

Performance Management

October 2017

Employer Assist regularly receives calls from employers asking, “how do we manage an employee who is not meeting their role’s expectations?”

If an employee’s performance is not meeting your expectations, when implementing steps to manage the situation, you **must** ensure that you follow the procedural fairness principles as per the *Fair Work Act 2009* (Cth).

As the employer, firstly you need to meet with the employee to raise the areas of poor performance or misconduct and provide the employee an opportunity to respond. You also need to identify a reasonable timeframe where the employee’s performance will be reviewed (e.g.: in one month) to determine whether the performance has improved.

How to manage performance step-by-step

When disciplining an employee, you must ensure that the process provides fair and equitable treatment for those involved in the disciplinary or performance process. Fair and equitable treatment should involve the following:

- Outlining to the employee the expected standards regarding behaviour and performance and what the possible consequences may be if they do not improve;
- Ensure you are applying ‘due process’ for resolving performance and behaviour problems;
- Ensure discipline is used in a constructive way and provides an opportunity for improving performance or behavioural issues;
- Complies with legislative requirements; and
- Ensure that you openly communicate and consult with the parties involved.

On commencing performance or disciplinary management, you must meet with the employee to discuss how parties are going to commit to improving the employee’s performance.

Performance management meeting tips

When requesting an employee to attend a disciplinary meeting and/or undertake performance management, the following guide will ensure that you or your management team will satisfy the procedural fairness requirements.

1. Request the employee to attend the performance management discussion. Advise of the location and time in advance;
2. When inviting the employee to the meeting, you need to afford them an opportunity to bring a support person;
3. Ensure there is an appropriate gender balance in the meeting (i.e.: do not have two male managers instructing a female employee);
4. Prior to the meeting draft a clear outline of the identified performance issues that you will be discussing. Group these issues together (i.e.: team work, customer service, absenteeism);

5. Prepare for the meeting – know the issues, provide examples, put bullet points in order and refer to them often so that you stay on track;
6. When commencing the meeting, explain the structure of the meeting, for example:
 - a) Introduce all parties and their role, e.g. the manager, support person etc.;
 - b) Identify the employee’s performance issues;
 - c) You will then provide the employee an opportunity to respond; and
 - d) Offer a commitment from management as to how you can support the employee to improve the situation.
7. When providing the employee an opportunity to respond, the employee is entitled to confer with their support person privately before responding;
8. Agree on how to go forward by developing a structured performance management plan with:
 - a) Timeframes;
 - b) Review periods;
 - c) Expected outcomes;
 - d) Training and development; and/or
 - e) Mentoring.
9. All parties need to commit and sign off on the performance management/improvement plan. The employee must receive a copy of the plan.

Note: the employee should be given an opportunity to have ‘buy-in’ to the performance management/improvement plan. While the manager may outline some necessary points, ask if the employee has any further suggestions. Let the employee have a few days to consider the draft plan before finalising it.
10. If the employee’s performance does not improve within the timeframe, disciplinary action (i.e.: a formal written warning, termination of employment) may need to be taken.

You must document the performance or disciplinary process, particularly the performance management meeting, as you may need to rely upon this information to minimise any risk against an adverse action or unfair dismissal claim in the future.

Need assistance?

Employer Assist can assist you through the disciplinary process, including performance management planning, performance improvement options or drafting of workplace policies.

Developing structured workplace policies educates the workforce on employment procedures but more importantly ensures you and your management team are meeting your performance management obligations as per the *Fair Work Act 2009* (Cth).

If you require any further information or advice on the matters set out in this article, please contact Employer Assist on **1300 694 842** or **hvia@employerassist.com.au**.

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