

**ABC Company**

**Human Resources**

**Health Check Report**

**1st May 2017**

This review identifies the human resource management systems and processes required by ABC Company to provide a “base line” HR compliance.

The Fair Work Act (FWA) requires compliance to the National Employment Standards (NES) and to employees earning under the high-income threshold of $142,000 per annum through Modern Awards. Noncompliance to the FWA and NES could result in fines from the Fair Work Ombudsman, and / or further costs to a company in being unable to successfully defend employment related disputes.

This report incorporates the following Human Resource areas:

* **Employment Contracts**
* **Confidentiality Agreement**
* **Requirement to provide minimum award salary**
* **Human Resources Policies and Procedures**
* **Human Resources forms and letters**
* **Performance Appraisal process**
* **Position Descriptions**
* **Pre-employment Screening**
* **Exit Interview process**

**Ongoing Support**

The documents referred to in this report are all available on www.myhronline.com.au . Our experienced Human Resource Consultants are available to assist further with:

• explaining the contents of this report;

• assisting with the selection of required documents;

• assistance with tailoring these documents to ABC Company specific requirements;

• one on one Human Resources consulting and support during normal business hours.

For further assistance please contact us at www.myhronline.com.au .

1. **Employment Contracts**

It is critical your employees and contractors have been issued with current, written and legally compliant contracts. This not only provides transparency to employees around the terms and conditions associated with their employment, it also protects the company and will make it easier to discipline and dismiss employees in the future.

**Contractors**

If an employee is incorrectly treated as a contractor, the company may be liable for all employee entitlements that would have accrued and paid to that employee including annual leave, long service leave, unpaid wages, and superannuation.

We can provide advice about the correct classification and how best to structure your relationships with any contractors to minimise these risks. Penalties for these breaches can be up to $51,000 per breach.

**Commission Only Employees**

Some awards allow for employees to be paid on a commission only basis. Where this is permitted, there are very specific requirements that need to be adhered too. We can provide advice if this option is available to your company and how to structure such an employment contract.

**Employees**

ABC Company does not have employment agreements. It is recommended that new Employment Contracts be developed specific to each role grouping. Five versions of the Employment Contract have been identified as being required, as follows:

* Award Free with Offset Clause (Senior / Middle Management)
* Award with Offset Clause (other employees)
* Casual Employee
* Commission Only
* Contractor Agreement

To comply, Employment Agreements should contain the following clauses:

* Reference to relevant award and job classification
* Hours of work
* Probation period
* Notice period
* Parental leave
* Annual leave
* Personal / carer’s leave and compassionate leave
* Community service leave (including jury service)
* Public holidays
* Termination of employment
* Long service leave

**Fair Work Information Statement**

Employers are required to issue a Fair Work Information Statement to all *new* employees as soon as practicable after commencing employment.

**Independent Contractors**

ABC Company does not have Independent Contractor agreements. It is recommended that a new Independent Contractor agreement be developed including the following:

Examples of what is included in the agreement (which can be tailored to your requirements):

• Provision of Services;

• Clarification of the Nature if Relationship (not an employee);

• Insurance requirements;

• Fee and Payment;

• Confidentiality and Restraint;

• Warranty;

• Governing Law;

* Severability.

1. **Confidentiality Agreement**

ABC Company does not have a confidentiality agreement. We recommend implementing a confidentially agreement for the following reasons:

* The overall benefit of a confidentiality agreement is to protect proprietary information of a business by restricting an employee from sharing certain information with others. Any information or ideas generated by a company is proprietary and could be misused without a confidentiality agreement in place to limit its use.
* The confidentiality agreement is signed at the time of employment or the start of work on a project. It may be used in both employee and independent contractor situations. Sometimes called a non-disclosure contract, it outlines the steps the company will take if a violation of the terms of the agreement should occur.

1. **Requirement to provide minimum award salary**

ABC Company has not recently conducted a “Better off Overall Test” (total cost of hours worked including what the employee would have earned with overtime and allowances, leave loading, compared to their current “all inclusive” salary). We recommend conducting a “Better off Overall Test” for the following reasons:

* Ensure that ABC Company are not currently underpaying employees;
* Understand how ABC Company can offset overtime and allowances against any over award salaries;
* Confirm to the Fair Work Ombudsman this information if required.

1. **Human Resources Policies and Procedures**

It is recommended that HR Policies are developed, to meet compliance, and basic day to day management requirements of the company. Having strong and well communicated HR Policies and Procedures is critical to maintaining consistent standards and protecting your business.

ABC Company does not have HR Policies and Procedures. We recommend implementing the following HR Policies and Procedures. Please review policy summaries at [www.myhronline/policies.com.au](http://www.myhronline/policies.com.au). We can also assist with tailoring these policies to ABC Company specific requirements.

**Education Assistance**

This policy recognizes that there may be the need to provide support for alternative courses of study to encourage work and career related development which support and add value to the business. Typically, these courses will be assessed on a case-by-case basis.

Related forms included with this policy are:

• Education Assistance Claim Form;

• Education Assistance Application Form.

**Equal Employment Opportunity**

The purpose of this policy is to consistently apply and promote fair treatment and equal employment opportunity (EEO) for all persons involved in company business; and facilitate a workplace culture that maximizes company performance by making decisions based on merit and real business needs without regard to prohibited discriminatory criteria.

**Fit for Work**

The purpose of this policy is to outline the minimum requirements to be observed to ensure employees and contractors are in a fit condition to carry out their duties and do not endanger the safety of their colleagues, members of the public or themselves; establish work practices and a work environment which reduce the risks associated with medical conditions, fatigue, and drug and alcohol use; and supply information on alcohol and drugs and assist employees who need advice or help in such matters in a sensitive and confidential manner.

**Issue Resolution**

This policy is designed to assist managers and employees to resolve issues or grievances in the workplace, to avoid these issues having to be dealt with by outside bodies such as Fair Work Australia or Unions.

**Leave**

This policy summarizes the minimum leave entitlements of employees. This includes Annual, Personal (Sick and Carer’s), Long Service, Jury Duty, Parental, etc. as well as the process for managing leave within the company.

A related form included with this policy is:

• Leave Form.

**Maintaining HR Records**

The purpose of this document is to set out guidelines for maintaining employees’ personnel records and payroll data, to comply with the Fair Work Act 2009.

**Mobile Phone**

The purpose of this policy is to explain the Company’s position and practice about the issuing of mobile phones to employees.

**Motor Vehicle**

The purpose of this policy is to set out the guidelines that will apply when use of a private vehicle for work-related travel is required.

**Performance Management**

The purpose of this policy is to assist Managers who are dealing with acts or omissions that constitute misconduct or are otherwise inappropriate; and managing employees whose performance is unsatisfactory.

**Professional Memberships**

This policy states how the company may support the membership costs of employees who are members of professional associations or societies that are related to the industry, market place or functional discipline; to take advantage of the benefits that such associations provide, such as training opportunities, access to information on trends and professional development opportunities.

**Recruitment and Selection**

The purpose of this policy is to clearly outline the roles and responsibilities for recruitment and selection; set out consistent and effective recruitment and selection procedures; encourage the use of a structured interviewing approach; and ensure that the Company only employs the best candidates.

**Redeployment and Redundancy**

A “redundancy” occurs where the employee’s employment with the Company is terminated because the Company no longer requires an employee’s job to be performed by anyone, and the Company has not offered the employee alternative employment. This policy outlines what is bonefide redundancy, the process which must be followed to comply with the Fair Work Act 2009, and who can approve a redundancy within the company.

**Remuneration and Reward**

This policy outlines the processes the Company will use to maintain fair, reasonable, equitable and affordable rates of pay for all employees based on their performance and in comparison, with competitive pay practices in the market; with options including how the company will encourage, recognise and reward individual, team and / or business performance.

**Resignation and Retirement**

The purpose of this policy is to provide a broad outline of the cessation of employment requirements when an employee leaves the Company.

**Salary Review**

The purpose of this policy is to assist the company to assess and determine salary increases as part of the annual salary review process.

**Salary Sacrifice**

The purpose of this policy is to provide the framework for employees to have some flexibility in setting up their remuneration package to gain maximum value from their Total Cash Remuneration (TCR).

**Training and Development**

This policy outlines how the company will assist employees to continually improve themselves by providing training and/or development opportunities. These guidelines are designed to assist managers to prepare for, discuss and agree the components of a personal development plan for their employees to:

• support that employee’s training and development requirements;

• enhance the skills, knowledge and experience of the employee; and

• enhance the skill base of the Company.

1. **HR Forms / Letters**

It is recommended that pro-forma HR forms and letters are kept on file to meet compliance, and basic day to day management requirements of the company.

ABC Company HR forms and letters do not fully comply with the NES. To comply, HR forms and letters should be reviewed. Additional forms and letters below should also be considered. Please review forms / letters summaries at [www.myhronline.com.au](http://www.myhronline.com.au). We can also assist with tailoring these policies to ABC Company specific requirements.

**Employing Staff**

**Position Descriptions**

You can use this template to help you prepare a position description for a position you wish to fill. A position description describes the duties and responsibilities of a position. A position description helps you clarify what you need from the role and can be used as the basis to develop your position advertisement.

**Reference Check pro-forma**

You can use this template to help you check your applicant’s references when you are hiring for a new job. Reference checks can help you verify the claims made by applicants in their interview and help you make more informed hiring decisions.

**Telephone interview template**

You can use this template to help you screen applicants before you decide who to interview. Telephone screening applicants can save you time if there is a mismatch between what the candidate is looking for compared to what the job is offering. It can also help you make an initial assessment of the candidate’s skills and experience, communication skills and pay expectations.

**Unsuccessful applicant letter**

You can use this template letter to notify people that their job application was unsuccessful. While you are not required by law to inform an applicant that they were unsuccessful, it’s good practice to do so.

**Superannuation Contribution Election form**

You can use this template to record employee’s authority for their Superannuation Payment deposits. This completed form should be kept in the employee’s personal file.

**Fair Work Information Statement (Complementary)**

From 1 January 2010, this Fair Work Information Statement is to be provided to all new employees by their employer as soon as possible after the commencement of employment.

**Record of Employee Details form**

Use this template to record all the details of new employees.

**Induction Checklist**

This checklist has been created to help you in inducting your new employee.

The Checklist provides a detailed step by step guide and includes:

• Suggested steps to take before the employee commences;

• What to do on the first day (or soon after);

• Tips to ensure you provide the new employee with all required information.

**Hours of Work and Leave**

**Parental Leave request template**

This form is for employees to use to notify or update the details of any parental leave that they intend to take.

**Extension of Parental Leave – Application and Approval / Refusal Letter**

Under the National Employment Standards, eligible employees are entitled to 12 months’ unpaid parental leave. An employee on parental leave can also request to extend their unpaid leave by an additional 12 months (up to a total of 24 months from the date of birth or placement of the child).

You can give this application form to your employee to apply for an extension of their parental leave. Also attached are template letters for you to advise the employee that their request for additional unpaid parental leave has been approved / refused in the following situations.

• the employee is requesting an initial extension within the initial 12 months (you must approve), or

• the employee is requesting an additional 12 months’ leave (available with your approval), or

• The employee is requesting an extension within the initial 12 months, and have already extended their leave at least once (available with your approval).

You can refuse an employee’s request to extend unpaid parental leave beyond 12 months if you have given the employee a reasonable opportunity to discuss their request and there are reasonable business grounds to do so.

**Hours of work agreement or variation**

You and your full-time or part-time employees can use this form to agree on, or change their regular hours of work.

**Time sheet template**

A simple template to assist with managing individual employee timesheets.

**Roster template**

A simple template to assist with managing staff rosters.

**Leave application form**

This form is for employees to use to apply for any type of leave. This includes:

• Annual Leave

• Sick / Carer’s

• Time off in Lieu

• Rostered Days Off

• Long Service Leave

• Leave Without Pay

• Other Leave

**Notice of req. to take leave due to excessive leave / annual close down**

If your modern award allows it, you can require your employees to take excessive annual leave (more than 8 weeks accrued), or annual leave during a period when your business will be closed, such as an annual closedown. This letter and explanatory notes will assist you through this process.

**Performance Management**

**Probation extension letter**

You can use this letter to confirm with an employee that his or her probationary period (if applicable) is to be extended. You are not required by law to provide a letter like this or to have employees on probation. However, you are required to gain approval from an employee before extending their probation period.

**Successful probation letter**

You can use this letter to provide an employee with written confirmation that his or her employment will continue beyond the probation period (if applicable). You are not required by law to provide a letter like this or to have employees on probation, however it is good practice to do so.

**Unsuccessful probation letter**

You can use this letter to confirm with an employee that his or her employment will not continue beyond the probationary period (if applicable). You are not required by law to provide a letter like this or to have employees on probation. However, you are required to provide written notice of termination if you are terminating an employee's employment during the probationary period.

**Performance appraisal review template**

You can use this template to help you develop a performance review process with your employee. Having a performance review process in place will help your employee understand what you expect from them. It also sets out what support or assistance will be provided to help the employee achieve their goals.

The template covers the following stages of the performance review cycle over the year:

* Planning and setting employee performance goals (including SMART goals), and a learning and development plan;

• Monitoring & assessing progress throughout the year; and

• Assessing performance at the end of the year.

**Developing a performance review checklist**

This checklist has been created to help you set up a performance review system in your business. The checklist covers detailed steps under the headings:

• Planning employee performance goals;

• Discussing and receiving feedback from the employee on performance goals;

• Monitoring the employee’s progress;

• Conducting the performance review meeting.

We recommend that you use this plan in conjunction with our Performance Review Discussion Plan template and Performance Agreement template.

**Performance review discussion template**

You can use this template to help you prepare for a performance review so that you can let the employee know how well you think they’ve performed against their individual performance goals and agree on goals for the next performance cycle.

This template includes:

• How to prepare for the review meeting;

• What to discuss during the meeting;

• What to consider as next steps.

We recommend that you use this plan in conjunction with our Setting up a performance system checklist and Performance agreement template.

**Termination (abandonment)**

If an employee has been absent without making contact, and you cannot contact the employee directly, the next step you may consider taking is to send them an abandonment of employment letter.

**Termination (redundancy)**

You can use these two letters to provide an employee with written notice of termination due to redundancy.

**Termination (serious misconduct)**

You can use this template when terminating an employee’s employment for serious misconduct.

Summary dismissal for serious misconduct has immediate effect. It is a severe step to terminate an employee’s employment without providing notice of termination (or payment in lieu of notice), so you may wish to seek advice from one of our HR Consultants about the matter before acting.

**Termination (unsatisfactory performance)**

You can use this letter when terminating an employee’s employment because of unsatisfactory performance or conduct.

**Confirmation of Resignation letter**

You can use this letter after you have received an employee’s resignation. It is advisable that this resignation from the employee be communicated in writing. The purpose of this letter is to confirm the company’s acceptance of the employee’s resignation.

**First / or second warning letter**

A first warning is usually issued after you have verbally warned the employee about a performance or conduct issue. To conduct a verbal warning see our Managing underperformance - initial steps checklist and Recording of a meeting with employee template.

**Final warning letter**

Final warning letters are usually issued to an employee after you have warned him or her about a performance or conduct issue and his or her conduct or performance has not improved. You can use the First and second warning letter for this.

**Managing underperformance initial steps checklist**

This checklist has been created to help you manage underperformance in your business.

The Checklist provides a detailed step by step guide and includes:

• Identifying the issue/s;

• Assessing the issue/s;

• How to meet and discuss the issue/s with the employee;

• Devising a joint solution;

• How to monitor the employee’s progress; and

• What records you should keep.

**Managing underperformance formal steps checklist**

If you have followed the ‘initial steps’ and your employee’s performance hasn’t improved it may be time to move to the ‘formal steps’ part of the process.

This checklist has been created to help you plan and conduct a formal underperformance meeting with your employee, and document the issue.

The Checklist provides a detailed step by step guide and includes:

• What to do to prepare for the meeting;

• How to conduct the meeting; and

• What to do to follow up after the meeting.

**Recording details of a meeting plan**

This template is useful for keeping a record of your meetings and discussions with employees. Employers are advised to always keep written records throughout the process of managing performance or conduct issues. If other people are present in the meeting you may wish to ask them to sign your record to verify it (if they agree with it), however they are not required to do so.

**Managing underperformance meeting plan**

You can use this template to help you prepare for a formal underperformance meeting. We recommend that you use this plan in conjunction with our Managing underperformance – the formal steps checklist.

The Checklist provides a detailed step by step guide and includes:

• Suggested steps before the meeting;

• How to conduct the meeting;

• What you should do after the meeting.

**Small Business Fair Dismissal Code (Complimentary)**

The Fair Dismissal Code applies to small business employers with fewer than 15 employees (calculated on a simple headcount of all employees including casual employees who are employed on a regular and systematic basis). Small business employees cannot make a claim for unfair dismissal in the first 12 months following their engagement. If an employee is dismissed after this period and the employer has followed the Code then the dismissal will be deemed to be fair.

**Exit interview form**

You can use this pro-forma template to obtain feedback from employees that have resigned from the company. This feedback can be useful in determining what the company does well, and what it needs to improve. The template includes 20 questions that can be asked of the departing employee covering most areas of employment within the company.

1. **Performance Appraisal Process / Forms**

Reviewing individual performance at least annually is critical in providing employees with feedback and ensuring transparency around expected performance. Additionally, a process of informal feedback and review should be promoted to ensure potential issues are not left until formal reviews to be addressed. It is also important to occasionally review your employees’ salary / wage to ensure you remain competitive.

ABC Company does not have a Performance Appraisal process. It is recommended that a best Practice Performance Management System (Staff Review Process) be developed for all positions throughout the organisation. Best Practice Systems are focussed on Required Achievements / KPI’s that are linked to the overall Goals and Values of the organisation. This type of system would allow individual KPI’s and behaviours to be developed that are aligned to the overall goals and values of the company. This process would also assist with the assessment of training and development requirements.

A best practice approach to developing a performance management System would include:

* Linking individual KPI’s to the organizations overall goals using a Balanced Scorecard approach, and cascading these KPI’s down the organization which will create a direct line of sight between an individual’s KPI’s and the organizations goals;
* Including individual Role Specific Behaviours (i.e. Customer Focus, Team Player) as part of the assessment process, and linking these to the overall values of the organization;
* Ensuring the focus of the process is not just an annual appraisal “event”, but part of the Business Planning process, which is reviewed constantly and changed when required;
* Ensuring that the Development Plan is based on assisting the employee achieve their KPI’s and Role Specific Behaviours.

**Rollout of Performance Management System**

It is strongly recommended that this process is implemented in structured manner, team by team, to ensure that:

* Employees have input in the development of their KPI’s / Behaviours, and
* The teams’ KPI’s (in total), will assist the manager achieve their own KPI’s.

Please review forms and letters summaries at [www.myhronline.com.au](http://www.myhronline.com.au). We can also assist with tailoring these policies to ABC Company specific requirements.

1. **Position Descriptions**

A clear position description provides clarity and transparency for the company and its employees regarding expectations required for the role.

It is important to ensure that position descriptions are reviewed on an annual basis. This will ensure they are kept relevant and up to date, reflecting changing requirements.

ABC Company does not have position descriptions. It is recommended that a best Practice position description be developed. We can assist with developing and tailoring position descriptions to ABC Company specific requirements.

1. **Induction**

There are several key areas that need to be included in an induction process when a new employee commences.

ABC Company does not have an induction process. It is recommended that a best Practice induction process be developed. We can assist with developing and tailoring the induction process to ABC Company specific requirements.

1. **Pre-Employment Screening**

Best practice businesses include several key screening tools within the recruitment process. These include the following:

* Reference Checking;
* Visa / Passport Checks;
* Police Checks;
* Qualification Checks;
* Skills and aptitude testing.

ABC Company does not have a screening process. It is recommended that a best Practice screening process be developed. To be considered best practice, the screening process should be reviewed to include all the screening tools listed above. We can also assist by conducting these processes on behalf of ABC Company and to your specific requirements.

1. **Exit Interview process**

Best practice businesses conduct Exit Interviews on all staff voluntarily leaving the business. Feedback from an existing employee can be useful in determining what the company does well, and what it needs to improve.

ABC Company does not have an exit interview process. It is recommended that a best Practice exit interview process be developed. We can also assist by conducting these processes on behalf of ABC Company and to your specific requirements.

**Ongoing Support**

The documents referred too in this report are all available on [www.myhronline.com.au](http://www.myhronline.com.au) . Our experienced Human Resource Consultants are available to assist further with:

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