

LABOUR NEWS

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Managing Performance in the Workplace:
Best Practice Meets Legal Compliance

**SOUND ADVICE &
FAIR LABOUR PRACTICE**



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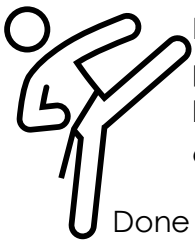




Introduction

Managing employee performance is one of the most crucial—and challenging—responsibilities of any employer or leader. It goes beyond annual appraisals or correcting poor performance; it's about creating a culture of accountability, growth, and fairness. Performance management is also governed by a complex framework of workplace laws, awards, and legal precedents. This guide outlines both the strategic value and legal obligations of performance management, arming you with the tools to manage confidently and compliantly.

Kickstart: Why Performance Management Really Matters



Effective performance management isn't just a business strategy— and proper Poor work performance procedure is a legal necessity. Employers have both ethical and statutory obligations to manage employees fairly, consistently, and lawfully.

Done right, performance management helps:

- ✓ Improve productivity.
- ✓ Align employees with business goals.
- ✓ Foster employee engagement.
- ✓ Reduce legal and reputational risk.

Performance Management: Not Just Smart—Essential

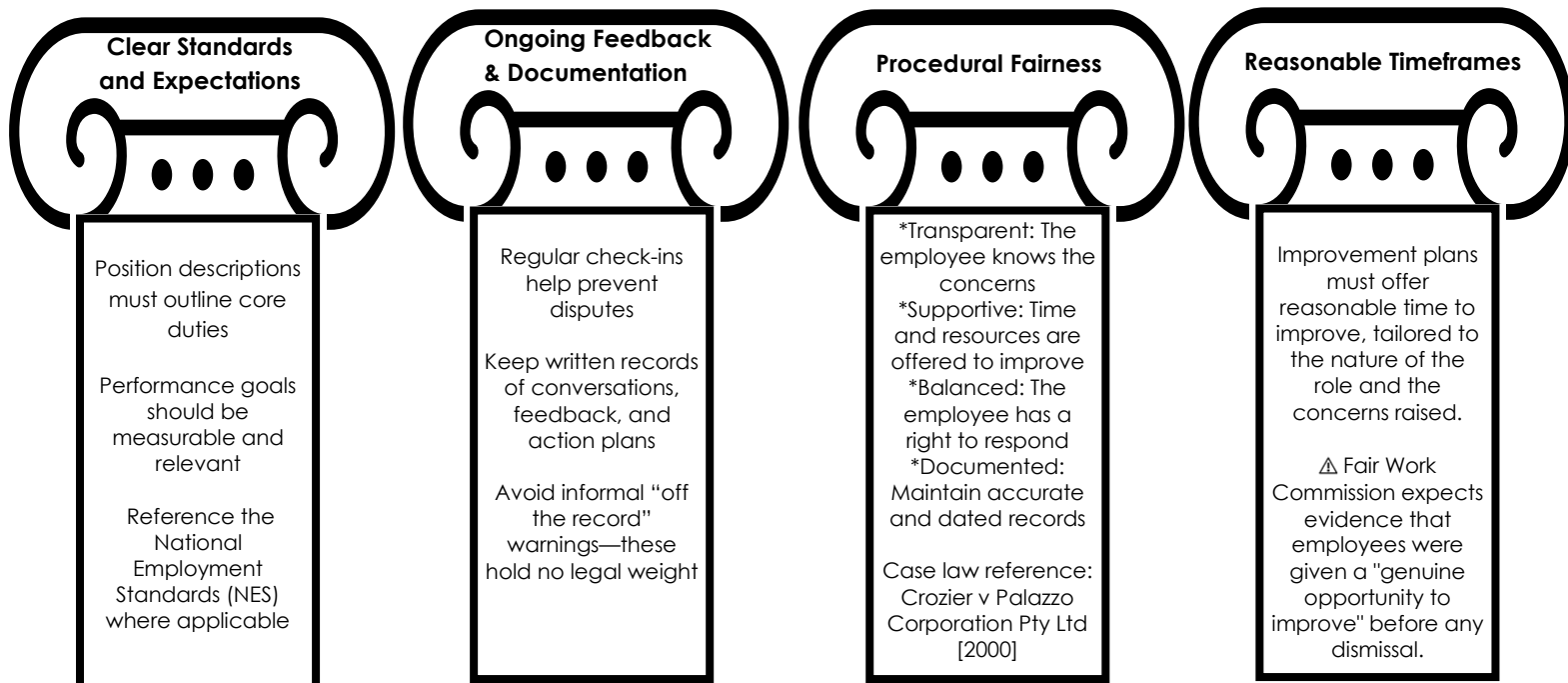
Performance management is not just a business imperative—it's a legal one. A fair, transparent, and legally compliant performance management process helps employers improve productivity while minimising the risk of legal disputes. The following legislation forms the cornerstone of lawful performance management in South Africa:

Labour Relations Act 66 of 1995 (LRA):

Employment Equity Act 55 of 1998 (EEA)

Basic Conditions of Employment Act 75 of 1997 (BCEA)

The 4 Pillars of Legally Sound Performance Management






From Pain to Gain: Performance Management That Works

- ✓ *Regular, Structured Conversations:* Replace annual reviews with more frequent, constructive conversations.
- ✓ *Tailored Performance Improvement Plans (PIPs):* Use SMART goals and align them with business objectives.
- ✓ *Train Leaders in Legal Frameworks:* Managers should understand -
 - Procedural fairness
 - Anti-discrimination laws
 - How to conduct performance discussions safely and lawfully

Quick Tips for Smarter Performance Management

- ✓ Set clear expectations from day one—**don't** wait for things to go wrong.
- ✓ **Document everything**—if it's not written down, it didn't happen.
- ✓ Always tie performance goals to business outcomes—this keeps employees **focused** and **aligned**.
- ✓ Treat probation as an onboarding opportunity, **not a ticking clock**.

Probation Periods: Use Them, Don't Abuse Them

-  *The biggest mistake employers make is that they do not communicate and then want to rip out the carpet beneath the employee after month three.*
-  *Probation is exaggerated, but if handled correctly still valuable. It means you can terminate someone's services for a less serious offence pertaining to poor work performance, but only after you have followed due procedure.*
-  *We suggest, as far as possible 3 3-month Fixed Term Contracts.*

Pitfall Alert: Mistakes That Can (And Do) Get Employers in Trouble

- ⊗ Using performance management as a cover for dismissal.
- ⊗ Failing to document conversations.
- ⊗ Not applying the process consistently across employees.
- ⊗ Ignoring award or agreement provisions.

Employers also misconstrue misconduct and especially the charge of dereliction of duty (The shameful act of performing one's duties), with poor work performance. Dereliction: The employee is able to execute the task to a certain standard but simply fails to do so, which equates to misconduct. Poor Work Performance is simply that even though the employee is trying very hard, he/she simply cannot do the work and needs either more time or training or simply lacks the capabilities in doing so.

Example:

This is as good as I give a 5 year old a warning, as he simply cannot get the ladder and change the light bulb.

I have to train the council and evaluate him after a month to see whether he can do this safely

The Employer's Quick Compliance Checklist

- ☒ Do our policies align with the Fair Work Act?
- ☒ Are managers trained in compliant performance processes?
- ☒ Are we documenting all steps of the underperformance processes?
- ☒ Are we applying standards fairly across the workforce?

Need Help?

Whether you're facing a tricky performance issue or need to build compliant processes from scratch, our HR/IR experts are here to support you.

Conclusion

Effective performance management supports employee growth, strengthens workplace culture, and ensures legal compliance. By following fair, consistent, and well-documented processes, employers can confidently manage performance while reducing risk.

Where Performance Meets Compliance



Sincerely yours!

Corien Brayshaw

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CLIMB FOR A CAUSE

5,895 Bibles -
one bible for every meter of Mount Kilimanjaro.

1 BIBLE = R150

On **2 August 2025**, **Jaco Lessing** will be taking on the challenge of a lifetime – **climbing Mount Kilimanjaro**, Africa's highest peak at **5,895 meters above sea level**.

This isn't just about reaching the summit – it's about **reaching hearts**.

We're excited to introduce **Contact Care** – our official charity initiative combining Jaco's Kilimanjaro Climb and an incredible partnership with **Harvester's Ministries**.

This mission is bigger than a mountain.
We're climbing for a cause: to place Bibles in the hands of those who have never owned one.

Harvesters Ministries is devoted to **spreading the Gospel by distributing Bibles** to communities in spiritual need across the world.
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