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Tips on dealing with poor work performance in the workplace



South African labour legislation recognises that an employer may require work performance of an acceptable standard.

Workplaces differ in size and nature, and these aspects may determine the appropriate steps to be taken in cases of poor work performance; therefore, the principles outlined here should merely be used as a guideline. It is advisable to conduct the counselling sessions internally, since employers know exactly what they expect from their employees.

It is implicit in all employment contracts that the employee undertakes to perform according to the reasonable, lawful and attainable work performance standards set by the employer. By applying for a certain position, an employee is deemed to guarantee implicitly that he/she is suitable for that position.

Setting performance standards for employees

An employer may set performance standards that an employee is required to meet. Standards must be reasonable, lawful, attainable and relevant to the workplace, and the employee must be provided with the necessary resources and tools to meet these standards.

The performance standards should be known to the employee, or he/she could reasonably be expected to know what they are. The standards may be communicated verbally, in writing (minutes of meetings) or in terms of monthly or quarterly targets, or may have become known through practice and custom.

Performance standards will vary according to the nature of the business, for example accurate invoicing, reaching a sales target, meeting deadlines, etc.

We always advise employers to keep comprehensive records of all meetings and discussions in writing. It is important to remember that the onus is on the employer to prove that a dismissal was substantively (fair and valid reason) and procedurally fair (fair procedures were followed). Keeping such records will assist the employer in proving the fairness of a dismissal at the CCMA.

The above is necessary to avoid a situation where employer says: 'We have spoken to the employee on numerous occasions, but we have no proof thereof.'

Assessing employee poor work performance

After the required standard was set and the employee fails to meet the standard, the employer should-

- inform the employee that his/her work performance does not meet the set standards by conducting a counselling session;
- discuss possible causes of the poor performance and address any workplace-based causes such as an unreasonable workload or broken equipment;
- decide on ways in which the performance can be improved, including further training, guidance and counselling sessions; and
- set realistic time periods for achieving the performance standard(s).

An employee should be given a reasonable time to improve (we recommend a month between counselling sessions). It is recommended that a programme of regular feedback sessions (weekly or fortnightly) with a supervisor be introduced for this period.

Further action required for poor work performance

If performance remains poor after a reasonable period of time, the employer should communicate the following to the employee in a follow-up counselling session:

- The expected standard has still not been met;
- The seriousness of the matter and that a **formal poor performance inquiry** will be held, which could potentially lead to the employee's dismissal;
- The employee will be given an opportunity to respond to the allegations of poor performance;
- The employee may be assisted by a fellow employee or a union member;
- The employee may call witnesses or bring other proof in support of his or her case; and
- The employee has a right to an interpreter, if needed and where possible.

What is the purpose of the formal poor performance inquiry?

The purpose of the formal poor performance inquiry is to determine the following:

- Whether or not the employee failed to meet a performance standard; and
- If the employee failed to meet the required performance standard, whether or not-
- the employee was aware, or could reasonably be expected to have been aware, of the required performance standard;
- the employee was given a fair opportunity to meet the required performance standard; and
- dismissal was an appropriate sanction for not meeting the required performance standard.

In line with the spirit of corrective and progressive approaches to poor performance, it is suggested that employers explore alternatives to dismissal, such as changing some aspects of the job, a possible demotion or offering the employee another position.

In conclusion, *SERR Synergy's services include extensive support by ensuring that correct procedures are followed and assisting with formal poor work performance inquiries* by serving as independent and objective chairperson. With our *Labour Pro* team's assistance, the employee's poor work performance will be addressed and resolved in a fair manner.

About the Author: Gerhard Viljoen joined SERR Synergy in June 2016 and is a Legal Advisor at our Pretoria Branch. He is an admitted attorney of the High Court of South Africa and completed his LLB degree and a post-graduate Certificate in Advanced Labour Law at the University of Pretoria.

Sources:

Relevant legislation -Item 9 to the Code of Good Practice: Dismissal.

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