



4. Management of Underperformance



CSIRO Staff Association

The Know Your Rights series

This is the fourth in a series of fact sheets to assist CSIRO union members to better understand and enforce our rights at work. The source of these rights is the new CSIRO Enterprise Agreement 2011-2014 (EA). The reference for Management of Underperformance is Schedule 1. Members are encouraged to read this schedule in its entirety.

Know Your Rights

What is the purpose of Management of Underperformance procedures?

The desired outcome of these procedures is for an officer to achieve the specified standard of performance (paragraph a of Schedule 1). It is not the purpose of these procedures to target staff (including staff with low allocations) or to place pressure on staff to leave CSIRO.

When should these procedures not be used?

These procedures should not be used unless informal communication, counseling and training (where a deficit in the necessary skills or experience has been identified) have failed to bring about an acceptable standard of performance. These procedures shall also not be used where misconduct or invalidity processes are more appropriate (paragraphs b and c).

Can you view any written notes or records of counseling and training placed on your file and have the right to respond?

Yes (paragraph e). All of this information must be sighted by an officer and must not be kept on an officer's file unless this has occurred. The compilation of secret dossiers on an officer is not permitted.

When can these procedures be commenced?

At any time, provided the informal processes and requisite counseling and training have failed to bring about an acceptable standard of performance. In addition, the process can only be commenced after a next level manager has been satisfied that the work level/load of the officer was reasonable and the problem is not primarily a personality based conflict with their line manager.

Can I be represented by my workplace delegate at any point in the process?

Yes. Members are advised to be represented by a workplace delegate at meetings in this process, including if you are requested to attend meetings to have an 'informal chat' about your performance, for example.

What are the steps in the formal process?

- Step 1 - The line manager notifies the officer in writing that the procedures are commencing and:
- informs the officer of the steps in the process;
 - provides the officer with a copy of the procedures; and
 - agrees with the officer on a time period for the performance assessment process. The default period, if agreement is not be reached, is 3 months.

Please turn over...

Step 2 - The line manager formally assesses the officer's performance for the specified period. If the Senior Manager (e.g. Chief of Division) conducting the process, believes that fairness and objectivity cannot be assured, they may appoint an independent assessor from outside the work area or business unit. An officer may request another assessor, but the decision resides with the Senior Manager.

Step 3 - At the completion of the assessment period, the line manager prepares a report for the Senior Manager to consider. The officer is provided with a copy and an opportunity to respond. If the officer has achieved the specified standard of performance the officer will be advised in writing that the process is concluded.

If the Senior Manager believes that the officer did not meet the specified standard of performance, a number of possible actions may be recommended, including notice of intention to terminate employment. The officer will have 7 days in which to respond.

Step 4 - If after considering the officer's response, the Senior Manager decides to proceed with the recommended action/s, or some other action/s, the officer will be provided with formal written notice.

If the Senior Manager decides to terminate the officer's employment, the officer has the right to access the unfair dismissal provisions in the *Fair Work Act 2009*. CSIRO can elect to pay out the termination notice period.

If the Senior Manager decides on a less action/s, the officer is entitled to request a review by the Chief Executive Officer of the decision within 14 days of receiving the formal written notice. This is on the basis that the officer believes that the action/s is unreasonable or that there has been a procedural flaw in the process. If no such review is requested, the action/s specified will take effect 21 days from the receipt of the notice.

Review by the Chief Executive Officer

The officer must submit a statement of support for the review within 14 days of receiving the formal written notice. Requests for extensions of time will only be considered in exceptional circumstances, such as illness and/or absence from the workplace.

If the officer fails to submit a statement within 14 days or fails to attend a scheduled hearing, CSIRO may proceed with the action/s.

The Chief Executive will review the matter and any resultant action/s will take effect on the later of:

- the day the Chief Executive decides the matter or
- 21 days after the officer received the formal written notice.

Authorised by Sam Popovski, Secretary, CSIRO Staff Association, July 2011