

WELCOME



Managing Performance

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CONTENT

- Employment Contracts / Volunteer Agreements
- Performance Management Process
- Leave Entitlements
- Redundancies



Employment Contracts / Volunteer Agreements

Why do we need them?

Written contracts - Clearly outlines terms of the engagement

Prevents misunderstandings and disputes from occurring

Verbal contracts and agreements – Not recommended

What needs to be in writing e.g. Salary & Offset Clauses – Reduce risks of underpayment claims

NES and Awards – Can't have contracts that provide for less than legal minimums





What should we include?

Employment Contracts

- Classification and Status – State whether they are permanent or casual and their award
- Hours of work
- Remuneration
- Offset clause
- Confidentiality
- Probationary periods
- Policies – Refer to but do not include as term of a contract

Volunteer Agreements

- Voluntary arrangement
- How to end the agreement
- Insurance
- Qualifications or clearances needed
- Expectations
- Confidentiality

Other Documents

Additional Documents

- Role /Job Description – For employees and volunteers
- Fair Work Information Statement – Must be given to all new employees
- Casual Information Statement – For all new casual employees
- Required Information – Super, tax, bank account details, emergency contacts etc.
- Individual Flexibility Agreements
- Policies & Procedures

Enterprise Agreements

- What they are
- Can apply to a business or individuals
- NES still applies



Performance Management - Employees

Communication is key

Initially a discussion / counselling may suffice – try to determine what is causing the issue and if training is needed

Formal disciplinary meeting – must give notice, give sufficient detail about the issues and allow a support person

Raise issues and allow them to respond

Record the meeting

Meeting – should be face to face

Performance Management - Volunteers

How do you performance manage a volunteer?

Not covered by the Fair Work Act so not as much risk in terms of process

Still have protections and should ensure issues are properly raised and discussed

Good practice to roughly follow the same process as employees and invite into a meeting and allow a support person

Also keep any records of meetings in writing

Performance Management Plans and Workplace Investigations

Performance Management Plans

Structure and content

Need to provide sufficient time to improve

Taking action before the end of the review date

Extending plans

Workplace Investigations

Formal investigation may be required where certain allegations of misconduct have been made e.g. harassment, bullying and discrimination

Also where potential theft, WHS breaches etc.

Process of investigations

Confidentiality – As much as possible

Interview all relevant parties

Suspending an employee – must be with pay and only where can show reasonably necessary and for reasonable timeframe

Warnings



Written warnings and verbal warnings – any formal warning should be in writing

What to put on a written warning – what is the warning for, what was discussed, that any further misconduct could lead to termination

You must have provided an opportunity to discuss / respond to the issues before issuing any formal warnings

Final warnings

Wait a reasonable period of time after any meeting before issuing a warning

Termination

When can this occur

Must follow disciplinary process as outlined in previous slides if looking to terminate e.g. hold meetings

Need to show aware of issues, that further failures could lead to termination and given adequate time to rectify them (unless immediate dismissal justified)

How many warnings are needed

Short term dismissals / dismissal during probation

Serious misconduct

Ending a Volunteer relationship

What are the risks if performance management isn't done properly?

Loss in productivity – not aware of issues

Unfair Dismissal & General Protections claims

Discrimination claims



Leave Entitlements

Annual Leave

Permanent employees – Equivalent of 20 paid days a year

When does leave have to be granted

Rejecting a request for leave – legitimate business reasons

Excessive leave

Cashing out of leave

Annual leave loading





Leave Entitlements – Personal Leave

What is Personal Leave?

When it can be taken

- When ill, injured or caring for an immediate family or household member who is ill or injured or where an unexpected emergency occurs

Unpaid carer's leave – 2 days one each occasion

Evidence

Unexpected emergencies

Lengthy absence due to illness or injury:

- 3 months+ where at least some of it has been unpaid
- Does not give automatic right to terminate an employee

Leave Entitlements – Other Types of Leave

- Long service leave (casuals are also entitled to this)
- Maternity and parental leave
- Community service leave
- Compassionate & bereavement leave
- Family and domestic violence leave
- Unpaid leave

Public Holidays – request for employee to work must be reasonable or they can refuse



Redundancy



What is it?

Where an employer no longer requires a job to be done by anyone

It is the role not the person being made redundant

When can it occur?

Downturn in profits

Genuine restructure

Closure/Bankruptcy

What is the process?

Must notify and consult with affected employees

Alternate roles – must be offered if reasonable ones are available

Redundancy pay and notice

Still get notice if lesser role offered and taken

Risks if not done properly – unfair dismissal



**THANK
YOU**

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