

# Management Support Unit (MSU)

## **Addressing Poor Performance: Information Sheet 20**

## An Overview of Human Resources Management

This information sheet is the one of a suite of four resources that aims to assist managers in the critical task of human resources (HR) management. While HR management is an important responsibility in any organisation, it takes on an even sharper focus in the community services sector. It is only through the capacities of our most valuable resource – our staff members – that we are able to achieve our primary objectives. Our people are our 'tools of trade'. It is therefore essential that careful attention is paid to this aspect of organisational management:

#### Resources

The following NCOSS information sheets and resources are available on this topic:

(They can be found at www.ncoss.org.au/component)

#### Information Sheets:

- 1. Recruitment Good Practice (Information Sheet No 15)
- 2. Managing Staff Performance (Information Sheet 18)
- 3. Annual Performance Review (Information Sheet No 19)
- 4. Addressing Poor Performance (information Sheet No 20 this resource)

Management Support Online (MSO): Performance Management and Staff Development

Sample Documents/Templates/Directories: Performance Appraisal Process – an example

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The purpose of this information sheet is to assist managers to deal with the vexed issue of poor performance. Some managers in small organisations may not have the skills and knowledge to enable them to deal with poor performance effectively. Resources and links to assist are listed at the end of this document.

It is important to read this information sheet in combination with the NCOSS Information Sheets on Managing Staff Performance (No 18) and Annual Performance Review (No. 19) as it is always preferable to prevent problems from occurring.

## **Counselling - Dealing with Poor Performance**

There are times when, despite the best efforts of managers, issues of inadequate performance need to be addressed. In the first instance, the manager needs to ensure that the problem is not in the workplace – for example in unclear performance standards, poor job design, insufficient experience or a lack of resources.

It is the responsibility of management to ensure that they are aware of, and they understand the principles of fair counselling and due process and that these are applied in the workplace. The performance management process needs to include procedures designed to ensure all employees are treated fairly and equitably, while at the same time protecting the interests of the organisation from claims of unfair treatment or unfair dismissal. It is particularly important not to engage in behaviour that lays the manager and the organisation open to claims of 'constructive dismissal'.

Constructive dismissal means that the manager forces an employee to leave because of things the manager does or says or fails to do or say, or by making the workplace so unpleasant that the employee decides to leave. In such a situation the manager could breach the contract of employment. It should be remembered that the primary purpose of counselling is to help employees achieve the desired performance or to improve their conduct to acceptable standards.

Within the workplace there are a range of ways an employee can signal that s/he has a problem including increased absenteeism or decreased output, isolation from co-workers, difficulties with concentration and failure to observe the organisation's regulations, policies and procedures.

It is the responsibility of the manager to recognise negative behavioural change in staff members in the early stages and to intervene so that the problem may be prevented from escalating. The level of intervention will depend upon the seriousness of the problem. A commitment to procedural justice requires that the process of issuing an informal warning, followed by a formal warning, is

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implemented before any steps towards the termination of an employee is considered.

The process should be approached from the perspective that the optimum outcome is one in which there is a change in behaviour and a growth in understanding of any underlying issues. In response to a specific incident or a pattern of unacceptable behaviour, it is important for the manager to undertake a timely and complete investigation with the utmost sensitivity.

**Informal Counselling** refers to a discussion between a manager and an employee over performance, work standards or other issues such as inappropriate behaviour. An informal counselling session takes place in private as soon as possible after an issue is identified. It should be relaxed, with the manager outlining expected standards of behaviour and performance with a focus on concern for the employee's welfare, as well as the reputation of the organisation and the needs of its' clients.

The employee needs the opportunity to explain the difficulty from his/her perspective. For example, there may be cultural differences or a disability that make it difficult for the worker to meet the required performance standards. If the worker has a personal problem, they may be referred to an Employee Assistance Program. The manager is responsible for reviewing the situation and making sure the matter is resolved. This meeting should not result in a formal document placed on an employee's file, but should be recorded confidentially in the manager's diary for future reference.

Formal Counselling refers to a counselling session those results in a written record of the incident/s and its outcomes. The purpose of formal counselling is to notify the employee that there is a serious concern about their performance or behaviour, and that they should endeavour to amend their actions to comply with expected standards of performance and/or behaviour or risk disciplinary action. Naturally, such a meeting can be very stressful for an employee. Depending on the circumstances, the manager may offer to defer the meeting should the employee choose to have a union delegate or support person present during the discussion. Alternatively, the employee can be informed that should a further meeting be required, they are entitled to have a support person present at that time.

The manager must clarify reasons for poor performance or unacceptable behaviour, outline to the employee the allegations or concerns, the expected standards of performance or behaviour, and include the possible ramifications of not complying with these standards. The manager should remind the employee of any commitments made in the informal counselling session, and set a review date by which time the problem must be remedied or continuing employment will

be seriously questioned. Of course the employee needs to be given the opportunity to respond to the concerns and provide their view of the situation.

This meeting must be documented in a formal Performance Improvement notice, signed by both parties and placed on an employee's file. The Performance Improvement notice, written by the manager, should be concise and directly relate to the conversation with the employee. It should include a time frame in which the situation will be reviewed – perhaps four to six weeks or less if the concern is something that can be reviewed more rapidly such as failure to attend work regularly.

## Formal Counselling – Second Warning

A second formal warning session is conducted by the manager when unacceptable behaviour or performance continues and a current first warning exists. The details of the interview should be recorded. At the second formal counselling session, the employee is always entitled to have a union delegate/ support person present.

It is important to inform the Board (via the Executive) that it is possible that a staff member may be terminated and the reasons for the decision. Board members can both support the manager in what is always a difficult action to take, and check that due process has been followed. The privacy of the employee needs to be protected and the Board should only be given information relevant to the decision to terminate the employee's services.

#### Final Warning

If, after first and second warnings have been given, the performance or behaviour does not improve to an acceptable standard, a Final Warning is appropriate. The purpose of a Final Warning is to notify the employee that the behaviour is now of such concern that if it is not amended to comply with expected standards, employment will be terminated.

A final counselling session will follow this warning. The manager should arrange a private interview with the employee, again providing him/her with the opportunity to nominate a third party to be present and act as a witness, ensuring a fair hearing is given. The employee must understand that if behaviour is not amended to comply with expected standards, employment will be terminated within a specified timeframe – possibly two to four weeks. It is also advisable that a management witness is present during this interview to protect the manager and the organisation from allegations of bullying or unfair practice.

A Final Warning notice, witnessed by all parties, should be issued following this meeting. A warning should not be used unless the manager is prepared to follow through with terminating the employee's services.

#### **Termination**

If, after all of the above steps have been taken, the performance or behaviour does not improve to an acceptable standard, termination of employment may be the final step.

Termination needs to be carried out with compassion and comply with all relevant legislation (such as the NSW Industrial Relations Act), the conditions of the relevant Award and organisational policies. Ensure the Executive of the Board is fully aware of the process to date and of the intention to dismiss. The termination will be made formally by the Board as the employer, not the manager.

When a decision has been made to terminate an employee, all necessary documentation, payments and other issues need to be fully prepared to ensure the action is taken with as little difficulty as possible. It is common practice, in a situation where a worker is dismissed, for the notice period to be paid out rather than worked. If there are negative feelings between the worker and the manager and/or organisation it is important to safeguard the interests of the organisation such as security access to buildings and confidential data.

It is wise to include a Board Member or CEO in the termination interview so that it is clear that the Board approved this action.

#### Severe Behaviour and/or Incidents

There may be occasions where the employee's behaviour or the incident is so severe as to warrant either summary dismissal or proceeding immediately to the second or final warning. Examples of severe behaviour include theft, sabotage of the organisation (such as interference with the computer system) and violence. It is important that all relevant facts are uncovered during the investigation. In cases where termination of employment may be the outcome, it may be appropriate to stand down the employee with pay while the investigation is underway.

## Mopping Up!

When an employee is terminated, it invariably impacts on other employees in the organisation. Often other workers know if there is a performance issue with one member of the team. Despite this fact, employees can become insecure about their own positions: They may be angry with the manager and/or feel that the

employee has been dealt with unfairly (even though they do not have access to the full facts!).

The privacy of the employee whose work has been terminated is of paramount importance and it is essential for the manager not to engage in any gossip. Other team members do need to know that the employee has left the organisation and a general message can be given. However, staff see through platitudes such as "She left to pursue other interests" when it is patently clear there was a performance issue at stake. It may be best to offer a statement such as: "We had differences that could not be resolved" which at least acknowledges that there was a difficulty.

It is also important to acknowledge the feelings of remaining employees. They may feel sad that that a colleague has left or anxious about the implications for their positions or the resulting impact on their workload. These issues may be addressed through individual discussions with team members during which they have the chance to express their feelings and in which appropriate positive feedback can be given – even if it is not rational, other staff members may fear losing their own jobs when one staff member is terminated. However, as long as the organisation is healthy, with fair and effective processes and good relationships with staff, any tension remaining after the termination of an employee will soon dissipate. Then it is time for team building.

## **Review and Planning**

As the manager, you need to take time to reflect on this difficulty in staff management and examine what lessons can be drawn from this experience. A debriefing session for the manager involved is essential. Immediate plans to address the imminent vacancy and associated workload issues will also need to be developed.

References

Cole, Kris, 2005, Management Theory and Practice, Pearson, Prentice Hall,

Frenchs Forest, NSW.

Hesta Super Fund, Policy Bank, www.ourcommunity.com.au, prepared by

Accenture Human Resources Services.

Support Online. Information Sheet 6 3. Management

www.ncoss.org.au/projects/msu/downloads/resources.

Links to resources and articles

Lawlink provides useful information for both employers and employees about the

Industrial Relations Commission and how it can assist:

http://www.lawlink.nsw.gov.au/irc

Lawlink provides specific information on dismissal processes and unfair

dismissal:

http://www.lawlink.nsw.gov.au/lawlink/irc/ll\_irc.nsf/pages/IRC\_procedures\_legisla

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The Human Rights and Equal Opportunities Commission provides information

about legislation relevant to discrimination in employment practices:

http://www.hreoc.gov.au/about/legislation/index.html

The Australian Services Union covers most employees in the community

services sector and can assist employees who are members:

http://www.asuservices.labor.net.au/

Board members are also Employers and may seek assistance from employer

organisations such as:

Jobs Australia: <a href="http://www.ja.com.au/home/article.aspx?ID=12068">http://www.ja.com.au/home/article.aspx?ID=12068</a>

Employers First: <a href="http://www.employersfirst.org.au/">http://www.employersfirst.org.au/</a>

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