SUSTAINING HAUORA IN OUR WORKPLACES

MARCH 2020

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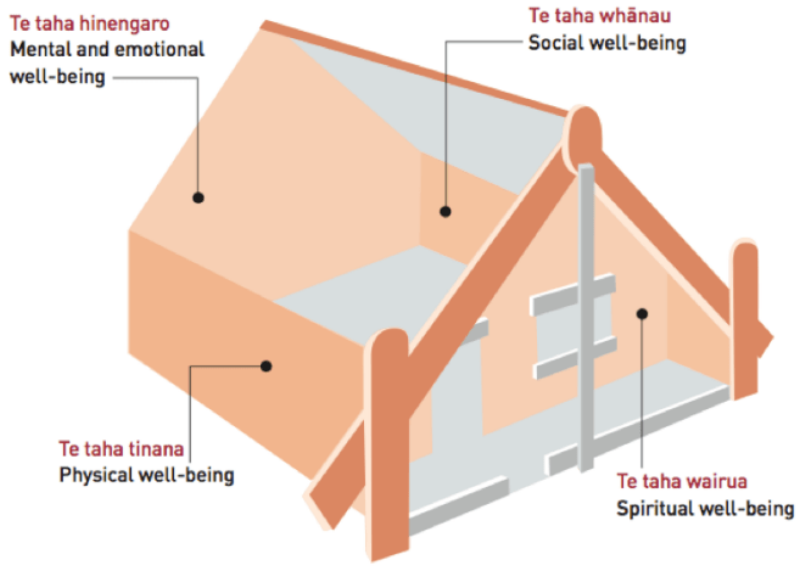
Introduction

Sustainability in the employment context could mean a multitude of things. With attitudes and conversations shifting toward a focus on workplace wellness and improving the mental health of our kaimahi (workers), we are slowly seeing evolution in employment legislation and judicial decision-making aimed at sustaining hauora (health/wellbeing) of employees in the workplace.

Te Whare Tapa Whā



Mason Durie (1994) Te Whare Tapa Whā concept of hauora

One useful model to consider when contemplating how to adopt a holistic approach to hauora in the workplace is Te Whare Tapa Whā. This model embodies the symbol of the wharenui, or house with four walls.

Each wall represents one of the four cornerstones of health – **taha tinana** (physical health), **taha hinengaro** (mental health), **taha whānau** (family/social health) and **taha wairua** (spiritual health). The philosophy is that where one of the walls is missing or damaged, a person becomes unbalanced and unwell.

Developments in the law

Changes to the Employment Relations Act 2000 ("the Act") have been well documented and publicised, with a number of developments arguably providing employees with an opportunity to look after their wharenui of hauora in the workplace and require employers to support that. The raft of changes means there is no room for complacency as the task of being a "fair and reasonable employer" requires more than a regimented 'tick box' or 'one size fits all' approach.

- The Act now prescribes a regime enabling employees to request **flexible working arrangements**.

Now, with no limit as to why a request can be made, employees are able to request a variation of their working arrangements. This could include a change in hours, days or location of their work in order to fulfil other needs, for example, whānau or community commitments. Employers are required to consider a request and respond in a timely manner. A request can only be declined if it cannot be accommodated on one of the specific statutory grounds.

- Aotearoa is one of the few countries to create a universal entitlement to **family violence leave** for employees who are affected by family violence.

Under the Holidays Act 2003, an employee may take family violence leave regardless of how long ago the family violence occurred (even if it pre-dated employment). Further, it can be taken by an employee if a child who ordinarily or periodically resides with the employee has had family violence inflicted on them, irrespective of whether the employee was also a victim. This leave entitlement helps enable an affected employee look after their wharenui of hauora whilst also illustrating that we all have a role to play in addressing the family violence issues that are prevalent in Aotearoa, including employers.

- The return of the **set rest and meal breaks**, though somewhat controversial given an arguable conflict with the desire for flexibility, at least reaffirms the importance of breaks for employees.

This is not just about being a fair and reasonable employer, but also reflects the health and safety obligation that employers need to be aware of. Rest breaks give an employee a chance to recover, refresh and take care of personal matters which is not only essential for their hauora, but also assists with making the workplace more productive.

- What about offering āwhina (support) to those who may be suffering with **mental health issues** in the workplace?

The Health and Safety at Work Act 2015 defines a hazard to "include a person's behavior" and the leading case, *FGH v RST*, confirms an employer has an obligation to take preventative measures to address, and respond appropriately to, mental health issues that may arise with an employee. The obligations extend beyond simply following a consultative process, and will require an employer to identify and clarify the issues and risks, and look to reduce those in order for an employee to remain safe in the workplace.

Conclusion

Whilst it is paramount that employers remain up to date with employment law changes, an adaptable and engaging ethos is needed to satisfy the obligation of being a "fair and reasonable" employer. In

considering an employer's obligation to actively consider and respond to cultural values and norms when they arise, Chief Judge Inglis has warned that "A cookie cutter approach to such matters may well become an increasingly high-risk strategy".

Ultimately, people bring their whole selves to work. A holistic approach to wellbeing through consideration of Te Whare Tapa Whā, societal expectations and the evolving employment landscape and obligations will go a long way towards sustaining the hauora of employees, the employment relationship and the workplace.