

Dismissal

Description:

This tool provides best practice guidelines on dismissing employees, a Risk Management Checklist and sample letters.

How it can be used:

One of the hardest situations for a health manager to face is that of dismissing an employee. However, in cases where an employee's poor work performance shows no substantial improvement, despite attempts to resolve the problem, or where an employee's actions are severe enough (e.g., theft, fraud, gross insubordination), dismissal may be the only solution to ensure that your organization continues to run smoothly and the care of your clients isn't compromised.

Use this tool to ensure that you are following best practices when dealing with a potential dismissal.

There are three essential steps for proper employment termination:

1. Ensure you are prepared with justifiable and documented reasons for the dismissal.
2. Explain the reasons for your decision to the employee and hear the employee's position.
3. After the meeting, provide your decision in writing to the employee.

Of course, it is not that simple; review the many elements within each of the three steps before moving forward.

Be Prepared

1. Consult with your Human Resources advisor in all cases of discipline or potential dismissal. They will advise on the best way to handle the particular situation, including documentation requirements and notice/severance requirements.
2. Adopt a progressive approach to discipline. The decision to use suspension or dismissal should never be taken lightly and must be carefully investigated before proceeding.
3. The employer is entitled to dismiss an employee for 'just cause' but the employer must prove incompetence or misconduct and not just dissatisfaction with performance.
4. Ensure you document any warnings or other disciplinary actions on the employee's file. Such documented evidence will be invaluable in supporting the organization's position of 'just cause'.
5. Prepare the letter of termination outlining any severance in advance. Consider what items the person may have in her or his personal possession that belong to the organization and make a list as a reminder of what to ask for before she/he leaves the premises.
6. Consider the timing, the space, and the language you want to use. Be aware of your own emotions and how your emotions may sway the conversation.
7. Plan for how and when you will inform your stakeholders, if relevant.
8. Plan for informing your employees shortly after the termination meeting to help reduce the 'rumour mill' distorting the facts.
9. Ensure you choose a location for the meeting that is private, where you will not be interrupted.

The Dismissal Meeting

1. If the conversation is difficult for you, it is appropriate to say so.
2. Be honest, clear and concise about the reason for termination; explain without giving excuses.
3. Concentrate on the documented facts of the situation.

4. Be respectful and allow time for the employee to process the information you have just shared.
5. Allow the employee to express emotions, without engaging in them.
6. If the employee is expected to leave the premises the day of your dismissal meeting, allow time for her/him to return any workplace items and pack personal belongings.
7. Have a box available for the employee's personal items. Provide for a cab home if they are too emotional to be able to drive safely.
8. Depending on the situation, if this is a person you would rehire in the future, let them know.
9. Choose your words carefully and ensure that your words, responses and body language do not convey negativity. Keep it professional.
10. If necessary, it is appropriate to find a coach to assist you with the process.
11. Do not take steps that would make the employee's job search more difficult, such as disparaging the employee to customers or potential other employers.

After the Dismissal Meeting

1. If offering a termination package which exceeds the statutory minimum payments, have the employee sign a Release Form. This protects the employer in the event that the employee has second thoughts about the severance package after being paid out.
2. Consider providing working notice instead of 'pay in lieu of notice' if you believe that the employee will still be able to function effectively after receiving notice that the job will be terminated.
3. If possible, provide career transition supports and personal emotional supports.
4. Make notes about your termination meeting and place them in the employee file. Include who attended, what was said, and the behaviours displayed.

| RISK MANAGEMENT CHECKLISTS | Yes/No | Action |
|----------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------|
| Checklist before a performance-related termination | | |
| Is the employee's performance evaluated according to company's policy and procedures? | | |
| Is the employee's performance below his peers with similar capacity? | | |
| Has the employee been notified about poor performance in the past and been given sufficient time to improve performance? | | |
| Has a performance-related disability been ruled out? Refer to your provincial regulations for more information related to rights and disabilities. | | |
| Checklist before a discipline-related termination | | |
| Is this a discipline issue, according to HR policy, that leads to termination of employment? | | |
| Is there evidence to justify this as a discipline issue? | | |
| Has the discipline issue been recorded in the employee's file? | | |
| Was the employee issued multiple warning letters for the discipline issue? | | |
| Has the employee requested any time off related to the relevant issues? | | |

If any answers to the above questions are NO, it would be wise to reconsider the termination, as there may be legal repercussions if the employee appeals.

There are many issues to consider once the decision to dismiss an employee has been made. If the organization has any doubts concerning the legality of the dismissal or the appropriateness of the termination package being offered to the employee, it should consider seeking legal advice prior to any final decisions being made.

Request for an Employee to attend a Disciplinary Hearing (Sample Letter)

Name, address, date, reference

Dear.....

I am writing to tell you that (*organization name*) is considering dismissing/taking disciplinary action (*delete as applicable*) against you.

This action is being considered with regard to the following circumstances: (*describe with relevant concise details, dates, etc.*)

You are invited/requested to attend a disciplinary hearing on (*date and time*) is to be held at (*venue*) where this will be discussed.

You are entitled, if you wish, to be accompanied by a work colleague or a trade union representative.

Yours sincerely,

(Signed by a manager of relevant authority)

(It is good practice to attach copies of all relevant policies and procedures, notably covering the disciplinary and dismissal process, and any supporting evidence for decisions.)

Letter sent by Employer after Disciplinary or Dismissal Hearing (Sample Letter)

(name, address, date, reference)

Dear.....

On (*date of first hearing notification letter*) you were informed that (*organization name*) was considering dismissing/taking disciplinary action (*delete as appropriate*) against you.

This was discussed in a meeting on (*date of hearing*).

Following that meeting, it was decided that:

Your conduct/ performance/ etc., was still unsatisfactory and that you be dismissed.

I am therefore writing to you to confirm the decision that you be dismissed and that your last day of service with the organization will be (*date*). The reasons for your dismissal are (*describe fully and refer to regulations, laws, or rules breached*). **(or)**

Your conduct/ performance/ etc., was still unsatisfactory and that the following disciplinary action would be taken against you (*describe fully*).

I am therefore writing to you to confirm the decision that disciplinary action will be taken against you. The action will be (*describe fully*). The reasons for this disciplinary action are (*describe fully*). **(or)**

No further action would be taken against you.

(*and mandatory inclusion:*)

You have the right of appeal against this decision. Please appeal in writing to (*name, title, address*) within (*whatever agreed/policy timeline*) days of receiving this disciplinary decision.

Yours sincerely,

(Signed by a manager of relevant authority)

Dismissal or Termination of Employment (Sample Letter)

Name, address, date, reference

Dear Mr/Ms/etc

Further to our meeting of (*date*) I (*regretfully*) confirm that your employment with us is terminated with effect from (*date*)/with immediate effect.

As stated at our meeting the reason(s) for terminating your employment with us is/are as follows:

- (*Employer must clearly state reasons – transgressions and relevant policies if applicable*)
- (*Employer must clearly state previous warnings, informal, formal, written etc. and circumstances and person's response and subsequent behaviour/performance for each warning.*)

(Clearly state requirements regarding return of documentation, equipment, car, submission of final expenses claims, and any other administration issues relevant to leaving the organization.)

(Clearly state actual leaving date, requirement or otherwise to serve period of notice, holiday pay, and other pay and pension details.)

(Clearly state the position regarding the employee's right of appeal, and state the appeal process and timelines.)

(Optional sign-off, for example: Thank you for your past efforts and all the best for your future endeavours.)

Yours, etc.

name and position

(Optional and recommended: At the foot of the letter, refer to and attach a copy of your written disciplinary process and also copies of written/printed evidence gathered during the employee's case. This enables employees to understand clearly the case against them, and also the process and their rights during the disciplinary process, which are central to the principles of the employment dispute regulations.)

(Optional section at foot of letter, requiring the person to sign, confirming receipt of the letter and any attachment(s), by way of returning a signed copy of this letter.)