

Improving Performance

Managing a performance issue is different to managing a misconduct issue. It's important to use the correct process for the issue you have with your employee. An employer should comply with relevant clauses in employment agreements and make sure they are following their own policies in relation to managing performance and dealing with misconduct.

Even a single incident of performance below the required level calls for some feedback to the employee. It can just be an informal comment rather than a meeting.

Improving performance

Not every performance issue needs a structured process. Explore other options for improving performance, such as:

- The use of a written task list (paper or electronic)
- Continuous feedback
- A buddy
- Changes to allocation of tasks
- Identification of relevant training
- Coaching
- Mentoring
- More regular performance catch-ups where feedback can be given

This is really important in the seafood industry. You should be checking your workers know the rules and are applying them properly. This is an important part of performance management.

For example, for measuring fish, or safety procedures, you need to check they are doing these things correctly. If they are not, you need to let them know and provide extra training or coaching.

If you do not address an issue then the level of performance can become 'normal', which can be really hard to change or to discipline an employee later for that behaviour.



- Don't draw attention to the situation in front of others, but don't be shy about managing performance issues
- Use appropriate language
- Don't be aggressive, shout or use abusive language. This is not "being strong" or managing the behaviour
- Negative feedback should be given privately
- Check-in with the employee to discuss the employee's performance even if the performance has improved to a satisfactory level
- Provide ongoing feedback, both positive and negative to the employee. Work with the employee to make sure that performance improvements are kept up
- It is important to acknowledge and reinforce good performance especially for an employee who has improved

Address the problem, not the person, don't make it personal.

More formal action may need to be taken if the employee's performance does not improve, including a performance improvement plan, issuing formal warnings and, ultimately, if the issue can't be resolved, termination of employment.

You can find sample letters to help you manage performance on the [Employment New Zealand website](#), search for "How to manage performance issues".



It is an employer's obligation to try to resolve problems in good faith. In cases of performance issues, good faith means giving an employee a real opportunity to improve their performance and helping them to do so, while making sure that they know and understand their performance expectations.

In cases of misconduct, this means conducting a fair and full investigation and giving the employee the opportunity to be heard.

Dealing with Misconduct

Misconduct is when an employee does something wrong by: doing something, not doing something, or through their behaviour. This may justify some disciplinary action being taken by the employer. Misconduct may lead to a warning, while more serious misconduct may lead to a dismissal.

Serious misconduct is conduct that has the effect of destroying or undermining the relationship of trust and confidence between an employee and employer. This is more likely if the misconduct could impact on the employee's ability to perform the job.

For example:

- If the employee is a skipper and is guilty of misconduct involving drug taking, this might cast doubt on the employee's ability to operate the vessel safely.
- If an employee is in a position of trust (e.g. has the responsibility to complete catch reports) and they have stolen fish from the vessel that they haven't recorded and sold it.



If you think misconduct has occurred you must investigate the situation first (even if you saw the events happen yourself) before you decide what to do in terms of discipline of the employee(s) concerned. The employer's response to misconduct must be fair and reasonable.

- The employee should be given an opportunity to explain. Usually this is done in a meeting with the employee. It is important to tell the employee before the meeting (in writing) what the meeting is about and advise them they can bring a support person or legal advisor. You need to give them enough time to prepare for the meeting.
- Once you have all the facts and heard what the employee has to say, you need to decide

whether there has been misconduct and, if so, the disciplinary action you will take.

- It is common for warnings to be given for misconduct. If the misconduct is serious enough, a final warning may be issued stating that the employee will be dismissed if the same behaviour reoccurs.
- There is no set number of warnings that need to be issued before an employee can be dismissed.
- An employee may be summarily dismissed if, after a fair investigation and disciplinary process, they are found guilty of serious misconduct.



If you are in doubt about how to investigate an allegation of misconduct, or what the appropriate response should be, ask for advice. It can be very costly to get it wrong.



You can find sample letters to help you manage investigations and dismissal processes on the [Employment New Zealand](https://www.employmentnewzealand.govt.nz/) website, search for "*Disciplinary action*".