# Assessment 1: Project – Role Play:

# Performance management project

Operational goals

|  |  |  |
| --- | --- | --- |
| Goals and focus | KPI | Reason/Barriers |
| Add of range of good quality products made in Australia  (Give more selection to customers) | The number of new product arrivals made in Australia in a month | Some people do not trust quality of overseas products |
| Extend opening hours  (Provide more accessibility to customers) | The average opening hours of a week | Lack of staff |
| Go green  (Improve public image of the company) | The percentage of products certificated by GECA(Good Environmental Choice Australia) out of all products in the store in a month | Higher price of green products can be less fascinating to customers |
| Increase shelf space  (Facilitate the new lighting range) | The number of shelves increased | Space shortage |
| Expand number of staff  (Cover up new position and vacancies from promotion) | The increased number of staff in each section | Difficulty of hiring good staff |
| Promote current staff  (Create new position in accordance with extension of opening hours) | The score of staff's work performance appraisal | Difficulty of keeping neutrality in choosing right person |
| Conduct a training of all staff  (Develop the sustainability features of major product lines) | The active participation rate of staff in training | Financial obstacles for well-organised training |

Team goals

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Team | Deliverable | Goal | KPI | Due |
| Cashier | KPI report | Decrease transaction mistake up to % | The percentage and amount of loss by misconduct in receving payment | Every month |
| Floorstaff | A brochure of lightning fixture | Promote our new lightning fixture to custmers | The sales point of new lightning fixture | During a month from launching new product |
| Bookkeepers/Administration | Electric Documents | Computerise sales records | The percentage of progress of the task | By the end of July |
| Management | Business plan | Expand business and extend staff number | The expected profit increasing from the extension by term | By the end of June |
| Storemen | Accident report | Minimize accidental loss of products | The percentage of decreased accident | Every quarter |

Performance Management Plan

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Name/position:  Cheryl/Bookkeeper | | Manager: William | | Review period:  May - June 2017 | | |
| Reference from Operational Plan | Key result area | | Indicator of success/ performance | By when | | Status report |
| Computerise sales records | Process Improvement | | The percentage of progress of the task | By the end of July | | 90% |
| Conduct a training of all staff | Business Education | | The active participation rate of staff in training | By the end of June | | Completed |
| Manager’s comments  - Computersing sales records seems like to be done within 2 weeks  - She participated in training passionately.  - In my opinion, she should be actively considered to be promoted in this term. | | | | | Signature  William  Date 4/6/2017 | |
| Staff member’s comments  - If nothing happens, Computerising sales records will be done next week.  - Training was wonderful chance to meet new idea and to stimulate my passion in job | | | | | Signature  Cheryl  Date 4/6/2017 | |

Performance Development Plan

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Name/position:  Cheryl/Bookkeeper | | Manager:  William | | | Review period:  5/2017 ~ 6/2017 | |
| Skills to be developed: | How skills are to be developed: | | Priority (H,M,L) | | By When? | Skills gained (Y/N) |
| Training Ability | The trainer course offered by head office | | M | | 31/7/2017 | N |
| Web Service Knowledge | Mentoring by William | | M | | 31/7/2017 | N |
| Ability to use common business software | Support computer lessons | | H | | 31/6/2017 | Y |
| Legislation | Invite outside lecturer | | H | | 31/5/2017 | Y |
| Manager’s comments  She is enthusiastic in training course for being an in-store trainer.  And she also has interest in web-based market, I am currently teaching her some knowledge for it. I expect these all will go fine since her ability to use common business software is brilliant already. | | | | Signature  William  Date 4/6/2017 | | |
| Staff member’s comments  These days I’ve felt lots of things that I need to learn more and more in this work area.  Not only in my job area, I’ve got broaden my horizons from many lessons I got. I will do my best in this training for becoming better one of staff of this company. | | | | Signature  Cheryl  Date 4/6/2017 | | |

## Coaching session – Observer’s evaluation sheet

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Coach’s name | William | | | |
| Observer’s name | Yangha | | | |
| Coaching date/s | 4/6/2017 | Time/s | 8 Hours | |
| Employee’s name | Cheryl | | | |
|  | | | | |
| Standard of performance | | | Satisfactory | |
| Yes | No |
| Did the coach utilise the GROW model for coaching his or her employee? | | | O |  |
| Did the coach identify the performance issue? | | | O |  |
| Did the coach utilise a number of communication skills to reflect and clarify the employee’s answers?   * active listening * clarifying * summarising | | | O |  |
| Did the coach ask probing questions? | | | O |  |
| Did the coach allow the employee time to think before replying to questions? | | | O |  |
| Did the coach use body language cues to help put the employee at ease? | | | O |  |
| Did the coach acknowledge the employee during the coaching session using positive feedback? | | | O |  |
| Did the coach provide constructive feedback to the employee during the session? | | | O |  |
| Did the coach provide strategies for continuous improvement for the employee? | | |  | O |
| Did the coach identify his or her strengths and weaknesses as a coach/manager? | | | O |  |
| Did the coach identify areas for self improvement? | | |  | O |

### Comments/feedback to coach

|  |
| --- |
| I think you’ve done your job well, William. |
| It was an impressive coaching and its effect was shown right after coaching. |
| Cheryl has definitely been stimulated to learn something more, and as she said, this will be great opportunity for herself and company as well. |
| But in some aspect, there are some coaching that could have been better. |
| Especially the way you coached her left you much to be desired for that you didn’t present |
| how to improve herself continuously. |
| It means that you did not provide the way to identify areas for self-improvement. |
| In my opinion, you will do better job if you keep this in mind. |

## Coaching session – Coach’s self-reflection sheet

|  |  |  |  |
| --- | --- | --- | --- |
| Coach’s name | Yangha | Phone no. | 1234 |
| Listener’s name | William | Phone no. | 4565 |

Respond to these questions with your feelings and thoughts about coaching. What was your initial reaction to the coaching exercise?

: I’m skeptical if it works.

What was your overall assessment of your performance as a coach? Give reasons for this assessment.

: Give stimulation to him for his job. Make it spectacle, but reasonable as well.

What do you think were some of your strengths during the exercise?

: Optimistic attitude for everything.

What do you think were areas where there was room for improvement?

: Mental health. Energetic attitude.

What kind of strategies can you think of to help improve your coaching skills?

: I have to calm down myself first, some people feel uncomfortable when they see different kind of people from them. So I will use a strategy not to meet them in person but to meet them via documents.

What do you think will be the cost of not implementing new strategies into your role as a manager?

: Time cost. It matters, I don’t have enough time to meet all staff. And it’s hard to find their own character by watching them shortly.

What are some valuable skills that you have learned today to help you in your role as manager/coach?

: Empathy. I need to accept that there are some kind of people who have no logic. I need to use emotion for them.

Pre-interview One-on-One Session Notes

My approach:

Goal :

-To change William's attitude into positive again

Reality : He's turning negative in working and sharing his experience and knowledge to other staff recently.

Options :

-Offer him a counselling

-Provide him a work ethics training

-Advice him to resign

-Transfer William's position to the online market department

Will : None

Topics to discuss:

1) The thing which made William's attitude negative

2) His thought about online market

3) Work ethics

4) His vision, will

Plans and how to achieve them:

1) Give him a chance to make a portfolio in terms of online market's potential then submit it to the management.

2) Hold a get-together in the name of team spirit at next Saturday

3) Let him have a counselling this Thursday.

Plan for a review:

We will meet again after a month, and find out whether our efforts worked.

If not, we will try to find another solution

# Assessment 2: Case study:

# Disciplinary process

A report that outlines and discusses.

In this case, we’ve got warned by Fair Work Australia about unfair dismissal.

The main point is this, we could not produce contrary evidence against her argument.

Let’s see legislation about it.

# Unfair dismissal

Unfair dismissal is when an employee is dismissed from their job in a harsh, unjust or unreasonable manner.

The [Fair Work Commission (the Commission) [external-icon.png](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal)](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) decides on cases of unfair dismissal.

## Applying for unfair dismissal

Employees have to apply to the Commission within 21 days of the dismissal taking effect.

If you think you have been unfairly dismissed you need to contact the Commission as soon as possible.

Visit the Commission website to [learn more about unfair dismissal [external-icon.png](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal)](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal) and find out [how to lodge the application form [external-icon.png](https://www.fwc.gov.au/termination-employment/unfair-dismissal/what-the-process-unfair-dismissal-claims#field-content-1-heading)](https://www.fwc.gov.au/termination-employment/unfair-dismissal/what-the-process-unfair-dismissal-claims#field-content-1-heading).

### Minimum employment period

Employees have to be employed for at least 6 months before they can apply for unfair dismissal.

Employees working for a small business have to be employed for at least 12 months before they can apply.

If there was a change of business ownership, service with the first employer may count as service with the second employer when calculating the minimum employment period.

You can use the [Commission’s eligibility quiz [external-icon.png](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal/eligibility)](https://www.fwc.gov.au/termination-of-employment/unfair-dismissal/eligibility) to see if you can apply for unfair dismissal.

### Small business employers

Small businesses have different rules for dismissal.

The [Small Business Fair Dismissal Code (RTF 71.9KB)](https://www.fairwork.gov.au/ArticleDocuments/715/Small-Business-Fair-Dismissal-Code-2011.rtf.aspx) provides protection against unfair dismissal claims, where an employer follows the Code. The Commission will deem a dismissal to be fair if the employer follows the Code and can provide evidence of this.

A small business is defined as any business with fewer than 15 employees.

To figure out whether a business is a small business, count all employees employed at the time of the dismissal including:

* the employee and any other employees being dismissed at that time
* regular and systematic casual employees employed by the business at the time of the dismissal (not all casual employees)
* employees of [associated entities](https://www.fairwork.gov.au/Dictionary.aspx?TermID=2116), including those based overseas.

The size of the business is counted the earliest of:

* when the employee is told their employment has been terminated, or
* when the employee is given their [notice of termination](https://www.fairwork.gov.au/ending-employment/notice-and-final-pay/dismissal-how-much-notice).

Source reference: [Fair Work Act 2009 (Cth) sections 23, 121 and 123 [external-icon.png](http://www.comlaw.gov.au/Series/C2009A00028)](http://www.comlaw.gov.au/Series/C2009A00028)

## [Other dismissals](http://www.comlaw.gov.au/Series/C2009A00028)

Employees can also apply to the Commission if they’ve been dismissed on the basis of:

* a breach of general protections or
* unlawful termination.

And I will list our misconduct,

* The employer failed to follow a formal disciplinary process.
* There was no impartial investigation carried out.
* There were no records of any notes provided by the employer to back the claims that there had been meetings and reviews. The only written evidence produced was the termination letter.
* The original version of the medical certificate was not produced in the hearing by the company.
* Sam produced a verified copy of her medical certificate in the hearing along with email evidence from the Human Resources department confirming that the medical certificate had been received by the organisation and entered into its files.
* No documented evidence of any meetings or coaching sessions had been kept by the employer.
* No performance management review or development plans were presented by the employer.
* There were no copies of signed agreements reviewing Sam’s progress (performance reviews and development plans) submitted by the employer.
* No written documents outlining that timelines were given for monitoring or reviewing Sam’s progress were submitted by the employer.
* No formal disciplinary hearings had taken place prior to Sam’s dismissal.
* Sam was not formally stood down while an investigation was carried out.
* There was no physical evidence to support the serious misconduct claim that the manager has been struck as no witnesses were called to verify whether an assault had taken place.
* No senior managers or human resource department specialists were present in any meeting where Sam was being warned of poor performance.
* There was no evidence to support the claim of misconduct by Sam. The manager had not documented any written warnings in Sam’s file. The only agreements that had been reached between Sam and the manager were verbal.

To outline,

1. Sam’s employee file that shows that there have been no verbal or written warnings recorded against her

2. I have been managing her more effectively. I have been spending time to try and understand her issues and have reallocated resources in order to give Sam some extra time until she is confident and competent in using the new programming language. I have not specified any timelines for a performance review to discuss progress in meeting the required standard of performance or taken notes. You have offered extra training to her.

3. In a meeting about her inability to meet her latest deadline, Sam physically struck me and walked out of the office. But I did not get any authorized certificate, and did not record it.

4. A meeting between I, my supervisor and the Human Resources department is convened and a decision is made to dismiss Sam on the basis of serious misconduct. A letter was sent by registered mail to Sam’s personal mail address.

Before I sent termination e-mail to her, I should have gathered authorized documents for it to defend our rights.

The most important thing is this, “visible, concrete evidence” but the best way will be treating staff with empathy.

So, we need to make new policies and procedures to mitigate the risk of the situation like this.

**1. Giving warning document to underperformers in accordance with KPI records.**

: There are very few situations where you can legally sack a person on the spot.

Part of your role as an employer is to explain to an underperforming or misbehaving employee what they are doing/have done wrong.  You then need to give them a chance to improve unless there is clear evidence of them acting illegally at work or seriously breaching work safety. Part of this process is about clear and genuine performance targets. However, there is no legal obligation to give an employee a certain number of warnings before sacking them.

## **2. We need to provide every efforts for staff**

Not like previous manager, don’t scream and yell – certainly don’t try to talk the employee into leaving, this can result in what is called constructive dismissal or a workplace bullying claim.

You should organise a meeting with the underperforming employee to discuss the problem, and then devise a potential solution with them.  Following this, clear performance goals should then implemented with dates set for reconvening to discuss whether they have met these goals.

Think about it – how better will this look in court if you do this, or will it actually solve the problem without you having to terminate their contract?

## **3. Allow the person to have a support person present for any discussions related to their performance or the matter**

You need to tell the person they have a right to bring in a third party (be it a lawyer, union representative or friend) to discuss their performance issues or any other issues related to their performance or the matter.

Again, this is not just a matter of fairness, it is a matter of law – at least as far as unfair dismissal claims are concerned.

## **4. Make sure a dismissal is actually warranted**

There are very few things which justify instant dismissal, as termination is really a last resort.  It is only legal for a small business employer to dismiss an employee without any notice or warning if they have been involved in theft, fraud, violence or serious breaches of WHS.  You need to investigate a number of other problem-solving avenues to address the problem before you can pull the termination trigger.

And we will consider following things in mind,

#### The requirements for a lawful dismissal

In order to be lawful, the dismissal of an employee

* must be substantively justified, and
* must be conducted in a procedurally fair manner

In order to be substantively justified, there must be a genuine reason for a dismissal. The requirements of procedural fairness may vary depending on the circumstances; for example, in serious cases the employer will be justified in dismissing the employee without first giving a warning (see below).

If an employer issues a warning or dismisses an employee unlawfully, an employee can lodge a personal grievance claim with the Employment Relations Authority. The employee can be awarded lost wages and damages for distress. See How to defend a personal grievance claim brought by an employee.

The Employment Relations Service in the Department of Labour can provide information and mediation services to help deal with employment problems. Contact them on 0800 800 863. In order to be substantively justified, there must be a genuine reason for a dismissal. The requirements of procedural fairness may vary depending on the circumstances; for example, in serious cases the employer will be justified in dismissing the employee without first giving a warning (see below). The test of whether the dismissal was justifiable and the procedure was fair is an objective one - namely, whether it meets the standard of what a fair and reasonable employer would have done.

#### Dismissal without notice for serious misconduct ("summary dismissal")

If there has been serious misconduct, a summary dismissal will be justified that is, the employee can be dismissed without receiving any earlier notice or warning. However, the dismissal must still be procedurally fair (see below for the general rules of procedural fairness). Examples of serious misconduct include:

* theft or some other act of dishonesty
* fighting in the workplace or assaulting an employer or co-worker
* breaching work rules
* deliberately disobeying a lawful and reasonable instruction from the employer
* possessing illegal substances at work

Even if an employee is dismissed for serious misconduct, he or she is still entitled to outstanding wages, holiday pay and any other entitlement under the employment contract.

#### Poor work performance and less serious misconduct

However, if the ground for taking action is poor work performance or some less serious form of misconduct, the employer cannot dismiss the employee unless there have been previous warnings about the poor performance or misconduct.

The accepted procedure is usually to first give an oral warning, then a formal written warning, then a final written warning, and then, if necessary, dismissal.

#### General rules of procedural fairness

An employer is generally required to perform the following steps to ensure that a dismissal is procedurally fair. These will apply whether it is a summary dismissal or a dismissal after warnings.

* You must carry out a full investigation into the alleged behaviour.
* The employee should be informed about the exact nature of the allegations and, where appropriate, that dismissal is a possible outcome of the disciplinary process.
* The employee should be given an opportunity to be heard.
* The employee should be given the option of having a support person or lawyer present when the hearing takes place.
* Unless the conduct in question justifies summary dismissal, the employee must be warned and asked to stop the misconduct or improve the poor performance. In appropriate cases, the employee should be given assistance in this. An accepted procedure is to first given an oral warning, then a formal written warning, then a final written warning.
* The employee should be given the reasons for the decision that you eventually reach. It is advisable that these be given before any dismissal. However, the employee has the right, within 60 days after the dismissal or after becoming aware of it, to request you to provide a written statement of the reasons; you must then provide the statement within 14 days.
* A dismissal should be notified in writing.

An employee can be suspended on full pay pending the outcome of the disciplinary process.

#### Compliance with the employment contract

The employer must also ensure that any dismissal is carried out in compliance with any specific terms of the employment contract. For example, the contract might set out the warning procedure that must be followed or a definition of "serious misconduct".

#### Probationary employees

The EMPLOYMENT RELATIONS ACT 2000 allows an employment agreement to provide that the employee will serve a period of probation or trial, in which case the agreement must state this is writing.

However, this does not mean that the employer does not have to follow the requirements of procedural fairness in dismissing the employee: the employer must still provide the proper warnings and provide the employee with assistance, training and opportunities to improve his or her performance, the same as with any other employee.

However, it may be that an employer will be permitted a wider discretion in the area of substantive reasons for the dismissal than is the case with permanent employees.

##### Cautionary notes

* It can be difficult for an employer to decide whether misconduct is serious enough to justify a summary dismissal or whether only a warning is justified. If a warning is given and the misconduct is repeated, an employer must still comply with the requirements of procedural fairness set out above before taking any further action.
* Every situation is different, and the way in which the guidelines given above should be applied can vary. It is therefore essential for an employer to obtain legal advice throughout the disciplinary process.

**What we should have done in this case?**

* You have recently become a Team Manager at a small security company. Sam is a programmer in your team. She has recently missed a couple of deadlines on a project. Sam has been pretty upset about this. She is a diligent worker; however, the organisation has started working on a new programming language and Sam is not familiar with it.

: Provide training for her, and record it by document form.

* You are aware of your predecessor’s methods for dealing with her. She would come out and yell at Sam and then go back to her office. Sam’s employee file that shows that there have been no verbal or written warnings recorded against her.

: Record her performance, and convince predecessor not to yell her.

* As Sam’s new manager you have been managing her more effectively. You have been spending time to try and understand her issues and have reallocated resources in order to give Sam some extra time until she is confident and competent in using the new programming language. You have not specified any timelines for a performance review to discuss progress in meeting the required standard of performance or taken notes. You have offered extra training to her.

: Record these all things in document.

* However, in a meeting about her inability to meet her latest deadline, Sam physically struck you and walked out of the office. She has not returned.

: Go get medical certificate, and contact her then give a consultation for her.

* Sam contacted her doctor after the meeting and was given a medical certificate claiming stress as the reason for her absence and given seven days’ leave. This was sent to, and received by, the organisation on the day following your meeting with Sam. Sam called and verified with the Human Resources department that the certificate had been filed within the organisation’s systems.

: Give her time-off and contact her to make sure there will be no problem, but anyway prepare documents ready against her future claim about dismissal.

* Three days after your meeting with Sam you advised your supervisor that she had struck you and has since reported in ill; this advice being received from the Human Resources department. A meeting between you, your supervisor and the Human Resources department is convened and a decision is made to dismiss Sam on the basis of serious misconduct. A letter was sent by registered mail to Sam’s personal mail address.

: She must have been here, we needed to give her the chance to defend herself

* Two days later Sam filed an unfair dismissal claim with Fair Work Australia (FWA). The organisation received a letter from FWA to attend a hearing.

: Provide the contrary with documents prepared.

* Sam wins the hearing as no evidence was provided by the company to support its case of dismissal on the grounds of misconduct or serious misconduct.