

People & Culture Leader Guide - Managing Performance vs Conduct

Purpose

It is important for Leaders to be clear about their role in managing a performance issue and labelling the issue correctly will enable you, as a Manager, to determine the appropriate course of action.

Performance

Performance is related to the degree of quality, quantity timeliness and accuracy of the work completed by the employee. Unsatisfactory performance is a failure to meet the standards of work expected for the position in which the employee is engaged.

Employees may need training, coaching and support to improve their performance.

Examples include:

- Medication Errors
- Slowness
- Incomplete tasks
- Missing deadlines
- Professional Boundaries
- Forgetting steps
- Missing targets
- Communication issues

Performance management is the process in which employees and leaders work together to plan, monitor and review an employees work objectives and overall contribution to the team.

Misconduct

Misconduct is when an employee fails to comply with the “Rules”, policies or procedures. Misconduct is unacceptable behaviour that must cease immediately and amounts to behaviour or action that might be inadvertent and first-time in nature, involving low-level breaches of policies or laws.

Examples include (but are not limited to):

- Swearing
- Harassment (not sexual harassment)
- Lateness for work
- Unsafe acts
- Social Media misuse
- Not notifying of leave
- Bullying

Repeated incidents of misconduct can amount to serious misconduct and progression through the disciplinary processes up to and including termination of employment.

Serious misconduct refers to wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the employment relationship and can occur as a once-off incident. Additionally, it is conduct which causes serious and imminent risk to a person’s health & safety or to the employer’s reputation, viability or profitability.

Examples include (but are not limited to):

- Theft
- Fraud
- Assault (including sexual harassment)
- Intoxication at work (alcohol and / or drugs)
- Refusal to carry out a lawful & reasonable work direction that is consistent with the employment contract (note, as a Leader, your reasonable work direction must be given in a reasonable manner to constitute a defence to bullying or harassment).

Managing Performance

Leaders should seek to understand the reasons for poor performance:

- Training or skills gap?
- Unclear role expectations?
- Lack of support?
- Personal reasons?

Assess the issue and decide whether the employee requires:

- Informal feedback or performance counselling
 - Informal feedback is often the best approach for minor performance concerns, it's a collaborative 1:1 problem-solving approach between you and the employee
 - Informal performance management processes should still be documented and recorded on the employee's file as a diary note
 - Refer to the "Providing Feedback" Leader Guide
- Performance counselling
 - Performance counselling may also be used to address performance issues formally.
 - Implementing an "Improving Performance Plan" with agreed strategies and key dates for review
- Formal Performance Management
 - If informal performance management has not been effective, or the issues are so serious it is not considered appropriate, the following process applies:
 - Write to the employee outlining the concerns (NTA letter)
 - Meet with the employee and provide opportunity to respond
 - Consider their response before determining an outcome
 - Communicate the outcome of the meeting
 - This is a formal process which could lead to disciplinary action and must therefore be managed in partnership with People Experience.

All conversations should be documented, whether formal or informal, and confidentiality must be maintained at all times.

Managing Misconduct

Matters relating to conduct should be addressed as soon as they are raised. There is not a one size fits all approach to managing misconduct and therefore it is essential that you consult with your Leader and People Experience to consider the best approach.

The process will include (but not limited to):

- Fact Finding to identify what we know, the context in which it occurred and any relevant "back-story" that might clarify why the misconduct has occurred – see Leader Guide
- Formally meeting with the employee to allow the employee to respond to the concerns – see Leader Guide
- Considering their response before determining an outcome and the type of disciplinary action that is appropriate, eg Warning, termination etc
- Standing down (on pay) an employee – see Leader Guide to determine when appropriate to do so.

Incidents involving misconduct and serious misconduct should be investigated and managed promptly. These situations rarely resolve themselves and procrastinating about dealing with these issues often leads to further complications - like Managers being accused of condoning the misconduct by not intervening promptly!

As every misconduct issue is unique, reach out to your People Experience team for support to identify and manage the risks involved with misconduct or serious misconduct.

Police Involvement

Where the police commence an investigation into a matter between staff, an investigation may proceed. However, Endeavour must ensure any internal investigation does not jeopardise a criminal investigation. This will be done by advising Police that Endeavour is commencing an internal investigation and ascertain if there are any particular issues that should be considered whilst investigating. The leader will liaise with Police were a police matter involves staff only. For other matters that involve customers, please refer to the Customer Safeguarding Incident Management Procedure QP8001.

Documents to refer to:

Policies

Termination Policy (QD 5275)

Procedures

Termination Procedure (QP 5275)

Managing Unsatisfactory or Substandard Performance & Disciplinary Procedure (QP 5249)

Forms

Managing Unsatisfactory Performance Checklist (QF 5249.01)

Improving Performance Plan (QF 5249.03)

Employment Termination Form (QF 5275.01)

Work Instructions

Providing Feedback Relating to Unsatisfactory Performance (WI 5249.01)