

31 July 2026
Ministry of Business, Innovation & Employment
Stout Street
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Retail NZ submission: Consultation on the employment dispute system

Overview

1. Retail NZ is a membership organisation that represents the views and interests of New Zealand's retail sector. We are the peak body representing retailers across Aotearoa, with our membership accounting for nearly 70% of all domestic retail turnover. New Zealand's retail sector comprises approximately 30,000 businesses and employs around 222,000 Kiwis.
2. Retail NZ consulted our membership in the preparation of this submission.
3. Retail NZ and its members understand the importance of the employment dispute system and the rights of their employees to raise claims through this framework. However, retailers have experienced several frustrations with the current system, and it is clear it would benefit from several changes to ensure it is working as intended, which MBIE describes as fast, fair, and accessible.

How disputes happen

4. Our members tell us that the majority of employment disputes are between an employee and the business, and occur at the end of an employment relationship, following a robust investigation process.
5. Generally, employment dispute claims appear to be driven by an employee's perception of the process followed, or their dissatisfaction with a termination outcome. There is agreement by our members that in most instances, there is a lack of understanding by employees around the formal procedures and requirements of a disciplinary and performance management process, which has resulted in employees believing their rights have been breached when the employer has genuinely followed a fair process.
6. Our members say unclear or overly technical obligations can lead to different views about what has happened and what a fair outcome should be. Retail NZ recommends clearer guidance, simpler language, and practical examples would help reduce unnecessary disputes before they become formal.
7. Additionally, more education for employees could help improve understanding about the process, their options, their obligations, and realistic outcomes.

How disputes progress

8. Retail NZ members try to resolve disputes informally before they reach mediation, whether or not the individual has a representative. They note this works best when both parties understand the issue, the process being followed, and what realistic outcomes look like.

9. Those retailers who have engaged with the early resolution service have raised concerns about the fairness and timeliness of the process. One described the actions of a facilitator who was distracted and unprofessional, with delays between calls of many days, and a focus on trying to determine a financial settlement rather than genuinely attempting to resolve the dispute.
10. When a dispute moves to mediation, our members have described this process as being inconsistent. They report mediation can be very effective when it is timely, well-managed, and led by a skilled mediator. However, the reality is that the quality, approach and preparedness of mediators, and the timeframes for this process to play out, can vary significantly.
11. A major area of concern among our members at all steps of the disputes process is the issue of 'unregulated' employment advocates, who are not lawyers, complicating matters, creating confusion about what are realistic or practical options for employees, and essentially seeking a maximum pay-out, rather than genuinely trying to resolve employment issues.
12. These advocates themselves can have little or no understanding of what is required for a fair disciplinary process, which can slow down the process and distract from or escalate the situation, causing more stress and distress for all parties involved.
13. Our members have also reported that they have encountered advocates who act unprofessionally and unethically, with aggressive and nuisance behaviour that inflames the situation and drags out the process leaving the employee with unrealistic expectations.
14. We recommend tighter regulations and the introduction of a registration process and code of conduct that employment advocates must adhere to. This would ensure employees and employers have an official channel to raise concerns about an advocate's conduct and can be removed if they do not adhere to those rules.

Time taken to settle disputes

15. Retail NZ members find the time taken to resolve disputes under the current system is too long. While MBIE states in its consultation paper that the dispute resolution system is intended to be quick, this does not align with what our members are experiencing. They have described the process as burdensome and inefficient.
16. In particular, timeframes for mediation can be inconsistent and often quite drawn-out, with months-long wait times in some cases, which can slow down the process significantly.
17. We heard from one member the average time taken to resolve an employment dispute in their company over the past two years is 107 days from the time the grievance is lodged to a resolution being reached.
18. These lengthy timeframes have significant impacts on retailers, including:
 - a. Staffing issues. Retailers are often left in a difficult position where they cannot replace the aggrieved employee (e.g. if they are technically still employed but not working due to the dispute), but must still fill those shifts to ensure the can business run smoothly.
 - b. Resourcing pressures. Disputes can require up to daily management of the situation, which takes resources away from operations. For example, managers will be required to gather evidence and documentation, undertake investigations that can include other staff members, and take time to prepare for and attend meetings that can take up to a whole day.
 - c. Tension in the workplace. These situations lead to increased stress for and pressure on leadership and/or those involved in the dispute, as well as other staff members regardless of whether they are directly involved in the dispute itself.

19. Retail NZ believes the system would greatly benefit from better resourcing across mediation, the Employment Relations Authority (ERA) and Employment Court to improve timeliness and reduce backlogs.

How well the system is working

20. Retail NZ members report receiving an increasing number of disputes, which is placing pressure on the system.
21. As described earlier, our members say the process is inconsistent. The early resolution and mediation services can be inconsistent in terms of both skill level and timeframes, often costing a lot of time and effort. Additionally, delays at the ERA and Employment Court level are also contributing to costs for all parties involved.
22. Additionally, with the focus from many mediators and unqualified employee advocates being on reaching a financial settlement, rather than resolving the dispute, the system as it stands can be very costly to businesses.
23. There is a view from Retail NZ members that the system is weighted towards employees and the decisions reached don't always seem fair. While retailers agree that all employees have a right to make employment claims and should have a fair hearing, there is a feeling that employees have an unfair advantage in this process and can raise a grievance any time about anything.
24. We have heard several examples of employees having raised an employment dispute claim and the retailer has ended up having to pay a settlement and legal costs, despite the employer being found to have followed a proper and fair investigation, disciplinary and/or termination process. We ask consideration be given to whether procedural delays and increased costs associated with that are creating incentives for businesses to settle claims due to commercial considerations, rather than the substantive merits of a case.
25. We have had positive feedback around the online mediation. We've heard that it improves accessibility, reduces delays associated with arranging in-person meetings, and that mediators are professional, competent and pragmatic. We support the expansion of this online service to increase access and reduce pressure on the in-person service.

Conclusion

26. Thank you for the opportunity to make a submission.
27. Retail NZ recommends the system be reviewed to ensure greater consistency across the early resolution and mediation services, including clearer and more predictable timelines, consistent mediator capability, a more structured process, and better follow-up after mediation. These changes would help all parties have more confidence in the process and support faster, fairer, and more efficient resolution outcomes.
28. We have heard feedback that recent changes to personal grievances, in that remedies are reduced when an employee is found to have contributed to the circumstances of a personal grievance, are a positive development. We recommend MBIE consider whether reducing remedies where an employee fails to meet their own good faith obligations, including unreasonably refusing to engage in workplace processes or failing to communicate with their employer.
29. Retail NZ is happy to discuss any aspect of this submission further and would welcome the opportunity to discuss this further at Select Committee.

31. No part of this submission should be withheld under the OIA.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Carolyn Young'.

Carolyn Young
CHIEF EXECUTIVE
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