



# Unsatisfactory Performance FAQs

## Information Sheet : Unsatisfactory Performance

### Purpose

The purpose of this information sheet is to provide Managers/Supervisors with guidance on the requirements for managing unsatisfactory performance, in accordance with the Enterprise Agreement (EA) 2017 – 2021, clause 8.1 Unsatisfactory Performance.

### A staff member in my team is not meeting the expectations of their role, what should I do?

In the first instance and to ensure you commence an appropriate process in line with the EA contact your HR Advisor to discuss your concerns.

It is likely that your HR Advisor will first recommend that you take reasonable steps to address your concerns. As a first step, you should meet with your staff member to outline your concerns and clearly communicate the expected level of performance; ask them if there are any issues that you may not be aware of which may be impacting on their performance. It is important that they have an opportunity to respond to your concerns, and for you to discuss support measures that may assist them to lift their performance.

If you plan to meet your staff member, keep a written record of your discussions and communications about their performance. Follow up your meeting with an email which includes what the performance concerns are, any agreed actions required to improve performance and the support measures you have/will put in place; also note the date and time you have agreed to review progress.

### A staff member in my team is in their probationary period and I have concerns about their level of performance and/or their job fit what should I do?

If you have evidence that there are problem/s with your staff member's performance and/or their job fit, as soon as practicable they should be made aware of the nature of the problem/s and the specific improvements required. In the case of professional staff and academics on Convertible Academic Contracts, the probation period is generally 6 months and it is important to act promptly to raise and address your concerns.

Generally, Academic staff on probation must address performance concerns within a probation period of 3 years but where job fit is the issue, it is important to act promptly to raise, address and act on your concerns.

Your HR Advisor will advise and assist you to plan how you will manage performance during the probationary period which is in line with the EA requirements.

### I have been having conversations about performance concerns with my staff member for a while, but I haven't involved my HR Advisor. The performance concerns are not significant, what should I do?

It would be a good idea to make a time to discuss your concerns with your HR Advisor. This will give you the opportunity to share what you have already done and discuss any possible next steps to ensure that if the unsatisfactory performance is to be formally managed you commence that process in line with EA requirements.

### What might the disciplinary action be as a result of the performance management process?

Before any disciplinary action is taken, you must demonstrate that you have taken appropriate steps to bring the unsatisfactory nature of performance to the staff member's attention; that the staff member has been given adequate opportunity to respond; any response was taken into account; and a reasonable opportunity was afforded to remedy the performance problem.

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Disciplinary action under the Enterprise Agreement ranges from a written letter of censure to termination of employment depending on the nature of the unsatisfactory performance. It is limited to the actions listed in clause 8.1.8;

- Formal written censure/warning
- Counselling
- Withholding a salary increment
- Reducing salary by 1 or more salary increments
- Demotion by 1 or more classification levels; or
- Termination of employment.

### How long will it take to manage performance?

There is no specific time frame for managing underperformance. The time it takes to manage performance will depend of the nature of the concerns that you have and how quickly the performance concerns can be addressed with your staff member. Every performance management case is different depending on the particular circumstances.

### I don't have time to manage my staff member's underperformance, what should I do?

As a leader at the University of Adelaide it is your responsibility to lead and manage your team's performance.

If you believe you do not have time to manage an underperforming staff member you should discuss why this is so with your supervisor. It is important they are aware of your concerns in order to provide you with support and to ensure you have time for your leadership responsibilities to effectively manage the team's performance. The performance management process can appear challenging but your HR Advisor is available to discuss options with you, provide practical support and help you plan how you can reasonably manage the process.

### My staff member can perform their role but I have concerns about their attitude, can this be addressed?

Yes, depending on what the issues are, both performance and attitude can be addressed in the performance management process. Performance includes behavioural expectations. Your HR Advisor will provide support to manage these concerns as part of the performance management process. If the concerns you have about attitude are serious and could amount to misconduct, your HR Advisor will advise you about how this could more appropriately be addressed in a misconduct process.

### I have performance concerns about my staff member, but they also have some health concerns, can I still manage their performance?

Yes. Your HR Advisor will work closely with you to discuss options available to address both the performance and health concerns. Your HR Advisor will liaise with an Injury Management and Wellbeing Advisor (IMWA) so they are informed about the health concerns which may be impacting on the staff member's work performance. A meeting may be arranged with you, the IMWA and the HR Advisor to plan and appropriately manage these concerns. Contact your HR Advisor to discuss.

### I have a staff member on a fixed term contract who is not performing satisfactorily in their position. I have managed their performance during their contract period. The contract is coming to an end and I still need the work to be done. Do I need to offer them further employment in the position?

No, even though there is an ongoing need for the position, further employment is contingent upon: a) the staff member was employed in the relevant position through a competitive and merit based selection process; and b) they have performed satisfactorily in that position.

If you have evidence of your discussion/s outlining the your nature of the performance concerns, the specific improvements required, they were given an opportunity to respond and time to address these concerns which has not resulted in improved performance, then further employment will not be offered.

Contact your HR Advisor to confirm that the action you have taken is consistent with the Enterprise Agreement.

In future, contact your HR Advisor early for advice on how to appropriately manage a fixed term staff member's performance where you have identified performance concerns. Do not wait until the end of the contract.

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**I have a staff member on a fixed term contract who has not performed satisfactorily in their position. I haven't raised my concerns with them and the contract is coming to an end. I still need the work to be done. Do I have to offer them further employment in the position?**

Yes, probably. When there is an ongoing need for a position, if the staff member was employed in the relevant position through a competitive and merit based selection process **and** they have performed satisfactorily in that position they are entitled to be offered a further contract.

Despite the staff member's underperformance, if you do not have evidence that you discussed the performance concerns, specified the improvements required, gave them an opportunity to respond and time to address these concerns, they are likely to satisfy **both** the criteria for being offered further employment and you will be obliged to reemploy them. You will then need to manage their underperformance.

Your HR Advisor will advise and assist you to plan how you will manage performance in line with the EA requirements.

In future, contact your HR Advisor for early advice on how to appropriately manage a fixed term staff member's performance where you have identified performance concerns. Do not wait until the end of the contract.

**I have performance concerns about a staff member on a convertible academic employment contract. The position is still required. Must I convert their employment to continuing?**

This contract type is offered on the basis that at the expiration of the contract, it will be converted from fixed term to continuing unless the staff member has not met the performance expectations set by the University or the position is no longer required.

The performance expectations need to be consistent with the requirements of the position and need to have been communicated to the staff member from time to time during the contract. When raising your concerns, you need to have provided the staff member with an opportunity to respond and time to improve their performance with support measures offered and in place. You should have written evidence of your discussions and copies of your communications with the staff member.

If you have not communicated reasonable performance expectations and managed the staff member's unsatisfactory performance the contract will convert to continuing employment at the expiration of the contract.

Your HR Advisor is available to provide you with advice on how to successfully manage convertible academic employment contracts.