

Employment – 20:20 vision

Providing clarity and insight on employment law matters

Looking ahead: managing employee performance in 2021



The start of a new year heralds a chance to reflect on the previous year, to plan for the year ahead and, for many employers, the start of the annual appraisal season.

It is likely that 2021 will see the continuance of remote working for many months. While some aspects of performance management might remain the same with a remote workforce, others will need to be rethought. Below we outline a few considerations to keep in mind when managing the performance of employees remotely.

1. Why is it important to manage performance

Employee engagement: Performance reviews are a vital check-in point for employees and an opportunity for managers to provide feedback, assess how their team members are performing in their roles and set goals for the year ahead. This is even more critical when people are working from home as the usual check-ins, conversations and supervision that naturally take place in the workplace may be missed when working remotely.

Employee wellbeing: Appraisals are a good opportunity to check how employees are coping with the unprecedented pressures of the pandemic, although welfare check-ups are something that managers and HR teams should be regularly carrying out throughout the home working period.

Retaining and growing talent: Performance reviews are an opportunity to recognise and acknowledge the good work of employees, reward them appropriately, and keep them motivated and challenged.

Spot and improve poor performance: Identifying poor performance early allows managers to plan and

put in place measurable objectives and development goals for underperforming employees.

2. Managing poor performance during the pandemic

Employers should try to identify the reason(s) for poor performance and the best way to manage it.

Possible reasons for poor performance

- **Changes to working practices** – has the pandemic required employees to adopt new modes of working, e.g. new software or procedures, on which they have not received adequate training and support? Do genuine practical issues arise preventing effective home working (e.g. lack of facilities like printers, slow internet and poor connections)?
- **Lack of supervision and direction from managers** – have employees been appropriately supported by their managers or left to manage their workload and deal with new working practices without sufficient guidance and feedback?
- **Unequal distribution of work within teams** – are some team members taking on the lion's share of work while some of their colleagues tend to take a more relaxed approach while away from close managerial supervision?
- **Mental health issues** - Could mental health issues caused or exacerbated by the pandemic be one of the reasons for poor performance? If any mental health issues have arisen, then appropriate support should be offered to the employee together with carefully considered performance improvement goals. If the employee's health issues amount to a disability, then their employer will need to consider making reasonable adjustments to any performance improvement process.

- **Childcare and caring responsibilities** - Other factors such as childcare or other caring responsibilities could also be contributing to performance issues. Studies show that women have been adversely impacted by pandemic remote working and are more likely to be interrupted during paid work than men. Poor management of these issues could expose an employer to claims of both direct and indirect sex discrimination.
- **Other issues that may be contributing to a drop in performance** – have they lost a loved one, are there signs of other issues in their personal life (e.g. domestic abuse)?

3. Tips for performance management

Ongoing appraisals and performance reviews are key in managing performance and are particularly important when staff are working remotely.

- **Increase frequency of contact** - Consider increasing the frequency of contact, whether these are formal mid-year appraisals or more informal 'catch-ups'. It also helps bring to the fore any development or support needs at an earlier stage rather than waiting to address them at an annual appraisal.
- **Change your method of evaluation, if required** - Employees may have typically been evaluated against parameters that are no longer appropriate or achievable during the pandemic. Holding staff accountable to such objectives at this time may be unrealistic, so look at alternative methods to evaluate employees' work and contribution to the business and make changes long enough in advance to give them time to adjust.
- **Discuss career progression** - Even during a time of crisis, your top talent want reassurance that their career can continue to develop. A performance appraisal allows you to check in with your employees to discuss recent achievements that have moved them closer to their next promotion.
- **Reducing or changing bonus awards** - For many companies, a high degree of economic uncertainty seems likely to continue into 2021. Many employers may decide to take a cautious approach by awarding lower bonus sums, bonuses with substantially more deferred elements or even no bonuses at all. However, any change to past practice regarding bonuses will need to be carefully planned and communicated to employees especially if the business has grown during the pandemic.
- **Changing bonus criteria**
 - Consideration should be given as to whether the bonus criteria remain appropriate, to avoid

indirect discrimination claims and unequal treatment among employees.

- Bonuses that are based on the amount of work undertaken (e.g. hours worked or projects completed) may overlook some (predominantly female) employees who have had to take on a significant amount of additional childcare responsibilities in their households. This may mean some employees have been unable to meet their usual targets and would miss out on a bonus. In contrast, employees without caring responsibilities who may have covered more of the work for their colleagues while schools and nurseries were closed, may also feel overlooked if their hard work and commitment to the business is not recognised.
- Equally, rewarding workers for simply remaining at work and overlooking workers who were shielding and/or furloughed could amount to direct or indirect discrimination depending on the reasons for the shielding/furloughing and how the bonus is calculated. Employees who were not able to hit targets due to health issues connected to the pandemic (e.g. a lengthy period of illness) may also feel unrewarded if their bonus is reduced as a result of the time they spent recovering from the virus.
- There are no "one-size fits all" solutions; employers will need to consider these steps very carefully and seek specialist advice when necessary.

For more information on the topics covered in this alert please contact Paul Reeves, Leanne Raven, River Clarke or your usual Stephenson Harwood contact.

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