

## **PERSONNEL MEMORANDUM 12: MANAGING POOR PERFORMANCE**

**REF: PP10/2**

### **Scope and Purpose**

1. This Memorandum replaces NIM 8 and sets out updated guidance for managers when dealing with poor or deteriorating performance, including trial periods.

### **Background**

2. The guidance has been changed to reflect the new PMS assessment categories. The guidance has also been simplified.

### **Action**

3. The guidance should be used by managers who are dealing with poor or borderline performance, with immediate effect.

### **Contacts**

2. Managers dealing with poor performance cases should seek advice from local Personnel Officers or Customer Services Managers in Silvan House, when necessary. General enquiries on this PM can be directed to Fiona Wright in Personnel Policy Branch.

W J Anderson  
Director Personnel  
18 February 2003

## **PM 12: MANAGING POOR PERFORMANCE**

### **1. Key Points**

- ❑ Careful recruitment, selection, management and training will reduce the occurrence of poor performance;
- ❑ Effective and pro-active management of probationers is essential;
- ❑ Managing poor performance is a proper management function; done correctly, it does not constitute 'bullying' or 'harassment';
- ❑ When an employee starts work with the FC, the standards of work required, the conditions of any probationary period, and the consequences of failing to meet the necessary standards should be explained;
- ❑ As soon as it becomes apparent that a Job Holder is performing less than effectively, a Performance Review should be held to review the difficulties and look for solutions;
- ❑ An individual should be given time to improve- and training where appropriate;
- ❑ Ignoring performance deficiencies will make tackling the problem more difficult in the longer term and can de-motivate other staff who are performing well;
- ❑ Where performance does not improve after a trial period, dismissal on grounds of inefficiency will be the normal course of action.

### **2. What is the manager's role?**

Line managers should do the following:

- ❑ Give regular, good quality, specific feedback on performance stating clearly where shortcomings lie, whilst also giving credit for any areas of work done well;
- ❑ This should be done early on and should not wait until the normal Performance Review;
- ❑ Act as a coach by giving clear guidance;
- ❑ Discuss any factors that may be contributing to the poor performance;
- ❑ Set clear time-scales for expected improvements;
- ❑ Record the elements of the FJP, including any skills or competencies, that need to be improved;
- ❑ if there is a lack of necessary skills/competencies then identify any suitable training or help from colleagues.

### **3. Probationers**

The principles outlined in this PM apply as much to the management of probationers as to other staff. However, the procedures for formal trial periods do not apply (since probation is itself a 'trial' period in the job). Managers should use the guidance on managing probationers available on our Intranet site.

Probationers will need additional help to ensure that they understand the standards needed in the job.

A decision on a probation period needs to be taken before the 1-year point. Any problems with performance (or, indeed attendance) need to be addressed quickly. Where problems are evident an action plan should be in place no later than 6 months after the start of probation.

**4. Negligence or lack of ability/skills?**

Negligence usually involves a measure of personal culpability arising, for example, from lack of motivation, failure to apply known standards, or a level of inattention for which some form of disciplinary action might be appropriate. See PM 4 for further advice on when disciplinary action may be used.

Lack of ability on the other hand is usually due to lack of skill, experience or knowledge, and may point to poor recruitment procedures, inadequate training or personal deficiencies (for example, in failing to keep up to date with changes in the job).

**5. Setting standards of performance (PMS)**

All staff have a contractual responsibility to achieve a fully effective level of performance. The Forward Job Plan should accurately convey the main purpose and key work areas of each job and the outcomes expected.

Where poor performance continues, the **Not Fully Effective** assessment will be given, defined as follows in PMS:

<b>NOT FULLY EFFECTIVE PERFORMER (NFE)</b>
<b>An individual whose contribution fell short of what was required by the FJP during the current year.</b>
<p>Did not meet the quality/targets required in significant areas of the job, overall contributing significantly less than was needed during the year.</p> <p>May not have or has not demonstrated (despite any required training/ coaching) the full range of skills/ability or knowledge/expertise required in the job, or failed to apply a skill or area of expertise critical to the success of the job.</p> <p><b>This may include:</b></p> <p>If a member of a defined 'work team' which works to common targets, frequently did not contribute effectively to the performance of the team.</p> <p>If 'people management' is a key role in the job, did not apply during the year the qualitative standard of people management skills or 'behaviours' required for fully effective performance in this area of work.</p>

Account can be taken of short-term dips in performance due, for example, to illness, personal problems etc. Welfare assistance should be offered and whatever support from the manager that may help, including temporary job re-design or changes to working hours to help deal with family commitments, where these have a bearing.

## **6. Awarding a Not Fully Effective Assessment**

More frequent reviews should be carried out when performance is not fully effective. A reasonable time should be allowed for improvements.

Poor performance that continues after problems have been identified and time allowed for improvement will attract a NFE assessment. A performance review meeting will be held and a written warning of 'improvements needed' can be issued at this stage, which will:

- state that performance is at an unacceptable level;
- set out the areas where improvement is required;
- set clear measures which will demonstrate that an improvement has been achieved;
- give formal notice that a trial period will follow if no signs of improvement are evident after a minimum period of 1 month following the warning;
- state that continuing support and regular feedback will continue;
- Say that the individual may make representations in writing or orally and may be helped to do this by a Trade Union Official or work colleague.

Either the RO, CO or Unit Manager may issue this warning and consider any representations. Adequate records should be retained which will show clearly the management action that is taken at each stage.

## **7. Timing of Trial Period**

If it is clear after a minimum period of 1 month (after the written warning has been issued) that insufficient improvements are being made, a trial period may begin at that point, subject to allowing a right of appeal (see below).

Each case will be considered on its merits, in the light of any factors that may be affecting performance, e.g. domestic or health problems. This does not mean that trial periods would not apply in such circumstances, but that the timing may be different in order to allow personal difficulties to be resolved.

## **8. Right of Appeal against a Trial Period**

- The local Personnel Officer or Unit Manager will write to the Job Holder, noting that his/her performance has not improved sufficiently, and will invite him/her to attend an interview if he/she wishes to appeal against the decision for a trial period. The individual may instead choose to make all his/her representations in writing. Agree the date of the appeal interview if this is requested;

- ❑ The interview may be held in the individual's place of work, or elsewhere if he/she prefers. There is a statutory right to be accompanied by a Trade Union official or work colleague at the appeal. Ensure that the individual is aware of this right;
- ❑ This interview may be held with a Personnel Officer and Unit Manager without the RO or CO being present. Both managers must be in a position to take a fair and objective approach to the appeal;
- ❑ However, if it is clear at this interview (or before) that the JH wishes to make detailed arguments about his/her work responsibilities or performance, the RO and/or CO will need to be present either at this or a subsequent meeting;
- ❑ A written summary of the main points made at the meeting(s) will be sent to the JH within 5 working days;
- ❑ The individual will be informed of the outcome of the appeal in writing and, if a trial period is to commence, the arrangements for this;
- ❑ If it is concluded that, for example, inadequate support has been given, a trial period may be deferred at that point but procedures for monitoring and dealing with poor performance will continue with improved support. Refer to the guidance in **Appendix 1**, which will help you decide whether the individual has been given enough support and advice.

### **9. Arrangements for a Trial Period**

The purpose of a trial period is to give an individual a final opportunity to demonstrate that he/she can carry out his/her particular job and, by implication, the level of work required in the Pay Band. The letter initiating a trial period will make this clear and will include:

- ❑ the commencement date;
- ❑ the length of the trial period;
- ❑ the areas where performance and skills are unsatisfactory;
- ❑ clear measures which will demonstrate that an improvement has been achieved;
- ❑ the arrangements for reviewing performance during the trial period;
- ❑ that failure to improve performance will usually result in dismissal on grounds of inefficiency.

A trial period will, in most cases, last for 4 months and will normally take place in the current post unless there are clear reasons for it being elsewhere.

### **10. Action during a Trial Period**

- ❑ Regular and detailed feedback on at least a monthly basis;
- ❑ Use PMS documentation and additional guidance notes as necessary to record feedback and progress achieved;

- ❑ Make a BMI referral if ill health or absence is a significant contributory factor. If medical retirement is recommended by the Medical Advisor during the trial period, the Personnel Officer will action this recommendation, subject to a right of appeal;
- ❑ At the end of the trial period a full summary Performance Assessment form will be completed which will supplement the monthly reports during the trial period.

A trial period will be a stressful time for a Job Holder- this is inevitable and should be acknowledged. Encourage the individual to communicate with you and take active steps to promote this by using the skills set out in **Appendix 2**.

If the Job Holder goes on long term sickness during a trial period, you will need to consider what action to take by seeking advice from your local Personnel Officer or Personnel Services staff in Silvan House. As with all sickness absence, the key aim will be to get the person back to work as early as possible. Once that happens, support the re-commencement of the trial period with whatever additional help may be necessary.

### **11. Conclusion of Trial Period**

You will discuss the Performance Assessment for the trial period with the Jobholder.

You will also have to inform him/her in writing of the outcome of the trial period:

- ❑ If the individual successfully achieves a **Good Performer** rating for the trial period, he/she will be expected to perform at that level of performance in the same post for at least 1 year after the trial period has finished. Deterioration of performance within this period will lead to immediate re-commencement of formal procedures: either a new trial period or immediate consideration of dismissal or downgrading.
- ❑ A **Not Fully Effective** rating as the overall mark for the trial period will usually lead to dismissal on grounds of inefficiency, though downgrading or limited efficiency (LE) retirement may be considered in exceptional cases.

A Senior Staff Group manager must decide dismissals and down-gradings, though advice from Personnel in Silvan House will be sought. The Senior Manager is required to personally interview the individual in any case where dismissal or downgrading is being actively considered to ensure all relevant matters have been taken into account. Allow the right to be accompanied at this interview.

Director Personnel will decide whether any compensation is appropriate in cases of dismissal based on all the evidence and guidance provided by Cabinet Office.

LE is used only exceptionally and is only appropriate where performance is borderline, usually for senior staff. Consultation has to take place with Personnel Services in Silvan House, where approval for LE is given. A Retirement Board is required for compulsory retirement on grounds of limited efficiency.

### **12. Appeals**

Once a decision to dismiss or downgrade has been taken, the Job Holder has a right of appeal and a right to be accompanied at an appeal hearing by a Trade Union Official or work colleague.

An internal right of appeal in dismissal cases is made to the **Director General**, coupled with any appeal on compensation.

Downgrading appeals are made to the **Country Directors**, unless that manager has taken the decision to downgrade, in which case the DG considers the appeal.

The Staff Handbook contains further information about rights of appeal.

Personnel Division  
February 2003

## **Appendix 1: Checklist for Line Managers**

### **Work based issues to consider when assessing poor performance:**

- Are the targets attainable within normal working hours?
- Has there been a change in the JH's duties or a re-organisation of work that has affected him/her?
- Has the JH been promoted recently or have new working practices or methods been introduced?
- Is the shortfall due, wholly or in part, to unreasonable expectations or lack of proper explanation or supervision?
- Is the JH lacking in relevant experience or training?
- Which skills/competencies does the JH fail to apply satisfactorily?
- Is poor attendance a factor? Are there frequent, self certified absences?

### **Other Potential Factors**

- Could poor health be a contributory factor?
- Is it possible that the individual may have personal or domestic problems? Is there current Welfare support being provided?
- Are there any difficulties in working relationships, not of the Job Holder's making, which may be relevant?

### **Features where disciplinary action may need to be considered:**

- Laziness;
- Misconduct or attitudinal problems, rudeness or un-helpfulness to colleagues or customers or behaviour giving rise to complaints from other members of staff;
- Other working relationship problems, such as regular disagreements with colleagues or difficulties in working as part of a team;
- Negligence. This usually involves a measure of personal responsibility arising, for example, from a lack of motivation or inattention;
- Poor attendance or timekeeping.

### **Also consider**

- Should changes be made to the job?  
This would not be done to allow the individual to avoid the areas of work he/she has difficulty with or to avoid having to improve the skills that are judged not fully effective. If, however, job

satisfaction and stress are factors that are affecting motivation or achievement, the job role and responsibilities should be looked at, if it is a practical option.

(See our Guidance on ***Managing Attendance***, on the Personnel Intranet site, which gives guidance on the elements of a job's design that can affect motivation).

□ **Are there domestic problems?**

If the JH has additional responsibilities, for example, as a carer, thought should be given to offering a flexible working pattern if this can be accommodated and the Job Holder thinks that it would help. Welfare support should be encouraged in any case where personal or domestic problems are cited as a factor by the JobHolder in their performance of the job.

## APPENDIX 2: MANAGING A POOR PERFORMER: SKILLS AND TECHNIQUES FOR MANAGERS

1. It is important that discussions and warnings about poor or deteriorating performance are given against a background of support and guidance provided by the RO and CO. In other words, whilst being clear about where performance is falling short, managers will need to give practical advice on how the JH can set about improving their performance. A warning about performance must be more than the routine correction of mistakes.

- ❑ Give practical advice and help with planning of work;
- ❑ Give clear examples of the 'outcomes' you expect;
- ❑ Use listening skills. Encourage the JH to explain the difficulties they are having and ask for their own suggestions on what kind of guidance he/she needs;
- ❑ Be prepared to spend time on the problem and to coach the Job Holder;
- ❑ Do not issue warnings in front of other staff. An aggressive manner is unlikely to get the work done and may make matters worse if the JH becomes intimidated or unwilling to approach you;
- ❑ Be supportive in words and action since this will be a considerable motivator. Try to boost the JH's confidence by encouragement when things are done well;
- ❑ Bear in mind that different people have different abilities and levels of experience;
- ❑ Do not assume there is only one way (your way) to approach or achieve tasks. Listen to any ideas the JH has;
- ❑ Make sure you know how and when targets have been completed. If the JH is carrying out work for other managers, seek feedback from them;
- ❑ If necessary, break down a task to its component parts to establish which elements are causing problems.

### Help for Managers

2. The FTS course '**People Management: The Challenges**' is designed to help managers deal with challenging people management problems, such as poor performance.