Industry e-guide

Real Estate

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workplace confidence

Contents

Introduction

Business owners and employers in the Real Estate industry face a number of unique challenges. As a sales-led industry, hours of work in Real Estate can fluctuate dramatically depending on an individual's portfolio; and one of the top employer concerns in the Real Estate industry is managing the cost of salaries and wages.

Recent changes to commission-only employment, employment classification, allowances, wages and written agreements are set to impact the industry dramatically. This e-guide outlines the changes and other industry-specific issues employers need to be across.

Managing employee performance and termination, together account for 44% of the advice calls Employsure receives from those in the Real Estate industry, making it another major issue. To avoid potential claims of unfair dismissal, it is important employers manage employee poor performance in accordance with the correct procedure. Documentation and record keeping are key in this process.

Finally, with employees often on the road and working independently, workplace health and safety is another challenge for Real Estate employers. From ensuring the safety of private properties during open homes, to concerns about lone working, there are many industry-specific risks to be across. This e-guide brings together our top tips and advice so employers in the Real Estate industry can be prepared.

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Chapter 1

Changes to the Real Estate Industry Award.

Changes to the Real Estate Industry Award.

The Fair Work Commission (FWC) outlined significant changes to the Real Estate Industry Award 2010, which took effect on 2 April 2018. Given these changes, it is important for businesses to understand and consider the impacts of these developments and proceed accordingly.

Classification and structure.

The FWC has introduced a broadband structure. This is to make the task of classification easier for employers. Rather than classifying employees by way of reference to job title, as had been required previously, classification is now determined by way of reference to the individual employee's level of skills and responsibility.

Accordingly, the old classifications have been integrated and, in addition, a new classification called 'Real Estate Employee Level 4 (In-Charge Level)' has been introduced with the intention of providing coverage for individuals who are responsible for the overall supervision of an office, rather than a team.

To ensure compliance, businesses should review the skills and responsibilities of existing employees to ensure that their classifications are appropriate in light of these changes.

Businesses should review the skills and responsibilities of existing employees to ensure that their classifications are appropriate in light of recent changes.

Increase to minimum Award wages.

The first full pay period commencing on or after 2 April 2018 will see changes to the minimum rates of pay for most employees. The Award rates of pay for Real Estate employees will be increased in line with the table below:

Employee Classification	New weekly minimum wage
Real Estate Employee Level 1 (Associate Level) – first 12 months	$753.70
Real Estate Employee Level 1 (Associate Level) – after 12 months	$795.50
Real Estate Employee Level 2 (Representative Level)	$837.40
Real Estate Employee Level 3 (Supervisory Level)	$921.20
Real Estate Employee Level 4 (In-charge Level)	$963.10

As of April 2018, employers are required to adjust their employee's rate to the new minimum rate. Failure to do so would constitute as underpayment.

Employers paying existing employees an amount either in excess or equal to the new minimum Award rates, are not required to make any adjustment at this time.

New qualification criteria and an increase to Minimum Income Threshold Amount.

- Arrangements will continue which allow certain Real Estate salespeople to be engaged on a commission-only basis, but with some important changes. Post-2 April 2018, an employer will only lawfully be able to engage an employee on a commission-only basis, once they have established that the employee has satisfied various eligibility tests and, in particular, the Minimum Income Threshold Amount (MITA).

- To satisfy the MITA, an employee must show, in any consecutive 12-month period in the preceding three years, that they received a salary (inclusive of commissions but excluding statutory allowances and superannuation) equal to 125% of the minimum Award rate for the relevant classification. The percentage has been increased from 110% as a result of the changes.

- An employer is not permitted to pro-rata the MITA to accommodate for employees engaged on a part-time basis.

- As a result of the changes, casual employees are not permitted to be engaged on a commission-only basis – under any circumstances.

Commission-only review and cancellation.

The FWC has introduced an annual review for employees engaged on a commission-only basis. An employer is now obliged to assess a commission-only employee's remuneration every 12 months. If it is demonstrated that the gross income falls below the MITA, the employee can no longer continue to be lawfully employed on a commission-only basis. Should an employee fail to satisfy the above criteria, they must revert to a salaried position in accordance with the wages prescribed in the Award.

No “all up” commission rate for commission-only employees.

The “all-up” commission rate in commission-only arrangements must cease, as such practices have been deemed unlawful and inconsistent with the National Employment Standards. This means that commission-only employees must be paid their National Employment Standards entitlements at the time the entitlement is taken and not in advance (this includes entitlements such as annual leave and personal/carer’s leave). Existing employees paid an “all up” rate must be transitioned to compliant arrangements.

Allowances provisions.

In addition to these changes, new allowances have been incorporated into the Award. These relate to:

- the introduction of new criteria regarding the reimbursement of an employee for the use of their own mobile phone in the course of the employment
- the introduction of a new allowance to reimburse employees who use their own motorbike in the course of their employment

Chapter 2

Wages and entitlements.

Wages and entitlements.

As a sales-led industry, hours of work in the Real Estate industry can fluctuate dramatically depending on an individual's sale portfolio. One of the top employer concerns in the Real Estate industry is managing the cost of salaries and wages.

Casual employees.

Many employers in the Real Estate industry choose to hire staff on a casual basis to maximise flexibility. When hiring casual staff, it is important employers are aware of these facts:

- an employment contract should be provided, making clear that the employee is engaged on a casual basis
- there is no guarantee of hours or obligation to be available for work
- casuals have no right to paid leave, they receive casual loading instead
- casuals are entitled to unpaid compassionate and unpaid carer's leave
- unfair dismissal claims can be lodged if employee is engaged on a regular and systematic basis, so long as they have satisfied the minimum employment period
- there is a legal expectation to have protection from bullying and discrimination
- if an employee is employed on a 'regular and systematic' basis for 12 months, they may be entitled to unpaid parental leave
- casual conversion: if a casual employee has been regularly engaged for 6 months (or 12 months, depending on the business), they are entitled to request for a conversion to become a permanent employee

Annualised salaries.

To simplify administrative arrangements, many employers in the Real Estate industry choose to offer annualised salaries.

What is an annualised salary?

An annualised salary is an agreement between an employer and employee where a fixed annual salary is agreed upon. As the salary cannot be below what the employee would have been entitled to if all Award overtime and penalty payment obligations had been met, it is important that any annualised salary calculation is compared against the Award and adjusted if needed.

The major benefit of this arrangement is it allows employers to reduce any complexity and inefficiencies of administrative costs where the employer has a set roster the employee works every week. The downfalls of an annualised salary is that it does not encourage flexibility, as changing work hours can result in overpayment or underpayment when compared to the Award. There may also be ramifications regarding superannuation, particularly in circumstances whereby overtime is converted into a flat rate. As calculations can be complex, it is best to consult with a workplace specialist before offering an annualised salary to staff.

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Rosters and hours of work.

Modern Awards and enterprise agreements have a term that requires employers to consult with employees about changes to their regular roster or ordinary hours of work. With hours sometimes fluctuating in the Real Estate industry, employers are often unclear about their obligations to employees when it comes to changing working hours.

Who must be consulted?

- full-time employees
- part-time employees
- casual employees who have, and rely upon, regular and systematic working arrangements

Employer obligations.

Employers have an obligation to:

- provide affected employees and their representative with information about the proposed change
- invite employees to give their views about how the changes will affect them (eg in relation to family and carer responsibilities and
- give consideration to any views from the employees concerned about the impact of the proposed change

This means an employer will breach the obligation if they make a final decision before consultation with employees. Employers should also ensure their policies and procedures comply with these consultation obligations.

Commission-only employment.

Under the Real Estate Industry Award 2010, there are strict requirements relating to who can be engaged on a commission-only basis. When engaging an employee on a commission-only basis under this Award, it is crucial to ensure that EACH of these requirements are met. Failure to do so will not only be a breach of the award terms, it potentially could also result in a claim for underpayment of wages and unpaid leave entitlements.

Checklist.

Determining if an employee can be engaged on a commission-only basis

- ☑ Has the employee entered into commission-only agreement in writing with the Company that sets out the basis upon which the entitlement to commission will be calculated?
- ☑ Has the employee been issued with a Real Estate agent's license, or are they otherwise registered or permitted to perform the duties of a Real Estate salesperson under Real Estate law?
- ☑ Has the employee been engaged as a Real Estate salesperson (with any licensed Real Estate agent), or otherwise been an active licensed Real Estate agent, for an aggregate period of at least 12 months in the three years immediately prior to entering into the commission-only agreement?
- ☑ Is the employee at least 21 years of age?
- ☑ The employee is not engaged as a casual, a junior, a property sales associate or a trainee?
- ☑ Has the employee demonstrated that they have met the Minimum Income Threshold in any single 12-month period in the five years immediately prior to entering into the commission-only agreement?
- ☑ Is the employee engaged on a permanent basis (eg full-time or part-time)?

Proving an employee meets these requirements.

Where an employer has engaged an employee on a commission-only basis, it is the employer's responsibility to show that these requirements have been met.

To protect against any future claims, when engaging employees on a commission-only basis, records must be kept demonstrating compliance with each of the above requirements. Further, the employer should require the employee to provide proof that they have met the Minimum Income Threshold (eg commission statements, etc) and a statutory declaration stating that these records are accurate, with each of these to be kept on the employee's file.

The employer should **require the employee to provide proof** that they have met the **minimum income threshold.**

Minimum wage requirements.

Minimum weekly rates do not apply to commission-only employees. Therefore, there is no obligation to pay additional wages if the employee's commission falls below this. However, it is important that you retain records which clearly demonstrate that the employee met the Minimum Income Threshold test to enter a commission-only agreement.

Public holidays.

The dynamic nature of the industry means working on public holidays is often a necessity, and employers need to be aware of employee entitlements.

What is the entitlement?

An employee is ordinarily entitled to be absent from work on a day or part-day which is a public holiday in the place where the employee is based for work purposes. However, an employer may request an employee to work on a public holiday if the request is reasonable. An employee may then only refuse to work if they have reasonable grounds to do so.

How to determine what is reasonable?

In determining whether a request or a refusal is reasonable, the following factors must be taken into account:

- the nature of the employer's workplace or enterprise (including its operational requirements) and the nature of the work performed by the employee
- the employee's personal circumstances, including family responsibilities
- whether the employee could reasonably expect the employer might request work on the public holiday
- whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration which reflects an expectation of working the public holiday
- the type of employment, ie full-time, part-time, casual or shift work
- the amount of notice in advance of the public holiday given by the employer when making the request
- in relation to the refusal of a request, the amount of notice in advance of the public holiday given by the employee when refusing the request
- any other relevant matter

Do I have to pay my employees if they are absent from work on a public holiday?

If a permanent employee is absent from work on a public holiday in accordance with the National Employment Standards, they are entitled to payment for their ordinary hours of work on that day. Casual workers are not entitled to be paid if they do not work.

Are employees entitled to penalty rates or a day in lieu?

Arrangements for payment of penalty rates or days in lieu when an employee works on a public holiday are not set out in the National Employment Standards. These entitlements are generally provided through Modern Awards, agreements or contracts of employment and can vary. Employers should refer to the Award their employee falls under for further information.

Chapter 3

Performance and dismissal.

Performance and dismissal.

If an employee is not performing as expected, it is important for employers to determine whether the issue is related to conduct or performance in order to determine the correct response. As an employer in the Real Estate industry, you may be faced with an employee not reaching their sales targets or KPIs, and it is important to determine the reason before making any decisions.

Poor performance.

Poor performance is when an employee falls short because they lack the necessary skill or competence. One of the ways employers can stay competitive in the Real Estate industry is by making sure all employees are performing at their best. Managing performance well creates a more productive and harmonious workplace because employees can see the value of their work, and staff turnover is likely to be lower.

If there is a gap between an employee's performance and what an employer expects, this should be addressed early. Employers should set out clearly how they are expected to improve, with measurable targets.

If an employee still does not improve after retraining or other efforts, employers can begin the formal performance management process set out in the employee handbook. Employers should follow this process before considering ending employment on these grounds, so as to avoid any chance of an unfair dismissal claim.

Poor performance or underperformance can show up as:

- failure to do the duties of the role or meet the standard required
- not meeting KPIs
- difficulty meeting sales targets or lack of sales performance
- not following management directions in error or because of a lack of understanding

Misconduct.

Misconduct is when the employee wilfully and deliberately engages in unacceptable or improper behaviour. Almost 22% of Real Estate employers calling the Employsure advice line are looking for assistance with managing difficult employees; and a further 20% need help with employee termination, so it is a major issue for the industry. Misconduct is behaviour that is not acceptable at work. These employees are usually aware their behaviour is not allowed, although this is not necessarily the case. Employers should provide an employee handbook to all staff which includes examples of misconduct and describes the possible consequences of it.

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Repeated misconduct.

As its name suggests, repeated misconduct is the continued transgression of an employee from their expected professional behaviour. This can cover a wide range of different aspects of their time at work, whether it be failure to follow reasonable management directions or acting inappropriately in the workplace. It is important to note though, for acts of misconduct to be deemed as repeated misconduct, the employee must have previously been given the opportunity to improve.

How to manage repeated misconduct.

While it can be tempting to immediately terminate an employee following an instance of repeated misconduct, it is important to handle the situation appropriately. An employee should be warned, ideally in writing, before ending their employment. This written notice should be detailed and include specific information around the reasons for the warning, a description of their repeated misconduct and the potential consequences of their continuing to act in this manner (ie termination of employment could result should they not rectify the offending behaviour).

Warning letters.

In cases of repeated misconduct, as well as underperformance, it is important to provide employees with a written warning allowing them to improve their performance. If a decision is later made to terminate employment, it is as important as it is necessary to show that, for issues of conduct, that the response is appropriate; and, in relation to issues of performance, that the employee has been afforded an opportunity to improve.

Serious misconduct.

Serious misconduct is behaviour so serious that an employer is entitled to dismiss an employee without notice. The Fair Work Regulations define serious misconduct as wilful and deliberate behaviour that is inconsistent with the continuation of employment on the basis it causes a serious and imminent risk to the health and safety of a person or the reputation, viability or profitability of the employer's business. Usually, it means theft, fraud, assault, or intoxication at work.

The aforementioned behaviours are presumed to be serious misconduct, even if they are not included in a handbook. However, it is beneficial to set out in writing the disciplinary procedure which follows allegations of serious misconduct.

In cases of serious misconduct, you will need to demonstrate the alleged conduct was serious enough to warrant instant (summary) dismissal. Employers should follow the disciplinary process before ending someone's employment because of serious misconduct. If they do not, the dismissal might be deemed "harsh" even though the reason was valid.

Reasons for dismissal.

One of the most important aspects of being an employer is knowing the finer details of dismissals, and more particularly, when there are fair reasons for dismissal. There are many government regulations around dismissal which make clear it is not appropriate for employers to dismiss employees based on their own unsubstantiated discretion. Hence, it is important to understand exactly when it is appropriate to dismiss an employee.

How to dismiss an employee.

As an employer, it is important to follow guidelines and make sure an eligible employee is only being dismissed on fair grounds. If the correct process is not followed, there is a risk an employee could lodge a successful claim for unfair dismissal.

What is a fair reason for dismissal?

Generally speaking, a fair reason for dismissal falls into one of the following categories:

- Capacity: the employee lacks the ability to complete the job
- Performance: the employee's performance is below what is required for the job, or they are not meeting the standards outlined in their employment contract
- Misconduct: the employee's behaviour is below workplace standards, or they take part in serious misconduct
- Redundancy: the job, which the employee was previously completing, is no longer necessary for the business, or technology has made their role unnecessary

Termination of employment.

One of the most difficult things for employers to understand and manage correctly within their organisations, big and small, is termination of employment.

There are many reasons why an employment termination may be necessary, but regardless, employers need to provide employees with a minimum notice period if they are going to terminate an employee (for reasons other than serious misconduct).

Pursuant to the National Employment Standards, which must be observed by every business in Australia, an employer has to give the following minimum period of notice when dismissing an employee:

How much notice do I have to give?

Period of employment	Minimum notice period
Less than 1 year	1 week
1-3 years	2 weeks
3-5 years	3 weeks
Over 5 years	4 weeks

If an employee is over the age of 45 and has worked for at least two years on the day you give them notice, they are entitled to an extra week of notice.

If an Award, employment contract or enterprise agreement specifies a longer notice period for termination in excess of that required pursuant to the National Employment Standards, then it is the specified notice period which applies.

How to end employment.

It is important employers follow correct procedure in carrying out a termination of employment in order to reduce risks of successful employee claims.

It is necessary to give the employee written notice of the last day of employment by way of a termination letter. It may be given personally, left at the employee's last known address or sent by prepaid post to that address.

Depending on the personal relationship with the employee and the circumstances, it is up to the employer to decide which method of delivering the notice is adequate. Once an employee has been given notice of their termination, there are two options; the employee may either work through their notice period, or you can pay out the full amount of the notice period to them (known as pay in lieu of notice).

Pay in lieu of notice may include bonuses, loadings, allowances, penalty rates and overtime depending on the Award covering the employee.

Important to know.

Employers need to know if an employee thinks they have been unfairly dismissed, or if they feel their dismissal was not handled fairly, they can lodge an application for unfair dismissal.

Chapter 4

Compliance.

Compliance.

Getting on top of compliance and documentation is another major industry issue. 32% of calls across Employsure's advice line from Real Estate employers are requests for information about documentation.

What records do employers have to keep?

Regardless of size and industry, all employers need to keep employee records for seven years. In addition to what type of information needs to be kept, employers need to be aware of who can access the records and what happens if records aren't kept.

Employers must keep records of:

- employee name
- ABN
- type of employment
- employee start date and end date
- the rate of pay paid to the employee
- gross and net amounts paid
- details of any deductions from the gross amount
- details of any incentive based payment
- details of any bonus, loading or penalty rate or other monetary allowance or separately identifiable entitlement to be paid

Employers must keep records of:

- hours of work records
- payslips
- any overtime paid
- details of any arrangements made to average hours
- leave entitlements
- leave taken
- leave cashed out
- full details of superannuation contributions made
- all details of termination
- workplace flexibility agreements
- guarantees of annual earnings given to employees
- termination records
- transfer of business records

Pay slip obligations.

Employers must issue a pay slip within one working day of paying an employee, and these can be either electronic or a hard copy.

Pay slips must contain:

- employer's name and ABN
- employee's name
- pay period dates
- date the payment was made
- employee's hourly rate
- number of hours worked, or salary details
- gross and net amounts of the payment
- bonuses, loadings, allowances, penalty rates, commissions
- details of any deductions from the employee's pay
- details of any superannuation contributions made

Who can request employment records?

- employees – current and former
- Fair Work inspectors
- union officials (in some cases only)

When must the records be made available?

- An employer has three days to provide on-site access, or 14 days to post a copy of the records

As of September 2017, penalties for non-compliance of record keeping have increased, and employers who cannot give a reasonable excuse for non-compliance must disprove wage related claims in court. Employsure recommend employers take the time to examine their own record keeping practices, and get professional advice if there are any concerns.

Debit credit system.

Employees engaged on a debit/credit system have additional record keeping requirements that must be adhered to. Whenever a commission becomes payable, an employer must pay this to an employee within 14 days and provide a written statement. The statement must list the way that the commission was calculated and include all debits such as mobile phone costs, transportation costs or advertising, if applicable.

Whenever a commission becomes payable, an **employer must pay this to an employee** within **14 days** and provide a written statement.

Franchisors in the Real Estate industry.

Many Real Estate businesses are franchises, and extra liabilities are now in place where a franchisee breaches the Fair Work Act. These are centred around underpayments and record keeping.

If a franchisee underpays an employee, or breaches the Modern Award, depending on the relationship, a franchisor may also be liable for a breach of the Act. The franchisor will be liable if:

- the franchisor has a significant level of influence or control over the franchisee entity's affairs
- the franchisor knew, or could reasonably be expected to have known, the franchisee's contravention would occur
- the franchisor did not take reasonable steps to prevent a contravention of the same or similar nature

What does this change mean for franchisees?

Franchisees should be aware franchisors may now be asking to see evidence to determine whether franchisees have complied with workplace laws. This may take the form of an assessment of the franchisee's systems and processes and the monitoring and auditing of franchisee compliance.

Franchisors may also now be playing a larger role in assisting and educating franchisees with respect to their obligations under workplace laws. Both parties should ensure they are aware of the contents of the franchise agreement and they are complying with the agreement and with privacy principles.

Chapter 5

Workplace health and safety.

Industry specific risks.

Figures from SafeWork Australia reveal employees in the Real Estate industry make upwards of 1,000 serious workers compensation claims each year. It is important employers consider all the hazards in their workplace and ensure all staff are trained accordingly. In addition, the standard office-based safety issues, the nature of the sales environment means many employees are on-road and working remotely. This opens up a new set of health and safety risks, such as:

- threatening behaviour by clients or by the public during open homes
- as a role may require personal advertising and publication of identifiable contact details, there could be privacy issues with the risk of criminal intent
- meeting of anonymous members of the public alone
- environmental hazards present in homes being sold such as trip hazards, unsafe wiring, aggressive animals and unsafe structures
- driving accidents and vehicle maintenance
- lack of general control and knowledge of the employee's work environment while working remotely

Bullying.

Due to the high-performance sales environment of Real Estate, the potential for workplace bullying is a major concern for employers in the industry.

Bullying at work occurs when a person or a group of people repeatedly behaves unreasonably toward a worker, or a group of workers, at work and the behaviour creates a risk to health and safety. All employers should have a bullying policy and ensure employees have a way to report their experiences.

Bullying does not include reasonable management action carried out in a reasonable manner, for example performance management processes.

Bullying behaviour may involve any of the following types of behaviour:

- aggressive or intimidating conduct
- belittling or humiliating comments
- spreading malicious rumours
- teasing, practical jokes or 'initiation ceremonies'
- exclusion from work-related events
- unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- displaying offensive material
- pressure to behave in an inappropriate manner

Employer obligations.

Under work health and safety legislation, employers have a duty to provide workers with a safe workplace. Bullying poses a risk to worker health and safety, and therefore employers need to respond quickly and appropriately to any bullying issues that are raised. Employers should take proactive steps to prevent or minimise the risks posed by bullying. This may include having a bullying and harassment policy in place that clearly sets out behaviour expectations. Depending on the company, it may also include conducting bullying and harassment training on a regular basis to ensure workers know and understand any relevant policies and procedures.

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Eligibility to make an application.

The Fair Work Act provides that any worker who is employed by a constitutional corporation is eligible to make an application to the FWC for an order to stop bullying. A worker is defined to include employees (including apprentices and trainees), as well as contractors and subcontractors. A constitutional corporation includes any incorporated entities, but does not include unincorporated organisations such as sole traders or partnerships.

Time limit to make an application.

Unlike other types of claims that are lodged with the FWC, there is no time limit for making an application to the FWC regarding workplace bullying. However, there is a requirement that a worker must still be exposed to bullying by the same individual or group at the time of making an application. This is because the FWC can only make an order if there is a risk that the worker will continue to be bullied. Accordingly, applications cannot be made if the worker is no longer engaged with the workplace where they alleged the bullying conduct occurred.

Workers compensation claims.

With any perceived unsafe physical or psychological incident comes the risk that an employee could raise a claim for compensation. Whatever the incident, recording and reporting are a must. Recording an incident and reporting it to any relevant party (eg workers compensation insurer or, depending on the circumstances, the safety regulator), are vital steps to be taken, even if no immediate action is required. Being proactive on this front is vital as the psychological condition may be prone to deterioration.

Lone working.

Employers in the Real Estate industry face the additional challenge of managing employees who are working remotely. Lone workers face additional workplace health and safety risks if nobody else is around to help with difficult tasks, alert them to hazards, give a second opinion about how to safely do a task, or notice if they are fatigued or making mistakes.

Employers have an obligation to reduce the risks to lone workers. This can be achieved by:

- educating employees fully in the risks
- setting up a system of regular communication
- identifying risks to personal safety when meeting members of the public and implement safety procedures to minimise them
- providing effective emergency procedures, including providing a first aid kit to the employee for use on-road

Accidents at work.

An employer cannot always prevent accidents from happening at work, but they have a duty to minimise risks to safety as far as is reasonably practicable. An employer must keep a record of every workplace accident (often called a register of injuries). This must be available at all times and must include the name of the injured person, the date and time of injury, brief description of what happened, where it happened and its cause, among other details.

Anyone injured at work, including an employee, agency worker, contractor, customer or visitor, must be on the register of injuries. Personal data must be stored carefully in line with privacy laws.

Employers must also review the incident to find out whether there are steps which can be taken to prevent it from reoccurring. A serious injury, or risk to plant and equipment, will need a more in-depth investigation and may require the notification of the relevant health and safety regulator.

In some cases, employers have to use a particular form for workplace accidents. Workplace health and safety legislation requires employers to keep records of certain incidents (eg death, hospitalisation or serious injury). The requirement to keep records about workplace health and safety matters is subject to the health and safety legislation in whichever state or territory the business operates in.

An accident record should include:

- name of the injured person
- date and time of injury
- brief description of what happened
- where it happened and its cause

Creating a workplace safety policy.

The workplace health and safety obligations for Real Estate employers vary widely depending on the specifics of the business. There is no one size fits all policy for the Real Estate industry, but there are some elements of work health and safety which apply to every workplace.

Where to start.

- Identify hazards in the workplace which may harm workers
- Create and implement a written policy with clear guidelines about what is expected from all parties. This policy should be signed and dated by the employer, and be easily available to employees at all times. For example, display it around the workplace on noticeboards
- Include staff in consultation about safety in the workplace to increase awareness of safety issues and improve the safety culture in the workplace
- Manage hazards and control risks
- Monitor and review
- Complete a risk assessment which assesses any possible situation which may arise in the workplace

When looking to manage hazards, it is important to focus on the likelihood of an injury and its severity to determine the best way to minimise its risk.

Staff training.

It is essential to train and supervise all staff in workplace health and safety. Training of employees can be as a collective, such as via mass emails or at toolbox talks on companywide updates which are relevant to all staff.

A more specific and focused effort can be paid to individual jobs or tasks, with training aimed at employees directly involved in these tasks and not the whole company.

Review.

Regularly review the practices aimed at increasing safety and determine what is working well, as well as what is not working and needs to be addressed.

Ultimately, are the practices working to eliminate risk?

First aid.

Every workplace is different, which means the first aid requirements will vary depending on size, location and the number of employees. Workplaces must have arrangements in place, which are tailored to their specific circumstance.

Accidents can occur in all workplaces, regardless of the industry. However, being prepared and knowing how to minimise potential risk can help prevent an incident and/or reoccurring accidents. A workplace must provide, as far as is reasonably practicable, a safe working environment for all employees. This includes having first aid kits and suitably trained first aid officers.

First aid kits.

All employees must be able to easily access a first aid kit. The quantity of first aid kits depends on the size of the workplace and risk level. A high-risk workplace is one where employees are exposed to hazards which could result in serious injury or illness. For example, employees who frequently use hazardous machinery, work from heights, work in confined spaces or work in or around extreme temperatures. A low-risk workplace is one where employees are not exposed to hazards which could result in serious injury or illnesses.

Whilst the content of first aid kits may vary across different workplaces, each first aid kit should always include the basic equipment for administering first aid to injuries. The exact contents should be based on the specific risk assessment conducted for your workplace. A first aider who has had the adequate training should be nominated to maintain the first aid kit.

The **first aid kit** should be easily identifiable, and made from **material which will protect its contents from dust, moisture and contamination.**

Navigating workplace relations can be confusing.

Employsure works directly with employers to ensure they stay on top of rapidly changing legislation and provide a fair and safe workplace for their staff.

Whether it be dealing with a difficult employee, facing a tribunal claim or reviewing work health and safety, our clients can rest assured we have them covered.

Get in touch with us today to find out how we can help your business grow.

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