



The HR professional's best friend

Weekly article

Time to improve

9 August 2007

Gordon Brown appears to have had it easy compared with the average manager or company director. When he became Prime Minister and inherited a Cabinet of around 26 employees he wasn't entirely happy with, he simply replaced them with other colleagues or moved them to other positions. Presumably they all consented to this, some probably with less enthusiasm than others.

To call somebody into your office and dismiss them because they are underperforming or simply because their face does not fit in the business, is likely to lead to a claim of unfair dismissal. Margaret Beckett may be quite happy to spend more time in her caravan but employees in your business may be less than happy to find themselves in the job market with no proper warning. Similarly, if you decide to demote someone this could result in them resigning and claiming constructive dismissal. Did Patricia Hewitt really resign for personal reasons or she is currently working on an unfair dismissal claim? Compensation for such claims can be as much as £60,600, not to mention the management time involved in defending such claims.

In a survey carried out by IRS Employment Review last year, 3 out of 4 of the organisations surveyed stated that poor performance was a problem in their business. Under-performance will manifest itself in various ways such as failure to meet deadlines or targets, lower than expected output, poor attitude and behaviour and a poor standard of work generally. Tackling under-performance is a key challenge for many organisations since the poor performing employee can have an adverse impact on productivity and a company's ability to meet objectives, can lead to an increase in customer complaints and affect overall levels of motivation and morale.

Employers have to act very carefully before they dismiss or demote their poor performing employee. Dismissing somebody because they are unable to do their job is a potentially fair reason for dismissal, but employers must also follow a fair procedure. It is always best to have an informal meeting first to confirm with the employee exactly what is expected of them and where they are falling short of the required standards. You should investigate the possible causes. It may be that an employee is performing badly because he is being bullied at work, has not been provided with relevant training for his job or he is overworked. Following these informal discussions it may be possible to put measures in place which will lead to an immediate improvement in performance.

If informal approaches fail then a more formal procedure will have to be followed. The employee should first be invited to a meeting to discuss their poor performance. They should be given the right to be accompanied to this meeting by a colleague or a Trade Union representative, and should be provided with documentary evidence in support of the alleged poor performance. It should then be made very clear to the employee exactly how his performance has fallen below the required standards, how you expect him to improve and over what timescale. He should be given the opportunity to answer the allegations against him, and a full note of the meeting should be kept.

If it is necessary to give the employee a warning about his performance following this meeting, this should be confirmed in writing and should set out:

- The performance problem
- The improvement that this is required
- The timescale for achieving this improvement
- The consequences of their being insufficient improvement (for example the next level of warning and ultimately dismissal)
- A review date
- Any support the company will provide to assist the employee
- The right of appeal

The improvements you require must not be unreasonable. For instance if you have an under-performing sales employee, it will be unreasonable to expect him to visit a 100 potential customers and bring in £100,000 of orders in a month if even your best performing employee takes two months to do this.

Generally you should allow the employee at least a month to improve and it is good practice to hold informal review meetings during this time to support and encourage the employee. In the case of a very senior employee, whose continuing poor performance could damage the company (for instance the Financial Director) you may be justified in giving him less time to improve.

You should hold a further formal meeting after the review period and if the employee has still not improved you should set him further objectives and give him a further period of time to improve. You should warn him that failure to improve within this timescale could result in his dismissal. If he does fail to meet all or most of his objectives within this further period, it should then be safe to dismiss, provided you follow the statutory dismissal and disciplinary procedures. This will involve the following 3 step process:

- Send written details to the employee setting out the circumstances for which you are contemplating dismissal.
- Invite the employee to attend a meeting to discuss the matter, advising them that they can bring a colleague or trade union official. Confirm the decision and right of appeal in writing.
- If the employee chooses to appeal, invite the employee and companion to attend an appeal meeting after which you must inform the employee of the final decision in writing.

Before taking the decision to dismiss you should consider whether this is a reasonable sanction in the circumstances. You should ask yourself whether you, as an employer, have done enough to help the employee improve. If they have recently been promoted to a new job it would be unreasonable to dismiss them if the poor performance is partly caused by your failure to provide them with proper support and training.

If the employee is performing poorly because of a disability, you need to consider whether any reasonable adjustments can be made to assist him achieve his objectives.

It isn't easy to go through a performance improvement process with any employee, but ignoring the problem and hoping that the employee will improve or leave will be expensive to your business. Personnel Today calculated that UK employers lose £32 million a year through under-performing staff. You should therefore bite the bullet now and deal with the issue before it becomes an even bigger problem for you and your colleagues.