

Individual Employment Agreement between an Employer and an Employee

1 The Parties

The parties to this employment agreement are:

1. **Aroha Early Learning Centre**, the "Employer"; and
2., the "Employee".

2 The Position and the Duties

2.1 Position

The Employee is being employed as

2.2 Duties as set out in the job description which may be modified from time to time by the Employer

The Employee shall perform the duties set out in the Job Description as attached to this contract. These duties may be modified and updated by the Employer from time to time following agreement with the Employee. The Employee also agrees to perform all other reasonable duties and comply with reasonable instructions issued by the Employer.

3 Nature and Term of the Agreement

3.1 Individual Agreement of Ongoing and Indefinite Duration

This Employment Agreement is an individual employment agreement entered into under the Employment Relations Act 2000. The employment shall commence on and shall continue until either party terminates the agreement in accordance with the terms of this agreement. The clauses in this agreement may be varied or updated by agreement between the parties at any time.

3.2 Trial period

The parties agree that the Employee will serve a trial period of **90 days** at the beginning of their employment. The Employer will provide guidance and feedback to the Employee during this trial period. If the Employer justifiably considers the Employee has failed to appropriately carry out their duties during the trial period, and the Employee has been appropriately warned and supported during the trial period, the Employer may terminate the employment agreement upon the expiry of the trial period by providing written notice of termination as specified in the termination clause. Nothing in this clause limits the legal rights and obligations of the Employee or the Employer during or after the trial period.

4 Obligations of the Relationship

4.1 Obligations of the Employer

The Employer shall:

- (i) Act as a good employer in all dealings with the Employee;
- (ii) Deal with the Employee and any representative of the Employee in good faith in all aspects of the employment relationship;
- (iii) Take all practicable steps to provide the Employee with a safe and healthy work environment.

4.2 Obligations of the Employee

The Employee shall:

- (i) Comply with all reasonable and lawful instructions provided to them by the Employer;
- (ii) Perform their duties with all reasonable skill and diligence;
- (iii) Conduct their duties in the best interests of the Employer and the employment relationship;
- (iv) Deal with the Employer in good faith in all aspects of the employment relationship;
- (v) Comply with all policies and procedures (including any Codes of Conduct) implemented by the Employer from time to time.
- (vi) Take all practicable steps to perform the job in a way that is safe and healthy for themselves and their fellow employees.

5 The Place of Work

5.1 Fixed Place of Work

The parties agree that the Employee shall perform their duties at **the corner of Broughton Street and Coutts Road, Gore, Southland.**

6 Hours of Work

6.1 Full Time Hours of Work

The Employee's hours of work shall be **not more than 40** hours per week on **Monday to Friday**, between the hours of **7am to 6pm**.

6.2 Lunch Breaks

The Employee shall be entitled to a lunch break on each working day of employment, of **1 hour**, to be taken at a time as the parties agree from time to time.

6.3 Tea Breaks

The parties agree that the Employee shall be entitled to a tea break of **15 minutes** as agreed by staff each day – this to be kept flexible in order to meet the needs of children / programme / other staff members.

7 Wages/Salary/Allowances

7.1 Hourly Rate

The Employee shall be paid according to an hourly rate which shall be \$..... per hour. The Employee's pay shall be paid **fortnightly on Tuesday on which payment will be made cheque or into a bank account nominated by the Employee.**

7.2 Review

The Employer agrees to review the Employee's salary/wages on the 12 month anniversary of this employment agreement and every 12 month anniversary thereafter. The parties agree that the Employee shall not have any necessary entitlement to an increase, but, the Employer agrees to conduct this review in good faith and to consult with the Employee during the review.

8 Holidays and Leave Entitlements

8.1 Annual Leave

The Employee shall be entitled to paid annual leave on the following basis:

- (i) The Employee shall be entitled to **four** weeks annual leave for each 12 months of service.
- (ii) The Employee's entitlement shall accrue on a pro-rata basis during each month of their employment from the first day of their employment.
- (iii) Annual leave may, with the agreement of the Employer, be taken in advance.
- (iv) The Employee shall, if they so elect, be provided with an opportunity to take at least two weeks of their annual leave entitlement in an uninterrupted break.
- (v) The time for taking annual leave may be agreed between the Employer and Employee, but failing agreement the Employer may, after consultation with the Employee, and having taken into account work requirements and the opportunities for rest and recreation available to the Employee, provide at least 14 days notice to the Employee directing them to take annual leave commencing on a particular date.

8.2 Public Holidays

The employee shall be entitled to 11 public holidays per year, in addition to annual leave. These days shall be those specified in the Holidays Act. Where the day in question would otherwise be a working day for the Employee, the Employee shall be entitled to be paid for that holiday.

The Employer shall be entitled to require the Employee to work on a public holiday.

Where such a day is worked, employees shall be entitled to be paid for the time actually worked on a Public Holiday at the rate of time and a half of their relevant daily pay and shall also receive an alternative paid holiday of one day at a later date, the timing of which is to be determined by agreement between the Employer and the Employee, or in the absence of agreement according to the Holidays Act

8.3 Sick Leave

The Employee shall, after 6 months employment with the Employer, be entitled to 5 days sick leave for each subsequent 12 month period of service. Sick leave can be taken where the Employee is sick or where the Employee's spouse or a person who is dependent on the Employee is sick or injured.

Sick leave entitlements can be accumulated from year to year up to a maximum entitlement of 20 days.

8.4 Medical Certificate Required for Sick Leave

Where the Employee has taken sick leave and has been absent from work for at least three consecutive calendar days, the Employer shall be entitled to require the employee to provide proof of entitlement to sick leave, at the employee's cost.

Where the Employee takes sick leave, and the Employer has reasonable cause to suspect that the leave is not genuine, the Employer shall be entitled to require the employee to provide proof of entitlement to sick leave within the three consecutive calendar days, at the employer's cost. The employer will inform the employee as early as possible that such proof will be required.

8.5 Bereavement Leave as set out in the Holidays Act

The Employee is entitled after 6 months employment to paid bereavement leave of up to three days in relation to the death of their parent, grandparent, sibling, child, grandchild,

spouse, or parent of their spouse.

The Employee is entitled to one days paid bereavement leave if the Employer considers the Employee has suffered bereavement through the death of another person.

8.6 Parental Leave

The Employee shall be entitled to parental leave in accordance with the Parental Leave and Employment Protection Act 1987.

9 Other Entitlements/Benefits

9.1 Personal Development

At the completion of each 12 month period of service with the Employer the Employee shall be entitled to _____ by way of a grant to attend a course or training which has been approved by the Employer, such approval not to be unreasonably withheld.

10 Health and Safety

10.1 General Health and Safety Obligations

Both the Employer and the Employee shall comply with their obligations under the Health and Safety in Employment Act 1992. This includes the Employer taking all practicable steps to provide the Employee with a healthy and safe working environment. The Employee shall comply with all directions and instructions from the Employer regarding health and safety and shall also take all reasonable steps to ensure that in the performance of their employment they do not undermine their own health and safety or the health and safety of any other person.

11 Other Employment Obligations

11.1 Confidential Information

The Employee shall not, whether during the currency of this agreement or after its termination for whatever reason, use, disclose or distribute to any person or entity, otherwise than as necessary for the proper performance of their duties and responsibilities under this agreement, or as required by law, any confidential information, messages, data or trade secrets acquired by the Employee in the course of performing their services under this agreement. This includes, but is not limited to, information about the Employer's business.

11.2 Privacy Obligations

The Employer and the Employee shall comply with the obligations set out in the Privacy Act 1993. The Employee must not breach the privacy of any customer or client in the course of their employment.

11.3 Registered Teachers

Mandatory reporting to Teachers Council according to the Education Act 1989

The Employer is authorized by the Teacher Council Board to meet all other obligations according to the Education Act 1989. According to 139 AK-AN of the Act any Registered Teacher who has seriously breached the Teacher Code of Ethics and/or seriously breached code of good faith in aspects of the employment relationship will have this brought to the notification of the Teacher Council Board.

11.4 Registered Teachers

The Employee who is a registered teacher must comply with the requirement of maintaining their status of registration; police vetting will be followed up by the Teacher Council at these 3 yearly registration renewals.

11.5 Other staff

The Employer is authorized by the Teacher Council Board to meet the obligation of Police Vetting required for the safety of all parties attending the Aroha Early Learning Centre; the Employee acknowledges therefore the right of the Employer to request Police Checks on all those who are not Registered Teachers.

12 Restructuring and Redundancy

12.1 Employer to provide information and consider comments in restructuring situations

In the event that all or part of the work undertaken by the employee will be affected by the employer entering into an arrangement whereby a new employer will undertake the work currently undertaken by the employee, the employer will meet with the employee, providing information about the proposed arrangement and an opportunity for the employee to comment on the proposal, consider and respond to their comments.

12.2 Employer to require offer of negotiable position in restructuring situations

The employer will negotiate with the new employer, including whether the affected employees will transfer to the new employer on the same terms and conditions, and will include in the agreement reached with the new employer a requirement that the employee be offered a position with the new employer, at terms and conditions to be negotiated by the new employer and the employee.

12.3 Employer to activate redundancy provisions if employee not transferred to the new employer

Where the employee either chooses not to transfer to the new employer, or is not offered employment by the new employer, the employer will activate the redundancy provisions of this agreement.

12.4 Definition of Redundancy

Redundancy is a situation where the position of employment of an employee is or will become surplus to the requirements of the Employer's business.

12.5 Notice of Termination due to redundancy

In the event the Employee's employment is to be terminated by reason of redundancy, the Employee shall be provided with **four weeks** notice in writing. This notice is in substitution for and not in addition to the notice set out in the general termination clause.

12.6 No Redundancy Compensation Payable

In the event the Employee's employment is terminated on the basis of redundancy, the

Employee shall be entitled to notice of termination of employment as specified in the termination clause, but shall not be entitled to any additional payment, whether by way of redundancy compensation or otherwise.

13 Termination of Employment

13.1 General Termination

The Employer may terminate this agreement for cause, by providing **four weeks** notice in writing to the Employee. Likewise the Employee is required to give **four weeks** notice of resignation. The Employer may, at its discretion, pay remuneration in lieu of some or all of this notice period.

13.2 Disputes procedure:

Procedure followed in the case of disciplinary action-
Main steps to be followed:

1. Telling the other party- in the case of a verbal warning the other party must have in writing: reason why a meeting is to be called for, proposed time and date (which can be negotiated), venue, and there is the right of the employee to ask for a representative of choice to be present,
2. First meeting to talk about the dispute and written action plan towards resolution,
3. Second meeting (if not resolved) is a written warning, to address what has taken place in the interim, & reasons why actions have not brought about a resolution,
4. Third and final warning (written) before dismissal, repeats the steps for two, asking what else could be added towards successful resolution, and if an outside mediator would be of service,
5. When all avenues taken in full, and written documentation indicates resolution has not happened, dismissal notice is given.

13.3 Termination for Serious Misconduct

Notwithstanding any other provision in this agreement, the Employer may terminate this agreement summarily and without notice for serious misconduct on the part of the Employee. Serious misconduct includes, but is not limited to:

- (i) theft;
- (ii) dishonesty;
- (iii) harassment of a work colleague or customer;
- (iv) serious or repeated failure to follow a reasonable instruction;
- (v) deliberate destruction of any property belonging to the Employer;
- (vi) actions which seriously damage the Employer's reputation.

13.4 Abandonment of Employment

In the event the Employee has been absent from work for three consecutive working days without any notification to the Employer, and the Employer has made reasonable efforts to contact the Employee, this agreement shall automatically terminate on the expiry of the third day without the need for notice of termination of employment.

14 Resolving Employment Relationship Problems

If the employment relationship is to be as successful as possible, it is important that the Employer and Employee deal effectively with any problems that may arise.

This procedure sets out information on how problems can be raised and worked through.

What is an employment relationship problem?

It can be anything that harms or may harm the employment relationship, other than problems relating to setting the terms and conditions of employment.

Clarify the problem

If either the Employer or Employee feels that there may be a problem in the employment relationship, the first step is to check the facts and make sure there really is a problem, and not simply a misunderstanding.

Either party might want to discuss a situation with someone else to clarify whether a problem exists, but in doing so they should take care to respect the privacy of other employees and managers, and to protect confidential information belonging to the Employer. For example, the Employee could seek information from:

- friends and family
- the Employment Relations Info-line on **0800 800 863** or on its website at **www.ers.dol.govt.nz**
- pamphlets/fact sheets from the Employment Relations Service
- their union (if they are a union member), a lawyer, a community law centre or an employment relations consultant.

Discuss the problem

If either party considers that there is a problem, it should be raised as soon as possible. This can be done in writing or verbally. Provided the Employee feels comfortable doing so, they should ordinarily raise the problem with their direct manager. Otherwise the problem can be raised with another appropriate manager. A meeting will usually then be arranged where the problem can be discussed. The Employee should feel free to bring a support person with them to the meeting if they wish.

The parties will then try to establish the facts of the problem and discuss possible solutions.

The Next Steps

If the parties are not able to resolve the problem by talking to each other, a number of options exist:

- Either party can contact the Employment Relations Infoline, who can provide information and/or refer the parties to mediation.
- Depending on the nature of the problem, the issues involved may also be ones that the Labour Inspectors employed by the Department of Labour can assist with, i.e. minimum statutory entitlements such as holiday, leave or wages provision.
- Either party can take part in mediation provided by the Employment Relations Service (or the parties can agree to get an independent mediator).
- If the parties reach agreement, a mediator provided by the Employment Relations Service can sign the agreed settlement, which will then be binding on the parties.
- The parties can both agree to have the mediator provided by the ERS decide the problem, in which case that decision will be binding;
- If mediation does not resolve the problem, either party can refer the problem to the Employment Relations Authority for investigation.
- The Authority can direct the parties to mediation, or can investigate the problem and issue a determination.
- If one or other of the parties is not happy with the Authority's determination, they can refer the problem to the Employment Court.

In limited cases, there is a right to appeal a decision of the Employment Court to the Court of Appeal.

Personal Grievances

If the problem is a personal grievance, then the Employee must raise it within 90 days of when the facts that give rise to the grievance occur or come to their attention. A personal grievance can only be raised outside this time frame with the agreement of the Employer or in exceptional circumstances.

15 Acknowledgement of the Agreement

15.1 Non Assignment by Employee

The Employee must personally perform the duties and responsibilities under this agreement and no subcontracting or assignment by the Employee is permissible.

15.2 Entire Agreement

Each party acknowledges that this agreement contains the whole and entire agreement between the parties as to the subject matter of this agreement.

15.3 Severability

The various provisions of this agreement are severable and if any provision is held to be invalid or unenforceable by any court of competent jurisdiction, then such invalidity or unenforceability shall not affect the remaining provisions of this agreement.

15.4 Employee Acknowledgment

The Employee acknowledges that:

- (i) they have been advised of their right to take independent advice on the terms of this agreement,
- (ii) that they have been provided with a reasonable opportunity to take that advice;
- (iii) that they have read these terms of employment and understand these terms and their implications; and
- (iv) that they agree to be bound by these terms of employment and the Employer's policies and procedures as implemented by the Employer from time to time.

Declaration

I, **Aroha Early Learning Centre**, offer this employment agreement to

.....

Signed by:..... **Date:**.....

I,, declare that I have read and understand the conditions of employment detailed above and accept them fully. I have been advised of the right to seek independent advice in relation to this agreement, and have been allowed reasonable time to do so.

Signed by:..... **Date:**.....