
PERFORMANCE MANAGEMENT PROCEDURE

Underperformance | Misconduct

Purpose

The purpose of the 's Performance Management (disciplinary) procedures is:

- To be fair to the employee and **effect positive change** in the work performance by giving them a chance to improve poor work related behaviour.
- For management to demonstrate leadership by addressing poor performance and to maintain morale of other workers and profitability of the organisation.
- To reduce the cost of high turnover, e.g. recruitment, selection, induction and training, and in the event of dismissal of an employee (which is to be the last resort),
- To ensure Disciplinary procedural fairness and to ensure that the procedure is not harsh, unjust or unreasonable.

Why Manage performance

The best businesses are always improving their operations to stay competitive in their industry. To be able to do this, employees and managers need to be performing to a high standard.

High performance in business means:

- Increased productivity
- Engaged and committed employees
- Retaining good employees

Poor performing employees can have a negative effect on a business, for example:

- Unhappy customers or clients
 - Decreased productivity
 - High turnover
 - Unmotivated and underperforming employees
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What is underperformance

Underperformance, or poor performance, is when an employee isn't doing their job properly, or is behaving in an unacceptable way at work. It includes:

- Not carrying out their work to the required standard or not doing their job at all
- Not following workplace policies, rules or procedures
- Unacceptable behaviour at work, e.g. telling inappropriate jokes
- Disruptive or negative behaviour at work, e.g. constantly speaking negatively about the company

There is a difference between underperformance and serious misconduct.

Underperformance is not the same as misconduct. Misconduct is very serious behaviour such as theft or assault which may warrant instant dismissal. In cases of misconduct employers should seek specific advice about how to proceed before taking any action.

What is serious misconduct

Serious misconduct is when an employee:

- Causes serious and imminent risk to the health and safety of another person or to the reputation or profits of their employer's business or
- Deliberately behaves in a way that's inconsistent with continuing their employment.

Examples of serious misconduct include:

- Theft
- Fraud
- Assault
- Being drunk at work
- Refusing to carry out work duties.

There are two components to this procedure, managing the underperformance and managing the discipline or misconduct process.

1. Managing the Underperformance

- **Performance Coaching Initial Steps** - to be used when there has been initial identification of performance issues and on-the job coaching has not resulted in change, therefore an open and honest conversation around the specific issues is required to give the employee an opportunity to change or identify what the problem is together i.e. lack of training, misunderstanding of expectations, miscommunication etc.
 - **Performance Improvement Plan (PIP) Formal Steps** - results from under-performance; allowing employee and employer to put a specific plan together addressing the issues of under-performance (i.e. training, coaching) with the goal of improvement. This plan has clear actions, goals and time frames. If the goals in the PIP are not met it may lead to following the disciplinary procedure.
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2. Managing Discipline/Misconduct Process

Will be the result of addressing unacceptable behavior or attitude in the workplace, depending on the severity of the issue will depend on the action i.e. final written warning or verbal warning to indicate to the employee that the behavior will not be tolerated for the well being of themselves and .

Scope

This procedure applies to all employees and contractors.

Definitions

Summary Dismissal	<p>Means an immediate termination. Such behavioural conduct that justifies instant dismissal includes; Serious misconduct, such as theft or breach of confidentiality, dishonesty. Wilful failure to carry out reasonable and lawful direction given by the employer’s leaders. Deliberate or continuing non-compliance with the Policies and Procedures. Habitual lateness. Abusive language or bullying behaviour. Wilful abuse, destruction or damage of company property or property belonging to clients of the company. Neglect of duty, incompetence or inefficiency. Conviction of a criminal offence, which, in the opinion of the company, affects the staff member’s suitability. Misrepresentation of qualifications of employment history. Conduct of a type, which may harm reputation.</p>
Performance Improvement Plan (PIP)	<p>A formal plan detailing strategies to address performance issues. Action plans include: issues/allegations, minimum performance standards, responsibilities and strategies for improvements, reasonable timeframes for improvements, consequences of inadequate improvement and/or recurrence of issues/allegations.</p>
Counselling	<p>Refers to discussions between employer and their employees regarding performance, conduct and/or failure to meet required standards but does not include formal disciplinary action.</p>
Disciplinary Action	<p>Refers to formal action used to address performance and/or conduct concerns with employees (i.e. warnings and/or termination).</p>
Support Person	<p>Employees are entitled to have a support person present during a meeting related to performance management, investigations and disciplinary action. Failure to afford an employee a support person in a meeting in relation to a dismissal can result in the dismissal being deemed unfair due to the employee not being afforded procedural fairness. The role of a support person is that they are present in the meeting for emotional support only and they are not to act as an advocate for the employee. The employee must answer the questions themselves, not the support person</p>
File Note	<p>Refers to documented information relating to counselling or written records of disciplinary meetings. These may be provided to and signed by employees.</p>

Misconduct	Refers to any breach of the Code of Conduct, Policies, Procedures or failure to follow a management direction.
Performance	Refers to the acceptable levels of performance that an employee is reasonably expected to sustain in their position.
Probation	Refers to the initial period of employees' appointment, which provides the opportunity for employer to assess new employees' performance and conduct to determine suitability for appointment. The initial probationary period may be extended, depending upon individual circumstances.

Principals and Procedures

1. Manage Under Performance

Performance Improvement Plan (PIP)

The Performance Improvement Plan (PIP) is designed to facilitate constructive discussion between an employee and employer/manager and to clarify the work performance to be improved.

It is implemented, at the discretion of the manager, when it becomes necessary to help an employee improve his or her performance. The manager, with input from the affected employee, develops an improvement plan; the purpose of the activities outlined is to help the employee to attain the desired level of performance.

The format and the expectation of the PIP should enable the manager and staff member to communicate with a higher degree of clarity about specific expectations.

In all cases, when considering a PIP for an individual it needs approval from the [RelevantManager] and/or HR. This will ensure consistent and fair treatment of employees across the company. Following this the manager will monitor and provide feedback to the employee regarding his or her performance on the PIP and may take additional disciplinary action, if warranted, through the [Discipline Process](#), if necessary.

Step 1. Conduct PIP Meeting

The manager should review the following guidelines below with the employee when using the PIP ([FOR32](#)).

1. State/explain performance issues that are to be addressed and improved; be specific and cite examples
2. State/explain the level of work performance expectation, what the agree performance indicators look like (how it's measured) and the strategies/actions required to achieve the required outcomes and that it must be performed on a consistent basis
3. Identify and specify the support and resources you will provide to assist the employee
4. Communicate your plan for providing feedback to the employee. Specify meeting times, with whom and how often. Specify the measurements you will consider in evaluating progress
5. Specify possible consequences if performance standards are not met

Step 2. Review the Plan

The manager should then use the Performance Improvement Review Report ([FOR32a](#)) to assist in conducting further reviews of the PIP. The outcome of this review will either require further follow up – set up new dates for review or Disciplinary Action if no improvement is evident (refer to Component 2. of this procedure).

2. Managing Discipline/Misconduct

Considerations Prior to Action

a. *Summary Dismissal*

The discipline procedure may result in dismissal including summary dismissal. **Only in extreme circumstances should summary dismissal be used and then only after contacting** the [RelevantManager] and HR/IR advice sought. Such behavioural conduct that justifies instant dismissal may include but is not limited to dishonestly, criminal offence, inefficiency or neglect of duty, serious or wilful misconduct, absenteeism, breach of employment contract.

If this does occur ensure, when possible, it is done in a private meeting and always inform the employee of their termination with at least one other witness. Also ensure that a termination form ([FOR15](#)) or letter is completed (copy for both parties), payment up until the time of dismissal, plus any payment for accrued leave is paid out immediately (as per Termination Procedure [PRO07](#)).

b. *The Aim for Discipline is to Affect Positive Improvement*

In work performance the usual steps are at least three interviews before dismissal. Depending on the severity of the inappropriate work behaviour, **the discipline process can start at any of these stages.**

Essential components

All disciplinary Interviews including counselling are to be done by Manager of the company. Advice should be sought from [RelevantManager] and/or HR before any interviews and must be done as soon as possible after the unacceptable work performance/behaviour at an appropriate time and place (in private). A neutral witness can also be in attendance.

Employee must be told:

1. This is a discipline interview.
2. They will be given chance to make comment.
3. They can have someone to help and act as a support person (this needs to be offered if a formal discipline interview, refer to definition)
4. What the correct/expected behaviour is.
5. Specific behaviour that is inappropriate (this may be in writing).
6. How the behaviour affects the work, team and business.
7. What actions should be taken to affect positive improvement (this can be in writing).
8. The required time frame for change or improvement.

The Relevant Manager must:

1. Ensure employee has understood.
 2. Ensure assertive communication is used.
 3. Focus on the issue/behaviour, not the person, ensuring self-respect of employee is maintained.
 4. Document discipline interview (file note [FOR13](#)).
 5. Ensure all documentation is put in the personnel file or someplace secure.
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Steps in the disciplinary process

(Does not need to be in this order, depending on the severity of the issue/behaviour in question)

Step 1. Counselling Interview

This should not be confused with training and coaching but is used to confront poor performance or inappropriate behaviour. It must be stated that it is a disciplinary interview:

- The interview may be done verbally.
- Where possible have an independent witness to this disciplinary interview.
- All the above 'Essential Components' must be followed.
- A file note ([FOR13](#)) should be placed on the employee's file written by one of those in attendance.

Step 2. Warning Interview

In addition to the above it is imperative that:

- HR/IR advice is sought and the [RelevantManager] consulted prior to a 'Warning Interview'.
- The warning containing all facts is written on the Employee Warning form ([FOR14](#)), or in a suitable format containing all the details.
- The employee is told that if agreed improvement has not occurred in the time stated that further disciplinary action would be taken.
- Where possible, a witness should be present.
- All those in attendance to the meeting should sign the written warning. The contents should be agreed. If the employee does not agree to the contents of the warning this indicates a conflict or dispute and should be addressed to find a resolution.

Step 3. Final Written Warning

- In addition to the above, the written warning must indicate that this is the Final Written Warning based on the inappropriate behaviour/s outlined in the form
- The time frame for agreed improvement and ramifications if not undertaken must be clear.

Final Step. Termination

If there is no improvement in the employee's performance/behavior following the final review period, it may/will be necessary to terminate the employee. Refer to Termination Procedure ([PRO07](#)).

Documentation

Letter Suspension Misconduct	FOR13a
File Note	FOR13
Employee Warning Form	FOR14
Termination Form	FOR15
PIP Form	FOR32
Underperformance Meeting Plan	FOR31
Performance Coaching Checklist	FOR33
PIP Formal Steps Checklist	FOR34
