

Guidelines – Managing Poor Performance

Introduction

Cambridge HR Solutions provides advice and guidance to organisations big and small in the private, public and third sectors on all HR matters.

These guidelines¹ are intended to help managers navigate the sometimes complex world of HR.

Conduct or Capability?

Are you concerned about your employee's behaviour (conduct) or performance (capability), or both?

Conduct

If an employee is falling short of your expectations, it is important s/he understands what they are. The easiest way is to ensure they are enshrined in your policies and procedures – typically your disciplinary procedure, but they may be found in a statement about your organisation's norms and values, or code of conduct.

Disciplinary procedures typically include the following definitions of misconduct:

- *Poor time keeping.*
- *Unauthorised and unreasonable absence from work.*
- *Failure to answer a question during a properly constituted investigation.*
- *Minor violation of safety practices.*
- *Minor breaches of company regulations.*
- *Smoking.*
- *Failure to maintain or use properly company vehicles.*
- *Unreasonable standards of dress or personal hygiene.*
- *Failure to observe company regulations and procedures.*

Examples of **gross** misconduct may include:

- *Persistent lateness and poor time-keeping.*
- *Theft, including unauthorised possession of company property.*
- *Being unfit for duty because of the misuse/consumption of drugs or alcohol.*
- *Refusal to carry-out a management instruction.*
- *Breach of confidentiality / security procedures.*
- *Bribing or attempting to bribe another individual.*
- *Physical assault, breach of the peace or verbal abuse.*
- *False declaration of qualifications or professional registration.*
- *Failure to observe company rules, regulations or procedures.*
- *Wilful damage of property at work.*

¹ These are for information only. We therefore regret that we cannot be responsible for any loss you may suffer as a result of any omission or inaccuracy, and we encourage you to seek advice accordingly.

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Capability

An employee may be under-performing for any number of reasons:

- *Ill health.*
- *Personal problems at home (or work).*
- *New technology or business processes.*
- *Changes in market conditions.*
- *Loss of a driving licence.*
- *Failure to achieve a vocational qualification.*
- *An outstanding grievance.*
- *Poor supervision.*
- *Demotion, or over-promotion*

Remedies

If you need to invoke your disciplinary (or capability) procedure we strongly advise you adopt the following minimum standards:

- In ***all*** circumstances, and at each stage of any process you follow, you must act ***reasonably*** and ***fairly***.
- You should engage with your employee about their performance as ***soon as possible***.
- You should ***investigate*** all the facts, which could include reviewing job descriptions, examining personal records and interviewing staff, customers and clients.
- These facts should be ***presented*** to your employee at a ***properly convened*** meeting to which s/he may be ***accompanied*** by a work colleague.
- Any ***sanctions*** applied, or ***performance targets*** set must be reasonable and confirmed in ***writing*** setting out which ***standards*** must be achieved by ***when***, and what the ***consequences*** will be if there is a failure to improve performance, or a repetition of the misconduct.
- Your employee must have the right to ***appeal*** against a disciplinary outcome.

There are lots of “musts” and “shoulds” here (sorry), but an employer’s failure to adopt minimum standards is often the cause of an employee relations problem escalating, which can lead to expensive hearings at an employment tribunal.

Performance Management System

Based on the assumption that prevention is better than cure, a carefully designed and properly implemented and maintained performance management system should act as an “early warning” mechanism to any emerging conduct or capability issues.

For more information, or if you have any questions, do please drop us an [email](#).