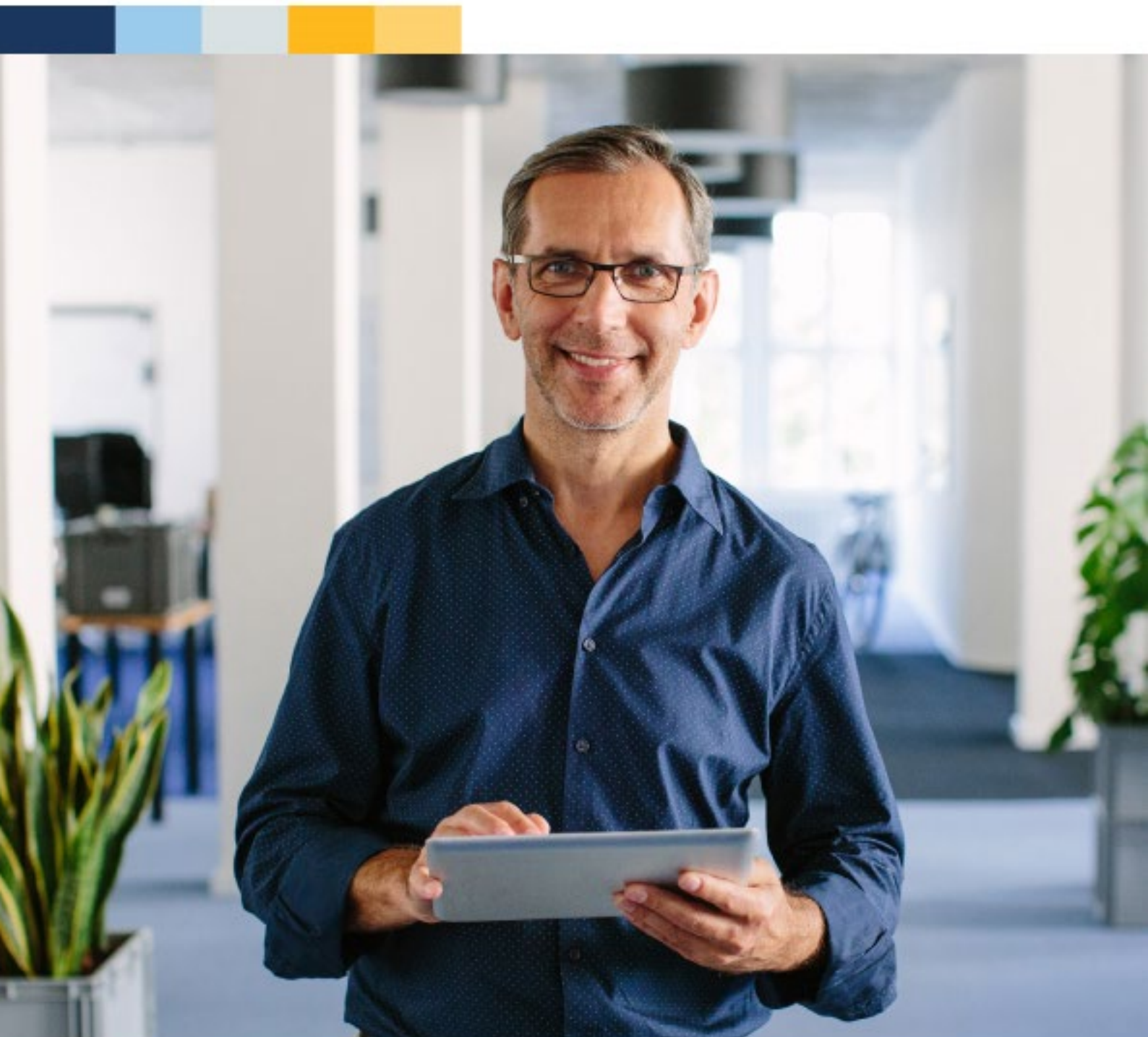


Managing underperformance best practice guide



Managing underperformance best practice guide

This best practice guide is for employers and managers. It explains the advantages of taking a best practice approach to managing underperformance, and how to identify, address and minimise underperformance. It includes:

- [Working at best practice](#)
- [Understanding underperformance](#)
- [Using best practice to manage underperformance](#)
- [Train managers and employees](#)
- [Common performance issues](#)
- [Best practice checklist](#)
- [Where to find more information.](#)

It also has practical tips and case studies to help you move your business towards best practice.

Working at best practice

Best practice employers have regular discussions with employees about performance. They set clear goals and provide feedback and support to help employees perform at their best. If underperformance occurs, they take steps to manage it appropriately, sensitively and promptly.

Every workplace can enjoy the benefits of taking a best practice approach to managing underperformance. These may include:

- a more harmonious, high performing workplace
- maximising an employee's individual performance
- building a culture of continuous skill development and improvement
- higher levels of employee engagement
- avoidance of legal disputes, such as unfair dismissal or bullying claims.

Understanding underperformance

Underperformance or poor performance can include:

- not performing duties, or not performing them to the required standard
- displaying negative or disruptive behaviour in the workplace
- failing to comply with workplace policies, rules or procedures.

Underperformance doesn't just affect the output of an individual employee – it can also impact co-workers, customers and business productivity.

There are many reasons why an employee might perform poorly. Some common reasons include:

- the employee doesn't know what's expected of them because goals and standards are unclear
- the employee may not have the knowledge or skills to do the job
- the employee is unsure if they are meeting requirements
- low personal motivation or confidence
- personal issues such as family stress, physical and/or mental health problems, or problems with drugs or alcohol
- low morale in the workplace and/or a poor work environment
- interpersonal differences or cultural misunderstandings
- workplace bullying.

Underperformance isn't the same as serious misconduct

Serious misconduct includes deliberately unprofessional, dangerous or unlawful behaviour, such as theft, fraud, sexual harassment or assault, which may warrant instant dismissal.

Employers should seek specific legal advice when ending employment because of serious misconduct.

Using best practice to manage underperformance

Best practice doesn't look the same for all employers. The way to achieve best practice will vary because of things like the number of employees, industry and the business environment.

Below are suggestions and initiatives that can help you move your business towards best practice.

Implement a performance system

A performance system provides employees and managers with a framework for goal setting, constructive feedback, continuous skill development and regular discussions about performance. This helps reduce the chance of underperformance occurring.

A performance system doesn't have to be complicated or time-consuming. To implement best practice in your workplace you could consider:

- **expectations** – discuss your performance system during induction, training and in staff communications – this will help make performance a regular part of workplace conversations
- **performance agreement templates** – create a simple performance agreement template for your workplace
- **discussions** – meet with employees to set clear performance expectations, discuss and record their individual performance goals and training needs
- **feedback** – monitor employees' performance and provide regular, specific feedback, in a timely manner, about things they do well and things they can improve on
- **training** – support employee's skills and performance through training, coaching and mentoring

- **review** – conduct performance reviews every few months. Track employee performance against the agreed goals and set new goals
- **self-review** – ask employees to complete a short self-review ahead of the performance review - this helps employees feel more involved with and committed to the process
- **reward** – recognise and reward employees who do a good job. This doesn't have to be a financial reward. Many employees appreciate a simple acknowledgement of their effort or achievements.

Find out more about implementing performance systems in your workplace with our free Managing performance online course available at fairwork.gov.au/learning



PRACTICAL TIP: Use everyday language to avoid alienating both managers and employees. For example, if terms such as 'KPIs' (Key Performance Indicators) aren't part of everyday language in your workplace, don't use them in performance agreements or discussions.

Address underperformance

Addressing underperformance can be challenging for both managers and employees. Failure to address underperformance appropriately, sensitively and promptly, can have a significant impact on your workplace culture and productivity. The issue is unlikely to go away on its own, and other employees may lose motivation if they have to carry the burden of poor performing colleagues.

Underperformance issues should be addressed straight away. This will make it easier to resolve issues and avoid more serious problems. It will also assist if you decide later to dismiss an employee for underperformance.

Here's a 5-step best practice approach:

Step 1 — Identify the problem

Write down:

- examples of the behaviour or action that is causing an issue
- when it's occurring
- why it's an issue
- specify how the behaviour or action needs to change or improve.

Get any documents that demonstrate the problem, such as business statistics, examples of the employee's work or customer feedback. Make copies to give to the employee.

Step 2 — Assess and analyse

If you identify a problem, consider:

- how serious the problem is
- how long the problem has existed
- the gap between what's expected and what's being delivered.

Once you have assessed the problem, organise a meeting with your employee to discuss it.

Let the employee know the reason for the meeting in advance so they can adequately prepare. If you will be going through specific documents, provide copies to the employee before the meeting.

Explain to the employee they can bring a support person of their choice to this meeting. A support person may be a co-worker, family member, friend, or union representative. Their role is to support the employee during the meeting - not to speak or advocate for them.



CASE STUDY – underperformance

Joelle is a new car salesperson. She has been very successful over the years, but recently her performance has declined.

Joelle's manager, Mark, finds several mistakes in paperwork Joelle prepared. Mark speaks to Joelle informally about the issue. He checks her paperwork again the following month but finds things have not improved.

Mark decides to meet with Joelle about her performance. To prepare for the meeting Mark checks her sales results and finds they have fallen. He also reviews customer surveys and notes several negative comments about Joelle's attitude and enthusiasm in the last 3 months.

Mark organises the meeting and tells Joelle what the meeting is about. He gives her copies of her sales results and other documents they will be discussing. He invites her to bring a support person if she wants to.

Step 3 — Meet with the employee

It's important the meeting takes place in a private, comfortable, non-threatening environment, away from distractions and interruptions. The meeting should not be overheard by others.

During the meeting you should:

- clearly describe the problem and refer to specific examples
- explain the impact on the business, the employee's work or co-workers
- explain the outcomes you want to achieve from the meeting
- give the employee an opportunity to respond and give you their view of the situation
- listen and ask questions to understand their response to the problem and why it has occurred
- if possible, refer to recent positive things the employee has done, to show them you also recognise and appreciate their strengths
- use a relaxed and encouraging tone and show confidence in the employee's ability to improve.



PRACTICAL TIP: Take notes during any discussions about performance and follow up the discussion with an email or letter confirming what was said and agreed. Give employees a chance to suggest any changes.

Keep these notes, emails and any other documents relating to underperformance on the employee's employment file. These may be helpful if the problem re-occurs, if there is a disagreement about what was discussed, or if the employee later makes a legal claim (for example, unfair dismissal).

Step 4 — Agree on a solution

After discussing the problem, you and your employee should work together to find a solution. Employees are more likely to improve their performance if they feel they have contributed to this process.

When developing a solution, you should:

- make sure the employee understands the change you require
- explore ideas by asking open questions. For example, ask the employee 'what can we do to improve this in future?'
- suggest ways to fix the problem, and invite the employee to make suggestions as well
- offer appropriate support and assistance, such as training, mentoring, or adjustments to the employee's duties
- reinforce the value of the role the employee performs.

Consider recording the agreed actions in a performance improvement plan. This is a document that sets out what the employee needs to do to improve their performance. It should:

- clearly identify the performance that needs to improve or the behaviour that needs to change
- outline how this will be done, and list any support that will be provided to help the employee improve
- explain each party's responsibilities
- give the employee a reasonable time to improve their performance
- set a date for a follow up meeting to review progress and discuss the employee's performance against the agreed plan
- in cases of serious or ongoing underperformance, specify clearly and preferably in writing the possible consequences if the employee's performance does not improve.

Both you and the employee should keep a copy of any performance improvement plan.



PRACTICAL TIP: We have templates to help you manage underperformance. Find our template performance improvement plan, warning letters and other useful checklists at fairwork.gov.au/templates



CASE STUDY – Resolving issues quickly

A technology business has a policy that sets out a process for dealing with underperformance.

The policy requires that the first conversation about a performance issue must focus on finding out why there has been a decline in performance.

At the end of the discussion, the manager and employee need to agree on action points. At least 1 action point must be something the manager will do to support the employee. For example, the manager could arrange for the employee to work with a more senior colleague for 3 shifts.

Under the policy the manager can't take any further steps (such as a performance improvement plan or giving a written warning) until the agreed actions have been completed.

This approach allows performance issues to be addressed quickly and simply and helps build trust with the employee.

Step 5 — Monitor and review

Once you have a solution in place, make sure you:

- follow through with any training or other support you offered the employee
- regularly check-in with the employee to discuss how they are progressing
- continue giving feedback and encouragement
- have a follow up meeting at the agreed time to review their progress.

It often takes more than one conversation to resolve an issue. A follow up meeting is a good chance to acknowledge the employee's progress and focus on the improvements that are still required.

Remember, give the employee a reasonable period to improve. What is reasonable will depend on the employee's role and the duties they perform.

If you have a performance improvement plan in place, update the plan at the follow-up meeting to specify:

- whether the current performance is satisfactory or not
- what has improved
- what still needs to be improved
- what support is being provided
- when the performance will be reviewed again.

Both you and the employee should keep a copy of any updated performance improvement plan.

Once the performance has improved to a satisfactory level, acknowledge that the issue has been resolved and discuss how the improvements will be maintained.

If an employee's performance doesn't improve after a reasonable period, you need to consider your options.

In some cases, it may be appropriate to continue performance management or issue a formal written warning. If the employee is still underperforming after a reasonable period, it may be appropriate to dismiss them.



PRACTICAL TIP: Remember, it's likely to be more cost effective and efficient to work on improving an employee's performance than it is to replace them.

Dismissing an employee for underperformance

Ending an employee's employment is a serious step. You must have a valid reason for the dismissal relating to the employee's capacity or conduct and follow a fair performance management and dismissal process.

Employers cannot dismiss their employees in circumstances that are 'harsh, unjust or unreasonable'. What is harsh, unjust or unreasonable will depend on the circumstances of each case. However, it is important to be fair to employees particularly when it comes to ending employment. They should be given reasons for dismissal and an opportunity to respond to those reasons.

It's important that before dismissing an employee you can show you have:

- told them the purpose of performance meetings in advance and allowed them to prepare
- told them they could have a support person present
- clearly outlined the expected level of performance and the improvement that was required
- clearly warned them that their performance needed to improve
- gave them time and support to improve their performance
- told them that they may be dismissed if their performance didn't improve.

Before dismissing an employee, provide the employee with written reasons why you are considering dismissal and give the employee a reasonable opportunity to respond to those reasons. You must take into consideration any response the employee provides before you make a decision about dismissing the employee.

A failure to follow these steps before dismissing an employee may result in a successful unfair dismissal claim against you.

For further information on ending employment visit fairwork.gov.au/ending-employment



PRACTICAL TIP: Remember, it's likely to be more cost effective and efficient to work on improving an employee's performance than it is to replace them.

Special dismissal rules for small business employers

Employers with less than 15 employees (based on a simple headcount) are covered by special dismissal rules which are different to those that apply to larger businesses.

Employees working for a small business cannot make a claim for unfair dismissal until they have been employed for at least 12 months.

The Small Business Fair Dismissal Code (the Code) provides protection against any unfair dismissal claims that are lodged with the Commission. The Commission will rule that the dismissal was fair if the employer can provide evidence that the Code was followed before dismissing the employee. You can access the Code at fairwork.gov.au/unfairdismissal

It's best practice to follow the Code when an employee is dismissed. You should keep a completed copy, along with the letter of termination, records of performance meetings, performance improvement plans and any written warnings with your employment records. These records can help you if an employee makes an unfair dismissal claim.

You also need to give the employee written notice of termination and pay the employee any accrued and outstanding entitlements.

For further information on ending employment visit fairwork.gov.au/ending-employment

Train managers and employees

Dealing with underperformance can be challenging for both employees and employers. Managers need clear procedures and organisational support. They also need the courage and willingness to manage the issue.

Best practice employers give their managers and employees training and information about setting performance goals, giving feedback and managing underperformance. This helps managers to better identify and address issues of underperformance.

Information and resources you could provide to help your managers include:

- **training** on handling underperformance. It's a good idea to include role-play elements in this training to help managers practice their approach
- **policies** about performance management
- **templates** for performance agreements and performance improvement plans
- **reminders** before key dates, for example automatic email messages or calendar entries to prompt managers to conduct performance reviews or follow up meetings.
- **contact details** for people in the business who can give guidance on performance management
- **links** to external resources, such as our underperformance meeting plan and other checklists available at fairwork.gov.au/templates



PRACTICAL TIP: Use our free online courses. We have short courses on managing performance, managing employees and having difficult conversations in the workplace.

These short courses contain interactive video activities about setting performance goals, giving feedback, reviewing performance, addressing underperformance and negative behaviours, dealing with attendance problems and employee mistakes.

The courses are available at fairwork.gov.au/learning

Performance management and bullying

Employers are entitled to expect high standards of performance from employees and can take reasonable management action to address underperformance. Employees sometimes perceive this as 'bullying'.

If you take reasonable actions in a reasonable manner this isn't bullying.

Taking a best practice approach to underperformance and dealing with problems appropriately, sensitively and promptly will help you minimise the risks of a bullying claim.



Common performance issues

The following provides a summary of common issues faced by employers and employees when managing performance and identifies key ways to improve performance management systems in the workplace.

Issue	Possible causes	Actions
<p>Employee does not undertake work as required, showing signs of apathy and laziness.</p> <p>Employee does not appear to understand job requirements or directions.</p>	<ul style="list-style-type: none"> • Job content and design. • Inappropriate job fit. • Personal or external issues. 	<ul style="list-style-type: none"> ✓ Begin with informal performance discussion. ✓ Be clear about the performance requirements and expected contribution of the role to the work of the business. ✓ Focus on interest in work tasks, and how they might be improved. ✓ Explore options for opportunities in other areas of the business, if possible. ✓ Refer to counselling service if personal circumstances are impacting performance.
<p>Employee will not follow directions or perform tasks as required.</p>	<ul style="list-style-type: none"> • Failure to understand what is required. • Inability to perform tasks. • Personal issues. 	<ul style="list-style-type: none"> ✓ Begin performance improvement process starting with informal discussions around what is required in the position. Look at possible options for training and development if a skill deficit is identified. ✓ Commence formal performance management process if no improvement forthcoming.
<p>Employee fails to acknowledge they are underperforming.</p>	<ul style="list-style-type: none"> • Performance issues have not been adequately explained • Process has not been adequate applied. • Employee does not accept management assessments. 	<ul style="list-style-type: none"> ✓ Re-establish expected outcomes, use evidence of how performance has failed to meet expected standards, explain the impact of this on the success of the business. ✓ If necessary, commence formal performance management process.
<p>Employee does not complete work tasks to the required standard.</p>	<ul style="list-style-type: none"> • Lacks the required skills and capabilities. 	<ul style="list-style-type: none"> ✓ Identify training and development opportunities as a part of performance improvement plan. ✓ If employee fails to develop required skills, progress through performance management process to possible options such as reassignment of duties, or transfer to another area to achieve a better job fit (if possible). ✓ Review recruitment practices to ensure appropriate selection decisions are being made.

Issue	Possible causes	Actions
Employee is cynical of work environment and tasks, bringing negative opinions to the work environment.	<ul style="list-style-type: none"> Has become disillusioned with work environment. Fails to understand value of work being undertaken. 	<ul style="list-style-type: none"> ✓ Establish team culture based on respect and support. ✓ Re-establish role of the position, and the value of outcomes delivered by the organisation. ✓ If possible, explore opportunities for career transition and movement.
Employee is regularly absent without cause.	<ul style="list-style-type: none"> Job content and design. Inappropriate job fit. Management style. Personal or workplace issues. 	<ul style="list-style-type: none"> ✓ Identify cause behind absenteeism. ✓ Explore possible strategies for job redesign, job fit, changes to working arrangements, management of health issues. ✓ Re-establish expectations of attendance.



Best practice checklist

A best practice workplace involves more than just understanding and complying with the law. This checklist will help you work at best practice when managing and preventing underperformance within your business:

- ☐ **Performance system** – implement a performance system, it doesn't have to be complex! This will give your workplace a framework for setting expectations, developing skills, giving feedback and regularly reviewing performance.
- ☐ **Reward** – recognise and reward employees when they're performing well.
- ☐ **Identify and promptly address** – identify and assess underperformance problems when they occur. Address underperformance issues straight away.
- ☐ **Process** – follow any performance management process set out in your award or enterprise agreement, the employee's contract or relevant workplace policies about performance management.
- ☐ **Meeting** – organise a meeting with the employee to discuss a problem when there is one. Conduct the meeting in a private, non-threatening, comfortable and quiet location.
- ☐ **Prepare** – prepare for any meetings. Provide relevant documents to the employee, give the employee time to prepare for the meeting and invite or allow them to bring a support person.
- ☐ **Be specific** – explain your specific concerns to the employee. Provide evidence and clearly outline the improvement required. Discuss the consequences of continued poor performance.
- ☐ **Questions** – ask questions, give the employee an opportunity to respond.
- ☐ **Listen** – before considering what actions you might take next.
- ☐ **Solution** – ensure the employee understands what's expected of them and work together to find a solution to improve performance.
- ☐ **Document** – record the solution in a performance improvement plan with milestones and time frames for further review. Document all discussions and keep records.
- ☐ **Follow-up** – schedule a follow-up meeting to review the employee's performance against the agreed plan

- ☐ **Monitor and support** – monitor the employee’s performance and continue to provide feedback. Provide training and support to help the employee improve. Where an employee’s performance is suffering due to the employee’s personal circumstances, discuss with the employee any external support, such as referral to professional services or counselling

- ☐ **Dismissal** – if performance doesn’t improve and you are thinking about dismissing the employee, ensure the process is fair. The employee should be given an opportunity to respond to the reasons you are considering for dismissal before they are dismissed. If you are a small business employer with less than 15 employees you should follow the Small Business Fair Dismissal Code available at fairwork.gov.au/unfairdismissal

Where to find more information

Resources

- For help managing underperformance:
 - complete our Managing performance online course and access other free online training for employers and managers at fairwork.gov.au/learning
 - visit our Managing performance and warnings page at fairwork.gov.au/misconduct
 - use our templates and checklists for managing underperformance available at fairwork.gov.au/templates
- Transform your business from compliant to best practice with our practical, easy to follow guides. These resources are designed to help you create a happier, fairer and more productive workplace. Find all our best practice guides at fairwork.gov.au/bestpracticeguides

Links

Fair Work Commission – for information about bullying, sexual harassment, unfair dismissal and enterprise agreements visit fwc.gov.au

CONTACT US

Fair Work online: fairwork.gov.au

Fair Work Infoline: **13 13 94**

Need language help?

Contact the Translating and Interpreting Service (TIS) on **13 14 50**

Help for people who are deaf or have hearing or speech difficulties

You can contact us through the National Relay Service (NRS).

Select your [preferred access option](#) and give our phone number: **13 13 94**

The Fair Work Ombudsman is committed to providing you with advice that you can rely on. The information contained in this fact sheet is general in nature. If you are unsure about how it applies to your situation you can call our Infoline on 13 13 94 or speak with a union, industry association or a workplace relations professional.

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