



A-Z OF EMPLOYING

Performance Management

Our guide for Employers and Managers

**SUPPORTING,
FACILITATING &
REPRESENTING
BUSINESS**

Business**Central** 

Performance Management

Our guide for Employers and Managers

Contents

This is only a guide.
It should not be a
substitute for
professional advice.

Please seek advice
from our AdviceLine
Team if you require
specific assistance.

Overview	3
Introduction	3
Remuneration	3
Appraising Performance	4
Frequency	4
Acceptance	4
Appraisal systems	4
Traditional	5
360 degree	5
Feed forward.....	6
Managing Performance Problems	6
Sample process	6
Termination	8
Key issues	8
Conclusion	10

Performance Management

Our guide for Employers and Managers

Overview

A number of methods exist by which the employer may appraise an employee's performance.

Should an employer be dissatisfied with an employee's performance, they must make the employee aware, and give them a reasonable opportunity to improve.

Ongoing poor performance may be disciplined, but through a thorough process.

Successful performance appraisal systems need to be fair, reasonable and thorough to ensure that employees who are subjected to them have no recourse in the form of a personal grievance.

Introduction

Performance management is a tool used by employers where an employee is not meeting performance expectations. Where an employee fails to meet the performance expectations, following a structured procedurally fair performance improvement plan, the employee may be justifiably dismissed.

Managers and supervisors are responsible for managing the performance of employees, but this responsibility is often neglected. For a business to maximise opportunities and outcomes, all employees must be operating to their optimum. How performance is managed and measured varies immensely from complex and intricate systems of quantitative and/or qualitative measurements, to simple evaluations by the employee's direct supervisor. Performance management need not be extensive; only sufficient to ensure that management has the correct understanding of the employee's contribution to organisational success.

Performance management involves a vast number of complex issues, factors, considerations, techniques and systems, which would be impossible to address in this guide. This guide will briefly discuss appraising employee performance, and how ongoing poor performance may be addressed with disciplinary action. Professional advice is recommended when reviewing or implementing a performance management system, or when disciplining an employee for ongoing failure to meet required performance standards.

Remuneration

Performance is often closely related to remuneration, whether through regular (weekly, fortnightly or monthly) performance incentives payments, profit sharing or other systems. Without discussing the specifics of each such system, it is important to note that pay schemes that are contingent upon performance require a comprehensive performance assessment system.

Linking annual pay reviews with performance appraisals may be unwise. An employer may run the risk of creating an expectation amongst its employees that good performance should and will equate to a pay increase at the time of the pay review.

Performance Management

Our guide for Employers and Managers

Appraising Performance

The purpose of a performance appraisal is to provide feedback to an employee of your perception, or opinion of their performance. It is an opportunity to discuss the employee's role, performance and goals for the future. It can highlight areas of high performance, concern, growth and new directions. Performance appraisals are part of a regular and ongoing process in which an employee's performance is assessed and future objectives are set. Formal performance appraisals provide employees with formal recognition of their achievements, which compliments ongoing communication.

Frequency

How often you complete your performance appraisals will depend on your organisation, its expectations, the appraisal system, its requirements and realistic expectations. Electing to implement a performance appraisal system that involves weekly, fortnightly or even quarterly appraisals is pointless if there is not the commitment, time and resources available to ensure that this is followed through. A failure to hold performance appraisals at the times specified may indicate to employees that your organisation's management is not committed to the system.

Acceptance

In order to have a successful performance appraisal system it must be accepted throughout the organisation and there must be a genuine commitment to the achievement of both organisational and individual standards. This may require consultation to ensure employees do not harbour reservations regarding the fairness and accuracy of either the performance standards, the measurement methods. As always, consulting over performance standards does not give employee 'veto' rights; the employer should allow the employee an opportunity to comment on the process, without directly seeking their agreement.

Appraisal systems

Performance appraisal systems may be used to link organisational objectives with employees' personal goals and development. They are a means of constantly reviewing and improving an employee's progress and potential. Performance appraisals can assist an employer to shape its workforce to meet strategic plans.

Performance appraisal systems, if administered correctly, can be helpful in:

- ▶ Ensuring employees are aware of the employer's expectations and requirements; and
- ▶ Measuring performance; and
- ▶ Gathering an overall picture of team and organisational performance and capability; and developing a workforce to meet an organisation's strategic plan.

In general employees like to know three things in relation to their performance:

- ▶ What the employer requires of its employees; and
- ▶ How these requirements will be measured; and
- ▶ How the employer's employees are currently performing.

Performance Management

Our guide for Employers and Managers

However, in order to manage an employee's performance, it is necessary to have a fair and accurate understanding of their performance in all aspects of their job. But in order to have an accurate understanding of their performance, it is necessary to have an accurate understanding of the job, i.e. a correct and full job description, detailing all of the employee's tasks and duties. It is difficult to hold an employee accountable in their performance of required tasks and duties, if they were never fully informed of what was required of them.

Linked to each task or duty is a required level of performance, which is sometimes explicitly identified, but more often than not it is implied. If the level of performance is implied then the level needs to be reasonable. Sometimes the level of performance is referred to as benchmarks, these specify which level of outputs and/or behaviours the employer considers acceptable, and which are considered unacceptable. While it is not necessary for the employee to agree to these, it is important that they are known and achievable. A good job description will identify these benchmarks, and a good performance review process will reassess their accuracy.

Sometimes an employer is faced with a situation where it is not the employee's job performance that is causing the issues, but rather his or her attitude or bad behaviour. Such employees can still be performance managed. It is necessary to give *specific* examples of bad attitude or negative behaviour i.e. it is not enough to just say that an employee has an attitude problem. Once specific examples are given, the employee is able to take proactive steps to remedy the problems.

Once the required performance levels have been established, it is necessary to consider the methods by which performance will be appraised. Appraisal systems need not be cumbersome or overly complex. They need only serve their purpose, of providing the employer with an accurate picture of the employee's performance of their job. A number of appraisal methods exist, some of which are outlined below:

Traditional

Traditional performance appraisal systems focus on a manager giving feedback to an employee regarding their past and current performance, and maintaining the base level required to perform in the position. The manager's feedback is often based on objective measurements, such as production output, or products sold.

Whilst this method is straightforward and less time consuming, it only provides for one person's perspective of the employee's performance, and if that person is removed, or manages a large staff, then questions may be raised about how full and fair the appraisal is. It is also vulnerable to power relationships, and the discussion may not be as full and frank as necessary.

360 degree

360-degree feedback is also known as multi-source feedback, multi-rated assessment, full-circle appraisal and upward feedback. This system assesses performance against competencies and behavioural standards. In this process the employee is rated on a set of criteria by the employee's manager, peers, direct reports, and, if appropriate, customers and suppliers. The employee can then compare his or her own perceptions with other perceptions.

The employee is provided with a performance appraisal from multiple perspectives, which often makes difficult messages easier to accept as there is no obvious bias, or personality clash. 360-

Performance Management

Our guide for Employers and Managers

degree feedback is also useful to employers as it can provide an insight into how well a team is functioning, and its strengths and weaknesses. It can help to uncover conflict and areas of performance within the team that have the potential to cause disruption at a later stage (even more so when the appraisal is conducted anonymously).

360-degree appraisals rely on the subjective interpretation of the others who work with the employee. They are often appropriate where the tasks of the job are inherently difficult to measure objectively, so the employer is forced to rely upon the perceptions of others. This method is particularly useful as it incorporates multiple perceptions, from multiple perspectives.

Feed forward

The concept of feed forward, as opposed to feedback, is developing within the area of performance appraisals. Feed forward focuses solely on the future, giving employees suggestions for future behaviour, without focusing on the negatives of the past. This can assist in reducing the employee's perception that his or her performance is being criticised.

Managing Performance Problems

The performance management process is distinct from annual performance appraisals and reviews. The purpose of performance management is to rectify apparent performance problems, rather than to provide general feedback. There are mutual obligations on both parties in the performance management process; the employee must improve and the employer must provide training and support.

Before resorting to a formal performance management process, employers should consider raising their performance concerns informally as a preliminary measure. Raising concerns informally could achieve the desired outcome and save time and resources. However, if the informal approach does not resolve the issues employers should implement a performance management process, as explained below.

Sample process

The following is a generic guide for conducting a performance management process. If your company policies or the employment agreement contain a performance management procedure, you should follow that procedure instead.

Before embarking on the procedure, it is important to consider contextual factors such as the complexity of the duties being measured, the employee's service record and how performance has been traditionally managed within the organisation. It is also important to remember that performance management is not designed to be punitive. The aim is to enable the employee to improve their performance, not to punish the employee for their insufficient performance.

- 1 Hold a performance meeting to address your concerns about the employee's performance and create a performance improvement plan. Give the employee prior warning of the time and nature of the meeting, preferably allowing them to bring a representative if they so wish. At the meeting:

Performance Management

Our guide for Employers and Managers

- (a) Clarify the performance objectives of the employee's job, referring to previous occasions they have been provided with, or explained to the employee. These objectives should not be new to the employee.
 - (b) Discuss the employee's current and past levels of performance, focusing on how and when the employee has failed to meet the identified performance objectives. Identify the gap between the performance required, and the performance provided, and seek from the employee any explanation as to why their performance has not reached the required standard.
 - (c) Develop an action plan of remedial steps to resolve the gap. Agree with the employee what steps both parties will take (such as training) to improve the performance to meet the required standard. Such steps may include training, mentoring, or changing to more flexible hours of work.
 - (d) Identify a reasonable time period within which performance must improve to the specified standard. Reasonable time periods are discussed below.
 - (e) Specify the consequences of failing to meet the required standard. This may include counselling, reprimand, warning or dismissal (depending on the stage that you are at of the performance process). The employee should be made aware that if improvements aren't seen by the end of the process their employment may be in jeopardy.
 - (f) Give the employee an opportunity to comment on the process. It is not necessary for the employee to agree to the process and the performance criteria, but it is important that an opportunity is provided for them to raise any issues they may have.
 - (g) Schedule another meeting at the end of the time period to review the performance, again specifying the nature of the meeting and the ability of the employee to bring a representative.
- 2 Provide the employee with a written account of what was discussed. Some employers have the employee sign the document to agree that it is a fair and correct record of what was discussed and agreed upon, but it is not necessarily advisable, as it affords the employee an opportunity to protest (see below).
 - 3 Monitor the employee's performance in the areas identified. Collect all relevant data, both objective and subjective. Note that if an area of performance was not addressed in the initial meeting, you cannot take disciplinary action for any failure in that particular area. But you can include it in the performance improvement process for review after a reasonable period of time is provided for the employee to demonstrate accepted levels of performance.
 - 4 Hold the next performance meeting, again giving the employee an opportunity to bring a representative. If the employee has failed to meet the specified performance criteria, give them an opportunity to provide an explanation for not meeting the specified standard. Take this explanation into consideration, without any pre-judgement, and decide whether the disciplinary action specified will be taken.
 - 5 In this performance management meeting the previous steps should also be covered. The objectives should be discussed and a new review date set.

Performance Management

Our guide for Employers and Managers

The performance management process should consist of at least 3 consecutive review periods before the company considers termination.

Termination

An employer can terminate an employee for poor performance, however, it is essential that a fair process is followed. The purpose of using a progressive warning structure is to discipline an employee for failing to improve their performance despite being provided with sufficient time, training and support to reach the expected levels of performance. Termination is the final step in the performance management process.

Employers who are considering terminating an employee following a failed performance management process need to ask the following key questions, set out in *Trotter v Telecom Corporation of New Zealand Ltd* WEC 29/93:

- ▶ *Did the employer in fact become dissatisfied with the employee's performance of his or her duties?*
- ▶ *If so, did the employer inform the employee of that dissatisfaction and require the employee to achieve a higher standard of performance?*
- ▶ *Was the information given to the employee readily comprehensible in the sense of being an objective criticism of the work so far and an objective statement of standards requiring to be met?*
- ▶ *Was a reasonable time allowed for the attainment of those standards?*
- ▶ *Following the expiry of such a reasonable time and following reasonable information of what was required of the employee, did the employer turn its mind fairly to the question of whether the employee had achieved or substantially achieved what was expected, including:*
 - *Using an objective assessment of measurable targets;*
 - *Fairly placing the tentative conclusions before the employee with an opportunity to explain or refute those conclusions.*
 - *Listening to the employee's explanation with an open mind.*
 - *Considering the employee's explanation and all favourable aspects of the employee's service record and the employer's responsibility for the situation that had developed (for example, by not detecting weaknesses sooner or by promoting the employee beyond the level of his or her competence); and*
 - *Exhausting all possible remedial steps including training, counselling and the exploration of redeployment.*

Key issues

- ▶ **Punishment for insufficient performance should be the last step, never the first.** If you have been having issues with an employee's performance, you should have already addressed these either formally or informally. The employee's insufficient improvement after such discussions may require beginning a formal process.
- ▶ **The best time to deal with poor performance is now, rather than later.** Because managing, disciplining and potentially terminating for poor performance is a lengthy process, employers with concerns regarding an employee's performance should deal with

Performance Management

Our guide for Employers and Managers

them immediately, rather than putting off the process, then later having to take immediate action against an employee due to their ongoing poor performance. The employer is not entitled to shorten the process, or 'skip' necessary steps because the problem has been ongoing. Performance issues should be dealt with pro-actively.

- ▶ **The employee must be provided a clear outline of their tasks and duties, and the required standards.** An employee cannot be expected to improve upon perceived inadequacies in their performance without a detailed understanding of what is required of them. This is particularly important if the employer raises the required standard.
- ▶ **Poor performance should always be remedied by a performance management process.** While appearing cumbersome, following a fair performance process is the safest way. Employers that attempt to remove employees by other shorter methods (such as misconduct or redundancy) risk the termination being unjustified.
- ▶ **Every time performance issues are raised, the employee must be given a reasonable opportunity to improve.** The employer cannot assume that an employee is aware their performance is substandard; where there is no evidence to the contrary people presume they are doing an adequate job. Therefore it is necessary to explicitly inform the employee that their performance is insufficient, and how, and give an opportunity for the employee to improve. The length of time allowed is highly contextual, but the opportunity to improve must be 'real'. Therefore the time allowed must be sufficient so as to give the employee a 'real' opportunity to improve. The complexity of the tasks required is one of the key factors to consider. This is because often complex tasks may take longer, therefore the period of time allowed for improvement needs to relate to whether or not the task could be achieved by a reasonable person within the time allowed. For example, an employee failing to pick a sufficient number of apples need not be given as long an opportunity to improve as a sales person who has monthly sales targets.
- ▶ **The employer must be proactive in taking remedial steps.** For a dismissal for poor performance to be justifiable, the employer must have exhausted all possible steps that could have been taken to assist the employee in achieving the required performance, such as training or counselling. The employer is also obliged to consider redeployment as an alternative to termination, although such a change may require the employee's consent.
- ▶ **Probationary periods require correct performance management.** Section 67 of the Employment Relations Act 2000 specifies that all applicable employment law applies during a probationary period; therefore the employer must follow a fair process regarding performance. While such a process may be quite strict, (such as giving less warnings), it must still comply with the requirements outlined above.
- ▶ **Seeking employee agreement to performance standards may be risky.** It is not uncommon during the performance management process to enquire as to whether the employee agrees to the performance criteria and process. Should the employee agree, this effectively commits the employee to the process, but should the employee disagree where agreement was sought, the process is compromised until that disagreement is remedied. It is preferable to give an opportunity to comment, rather than actively seek the employee's agreement.

Performance Management

Our guide for Employers and Managers

Conclusion

A performance appraisal system is only as good as the people who use it. It should be designed to meet the needs of the organisation and the people who work there. It should take into account individual differences whilst reinforcing an organisation's goals and purpose.

A performance appraisal should be constructive. It should make an employee feel positive about his or her contribution to your organisation and recognise what the organisation has to offer the employee. It is a two-way process that facilitates a win-win result.

For assistance designing your performance appraisal system, or some guidelines as to various approaches taken by other organisations, you can contact one of our employer advisors for telephone advice and assistance: **0800 800 362** or email our Business AdviceLine at advice@businesscentral.org.nz

Business Central Legal has developed a **Practice Kit on Performance Management** to assist employers who have to navigate this complicated area of employment law so they can reduce their risk of exposure to costly personal grievance claims. If you would like further information or wish to purchase a Practice Kit please call AdviceLine or email advice@businesscentral.org.nz

Remember:

- ▶ Always call AdviceLine to check you have the latest guide (refer to the publication date below).
- ▶ Never hesitate to ask AdviceLine for help in interpreting and applying this guide to your fact situation.
- ▶ Use our AdviceLine employment advisors as a sounding board to test your views.
- ▶ Get one of our consultants to draft an agreement template that's tailor-made for your business.
- ▶ Visit our website www.businesscentral.org.nz regularly.
- ▶ Attend our member briefings to keep up to date with all changes.
- ▶ Send your staff to Business Central courses and conferences designed for those who manage employees.

© Business Central

[Reviewed: January 2021]