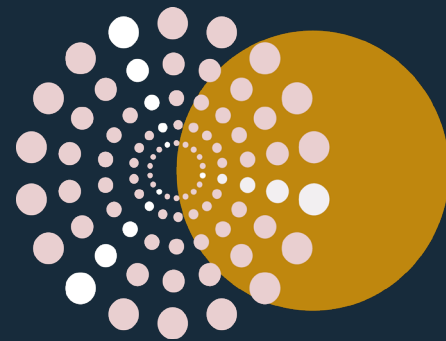


Restructuring guidelines



Step 1 - Notify employees of proposed restructuring

Hold a meeting with affected employees to notify them of the proposal. Communicate (in writing) the reasons for the restructuring, the information relied upon to reach that decision, details of the proposed new structure, the timing of the process, and the proposed selection criteria and process. Be sure to:

- Follow any applicable employment agreement and policies
- Ensure that there are sound business reasons for the restructuring and that it is supported by accurate and sufficient information
- Articulate the proposed outcomes and the reasons for the restructuring clearly and comprehensively
- Provide employees with the supporting information, and invite them to ask for more if they need it
- Provide key financial information if you are relying on financial performance to support the restructuring
- Provide draft job descriptions for new roles
- Be prepared to provide employees with all information relevant to the restructuring. While you can withhold information if you have good reason for doing so (confidentiality, privacy or unreasonable prejudice to your commercial position), the threshold is high
- If you do not want to provide certain information or documents, consider alternatives such as providing a summary or redacted document, and explain your reasons for refusing to disclose any information that has been requested
- Advise employees they can seek advice and have a support person/representative present at any meeting.



Step 2 - Consultation with employees

Employers must consult with employees before any redundancy proposal is implemented. Consultation involves listening to an employee's views on the proposal, considering their responses and then deciding what to do. Be sure to:

- Give employees a fair opportunity to express their views prior to making a final decision
- Invite employees to seek advice and involve a support person/representative
- Amend timeframes to accommodate any reasonable request for extensions of time - the process should not be rushed or prolonged
- Amend the proposal to take into account employees' feedback and consult on the amended proposal, as appropriate
- Be available and engage with employees during the consultation process to explain why their feedback has or has not been accepted.



Step 3 - Decision-making and notification of final structure

Notify employees in writing of your decision on the final structure. Include the feedback that was considered and explain why the final structure was chosen. Notify employees in writing if their position has been disestablished and be sure to:

- Talk to the employees whose roles are to be disestablished first and in person
- Ensure employees are supported and that you discuss ways of minimising the impact of redundancy on them
- If you want to pay notice in lieu, you should consult the affected employee
- Ensure that all contractual and statutory entitlements are met (eg notice, redundancy compensation, annual holiday pay)
- Document the terms on which employees are being redeployed into new roles and consider any contractual consequences (eg a technical obligation to pay redundancy compensation) and whether any new or special terms need to be agreed.



Step 4 - Redeployment

If a new position is created, you need to have good reasons not to appoint an employee who will otherwise be made redundant. The closer the new position is to the employee's disestablished position, the greater the responsibility and the scrutiny will be:

- In considering whether a position is sufficiently different to be a 'new' position, take into account the tasks, level and nature of the position, and the terms and conditions attached to it
- Consider the affected employee's job description, what they actually do in their job, and their skills and experience more broadly
- Consider offering redeployment (without a selection/appointment process) if an employee can do the job, even if some upskilling, reduced wages/salary or other changes are required
- If an employee does not have a realistic chance of securing the new position, or if you have doubts about their chances, consult the relevant employees on your views.



Step 5 - Selection for redundancy or new positions

Consult and be transparent with employees about any selection process, the selection criteria and weightings. When selecting employees for redundancy or to fill vacant positions, it is important to:

- Remember that good faith (including disclosure) obligations apply to selection
- Consider whether a selection process is even necessary. Can you simply consult and appoint?
- Give employees written job descriptions and person specifications for any new positions
- Use the selection criteria previously advised to employees
- Prepare selection documentation on the basis it may be seen by employees and third parties
- Ensure that decision-makers record their assessments appropriately
- Consult with unsuccessful employees and give them an opportunity to comment on assessments that are relevant to that decision, including negative assessments and comparisons with other candidates.



Step 6 - Ending employment

Notify employees in person and in writing if their employment is to be terminated, and be sure to:

- Discuss handover and farewell arrangements around their departure
- If you want to pay notice in lieu, you should consult the affected employee
- Ensure that all contractual and statutory entitlements are met (eg notice, redundancy compensation, annual holiday pay)
- Consider whether other support should be made available during the notice period or post-employment, such as outplacement services and counselling.



The key is to have sound business reasons for the change and to consult openly and in good faith about those. Restructuring processes are stressful, so devote time to the employees involved, and offer support throughout.

Senior national employment team



Emma von Veh
Partner, Wellington

DDI • 64 4 462 0801
M • 64 21 023 87981
emma.vonveh@buddlefindlay.com



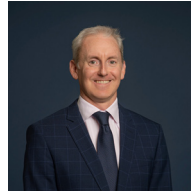
Hamish Kynaston
Partner, Wellington

DDI • 64 4 462 0439
M • 64 21 279 2147
hamish.kynaston@buddlefindlay.com



Helen Pryde
Partner, Auckland

DDI • 64 9 363 0706
M • 64 21 784 189
helen.pryde@buddlefindlay.com



Shaun Brookes
Partner, Christchurch

DDI • 64 3 371 3562
M • 64 22 612 5600
shaun.brookes@buddlefindlay.com



Sherridan Cook
Partner, Auckland

DDI • 64 9 357 1858
M • 64 27 545 9768
sherridan.cook@buddlefindlay.com



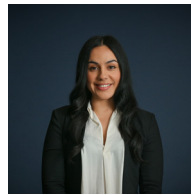
Peter Chemis
Senior Consultant, Wellington

DDI • 64 4 498 7339
M • 64 27 444 6619
peter.chemis@buddlefindlay.com



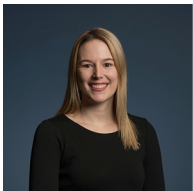
Eleanor Mishra
Senior Associate, Christchurch

DDI • 64 3 371 3546
M • 64 27 823 1208
eleanor.mishra@buddlefindlay.com



Hanna Tevita
Senior Associate, Wellington

DDI • 64 4 462 0836
M • 64 27 849 4315
hanna.tevita@buddlefindlay.com



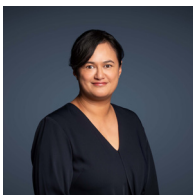
Jessica Taylor
Senior Associate, Wellington

DDI • 64 4 462 0859
M • 64 27 829 0799
jessica.taylor@buddlefindlay.com



Louise Robertson
Senior Associate, Wellington

DDI • 64 4 462 0817
M • 64 21 685 133
louise.robertson@buddlefindlay.com



Sianatu Lotoaso
Senior Associate, Auckland

DDI • 64 9 363 0771
M • 64 21 149 5226
sianatu.lotoaso@buddlefindlay.com



Tasha Ioelu
Senior Associate, Auckland

DDI • 64 9 363 0641
M • 64 21 129 8296
tasha.ioelu@buddlefindlay.com

**BUDDLE
FINDLAY**

buddlefindlay.com



AUCKLAND

HSBC Tower
188 Quay Street
PO Box 1433
Auckland 1140
New Zealand
P • 64 9 358 2555

WELLINGTON

Aon Centre
1 Willis Street
PO Box 2694
Wellington 6140
New Zealand
P • 64 4 499 4242

CHRISTCHURCH

The Regent
33 Cathedral Square
PO Box 322
Christchurch 8140
New Zealand
P • 64 3 379 1747