

WE KNOW

HUMAN RESOURCES

MANAGING POOR PERFORMANCE

QUICK GUIDE

This guide has been provided to assist your organisation in managing poor performance. Unsatisfactory work performance is something that needs to be carefully managed as failing to follow the correct process could result in an employee taking formal action against their employer.

WHY APPRAISE INDIVIDUALS

The primary aim of a performance management process should be to improve an employee's performance, not to create a pretext for dismissal. An employee cannot be expected to improve their performance unless they are told that they are not meeting your performance expectations and given a reasonable opportunity to improve. However, where performance does not improve despite a fair and reasonable performance management process being followed, disciplinary action, including warnings and ultimately dismissal may be justified. As an employer, you must be able to justify any formal warning or dismissal for poor performance by showing that you (a) had a good reason to give the warning or to dismiss, and (b) that you followed a fair process before deciding to initiate disciplinary action.

Below is a step by step process that you should follow when managing poor performance. You must also check the employee's employment agreement or your organisation's house/work rules to ensure you meet any requirements regarding disciplinary action.

Step 1 – Informal Counselling

Meet with the employee to discuss your concerns with their performance. At the meeting:

- Be specific about the areas where the employee is not meeting the reasonable standards of performance you expect. Give examples.
- Discuss and set clear, measurable and reasonable performance goals.
- Let the employee know that you need to see significant improvement in their performance.
- Set a date on which you will review performance
- Explain that failure to improve performance will lead to a formal performance management process which could involve formal warnings and could ultimately put their job in jeopardy.

Keep a careful record of the meeting and write a letter to the employee confirming what was discussed at the meeting and the actions to be taken.

Step 2 – Formal Performance Management Process

If, after the review period, performance has not improved to a satisfactory level, commence a formal performance management process. Determine which aspects of the employee's performance are not satisfactory. Be specific. Keep a detailed record of days, events and tasks which have not been performed to a satisfactory level.

Step 3 – Arrange to meet with the Employee

The purpose of the meeting is for you to inform the employee that their work performance is unsatisfactory and for the employee to provide you with an explanation in response to the information you have compiled in step two

Write a letter to the employee inviting them to attend a meeting. You should give 2-3 days advance notice of the meeting. The letter should:

- Arrange a time and place for the meeting.
- Explain the alleged poor performance in reasonable detail (attach relevant information).
- Inform the employee that they can have a representative or support person present at the meeting.
- Inform the employee of the possible outcome of the investigation (e.g. a written warning), making it clear that no decision will be made without first considering the employee's explanation.

(A template letter is available from the Chamber.)

Step 4 – Meet with the Employee

If you are conducting the meeting yourself, it is wise for you to have a witness present to take detailed notes. At the meeting go over the alleged poor performance in detail, ensuring that the employee has been provided with all relevant information PRIOR to the meeting. Then listen to the employee's explanation.

Regardless of what the employee says (or doesn't say) **do not make a decision at the meeting**. Adjourn the meeting to consider the employee's explanation.

Step 5 – Consider the Employee's explanation

There are a number of reasons why an employee may not be performing in their role. Inadequate training or qualifications can often play a role. So too can an unclear job description or work policies. Personal problems outside of work and health issues can also be relevant factors.

Step 6 – Make a decision

Once the investigation is complete and you have heard and considered the employee's explanation you can make a decision on what action, if any, you will take. It is crucial that you keep an open mind and do not make a decision until you reach this stage of the process. You must decide whether the employee's conduct warrants disciplinary action such as a warning, or whether it should be handled in a different manner, e.g. retraining.

You can initially convey your decision to the employee verbally, but if you decide to issue a warning then a written copy should be subsequently provided to the employee. A warning should include:

- A record of the poor performance.
- The date(s) upon which you met with the employee to investigate and discuss the alleged poor performance.
- Whether or not the employee elected to have a representative or support person present.
- The employee's explanation, if any
- Whether or not you accept their explanation and if not, why not.
- Your decision (e.g. warning/final warning/dismissal).
- The remedial action the employee is required to take (e.g. undergo further training/ improve performance).
- Clear, measurable and reasonable performance goals
- The consequences should performance not improve (e.g. warning/final warning/dismissal)
- A date for review of performance, which is a reasonable timeframe for the employee to achieve these performance goals.

- The period during which the warning will remain valid (optional).

(Template letters are available on request from the Chamber.)

Step 7 – Monitor the Employee’s performance

During the review period, monitor the employee’s performance and provide the employee with feedback. If performance continues to be unsatisfactory, keep a record of days, events and tasks where performance has not been satisfactory.

At the end of the review period, consider whether the employee’s performance has improved to an acceptable level, or whether it is necessary to move to the next step in the disciplinary process. If performance has not improved sufficiently, **repeat steps 2 to 6**. A dismissal for poor performance is unlikely to be justified unless it has been preceded by fair and formal warnings. You must ensure you comply with the provisions of your House Rules or your employment agreements regarding disciplinary action.

This step by step process is only a guide and you are strongly encouraged to seek advice from an Adviser at the Chamber before commencing a performance management process. You may wish to engage one of our specialist Employment Lawyers to conduct the process for you. You can contact us by phone 03 366 5096 or email info@cecc.org.nz