Injured, ill or underperforming? Knowing which process applies

Managing workplace issues can be challenging, particularly where an employee's conduct, attendance or output has changed. Employers will often recognise that something is wrong but may be unsure whether they are dealing with a performance issue, a medical issue, or a workplace injury. This distinction is important because each situation requires a different approach. Applying the wrong process can expose a business to legal risk, damage employee relationships, and make an already difficult situation more complicated.

Understanding whether an employee is injured, ill, or genuinely underperforming is often the first step towards managing the issue effectively and lawfully.

Performance issues: when capability or conduct is the concern

Performance management processes are designed to address situations where an employee is not meeting the requirements of their role. Examples of such situations might include employees consistently failing to meet deadlines, failing to follow workplace procedures and not meeting agreed performance expectations. In these circumstances, employers are generally entitled to raise concerns with the employee, clearly explain the expectations of the role, provide support where appropriate, and allow the employee an opportunity to improve.

A structured performance management process will usually involve:

- identifying the specific performance concerns
- meeting with the employee to discuss those concerns
- setting clear and measurable expectations
- providing reasonable support and guidance
- reviewing progress over a reasonable period
- taking further action if performance does not improve

Importantly, employers should avoid assuming that poor performance is solely a capability issue. Before commencing a formal performance process, it is often worth considering whether there may be an underlying reason contributing to the employee's performance decline.

Illness: looking beyond the symptoms

Sometimes what appears to be poor performance may actually be the result of illness. For example, an employee experiencing significant stress, anxiety, depression, chronic pain, medication side effects or another medical condition may demonstrate behaviours that resemble performance problems. They may become forgetful, struggle to concentrate, miss deadlines or experience increased absenteeism.

If an employee discloses a medical condition, or if there are reasonable indicators that a health issue may be contributing to workplace concerns, employers should proceed carefully. This does not mean performance concerns cannot be addressed. However, employers should first seek to understand whether a medical issue is affecting the employee's ability to perform their role.

Depending on the circumstances, this may involve:

- discussing the concerns with the employee
- seeking medical information (with appropriate consent)
- obtaining a fitness-for-work assessment
- considering reasonable workplace adjustments
- assessing whether the employee can safely perform the inherent requirements of their position.

An employee should not be disciplined simply because they are experiencing illness or because their illness is affecting their work capacity. Instead, employers should focus on understanding the medical circumstances before determining the most appropriate course of action.

Workplace injuries require a different process again

Matters become even more sensitive where an employee has suffered a workplace injury. When an employee is injured at work, employers will generally have additional obligations under workers' compensation and work health and safety laws.

A common mistake is treating injury-related limitations as a performance issue. For example, an employee who has returned to work following a back injury may be unable to complete tasks at the same speed or capacity as they did previously. If those limitations arise from the injury, commencing a performance management process without considering the medical context could create significant legal and practical risks.

Instead, employers should focus on:

- understanding the medical restrictions
- following return-to-work plans
- liaising with relevant treating practitioners and insurers where appropriate
- providing suitable duties where available
- reviewing the employee's capacity as it changes over time.

Performance expectations should take account of any legitimate medical restrictions that apply while the employee is recovering.

The warning signs that you may have the wrong process
One of the biggest challenges for employers is recognising when a matter may not be a straightforward performance issue.

Some indicators that health or injury factors may be involved include:

- a sudden decline in performance from an otherwise strong employee
- increased absenteeism or personal leave usage
- visible signs of physical or psychological distress
- disclosure of a medical condition
- recent workplace injury or workers' compensation claim
- statements that the employee is struggling due to health concerns.

Where any of these factors are present, it may be prudent to pause and gather additional information before moving immediately into disciplinary or performance management processes. Failing to do so can result in employers addressing the symptom rather than the underlying cause.

Can an employee be both underperforming and unwell?
Yes.

Many workplace situations are not neatly confined to a single category. An employee may have legitimate performance concerns while also experiencing health issues. In these circumstances, employers should avoid viewing the issue as an either-or scenario.

The focus should instead be on determining:

- whether a medical condition exists
- whether the condition is contributing to the performance concerns
- what support or adjustments may be required
- whether the employee can perform the inherent requirements of the role
- whether any performance concerns remain once medical circumstances have been properly considered

A balanced approach allows employers to address business needs while still meeting their legal obligations.

The importance of getting it right
When concerns arise, it can be tempting to move quickly towards formal performance management. However, taking the time to identify whether the issue relates to

performance, illness, injury, or a combination of all three can significantly reduce risk and lead to better outcomes.

Employers who accurately identify the nature of the issue are better positioned to choose the appropriate process, provide suitable support, and make informed decisions about ongoing employment.

A useful question to ask at the outset is: "Is this person unwilling to perform, unable to perform, or temporarily restricted from performing?" The answer will often point you toward the correct pathway.

By understanding the distinction between injury, illness and underperformance, employers can respond more confidently, ensure compliance with their obligations and support fair and effective workplace management.

For more information on this article please contact the Canberra Business Chamber Advice line on 1300 277 881