

3 Reasons Why Employers Fail and What to Do About It!

Reason 1: They don't employ the right people. They don't maintain their people properly and they don't manage poor performance until it is too late to fix.

This article is the first in a three part series in which Chris Delaney provides practical advice on overcoming these basic mistakes made by employers.

Employing the Right People

Start by knowing what you want.

Complete a Position Description - what the employee will do and a Position Specification (a list of the essential and desirable skills qualifications licenses and experience required to perform the duties). If you do this you will have a better idea of what you are looking for.

Consider the culture of your business, the team or customer the employee will be working with. It is important that the employee fit in.

Make sure you know the correct Award and rates of pay relating to the position.

Ensure that you understand the requirements of anti Discrimination legislation and EEO. If you concentrate on the requirements of the job you will avoid problems in this area.

There are federal and state laws covering discrimination in employment.

- Federal laws are:
- Racial Discrimination Act
- Sex Discrimination Act
- Disability Discrimination Act
- Human Rights and Equal Opportunity Commission Act
- Federal Industrial Relations Act.

How to Create a Position Description

The Position Description is a key part of the placement process. Prospective incumbents should be aware of what the job entails. It is also important to identify the competencies required of positions.

The position description should include the following:

- Where the position is physically located, e.g. St. Peters
- Who the position reports to.
- Position type e.g. Full-time, Part-time, Casual
- The overall purpose of the role

- Details of the duties & responsibilities of the role
- Essential competencies sought, i.e. knowledge and skills
- Desirable competencies and experience
- Any education, qualifications, special training, etc. required or desirable for the position
- Any specific personal attributes sought in the successful applicant.

What can a PD be used for ?

- Determining remuneration
- Writing the job advertisement
- Setting selection criteria
- Information for Recruitment Agency
- Performance Review
- Letter of appointment

Points to Consider when Selecting Staff

All recruitment must be based on selecting the person who most closely matches the competencies required to do the job. During the recruitment process, ensure that you follow these guidelines:

- Applicants must not be favoured for reasons other than issues relating directly to their ability to perform the role
- All applicants must also be treated consistently and professionally. For any one position, take all applicants through the same recruitment and selection process and judge them against the same criteria
- Treat all inquiries and applications in strict confidence, both before and after the position is filled
- Interview all candidates who meet the essential criteria
- Be aware of your own personal biases and base decisions on factual data
- Keep all applicants informed during the selection process

How to Conduct a Selection Interview

When interviewing applicants it is important to remember that past behaviour is the best predictor of future behaviour. This is the basis for the majority of questions used in a selection interview.

When interviewing, ask the applicant questions that refer directly to the competencies and behaviours that are required in the position.

The questions should be:

- Targeted at the required competencies and therefore only information relevant to the job
- Planned prior to the interview to ensure consistency, which in turn results in a fair evaluation of all applicants
- Behavioural - i.e. designed to obtain examples of past behaviour. Ask applicants to discuss past work experiences. The questions are not designed to ask applicants to describe their feelings, opinions or theories.

Planning the Interview

To avoid inconsistencies in the information gathered from applicants, the following should be considered when planning the interview.

Structure –

Have an interview guide to ensure specific and relevant information is gathered and the interview is kept on track.

Job relevance –

Ensure questions are relevant to the competencies required

Review resume/Application Form –

By being familiar with the qualifications and experience of the applicant prior to the interview, more time can be allowed for position specific questions during the interview.

Location –

A quiet and comfortable interviewing environment is not only more professional it can also set the applicant at ease and assist in creating clear lines of communication.

EEO –

Focusing on the applicant's abilities and suitability for the position rather than other factors including race, sex, origin, disability etc, can prevent discriminatory practices and allow for a fair decision making process.

Focusing on factors that are not relevant to the job makes no sense and you could miss out on selecting the best person for the job.

Asking Planned Behavioural Questions

For example if the key behaviour you are looking for is the ability to work well under pressure, you would put a question like this:

“Tell me about a time when you were under a lot of pressure at work. What was the pressure, what did you do about it and what was the result?”

The answer will tell you what the candidate perceives to be pressure, how they behave and how it turned out. You have considerably more information to base a decision on, whether a specific competency was demonstrated or not. Knowing an applicant's actions is of little use if you don't understand the circumstances surrounding the actions and what the results were.

Just as the interviewer requires information from the applicant, it is the role of the interviewer to answer questions and to provide specific information regarding position requirements, company background and benefits.

Advising the Applicant of the Next Steps

When closing the interview, applicants need to be informed of the next steps in the selection process. Ensure they know when they will next be contacted and what they can expect as a next step if they are considered suitable to proceed with the selection process.

Factors to Consider When Interviewing

Avoid theoretical or hypothetical questions

The 'what if' or hypothetical questions generally will elicit a hypothetical answer. This tends to be where, the applicant has never been in that situation - the applicant has to make up an answer.

Be aware of common blocks to effective listening

Personal Factors - It is easy to allow distractions to interfere with your understanding of what the applicant is trying to say. For example, general appearance, mannerisms, gender.

Assumptions - We often tend to assume things that are not said. We must force ourselves to listen. If there is a doubt, it should be resolved with the applicant, and not assumed.

Projection - We often believe others think as we do. We think we know what the other person is thinking and tend not to listen carefully or at all.

Inattention - People think three or four times faster than they speak. This can give the listener 'spare time' during an interview to lose concentration. However, using spare time productively can lead to more effective listening e.g. concentrating on meanings of words spoken, tone, emphasis, gestures.

Closed Mind - Personal biases, values, prejudices and beliefs can prevent interviewers from listening to a person who doesn't hold the same views.

Wishful Hearing - Many people hear what they want to hear.

Semantics - The different meanings possible for particular words can cause misunderstandings. Clarify.

Excessive Talking - Often people who are incessant talkers have no time to be effective listeners.

Pride - Often situations arise when the interviewer thinks they know so much about the topic, they think it is not worth listening to the other person. A listener must assume that an individual is worth listening to.

Fear - Fear that what we are hearing will act as a block to listening.

Physical Surroundings - External factors including noise, stuffy atmosphere, smells and light shining into eyes can act as barriers to effective listening.

Considerations in Rating Applicants

Interviewers need to assess which areas of competency are important strength areas and are critical to performing in the role.

Interviewers need to assess whether or not weaknesses in certain areas can be overcome or otherwise determine if the applicant is unsuitable to proceed.

Every position has more than one required competency/key result area. Indications of weakness in one area can be compensated by strength/s in another.

Making an Offer of Appointment

When you have decided on the most appropriate person for the position, ensure that you check all references before making an offer. Prepare a 'Letter of Offer' including all salary details. When offering the position to the successful applicant, they should be notified of all the conditions relating to the position. All conditions are to be included in the letter of offer. The candidate should fully understand the implications of the **Probationary Period**.

As soon as the successful applicant accepts, give written or verbal notification to the unsuccessful applicants.

The applicant should receive two copies of the letter of offer, one with a space for their signature. To indicate their acceptance of the offer they should sign and return one copy of the letter to you as soon as possible. The other copy should be retained by them for their own records.

Form requirements for new employees

The following documents should be completed for all new full-time, part-time permanent and casual employees.

- Application for Employment Form
- Tax Declaration Form
- Superannuation Forms
- Reference Check Form, and Interview Report Form
- Resume/Curriculum Vitae
- Signed copy of Letter of Offer
- Confidentiality Agreement (if not in letter of offer).

Use the following list as a guide to the information and activities that should be covered with the new employee during their first few days.

Describe the induction and orientation process

Introduce to team members and explain the job function of each employee

Review layout of the workplace - preferably provide floor plan sketch showing names and positions of others in the team

Take on a tour of the building/site or location - show where facilities and amenities are located

Explain fire and emergency procedures

Explain policy on Drugs and Alcohol

Provide details of workplace policies or rules. Specifically explain working conditions:

- | | |
|----------------------------|----------------------------------|
| - Hours of work | - Paydays and procedures |
| - Lunch breaks | - Casual days (where applicable) |
| - Personal telephone calls | - Business expenses |
| - Overtime | - Employee benefits |

Convey company Code of Conduct

Describe overall departmental organisation and its relationship to other activities of the company

Define employee's individual contribution to the objectives of the department and their initial work tasks or assignments

Discuss job content and competency profile

Explain performance management and review processes, including probationary review and salary reviews

Probationary review

All new permanent employees should be on probation for the first three months of their employment. During the probationary period both the employee and the company can make a mutual evaluation of a new employee's performance and suitability to their role.

Reason 2: They don't maintain their people properly.

All too often we find good employees, put them to work and then forget about them. Maintaining your employees is just the same as maintaining your car or your office equipment, if it is not done regularly you run the risk of breakdown and expensive repair bills.

There are three aspects of employee maintenance that you should actively manage:

1. A structured Induction or Orientation Program
2. A properly managed Probationary Period, and
3. Regular Performance Reviews

Induction or Orientation

The purpose of induction is to introduce the new employee to the company, for them to become acquainted with the people, the systems and processes, and generally with where things are and who can help them.

New employees who receive the benefit of a well-planned and carefully conducted induction or orientation program will soon develop a feeling of self-confidence and will be able to assimilate into the new environment more readily.

- Inform other staff of the new employee's commencement and provide a little information of the employee's background and new role
- Organise:
 - Equipment, uniforms etc.
 - ID cards, forms and any necessary paperwork.
- Greet the new employee on their arrival, make them feel welcome and ensure that they know they are an important addition to the team
- Consider assigning a "buddy" to assist in the settling in process. Preferably the buddy should be someone at or close to the same level as the new employee

Use a list as a guide to the information and activities that should be covered with the new employee during their first few days. Eg:

- Introduce to team members
- Review layout of the workplace
- Show where facilities and amenities are located
- Explain fire and emergency procedure
- Explain Company Handbook including policy on Drugs and Alcohol
- Provide details of Company workplace policies. Specifically explain working conditions:
 - Hours of work
 - Paydays and procedures
 - Lunch breaks
 - Personal telephone calls
 - Overtime
- Discuss job content and competency profile

- Explain performance management and review processes, including probationary review
- Ensure all necessary documentation including tax declaration and bank account details are obtained.

Probationary Period

During the probationary period both the employee and the company can make a mutual evaluation of a new employee's performance and suitability to their role. Probationary reviews encourage feedback from both parties.

All permanent employees should be on probation for the first three months of their employment.

From the outset set goals and objectives. These should be appropriate to the standard that would be expected for someone new to a role. They should, of course, take into account whether or not the new employee brings any prior knowledge or skills to the role.

In most cases the goals/objectives will relate to the expected knowledge and skills to be demonstrated in the first months in the role.

You should follow these steps for all new employees who are on probation.

1. Set and write Probationary Period Goals / Objectives
2. Give the employee a copy of their goals and objectives
3. At the end of each month or review period, together with the employee, complete, document and sign each review. The employee must also sign each review
4. Where an employee is not performing, review their performance with them immediately. They should be given clear instructions and guidance on what they need to do to improve and meet the expected level of performance
5. If the employee has performed competently and met or exceeded objectives, you should sign-off on completion of the probationary period
6. The probationary period should not be extended beyond three months.

A confirmation of permanent employment status should be sent to the employee at the end of the probationary period.

Employees who do not Pass Probation

If an employee does not pass probation, the decision to terminate the employee should wherever possible be made after consultation with another manager. There must be clear evidence that the employee has been given the opportunity to improve their performance and that consultation has taken place.

In these cases, the employee must be terminated prior to the completion of three months employment.

The Performance Appraisal Process

Performance appraisals are essential tools in maintaining and improving the performance of employees. They should be conducted at least yearly and preferably each 6 months.

The major aims of performance appraisal are to:

- Motivate employees by providing feedback on how they are performing
- Improve efficiency by identifying people with potential and in turn identifying their development needs
- Provide back-up data for management decisions concerning salary increases, promotions, demotions, transfers or dismissals
- Ensure managers are observing employee performance more closely to improve their coaching effectiveness

Start of Review Period

Set Objectives

These should cover the major tasks that should be accomplished during the review period. You should discuss objectives including performance measures with the employee.

Discuss Expected Behaviours

Having set objectives, you need to ensure that the employee understands what types of behaviour and skills they need in order to achieve these objectives. These describe the "how" as opposed to the "what". These behaviours or skills should be as specific as possible.

Determine the Assessors

In many cases it will be appropriate to use other people or other sources of assessment apart from the immediate manager and the employee. Other sources may include:

- Direct Reports
- Others involved in the same work
- Other managers Peers/colleagues from the same or other departments
- Customers – internal and external

During the Review Period

- Record critical incidents
There is a tendency to judge performance based on the last few months or even weeks immediately preceding an appraisal, as those behaviours are the ones that are most clear in our minds.
By recording uncommonly good or undesirable incidents that happen during the review period you will have some "hard facts" for discussing performance at review time. In particular, you should ensure you record any special accomplishments or activities that may not be readily identified when reviewing set objectives.
- Review progress
No written form of appraisal eliminates the need for continual monitoring of progress. Reviewing performance should be a normal part of everyday activities. For example, if an employee performs a task well, they should be congratulated at the time. Likewise, if a task is not performed satisfactorily the employee should be informed at the time of the poor performance.

Priorities often change during the review period; when this occurs it may be necessary to compile new objectives.

End of Review Period

- **Joint assessment**
Some time prior to formal review advise the employee of the form the appraisal will take. Both the manager and the employee should complete the forms separately ready for discussion at the formal review.
- **Manager's assessment**
The manager should evaluate the employee's performance against the objectives and behaviours identified prior to conducting the appraisal discussion. Having done this and given time for the employee to prepare, you should schedule and conduct the performance appraisal discussion.
- **Set next review period objectives**
On completion of the appraisal discussion, you should put together an agreed performance improvement plan/training and development plan and set new objectives.

How to Evaluate Performance

Performance assessment evaluation - Many businesses use a simple rating system for assessing performance as outlined below.

- **Rating of objectives:**
Did not achieve objectives
Partially achieved objectives
Achieved objectives
Exceeded objectives (by up to 20%)
Exceeded objectives (by more than 20%)
 - **Rating of competencies or key result areas:**
Usually does not meet the requirements of the job
Sometimes does not meet the requirements of the job
Consistently meets requirements of the job in all or most areas
Generally exceeds the requirements of the job
Consistently and significantly exceeds requirements of the job
 - **Overall evaluation rating**
The overall evaluation rating is the average of the ratings for the objectives and ratings of competencies or key result areas identified. The method of averaging is specific to whichever form or process being used. The Performance Review Summary in the
5. **Outstanding Performance**
Results have greatly exceeded expectations without direction
 4. **Very Good Performance**
Achieved all agreed objectives required some direction
 3. **Competent Performance**

Achieved most agreed objectives - some room for improvement in meeting complex goals

2. Satisfactory Performance
Achieved most agreed objectives while falling short on important goals - requires improvement
1. Unsatisfactory Performance
Most goals not achieved - does not respond well to help.

How to set objectives

In order to perform, individuals need to know what is expected of them. Managers usually know what they expect from their staff, however, it is not always easy to translate expectations into written goals and objectives. As a guide, agreed goals should be:

- **Specific** – Objectives are detailed and definite. Action words such as sell, learn, complete and conduct are used.
- **Measurable** – The outcome of objectives is measurable. The quantity and/or quality can be specified as long as it can be measured or have a value assigned to the objective.
- **Achievable** – There is a good chance of success. They are reasonable given the employee's knowledge and experience.
- **Realistic** – Objectives are relevant to actual duties and responsibilities. They are practical rather than ideal objectives.
- **Timeframes** – Due dates are set for the review and completion of objectives (these can be daily / weekly / monthly)

You can make these things as simple or sophisticated as you need to. The important thing is that you get into the habit of assessing and developing your employees. This is just good commercial sense. Unlike the company car and the computer the longer you keep good employees the more money they make for you. The sooner you let go poor performers the less exposure you have to unfair dismissal claims.

Reason 3: They don't manage poor performance until it is too late.

Earlier we have discussed the importance of employing the right people, ensuring they are properly inducted into the workplace, assessed during the probationary period and appraised regularly. Here we will concentrate on managing poor performance.

One in 3 employers in Australia will at some point be confronted with a claim for Unfair Dismissal. How it turns out will often depend on how well the process was handled from the outset.

Performance Management

Performance reviews allow you to deal with issues before they become major concerns. Meet regularly with each employee to discuss their performance. Highlight what the employee has been doing well, as well as identifying any areas of concern you, or they, may have. When performance or conduct is not satisfactory deal with it as soon as possible.

Counseling your employee, giving warnings and providing an opportunity and assistance to improve are steps you should take in most circumstances.

Establish strategies, goals and any training that may be required to overcome performance concerns. This will help the employee perform to your expectations.

The Counselling Process

The primary purpose of counseling should always be to improve the employee's performance. The process should ensure that employee is fully aware of what is required of them and that they get a "fair go" at explaining their side of the story and allowed a reasonable opportunity to improve.

Preparing for a Performance Improvement Interview

Before you do anything ensure that you check the facts on the conduct/performance of the employee. Talk to witnesses, clarify dates, times etc., collect information to enable you to put concisely before the employee what you see is the problem. Check performance standards/results/behaviours and any previous warnings verbal or written.

Whenever you discuss performance issues with an employee you should as an absolute minimum make a diary entry about your discussion.

Conducting the Performance Improvement Interview

Plan

- Effective reviews of poor performance must be carefully planned.
- Note all the aspects of performance you wish to cover, assemble all the pertinent facts and prepare questions that you would like to ask.
- Target one or two areas of poor performance at a time. Don't overload the person so that they feel inadequate or pessimistic about their chances of meeting performance standards.
- Recall all that you can about the employee's behavioural patterns. If you know this person to be negative, emotional, flippant or likely to behave in ways that may make the discussion difficult, be prepared to deal with that behaviour.
- Set a time and place for the meeting and inform the employee 24 hours (1 working day) in advance. It is a good idea to hold the meeting at the end of the day, so the employee can go home and think about and prepare for the meeting.

Open

Start the meeting by making the employee feel at ease. Greet the employee in a way that sets a positive and constructive tone. State the purpose and importance of the meeting. Tell the employee:

- what you will be covering in the meeting
- what you want to accomplish
- any groundrules
- Point out that this is not a faultfinding session; it is designed to improve future performance.

Clarify

- Identify and define the performance issue using objective terms, being as specific as possible. Stress the need for improvement and the consequences of failure to improve.
- Explain the impact of this performance issue and indicate why the issue concerns you.
- Emphasise that you disapprove of the performance, not the person himself or herself.
- Be assertive yet supportive. Your tone must reflect concern for the employee's interest.
- Ask the employee why the problem exists. Together analyse the reasons for the performance issue. Probe to determine if the problem is related to:
 1. lack of training
 2. lack of motivation
 3. personality conflict with co-workers or a customer
 4. misunderstandings about expectations or responsibilities
 5. personal problems
 6. new equipment or procedures which the employee is not comfortable with

- Once the source of the problem has been identified, define the expected performance standard and ask the employee how the problem can be addressed.

Develop

Together explore ideas for a solution.

One difficulty often experienced when asking for ideas, is the person may not immediately respond. Encourage the person by asking again and/or offer an idea of your own. Ask them, "In what way can I help you improve your performance?" Accept their solutions where appropriate.

Agree

Gain agreement on specific actions that need to be taken.

- Set goals
- Together develop a performance improvement plan
- Put a clear timetable of scheduled reviews in place to monitor progress
- If agreement cannot be reached, a decision must be made which meets Council requirements.

Close

Summarise all major points at the conclusion of the meeting. Highlight important features of the discussion. Make sure that the employee understands the goals, the improvement action plan and what will be required of them. Keep a written record of these points. Confirm a date for the next follow-up.

Give the employee fair and reasonable warning and opportunity to improve. There are no fixed number of warnings that should be given to an employee about unsatisfactory performance. However when failure to improve is likely to end in dismissal you should advise the employee clearly in writing.

What is fair and reasonable will depend on the seriousness of the problem, the unique circumstances of each case and the timeframe over which the warnings were delivered.

Dismissal

If performance does not improve and you have given the employee an opportunity to improve and warning that dismissal may occur, repeat the counseling process to ensure that there are no mitigating circumstances.

Get a second opinion. Talk to a professional to ensure that dismissal is the correct course of action at this time. If you have decided that you have no alternative other than to dismiss the employee, be confident that you are making the decision fairly and have considered all the evidence.

Check whether the award, agreement or 'contract of employment' require that you provide any information prior to the dismissal. Then put your reasons in writing together with written confirmation of the dismissal and when it takes effect.

When you Cannot Dismiss an Employee

An employer may not dismiss an employee in the following circumstances:

- As a result of temporary absence due to illness or injury
- For Union membership or non membership
- For reasons which are discriminatory
- For making a complaint against the employer
- As a result of absence on Parental Leave
- For being on Worker's Compensation.

Dismissal Without Notice

In some situations it may be appropriate to dismiss an employee without notice and without the payments in lieu of the notice. This should happen only in extremely serious matters where the employee has committed serious and wilful misconduct or neglect of duty. To minimise the chance of an unfair dismissal you should:

- Investigate any allegations made against your employee as fully and as promptly as possible. If the allegations are substantiated, discuss them with the employee..
- Give the employee an opportunity to answer any allegations that are made and an opportunity to have a witness present.
- Keep a written record of all your findings and give the employee verbal and written reasons for their dismissal. It is a good idea also to keep notes of what has happened during the investigation.

You must be able to prove at a later time that the incident was deliberate and intended to cause harm the employers business. You may need to seek legal/professional advice or take legal action if the matter is serious enough to warrant dismissal without notice.

If you can answer yes to all of these questions you should be able to prove that the dismissal was not harsh, unjust and unreasonable.

- Is there a **valid reason** and has this been clearly communicated to the employee?
- Has the employee been provided **with a genuine opportunity to respond?**
- Has the employee been given **prior warning?**
- **Is the reason for dismissal about performance or conduct?**

What the Industrial Commissions Look for When Hearing Unfair Dismissal Cases

A large number of disputed dismissals that go before Tribunals fail because employers cannot satisfy the arbitrator on one or more fundamental points.

Can we prove to the Commission that:

- Intent (Management Behaviour)

This dismissal was the final event in a genuine and consistent attempt to change conduct or performance?

- Methodology (Counselling, warnings, opportunity to improve).
The company has an appropriate procedure for dealing with unacceptable conduct or performance, which provides the employee with an opportunity to improve, and it was followed.
- Communication and Understanding
The employee finally understood that the consequences of further transgression were dismissal.

Evidence

- The statements made can be substantiated by proper documentary evidence, investigation or sworn testimony
- Condoning
- The matter was dealt with promptly, efficiently and with regard to natural justice to the individual concerned.

95% of all claims of Unfair Dismissal are resolved by conciliation. In other words the employer makes a commercial decision to settle the matter. The most important thing to remember is not to let poor performance go unchecked. Deal with it early and in most cases performance will improve.

If you must dismiss an employee seek professional advice before acting.