



# EMPLOYER NEWS 2019

PERRIAM & PARTNERS

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## CAN VITAMINS, HERBS AND AMINO ACIDS REALLY CURE A HANGOVER?

University of Otago research has found hangovers cost workplaces more than \$1.65 billion a year.

“From an employer’s point of view you might be able to spot someone that continuously takes Mondays off, but you’re not going to see if they’re at work and perhaps not working to their best,” Dr Trudy Sullivan, one of the study’s researchers, told Newshub.

The cost of lost productivity from an employee taking a sick day is just over 200 dollars a year. However, surprisingly, it’s four times as much if that employee turns up to work, because of the loss in work quality and risk of injury.

“We asked employees if they had to cover for their co-workers’ drinking and 20 percent said that they had, so I guess that’s a bit higher than we thought and that estimate of \$1.65 billion doesn’t include those costs.” Dr Sullivan added.

Monday hangovers may be more common with the rise of so-called Sunday sessions and all-day bottomless brunches offered in bars.

“Sunday used to be a dead place, people never used to go out on Sundays, but I think the trend is changing—people are going out, people are more about going out, trying new things.” Lalit Arora from Auckland bar Portland Public House told Newshub. And if you wake up with a hangover like the movie, calling in sick is the least of your worries.

Source: Newshub

## KEEP YOUR BEST EMPLOYEES AROUND LONGER - HOW TO MAINTAIN IMPROVED PERFORMANCE

Improving the performance of staff is hard enough; maintaining and building on that improvement present even greater challenges for managers.

To foster ongoing improvement in your staff, consider the following...



### 1. LINK BEHAVIOUR TO OUTCOMES.

Employees have to know what their improved performance—and the maintenance of that improvement—means to the organisation. Employees need to realise that, if the organisation prospers, so do their opportunities for advancement. Employees must understand that their actions impact on others, thereby increasing interdependence and a desire to continue to improve.

### 2. DEMONSTRATE YOUR COMMITMENT TO CONTINUING IMPROVEMENT.

Schedule regular meetings with individual employees to talk about the importance of improved work performance—for the organisation and for them.

### 3. REINFORCE DESIRABLE BEHAVIOURS.

Recognition is a powerful motivating tool that helps to bring out the best in people by reinforcing observed improvements. A few well-chosen words at the right time can mean a lot to someone trying to do better.

### 4. ENCOURAGE STAFF TO BLOW THEIR OWN HORN

When people are proud of their accomplishments, they will want to tell you how they did it. However, the majority are likely to be reluctant starters in self-promotion so, provide opportunities for them to talk about their improvements and to bask in their moments of glory.

### 5. LISTEN TO WHAT STAFF HAVE TO SAY.

If you’ve worked at building a positive and constructive climate, don’t hesitate to ask employees for suggestions on how you can help them to maintain their improved performance. Together, you will come up with ideas to minimise or eliminate any problems that get in the way of continuing improvements.

### 6. SHOW YOUR APPRECIATION

Thanking employees for improved performance reinforces any praise given earlier. The effectiveness of a simple ‘thank you’ is increased when it is the last thing the employee hears at the end of a conversation with you.

Source: Financial and Business Advisor, July - August 2019

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**SACKED WORKER HAS POSITION REINSTATED PLUS AWARDED DAMAGES**

A recent case before the Employment Relations Authority (ERA) has ruled an employee was unfairly dismissed. As a consequence, the employee was awarded \$45,000 and given his job back.

The employer had discovered that the employee had left his shift early on a number of occasions. At times this left a workmate to finish the shift on his own but that was not out of the ordinary as they were required to self-manage rosters and breaks. An investigation was carried out by the employer and meetings were held with the employee, in early April and then again at the end of the month. A subsequent letter from the employer said they had lost trust and confidence in the employee, but he was not suspended and allowed to continue working for a period into May. At that point he was dismissed.

The ERA found that by allowing the employee to continue working after that employer said they had lost “trust and confidence” was “not compatible” in a loss of trust. Nor had there been agreement between the parties involved around self-management as there was nothing formally set out to say that there should never be only one officer on shift.

In an email to the employee the employer accused the employee of leaving work early on a particular night. However, the employee was able to show that he did not go home early on that night. The ERA found this error was not minor and contributed to the employee being treated unfairly. It ultimately concluded that the employer had not acted in the way a fair and reasonable employer could have.

The employer was ordered to pay a sum to the employee for lost wages and compensation for hurt and humiliation. His position had also been reinstated.

**EMPLOYMENT COURT EXAMINES EMPLOYEE COMMISSIONS AND HOLIDAY PAY**

The Employment Court has recently given new clarity to a previously untested part two of the Holidays Act when considering how the definition of ordinary weekly pay requires an employer to treat commissions, when calculating holiday pay.

Under the Holidays Act, when an employee takes a paid annual holiday, they are entitled to be paid the greater of their:

- Ordinary weekly pay, or
- Average weekly earnings for the previous 12 months (start from their last pay period)

Ordinary weekly pay includes productivity or incentive-based payments (such as commission) which are a “regular part of the employee’s pay”. The recent case before the Employment Court was mainly concerned with the words – “regular part of the employee’s pay”.

This case involved bus drivers in the tourism industry who earned commission on the sale of activities they booked for passengers. The case had to consider whether commissions earned in this manner should be considered a “regular part” of the drivers pay for an ordinary working week.

The employer argued that the commissions earned by drivers was excluded from the statutory definition of “ordinary weekly pay”, as it was not earned weekly, but at irregular intervals measured by the length of each trip and subsequent reconciliation.

The Labour Inspectors argued that:

- The drivers were paid “regularly” for commissions earned on trips.
- That no period of time is expressly given in the Holidays Act against which the regularity of commissions could be measured; and
- The Parliamentary intention, and a “balanced and harmonious approach to the formula” was a period of at least 4 weeks when considering commissions earned.

The Employment Court ultimately held that the intended meaning of “regular” within the Act is what is received under the employment agreement for an ordinary working week. The employer’s drivers commonly received pays including commission, but that was earned over varying intervals of time and required reconciliation after each trip (which could extend well beyond a week), and as such did not constitute the “regular” type of payment contemplated by the Act.

**EXTRACT FROM BNZ CHIEF ECONOMIST—TONY ALEXANDER**

A net 43% of businesses report that they are finding it difficult to source skilled labour. The average is 30%. A net 34% report that it is hard to find unskilled people. The average is 8%. Difficulties finding unskilled people are usually strong.

This is the closest we have ever been in NZ to having businesses report that unskilled labour is harder to find than skilled labour.



What does this small gap between these measures tell us? First, the incentive for staff to upskill is a lot less than in the past because there are plenty of jobs available should the current one cease to exist or become tiresome for any reason. Second, the boost to minimum wages is not seemingly bringing a lot of extra unskilled people into the workforce.

Third, if the government is going to tighten up more on immigration flows, businesses reliant on unskilled labour are about to have a huge problem.

Source: BNZ Weekly Overview

**ARE YOUR EMPLOYEES LOOKING ELSEWHERE?**

A third of Kiwis are looking at leaving their job within the next 12 months.

New research from recruitment company Hays says a lack of promotional opportunities is the main reason Kiwis are considering quitting. The survey of more than 250 professionals revealed 32 percent plan to look for a new job over the next year.

Low salaries, poor training and development and poor work-life balance were the other reasons Kiwis are considering ditching jobs. Employers are noticing the change, too. "Close to one-third of employers have already told us they've seen their staff turnover rate rise in the last 12 months." said NZ Hays managing director Adam Shapely.

"With many people clearly not content in their current position this figure will likely rise further as people look for a new job to improve their career prospects."

Just half of the respondents to the study said they were "very satisfied" with their current work environments.



Source: stuff.co.nz

**DIVERSITY DELIVERS A REAL PAY OFF**

Businesses can no longer afford to ignore diversity and inclusion in the workplace if they want to stay ahead of their peers.

So says Zienna Jalil, consulting partner at Senate SHJ and keynote speaker for PwC Herald Talks' and Inclusion.

She says businesses are waking up to the fact that diversity and inclusion isn't just about doing what's right, but that it also makes a lot of business sense.

"Diversity provides many benefits—including its ability to drive innovation, creativity and empathy, improve productivity and ultimately profitability."

"Organisations which embrace diversity and inclusion have more engaged staff who draw on the talents, skills and experiences of everyone on the team. These organisations have great employer brands—which impacts their ability to attract and retain talent."

Jalil said several international studies had shown that diverse organisations outperform their peers both financially and in reputation. But businesses and leaders only benefit if they actually engage with the diversity in their organisations, she said.

"Having diversity isn't enough if the people in an organisation don't feel welcome, respected and valued. Businesses spend a lot of time and money on understanding their customers. If only the same level of attention was paid to understanding staff—the returns would be much greater."

Equally important is that diversity is represented throughout a company from the top down.

While New Zealand's diverse and multicultural landscape continues to change and influence the workplace, Jalil questions how much of this is actually from targeted initiatives by businesses and their leaders. "Our workplaces are becoming incredibly diverse—but I would suggest that's a result largely of population changes rather than targeted initiatives to increase diversity.

Source: Zienna Jalil PwC Herald Talks

**CASUAL STAFF**

Casual employees are not defined in employment legislation but is a situation where the employee has no guaranteed hours or work, no regular pattern of work and no expectation of permanent employment. The employees instead work as and when they are required by the business. The employee has no obligation to render their services and the employer has no obligation to offer continued work.

If you are employing someone on a casual basis, the arrangements must be made clear from the onset and noted in their employment agreement. It is mandatory for every employee, casual or permanent, to have a written employment agreement.

Employment rights and responsibilities still apply to casual employees, but the entitlements to leave and some other benefits vary. The termination of a casual employee is also not always required. The employer simply ceases to engage them for any further work. Casuals are often paid their 8% holiday entitlement as they go, and as such there's no further pay upon termination.

There are a number of reasons why an employer uses casual staff, but this is not without its risks. If this is not handled correctly and/or accompanied by justifiable reasons this could create an expectation of future work and/or guarantee of income for the employee. The casual employee will be deemed to be permanent and be entitled to the same benefits and protections. This could see annual leave entitlements having to be paid in addition to the 8% holiday pay loading that has already been applied. Further, the termination of the contract may be subject to the usual lengthy processes.



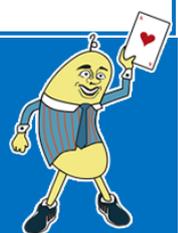
Remember also that a casual employee, by nature of their employment agreement, is not obliged to make themselves available for work.

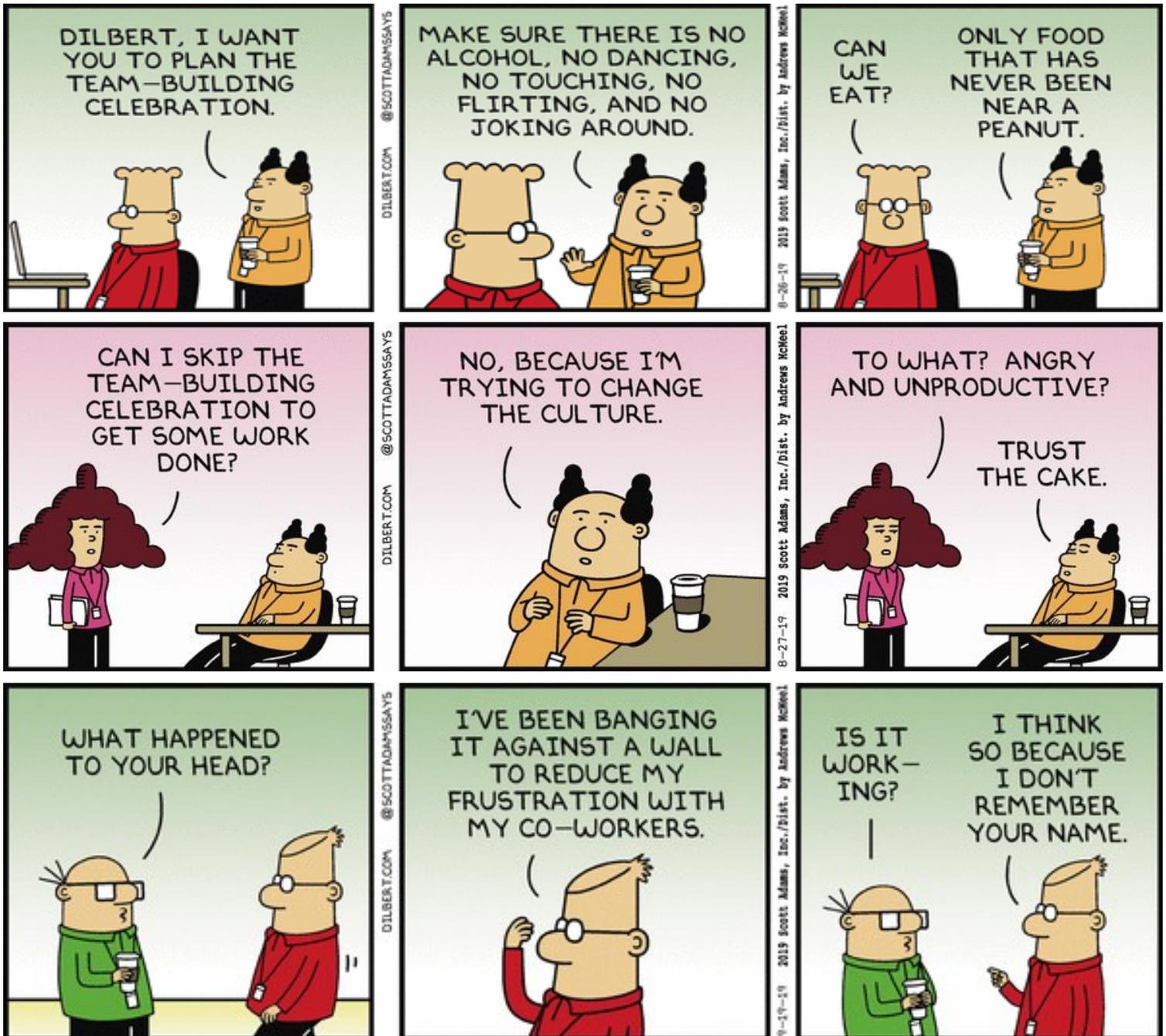
If you wish to engage casual staff be sure to use a good Casual Employment Agreement and review the nature of the engagement every few months.

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**QUESTIONS OR QUERIES?**

Should you have any questions on your payroll then please don't hesitate to contact

Susan White - Susan@perriams.co.nz

Gary Newell - Gary@perriams.co.nz

Sam Hillson -Samantha@perriams.co.nz

If you have a question on an employment contract or other related employment matters then please don't hesitate to get in touch with Bev Brewster on [Beverley@perriams.co.nz](mailto:Beverley@perriams.co.nz) . We also have an employment consultant on retainer so have direct access to a great resource should you have a "curly one!"



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