

Jackie Towell

From: Jackie Towell
Sent: 14 January 2019 16:41
To: 'Natasha Johnston'
Subject: RE: quick Questions

Thanks Natasha, on point three, he has various health issues, Gout, a problem with his ankles and a bad back, all never resulting in any real absence, he takes an odd day here and there but mostly attends and tells us he is not able to carry out some activities, so "hangs around" or we send him on a job buddied up which cannot go on, we can't charge for those hours. I feel the problem is more ours than his, we have never really managed this problem and just allowed it to happen each time, I think we start by;

1. Re-establishing expectations regarding sickness absence and reporting.
2. If he attends work but cannot work we send him home until he is fit to carry out the job (or amended job if there is one).
3. If this goes beyond 5 working days he will need a fit/sick note, if amended
4. We send him for an Occ Health assessment for repeated absence or notification of inability to carry out certain tasks.

Simple I guess?

Thoughts?

Jackie

From: Natasha Johnston <Natasha.Johnston@jcpsolicitors.co.uk>
Sent: 14 January 2019 15:52
To: Jackie Towell <Jackie.Towell@premiergroup.org.uk>
Subject: RE: quick Questions

Hello Jackie,

Its come around so quickly! I hope the forum is going well for you.

Question1 – whilst I appreciate there is no obligation for Consultation with the TU I would advise to use the minimum notice periods as you do have a duty to consult with employees giving as much notice as possible even if the TU/Employee reps phase isn't mandatory. You need to ensure the timescale set allows sufficient time for meaningful consultation to take place, including exploring if there are other roles within the company, or any challenges to the selection criteria used.

Question 2 – the ACAS code doesn't apply to performance management, that said dismissals for capability should be a last resort. You should be able to demonstrate a fair and reasonable process was undertaken with the aim of supporting the employee to return to the standards of performance expected. As a further consideration your performance management process is contractual, therefore, failing to stick to the correct process may result in a breach of contract claim in addition to unfair dismissal or discrimination if a protected characteristic is causative to the issues.

To ensure the employee cannot complain the process was unreasonable on account of the length of time between warnings set to improve it would be prudent to review the employees work and the length of time each task takes e.g. if you ask an employee to complete a task once per month and you set a shorter period that means you cannot assess that task, you are likely to be criticised for not supporting the employee to resume decent standards of performance. As a bench mark a period of 1-3 months between each stage is usually considered reasonable.

Question 3 – is there a medical reason causing his inability to complete certain tasks? This will establish whether this is a capability or conduct issue. If it is the case that it is his health that affects his ability to complete his role you need to carefully establish 1) if he is fit for work, 2) if he poses a health and safety risk to other colleagues and your clients 3) if you have meaningful duties for him to undertake if he cannot fulfil his contractual role what percentage of his duties can he no longer complete? An OH Assessment or a Workplace assessment completed by an OH Professional is likely to give you a clearer picture on what his limitations are and whether you can support them, if not you may be able to consider a capability dismissal on the grounds of ill health rather than performance.

More than happy to offer further support on any of these up to 31st.

Kind Regards,

Natasha

Natasha Johnston

HR Advisor

Tel: 01792 525478
Fax: 01792 518140
www.jcpsolicitors.co.uk



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Telephone: +44 (0)1792 773773 Facsimile: +44 (0)1792 774775

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Please think before you print

From: Jackie Towell [<mailto:Jackie.Towell@premiergroup.org.uk>]

Sent: 14 January 2019 14:50

To: Natasha Johnston <Natasha.Johnston@jcpsolicitors.co.uk>

Subject: quick Questions

Hi there, hope you are well, just a couple of quick questions before the expiration of our agreement ☺

1. What would you recommend as the minimum amount of time between consultations in a redundancy process? (this only affects 3 people so no consultation rules as such to follow).
2. Same but reference a performance management process, I normally use monthly reviews, and would probably do three, but I'm under a bit of pressure to condense this.
3. We have one chap (almost 60), who has given us a long list of responsibilities that he can no longer do, leaving us with only supervision which we don't always have, result we are over manning jobs, any ideas on the best route for this one?

Thanks
Jackie

Jackie Towell

Group HR Manager

The Premier Group Construction Division

e: jackie.towell@premiergroup.org.uk



The Premier Group
Endeavour House
Viking Way
Swansea
SA1 7DA

Reception: 01792 310600
Direct: 01792 315573
Mobile: 07885 283575
Fax: 01792 315599
w: www.premiergroup.org.uk

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