



HITO Guide for Employers

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Who is HITO?

HITO is the New Zealand Hair and Beauty Industry Training Organisation. We help the barbering, beauty, and hairdressing industries get qualified.

HITO manage apprenticeships in hair and beauty. We also offer some advanced qualifications and a nail technology qualification. We help hair and beauty professionals at all levels, from beginner to experienced, get their national qualifications.

We make sure New Zealand has the highest standard of hair and beauty training and that the national hair and beauty qualifications create skilled, successful professionals.

Our goals are:

- a. Develop and strengthen quality standards and qualifications to meet business' needs.
HITO work with the hair and beauty industries to create relevant, up-to-date qualifications that meet industry needs. We connect with hair and beauty business owners and professionals in New Zealand and internationally to make sure New Zealand's hair and beauty qualifications are the best they can be. We know we're achieving these goals by an increase in apprenticeship numbers and trainees gaining their qualifications.
- b. Actively engage employers and employees in training and qualifications.
HITO want to see the number of employers and employees involved in training increase. We want to provide modern training tools, including online learning resources, that meet industry needs and keep up-to-date with any changes in training needs. We celebrate the success of our trainees and provide opportunities for them to grow.
- c. Support and promote the development of a professional industry.
We promote the value of a career in hair and beauty to the public, potential trainees, and customers. HITO work with the New Zealand Association of Registered Hairdressers, Beauty NZ, and other professional organisations to support New Zealand's hair and beauty businesses, workers, and trainees. We want to see the hair and beauty industries growing, with wages and business revenue increasing.
- d. Attract and retain highly engaged and diverse members, stakeholders and staff
HITO aims to be respected by and engaged with government. We work to attract and retain top quality staff, management, and board members, and we reward staff achievement. HITO offer a membership programme and work to communicate with and empower the hair and beauty industries.
- e. Have a sustainable financial base, with growing income, robust infrastructure and resources
HITO work to make sure we have the financial resources to provide the services our industries and government need. In return we hope to see financial support from government and the hair and beauty industries. We want to be financially stable with room to grow.

What is an apprenticeship?

An apprenticeship is on-the-job training that leads towards a qualification.

The apprentice is employed and paid by a business. They work with a qualified trainer in their workplace to learn all the skills they need to become fully qualified and commercially viable.

An apprentice is a valuable part of any business. They can assist with entry level tasks, freeing seniors to perform more profitable tasks. An apprentice allows you to train the staff member you need from scratch and helps grow your industry by producing highly qualified, commercially successful young professionals.

Apprenticeships take 3-4 years with apprentices starting with basic skills and working their way up. They train with a qualified trainer.

Hairdressing and barbering apprentices also attend off-job training organised by HITO. This training takes place at their closest hairdressing or barbering school.

Beauty Therapy

Beauty therapy apprenticeships take about three years. The apprentice is paid to work and train on the job with a qualified trainer. Beauty therapy apprentices learn about manicure, pedicure, waxing, facials, makeup and other beauty therapy skills. All the learning happens in the workplace. A beauty therapy apprentice works towards the New Zealand Certificate in Beauty Therapy Level 4.

Barbering

A barbering apprenticeship takes about three years. Barbering apprentices learn on the job but also attend training outside work for a few days a year. They work and train with a qualified barber, learning basic reception and customer service skills first. Barbering apprentices usually start cutting hair quite quickly. They learn about wet shaving, beard shaping, cutting and blow waving hair. A barbering apprentice works to achieve their New Zealand Certificate in Commercial Barbering Level 4.

Hairdressing

A hairdressing apprenticeship takes about four years. A hairdressing apprentice works and trains with a qualified trainer in a salon. They also go to training outside work for the first three years. Starting with basic skills like customer service, they go on to learn more advanced skills including cutting, colouring, perming and styling skills. A hairdressing apprentice gains their New Zealand Certificate in Hairdressing (Professional Stylist) Level 4.

What's involved in apprenticeship?

For the employer

Your apprentice does most, if not all, of their training in your business. Before you hire an apprentice, you need:

- a qualified person to train and supervise your apprentice. They need to hold the same qualification that the apprentice is working towards (or equivalent). The trainer will be given a Training Manual
- the tools and equipment your apprentice needs to learn every skill involved in their qualification. You can find a full list on the Training Agreement
- the time to commit to an apprentice. An apprentice should work 20-30 hours per week in your business. They need regular training and supervision during that time. As they move through their apprenticeship, they can do more tasks without supervision. The more time you can commit to training, the more useful your apprentice will be.

For the apprentice

An apprentice's training starts with basic customer service skills, like greeting clients and preparing them for services. Once they can perform these tasks, they move on to more complicated tasks.

Hairdressing and barbering apprentices attend training outside of work, but beauty therapy apprentices do all their training at work.

Apprentices receive a Training Record Book, and their trainer receives a Training Manual. Beauty therapy apprentices also receive a series of training modules. A qualified trainer teaches the apprentice the skills described in these manuals and signs off on each task once the apprentice can perform it to the standard required.

Apprentices sit assessments for each task. For beauty therapy apprentices, that means an assessor visits them in the salon or they fill out a worksheet and send it to HITO for marking. Hairdressing and barbering apprentices sit their assessments at a local training provider. HITO will organise this.

Barbering and hairdressing apprentices also sit final assessments. Once they complete these assessments, they are fully qualified. Beauty therapy apprentices sit major assessments at the end of each year.

An apprenticeship involves learning and practicing skills in a real workplace. They start building their career from day one.

An apprenticeship takes up to 4 years, depending on the industry.

The benefits of an apprentice

1. An apprentice can perform administration tasks, freeing up senior operators - helpful at Christmas and other busy periods when there is lots of administration work to do. Your apprentice can greet clients, manage stock levels, and answer the phone.
2. You know their skills are up to scratch. Because you or your trainer supervise every skill the apprentice learns, you know your apprentice can perform tasks to the standard you need.
3. You know exactly how much they will cost you. If you hire new staff, you may have to retrain them to meet your standards. Retraining staff adds unexpected costs that might not fit your budget. Apprentices receive a training wage as a minimum, which is 80% of the adult minimum wage.
4. An apprentice will learn exactly how your business functions. They will know the clients and systems before they start offering services. Also, clients are more comfortable with them.
5. You can fit more services into your schedule. An apprentice can greet clients, prepare them for services and clean up afterwards. Because senior operators don't have to worry about these tasks, they can fit more services into their day.

We asked the NZIER to research the benefits of apprenticeship, and the results speak for themselves. Of the salons surveyed, all of them had a positive return on investment (ROI) after two years' of training an apprentice, and nearly half had an ROI after one year. The longer an apprentice stays, the greater the financial benefit to the salon.

Costs and payments

Every HITO trainee pays \$30 per week towards their training (unless they are completing Qualification by Experience). This payment comes as a direct debit from the employers account, and the employer should arrange with their trainee to take this amount from their salary. Employers are welcome to make other arrangements if they choose, as long as the weekly payment comes to HITO from their account.

Current trainees are being moved onto the new system, and may pay a different amount toward their training for 2017 as a result. On 1 Jan 2018, they will move to the \$30 per week system.

Qualification by Experience

Qualification by Experience fees are based on the amount of experience a QbyE applicant has.

Hairdressing

- **5 years' experience** - \$990
- **10 years' experience** - \$750
- **15 years' experience** - \$650
- **ipsn or other overseas recognised qualification** - \$650

Barbering

- **3 years' experience** - \$990
- **5 years' experience** - \$650
- **10 years' experience** - \$450
- **Overseas recognised qualification** - \$450

Beauty therapy

- **5 years' experience** - \$990
- **Overseas recognised qualification** - \$450

International (work visa)

All applicants in New Zealand on a work visa pay \$2000.

The Training Wage

New Zealand has three minimum wage rates:

1. the starting-out wage
2. the training wage
3. the adult minimum wage.

Employers must pay at least the starting-out wage to 6-19-year-olds who undertake at least 40 credits per year of industry training.

Employers must pay at least the training wage to anyone 20 or older who undertakes 60 credits per year of training. If you intend to pay your trainee these wages, reassess this at the beginning of each year to make sure they're still eligible.

For example:

A hairdressing apprentice in their fourth year of apprenticeship only completes 50 credits. If the apprentice is under 20 years of age, they're still eligible for the starting-out wage, as they are completing at least 40 credits in that year. However, if they are over the age of 20, you must pay the adult minimum wage as a minimum, as they will not complete 60 credits in that year.

Both the **starting-out wage** and the **training wage** are always 80% of the **adult minimum wage**.

As of 1 April 2017:

- The adult minimum wage was \$15.75 per hour.
- The training or starting-out wage was \$12.60 per hour.

The minimum wages are the minimum that employers must pay. Employers should consider paying more to represent the learner's growth in skills and productivity as they develop during their training and to encourage staff retention.

N.B: Employers must pay employees at least the adult minimum wage once their training agreement has ended.

You can find more information on wages and other employment conditions from the Employment New Zealand website.

<http://employment.govt.nz/>

Gateway

The HITO Gateway programme gives secondary school students the chance to experience a career in barbering, beauty, or hairdressing.

Gateway students work one day per week in your business. You can take on as many Gateway students as you like, but students need guidance and help on what to do and have the equipment they need. They are supervised while at work, and a qualified person needs to sign-off on each task the student learns.

You don't employ or pay your Gateway student. They are there for work experience, and there is no cost to the salon.

The benefits for employers

You can 'try before you buy'. If your Gateway student fits in, they're the perfect choice to be a new apprentice.

Students can work on basic tasks such as creating displays, helping senior staff, and keeping the workplace clean and tidy, which frees others to perform more profitable tasks. You have the chance to train young people and prepare them for a career in hair or beauty. You get to share your knowledge and passion.

Finding a student

Schools in your area will know of students looking for placements. You can also ask HITO. We have a database of schools interested in Gateway.

Gateway programmes we offer

Hairdressing (Year One and Year Two)

There are two hairdressing Gateway programmes - Year 1 and Year 2. Students who complete both years will have completed some of the units that make up the first year of a hairdressing apprenticeship. Students learn customer service, colouring, product related knowledge, and other entry-level salon skills. They will spend 1-2 days per week in the salon.

Barbering (One Year)

Barbering is one year in duration and students spend 1-2 days in the barber shop. Students learn customer service and communication skills, basic barbering skills such as caring for equipment and preparing a client for a service.

Beauty (One Year)

Beauty is less than a year in duration and students usually spend 10 days in a beauty clinic (one day a week). Students learn how a clinic is run, how a beauty therapist works, and how to be a successful employee. They assist with basic treatments, and learn the benefits of these (and other) treatments.

Other programmes HITO offer

Advanced Cutting

The Advanced Cutting programme helps qualified hairdressers develop their cutting, presentation, and research skills. Trainees learn advanced cuts and styles, platform presentation, creating a portfolio and identifying cutting trends. It helps hairdressers keep learning after they've qualified.

The qualification takes six months to complete and costs \$750.

The New Zealand Certificate in Hairdressing (Advanced Cutting) Level 5 is available to any hairdresser who holds their New Zealand Certificate in Hairdressing (Professional Stylist) Level 4.

International Certification (ipns)

The ipns is the International Professional Standards Network. The network includes New Zealand, Hong Kong, Australia, Canada, and Japan.

The network offers a certificate to qualified hairdressers, beauty therapists, and nail technicians who hold the highest-level qualification in their industry (Level 4 for hairdressers, Level 5 for beauty therapists, and Level 3 for nail technicians) and one year's experience as a senior operator. The certificate identifies that their New Zealand qualification is equal to the hair and beauty qualifications in other countries in the network.

It costs \$80 to apply for the ipns certificate. This cost is included in the HITO fees for hairdressers.

Nail Technology

The National Certificate in Beauty Services (Nail Technology) Level 3 covers all the skills you need to be a commercially successful, technically skilled nail technician.

Nail technology trainees work in salon environments (nail or hairdressing salons). They learn different practical skills, including manicures, pedicures, nail art, gels and more. HITO also organise for nail trainees to attend a week-long block course in their area.

There are several reasons to gain a nail technology qualification:

- You can expand the services your salon offers and increase revenue.
- You can meet council regulations.
- Grow your staff and reassure your clients about the quality of service in your business.

The nail technology programme costs \$2000 and takes 14 months to complete.

Qualification by Experience

QbyE is for experienced barbering, beauty, or hairdressing professionals who don't have a qualification.



QbyE converts the experience and qualifications the applicant already has into a New Zealand qualification. It's easy, quick, and completely confidential.

New Zealand Citizens or Permanent Residents complete the standard QbyE process. This takes 1-6 months, depending on their level of experience. As mentioned in the payments section, the cost varies depending on how much experience they have, from \$450-\$990. HITO currently have programmes for hairdressing, barbering, and beauty.

Hairdressers, barbers, and beauty therapists in New Zealand on a work visa pay \$2000 for our QbyE Express process. This takes 1-3 months and costs \$2000. International hairdressing applicants need at least 7 years' experience and international barbering and beauty therapy applicants need at least 5 years' experience.



Membership

We consult with our industries through our members, keep them up-to-date and invite them to take part in our meetings. Member benefits are:

- **Forma magazine:** All members receive a printed copy of our magazine.
- **E-Forma:** E-Forma is our weekly e-newsletter.
- **Attend the AGM:** This member-only event is a review of HITO's progress over the last year.
- **Vote at the AGM:** HITO Employer Members can vote on changes to rules, new Board members and submit motions.

Anyone can be a member of HITO.

Membership	Who	Cost per year
Employer	A company that employs people in our industries. Includes sole business operators.	Free for employers who have a HITO training agreement. \$100
Trainee	A learner signed into a HITO training agreement.	Free
Student	A student enrolled in an industry course at a training provider.	\$10
Employee	An employee or contractor that provides industry services.	\$30
Association	An incorporated, not-for-profit organisations in our industries.	\$100
Education	An educator or training provider organisation.	\$100
Corporate	An organisation that supplies products and services to the industries e.g. a product company	\$100
Individual	A person interested in our industries or in HITO.	\$100

Joining is simple.

- Email members@hito.org.nz for an application form
- Fill out the form and return it to HITO.
- Pay your membership fee – if there is one.

We'll then process your membership and send you a welcome pack.



HITO Next Generation Talent Awards

The HITO Next Generation Talent Awards are part of the annual Industry Awards, which take place each year in association with the New Zealand Association of Registered Hairdressers and Kitomba Salon Software. The HITO Next Generation Talent Awards are open to anyone who is involved with HITO. This includes HITO apprentices, businesses who train HITO trainees, and those who provide off-job training for HITO.

The awards celebrate commitment to training and qualifications in the hairdressing, barbering and beauty industries.

Apprentice of the Year

The Apprentice of the Year award goes to the best “all-round” hairdressing, barbering, or beauty therapy apprentice. The apprentice should show commitment to their training and the desire to improve in all areas. Each of the seven HITO regions will have their own regional winner. One national winner will be picked from the seven regional winners.

Training Workplace of the Year

The Training Workplace of the Year goes to a hairdressing, barbering, or beauty business that offers exceptional training to HITO trainees. The business must show a strong commitment to training and qualifications and have an excellent record of training success. This award acknowledges a business that offers excellent training.

Trainer of the Year

The Trainer of the Year award goes to an exceptional industry trainer who trains HITO trainees. This Award is open to trainers in hairdressing, barbering and beauty businesses, including commercial product company trainers who have worked with HITO trainees. It acknowledges an individual who offers excellent training.

Tutor of the Year

The Tutor of the Year Award goes to a tutor in hairdressing, barbering, or beauty involved in training HITO trainees. The award recognises the tutor’s exceptional industry knowledge, commitment to training and qualifications, and their personal achievements in their industry.

Jasmine McBeth Memorial Scholarship

HITO and the Jasmine McBeth family set up this scholarship to recognise Jasmine’s passion, motivation and dedication to the hairdressing industry before she passed away in 2007. The scholarship is offered annually to someone with the drive, passion, motivation and dedication to succeed in their apprenticeship and hairdressing career. This scholarship is only available to those in a hairdressing apprenticeship.

Learning

How adults learn

Knowing how people learn will help you train them. People learn best when they:

- know why they are learning something.
- are learning something that is relevant to them.
- can use what they are learning straight away.
- have opportunities to learn things themselves, including by trial and error.
- feel responsible for and involved in their learning.
- are motivated to learn.

Remember, each learner will have a different level of knowledge before they start. You need to be aware of what they already know and what they still need to learn. Resources like the Training Manual will help you figure this out.

Learning styles

There are three styles of learning: auditory (hearing), visual (seeing), and kinesthetic (hands-on). People usually use a combination of all three learning styles, but you may find that your apprentices and trainees prefer one over the others.

Visual learners:

- like to see things, including reading
- will often ask you to show them
- will often say “OK I see” or “Can we look at this bit?”

Activities

- Show the apprentice or trainee the task, the equipment or a picture of the equipment as you talk about it.
- Give apprentices/trainees handouts with pictures or diagrams to help them understand and remember.
- Get apprentices/trainees to write down, draw a diagram or write notes on a diagram of what you have just shown them.
- Use visual words like show, see, look, picture, visual, read.

Auditory learners:

- prefer to listen and talk about things
- will ask you lots of questions
- will often say “It sounds like I need to do this...”

Activities

- Explain each step carefully.
- Ask the apprentice or trainee to tell you what they have just heard you say.
- Encourage questions e.g. “What parts do you think you understand well?”, “What parts do I need to go over again?”

- Use auditory words like sound, hear, talk through, listen, and tell.

Kinesthetic learners:

- like to touch and do things
- are usually keen to try things out
- will often say “So is this what I need to do?” or “I’m getting the feel for it now.”

Activities

- Give the apprentice or trainee plenty of opportunity to touch or, if it is safe, practise doing the task.
- Walk around the actual equipment you are discussing.
- Get them to do tasks as soon as possible.
- Let them learn by trying it out.
- Use words like touch, feel, do, hands-on, have a go.

Staff Induction

A thorough induction is important for any staff member, but particularly for an apprentice. An apprentice is brand new to the industry, so their induction should be clear and thorough.

Give your apprentice a well-planned and structured induction to your salon, barbershop or beauty clinic. A good induction will leave your new apprentice with a clear understanding of what is expected of them and what they can expect of others at work. A thorough induction will confirm their decision to join your workplace, give them a sense of the culture there, reduce staff turnover and provide you with a better understanding of their strengths and career aspirations.

We recommend covering off these points during an induction:

- A description of the business, its goals and strategies, and how the apprentice fits into the overall picture.
- The terms of employment including the Training Agreement, the probationary period, and the conditions of employment including their employment contract.
- A review of the Training Plan to clarify what your apprentice needs to achieve.
- An overview of the important work rules and work conditions.
- Wages, including how much they will receive and when and how it will be paid.
- A tour of the workplace and facilities.
- An introduction to the other team members, explaining what their role is.
- Grievance procedures including who to contact and what to do.
- Leave provisions including annual leave, sick leave, and other leave.
- Information on the organisation's policies and procedures.
- Occupational Health and Safety training and procedures.

The new apprentice's views of the business are strongly influenced by first impressions. Maintaining a positive view is easier than altering a negative one, so make sure your induction is well planned and seamless.

Training expectations

An apprentice does most of their training in the workplace and work through the training resources they receive from HITO, with the help of their trainer.

The trainer is usually one person who is a senior operator with one of the following national qualifications (or equivalent):

- Beauty Services (Beautician) Level 4.
- Hairdressing (Professional Stylist) Level 4.
- Barbering (Level 3).

The trainer organises training in the workplace, helping the learner stay on track with the skills they need to learn. They supervise the apprentice as they learn, signing their Training Record Book.

An effective trainer:

- provides a safe and supportive workplace.
- integrates learning tasks into work activities, based on a plan.
- acts as a role model.
- meets with HITO and the apprentice regularly to make sure that the training is working and to review progress using the training plan.
- manages the apprentice training needs and motivation.
- helps the apprentice develop problem-solving and general employment skills.
- provides regular feedback and encouragement.
- promotes independence and self-direction in learning.
- maintains records of progress.

The trainer is also responsible for:

- liaising with the HITO Sales and Liaison Manager about training.
- monitoring the apprentice's progress.
- giving clear instructions and guiding the apprentices
- giving constructive feedback
- keeping track of the progress in the Training Record Book and following the Training Plan created with the help of the HITO Sales and Liaison Manager.
- helping their apprentice engage in training.
- supervising the apprentice while they learn each new task. Once they understand the task properly, and they have the required number of signatures in their Training Record Book, they don't need supervision anymore. The longer your apprentice trains for, the more tasks they can complete on their own.

Training doesn't always go perfectly, so if you have any issues, the following may help:

- Remain calm and provide open and honest feedback to the learner.
- Keep their age and inexperience in mind, and give them a second chance.
- Intervene as early as possible to get a problem solved.
- Remember their employment and personal rights.
- Treat learners with respect and dignity. Apprentices have feelings too.



An apprentice is a real asset to any business. Like any other staff member, if you put in the effort to train and support them, they'll become a valuable member of your team.

Training tips

Apprentices and trainees need a workplace where learning is encouraged through high-quality training and support.

There are several factors that influence effective learning in the workplace. For example:

- The presence of a learning culture.
- Support and acknowledgement of the importance of training.
- Structured training and tracking of trainee progress.
- Time devoted to training.
- Incentives to learn.
- Support for trainees.
- Acknowledgement of different trainee needs.

Develop a formal training plan

A formal training plan boosts training success. Each business will have different training needs, so think about what will best suit both your business and your learner. There are several things each plan should include:

- Dedicated time for training. This might be one morning per week, or on Monday's when you are closed.
- A description of the skills your learner needs to learn and when they need to learn them by. If they are on track with their Training Plan, then the plan is working.
- A list of the resources needed for training e.g. equipment, products, tools and clients.
- Identify skilled staff who can support the learner while they train.

Learning styles

By getting to know your learner, you'll figure out which style suits them best – visual, auditory, or kinaesthetic. You can then tailor their training to suit their learning style. You will also need to consider their personality, culture, and ethnicity. Work with them to train them in a way that works for both of you.

A learning culture

A learning culture in your workplace will help everyone learn and improve. Some ways to introduce or improve your learning culture include:

- promoting strong communication and collaboration between team members.
- structuring your processes around helping employees learn.
- working with other groups e.g. customers to encourage their participation in helping your staff learn.
- giving your staff the opportunity to contribute to changes in the business.

Characteristics of a business with effective training

Clear training policies that identify the value of learning and learners.

- More satisfied clients and repeat business.
- Increased salon revenue.
- Good team work.
- Motivated and skilled staff.
- Enhanced staff morale.
- Higher staff retention rates.

A positive working environment.

Remember that the workplace trainer plays an important role in supporting and facilitating the learning culture of a workplace.

Resources

HITO provide a variety of resources for HITO employers. You receive access to all these resources when you sign-up an apprentice.

Training Record Book

Every HITO apprentice receives a Training Record Book.

The Training Record Book contains the details of every unit standard an apprentice must complete to gain their qualification. The unit standards cover a different set of skills and are divided by year, level and then organised numerically within each year.

The Training Record Book helps employers and apprentices keep track of the apprentice's training. Each page explains what the unit standard is about and some come with extra activities to help the apprentice learn each skill.

The apprentice must complete each skill under the supervision of a qualified trainer. Each time the apprentice completes a task successfully, their trainer signs the training record book. Once all the signature boxes are full, the apprentice is ready for assessment. HITO will organise the assessments.

Only a qualified trainer can sign the Training Record Book. Anyone who is qualified and intends to supervise the apprentice needs to sign the Specimen Signatures page at the front of the book.

Our HITO Sales and Liaison Managers visit apprentices throughout the year. Every time they visit, they will look at the Training Record Book. That way, the HITO SLM can be sure the apprentice is progressing through their training.

Once the apprentice achieves every unit in their Training Record Book, they will be fully qualified.

Training Manual

All employers must have a Training Manual. The manual includes information on the skills your apprentice needs to learn, as well as general information on training and using HITO resources.

Barbering and Hairdressing Training Manual

Trainers only need one training manual.

It contains general training advice and specific activities for each skill your apprentice needs to learn. The barbering and hairdressing qualifications are made up of unit standards which cover the skills the apprentice needs to learn. The manual goes through each unit standard, starting with the easiest ones and working up to harder ones. The trainer should work through the units in the order they appear in the training manual.

Barbering and hairdressing apprentices receive a Training Record Book. This book lists all the Unit Standards and the skills involved in achieving each one. The Training Manual and the Training Record Book are used together in training.

Beauty Therapy Training Manuals

Beauty therapy trainers and apprentices each receive their own manuals.

The Apprentice Manual covers every skill the apprentice needs to learn and includes information to learn and activities to complete. The Manual begins with basic workplace skills and works its way up to advanced skills. The apprentice needs to do some of the work in their manual in their own time, but you can also arrange training sessions in the workplace where you work through a training module with them. Trainers only need one manual if there are several learners

The Trainer Manual works with the Apprentice Manual. The trainer's manual contains general training advice as well as specific advice for each skill the apprentice needs to learn. Each apprentice has their own manual.

VUE

VUE is an online learning resource with videos, descriptions and quizzes to help learners succeed. The videos on VUE demonstrate the exact industry standard that learners need to achieve. The more people who access VUE, the more certain we can be that our whole industry is performing to a high standard.

VUE is also an online portfolio. Learners can create photographic portfolios online and share these portfolios on social media or with their assessors.

You can access VUE via the internet, Android or Apple device. When the learner signs-on with HITO, we send the learner and employer a login.

vue@hito.org.nz

Employment

HITO's role

Our role is to focus on training. We can offer support to employers and learners about training related issues. However, we don't play a role when it comes to employment matters such as wages, annual leave, hours worked etc. These should be set out clearly in the employment agreement between the employer and the learner. Make sure that these are all explained to the learner during their induction.

If you have any questions about employment matters, you should contact the Ministry of Business, Innovation, and Employment.

Employment contracts

HITO have a standard employment contract available to purchase. Employment lawyer David Patten developed this contract and contains standard employment clauses. You are free to amend the agreement, but please make sure any amendments are legal with a legal representative.

You must have an employment agreement with anyone who works for you. Employers must have a signed employment agreement with their learner BEFORE they start working.

Finding a staff member

HITO has a Job Vacancies section on our website www.hito.org.nz. You can list a job vacancy and view current vacancies. You can also view current job seekers and contact any who might be suitable for your business.

When listing a job, you will be asked to create an account. This account allows you to post and edit your job vacancies and remove them once a position is filled.

Good employment practices

Employment NZ (www.employment.govt.nz) has many resources available to employers in New Zealand. If you need advice on any area of employment, Employment NZ is a good place to start. Employment NZ recommends focusing on three areas to make sure your business has good employment practices. Implementing and maintaining good employment practices is good for you, your employees and your business.

Equal pay and employment

It's important for all employees to have access to equal pay, job opportunities and fair treatment in the workplace. In New Zealand, more than 80% of women work in female-dominated industries. These industries tend to be lower-paid.

Under the Equal Pay Act of 1972, women and men must be paid the same amount to perform the same job or a job of equal value.

Providing equal opportunities to your employees encourages them to be more productive, loyal, and more likely to use their initiative. It also supports economy growth.

You can find a Pay and Equity Review Process on the Employment NZ website. This process will help ensure your employees have access to equal opportunities.

Productivity

A more productive workforce raises New Zealand's living standards and wealth through working more efficiently.

Employment NZ lists seven key drivers for improving productivity:

- Building leadership and management capability.
- Improving workplace culture.
- Encouraging innovation and use of technology.
- Investing in people and skills.
- Organising work.
- Networking and collaborating.
- Measuring what matters.

There are tools available on Employment NZ to help you assess and improve productivity in your business.

Work-life balance

Work-life balance is about juggling work and other important activities like family time and hobbies. Good work-life balance builds strong communities and productive workplaces.

Work-life balance:

- helps employees and employers feel supported.
- gives employees the flexibility to earn an income while managing other important commitments.
- helps employees achieve at work and home without feelings of guilt or regret.

Employees with good work-life balance are often more loyal and productive. They are less likely to be absent or stressed and distracted at work. Good work-life balance and flexible employment are increasingly important to today's employees, so employers that provide these are more likely to attract and keep top quality staff.

Visit employment.govt.nz to find out more about employment in New Zealand.

Health and safety

Keeping you, your employees, and your clients safe is vital for the success of your business. It's also a legal obligation for you as an employer.

New Zealand recently updated our health and safety laws with the Health and Safety at Work Act (2015). This act came into effect on 4 April 2016. It sets out rules for identifying and managing risks in the workplace.

Everyone is responsible

The Health and Safety at Work Act makes sure everyone is responsible for creating a safe and healthy workplace.

The business

A business (or PCBU) includes businesses, sole traders, and self-employed people. They are responsible for anyone affected by the work they do, including employees, customers, and visitors.

Officers

An officer is a senior leader in your business. Their leadership position means they have more responsibilities for health and safety in the business. They should be actively involved in creating a safe workplace and they should have a good understanding of the business' health and safety policies.

Employees

Workers in a business need to behave in a safe manner, follow all health and safety procedures, and inform the business of any risks they encounter.

Visitors to your business are responsible for keeping themselves safe and following the business' health and safety rules.

Working with other businesses

If you work with another business, you need to coordinate with that business to make sure everyone is meeting their health and safety requirements. If your business is part of a supply chain, you need to make sure anything you pass on to other businesses is safe.

Know the risks

The first step for any business is knowing and understanding the risks in your workplace. Some common risks for our industries include:

- Slips and falls
- Bullying and harassment
- Cuts
- Chemicals
- Lifting heavy objects

Make a plan

Managing the risks is easy if you have a plan in place. Think about the risks in your business, then come up with a plan for what you will do to manage them. Make sure you address the most serious risks first, and then think about less serious ones. Other business owners in your industry have faced and managed the same risks, so make sure to ask them for advice.

Your plan needs to describe how you can eliminate or minimise the risks in your business. Make sure you review and update your plan regularly.

Involve your workers

Include your staff (and even your clients) in your health and safety work. These people are in your business regularly, and they deal with risks you may not be aware of. You'll be able to better deal with risks by involving these people. It's also a legal requirement to involve your workers in health and safety in the workplace.

Provide information and facilities

You need to provide clear information and safe facilities for your employees. Make sure they are aware of the risks and their responsibilities, as well as your health and safety policy. Ensure your business has clean, safe, accessible, and well-maintained facilities, such as toilets, drinking water, and eating areas. The business as a whole needs to be as safe as possible: clearly lit, easy to navigate, well-ventilated.

For more information on health and safety, and to find resources for your business, visit www.worksafe.govt.nz.



HITO online

HITO website

On our website is:

- Information about our role.
- Information on the qualifications we offer.
- Support information for employers and trainees.
- Useful documents like training agreements, Gateway MOUs and final assessment. application forms
- News articles.
- Job vacancies and job seekers.
- HITO news.
- Contact information.

You can visit the HITO website at www.hito.org.nz

Facebook

HITO have a Facebook page at www.facebook.com/HITO.news Our HITO regions also have pages. Search the name of your region on Facebook to find your regional page.

On our Facebook page:

- News about HITO and our industries.
- Links to news articles.
- News about qualifications and events.
- Training advice.

Your regional pages also contain information about regional events, including times for final assessments for apprentices.

Email Newsletters

HITO send out a weekly e-newsletter. This is the best way to get HITO and industry news delivered directly to your inbox. It will keep you up-to-date on HITO news, qualification development, industry events, news and more.

You can subscribe to e-Forma on our website and on Facebook.

Other Social Media

HITO is on Instagram and Twitter. You can visit us at @nzhitto. We feature inspirational barbers, beauty therapists and hairdressers, as well as share the latest industry news and events.

If something exciting is happening in your salon or region, please let us know. We could feature you on our Facebook page or Instagram.

Contact (04) 499 1180 or email info@hito.org.nz to share your story.



The HITO team

CEO – Kay Nelson

Oversees strategic direction for the entire organisation.

General Manager – Stakeholder Engagement – Debra Hawkins

Oversees engagement and support of employers, schools, trainees, government, and industry.

The General Manager – Stakeholder Engagement oversees:

- Business Development, who look for new opportunities to expand HITO
- Learning and Development, who develop HITO learning resources and qualifications
- Marketing and Communications, who manage all HITO channels and promote HITO products and events
- Sales and Training Advisors, who provide training support and promote our offerings to clients

General Manager Corporate Services – Rob Sewell

Oversees all finance, administration, and office management tasks.

- Finance team, who manage payables, receivables, and payroll.
- Industry Support Coordinators, who manage the database and all trainee records (including enrolments)

Chief Technical Officer – Phil Tanner

Oversees all technical aspects of the organisation. The Business Analyst reports to this manager.

Not ready to speak to someone yet? Then email your question to info@hito.org.nz or check out our website www.hito.org.nz

From your legal advisor

Employment lawyer David Patten is a regular contributor to HITO articles. He's an expert on employment law as it applies to the hair and beauty industries. Here is a selection of David's past articles.

Overpaying an employee

Like many employers, you may have found yourself in a situation where you have overpaid one of your employees. And, like many employers, you may have tried to recover that money however you could. Unfortunately, like many employers, you may not have gone about this correctly.

The law is not necessarily helpful to you if you attempt to recover the overpayment made, so the purpose of this article is to discuss this often-contentious issue and provide you with some guidance.

The starting point is the employment agreement. If you are using the hairdressing industry 'template' agreement as a basis for your employment arrangements, you will be able to resolve this situation easily. This employment template states that you can recover the overpayment from future wages payments to the employee.

The Wages Protection Act 1983 also entitles you to recover overpayments in certain circumstances. However, it only provides a limited period of time for recovery. Notice to the employee of your intention to recover the payment must be given immediately and the overpayment itself must be recovered no later than two months after the notice has been given.

In cases where these options do not apply the situation becomes complicated. It is your responsibility as an employer to prove that the payment was made by mistake, under duress, by an illegality (such as theft by the employee) or other similar grounds. Otherwise, you may not be able to reclaim the payment.

In some cases, it is possible to do this, but in others, it may not be so easy. If an employee doesn't realise that the payment has been made to them by error and then alters their financial position based on reliance on those payments, for example, you may not be able to recover the overpayment. The Judicature Act 1908 provides that where a payment is made by mistake, if the person receiving the payment has done so in good faith and then alters their position in reliance of the payment the court can decide not to grant 'relief' (that is, the ability to recover the overpayment) to the employer.

A possible example of this is that of an employee who is overpaid wages by mistake, doesn't realise this, and has saved up an overseas holiday using this money. In such a case, the payments have been received and spent in good faith, and it would be very difficult for you to recover the overpayment.

Two recent employment cases further illustrate the point.

In a 2012 Employment Relations Authority decision (*Foai v Air New Zealand*), Air New Zealand (AirNZ) was unable to reclaim over \$42K it overpaid to one of its employees over a period of 16 months. This case was slightly unusual in that the employee:

- told both his manager and human resources that he felt he was being overpaid
- asked AirNZ payroll about the matter
- was repeatedly assured that he was being paid correctly.

When AirNZ realised that it was, in fact, overpaying the employee, it was out of time to recover the overpayments under the Wages Protection Act. Instead, they made a common law claim under what is known as 'restitution.'

The claim by AirNZ failed. AirNZ was unable to establish that it had been mistaken in its overpayment. Furthermore, the employee had acted in good faith by bringing the matter to the attention of his employer.

This case can be contrasted with another recent case where the Authority ruled that the employee did have to repay the 'overpaid' wages. In *Stages Civil and Electrical Limited v Cook* the company overpaid the employee in excess of \$7k after an additional number was entered into the gross pay line. The mistake was picked up two days after the pay run, and an email along with the supporting documentation was sent to the employee highlighting the overpayment and requesting reimbursement. The employee responded by requesting further information which the company provided. However, the company failed to get a response from the employee.

It was determined by the Authority that the overpayment was a simple mistake and that restitution was required.

In my view, the key to solving an overpayment issue quickly and fairly is to ensure the employee is informed as soon as possible. This should be done in writing with a clear explanation as to how the overpayment came to be made. Instead of unilaterally making a deduction from the employee's next wage payment, a meeting should be held with the employee where a repayment proposal should be tabled and discussed. The 'agreed' (hopefully) repayment arrangements should be recorded in writing and signed by both parties. To be on the absolute safe side, the written agreement should also record that before the employee signed the agreement he/she had been given the opportunity to obtain independent advice.

If agreement cannot be reached then, unfortunately, you may have to resort to the courts to recover the money.

Common employment issues

Recently I had the absolute privilege of attending the AGM's of both the NZARH and HITO. Given that your profession is a large employer of staff, both qualified and 'to be' qualified, it is important that both the governance and management arrangements for both organisations are robust. Give the calibre of those now in charge I am very confident that the hairdressing and beauty professions are in good hands and well equipped to meet the challenges ahead.

In this article, I want to cover some matters that have been raised with me by salon owners over the last few months. In no particular order:

Time off in lieu

As you will be aware, most employment arrangements in the industry provide for staff to work set daily and weekly hours e.g. 8 hours per day; 40 hours per week. These same agreements also typically provide that where a staff member works more than 8 hours a day or more than 40 hours per week they are paid for those extra hours (either at ordinary or overtime rates) or are allowed to take compensatory time off in lieu. In the latter situation, clear 'rules' are important if time off in lieu is to be managed properly. These include:

- Having a specific provision in the employment agreement for this option to be available to staff.
- Ensuring that permission is granted to the staff member by the salon owner before the extra hours are worked.

- Making sure that the extra hours worked are properly recorded.
- Entering into an arrangement as to when the 'in lieu' time is to be taken – my recommendation is that it is taken, where practicable, within ten days of the time being earned.
- If the time in lieu is allowed to accumulate beyond the ten days, make it clear the extent of the accumulation (e.g. no more than 10 hours) and when those accumulated hours must be taken.

While the above may appear prescriptive, accumulated time can mount up (just like annual leave entitlements) and prove a costly burden for the salon if the staff member leaves with time/leave still on the books!

Making deductions from a staff member's pay

You will all recall the recent case where a service station owner docked the pay of a staff member for customer theft (a petrol drive off).

The Wages Protection Act 1983 sets out what rights employees have in relation to pay. The underlying principle is that an employer cannot generally deduct money from an employee's wages. The employee has to agree in writing for this to happen (typically as a provision in the employment agreement) except where the law provides otherwise e.g. deductions for PAYE, student loans, child support payments.

An employee can also withdraw their consent to deductions being made at any time – even where they have signed an employment agreement allowing for the deductions to be made.

Terminating employment

A situation was brought to my attention recently where the salon owner (not an NZARH or HITO member) terminated the employment of an apprentice as soon as the apprentice had completed her qualifications. When challenged about the validity of this decision, the salon owner said that his obligation to employ the apprentice ended at the time the apprenticeship training ended. I suspect, however, that there may have been one or two performance issues involved!

In my view, that salon owner has placed the salon at legal risk if the action taken is challenged.

If the employment arrangement is to end at the time the apprenticeship finishes, this must be specified in writing at the commencement of the arrangement. In effect, the training period becomes a fixed term employment arrangement. This being the case, there must be a genuine operational reason for the employment to end after the training period, and this also must be stated in the agreement.

In all other cases, the completion of the training period is irrelevant. In other words, the salon owner cannot simply make a unilateral decision to terminate without cause. In the absence of cause e.g. non-performance, and a proper process being followed, the decision becomes challengeable by way of an unjustified dismissal claim by the affected staff member.

Confidential settlement agreements

Where a termination is challenged, for whatever reason, it is not unusual for the disaffected staff member and the salon owner to enter into a settlement arrangement which contains a confidentiality clause i.e. the terms of the settlement will be kept confidential as between the parties (and their advisors). It is also not unusual for the same agreement to contain a provision that neither party will 'speak ill' of the other, in any way or form - including Facebook!

If that confidentiality provision or the non-disparagement provision is breached by one party, the other party can seek a penalty against the offending party in the Employment Relations Authority. My experience has been that if the breach is proven, a penalty will be awarded against the offending party, often at the level of the settlement figure in the settlement agreement. As noted by a colleague of mine

‘...as the Authority has stated ... the legal framework for confidential employment settlements exists to promote the resolution of employment relationship problems. Those who enter binding settlements are entitled to consider all matters dealt with are done forever. Employees who don’t bother to adhere to them can expect to be in the gun for breaching them. [Susan Hornsby-Geluk, Partner, Dundas Street Employment Lawyers. www.dundasstreet.co.nz]

Implied employment agreement terms

The employment agreement terms for employees are essentially in three parts:

1. Those terms that are found in the written employment agreement.
2. The provisions relating to employment found in the many statutes governing employment relationships e.g. the Human Rights Act, Health and Safety in Employment Act.
3. Implied terms – these are ‘unwritten’ terms, based on past decisions of, for example, the NZ Employment Court, which place obligations on the parties to the employment relationship.

It is this third category that I wish to discuss in this article.

One of the most important implied terms in any employment agreement is the concept of mutual trust and confidence. This implied term essentially means that both the employer and the employee shall behave in such a way as to not undermine the employment relationship. An extension of this term is the statutory provision found in the Employment Relations Act relating to good faith. This states that parties to the relationship must not mislead or deceive one another. They must also be active and constructive in establishing and maintaining a productive employment relationship in which the parties are responsive and communicative with each other. (I commented on good faith obligations in my last contribution to Forma magazine).

Another very important implied term is that of the duty of fidelity. This duty is owed by every employee to their employer. It requires on the part of the employee loyal and faithful service. It can require a duty not only to answer the employer truthfully when asked questions about the employer’s business. It may also, in certain circumstances, require an employee to take positive steps to ensure that the employer is not kept in the dark on matters that concern the employer’ business.

As was said in a 1998 English judgement:

The employee must act in good faith; he must not profit out of his trust; he must not place himself in a position where his duty and his interest may conflict; he may not act for his own benefit or the benefit of a third party without the informed consent of his employer. [Lord Woolf in **Attorney-General v Blake [1998] 2 WLR 805**]

It is clear, therefore that the duty of fidelity requires the employee to have regard to the interests of the employer. So how does this duty operate in practice? A recent decision of the NZ Employment Relations Authority, while not directly addressing this matter, perhaps provides an illustration, from a factual perspective, of the concept working in practice.

The employer owned a beauty salon providing both beauty and hairdressing services. One day in June 2012 a salon employee turned on the salon computer to update the salon Facebook page. In doing this, she found the Facebook page of another employee open. The salon employee became concerned as some of the entries on the employee's Facebook page related to the salon and its clients. It appeared that the employee was treating salon clients at her home. The salon employee reported her concerns to the salon owner.

In arranging to meet with the employee, the employer noticed (and took photographs) of some beauty products seen by her in the employee's open handbag. The employer formed the view (incorrectly as it turned out) that these products were salon products that the employee had taken without permission.

So what the employer was confronted with was the possibility of an employee servicing salon clients from home and further, the same employee having in her possession salon products that the employee had not accounted for. Regarding the duty of fidelity both of these actions, if proven, would not be in the interests of the employer. Neither would the actions be considered those of a loyal and trustworthy employee. Either or both would be considered, by most salon owners, as constituting serious misconduct which, if proven, could lead to the termination of the employee's employment.

In the context of the duty of fidelity, I have been contacted by salon owners over the years (fortunately not frequently) who suspect that a staff member is carrying out work from home. On occasion, this has involved salon clients; in other instances it has involved other persons, not necessarily being family members. In my view, there is a clear distinction between family members being serviced at home by the salon employee and non-family members receiving the same or similar services. Both types of 'client' could be considered contrary to the interests of the salon owner. Servicing the latter group, however, is a lot more serious, and unless permission has been given by the salon owner could constitute serious misconduct and therefore result in the employee being dismissed from their employment.

Good faith

I am often asked by salon owners: what is the meaning of good faith? Typically, the question is raised in the context of an enquiry from a salon owner. The salon owner has been accused by a staff member (or their representative) that they (the owner) have not acted in good faith. A personal grievance may follow.

So what does good faith mean and how does it operate in practice?

The starting point is the provisions of the Employment Relations Act 2000. In summary form, the Act states that:

- The parties to any employment relationship must deal with each other in good faith. Note, this is a mutual obligation for both the salon owner and the salon employee
- Good faith means that the parties cannot, either directly or indirectly, mislead or deceive each other or act in a manner that is likely to deceive or mislead the other party
- The parties to the employment relationship must be active and constructive in establishing and maintaining a productive employment relationship in which the parties communicate clearly and regularly

If a salon owner is proposing to make a decision that may have a negative impact on the continuation of employment of a staff member or members, affected employees must be provided with access to relevant information about the decisions being made. They must be given the opportunity to comment to their employer on the information provided before the decision is made.

So what does this all mean in practice for a busy salon owner? The simple reality is that it is no longer acceptable for a salon owner to make decisions that impact on the terms and conditions of staff or indeed, the on-going employment of staff, without following a consultative process which enables affected staff members a say in that decision-making process. Some examples illustrating this key point follow.

Example 1

A staff member is employed on an hourly rate plus commission for product sold to clients. The staff member's work is not satisfactory enough to justify the hourly rate being paid, and the salon owner has determined that the commission rate is too high.

The unwise employer will make the decision to reduce the employee's hourly rate and the commission rate. The result? A disgruntled employee who is likely to leave the employment of the salon at the first opportunity and also the strong possibility of a personal grievance being lodged against the salon owner.

The wise salon owner will sit down with the employee (who has been given the opportunity to bring a support person to the meeting), explain what is being proposed, the reasons why it is being proposed (with any available supporting information) and an invitation to comment on what is being proposed at a later meeting e.g. say, 2 or 3 days later.

After the salon owner has fairly considered the response from the employee, the salon owner is in a position to make a final decision. This may be confirmation of the original proposal or a variation of that proposal.

Example 2

The employee is not performing to expectations regarding the employee's Job Description and the performance expectations of the position.

The unwise salon owner will call the employee into their office, typically during work hours, and tell the employee that if their performance does not improve immediately, 'You will be out the door!'

The employee, who believes - in the absence of being told anything to the contrary - that they have been performing quite well leaves the salon in floods of tears, in front of clients, and does not return to the salon for some days due to sickness.

The wise employer will discreetly ask the employee to meet with the salon owner after work to discuss some performance concerns the salon owner has with the employee's performance. These concerns could, alternatively, be listed in a letter given to the employee. However it is done, the employee has the absolute right to know what the alleged performance concerns are and is given a proper opportunity to comment on those concerns. It may be a training issue; there may be matters outside the workplace that are impacting on the employee's performance.

The key is to work with the employee on a regularly reviewed plan which has clear and attainable goals designed to ensure that there is a lift in performance. If this improvement does not occur, the salon owner is in a better position to commence a disciplinary process.

Example 3

The salon is experiencing trading difficulties and the salon owner, as part of a cost-saving exercise, is proposing to reduce employee numbers from 4 to 3. The role the salon owner is proposing to disestablish is that of a staff member who has only been with the salon a few months.

The unwise employer will meet with the employee and tell the employee that due to economic circumstances, their position will be ending on Friday.

The wise salon owner will typically write to the employee, outlining a proposal to disestablish their position and clearly articulating the reasons why, and give any available information supporting the proposal. A meeting is arranged with the employee who is given the opportunity to comment on the proposal and offer alternative suggestions for cost savings rather than disestablishing the position.

The salon owner should carefully consider any suggestions made e.g. for the employee to work part-time hours until trading conditions improve. If the suggestions are not feasible, they must advise the employee of this in a measured and considered way.

The key is to discuss and consider matters before making a decision, be responsive and communicative and, above all else, be fair. The basic rule of thumb I encourage salon owners to use is to treat staff in the same manner they would like their own working children to be treated i.e. fairly and constructively.

Under the influence

Fortunately, in the hairdressing and beauty industries, staff turning up to work under the influence of alcohol and/or drugs is infrequent. However, it does happen and I have been asked to provide advice to the unfortunate salon owner who faces this problem.

Salon owners are obligated to provide a safe and healthy workplace for staff members and clients. As with any workplace, accidents can happen in the salon sometimes causing injuries. The statutory obligation on salon owners is to eliminate or at least minimise risk in the workplace by taking all practicable steps to ensure the safety of staff (and clients) at work (Health and Safety in Employment Act 1992).

Under this statutory obligation, a staff member coming to work under the influence of alcohol and/or drugs is unacceptable. It poses a risk to both work colleagues and salon clients.

Coming to work under the influence of alcohol and/or drugs is typically an offence that invites an allegation of serious misconduct. If proven, this will lead in most instances to termination of employment. Most salon policies and employment agreements I have read over the years make clear that being at work under the influence of alcohol and/or drugs is an offence that will lead to the termination of employment.

So, what sort of process should a salon owner follow if the owner suspects a staff member is under the influence of alcohol and/or drugs?

1. Take the staff member to the staff room and raise your suspicion with the staff member. Try to avoid making a public spectacle when addressing the issue.
2. If the staff member admits being under the influence, then they should be sent home immediately (on pay). They should be told to expect a meeting with the manager upon their return to work. They should be invited to bring a support person with them to the meeting.
3. If the staff member denies being under the influence and the salon owner is not convinced, the salon owner should invite the staff member to see the salon owner's doctor for a blood test. If the staff member refuses, the owner/manager can take this into account when deciding what steps to take next. As in step 2, the employee and their support person should be invited to meet with the manager on the following day.

4. At the meeting explain to the employee why they are there and the potential consequences of their actions. The staff member should get the opportunity to explain their actions. This explanation will determine the salon owner's next step. The owner must fairly consider the explanation.
5. Typically, being at work under the influence constitutes serious misconduct, and the penalty is termination of employment. But this is not an 'absolute'. The staff member may have had a good work record up until this time; the staff member may be a valued staff member who has received training from the salon owner; it may be the first offence; the age of the staff member could be a factor; the contriteness of the staff member could also be influential. These are the sort of matters that a good employer will take into account in determining the penalty.
6. Rather than termination on the grounds of serious misconduct, a final written warning may be an appropriate alternative. Whatever the decision, this should be communicated to the staff member in writing. The letter should specify the reasons for the decision concerning the meeting and the explanation provided by the staff member. If the decision is to give the staff member a final written warning, the letter should clearly spell out the probable consequences if the behaviour happens again.
7. Finally, at the next staff meeting, the salon owner should reinforce their expectations of staff regarding their behaviour in the salon. The owner should not be accusatory, but should remind the staff member of the responsibilities that all staff members have to protect the image and integrity of the salon.

If a staff member is dismissed from their employment, there must be a justifiable reason for the dismissal and a fair process must be followed in all instances where a dismissal occurs. If a fair process is not followed this invalidates the dismissal itself, irrespective of the reason for the dismissal. This can give rise to a personal grievance claim of unjustifiable dismissal.

The law is very clear on this matter (Employment Relations Act 2000).

Did the employer:

- sufficiently investigate the allegations against the employee,
- raise the concerns that the employer had with the employee,
- give the employee a reasonable opportunity to respond to the employers concerns,
- genuinely consider the employee's explanation (if any) about the allegations made against the employee before dismissing or taking action against the employee.

Earlier this year a hairdressing salon was required to pay a former employee in excess of \$20,000.00 for 'getting it (badly) wrong.' That is a lot of hair styling services!

Employment relations

As I write this article winter is all but over. Sunlight hours are getting longer, and we are no longer going to work and returning home in the dark. Spring growth is upon us, represented by the recent Daffodil Day and of course we have a rugby world cup to look forward to. We also have some legislative changes to grapple with that will impact the way you manage your salons.

The provision of references

But first, let me deal with a topic that has been brought to my attention since I last wrote to you. The member query to me was along the lines 'what can I do if I rely on a reference from a former employer of my new staff member and that reference turns out to contain patently incorrect information about the staff member'?

For me - and to put it very bluntly - an employer who writes a reference for a staff member that is not an accurate reflection of that staff member's ability and aptitude does not deserve to be a member of the employing community. In my view, it is an unacceptable business practice and legally questionable.

What are the rules around the provision of staff references?

Unless the employer is contractually required to do so, employers have no general obligation in law to provide references to employees or former employees.

Unless contractually required to do so an employer is not required to answer questions from other people e.g. recruitment agencies; or prospective employers, about an employee's character or behaviour.

The employer has a 'duty' to ensure the accuracy of the content of the reference. Careless drafting of the reference can have significant legal consequences e.g. losses suffered by a future employer who relied on a reference and subsequently hired an unsuitable employee.

A reference is usually given directly, orally or in writing to a prospective employer. As such it is 'personal information' and subject to the various principles outlined in the Privacy Act 1993. One of those key principles precludes an employer providing information about an employee (current or otherwise) to a prospective employer without the consent of the employee. To not have that consent exposes the conveyor of the information to legal risk!

From a practical point of view, salon owners should only provide a reference to a prospective employer if they have discussed this matter and the content of what they will say with the staff member. Be very careful about answering questions from the prospective employer that fall outside that ambit of the agreement, particularly if those questions are evaluative in nature e.g. would you employ 'Peter' again!

Amendments to the employment relations legislative framework

In my May 2015 contribution to Forma I 'flagged' some changes to the ERA that came into force in March 2015. **Note:** Since this article was written in 2015, the changes proposed in the Bill were agreed by the government and became part of employment law on 1 April 2016.

The Employment Standards Legislation Bill (ESL) proposes to amend NZ employment law further to ensure it responds to the 'modern, dynamic business environment and encourages fair and productive workplaces' (MBIE – Labour Information sheet).

The proposed changes include the following:

Parental Leave

- Extending parental leave payments to non-standard workers (casual, seasonal, temporary, and fixed term employees) and those who have changed jobs.
- Currently, all parental leave must be taken full-time and in one continuous block. When the employee returned to work, they lose any remaining parental leave entitlements. The changes will allow an employee to return to work for a period and take the remainder of their unpaid leave later in the year if there is an agreement with the employer. Parents will be eligible for any unpaid remaining leave up until the child is one-year-old (or one year after taking on care of the child).
- Introducing 'Keeping in Touch' hours. The changes will allow employees to work up to 40 hours during the 18 weeks of paid parental leave, with the agreement of the employer. For example, these hours could be used to keep up with skills development or training or completing a work handover and can

help the parent ease back into work. The baby will need to be at least four weeks old before the Keeping in Touch days can be used.

- Employees who have been with their employer for more than six but less than 12 months will be able to take unpaid leave in addition to their paid leave, up to a total period of 6 months e.g. if the employee took 18 weeks paid leave they could also take eight weeks unpaid leave.
- The changes will allow employees to resign if they wish and still receive payments. This gives employees more choice and more certainty for employers. Employers will be able to recruit a permanent replacement rather than a temporary replacement in a situation where the employee does not intend to return to work.

Strengthening of employment standards

The ESL Bill includes some measures to strengthen the enforcement of employment standards e.g. compliance with the minimum wage legislation, annual holidays and written employment agreements. These changes are designed to protect vulnerable employees and to help to ensure workplaces are fair and competitive.

Zero-hour contracts

The changes under this heading mean that where the employer and the employee agree to a set number of hours those hours will need to be specified in the employment agreement.

The following practices are prohibited; employers:

- not committing any hours of work but expecting employees to be available when required.
- cancelling a shift without reasonable notice or compensation to the employee.
- putting unreasonable restrictions on secondary employment of employees.
- making unreasonable deductions from an employee's wages.

Given my knowledge of the hairdressing and beauty industries, I am reasonably confident that the provisions of the ESL Bill will have little impact from an operational sense. These industries do not have a reputation of exploitation of staff or unfair labour practices, both of which the Bill is designed to address. I trust my confidence is not misplaced!

Employment law

I trust you have all had an enjoyable and relaxing festive season. I suspect that 2015 is going to be a challenging year for the industry given the various changes to the business landscape.

In this context, I would like to discuss some of those changes as they impact on your staff.

Changes to paid parental leave

Changes to paid parental leave came into effect on **1 April 2015**.

These changes extend the maximum amount of Paid Parental Leave from 14 to 16 weeks. The changes apply to an employee or a self-employed person if:

- the expected date of delivery of their child is on or after 1 April 2015, but the child is born before that date; or.
- the child is born on or after 1 April 2015; or
- in the case of adoption, if the date on which the carer assumes care of the child is on or after 1 April 2015.

Please note that the maximum amount payable for eligible employees and self-employed persons is presently \$504.10 gross per week.

Changes to the Employment Relations Act 2000

Some changes to this Act will take effect from **6 March 2015**. The key changes which, in my view, are directly relevant to the hair and beauty professions are as follows.

Good faith

This change amends the good faith provisions that require an employer to give an employee relevant information where they are proposing to make a decision that will, or is likely to, hurt the continuation of that employee's employment. It aims to clarify what information employees are entitled to during restructures or other situations where their employment is at risk.

An employer must give the affected employee relevant confidential information about themselves. An employer does not have to give the affected employee confidential information about another employee if doing so would involve an unwarranted disclosure of the affairs of that person. Further, an employer does not have to give confidential information that legally must stay confidential, or where there is good reason to keep the information confidential e.g. to protect the employer's commercial position.

N.B.: Restructuring your business from a legal perspective is becoming an increasingly complex area of law. If you are contemplating a restructure, I urge you to seek legal advice **before** you commence the restructuring process.

Flexible working arrangements

Under the present Act, the right of employees to request flexible working hours is restricted to those employees who have caring responsibilities. A request cannot be made until after six months employment has elapsed.

Under the new Act, all employees now have the right to request flexible working arrangements at any time and employers must respond to this request within one month, in writing, giving the reasons for any refusal. There is now no limit on the number of requests an employee may make in a year.

Rest and meal breaks

The changes under this heading seek to balance the importance of rest and meal breaks with the need for breaks to be practical for each workplace. The changes replace the current strict rules with a more general right for employees to have rest and meal breaks to give them a reasonable opportunity to rest, eat, drink and deal with personal matters. The new provisions encourage employers and employees to negotiate, in good faith, rest and meal breaks without compromising business continuity and flexibility. A rest break is a short break, whereas a meal break is a longer break for employees to eat a meal (lunch, for example).

The changes:

- When employers can make reasonable restrictions on rest and meal breaks.
- That employers can specify when breaks are taken if employees and employers cannot agree on when and how long a break should be.
- That an employer is exempt from giving breaks when employees agree to reasonable compensation or where the employer cannot reasonably give the employee rest and meal breaks.
- That reasonable compensatory measures are arranged when an employer is exempt from the requirements to provide breaks.

- Rest breaks must be paid. Meal breaks do not have to be paid.
- Any other law that requires an employee to take rest and meal breaks takes priority over the rules in the Act.

Please note that employers and employees cannot contract out of the right to rest and meal breaks – an employment agreement that required an employee to take no breaks and did not provide compensatory measures, would exclude an employee’s entitlements and therefore would have no effect. In other words, an employee either gets a break or a compensatory measure – the employer cannot fail to give either.

In my view and taking into account the nature of the profession, salon owners would be unwise to seek to replace rest and meal breaks with compensatory payments. The profession can be stressful; the health and safety of staff and salon clients are of paramount importance; advice should be obtained at the time any changes are being contemplated.