



Managing for Success

*Performance, Feedback, and
Progressive Discipline*

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- Performance Management
 - Performance Management vs. Discipline
 - Why Manage Performance
 - How to Manage Performance
- Progressive Discipline
 - Why Progressive Discipline
 - Requirements
 - How to Progressively Discipline
- Case Study

Performance Management



Performance Management

- A performance management system is a continuous process aimed at promoting and improving employee effectiveness
 - Engages a comprehensive, ongoing process
 - Requires expectations to be communicated
 - Monitors employee performance
 - Requires feedback from managers
 - May involve a performance improvement plan (PIP)



Performance Management – 3 stages

- **Stage 1: Planning Stage**

- Individual employee performance objectives are identified, considering the employer's organizational goals and strategic plans
- Work plans are developed: identifying employee-specific tasks, deliverables, and production standards
- Employee goals, objectives and work plans are communicated.
- Employee training is provided (as needed)

- **Stage 2: Monitoring Stage**

- Coaching employees so that they have direction and guidance
- Continually assessing employee progress through effective supervision
- Sharing feedback with employees on their progress
- Developing action plans (such as retraining, progressive discipline, etc.) where performance expectations are not met



Performance Management – 3 stages

- **Stage 3: Review Stage**
 - Performance reviews should:
 - Be scheduled at regular intervals (for example, annually)
 - Summarize the employee's performance relative to their goals, including accomplishments and shortfalls
 - Allow for employee self-assessment
 - Be communicated in a formal performance review meeting
 - Allow for employee feedback in areas of disagreement

***If unionized** – Collective Agreement may require that the Union be notified and/or given the opportunity to be present throughout this process*



Finding the Line Between Performance Management and Discipline

- Discipline is different from performance management
- The distinction lies between non-culpable (innocent) and culpable (blameworthy) behaviour
 - **Non-culpable conduct** → Employee **unable** to meet the required standard of job performance
 - Corrective measures: performance management (e.g., coaching, feedback, close supervision)
 - **Culpable conduct** → Employee **unwilling** to meet the required standard of job performance
 - Corrective measures: progressive discipline



Performance Management is Not Harassment

- A reasonable action taken by an employer or supervisor relating to the management and direction of workers or the workplace is not workplace harassment
- The following is therefore not harassment:
 - Fair and reasonable constructive feedback or evaluation of an employee's work
 - Performance management, such as routine coaching
 - Appropriate and justifiable disciplinary action
 - Minor differences of opinion
 - Occasional acts of frustration in a respectful manner



Why is Performance Management Important?

- Builds and develops positive relationships
- Identifies problems or potential problems early on
- Allows employees to correct problems at an early stage
- Helps ensure employees are treated in a fair and consistent manner
- Allows employees to know what is expected and the support available
- Enhances the credibility and image of the employer



How to Manage Performance?

- Identify the problem(s) in **specific** terms
- Meet to discuss
- Set our clear and defined expectations in writing, as well as the consequences for not meeting those expectations, i.e. termination
- Discuss possible solutions (additional training, job shadowing)
- Document, document, document
- Performance management should be an ongoing process, not a sporadic one



How to Demonstrate “Reasonable Action”

- Clear and thorough documentation regarding interactions with employees as part of the performance management process
- Fair, respectful, and consistent treatment of employees
- Communicate consequences stemming from the performance management process



Managing Performance: The Probationary Period

- The purpose of the probationary period is to establish whether an individual is suitable for a job or continued employment
- Allows for the assessment of knowledge, skills, abilities and efficiency
- If it doesn't work out, it's easier to terminate an employee for poor performance or lack of ability during the probationary period
- Once probation is complete, an employee may only be terminated for just cause
- If you wait until the employee has passed probation, you may be stuck with them for a while
- The length of the probationary period varies (check contracts/Collective Agreement clause)



Utilizing the Probationary Period

- There should be a decision made on every employee who is on probation
 - Leadership needs to take accountability for probationary employees
 - Communicate when you believe an employee should or should not pass probation before the probationary period is up
 - Set reminders
- If an employee is “on the bubble” – potential to extend probationary period
 - Length of probationary period varies based on contract/Collective Agreement
- Use the probationary period to your advantage
 - Great opportunity to build relationships
 - Have discussions and be curious
 - Feedback is important
 - Don’t be afraid to make a big deal about employees who pass probation – it should be exciting!



Terminating for Poor Performance

- Employers can terminate employees for performing poorly – the bar is high
- To do so, must establish the following:
 1. The level of job performance is clearly defined
 2. The required level of performance was communicated to the employee
 3. The employee was given reasonable instruction and supervision to meet expectations
 4. The employee was unable to meet the standard despite having reasonable opportunities
 5. Reasonable efforts were made to find the employee alternate employment within their competencies
 6. Reasonable warnings were given that a failure to meet the standard would result in termination



Note Taking and Performance Management

- Clear and thorough notes of your interactions with employees are an important part of the performance management process
 - Good notes allow you to show fair, respectful, and consistent treatment of employees
- You should keep clear and accurate written records (**with dates**) of **all**:
 - Meetings
 - Training sessions
 - Counselling sessions
 - Performance discussions
 - Warnings
 - Disciplinary action
 - Investigations
- Consider the “W5”



Common Pitfalls in Performance Management

- Inconsistent Treatment
- Failing to Distinguish between an employee who “can’t do it” versus “won’t do it”
- Condoning the behaviour of the employee
- Failing to apply the Collective agreement (if applicable)
- Delaying investigations and discipline
- Poor documentation (quality and quantity)
- Responding in frustration
- Not considering mitigating factors



Manager/Supervisor Responsibilities

- Having knowledge of policies and rules
- Clearly communicating expectations of the job and potential consequences
- Providing job training and instruction
- Providing coaching and support
- Enforcing rules fairly and consistently
- Documenting!



Know Your “Rights”

- Employers have the management right to set the standards for their workplace and for their employees
- Standards must not, however, violate law or the Collective Agreement
 - Review Collective Agreement provisions to ensure understanding of limits



Progressive Discipline



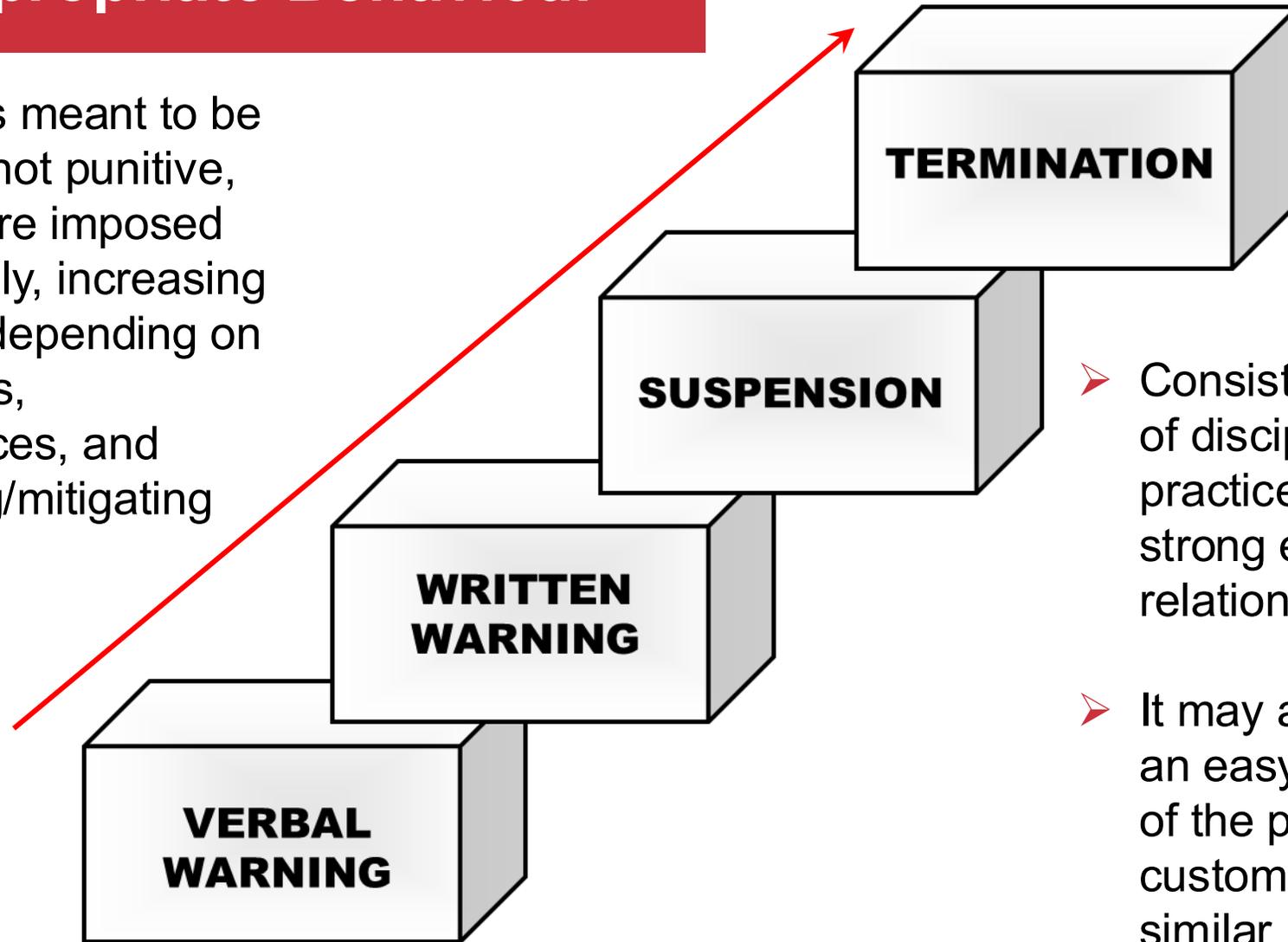
If Performance Management Fails: Next Flight → Progressive Discipline

- What is progressive discipline?
 - Disciplinary action that is imposed progressively, increasing in severity depending on occurrences, circumstances, and mitigating/aggravating factors
- Doctrine of progressive discipline requires that employer:
 - Bring its concerns and expectations to employees
 - Give employees a chance to correct their behaviour
 - Only impose discipline as a method of correcting behaviour and not as a form of punishment
- Deters others from similar action
- Rehabilitates
- **Note:** Progressive discipline may not be appropriate for serious incidents



Discipline: A Corrective Measure That Addresses Inappropriate Behaviour

- Discipline is meant to be corrective, not punitive, and therefore imposed progressively, increasing in severity depending on occurrences, circumstances, and aggravating/mitigating factors



- Consistent application of discipline is a best practice to maintain a strong employment relationship
- It may also facilitate an easy acceptance of the penalty (e.g., customary penalty for similar behaviour)

How to Progress Through the Steps

- Start with the minimum level of discipline necessary
- If behaviour is repeated, stronger measures are needed
- A typical pattern of progressive discipline is:
 - Verbal warning
 - Written warning
 - Short suspension (e.g., 1-3 days)
 - Longer suspension (e.g., 5-10 days)
 - Termination



Verbal Warning

- At the lowest end of the range, verbal warning may be appropriate where misconduct is minor and/or is a first offence
- Involves verbal discussion between manager and employee in which employee is told of:
 - Misconduct
 - Rule/standard breached
 - Employer's expectations going forward
 - Consequences of continuing/repeating sub-standard behaviour



Written Warning

- Written warning may be warranted for more serious first offence or where verbal warning has not improved behaviour
- Written warning consists of letter placed in the employee's file that outlines:
 - Misconduct
 - Rule/standard breached
 - Corrective action required
 - Consequences of continuing/repeating sub-standard behaviour



Suspension

- May be necessary to take more severe action where written warning fails to improve employee's behaviour, or where the first incident is sufficiently serious
- Employee may be suspended without pay for a period of time as a form of discipline
- Ensure duration of suspension is proportionate to misconduct and surrounding circumstances, including any mitigating factors



Termination

- Last recourse, after all other efforts at correcting employee's behaviour have failed
- In limited circumstances, might also be imposed in response to first offence, where misconduct is of a type that employer cannot tolerate in the workplace
 - Usually requires a fundamental breach of employment relationship or clear pattern of conduct that shows disregard of rules/standards
- Decision to terminate must be assessed on case-by-case basis with due regard to misconduct, surrounding circumstances, and any mitigating factors
- **Note:** Just cause is required for all discipline, including termination



Aggravating Factors

- Prior record of misconduct
- Premeditation
- Denials or cover-ups
- Seriousness of misconduct



Mitigating Factors

- Isolated incident
- Reasonable excuse
- Rehabilitative potential
- Previous good work record
- Long service
- Provocation
- Apology/remorse
- Condonation of behaviour
- Failure to warn
- Discrimination
- Economic hardship
- Compassionate grounds
- State of mind (e.g., personal/emotional problems)



How to Impose Discipline

- Address issues immediately
- Conduct a solid investigation
- Ensure discipline is timely
- Ensure discipline is proportionate
 - Consider:
 - Severity of the misconduct
 - Aggravating factors
 - Mitigating factors



Progressive Discipline Checklist

1. Reasonable rules and expectations
2. Adequate warning and clear consequence
3. Proven violation
4. Fair investigation
5. Substantial proof
6. Consistent treatment
7. Appropriate/proportionate discipline
8. Prompt action
9. Consideration of aggravating/mitigating factors



How to Impose Discipline: Timeliness

- Address misconduct immediately with employees
- Impose discipline as soon as possible after the incident is discovered and investigated
- It is more difficult to defend discipline if it was not imposed in a timely manner



How to Impose Discipline: Involving the Union

- Review and follow the Collective Agreement
- For example, some Collective Agreements have language setting out:
 - Notification of union in the event of a suspension
 - Right of employees to have a union representative present during disciplinary meetings
 - Notification of union in the event of the termination of a probationary employee
- **Sunset Clauses:**
 - Important to be aware of Sunset Clauses in Collective Agreements
 - Essentially prevents the employer from being allowed to rely on past discipline in a future disciplinary decisions (most cases 12–24-month benchmark)



How to Impose Discipline: Documenting

- Keep clear and accurate written records (with dates) of:
 - Meetings
 - Training sessions
 - Counselling sessions
 - Performance discussions
 - Warnings
 - Disciplinary action
 - Investigations
- Provide records of all disciplinary action to the employee and maintain a copy in the employee's file





Case Study

Echo Helicopters

- Throughout her employment with Echo Helicopters, Anita, who you may recall is a pilot, has had various issues with misconduct, warranting discipline
- Incident #1: Anita was given a written reprimand for breaching Echo Helicopters' policy on the use of cellular phones in the cockpit
- Incident #2: Anita departed the base without sufficient fuel, requiring a forced landing to refuel
 - Suspended without pay for three (3) days and demoted and removed from the flight line for six (6) months
- Incident #3: Anita departed the base with a weight discrepancy in her actual external load as compared to what was reported
 - This triggered an incident report
 - This occurred nine (9) months after her reinstatement to the flight line

Questions:

- **How would you deal with this situation?**
- **What penalty do you think is appropriate?**



Questions?



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Looking Forward to Seeing You in Our Final Session!

Session 4 | Mon Dec 8 12:00 - 01:00 PM ET

Best Practices for Termination & Offboarding