

Looking after yourself – a workshop discussion on issues which might affect you in your employment

**anderson
lloyd.**

Presented by Fi McMillan
Trans-Tasman Principals' Conference 2024



What we'll cover

1. **Legal obligations**
2. **Contractual obligations**
3. **Can my board... scenarios**

What do we share



- “Australian principals at breaking point”
- “Teacher shortages are a major cause of stress for principals”
- “I often work a 60-plus hour week and I still don’t get everything done”
- “It is simply unacceptable that over half of WA principals have been physically assaulted in the course of their work.”
- “Parents are the new bullies”
- “The Troll toll”

Legal obligations

Legal obligations

Education and Training Act 2020

Health and Safety at Work
Act 2015

Employment
Relations
Act 2000

Privacy Act
2020

The Code

National
Education
and Learning
Priorities

Collective
Agreements

Policies and
Procedures

NZ ERA – s4(1A) Good Faith

- The parties to an employment relationship must:
 - Do nothing to mislead or deceive
 - Be active and constructive
 - Be responsive and communicative
 - Maintain a productive employment relationship



Good Faith Australian schools?

Employers have a duty to act in good faith towards their employees, including providing a safe working environment, paying a fair wage, and providing reasonable notice before terminating an employee's contract. Failure to act in good faith can result in legal action and damages being awarded to the employee.

ERA – s 103A Test of Justification

Objectively, whether the employer's actions, and how the employer acted, were what a **fair and reasonable employer** could have done in all the circumstances.

- Various matters to consider include –
 - Whether, having regard to the resources available to the employer, the employer **sufficiently investigated the allegations** against the employee before dismissing or taking action against the employee; and
 - Whether the employer **raised the concerns** that the employer had **with the employee** before dismissing or taking action against the employee; and
 - Whether the employer gave the employee a **reasonable opportunity to respond** to the employer's concerns before dismissing or taking action against the employee; and
 - Whether the employer **genuinely considered the employee's explanation** (if any) in relation to the allegations against the employee before dismissing or taking action against the employee.

Good employer

- Must be fair and reasonable
- It will be held to a high standard
 - Heightened obligation on public sector employers
- Employees may raise a personal grievance

Some Australian stats?

National Survey into principal health and wellbeing

- The report, released today, reveals an alarming 47.8% of Australian principals triggered "red flag" alerts (generated when school leaders are at risk of self-harm, occupational health problems or serious impact on their quality of life) – a 64% increase from 2022.
- However, while more than 2,500 principals spoke to the researchers who conducted the study about the debilitating issues that are pushing their mental and physical health to the brink, [very few school leaders speak out](#) to their employers and are sadly, in most cases, left to suffer in silence.

Code of Conduct for Board Members

- Sets out **minimum standards** of conduct that each board member is required to meet. **15 total**, including:

Act with integrity	Actively promote a safe school environment
Respectful of fellow board members	Respect the process of collective decision-making
Treat the principal, staff, students and members of the community with respect	Take responsibility for ongoing development in role
Engage with community in sensitive and appropriate ways	Attend board meetings prepared
Use position responsibly	Meet statutory and administrative requirements
Identify and manage conflicts of interest	Be culturally responsive and fair

CODE OF CONDUCT

Promotes the highest standard of ethical behaviour for board members to follow at all times.

Ethics and integrity	<ul style="list-style-type: none">> Behave professionally and appropriately at all times> Act ethically, honestly, with integrity and:<ul style="list-style-type: none">• in good faith• in the best interests of the school and its students> Use care and diligence and do not:<ul style="list-style-type: none">• use information you learn as a board member improperly• take advantage of being a board member> Act as a representative of the school, in a way that will not discredit the school or its community
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The cost of losing a school principal (Save yourself the pain)



- Be clear about roles
- Create a governance culture that builds trust
- Select your Board carefully
- Regularly assess and communicate
- Set behavioural expectations for all parties

“Let us help our school principals prosper in their roles, rather than set them up for failure

Our children’s schools depend upon it.”

Contractual obligations

Clause 8.1.1 – informal discussions

8.1.1 - The following principles shall be used in addressing complaints, discipline and concerns regarding competence to ensure that such matters are, in the interests of all parties, **fully and fairly addressed**:

- a. Where such issues or concerns regarding competence arise, the Board shall initiate **informal discussions** with the principal in an **attempt to resolve the matter in an informal manner**. This applies following receipt of a complaint and/ or concern(s) being raised in relation to any of these matters. This will occur **prior to formally commencing a disciplinary or competency process**, unless the nature of the complaint or concern(s) is such that this would be inappropriate.
- b. **Questions of competence, conduct and discipline** should be handled in a manner which, as far as possible, **protects the mana and dignity of the principal** concerned. Principals may seek whanau, family, professional and/ or NZEI Te Riu Roa support in relation to such matters.

Clause 2.8 – health and safety and wellbeing

- a. The parties recognise the importance of ensuring **good and safe working conditions** through health and safety in the workplace and that it is a **mutual obligation** of the employer and principal to achieve this through a participative approach.
- b. To this end attention is drawn to the Health and Safety at Work Act 2015. This Act and other legislation, relevant Codes of Practice and Guidelines are reference points for gaining a common understanding of what those obligations are, what will assist in meeting those mutual obligations and also in promoting best practice.
- c. Where a **principal's health and safety is shown to be at risk** in the carrying out of their duties the employer shall take **all reasonable steps** as are necessary to **remove or minimise the identified risk** for the principal and if appropriate, to do so in consultation with the relevant health and safety authorities.

Can my board...

Can my board...



**Hand me a letter at 2pm, while I'm
teaching a class, saying they will be
suspending me?**



Can my board...



**Shout at me at board meetings, or
send me a list of 25 questions at lunch
time requiring a response before the
5pm board meeting?**



Can my board...



Formally investigate an anonymous complaint that has been sent to each board member individually?





Questions?

- | | | | | | | |
|-------|-------|-------|-------|-------|-------|-------|
| 1. A | 15. D | 32. C | 49. A | 66. D | 66. C | |
| 2. A | 16. B | 33. C | 50. A | 67. B | 67. C | |
| 3. C | 17. B | 34. B | 51. C | 68. B | 68. B | |
| 4. B | 18. A | 35. D | 52. B | | | |
| 5. A | 19. A | 36. B | 53. A | 70. | | |
| 6. D | 20. C | 37. A | 54. D | 71. | | |
| | 21. D | 38. C | 55. A | 72. | | |
| | | 40. A | 57. A | 74. B | | |
| | | 41. D | 58. C | 75. A | 75. | |
| | | 42. B | 59. C | 76. D | 76. B | |
| | | 43. B | 60. D | 77. A | 77. B | |
| | | A | 44. C | 61. A | 78. A | 78. C |
| | | A | 45. C | 62. D | 79. A | 79. C |
| | 29. C | 46. D | 63. B | 80. C | 80. D | |
| | 30. D | 47. B | 64. C | 81. D | 81. B | |
| 14. B | 31. A | 48. C | 65. B | 82. A | 82. C | |

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