

# RAINEY COLLINS

## L A W Y E R S

## Employer's Guide to Performance Issues

Set out below are the steps which you are required to take if you have performance concerns about an employee.

1. (i) You should consult the employment agreement to see if there are any specific requirements for dealing with performance issues and you should comply with those as well as the steps below.
2. (i) You need to advise the employee that you are going to carry out a performance review and give them a time and place of the meeting.  
(ii) At the meeting you need to go over their performance with them and review their progress to date. You should cover all aspects of their performance i.e. the good as well as the alleged poor performance.
3. (i) For those matters which are not up to standard you should specify what those are.  
(ii) You should specify how they are deficient.  
(iii) Tell them how they need to improve. You need to be careful with these standards to ensure that they are ones which you expect all staff to meet and you are not singling out this particular employee for onerous requirements.  
(iv) Tell them what will happen if they do not reach the standards you require. You should advise them that that could include dismissal as a possible consequence.
4. (i) You should set another date for a further review meeting so that progress can be monitored.  
(ii) You should tell them that if they wish they can have a support person or representative present at the next meeting.
5. (i) You should monitor each aspect of their deficient performance in the period between the first and second review meetings.  
(ii) Keep careful notes of how they are performing, what they are doing well and what is not up to standard.
6. (i) At the second meeting you should once again set out how they are deficient and ask for any explanation as to why they have not met the standards which you set.  
(ii) If they have not come up to the standards you require you can then move towards a dismissal if the deficiencies are serious enough to warrant that course of action.
7. (i) Once the employee has had an opportunity to give you an explanation at that meeting you should tell them that their continued employment is in jeopardy and one of the outcomes of your decision making process may be to dismiss them.

- (ii) You should offer them the opportunity to adjourn the meeting and reconvene on a later date. Tell them that they are entitled to a support person or representative present at the meeting. If they do not want to adjourn then you should ask them whether there is anything further that they wish to say before you consider the matter.
8. (i) You then need to consider their explanation and any other information that they have put before you.
- (ii) If they have asked for other information to be taken into account but they do not have it with them and they want to present it to you then you should give them a time limit for doing so.
- (iii) You should carefully investigate any claims that are made or additional information that they want taken into account before you decide what action to take.
- (iv) You should not take any decision at the meeting that the employee is present at but advise them that you will consider all matters and let them know the outcome.
9. (i) Once you have considered all matters you then need to decide whether the allegations are correct or not i.e. whether the employee is not up to the standards that you set.
10. (i) Once you have reached that decision you then need to decide on the course of action to be taken and you need to tell the employee of the outcome.
- (ii) If it is to dismiss them then you need to give them the notice under their employment agreement.
- (iii) Some employment agreements allow you to pay salary in lieu of that notice period and you should consider that as a possibility.
11. (i) You should ensure that you follow the above steps and that you do not take any shortcuts. Shortcuts in the process can result in what would otherwise be a lawful performance review being held to be have been unjustified.

**Alan Knowsley**  
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