

# Employer Audit – Audit Planning Memorandum

## MANAGEMENT OF UNDERPERFORMANCE IN THE TASMANIAN STATE SERVICE



Tasmanian  
Audit Office

### INTRODUCTION

The primary responsibility of managers in the Tasmanian State Service (TSS) is to manage for performance. It follows that managers may, at times, need to manage for underperformance. Managers should concentrate their efforts in providing employees with clear goals and direction and making time to talk with employees on a regular, constructive basis about their performance.

The Tasmanian Audit Office tabled a report in March 2019 that dealt with performance management in the TSS more generally, with a focus on quality conversations. This current audit will be a subsequent phase that examines how, once underperformance is formally identified, the TSS manages the process.

The Australian Fair Work Ombudsman's website contains helpful materials in regard to underperformance<sup>1</sup>. It provides the following insight in terms of defining and understanding the reasons behind underperformance:

#### **What is underperformance?**

Underperformance or poor performance can be exhibited in the following ways:

- unsatisfactory work performance, that is, a failure to perform the duties of the position or to perform them to the standard required
- non-compliance with workplace policies, rules or procedures
- unacceptable behaviour in the workplace
- disruptive or negative behaviour that impacts on co-workers.

Underperformance is not the same as misconduct. Misconduct is very serious behaviour such as theft or assault which may warrant instant dismissal. In cases of misconduct employers should seek specific advice about how to proceed before taking any action.

#### **What are the reasons for underperformance?**

There are many reasons why an employee may perform poorly. Some of the common reasons include:

- an employee doesn't know what is expected because goals and/or standards or workplace policies and consequences are not clear (or have not been set)
- interpersonal differences
- there is a mismatch between an employee's capabilities and the job they are required to undertake, or the employee does not have the knowledge or skills to do the job expected of them
- an employee does not know whether they are doing a good job because there is no counselling or feedback on their performance
- lack of personal motivation, low morale in the workplace and/or poor work environment
- personal issues such as family stress, physical and/or mental health problems or problems with drugs or alcohol
- cultural misunderstandings
- workplace bullying.

Underperformance should be dealt with promptly and appropriately by an employer, as employees are often unaware they are not performing well and so are unlikely to change their performance. Best practice employers understand that issues that are not addressed promptly also have the potential to become more serious over time. This can have a negative effect on the business as a whole as it can affect the productivity and performance of the entire workplace.

---

<sup>1</sup> <https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/best-practice-guides/managing-underperformance>

# Employer Audit – Audit Planning Memorandum

## MANAGEMENT OF UNDERPERFORMANCE IN THE TASMANIAN STATE SERVICE

Early informal intervention can be addressed through the Performance Management System and is designed to prevent minor issues from developing into more significant matters.

The guiding legislation is the *State Service Act 2000* and, in particular, the 2011 amendments (*State Service Amendment (Performance) Act 2011*), resulting in Employment Direction 26 – *Management of Performance in the State Service*<sup>2</sup> and its associated Guidelines<sup>3</sup> (collectively known as ED 26). ED 26 indicates that, where an informal process fails to address the performance issue, the next steps involve a more formal and documented process. This process may involve the manager providing a written formal notice to the employee concerning the areas where behaviour has fallen short of the standard expected as a prelude or in conjunction with the development of a Performance Improvement Plan (PIP). This notice often includes:

- a statement concerning the performance issue(s) and the corrective action required
- intended actions if the person does not correct their performance
- support to be provided to the employee to help them achieve the corrective action required
- if relevant, reference to previous dialogue regarding the same issue(s) and their dates
- reference to when the issue(s) was raised and some details of that incident.

The employee then responds to the notice. If the employee's explanation is reasonable, the action may cease and the employee continues in the normal performance management cycle. If the explanation is not reasonable, the manager and employee prepare, date and sign a formal Performance Improvement Plan (PIP).

If the person's performance does not improve while under a PIP, a head of agency can take action with respect to the employee in accordance with ED 26. Specifically, the Head of Agency must notify the employee in writing that the:

- employee is not to the standard and requirements identified in the performance management plan relating to the officer or employee
- Head of Agency intends to recommend to the Employer termination of the employment of the officer or employee in the State Service
- employee may within 14 days of the date of the notice respond to the Head of Agency in relation to the matters contained in the notice.

## AUDIT OBJECTIVE

The audit objective is to assess whether underperformance is managed effectively in the Tasmanian State Service (TSS).

---

<sup>2</sup> [http://www.dpac.tas.gov.au/\\_data/assets/pdf\\_file/0003/186051/ED26\\_ManagingPerformance\\_inStateService.PDF](http://www.dpac.tas.gov.au/_data/assets/pdf_file/0003/186051/ED26_ManagingPerformance_inStateService.PDF)

<sup>3</sup>

[http://www.dpac.tas.gov.au/\\_data/assets/pdf\\_file/0004/186052/ED26\\_ManagingPerformance\\_inState\\_Service\\_Guidelines.PDF](http://www.dpac.tas.gov.au/_data/assets/pdf_file/0004/186052/ED26_ManagingPerformance_inState_Service_Guidelines.PDF)

# Employer Audit – Audit Planning Memorandum

## MANAGEMENT OF UNDERPERFORMANCE IN THE TASMANIAN STATE SERVICE

### AUDIT SCOPE

The timeframe for this review will cover the three years of 30 June 2017, 2018 and 2019. The audit scope includes the framework established and activities undertaken to manage underperformance of employees in the following state entities:

- the Department of Police, Fire and Emergency Management (DPFEM):
  - State Service employees only
  - excludes staff subject to the *Police Service Act 2003*
  - includes the Tasmanian Fire Service, which became part of the department in April 2016
- the Department of State Growth (DSG):
  - DSG was previously the Department of Economic Development and Tourism and the Department of Infrastructure Energy and Resources
- the Department of Treasury and Finance (Treasury)
- the Department of Primary Industries, Parks, Water and Environment (DPIPWE).

The audit will only cover permanent, ongoing TSS staff. Specifically, it will exclude:

- Fixed-term staff on a contract
- Staff recently recruited and still under a probationary period.

The audit will not specifically cover known preventative measures for underperformance (although the report may reference them), namely:

- Strength of recruitment practices
- Effective use of probationary periods for new employees.

### AUDIT APPROACH

Deloitte will conduct the audit under supervision by an employee of the Tasmanian Audit Office (Contract Manager).

Deloitte will collect and analyse sufficient and appropriate evidence to support a reasonable assurance opinion on the management of underperformance management in the TSS.

Sufficient evidence will be obtained by:

- obtaining and reviewing all relevant agency-specific policies, procedures, templates and training materials relevant to the audit scope
- analysing agency data on performance improvement plans (PIPs), timeframes and exits (given the small numbers, recommend a review of all PIPs in each agency for the three years to 30 June 2019, and as needed potentially increase the period out to five years)
- meeting with key employees responsible for the process of managing underperformance
- performing detailed testing of Performance Improvement Plans and staff exits

## Employer Audit – Audit Planning Memorandum

### MANAGEMENT OF UNDERPERFORMANCE IN THE TASMANIAN STATE SERVICE

- discussing and validating finding with key employees responsible for the process of managing underperformance
- discussing the audit, suggested approach, summary of findings and potential recommendations with the Audit Advisory Committee (AAC).

### AUDIT CRITERIA

Criteria
1. Do TSS and agency policies and procedures contribute to the effective management of underperformance?
2. Is the performance management framework consistently applied?
3. Do agencies know if underperformance is effectively managed?

### AUDIT ADVISORY COMMITTEE

The Audit Advisory Committee Members will comprise:

- the Deputy Secretary from each in-scope agency that is accountable for that agency's Human Resources function (or their nominee)
- a representative from the State Service Management Office
- Auditor-General, Deputy Auditor-General and Contract Manager (Chair of AAC).

The Committee members are as follows:

### TABLING DATE

Expected tabling date – April/May 2020.