



# Managing Underperformance

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Abstract:	
<p>The purpose of this Master's Thesis is clarify the currently valid clauses in Finland of employment legislation and legislation effecting the terminating of employee's employment contract on individual grounds, namely based on underperformance. The presented areas are employer's responsibilities deriving from the legislation and employee's rights, concepts of performance and underperformance, useful performance management tools for line managers intervening in underperformance and the proper process of terminating the employment contract based on underperformance. The sufficiency of the arguments presented in terminating the employment contract based on personal grounds is always case specific judgement. For line managers, it may be difficult to interpret the law, to assess the overall situation and to evaluate the adequateness of presented argumentation as well as knowing the correct procedures to be taken prior to dismissal. The author has chosen a practical approach so that the line managers could use this Master's Thesis as a handbook for the topic. The author's main question for this Master's Thesis is "How to address underperformance issue of an employee?" The sub-questions for this research are: What are the proper performance management tools to be used in cases of underperformance and when does the underperformance of an employee entitle the employer to terminate the employment contract? The author wants to find out the role of performance management tools in cases of underperformance. The research method is partly dogmatic, partly qualitative. The data collection method is in-depth open-ended interviews. The aim of this Master's Thesis is to present proper performance management tools and processes, suitable templates and to give profound guidance for managers when they need to terminate an employee's employment contract based on individual grounds, specifically, when due to underperformance.</p>	
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## Technical terms

**Direction right:** Direction right means the employer’s right to lead and supervise work. Direction right is considered to be an essential implication of existing employment relationship between the employer and an employee.

**Employment contract:** Employment contract is agreement between the employer and employee in which the employee personally agrees to perform work for the employer under employer’s direction and supervision (Employment Contracts Act 1:1§).

**Personal grounds:** Employment can be terminated by collective grounds or personal grounds. Termination grounds related to the employee’s person are defined in Employment Contracts Act 7:2 §.

**Proper and weighty reason:** Employer shall not terminate an indefinitely valid employment contract without proper and weighty reason. Things that cannot be regarded as proper and weighty reasons are set out in Employment Contracts Act 7:2 § 2 mom.

**Terminating of employment contract:** The ordinary way of terminating an employment contract which is valid for indefinite time period, is terminating the employment contract. The employer is required to have a legal ground for such

termination, and in addition, the employer needs to follow a certain process when terminating an employee's employment contract.

**Underperformance:** Underperformance in this research means, that the employee is not giving his full work contribution, but the results are either not quantitatively sufficient, or qualitatively satisfactory, in a situation where the employee is not actually neglecting his work duties or acting against given instructions.

## **Court cases**

TT 1994 – 12

TT 2001-43

TT 2002-53

TT 2005-17

## **Government proposals**

HE 157/2000

HE 19/2014

# 1 INTRODUCTION

Underperformance in employment relations is relatively new concept, but a hot topic in many organizations tumbling in the changing corporate landscape and turbulent business environment, where requirements for both business and for an individual employee have drastically changed.

The position of an employee in an employment relationship in Finland is very strong and the perspective to the legal interpretation lies always on the employee side. The main principle is, that the employment contract may only be terminated by the employer for individual cause deriving from the employee when the employer has a proper and weighty reason (Employment Contracts Act 7:2). The employer carries the burden of proof. In this context, the sufficiency of argumentation always needs to be evaluated on a case-by-case basis and the overall situation needs to be assessed from all aspects. As the sanctions for illegal termination of an employment contract may rise up to two (2) years salary (Saarinen. 2015. P. 388), added with possible other sanctions if other laws, for example Non-Discrimination Act, has been breached as well, the correct procedure from the employer side should be followed. For this reason alone, it is an utmost necessity, that the managers get timely and accurate help, in cases where the termination of the employment contract is seen as inevitable.

The other aspect, which derives from human resources side, is that could the termination of employment contract be avoided with proper supervision by the manager and can the underperformer be turned into a productive employee? This view is supported by the rights of the employee.

The third aspect, combining both legal and human resources aspects is that if the employer determines, that termination of employment contract is inevitable, what are the correct procedures which must be followed, in order for the employer to be determined as acting properly and taking into consideration the employees rights.

Merriam-Webster dictionary defines “underachiever” as follows: “one (as a student) that fails to attain a predicted level of achievement or does not do as well as expected”. From a company perspective, underperformance can thus be described as unsatisfactory

work performance: an employee is not neglecting his work duties, but on the other hand, cannot produce adequate results (Kairinen et al. 2011. P. 728).

## **1.1 Motivation of research topic**

Keeping the Finnish legislation and human resources perspectives in mind, this research aims to be of help to line managers dealing with underperformance issues and to non-legal human resources personnel specifically in smaller companies without easy access to legal counsel assistance for ensuring that they deal with underperformance issues within the boundaries set by legislation and using correct procedures. In addition, this research gives a brief introduction to non-Finnish executives operating in Finland for the possibilities to terminating employment contract due to individual grounds, specifically when underperformance issues are suspected.

The author's motivation for the research topic is to help line managers intervening in underperformance situations by providing both legal and human resources perspective to the topic and give guidance on how the manager can terminate the employment contract in the Finnish working environment. The author is interested to find out from line managers what they find difficult in underperformance situations and how they have solved similar situations; whether they have used the help of human resources or legal counsel, and specifically, would they have used assistance, if it would have been available.

The main question for this Master's Thesis is "how to address underperformance issue of an employee?" The sub-questions for the research are:

- What are proper performance management tools to be used in cases of underperformance?
- When does underperformance of an employee entitle the employer to terminate the employment contract?

## **1.2 Aim of the research**

The author is interested in finding a cost-effective solution for managing underperformance issues within a company, without the need to involve external counsel for legal



assistance. Therefore, the author is interested in developing general templates and/or step-by-step instructions for line managers specifically in small or medium sized enterprises, where there may not be available legal or human resources assistance for all situations. By using such templates and guidelines, underperformance issues could be properly dealt with and possible termination of employment contract can be done according to provisions.

### **1.3 Description of the methods**

As this Master's Thesis profound questions and aims are partly legal and partly can be perceived as being within the boundaries of human resources on the performance management side, the chosen main research methods are dogmatic and empirical.

#### **1.3.1 Dogmatic method**

Merriam-Webster defines dogmatic as "characterized by or given to the expression of opinions very strongly or positively as if they were facts". The method in jurisprudence means a research method, namely, how information of law is acquired, how the information is analyzed and how the conclusions are produced (Hirvonen. 2011. P. 9). The subject of legal dogmatic method is the legislation in force at a given time in a certain society (Hirvonen. 2011. P. 21). Legal dogmatic research interprets legal regulation and organizes legal norms and entities (Aarnio. 1997. P. 36-37). The interpretation of legislation is based on legal sources (Hirvonen. 2011. P. 41).

The sources of the legal theory parts (2.2) are solely legal, so this research is based on and covenants to legal dogmatic research. The Employment Contracts Act and other laws regulating employment relationship in Finland will serve as a general legal framework for this study. In other words, the author will interpret the clauses of the Employment Contract acts and the legal rules concerning the terminating of the employment contract based on individual grounds. In addition, also a few preparatory documents leading to Employment Contracts Act are examined, and as some court verdicts are interpreted. As the employment legislation is national, the author is only observing the Finnish legislation currently in force and using the verdicts given by Finnish courts.

The author is concentrating on the employment legislation, specifically from the employer perspective.

### **1.3.2 Qualitative method**

Qualitative research method has gotten impressions from several edifice and research traditions and it is constructed on the basis of simplification of perceived observations. (Alasuutari. 2011. P. 38-39). The material can be acquired through the experiences of the informants, own participation, observations and experience. In qualitative research, the knowledge of the informants is acquired, as they are the persons having experienced the situation and therefore the best source of knowledge in certain situation. The informants give information, that according to ethnographic interpretation, can be "a way of seeing things otherwise". (Lappalainen. 2007. P. 10-11). The qualitative research can be seen as an umbrella conception of human behavior research. However, the research strategies under the umbrella have certain common aspects. The beliefs of the nature of reality and knowledge are constructive, and therefore the ontology is based on the thought that reality is constructed on humans socially and psychologically in different ways. The epistemological view is that the researcher is part of the research reality. This way, the methodology is that the research is searching from the reality and the interpretation is constructed together. Ethnography brings new knowledge and shares it. The researcher using qualitative research methods, is interested in how human persons interpret their experiences and how they construct their world and what kind of meanings they give to their experiences. In that sense, the qualitative research aims to understand the processes of human minds and the meaning behind the actions of humans. (Heikkinen et al. 2005. P. 342).

In qualitative research method, the researcher should ensure that the informants have sufficient knowledge in the specific area relating to the research question in order to get high quality results (Carson et al. 2001).

### **1.3.3 The used research method in this Master's Thesis**

The author aims to get as much information as possible from a very limited group of people in order to get deep insight of the research subject. Therefore the author has chosen qualitative research method based on interviews.

The author wants the research to reflect real working life situations and real problems that the line managers had experienced. Therefore the qualitative research suits the research topic well, as the interviewer is listening to the informants participating in the research. The research method that the author chose to use in order to gather information was semi-structured interview with open questions. Its sole purpose was to generate knowledge, which could be used in constructing useful documents, guidelines and/or templates for use by line managers dealing with underperformance. The data from the interviews consists of taped records and interview notes, which were later transcribed. Recorded elements included direct quotations from informants about their experiences, opinions, feelings, and knowledge. The core of the methodology was therefore the reality of the interpretation of the accrued situations and the creation of them. In the research and its results, there are interpretations of informants and the interpretation of the interviewer (Hirsijärvi et al. 1997. P. 161-165).

## **1.4 Existing research and demarcation of the research subject**

Terminating of employment contract on individual grounds has been profoundly studied in Finnish legal literature, and there has been recent research in the area as well. Most of the studies are purely from a legal dogmatic perspective and they do not take into consideration the human resources aspects of the use of proper performance management as tools, for example in tackling underperformance issues. In this research the author is combining both aspects.

Underperformance as the ground for terminating the employment contract has been most profoundly covered in the Finnish legal literature in Koskinen – Nieminen – Valkonen: Työsuhteen päättäminen, Talentum 2012. As it dates to year 2012, it does not include the most recent court cases, which are

TT:2014-104:

<http://www.tyotuomioistuun.fi/fi/index/tyotuomioratkaisut/tyotuomioratkaisut/1403763298530.html>

KKO:2014-98:

<http://korkeinoikeus.fi/fi/index/ennakkopaatokset/precedent/1418976002114.html>

Professor Seppo Koskinen has held lectures and training on underperformance, and detailed, up-to-date lecture material is available from:

[https://www.utu.fi/fi/yksikot/tcls/ajankohtaista/Documents/Alisuoriutuminen\\_Koskinen\\_30032015.pdf](https://www.utu.fi/fi/yksikot/tcls/ajankohtaista/Documents/Alisuoriutuminen_Koskinen_30032015.pdf).

In this research, the author will concentrate on studying the clauses in employment legislation, which directly regulate the termination of an employment contract, the laws and acts that indirectly affect the process of terminating an employment contract on personal grounds, an employment contract from the perspective of stipulating the parties' rights in the relationship and the established practices of the employer.

There is plenty of literature and research in the field of performance management. Most studies concentrate on creating best practice from companies with high performing staff and strategic human resources management. There is profound literature on performance management in general, such as Douglas G. Long: "Delivering High Performance: The Third Generation Organisation", and on performance management's individual topics, such as Diane Arthur's "Recruiting, Interviewing, Selecting & Orienting New Employees" published in 2016.

Even when proper human resources management systems derive from organizational strategy, mission and vision, this research only refers to the overall strategy of the company, as the aim of this research is more on a practical level, the author will focus only on the parts of performance management system play a key role when evaluating the employee success or underperformance of his duties in the certain role. Rather than going into further details on organizations' performance management, in this research, the author is concentrating on processes and guidelines that are needed in evaluating the employee's performance and employee's success or failure in his performance and reflecting them to the labor law principles and clauses. For that purposes, it is essential to

understand what is considered as “performance” and what a manager can expected from employees. The author is also illustrating the role of the immediate manager in performance management as he has an important role in being the employer’s representative in directing the employee. The author is focusing on feedback, as organizational centric approach to performance management has the profound belief that the employee steering and motivating with the help of feedback, contributes significantly to reaching the company targets – but it is also important from the legal perspective when the employer is directing and guiding the employee.

## **1.5 Structure of the research**

The thesis begins with Chapter 1, with an introduction to the topic, my motivation and the aim of this research, followed by the description of the chosen research methods and existing research on this area. Chapter 2 is the theoretic part of the research, consisting of two main sub-chapters: Chapter 2.1 introduces the fundamentals of performance management and presents the main tools used by the line managers in their superior work. It describes performance and factors affecting the performance of an employee. Chapter 2.2 presents the key areas in employment legislation concerning the employment relationship, termination of employment based on individual grounds including employee’s legal rights in the process and underperformance from legal perspective. Chapter 3 presents the empirical research part of the thesis, the semi-structured qualitative interviews and the interview questions. Chapter 3 presents the relevant findings from the empirical research. Chapter 5 discusses the results of the empirical research in the light of the theoretic framework presented in Chapter 2. The discussion will concentrate on performance management tools, on the perceived underperformance and on the proper disciplinary process. The outcome of Chapter 5 will provide the grounds to Chapter 6, which presents the outcome of this research in a form of templates and guidelines to the line managers. Conclusions are presented in Chapter 7.

## 2 THEORY

### 2.1 Performance management

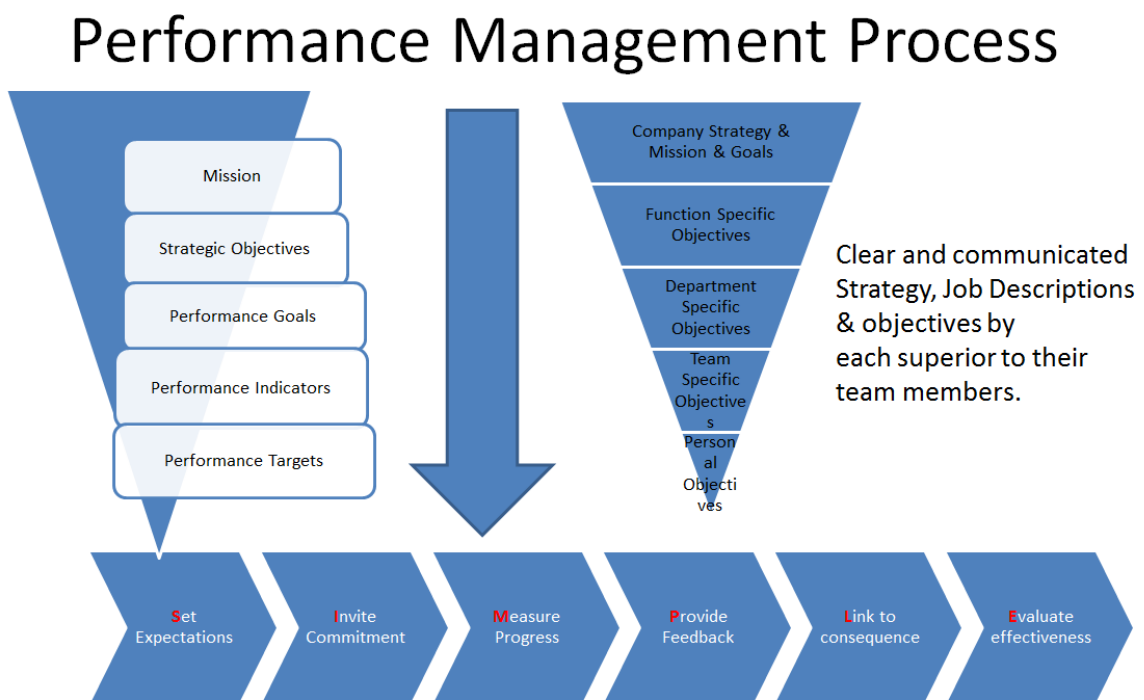
Performance management lays the foundation for the success of all human resources processes, and to the materialization of company's strategy and achievement of organization's vision and mission. Performance management means, that all corporate functions and every individual know what is the ultimate purpose of the existence of the company, what are the key objectives of the company and what is the knowledge needed in the company (Sydänmaanlakka. 2000. P. 75).

Performance management can be seen as the overall human resources management system, which is creating a work environment in which employees are enabled to perform to the best of their abilities. It may consist of several sub-processes, starting from internal recruitment proposal acceptance process to the assessing and analyzing conducted exit-interviews. The practices vary from company to company, but in general, the sub-processes consists of the recruitment process; orientation of new employees; training and career development of employees; conducting of development discussions involving the examining how the current job duties reflect the job description and possible updating of the job description and setting [yearly] objectives and performance appraisals; and exit process. Performance management is defined as "doing all that is required to continuously improve performance of every employee in relation to his/her role, dyad, team and the entire organization in the context of the short and long terms goals of the organization" (Rao. 2016. P. 1).

The ultimate goal of a performance management system is to promote and improve employee effectiveness and in a bigger picture, steer the employees to reaching the company targets. The system itself is a continuous process where managers and employees together plan, monitor and review the employees work objective and overall contribution to the organization. An efficient performance management system offers tools and assistance to managers to steer the employee behaviour and intervene in a pertinent and timely manner, if the employee performance is not at an expected level, or in cases of other inappropriate behaviour. A well-functioning performance management system has

a positive impact on the success of the company, its profitability and productivity (Ferguson et al. 2010. P. 476).

In performance management, organizational performance as a whole; leadership of business functions, department, teams and individuals, is guided by the company's mission and vision, company's strategy and values. Gravett et al recommend that organizations have five to seven objectives, or key result areas, or goals. If there are more, they see it difficult to set priorities and accomplish what truly needs to happen for an organization to be successful (Gravett et al: 2016. P. 68). The below picture illustrates how the individual targets and objectives should be deriving from the company's goals, from the company's mission, vision, strategy and then linearly, the employer performance management by the manager from setting the expectations (objectives), motivating, steering, assessing and evaluation and giving feedback.



Picture 1: Performance Management Process. (Picture modified from several models found from the internet for the purposes of this research).

Performance management, therefore, involves all aspects of performance equation:

- 1) Defining and clarifying what constitutes performance;

- 2) Providing the context for performance, environmental changes, and expectations;
- 3) Ensuring that the required competencies are identified, available and developed;
- 4) Ensuring motivation and commitment – communications and measuring scales;
- 5) Ensuring organizational support.

(Rao. 2016. P. 32).

The SIMPLE rule in the above picture can be used for describing Rao's definition of performance equation, and it also acts as a memorandum of the manager's role in the performance management. The letters are for:

- S is for "Setting Objectives"
- I is for "Inviting for Commitment"
- M is for "Measuring the Progress"
- P is for "Providing Feedback"
- L is for "Linking to Consequence"
- E is for "Evaluating Effectiveness".

This Chapter 2.1 will present performance management tools that are the most relevant in managing the employee's performance, specifically when intervening in perceived underperformance.

### **2.1.1 Performance appraisal**

In many organizations, formal, systematic procedures are introduced to regularly assess employee performance, usually involving at a minimum an interview or discussion between manager and employee, with documentation of the recorded performance. Whether the appraisal has its own time, or whether it is connected to the development discussions, in employee appraisal the manager and employee typically discuss the employee's productivity, professionalism, attitude and performance at work. It may consist of evaluating the skills, competencies and such activities the performer is expected



to perform or to evaluate the success of prior set objectives. Some organizations have separate employee appraisal forms from the objective evaluation forms.

Appraisal is often seen as aiding strategy formulation through providing information on employee skills and weaknesses, and strategy implementation by specifying what employees need to do to successfully implement a chosen strategy. It is also intended to help align training and development programs with strategic needs, make placement or staffing decision more effective and to enhance performance (Storey, 2001. P 143-144). According to Long, in an ideal world, the performance appraisal process starts with the organizations vision, mission, values, “dream with a date”, strategies and objectives and that those elements set the framework for determining the KRA’s (“key result areas”) and the KPI’s (“key performance indicators”) against which every employee in the organization is assessed (Long. 2016. P. 122-123).

Long concludes that the concept of performance appraisals (both formal and informal or structured and unstructured) has been around of a long time, dating in 1957 Douglas MaGregor saying in his book *“The Human Side of Enterprise”*<sup>1</sup> of performance appraisal processes:

*“Formal performance appraisal plans are designed to meet three needs, one for the organization and two for the individual:*

- *They provide systematic judgments to back up salary increases, promotions, transfers, and sometimes demotions and terminations.*
- *they are a means of telling a subordinate how he is doing, and suggesting needed changes in his behaviors, attitudes, skills or job knowledge; they let him know ‘where he stands’ with the boss.*
- *They are also being increasingly used as a basis for the coaching and counseling of the individual by the superior.”*

(Long. 2016. P. 122.).

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<sup>1</sup> McGregor, Douglas: ”An Uneasy Look at Performance”, Harvard Business Review, May-June, 1957.

Long sees, that the aforementioned purposes by McGregor are still valid and that they have even more importance today “than ever before”.

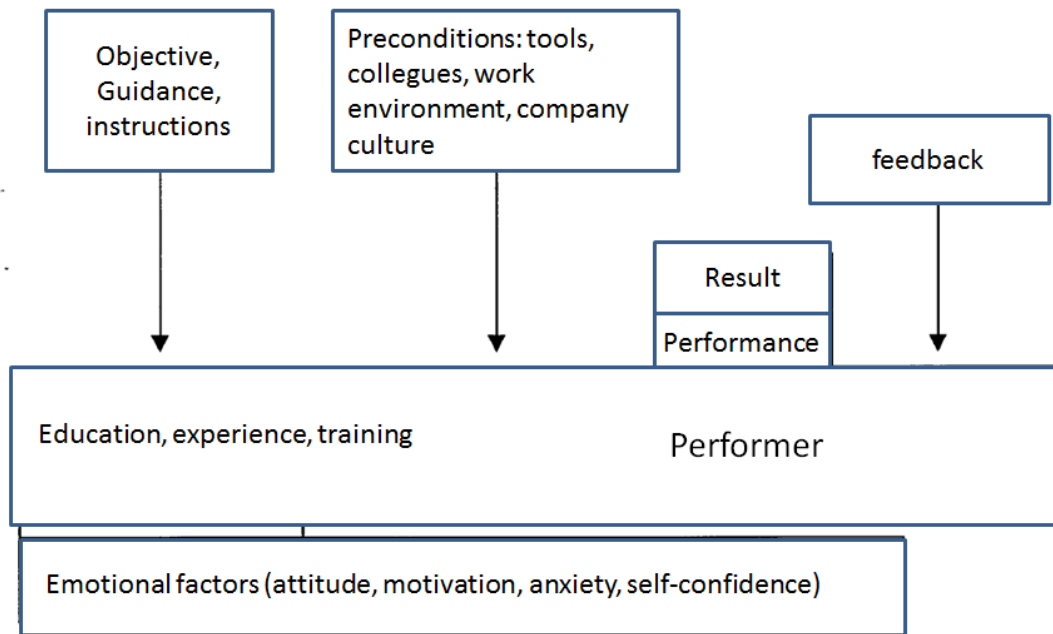
The core competencies which may be, or should be included in each employee’s job description, should be set in the performance appraisal instrument so that each employee is evaluated on the same criteria that are specified in the job description. For employees of all ages, this parallel process reinforces the fact that the organization has a set of critical competencies that will ensure success (Gravett et al. 2016. P. 63).

Employee performance appraisal is communication between manager and employee. For purposes of this research, the importance of employee appraisal is in giving, receiving and understanding the feedback, which typically belongs to managerial work.

### **2.1.2 Performance**

In this research, performance is seen as the activity of the employee of which the acceptability or level is assessed in the organization. By measuring the performance the employer can evaluate how a certain task has been done. It is of importance to understand what constitutes an acceptable performance and what kind of performance can be expected from an employee and when there is possible underperformance in question.

By being able to lead the performance, the manager needs to know the different elements affecting the performance. Deterline concludes that performance is affected by the education and previous experience of the employee, his attitude, points of interest, motivation and the guidance and training related to his current position as reflected to his skills, knowledge and abilities. Also outside factors like the quality of given instructions and guidance, co-workers and tools affect to the employee’s performance as well as the assignment given by the manager or the goals set by the manager. The elements as presented by Deterline are illustrated in the picture below:



Picture 2: Factors affecting to performance (Deterline. 1992. P. 299)

Deterline concludes that performance may be inadequate, if any of the four elements are missing. The performance may also be below the expectations, if the employee's perception of the expected performance deviates from the managers' expectations (Deterline 1992. P. 298-299). It is then to be remembered, that employee's skill, intellectual level, motivation and personality as well as job description, work environment and the performance management system defines, from their part, the achievement and successfulness of reaching the objectives. Long concludes, that individual performance is dependent upon two things:

1. the individual's competence and motivation – their capability;
2. the environment within which they operate.

(Long. 2016. P. 35).

For a successful performance in today's working life, the needed skills and competencies and capabilities are multifold. Salminen has divided the skills needed in working life to professional knowhow (technical and other skills in certain profession), general skills (applicable to all professions) and expertise skills as follows:

<b>Technical skills needed in a profession</b>	<b>General working life skills</b>	<b>Expertise skills of a specialist</b>
Basic vocational skill (of a salesperson)	General knowledge of own industry or field	Strategic thinking skill
Customer service staff basic skills	Stress handling skills	Analytical ability
Marketing skills	Emotional skills	Planning skills
Finance knowledge	Professional relation to superior and colleagues	Creativity and innovation skills
Technical planning skills	Keeping up with ability to work	Project skills
Heavy vehicle driving skills	Planning and organizing skills	Project leadership skills
Process worker skills	Logical and analytical thinking skills	Conflict solving skills
Programming skills	Ability to recognize and comply with work place rules	Communication skills
Professional regard to own work	Occupational safety skills	Negotiation skills
Self-leading skills	Language skills	Logical and analytical thinking skills
Interaction skills		Decision making skills
Change skills		Ability to deal with contro-

		versial information
		Ability to evaluate information critically
		Basic mathematical skills
		Language skills
		Ability to assess the feasibility of information to practical problem solving

Picture 3: Skills required at work life (Salminen. 2015. P. 69).

### 2.1.3 Job description

From an organizational perspective, the job description is a tool where competences are identified and available for the organization's total performance. A proper job description describes the most important outcomes needed from the job. It tells the employee what he is expected to do and achieve, and tells other co-workers where their job leaves off and the job of another employee starts, where the job fits within the overall team, function and the whole organization. When all personnel in a company have clear and well-defined positions and division of responsibilities, it enables the company to prosper and all employees have easier to respond to the expectations of their performance and easier to work towards common goals (Valvisto. 2005. P.60).

The division of responsibilities in a job description enables the employee to understand the order of importance of duties belonging to his responsibility area (Valvisto. 2005. P. 62-63). Job descriptions can be developed that include not only duties but also the core competency descriptions that are tailored to each position. These same competencies are included in each employee's performance appraisal instrument so that each is evaluated on the same criteria that are specified in the job description. For employees of all ages, this parallel process reinforces the fact that the organization has a set of critical competencies that will ensure success (Gravett. 2016. P. 63).

In the course of time and development of company and employee skills and abilities, the job descriptions should be checked and re-defined, if needed. Long constructs that “Whether the recruitment is for a new position or to replace an existing person, the first stage is to determine exactly what the person will be doing and that for which he will be responsible. This means, that the appropriate position description should be developed or fully revised prior to any recruitment process being commenced – in an ideal situation, the current incumbent should be involved in this revision as, almost invariably, there are practical changes that occur over the duration of any incumbency – even in a relatively short time” (Long. 2016. P. 111). Therefore, when drafting a job description, the manager should pay attention to being as concrete and realistic as possible: a job description should be up-to-date and describe the actual demands of the position. It should describe the most important day-to-day duties the employee will face in performing his responsibilities (Markkanen. 1999. P. 19).

The foundation of the job description lies on wanted achievements of the position. It is essential to understand why and what for this employee is needed: what he is supposed to achieve and do in the position. When creating a job description, the manager should estimate what kind of skills, abilities and personal characteristics the employee should have in order to succeed in the position. It is of importance to understand why these tasks belonging to the job description are important: there need to be the demand first and thereafter, the demand is filled with suitable person (Markkanen. 1999. P. 17).

After the employer decides what competencies are essential for reaching the set targets, the manager should determine the degree to which, and the manner in which, these competencies are required in each type of position. Gravett et al sees that the assessment can be made in two main ways:

- 1) Through interviews with incumbents of sample positions:
  - It's important to use both top performers and low performers
    - Top performers can give you the ideal state and what to emulate.
    - Low performers can give you what not to look for and what doesn't work.
- 2) Using a Position Information Questionnaire (PIQ) as a guide. Examples of questions on a PIQ include the following:

- Who are your internal customers and how do you determine their needs?
- Describe how you draw in coworkers in departmental activities or projects.
- What type of records do you need to access and what methods do you use to access information in a short time frame?

(Gravett et al. 2016. P. 63).

In recruitment situations, the job description informs the candidates about the duties and responsibilities of the position and forms the basis of the candidate selection criteria for the recruiting manager, as stated earlier: there is a demand which is needed to fulfil with a suitable person who is considered being capable of adding value to the company in its pursuit to achieve the set targets. The needed skills and competencies and the degree to which, and the manner in which, these competencies are required from the selected person, then guides the manager to select a suitable person. Later on, during the course of the employment, the job description forms the basis for on-job training plans, objective setting and performance appraisal. In bigger companies, job descriptions help human resources management to know the knowledge, skills, educations, experience and capabilities of employees and personnel as a whole and enable the strategic human resources work and knowledge development. Arthur constants that job descriptions are multipurpose tools that can be used in virtually every aspect of the all employment processes in performance management system:

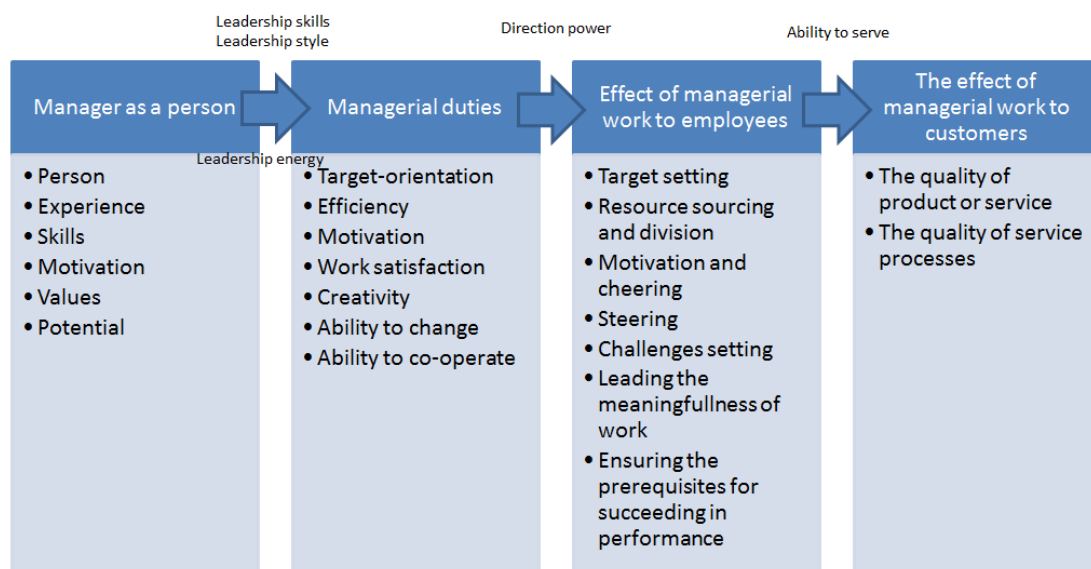
Clarifying relationships between jobs	Demotions	Disciplinary actions
Employee orientations	Exit interviews	Grieving proceedings
Interviewing	Job posting	Outplacement
Performance appraisals	Promotions	Recruitment
Salary structuring	Selection	Training

Transfers	Workflow analyses	
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Picture 4: Uses of job description. (Arthur. 2005. P. 84).

### 2.1.4 Managerial work

Managers are employer's representatives towards employees. Making the performance management process work at the operational level is mainly the responsibility of line managers, direct superiors of employees. The below picture illustrates what the manager's work is about.



Picture 5: "What is managerial work?" (Nikkola et al. 2013. P. 37).

The employer has the right to direct the work of employees. Therefore, the manager has the right from both legal perspective, but also from the organizational perspective, extensive right to decide what work is done, how, when and where. However, Nikkola et al conclude that such rights of managers are seldom fully utilized, due to various reasons, for example

- 1) Fragmented or unclear targets of the manager himself;
- 2) Weak leadership skills of the manager;
- 3) Lack of courage of the manager to intervene in the perceived problems;
- 4) The strong position of the employees in the unofficial organization.



(Nikkola et al. 2012. P. 21).

### **2.1.5 Objective setting**

Setting objectives is an important management and leadership practice and objective setting is an important part of planning for performance. It generally follows a top-down approach with organizational goals getting cascaded down to the individual level as illustrated in Picture 1, and is closely tied to the duties and responsibility areas set out in the job description: the job description also forms the basis for objective setting.

In objective setting, the manager and employee thus discuss and agree upon performance expectations for the employee for a decided period (typically for one year period) on meaningful, realistic and professional personal key objectives, or goals which should be linked to the employee's job description and which should contribute strategically to the successful operation of the business. Therefore, the manager should take into account the company's strategy, mission, vision, values and the coming year's plans, budget and objectives of the Function/Department/Team while setting the objectives for the employee. The companies need to be careful what they ask for. Gravett et al. give an example of perfect attendance awards that encourages employees to come to work even if sick in order to get the perfect attendance award. As a result, their coworkers get sick, and it's a never-ending spiral. Metrics need to be thoroughly considered, including any negative ramifications (Gravett et al. 2016. P. 73).

Involving the employee in the objective setting helps to clarify what is expected from the employee and how his work will be measured and evaluated. He will also understand his role in the bigger perspective and in achieving the company's objectives. Very often, the objectives are set using the SMART framework: The capital letters form a simple SMART rule for memory (Rao. 2016. P. 174).

- 1) Specific: Precise and well-defined. Clear, understandable for all.
- 2) Measurable: Evaluation method/scale. What evidence is needed for confirmation? What is the judgement?
- 3) Achievable: is the objective within employee's capacity and his responsibility area? Are there sufficient resources available? Can the objective be completed at all?

- 4) Relevant: Is it possible to be completed by this employee? Is it relevant for business context? Does it fit for overall pattern of work?
- 5) Time bound: Is there a deadline? Is the deadline feasible? Is the timing correct? Are there review dates?

The objectives and their metrics should be recorded and saved for future reference and for the correct memorization in the assessment situation. It is of importance to assess the achievement of the objectives, either in connection with the next year's development discussions, or together with employee appraisal. As business evolves, it is important that the chosen metrics are reviewed and revised accordingly. Metrics need to be reliable, not to mention valid. Reliable metrics will yield the same results regardless of who is measuring. Valid metrics will measure what they intend to measure. Not only do the metrics need to be reliable and valid but they also need to be standardized. The key is to ensure that each metric established is set in a SMART way. The target needs to be challenging enough to help the company focus on what needs to be done in order to improve, but also in a way that's realistic and achievable to motivate employees to reach the goal (Gravett et al. 2016. P. 75).

From organizational perspective, Lepsinger recommends setting challenging objectives for employees. He claims that giving an employee a chance to work on tough assignments and setting challenging objectives, they are given concrete expressions of manager's confidence in them. This then will improve the employee's performance because specific objectives guide effort toward productive activities and challenging objectives tend to energize a higher level of effort. He sees that the purpose of challenging goals is to encourage an employee to step out of his comfort zone, energize him, and to build confidence. (Lepsinger. 2016. P. 61).

Lepsinger adds, that "managers get the performance they expect". He adds, that when a person in authority expects others to perform well, the people under him actually do rise to the occasion, and that according to studies, high expectations seem to result in higher performance. (Lepsinger. 2016. P. 52-53). This aspect of performance is tied together with setting objectives for work, with constant feedback and employee appraisal.

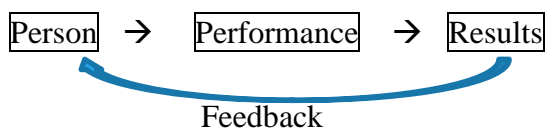
## 2.1.6 Communication and Feedback

The interaction between the manager and the employee is important and is a vital part of performance management. Positive feedback is cherished by the receiver, motivating and it builds the receiver's confidence and supports personal development (Meretniemi. 2013. P. 106). The importance of communication and feedback is in whether the employee knows and has understood what the expectations for his performance and behavior are, specifically when a change in performance is needed.

In order for the employee to understand the level of his performance, the manager needs to give feedback from the very beginning. Therefore, corrective feedback needs to be given at least when:

- there is a need to give corrective guidance;
- the manager needs to let an employee know the consequence of his behavior;
- when unsolved problem persists;
- when an error occur again and again;
- when an employee's performance doesn't meet expectations.

By giving appropriate and functional feedback, the manager can steer the employee's efficient behavior, motivate him and reassert or have the employee cease certain activity or behavior. When feedback is used in organizational context, it is usually connected to employee's performance in performance management in assessing employee's performance. The feedback process can be described as follows:



Picture 6: Feedback process (Deterline 1992. P. 295)

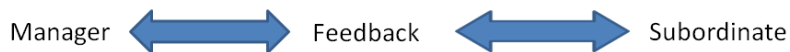
The loop in the figure includes the employee, his actions and results and the feedback from the results which falls directly on the employee. The feedback consists of infor-

mation, which is related to the performance and the results in relation to certain acceptability.

The feedback usually functions in guiding the employee or in motivating the employee. The guiding feedback therefore tells the employee of the behavior or results which should be achieved and what is expected from the performance. When feedback is functioning as a motivating tool, it gives information of successful achievements and positive results in performance – and also when it describes possible rewards connected to such behavior. Deterline defines feedback slightly differently and explains that the two main usages of feedback are correcting and improving inadequate performance which he calls ‘formative feedback’; and giving acknowledgment of work well done and encouraging to continue such work. This feedback Deterline calls ‘reinforcing feedback’. Deterline also comments, that managers usually do not use feedback properly, but only when the expected results are not being achieved, in which cases the feedback the employee receives is automatically only negative (Deterline. 1992. P 299-300).

## The context in feedback event

In development discussions or in an spontaneous event



- |   |  |   |
|---|--|---|
| <ul style="list-style-type: none"> <li>• Acting as the source of feedback and a party in discussion with subordinate</li> <li>• Aims to guide the work performance of the employee and motivating him.</li> </ul> | <ul style="list-style-type: none"> <li>• Includes information about success of the employee in his performance</li> <li>• Is based on the standards of successful performance</li> <li>• Standard defines the tone of feedback being positive or negative</li> </ul> | <ul style="list-style-type: none"> <li>• Acts as the receiver of the feedback, seeker of the feedback and as the party to discussion with his manager</li> <li>• Utilizing in the performance the feedback given by the manager in achieving the organizational and own objectives</li> </ul> |
|---|--|---|

Picture 7: The elements in the feedback discussion event between and manager and a subordinate (Berlin. 2008. P 67).

Feedback can be passive or active. This division refers to the amount and quality in the content of the feedback. Passive feedback only states that certain performance was not adequate or according to the target. Active feedback, in addition to stating the inadequateness of the performance but also includes guidance how the performance should be

changed or improved and also can include how the performance should be changed in order for achieving the set targets (Deterline. 1992. P. 303). Therefore, active feedback is more efficient than passive feedback due its informative content. Also, the manager should keep in mind the experience, education, age and other aspects for example in the personality of the employee when giving feedback. For example, an experienced employee needs less active feedback than inexperienced employee who doesn't necessarily have means or understanding how to correct or improve his inadequate performance without further instructions or guidance.

Essential factor in the functionality of the feedback is its relation to the objectives. Deterline concludes that feedback has most effective results on performance, when there are clear objectives which have been properly communicated. Feedback acts in its informative role most effectively, when the objectives can be compared to the real performance (Deterline. 1992. P. 302).

The nature of feedback can be examined through the concept of "communication". When communicating, the sender sends message to the receiver and message becomes information only at the point when it informs. There is no communication if the receiver was not informed, eg. the receiver did not understand the message. In order for the sender and the receiver to ensure that the message has been correctly understood feedback can be used by both parties. Feedback is then the communication process between the sender and the receiver and information is exchanged in the communication process as long as the message is correctly understood. In this process, the sender gets useful information by asking how the receiver has understood the message and what he intends to do as a response to the message (Deterline. 1992. P. 295-298).

Providing negative feedback to employees, while considerably more difficult and uncomfortable than giving positive feedback, is, however, crucial to employee development and organizational performance. (Sias. 2009. P. 26). The employee needs critical, constructive feedback with corrective suggestions in order to develop his ways of working and/or correct his behavior. Without negative feedback, the employee may not get to know that he is doing something wrong. An interesting claim is, that supervisors seem to prefer to award positive ratings and show upward bias, giving more positive ratings than "true" performance would merit, perhaps because they perceive negative

events to follow from negative ratings, such as resentment, deteriorating working relationships, appeals, grievances, and legal and industrial action (Storey. 2001. P. 144).

The research concerning giving feedback has specifically concentrated on the feedback given by the manager to the subordinate, and how this feedback impacts motivation, job satisfaction and work performance. Feedback research generally has the pre-assumption, that by giving certain feedback, the manager can impact and steer positively the employee's work performance (Sias. 2009. P. 26).

Timing of giving feedback may also have more profound consequences. Robertson et al have referred to a research by Robertson, Iles, Gratton, and Sharpley (1991), who had examined the impact of a management development and tiering program used by a large financial services organization to evaluate employees in early and mid-career. They found correlation between negative feedback and commitment to the company: commitment and turnover intentions were strongly influenced by the outcome of early career assessments; those who received negative feedback became less committed and more likely to consider leaving the company. Reactions to assessments conducted in mid-career (early 30s), however, were affected more by the perceived adequacy of the procedures involved than by the outcome. Therefore, they suggest that different strategies might be needed to maintain commitment among those given failure feedback depending on career stage. (Robertson et al. 2016. P. 314).

The manager can give spontaneous feedback to the subordinate in the daily intercourse, in face to face meetings, or by e-mail; or in more planned and coherent way, in the development discussions. Spontaneous feedback sessions are typically short while performed, but in the longer term, have meaning when evaluating the performance as well as when considering salary raises or career planning. In addition, they form the relationship between the manager and the subordinate: According to Sias, employees exchange good performance for a good relationship with their managers (Sias. 2009. P.34).

Regularly held development discussions are used in many companies for performance management. The feedback given by the manager in development discussions is based usually on the prior given objectives and on the evaluation of their achievement. By using development discussions, the employer ensures that the manager and subordinate

have together agreed on the essential duties, responsibilities and targets of the position, of their evaluation criteria, of employee's professional development needs and points of interests. This is done by reviewing and updating the job description, setting objectives for the subsequent time period and evaluating the achievement of the prior set objectives and having proper personal appraisal discussions. Therefore, the development discussions serve as a formal tool in performance management, but also as a knowledge management tool. The development discussions may be held in two parts, in which the other part, the parties concentrate on evaluating the prior objectives and setting the new objectives, and in the other part, discuss personal development and conclude possibly a formal performance appraisal. Valpola has stated back in year 2000, that development discussions have placed more importance on knowledge development but performance management has been given less meaning (Valpola. 2000. P. 12-15).

### **2.1.7 Orientation and trial period**

Orientation is of importance when a new employee is hired to the company, or when an old employee assumes a new position within the same company, or when an employee returns from a longer leave. Orientation has several important meaning, the new employee learns to know relevant people from the position perspective, his co-worker and team mates and he will learn faster his duties and make less mistakes, the repairing of which may take plenty of working time from other co-workers. The new employee feels welcomed and more safer, when he is introduced to the company practices and culture and it is expected, that he will become a productive member of the team more quickly (Österberg. 2009. P. 101-102).

The employee's professional skills and experience, age and the planned position have an impact of the depth and scope of the orientation. A more experienced person has more self-assurance, is more pro-active and hands-on even from the beginning of the employment relationship when compared to a younger, less experienced person. It is also to be noted, that the professional background of the new person has implications on his knowledge: if he comes from within the same industry or substantially similar position, he can be expected to have a more complete picture and general idea of the position than a person who comes from totally different business area or from a different position. (Österberg. 2008. P. 102-103).

The orientation starts from the very first contact of the candidate with the organization and ends when the employee can be seen to fully understand his duties and responsibilities and has become part of the social network within the organization. Typically, the end of trial period can be considered ending the orientation also, as during the trial period the employee normally is able to achieve sufficient knowledge of the job demands (Valvisto. 2005. P 50).

The primary aim of orientation is to shorten the time during which the employee's performance becomes productive and with orientation is ensured, that the performance of the new employee takes the organization closer to achieving the targets, strategy and vision of the whole company. It is important, that through orientation, the new employee fully understands the identity of the company, at least the vision, strategy and values (Valvisto. 2005. P 47, 49). A proper orientation adds efficiency, when the new employee is able to perform productively faster, learns to utilize tools and methods needed in his performance and learns "quiet information" needed in succeeding in the particular organization (Valvisto. 2005. P. 49).

The second aim of orientation and connected trial period is in assessing the new employee's capability in succeeding in the position: the capability of a person, his professionalism and general suitability for the work is to be evaluated primarily during the trial period. Long defines capability as follows: "Capability is the extent to which an individual or organization is able to do certain things. In an individual, it is a combination of a person's knowledge, ability or 'competence' and their confidence, motivation or 'willingness' to perform certain tasks or activities" (Long. 2016. P. 109). Long continues, that "Organizations select employees on the basis of their implied capability – in other words, the recruitment and interviewing process is (or should be) designed to ascertain that a person has the requisite knowledge, qualifications and experience for the vacancy and that there is a cultural fit between the organization and the prospective employee. This is why focusing on a verifiable evidence of what a person has achieved is so important. But this process, even if complemented with the very best psychometric testing, cannot always determine whether or not a person will actually prove to have the capability required. Only time on the job will show this." (Long. 2016. P. 109). This is of importance for the purposes of this research: the suitability of a person to certain po-



sition should primarily be evaluated during the trial period, as the termination during trial period can be done more easy than then later after the trial period has ended.

Therefore, the employer should pay proper attention, that the new employee is given profound orientation and feedback of his performance already during the trial period. This allows the employer to intervene early to possible lacks in the performance and enables him to make decisions of the forthcoming success of the employee in the future. It is to be noted also, that the employer has the obligation to offer the employee appropriate training and orientation during the course of employment. However, after the trial period, the unsuitability to the work and/or lacking skills do not, in normal circumstances, easily fulfill the criteria of proper and weighty reason for terminating the employment contract (Nikkola et al. 2013. P 151-152). Nikkola et al also highlight the fact that the manager acting as the representative of the employer has to have the right and obligation to assess the new employee's suitability and his professionalism as part of the team. The manager also needs to have the time and skills to follow and instruct the employees, but also the will and skill to intervene if problems arise.

TT:2005-17. The employment contract of an employee had been terminated due to lack of professionalism. The orientation of the employee had been pretty much left on the responsibility of the employee that he will proactively learn the skills required in the position. Because the orientation responsibility lies on the employer the lack of professionalism could not been only been due to the employee's fault or due to other aspects on the responsibility of the employee. Therefore, the employer had not proper and weighty reason to terminate his employment contract.

Orientation should be done according to a defined process, using an orientation plan, which includes setting the learning targets and a follow-up meeting of the set learning targets. The employer can design an orientation program or checklist, which helps the managers to ensure, that the set targets for learning within the defined time have been achieved. It also ensures that all company specific and the position specific issues have been gone through with the responsible persons and that the employee is given correct information of the company and the demands of the position (Österberg. 2009. P. 104-105).

Long gives an example of framework of general orientation plan:

- 1) Explaining the history, vision, mission, functions and organization of the organization.
- 2) Working hours and company rules and regulations including the usage of alcohol, drugs, bullying, discrimination and so on, policies and practices.
- 3) Holidays, sick leave, other leave entitlements and policies.
- 4) Salary, schedule and administration and salary reviews.
- 5) Fringe benefits and other perquisites.
- 6) Grievance procedures.
- 7) IT usage including email policies and practice.
- 8) Telephone/social networking policies.
- 9) Professionalism in the organization.
- 10) Conflicts of interests.
- 11) Privacy.
- 12) Security issues.
- 13) Petty cash.
- 14) All HR policies including EEO, OH&S, personal and professional development, and dismissal.
- 15) Performance appraisal system.
- 16) Recapping of the terms and conditions pertaining to 'probationary period of employment'.

(Long. 2016. P. 119.)

For job specific introduction, Long gives a following list:

- 1) Introduction of the new employee to all people with whom he or she will come in contact on the job. This should be done physically taking the new employee around at least the work-specific area and introducing them but should include visits to others where appropriate.
- 2) Explaining all aspects of the work station – including use of appropriate electronic and physical filing systems and all aspects of the IT system as they apply to the new employee. This includes explaining all aspects of renewal of supplies including ordering of stationery and so on.

- 3) Special requirements as to departmental practices.
- 4) Setting up the systems and procedures that will be used to provide training and coaching as well as performance assessment during the probationary period of employment.

(Long. 2016. P. 119).

Arthur summarizes the importance of orientation as follows: “Well-developed organizational and departmental orientation programs should affirm a person’s decision to join your company. They can also help with employee retention and reduce the possibility of costly litigation and unnecessary disciplinary action. In addition, they set the tone for effective employer/employee relations, shorten a new employee’s learning curve, and promote open communication between a manager and her staff” (Arthur. 2005. P. 307).

## **2.2 Legal Framework**

### **2.2.1 Employment legislation**

The employment relationship in Finland is regulated by different level rules. If international and EU norms are left outside, the governing order is as follows:

- 1) Laws and acts;
- 2) Collective agreements;
- 3) Work rules and other collective agreements;
- 4) Employment contract;
- 5) Custom and practice which can be related to agreements;
- 6) Employer’s orders.

(Kairinen et al. 2011. P. 48). Some of the clauses in employment legislation are enforcing; meaning that those cannot be ignored. Some of the clauses are dispositive; meaning that those can be agreed otherwise. There are also other important laws affecting employment relationship. The above list forms the legal framework for this research and is discussed in this Chapter 2.2.

The Employment Contracts Act applies to the relationship between employer and employee. It includes among other clauses general provisions relating to employment relationship and provisions regarding employer's obligations and employee's obligations. From the Employment Contracts Act the author will present such provisions, which need to be given consideration when terminating the employment contract based on underperformance. Specifically important is Chapter 7 (of the Employment Contracts Act), which stipulates the grounds for terminating the employment contract by means of notice.

One of the profound rights of employee in the employment legislation is the right for non-discriminatory and equal treatment at work. The general provision 2:2 § in the Employment Contracts Act states that nobody may be discriminated against the basis of age, ethnic or national origin, nationality, language, religion, belief, opinion, health, disability, sexual orientation or other personal characteristics without proper and justified reason and considering the responsibilities and position of the employee. Chapter 6 of the Non-Discrimination Act very clearly prohibits discrimination in the context of recruitment conditions, employment and working conditions, personnel training and promotion; access to training, including advanced training and retraining, and vocational guidance. In addition, there are clauses concerning non-discriminatory and equal treatment at work in the Constitution of Finland, Criminal Investigations Act and Act on Equality between Women and Men, and several international treaties prohibit discrimination at work.

The employment contract is an agreement between the employer and employee in which the employee personally agrees to perform work for the employer under employer's direction and supervision (Employment Contracts Act 1:1§). The parties to employment contract may not derogate the employee's right to strong protection from dismissal, as the clauses regarding the termination of employment contract are peremptory provisions (Employment Contracts Act 13:6§). For the purposes of this research, the most important provision in the employment contract is the definition of what the employee should be doing for the employer and when and where the employee is, or should be performing the work.

In general, the employment contracts do not include all terms affecting to the employment relationship. Collective agreements fill such gaps and give the framework for contract making. The terms and conditions of collective agreements thus directly affect the relationship between employee and employer. The collective agreements aim to promote the contractual negotiating balance between the employer and employee by simplifying the negotiation needs (Engblom. 2002. P. 27-29).

The parties to collective agreements are the labor market organizations. The interpretation of collective agreements belong to labor court (Act on the Labour Court 1 §). Collective agreements with general applicability have second highest status in the juridical norm hierarchy, right after the peremptory articles in the legislation.

For the purposes of this research, when contemplating the terminating of employment contract based on individual grounds, the collective agreements do not take any position, but some industry's collective agreements rule on order of reducing labor, when employer is dismissing personnel based on productional and economical grounds (Leppänen. 2015. P. 65).

### **2.2.2 Non-discrimination**

Employment legislation is governed by the fundamental principles of non-discriminatory and equal treatment. Those rights are found from the Constitution, Criminal Acts, the Employment Contracts Act, the Act on Equality between Women and Men and the Non-Discrimination Act. In addition, several international treaties forbid discrimination. The obligation of equal treatment needs to be also observed in leadership and managerial work. The practices in use at work place need to be same in comparable situations, and the work rules may not lead to non-equal or discriminatory treatment. (Nikkola et al. 2012. P. 91).

The Non-Discrimination Act and the Act on Equality between Women and Men define forbidden activities. The obligation of equal treatment in employment relationship is set out in the Employment Contracts Act 2:2 §, and it goes further than the Non-Discrimination Act and the Act on Equality between Women and Men as the obligation to treat equally in the Employment Contracts Act is not tied into certain activity or limited to certain situations.

The Finnish Non-Discrimination Act is fulfilling the articles set out in the EU legislation, non-discrimination act and act against discrimination at work. The government bill highlights specifically the prevention and removal of discrimination of elderly, handicapped or disabled people and people from ethnic background or those from national minorities. Discrimination is defined as non-favorable treatment in a comparable situation, which treatment is tied to the personal characteristics.

Employer is obligated in the Non-Discrimination Act, Chapter 2 to further equality in employment. The aim is to have equality as part of employer's development activities (HE 19/2014 . P. 64) and it applies to all aspects in the employer's activities. Leppänen concludes, that such development activities can reach employer's practices when terminating employment from equal treatment perspective (Leppänen. 2015. P 16).

### **2.2.3 Equal treatment**

The baseline to equal treatment according to government proposal (HE 157/2000) refers to the common principle, that people are to be treated in comparable situations the same way (Leppänen. 2015. P. 35). The principle requires from the employer coherency when treating employees, when giving benefits but also when setting duties and obligations to the employees and when evaluating their fulfillment. The employer needs to ensure, that the employees are not set into different position without proper and justifiable cause. Deviation from this main principle is possible, if there is an acceptable cause for derogation deriving from the duties and position of the employees (Employment Contracts Act 2:2 § 3 mom).

The employer may also treat employees differently, if it can be justified due to employee's position or duties. For example, the higher the employee is in the organizational hierarchy, the bigger is his responsibility area and also, the more responsible position the employer has, the smaller breach of duties can lead to termination of employment contract (Koskinen. 2009. P. 42).

Also, work circumstances or the nature of work may justify that an employee may be treated differently. When evaluating whether the employee has been properly treated in a similar case, the comparison shall be made between real cases and by comparing employees employed by the same employer. In an organization, where positions of em-

employees differ, equal treatment shall be evaluated within the same reference group. The comparison may be done within same positions, within same department, or comparing to the whole organization. The precise reference group for comparison is always defined based on the nature of issue to be evaluated (Leppänen. 2015. P. 229).

The obligation of equal treatment requires consistency from the employer in its acts and decisions concerning the employees. The practices used in a company set a framework for the equal treatment of employees. This means, that a practice adopted by a company must be, in principle, followed when treating employees. The practice may not need to be valid forever, but may be changed. That requires proper communication to the personnel (Rautiainen et al, 2007. P 229-230).

The equal treatment obligation perspective is to be considered also when evaluating the grounds for terminating the employment contract. The court cases have set a baseline that well-established warning procedure in a company needs to be applied in a consistent and coherent manner. This means, that if a company normally gives two warnings before terminating the employment contract, in principle, an employee cannot be dismissed after receiving only one prior warning. However, different employee groups may be treated differently: it is possible, that a company has different warning procedures for salaried personnel and senior salaried personnel (Leppänen. 2015. P. 245).

#### **2.2.4 The employment contract**

The Employment contract is an agreement between the employer and employee in which the employee personally agrees to perform work for the employer under employer's direction and supervision (Employment Contracts Act 1:1§).

The employment contract has been given special importance in legislation. It is an agreement between employee and employer, and the general principles of contract law are applied (Kairinen et al. 2011. P. 81-82). Even though the employment contract may be done verbally (Kairinen et al. 2011. P. 84), agreed terms and conditions should be clarified in writing latest by the end of first salary payment term (Kairinen et al. 2011. P. 85). Later made profound changes, for example in job duties and responsibility areas, changes in terms and/or conditions, in main working place or other significant

changes should be done in similar form, latest one month after the change has taken place (Kairinen et al. 2011. P. 85).

A proper employment contract includes all the elements which the employee is obligated to give to the employer, in case of verbal employment agreement is done. Those are:

- 1) Employer's and employee's home, or place of business;
- 2) Day when the work will begin;
- 3) If the employment agreement is done in temporary base; its duration and reason for temporary contract;
- 4) Trial period;
- 5) Place of work, or if there are no main place of work, then declaration of the principles which determine the employee's work in different places;
- 6) The main tasks;
- 7) Applicable collective agreement;
- 8) Salary and principles for other possible remuneration and the term for salary payment;
- 9) Working time;
- 10) Determination of holidays;
- 11) Notice time, or how it is determined;
- 12) If in case of working in abroad for longer than one month, then the duration, currency in which the salary is paid, other monetary remuneration for working abroad and other benefits and the terms for returning back.

(Österberg. 2009. P. 55).

### **2.2.5 Training and orientation**

The employer shall provide the employee with training required by new work duties that can be deemed feasible and reasonable from the point of view by both the employer and employee (Employment Contracts Act 7:4 §, 2 mom). Lacking the professional skills or expertise means, that the employee is not capable to do the job or the employee does not have the needed skills or knowledge to fulfill the expectations of the employer (Kairinen et al. 2011. P. 727). The employer should utilize the possibility of having a trial period to evaluate the suitability, professional expertise and skills of the employee and of his changes to succeed in the position. The Finnish legislation allows at maxi-



mum a trial period of four months, or six months, if the employer organizes a training with continuous length of more than four months (Employer Contracts Act 1:4 §), during which the employer may use its right to terminate the employment with lesser grounds. By providing adequate orientation to the company and explaining properly the position demands, the employer shall have the best possibilities to evaluate the feasibility of the employee to the specific position already during the trial period. It is to be noted also, that providing training and orientation during employment is also the duty of the employer (The Employer Contracts Act 2:1). In addition to having the needed professional expertise and skills in the beginning of employment relationship, it is of utmost importance for the employee to continuously develop and update them during the whole employment and throughout his career. The employer shall support the learning according to its possibilities, but it shall not be responsible of the development and learning of the employee, without his active will and attitude. In evaluating the employer's duty to give orientation and training, the possibilities of the employee to achieve the needed skills, capabilities and expertise proactively, on his own time and cost, has also meaning (Kairinen et al. 2011. P. 727).

### **2.2.6 Established practice, company policies and guidelines**

Company practice may be for example a customary way of working in a certain company, or a human resources guideline, standard operating procedure or policy in place. If those can be seen as an established practice, they are to be used with all employees. Such an established practice is also given meaning in the interpretation of grounds for terminating the employment contract. If, for example, the company has had zero tolerance for alcohol usage during working time, this may have effect when evaluating whether a person can be dismissed after the first time he has been caught for drinking while at work. The successful claim requires that the company can show evidence that the zero tolerance in prior cases has been in place and applied. If a certain process has been required from one employee, it is to be required from others as well. (Kairinen et al. 2011. P. 86-87).

An established practice means a certain condition that has been used in the employment relationship customarily. The practice may have been established to only one employment relationship, to a certain function in organization, or to the whole organization.

Very often the content of an established practice is a benefit offered by the employer, or practice allowed by the employer. Such established practice is binding to both parties in the same level than it would be in an employment agreement.

Signs of an established practice are that

- 1) the practice has been used for a long time (establishment);
- 2) The content of the practice is clear and unambiguous;
- 3) The practice has been used generally without significant deviations (effectivity); and
- 4) both parties perceive that they are bound by the practice (acceptance).

(Kairinen et al. 2011. P 86-87).

A prerequisite to the established practice is that it has been used for a long time. Tiitinen et al concludes, that court practice does not clearly state what can be considered as “long time”. The evaluation needs to be done always on a case-by-case basis. In addition, Tiitinen et al state, that also a practice having been in place for shorter time can be considered as binding, if the practice is constant, or occurs in frequent time frame without either party stating contradictory views of such practice (Tiitinen et al. 2012. P 772-772).

### **2.2.7 Employer’s right to direct the work**

Based on the Employment Contract Acts 1:1 §, the employee has the duty to work personally for the employer, under the direction and supervision of the employer, in return for pay or some other remuneration. This right for supervision, so called direction right (“direktio-oikeus”, “työnjohto-oikeus”) has a two-fold meaning in the legal literature, it forms one of the characteristics in the defining employment relationship: the legal right of the employer to direct and supervise the work and secondly, the right of employer to give orders relating to work and its organizing (Tiitinen. 2012. P 319). The direction right therefore gives the employer the right to organize, lead, control and divide the work of an employee (Kairinen et al. 2011. P. 509), including the right to decide

- what the employee is working with (the content of work);
- how the employee shall carry out his work (conducting of work);
- when the work is done (work shift);
- where the work is performed (place of work).

There are restrictions to the employer's direction right in legislation, collective bargaining agreements and restrictions deriving from employment contract: the employer cannot usually order the employee to do other kind of work than work described in the employment agreement (Saarinen. 2015. P. 154). Also, the direction right does not reach to employee's free time and thus the employer cannot order the employee to do overtime work (Kairinen et al. 2011. P. 509).

### **2.2.8 Obligations of the employee**

Chapter 3 in the Employment Contract Acts defines the obligations of the employee. Its general clause states that "Employees shall perform their work carefully, observing the instructions concerning performance issued by the employer within its competence. In their activities, employees shall avoid everything that conflicts with the actions reasonably required of employees in their position" (Employment Contracts Act 3:1 §). Based on that, the employer can expect certain level of proactivity from the employee when in an employment relationship. The chapter also defines obligations of observing occupational health and safety, of employee's loyalty towards the employer and confidentiality obligations.

Based on the employment contract, the following obligation and duties can be placed on the employee according to Salminen:

- Professional behavior while performing job duties, and constructive and respectful attitude towards own work and work community;
- respectful and loyal attitude towards employer and employer's products and services;
- pertinent behavior in customer contacts, but also with co-workers;
- Obligation of not giving wrongful statements about employer and its products;

- Obligation to take care of tidiness and keeping things tidy, and the duty to act cautiously and carefully when performing duties;
- Skill and will to participate into development of operations and products relating to own area of responsibilities.

(Salminen, 2015. P 47).

## **2.2.9 Termination of employment related to employee's person**

### ***2.2.9.1 Proper and weighty reason***

The employer may terminate the employment contract only when there is a proper and weighty reason for termination arising from the employee or relating to the employee's person (Employment Contracts Act 7:1 §). The existence of a proper and weighty reason must be evaluated by considering the total circumstances of the employee and employer side, and by taking all factors into account which includes, for example the level and seriousness of breach or negligent act (total blameworthiness, whether the act or negligence has been intentional, the occurrence possible repetition and the impacts). In addition, the total assessment must take into consideration the position of the employee, his duties and experience and the size and field of industry of the employer (Employment Contracts Act 7:2.1 mom). Also, the general principles behind the employment legislation affect the total evaluation as well as the consideration what is the employee's responsibility when fulfilling the contractual responsibilities towards the employer, and how much the parties need to contribute to the sustainability of the employment relationship (obligation to contribute by the parties) (Tiitinen et al. 2012. P. 505). The proper and weighty reason may also consist of a total sum of several acts or derelictions (Tiitinen et al. 2012. P. 501).

The government proposal (HE 157/2000. P. 96) concludes, that it is difficult to define extensively the "proper and weighty" as reason for terminating the employment relationship to fit for all cases, because the cases vary in different business fields, different work places and in employment relationships (HE 157/2000. P 96). According to the government proposal, the termination ground needs to always be a total consideration, taking into evaluation all circumstances affecting the case. The meaning of total consideration is greater, when there are difficult cases (HE 157/2000. P 95).

The employment Contracts Act 7:2.2 § lists specifically circumstances, which cannot be considered as proper and weighty reasons. According to the law, at least the following cannot be regarded as proper and weighty reason:

- Illness, disability or accident affecting the employee, unless working capacity is substantially reduced thereby for such a long term as to render it unreasonable to require that the employer continue the contractual relationship;
- Participation of the employee in industrial action arranged by an employee organization or in accordance with the Collective Agreements Act;
- The employee's political religious or other opinions or participation in social activity or associations;
- Resorting to means of legal protection available to employees.

The Employment Contracts Act 7:2 § 4 mom obligates the employer to find out prior to the termination of employment contract whether it would be possible to avoid the termination by placing the employee into other work. This is not limited to situations, where the termination of employment contract is done based on productive and economic reasons, but also in situations when the termination is done based on individual grounds and this needs to be taken into consideration, when assessing the overall circumstances (Employment Contracts Act 7:2 § 4 mom).

If the employer is terminating an employee's employment contract on grounds relating to the person, the termination must be done within a reasonable time when the employer found out the existence on such grounds (Employment Contracts Act 9:1 §). Such grounds relating to the person of the employee are, for example, groundless absence of the employee, refusal to work, criminal acts of the employee or inadequate, insufficient or faulty work results; underperformance of the employee. The employee, who has neglected his work duties or breached his responsibilities, may not be fired before he has been given a warning and thus given a possibility to fix his behavior (Österberg. 2009. P. 65).

Terminating the employment contract may not be against good manners or against the law or other provisions (Tiitinen et al. 2012. P. 502). It may neither be discriminative or against the obligation of equal treatment. The employer needs to acknowledge its loyalty obligation and therefore, the employer needs to consider if there are alternatives to

the dismissal, for example other work or training relating to the current duties (HE 157/2000. P. 96. Tiitinen et al. 2012. P. 498).

### ***2.2.9.2 Concept of warning in the termination process***

According to the Employment Contracts Act 7:2.3 §, the employee who has neglected his duties arising from the employment relationship or committed a breach thereof shall not be given notice of termination of the employment contract, before he has been warned and thus given a chance to amend his conduct (Saarinen. 2015. P. 335, Kairinen et al. 2011. P. 705). By giving warning it is ensured, that the employee has understood the seriousness of his negligence or breach, and also is made aware, that employer may, in case he is not correcting his behavior, terminate the employment contract (Saarinen. 2015. P. 336). By warning the employee, the employer is both making a statement of unaccepted behavior and giving another chance to employee to correct the situation and thus restore the prerequisites to the contractual relationship. In case of severe negligence or breach of his duties by the employee, the employer may terminate the employment contract with immediate effects and is therefore not required to warn the employee first (Saarinen. 2015. P. 335) ” ...if the reason for giving notice is such a grave breach related to the employment relationship as to render it unreasonable to require that the employer continue the contractual relationship” (Employment Contracts Act 7:2.5 §).

In cases of minor breach or negligence of duties, it is required that the employee has been previously warned by the employer of same or substantially similar breach or negligence, in order to fulfill the requirement of proper and weighty ground of terminating the employment contract (Kairinen et al. 2011. P. 714). A warning, which is unjustified or given for a very minor cause, cannot be considered as effective to the termination of contract (Saarinen. 2015. P. 338). The prior warning has to have timely and causal connection to the negligence or breach occurring after the warning (Saarinen. 2015. P. 336). This means, that if the earlier warning has been given from a totally different cause, for example for being late from work, it cannot be given importance when evaluating the subsequent negligence or breach, if that is, for example stealing from the employer. The prior warning in this example may be given importance, however, if the employment contract is later terminated for other reasons, for example if the employer

is referring to the continuous lack of attitude of the employee and multiple breaches of employment contract.

TT:2002-53. More than three years ago given warning was given importance, to the total consideration of existence of proper and weighty grounds for terminating employment relationship, because all the warnings show the employee's disregard towards the employer's instructions and directives.

A warning can be verbal or in writing and it can be delivered by mail or electronic mail. The legislation does not state the form of the warning, but from other aspects, it needs to include:

- Concrete description of the employee's improper behavior against the contractual duties;
- Specification of the duties the employee has breached;
- Clear demand for behaving in the future according to the rules;
- Unequivocal statement of the consequences, if similar cases happen or similar behavior continues.

(Saarinen. 2015. P. 336).

In case the employer uses different types of warnings, for example rebuking, orders, note of complaints, verbal or written warnings), the employer needs to use them in a consistent manner and treating people the same way. In case the employer customarily gives a written warning before terminating the employment contract, prior verbal warning cannot be seen entitling the termination of the employment contract in subsequent instant (Kairinen et al. 2011. P 715).

### ***2.2.9.3 Hearing the employee***

After having considered whether the employee could be placed in other work but not found suitable existing position, the employer shall provide the employee with an opportunity to be heard concerning the grounds for termination (Employment Contracts Act 9:2. 2 §). By hearing the employee, the aim is to give the employee the possibility to give his opinion of the presented grounds and correct possible false information. The

parties may discuss of the underlying grounds, but it is not a negotiation where the justification of the grounds should be presented. (Nikkola et al. 2012. P. 195-196).

The employee is entitled to resort to an assistant when being heard. The assistant could be the elected union representative within the company or an external attorney. The employee should be given reasonable time for arranging his assistance. The employer is not in breach of the hearing obligation clauses, if the arranging of hearing is not possible due to circumstances or because of the employee (Saarinen. 2015. P. 380). The law only requires that employer reserves the time to be heard, but the employee does not need to come to the meeting, and the employer has no obligation to force him to come to the hearing (Nikkola et al. 2012. P. 195).

After the hearing, or after the time reserved for the hearing (and having considered whether other suitable work can be offered), the employer may make his decision independently just by simply concluding that the employee has been reserved the time to be heard or that the employee has been heard (Nikkola et al. 2012. P. 196).

#### **2.2.9.4 Requirement to offer other work**

After having heard the employee, the employer is obligated to consider whether the employer has other work, which it could offer to the employee instead of terminating the employment contract. *“The employer shall find out whether it is possible to avoid the dismissal by placing the employee in other work”*. (Employment Contracts Act 7:2. 4 §). This requirement concerns also when terminating the employment relationship based on individual grounds (Kairinen et al. 2011. P. 707).

#### **2.2.9.5 Rights of the employee**

The obligations of the employer are at the same time rights of the employee, also when terminating the employment contract. Even if the employer has the right to direction (2.2.7) and the right to employ and dismiss employees, this right is restricted by the terms of the employment relationship, peremptory provisions and semi-dispositive legislation which is to protect the employees, and also possibly by the collective agreements (see 2.2.1). Only within these boundaries may the employer use its authority. The employer may not use its direction right in a way that it would breach the Employment Contracts Act 2:2, or the terms set out in the Act on Equality between Women and Men, or in the Non-Discrimination Act, or the act against the equal treatment obligation



(2.2.3). The order of employer may not be against the law or good manners (Tiitinen et al. 2012. 322-323). These same principles apply when terminating employment.

In the employment literature, one sign of employee's direction right is so called interpretation priority right. This right gives the employer the right to decide how the employment legislation, collective agreement or employment contract is to be interpreted until the possible dispute is otherwise solved in court. (Saarinen. 2015. P. 155). However, this right cannot be used for forcing the employee as "the weaker party to the agreement" to give up its rights set in the legislation (Tiitinen et al. 2012. P. 324-325).

The legal praxis has shown, that the employer has towards to employee so called loyalty obligation, which is derived from the contract law. This means, that the parties to an agreement take, to the extent possible, the important interests of the other party into consideration. In situations of terminating the employment contract, this loyalty obligation sets the duty to the employer to take reasonable means, for example considering to transfer the employee to another position in order to avoid the dismissal (Tiitinen et al. 2012. P. 498).

In case the employment contract is terminated by the employer on individual grounds, there needs to be the proper and weighty reason (Employment Contracts Act 7:1 §), which may not be one of the reasons stated in the Employment Contracts Act 7:2§ 2 mom. The reason may not breach employment laws or other provisions, and the employer may not be discriminative or act against its obligation of equal treatment in this particular dismissal. The employer needs to take into consideration the established practice in the working place and in this particular relationship, and the company policies and guidelines (2.2.6) and therefore, it is the right of the employee to demand similar treatment.

Similarly, when the employment is terminated on individual grounds, it is the right of the employee to have the possibility to state his view concerning the grounds for termination (Employment Contracts Act 9:2. 2 §) and he has the right to use assistance in that hearing meeting (see Chapter 2.2.10.4). Deriving from the employer's loyalty obligation and from the Employment Contracts Act 7:2 § 4 mom, the employer shall find out whether it could avoid the termination of employment contract by placing the employee into another position. Employee shall primarily be offered work that is equivalent to

that defined in their employment contract, or if such work is not available, other work equivalent to his training, professional skill or experience (Employment Contracts Act 7:4 §).

It is to be specifically noted, that it is the right of the employee to receive a warning prior to the termination of the employment contract (the Employment Contracts Act 7:2 § 3 mom), so that the employee can change his behavior and avoid possible later dismissal. A warning is required in other cases, but when it would be considered unreasonable from the employer to continue the employment relationship (Employment Contracts Act 7:2 § 5 mom).

### **2.2.10 Underperformance as the termination ground**

Underperformance in the legal literature means, that the employee is not giving his full work contribution, but the results are either not quantitatively sufficient, or qualitatively satisfactory, in a situation where the employee is not actually neglecting his work duties or acting against given instructions (Koskinen et al. 2012. P. 91). When entering into employment contract, employer has the right to expect sufficient activity from the employee (TT 1994 – 12, Kairinen et al. 2011. P. 728).

TT 2001-43. The work performance of an accounts payable clerk was substantially below the level, what the employer could reasonably expect, even after having been given warnings and notifications. Taking all circumstances into consideration, the employer had grounds to offer him his previous position and after he had refused to accept it, to terminate the employment contract.

Finnish employment legislation does not recognize the term “underperformance” or underperformance, but it needs to be contemplated from the perspective of possible neglect of work duties. According to the general contracting law principles, inadequate work performance is partial performance, for which receipt the creditor may refuse (Kairinen et al. 2011. P. 728). Work is however, constant human performance, which cannot always be expected to be flawless in every circumstance. The performance is expected to be diligent and to a certain extent: prompt. The fact, that employee’s work is not proceeding fast enough or that the employee cannot make satisfactory results, can

be ground for terminating the employment contract. The results or lacking of reaching the targets must be seen as the employee's fault or omission (Kairinen et al. 2011. P. 728).

When evaluating the underperformance as a ground for terminating the employment contract, the employer must notify whether the employee has been aware of the set targets or expectations. In case the employee is not aware of the set targets or expected results, the employer cannot argue underperformance as the ground for termination. In addition, when evaluating the underperformance as a proper and weighty ground for terminating the employment contract, the level and duration of the defect or omission need to be assessed. Weight shall be given to the employer's knowledge of the employee's skills and the employer's attitude towards that and to the employee's professional development in relation to the premises set out in the employment contract, to the set targets and their reasonability and the employee's consent to such targets. Also, the position of the employee, possible warnings given prior to the situation and the possible change in the employee's behavior after the receipt of a warning are given emphasis (Kairinen et al. 2011. P. 730).

When evaluating underperformance, specific consideration needs to be given to the assessment whether the performance is below the expectations in essential parts. If the work results are not adequate only in a lesser extent, the lack of results or omission cannot be considered as proper and weighty ground for termination of employment (Kairinen et al. 2011. P. 730). When evaluating the essentiality of the underperformance, the employer needs to consider the amount of the non-performed work in relation of the total workload of the employee, for example the total scope of work or actual efficient working time. As stated earlier, the performance can be evaluated by comparing to employees in similar positions. This requires, however, that such employees have same preconditions to succeeding in achieving the set targets or expectations in terms of having similar work load, similar kind of clientele, customer base or size of working area and same kind of practical experience.

Also, employer needs to ensure, that the employee has the skills and experience needed in job when employing him. Later on, the employer cannot successfully argue that the employee has not had such skills and experience if that could have been found out dur-

ing the trial period. The purpose of the trial period used and agreed in the beginning of the employment relationship is for the employer to test the employees suitability to the work which has been planned for him (and for the employee whether the work offered to him is such that he wants to do) (Kairinen et al. 2011. P. 158).

The reasonability or fairness of set targets or expectations compared to the employees skills and capabilities are also in key position in assessing the termination grounds in underperformance cases. The employer may have given a too short dead line for certain performance, or too demanding tasks when taking into consideration for example the age or shortage of experience of the employee. Proper and weighty ground for termination could possibly exist, if the employer has offered relevant training and guidance to the employee or otherwise tried to positively find ways to improve the performance, but despite that, the performance of the employee in question has not improved. (Kairinen et al. 2011. P. 730). It is to be noted, that the employer has the responsibility to offer necessary training and relevant orientation or guidance to the work duties defined in the employment contract, if the professional skills of the employee derogate on the course of the employment. “The employer shall provide the employee with training required by new work duties that can be deemed feasible and reasonable from the point of view by both the employer and employee” (Employment Contracts Act 7:4 §, 2 mom). If the employee refuses the training or guidance without reason, the employer may have proper and weighty reason to terminate the employment contract (Kairinen et al. 2011. P. 727).

### **3 EMPIRICAL RESEARCH**

#### **3.1 Interviews**

With the motivation and the main research question, the author approached six line managers. The author wanted to ensure that the informants have enough knowledge on human resources management, that they have enough experience in being a line manager, in order to receive as much information as possible to her research questions. Therefore the line managers were chosen from her network. The informants work for different size of companies and have experienced situations where underperformance has

been an issue in either their own team, or in a team of their subordinate. The questions were constructed so that the informants were able to describe the underperformance cases they had experienced, how they had felt in the situation, how they solved the situation and what kind of assistance, if any, they would like to have in similar situations in the future.

The interviews were conducted in early November 2016. The details of the informants and interview lengths are explained below, and the content of the interviews, the transcripts are set out in writing in Appendix 1. All interviews were kept in a quiet room and they were recorded. The interviews were face-to-face interviews, based on the same question template defined by the author.

- Informant A. She is 59 years old. She has been a direct line manager in research function in her past, but not currently in manager position. She is still working for the same employer, a global Finnish medium sized enterprise.

Interview took place on 7.11, 11.40-12.10

Duration: 21 minutes.

- Informant B. 32 years old, 2 direct reports. Her team deals with materials and packages. She is employed by a global Finnish medium sized enterprise.

Interview took place on 7.11.2016, 13.35 – 14.00,

Duration 14 minutes.

- Informant C: He is 44 years old and leading a partnering and marketing events team of six, employed by a global Finnish medium sized enterprise.

Interview took place on 7.11. 14.50 – 15.30

Duration: 14 min.

- Informant D. She is 35 years old, leading a sales team consisting of seven persons, employed by a global Finnish medium sized enterprise.

Interview took place on 7.11.2016, 15.40 -16.00

Duration: 11,13 minutes.

- Informant E. She is a 45 year old experienced leader, who used to be the CEO for a medium sized Finnish enterprise. Currently she has no reports.

Interview took place on 7.11.2016, 20.20 – 20.50

Duration: 18 minutes.

- Informant E. He is a 47 year old experienced team leader in multinational company. At the moment he has five direct reports.

Interview took place on 7.11.2016, 21.10 – 21.30

Duration: 10,46 minutes.

As the research involved interaction with informants the author explained to the informants in advance, that the autonomy of informants is respected and that neither their names nor the companies they worked for are disclosed. This way there will not be data protection issues or questions regarding confidential information disclosures. The author specifically told, that no names of the underperforming persons should be disclosed. Autonomy of informants included, that participation in the research was voluntary and based on the informants informed specific consent, which was given by all the informants in writing (electronic mail), or verbally on the telephone, in advance in all cases.

The informants were given information about this research project in advance. The informants got to know the author's motivation for the research topic, the author's main question for this Master's Thesis in advance and a short description of the literature, and therefore knew what matters would be dealt with in the interview. They were told that the interview will be conducted in a form of open interview, which the author would record and further make a transcript of and the authors estimation of how long the interview is expected to take.

In order to receive as much information as possible, the interviews were conducted in Finnish, because of it being the native language of all the informants and of the author. Also, due to the delicate subject and specific vocabulary, it was the best choice as the informants were able to speak more freely.

## 3.2 Interview questions

This part briefly illustrates the reasons behind the chosen questions and the questions themselves. The questions relate to the tools and underperformance and the process of terminating the employment contract based on individual grounds, because the author wanted to find out the level of knowledge of the managers about the issue and whether they were aware of proper processes. Specifically, the author wanted to know what kind of tools the managers would find useful in managing performance issues.

- 1) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?  
How would you define "underperformance" in conducting work duties?
- 2) Kerro tilanteesta jossa katsoit että alaisesi on aikaansaamaton / jos sinulla olisi alainen, jonka suoritusta pidät riittämättömänä, miten toimisit?  
Describe a situation, where you consider, that your subordinate was not performing up to the expectations/ if you had a subordinate, whose performance you think is inadequate. How would you act?
- 3) Miten puutuit/puuttuisit tilanteeseen?  
How did you intervene in the situation / how would you intervene in the situation?
- 4) Hoiditko tilanteen itse, vai saitko apua muualta? Jos sait apua niin keneltä ja minkälaista apua sait?  
Did you manage the situation yourself, or did you get help from somewhere? If you got help, from whom and what kind of help?
- 5) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?  
What kind of assistance or help you would like to have in similar cases?
- 6) Minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?  
What kind of human resources tool you would see beneficial when intervening to underperformance situations?

- 7) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?  
How important do you consider Job Description is the performance management?
- 8) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?  
How important you consider setting the objectives and their follow-up in performance management?
- 9) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?  
How important you consider giving Feedback in performance management?
- 10) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?  
How important do you consider orientation to the work and the specific guidance of the line manager in the performance management?
- 11) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?  
In your opinion, when could underperformance be seen as underlying reason to terminating the employment relationship?
- 12) Jos tällainen tilanne olisi käsillä, miten toimisit?  
In case this was the situation, how would you act?
- 13) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?  
How well do you know the employment legislation when the termination of employment relationship is based on individual grounds?
- 14) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?  
Do you consider needing help or guidance in situations where you need to terminate the employment relationship? If so, relating to what?
- 15) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit? Ovatko ne mielestäsi hyödyllisiä?  
Do you know the practices and processes relating to the personnel in your company? In your opinion, are the useful?



16) Miten parantaisit niitä?

How would you make them better?

## 4 RESULTS OF THE EMPIRICAL RESEARCH

This Chapter 4 will present the results of the concluded interviews. Some of the interview questions were overlapping and the author will only present the relevant findings from the empirical research. As a short summary, the informants had quite clear idea of what can be considered as underperformance. All of the informants had pretty clear understanding, that development discussion, communication (explaining properly the expectations and timetables to the subordinate) and giving adequate feedback are proper ways of addressing underperformance issues. Most of the informants found human resource's guidelines, templates and general assistance of how to conduct these performance related discussions very useful, as underperformance issue was found very delicate and challenging managerial issue. Also the legal issues in dealing with underperformance of a subordinate were the concern of the informants.

In detail, the summary of relevant interview questions is below:

All of the informants concluded, that intervening into underperformance issue should be dealt by the line manager (6/6), possibly with help of human resources guidelines (2/6), or instructions received from a colleague, who has been in a similar situation (2/6)

Five informants mainly defined underperformance that the employee does not reach the agreed or set targets (5/6). Four informants specifically mentioned that the employee does not meet the deadlines (4/6). One informant added, that underperformance is in question also when the employee "*does not produce anything new in addition to agreed objective*" (1/6) and one explained that the employee is not working in the level he could but "[the employer] *needs to settle to worse performance*" (1/6).

All of the informants were of the opinion, that intervention by having a discussion about perceived underperformance situation, where the employee seemed not being able to reaching the targets was inevitable. The informants had conducted such discussions by ensuring, that the employee had properly understood the objectives (3/6), and they were trying to find out the reasons behind the perceived underperformance (3/6), and by re-

setting short-term objectives with clear checking points with the manager (2/6). Four informants explained that they were also trying to find out whether the employee's skills and capabilities were in such level, that they could reach the objectives (4/6).

All of the informants had dealt the underperformance issue of their subordinate themselves (6/6). For assistance, the informants felt that they would need help from legal perspective (either from legal counsel or from capable human resources person) (2/6); from human resources (3/6); from their own managers (3/6); from colleagues or from managers who are in same organizational level (2/6).

To the question (6): "What kind of human resources tools you would find beneficial in intervening underperformance issues?" the informants had various answers. One informant would find overall awareness creation of the importance of performance management by means of human resources guidance or presentation (1/6). Four informants stated that a proper performance management system would be beneficial (4/6), and objective setting tool was mentioned specifically by three managers (3/6). One informant mentioned, that legal guidelines would be beneficial (1/6) and one mentioned, that a specific performance improvement process would be good (1/6). Also, one mentioned that information of colleagues from similar cases would be good, in order for the manager being able to judge his own objective setting level (1/6).

The informants felt, that job description is an important tool in the beginning of the employment (3/6). Two informants stated, that job description is very important (in general) (2/6). A very interesting view mentioned by two informants was, that they found rigid job descriptions being a hinder to day-to-day operations.

All of the informants felt, that setting objectives was very important or important tool in managing performance of the employees (6/6). One informant highlighted, that she would like to have peer support in setting objectives in order to evaluate whether the set objectives are reachable and if the set time lines are reasonable (1/6).

All of the informants felt, that giving feedback was important, very important or essential in performance management (6/6).

Four informants stated that they consider that proper orientation is of importance when employee begins in a new position (4/6). One informant explained, that the need of ori-

entation depends of the employee's experience (1/6) and one informant stated, that only introduction in general issues at the beginning of employment is needed (1/6). One informant stated that he also would like to have better orientation and training when acting as a manager (1/6).

All of the informants felt, that underperformance could be seen as reason to terminating the employment, if it is continuous or occurs often, or if it hinders the reaching of company's objectives (6/6). One informant added, that if one employee is not performing up to the expectations, it is also affecting negatively to the performance of the whole team, and therefore, as such, already a proper cause for terminating the employment.

Most of the informants did not have good knowledge on employment legislation. One stated that he personally has good knowledge, but he also stated that in his managerial work, he considered that he would need help mostly in legal issues – from human resources management, when dealing with terminating the employment contract: Four informants stated, that they do not know the employment legislation well enough, and that they would need help in terminating the employment contract of an employee based on underperformance (4/6). Two informants felt, that they know employment legislation quite well, but would still need the help of human resources and/or legal counsel in this matter. As a conclusion, all informants would use the help in terminating the employment contact based on underperformance issue (6/6).

Five informants named, that they would specifically need legal assistance in terminating the employment contact based on underperformance issue (5/6). One informant stated, that he would appreciate clear guidelines how to handle these kinds of situations (1/6).

Three informants stated that it would be specifically beneficial to have more training and/or guidance to the managers (3/6). Relating to the topic of this research, it was mentioned, that the development discussion forms should be more simple and easier to use, and orientation should be also given to the persons starting in managerial role within a company. One informant concluded that it would be of essence that within a company, there should be a constant on-going dialogue to keep the human resources processes up-to-date.

One informant brought up that company's established practices are something that a manager should note, when acting in the organization (Informant D, in answering question 10).

Throughout the Chapter 5 there are added abstracts from the interviews. They are written in *italic*.

## **5 DISCUSSION OF FINDINGS**

### **5.1 Performance management tools and performance**

As found out in the legal theory part (2.2), employer's expectations to the employee are set out most clearly in the employment contract: *what*, *where* and *when* the employee should be performing. The most important part in the employment agreement is *what* the employee will be doing for the employer, the main tasks. It defines the responsibilities in larger perspective, in which function the employee is working, be it then human resources, logistics, sales, or something else, and in addition, the role in the function and the title, which then enables further interpretation of the job duties. Employment contract lays the foundation to the work what the employee should be doing, unless there are reasons to believe, that the content of work has been changed due to the practice or over the time. In case there is a defined title, it also gives an indication *how* the employee should be performing. For example, a more thorough work results can be expected from a senior level person, than from a junior (e.g. Senior Manager versus Junior Manager). It is to be noted here, that in the interview questions, there were no specific question regarding the importance of the employment agreement, but nevertheless, the informants did not mention spontaneously that either.

Almost all informants found that proper job description, objective setting and evaluation as well as feedback were of importance in performance management. As the study found out, it is of utmost importance that the job descriptions of all employees are current and up-dated as it forms the basis of evaluating how employee is performing and what he should be doing and it is a crucial part of manager's responsibilities to keep the job descriptions updated. The empirical study proved that the informants valued the job description, if it is current and updated, to form important part in setting the employer

expectations. Job description is tool that acts as a further agreement between a manager and an employee, complementing the employment agreement about the job duties, responsibilities and the scope of the position. It is of utmost importance that the job descriptions of all employees are current and up-dated as it forms the basis of evaluating how employee is performing and what he should be doing.

*“I hold Job Description as really important, as it defines clearly the employee’s duties and different tasks, if it is well written.”*

*- Informant B-*

*“Job Description is usually made when an employee comes to service, or it is not updated very frequently, I think this is quite normal. The parties have agreed in it, why the person has been recruited. But it is quite stiff and should be more flexible than other tools and it should be perceived as part of the wholeness more frequently, so it should not be ‘carved to the stone’ but it should be able to build the objectives and describe them. Yes.”*

*- Informant A-*

*“Of my opinion, job description –type of definition is quite challenging. I think, that, it is a very good tool when recruiting but then it should be actively updating because in companies, specifically in small and medium sized companies, are many tasks happening in various situations and they need to be on the responsibility of someone. And because of that, I have experienced, these kind of job definitions may be lacking behind and it may be challenging to work with them. If that, of course, are well kept updated, then it is good, but there is a small kind of in definition, small kind of challenge in following the achieving results.”*

*- Informant E-*

Job description then describes the in more detail most important outcomes expected from an employee performing a particular job and it is therefore closely linked to employee’s performance. In addition to employment contract, job description is the most important single factor in defining *what* the employee should be doing. It forms the basis for the evaluation *how* the employee’s performance in his job and describes *what* he

is supposed to be doing. In creating the job description in the first hand, the employer needs to evaluate which skills and competencies are needed in order to succeed in the position, in which the employer can use the list provided by Salminen (picture 3). In addition, when performance is defined for an employee, it is important to include in detail all the activities the performer is expected to undertake, as well as the results he is expected to achieve. Skills, competencies and such activities the performer is then expected to perform are then described in job description of each position within the company.

In performance management system, as explained in 2.1.3, job description has therefore large meaning: Job description is defining and clarifying for the employee *what* constitutes his performance, provides the context for his performance and also sets expectation *what* the performance should look like.

In case the employer has written a profound job description where skills, capabilities and competencies are identified (see chapter 2.1.3), those are defining, and setting expectation *how* the employee should be performing and *what* level results are expected from the employee performing the work.

As most important performance management tool the informants found giving the feedback.

Interviewer: *“How important you consider the giving of feedback in leading the performance?”*

Informant: *“Well this is of the essence”. I have been in a situation, where it has been on-going for years, that the underperformance of the employees had not been intervened before I came to the company and I noticed, that in such situation, sort of like the setting the objectives and again, and then the intervention to the performance is awfully difficult because of the sort of accepted performance to which can be referred after quite a long time. So in that respect, giving the feedback and follow-up of that is, in every organization, should be taken into use immediately as a strong custom. This is also an issue, that many managers should need support. I have also seen in many companies, that maybe only in Finland– or is it only something that I have faced only, but for many people it is*

*really difficult to intervene, when there is employee underperformance at hands. That rather is left done and [manager] keep sort of hoping that that person should understand to escape, but this does not happen if there is no intervention.”*

*- Informant E-*

*“I think that giving feedback is utmost important and it should be given enough often.”*

*- Informant F-*

*“I consider feedback as very important tool and on the other hand, working as vice versa. But yes, extremely important tool and as such, surely helping that productivity will grow in the future.”*

*- Informant B-*

Reflecting the informants' views to the performance management theory, the employee performance is then evaluated by the managers formally in the development discussions, when evaluating the reaching of the set objectives and in performance appraisal, in which the manager and employee are discussing of how the employee is performing. Then the appraisal concentrates on *how* the employee performs or behaves. In the concept of performance management and guiding the employee towards the right direction, the manager needs to ensure, that the employee has understood manager's feedback at the same way the manager has intended. In addition, evaluation can be done in informal situations, when the manager is giving feedback. As found in the interviews also, timely given corrective feedback is of importance, as in a long term, when unwanted performance is allowed to continue and accepted, this may be considered as company established practice which makes it more difficult for later corrective intervention.

As important as the feedback, the informants valued setting the objectives. Setting the objectives is answering to *what* the employee should be doing and where to concentrate.

*“Specifically, when sales work is in question, the objective setting has utmost importance. In sales work, the achieved results, meaning the sales, is more important than how much time is used in making it.”*

- Informant E-

“[Objective setting is] *very important, because the objectives define in principle the results of the work, and the time tables, and keeps working to the right direction, so they help in prioritization.*”

- Informant B-

In evaluating the achievement of objectives, the employer and employee are finally talking of the employee's performance. *What* has been achieved and *how*, but also, what has not been achieved and why. This is the formal situation, where manager can give also negative feedback and let the employee know, that the employer is expecting more from the employee in his position, with his experience, education, skills and capabilities. The experience level was also mentioned in the interviews:

*“The intervening to situation depends of whether the employee in question is a chief or just an ordinary performing employee” ...*

- Informant E-

In employee appraisal, in a formal feedback meeting, the manager and employee typically discuss of the employee's productivity, professionalism, attitude and performance at work – again, mainly of *how* the employee is performing. It may consist of evaluating the skills, competencies and such activities the performer is expected to perform or the evaluation the successfulness of prior set objectives. This meeting is also informative for the employee; for the employer, in case of negative appraisal, this may have again importance later on as evidence of the employer giving information of unsatisfactory performance. For the purposes of this research, the “*how* the employee is performing” -questions are the most meaningful ones.

As stated in chapter 2.1.2, employee's performance is affected by the education and previous experience of the employee, his attitude, points of interest, motivation and the guidance and training related to his current position as reflected to his skills, knowledge and abilities. Also outside factors like the quality of given instructions and guidance, co-workers and tools affect to the employee's performance as well as the assignment given by the manager or the goals set by the manager. To my big surprise, the informants placed great value on general orientation when a new person is beginning in the compa-



ny, or when a new employee is returning from longer leave or moving to other position. This is an issue, that companies, with human resources function, should pay better attention.

*“...in many companies the orientation is lacking important things so that in the orientation should be taken care of that the support network of the employee is well defined and, that, when employee has challenges there is information, whom he can contact and who can help him to continue further.”*

*- Informant C-*

*“I have experience from specialist organization and I feel that all employees coming should have certain skills when they come to this position. And this need for guidance cannot be very big, as the manager has other things than supervising only one employee and the tasks should develop the employee. And this should be employee’s source of demand when needed. But in general I see, that general orientation is enough and to the team of course and this is created be working. We cannot hold their hands but we need to perform.”*

*- Informant A-*

Employer has the obligation under the Employment Contracts Act 2:1 § to ensure, that the employees are able “carry out their work even when the enterprise’s operations, the work to be carried out or the work methods are changed or developed”. This means, that the employees are to be given adequate and appropriate orientation, guidance, training and instructions, when they begin their career at the employer, or when there are changes in the work duties. This was also reflected in informants’ answers: Four informants explained that they were also trying to find out whether the employee’s skills and capabilities were in such level, that they could reach the objectives (4/6).

The underlying reasons for underperformance are various and vary from case by case. As referred by two informants, one suspected reason for underperformance is that the employee does not know what the employer is expecting from him. Maybe the feedback given has not been clear enough and the employee has not understood the expectations; the communication is not working between the manager and his subordinate.

*“[When intervening to underperformance,] ... I would ensure that the message of the expectations has gone through to the employee...”*

*- Informant A-*

*“I would clarify if the task has been understood or if there has been a problem in the assignment, if it is missing something and I would start from my perspective...”*

*- Informant B-*

*“I would ensure that the given instructions were understood and clear enough and I would go the objectives through one more time and the related time tables”.*

*- Informant D-*

Job description or objectives are not clear enough or are not set at all, or the feedback of the employer of work well done is missing or unclear, or he has not been told that the performance is not in the expected level. This indicates that the informants are aware of the importance of performance management tools and or their proper use. Also, perceived underperformance may also be an indication, that the employee has not been given a proper orientation of the job.

These informants' comments above are also closely linked to the communication and feedback. It may well be, that the manager has not been clear enough when setting the objectives and expectation levels and in giving feedback. Reflecting to the legal theory part, the employee may be lacking professional skills or expertise needed in succeeding in the position. By providing adequate orientation to the company and organization, and explaining properly the position demands, the employer shall have the best possibilities to evaluate the feasibility of the employee to the specific position already during the trial period. The importance of orientation was also seen as important factor by the informants and it was considered that proper orientation is of importance when employee begins in a new position. The amount and content of training and orientation are of importance in defining what is adequate training or orientation for a new employee, or when job duties are changed.

In a bit larger perspective, the company culture may be the underlying reason for perceived underperformance, as explained in 2.2.1. Does the company working culture allow underperformance or there is general acceptance of low morale in the workplace? Has that become company's, function's or team's established practice? Is underperformance an achieved benefit? When to interfere? This issue was referred to in one of informant's comments:

*“...this was sort of accepted practice and to that can be referred very long time [in a company]...”*

*- Informant E-*

When the acceptance of underperformance is continuing long, it may be interpreted as established practice in the employment relationship as explained in Chapter 2.2.6.

As the interview results show, perceived underperformance of an employee is a situation which should be dealt in the first hand by the direct line manager, either with the support of the manager in line or a colleague, or using help from the human resources. This finding is generally backed from information deriving from picture 5 (2.1.4) and from the whole theory of performance management, as it is the duty of the line manager to ensure the productivity of his team.

## **5.2 Underperformance as a proper and weighty reason**

Employment contract can be terminated due to the employee's person if there is proper and weighty reason. The evaluation of the existence of proper and weighty reason is comprehensive overall evaluation and in addition to evaluating all circumstances, the employer needs to take into consideration also the underlying principles in the employment legislation, for example the principle of permanent employment and the protection of the employee, and other legislation affecting the employment relationship.

Based on the interviews, the informants had a clear idea what is expected from an employee, and what can therefore be constituted as an acceptable performance. The informants had also quite clear idea of what is underperformance is and how it could be approached by the means of performance management.

[Underperformance is] *“slowness or maybe also sort of vague, meaning things do not get ready on time and other thing is, that do not get wanted results and it is due that the employee has probably understood it wrong what has been meant”*

*- Informant A-*

*“I would describe it so that the agreed time tables are not reached, and that tasks do not get done: the working time is used to something else or simply, one challenge is frankly that one can be extremely slow in performing job duties, because there are many differences in personalities.”*

*- Informant E-*

*“When there are set objectives, and the person responsible for them cannot reach them, and if the objectives are reasonable, or acting considerably out of the level compared to similar employees, then I perceive, that there is a question of underperformance.”*

*- Informant E-*

Even if the informants had a clear idea of what constitutes as underperformance, in the employment legislation, a bare underperformance of the employee is not normally considered as proper and weighty reason for terminating the employment contract, which as such would be considered as termination reason. However, the informants did find, that underperformance could be used as a termination reason.

*“ I see, that [underperformance] should clearly be one criteria which could be reason for terminating the employment relationship, as, if considering the well-being of the whole personnel it is totally wrong towards all other employees if one person can only be and be as a burden in organization. At this moment, there are very few organizations who can keep free-riders... ...and if there are deviations [from performance in general] this should be always a reason for terminating the employment contract” ...*

*- Informant E-*

The Employments Contracts Act obligates the employer to treat all personnel equally. This is to be remembered, if company has an established practice in certain area: great meaning need to be given to company's established practices: in principle, all employees need to be treated equally, also then when pondering all of the above questions. Same value needs to be given from time to time in substantially similar cases, let alone when talking about established processes. As set in the legislation, the equality needs to be taken into consideration in all phases of employment. Equal treatment of personnel needs to be taken into account leadership and manager work and the workplace practices need to be consistent in comparable situations. This applies also in cases of dealing with and evaluating individual underperformance and all managers need to follow the same criteria when evaluating what is considered as underperformance and how to deal with it. Employer is responsible of the fulfillment employee's rights generally belongs to the normal human resources practices. This means also the responsibility to supervise the rules, regulations and practices at workplace and the correctness of them and their applicability, as well as to react promptly and efficiently. This also sets the obligation to managers to be aware of employment legislation and company practices, as the managers represent the employer in their organization.

As a conclusion of all of the above, employment court has ruled (TT 2014-104), that in considering the existence of proper and weighty reason in a certain case, overall evaluation needs to include all factors affecting in the case and the employee and the employee circumstances. When the underperformance is due to the fault or omission of the employee, it needs to be in general considered essential. The affecting factors are, for example, the reasonableness of the set objective, size of the deviation when compared to other employees, and the level and duration of the fault or omission. In addition, special features included in the contractual relationship and the warning given to the employee is to be included in to the overall assessment.

### **5.3 Equal treatment requirement**

As set in the legislation, the equality needs to be taken into consideration in all phases of employment. Equal treatment of personnel needs to be taken into account leadership and manager work and the workplace practices need to be consistent in comparable sit-

uations. This applies also in cases of dealing with and evaluating individual performance and underperformance. Only one informant raised this issue in the interview.

*“...that in such situation, sort of like the setting the objectives and again, and then the intervention to the performance is awfully difficult because of the **sort of accepted performance** to which can be referred after quite a long time...”*

*- Informant E-*

This also sets the obligation to managers to be aware of employment legislation and company's established practices, policies and guidelines, as the managers represent the employer in their organization.

*“Well, the biggest help would be, if from human resources side would be available, like sort of framework, for actions, like would kind of follow processes there should be for this kind of situations and with which models there are how to intervene. It would mean like, very concrete, practical guidelines, which take also opinion.”*

*- Informant E-*

## **5.4 Disciplinary process**

When asked from the informants how well they know the employment legislation relating to the termination of employment contract on personal grounds, most of the informants admitted that they do not know the legislation well enough and that they consider needing assistance in this.

*“Not very well. Full stop.”*

*- Informant B-*

*“I do not know well I have to say. So I do not know at all and I need help with this.”*

*- Informant A-*

*“I feel that I need help specifically how things can be done in straightforward way and taking the legal framework into consideration.”*

*- Informant E-*

The employment law gives clear rules how the employer needs to act, when terminating the employment agreement based on personal grounds. These rules; warning of the employee, hearing before dismissal and obligation to offer other work are given strong meaning in the employment law and in evaluation of the existence whether the employer has had “proper and weighty reason” for terminating the employment contract.

From legal perspective, the employer needs to give training and orientation to the employee (Chapter 2.2.5). This is valid also when a manager is handling underperformance issue after having given a warning to the employee. The proper process can be giving meaning in possible court case. Therefore, a process for performance improvement which guides the manager for properly instructing and guiding for employee could be established, as one of the informants concluded:

*“I know them [performance management processes] quite well and they support the managers in leading through difficult processes.”*

*- Informant F -*

## **6 HANDBOOK**

This Chapter is divided to this general part and nine sub-chapters consisting of outcomes of the research, which form a handbook for line managers dealing with underperformance issues. Evaluating underperformance (6.1) consists of further relevant questions for the employer when considering whether underperformance could be seen as proper and weighty reason. The subsequent sub-chapters 6.2 – 6.9 are model templates.

By using the templates underperformance issues can be properly dealt with, and necessary information and records of underperformance is saved in the company archives. The companies could modify the templates to best suit for their strategy and company culture, however, the termination letter and example of warning letter should be used without changes in its substance. Also the instructive models consist of necessary steps

taking the legal framework into consideration, so the author strongly recommends following them as stated. Following the guidelines and using the presented templates, the author believes that the aim of this research of creating cost-effective solution to managing underperformance issues without the need to involving external counsel for legal assistance or specific human resources personnel, is reached.

## **6.1 Evaluating underperformance**

What can be done in a situation where a subordinate does not perform up to the expectations of the manager and is seen in the eyes of the manager as underperforming the duties belonging to the subordinate's job? What can be considered as underperformance? When the employee's underperformance entitles the employee to terminate the employment contract? As a conclusion of this research, the author is approaching to answering those questions by setting more questions: what the employee is doing and how; and what he should be doing and how? In other words, is there a gap between employee's performance and employer's expectations? When the gap is considered as proper and weighty reason for terminating the employment relationship?

For an employer considering the termination of employee's employment contract, there are no clear guidance of when the termination is being considered legitimate, but instead, there a many assisting questions for evaluating the overall situation. By giving proper thought to each of them, employer can best ensure of acting in accordance to the legislation.

When evaluating the existence of proper and weighty reason, the employer needs to consider the level and duration of error. The fault or omission will need to be given importance, as well as employer's knowledge of employee's working condition and to employee's professional development in relation to the duties set out in the employment agreement. Employer also has to evaluate, whether the employee has had enough time for performing the set duties, taking also into consideration his other responsibilities? Also, how big part of employee's overall duties is being not performed? If only a minor part is left undone, that can hardly be seen as a proper and weighty reason, nor can it be considered as "essential". Also to be evaluated what is "normal performance". Guidance can be derived from the explained process of defining a proper job description as



described in Chapter 2.1.3: It's important to evaluate the top performers and the low performers in similar positions, where the performers can give the ideal state and what to emulate. However, the ideal performance to which the comparison is to be made, lays somewhere in the middle of a top performance and a low performance.

The commitment of the employee to the set objectives or performance level of the employee is to be given consideration. Has the employee committed in to the objectives in proper development discussion? Is it documented? Is it normal company practise?

Also the position of the employee in the organizational hierarchy is meaningful and to be taken into consideration by the employer; has the employee had realistic power or means to influence his own performance? These questions need to be evaluated in the light of employment contract: what the employee is hired to do and is he in a leading position. Again, what is stated in job description? Has the employee too many responsibilities?

One aspect to be considered is accountability. Employer needs to evaluate, whether the underperformance is due to the fault or omission of the employee, in other words: what are the reasons behind not achieving the objectives or results, or why the performance is not in expected level? Are they solely on the fault of employee, or have the circumstances changed beyond the control of the employee? These are to be evaluated from larger perspective, possibly taking into consideration, for example, the changes in market situation globally, in Finland, or in certain area.

Have the set objectives or expected performance been realistic and reasonable? Has the objectives been set according to SMART framework (2.1.5)? Are the metrics valid? If the objectives are in a level, that other employees have not reached them either, the fact that an employee has not reached his objectives cannot be seen as realistic and reasonable. Have objectives or expected performance been adjusted to the position of the employee and has the employee had possibility to impact on them? Does the employee have the needed skills and capabilities in reaching them, or have the objectives or expected performance been set for a more experienced person? What is the correlation of the skills and capabilities of the employee and the objectives or expected performance?

How about employer fulfilling its duty to give adequate orientation and training to employee? What kind of orientation or training has been given? Has the possibly given training been adequate and suitable in relation to the responsibilities or employees experience? What is the employer awareness of the situation? Orientation is being given meaning in the overall evaluation of having the right to terminate the employment contract. The orientation and instructions should be in a level, that when evaluating objectively, the employee should have been able to reach the set objectives or expected performance. It is also to be noted, that the working environment, used tools and programs are changing so rapidly that orientation and training may have stronger emphasis in the future.

How has the employer used its direction power in leading the performance? Has the manager communicated properly the set objectives or expected performance? Is the communication between manager and his subordinate working? Has the employee understood the expectations? Has the employer given proper tools, assistance and resources for successful performance?

Has the employee given his consent or otherwise accepted to reaching such objectives or expected performance? How has this been done? Have the objectives been set in writing? Does the process require acceptance by signing or by other means, of both parties? Have the objectives been set together?

When pondering the questions, the employer need to proportion its evaluation also the personality of the employee, his experience and other personal characteristics. Employer may compare the performance to other employees, but then special consideration is to be given whether the employees are in all means comparable, eg. evaluating their overall duties, position, age, experience, working areas etc. "have the employees the same possibilities to reaching the objectives or expected performance".

To the end, what can then be required from the employee and which part of the perceived underperformance can be construed being the fault of the employee? As concluded in 2.2.8, employee has the obligation to professional behavior while performing job duties. As the positions are so diverse, employee's skills, capabilities and expertise vary; the evaluation of adequate performance needs to be done always on a case by case basis. The same applies to the evaluation of what can be construed as such a big gap

between employer's expectations and employee's performance, that it is construed as proper and weighty reason for terminating the employment contract.

If, however, the employee is not performing to adequate level despite of all efforts taken by the employer, and the employer decides to terminate the employee's employment contract, legislation sets certain requirements to the process and defines, by legislation or by court practice, the framework within which the employer can act.

Specifically the author wants to highlight that for the purposes of possible court case, the employer should ensure, that all meaningful events, discussions and interventions should be documented in writing, and kept the same way as with other employees.

## 6.2 Model of job description

Job description is discussed in Chapter 2.1.3. In addition to most important outcomes of the position, responsibilities and scope, this template takes into consideration the role of the employee in the organization, the collective agreement applied to the employee and related to that, whether the travelling hours are compensated or not.

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Year 2017-2018		Date:
Company	Function	Department
Title of employee's position	Employee	Superior
Employee(s) to substitute for:	Substitute during absence:	<input type="checkbox"/> salaried employee <input type="checkbox"/> Senior salaried employee
Internal contacts	External contacts	<input type="checkbox"/> Superior position
Areas of responsibility:		
Main outcomes:		

Develop a job description to help you articulate the most important outcomes you need from an employee performing a particular job. Job description is a communication tool to tell coworkers where their job leaves off and the job of another employee starts. Job description tells an employee where his/her job fits within the overall team, function and the overall company and forms the basis of the candidate selection criteria, on-job training plans, objective setting and performance appraisal.

In the recruitment process, the goal of the recruitment is to find the brightest, most competent, flexible, reliable, multifaceted employees you can find. A job description helps your successful recruiting in several ways. A job description:

- causes the manager of the position and any other employees already performing the job to agree on the responsibilities and scope of the position,
- helps Human Resources know the knowledge, skills, education, experience, and capabilities you seek in your new employee,
- can be used in the recruitment advertisement and inform the candidates about the duties and responsibilities of the position for which they are applying,
- informs employees who are assisting with the interview process about the questions to ask candidates and what you seek in the new employee, and
- may protect you legally when you can demonstrate why the candidate selected for a position was your most qualified and best suited applicant.

Gather the appropriate people for the task. The manager to whom the position will report takes the lead in developing a job description, but other employees who are performing similar jobs can contribute to its development, too. Additionally, if the position is new and will relieve current employees of work load, they should be part of the discussion.

Perform a job analysis. You need as much data as possible to develop a job description. The job analysis may include:

- the job responsibilities of current employees,
- Internet research and sample job descriptions online or offline highlighting similar jobs,
- an analysis of the work duties, tasks, and responsibilities that need to be accomplished by the employee filling the position,
- articulation of the most important outcomes or contributions needed from the position.

Authority within responsibility area

Employee shall travel on the request of the employer in Finland and/or in other countries. With respect of the employee in question, the travelling hours, if travelling on free-time

- shall be compensated
- are included in the total salary.

### 6.3 Model for objective setting

Objective setting is discussed in Chapter 2.1.5. Setting objectives and evaluating the performance of the employee are important management and leadership tools. In the development discussion objectives are set for the coming year. The previous year's performance is also evaluated.

When a new employee is hired or an employee's job description changes essentially, new objectives must be set writing from the start date, preferably within a month from the beginning of new duties.

Basic information		
Company:	Function:	Department:
Title of the position:	Superior:	Name:
Define the objectives of the function, department and team that derive from the strategy of Company XX.		
Function		
Department		
Team		
Personal key objectives		
<p>Discuss and agree on meaningful, realistic and professional personal key objectives for the coming year. Involving the employee in objective setting helps to clarify what is expected from the employee and how his work will be measured and evaluated. Each objective should be linked to the employee's job description and should contribute strategically to the successful operations of the business. Therefore, take in to account the Company X's strategy and the coming year's plans, budget and objectives for the Functions/ Department/ Team in setting the objectives.</p> <p>The personal key objectives should be SMART:</p> <ol style="list-style-type: none"> <li>1) Specific: <ul style="list-style-type: none"> <li>- Precise and well-defined.</li> <li>- Clear.</li> <li>- Understandable for all.</li> </ul> </li> <li>2) Measurable: <ul style="list-style-type: none"> <li>- Evaluation method/scale.</li> <li>- What evidence is needed for confirmation?</li> <li>- What is the judgement?</li> </ul> </li> <li>3) Achievable: <ul style="list-style-type: none"> <li>- is the objective within employee's capacity and his responsibility area?</li> </ul> </li> </ol>		

- Are there sufficient resources available?
- Can the objective be completed at all?

4) Relevant:

- Is it possible to be completed by this employee?
- Is it relevant for business context?
- Does it fit for overall pattern of work?

5) Time bound:

- Is there a deadline?
- Is the deadline feasible?
- Is the timing correct?

Are there review dates?

Personal Key Objectives for year 2017 (to be set in Dec 2016)					Evaluation of the 2017 Personal Key Objectives (To be evaluated Dec 2017)	
Objective	Measurement/ Criteria for evaluation	Time scale	Evidence	Signatures	Achievement	Comments
Objective A						
Objective B						
Objective C						

## 6.4 Model for performance appraisal

Performance appraisal is discussed in Chapter 2.1.1. and in Chapter 2.1.6. In employee's performance appraisal the manager and employee typically discuss of the employee's productivity, professionalism, attitude and performance at work. In performance appraisal, the importance of communication and feedback is in key role. It is a tool for manager for discussions to let the employee know and understand what the expectations are for his performance and behavior are, specifically if change in performance is needed. Performance appraisal is used as aiding company's strategy formulation through providing information on employee skills and weaknesses, and strategy implementation by specifying what an employee needs to do to successfully implement a chosen strategy.

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Practical tips for the evaluation:

- Evaluate employee's productivity, professionalism, attitude and performance at work.
- Base your appraisal on observed performance during the appraisal period (the past year) and to the job description, not on what is expected in the future.
- Be objective. Eliminate personal prejudice and feelings of favoritism.
- Consider each performance area independently. Do not assume that excellence in one area implies excellence in all areas or that poor performance in one area implies poor performance in all areas.
- Consider various aspects of the employee's performance that you want to discuss with the employee. The appraisal process should serve as a stimulus for better communication between you and the employee.
- When you give a certain appraisal, argument with your justified reasoning. State clear and justified reasoning what is required for reaching the next level.
- Summarize the session and end on a positive note.

Evaluation scale:

**Level 4: Exceptional**

Performance consistently exceeds expectations at all time, without exception, in all essential areas of responsibility. All assignments/responsibilities are completed beyond the level of expectations and the quality of work is exceptional. Initiative and self-direction are characteristic to the performance. Job performance is at a level that far exceeds performance standards. Employees at this level are considered truly superior performers.

**Level 3: Meets expectations**

Performance consistently meets expectations in all essential areas of responsibility. The quality of work overall is very good and problems or errors are reported and corrected quickly and efficiently. Job performance may at times exceed what is reasonably expected from persons occupying their jobs.

**Level 2: Improvement needed**

Performance does not meet expectations in one or more essential areas of responsibility. Tasks may be significantly late or incomplete with serious or potentially serious consequences. A professional personal improvement plan to improve performance must be outlined including time schedule and monitoring of progress.

**Level 1: Unsatisfactory**



Performance is consistently below expectations. Work output is at all time low, regularly fails to meet required outcomes. Error rate is high requiring repetition of duty or completion by others. The employee may require constant supervision and show an indifference to areas of responsibility. Substantial improvement in job performance is required.

	Level at the moment	Needed level (3 or 4)	Comments
Productivity; Reaches objectives	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Use of time; Ability to prioritize	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Use of time; Meets deadlines	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Quality of work; Work is error free, thorough, correct and statistically accurate	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Knowledge and skills; Has clear understanding of the job	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Knowledge and skills; Adapts information and procedures to new tasks	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Motivation; Willingness to learn new skills and capabilities	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Attitude; Displays commitment to performing work	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Attitude; Seeks ways to make things more effectively	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Attitude; Is pro-active and originates action	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		
Collaboration; Co-operates well in teams and demonstrates responsible behavior	<input type="checkbox"/> Exceptional <input type="checkbox"/> Meets expectations <input type="checkbox"/> Improvement needed <input type="checkbox"/> Unsatisfactory		

Feedback from the employee to the manager: state managerial strengths and areas for improvement

1.	
2.	
3.	

## **6.5 Guidance for the managers to intervene underperformance and warning process**

The purpose of this document is to describe how underperformance in work should be addressed and how warnings for underperformance are delivered in this Company X and thus ensure that all the employees in Company X are treated equally in cases of underperformance.

### **General.**

An employee who has unsatisfactory performance or who has neglected his or her duties at work has other ways misbehaved at work, may be given a warning. The legislation may vary country by country. This document is based on the Finnish legislation.

In general, an employee should be given a warning or warnings (verbal and/or written) before he can be dismissed, unless the issue is serious misconduct. In addition, in order to be able to dismiss an employee based on prior warning, the warning must concern the same misconduct. To be noted, that employer has to follow the same warning process with all its employees, and treat the employees in comparable situations in same way.

A warning should be given in a very short time frame after the employer has become aware of the misconduct.

A warning serves in particular for the purpose of giving an employee relevant information about his or her misconduct that has led the employer to decide to give a warning, and also to give the employee a chance to respond and correct his behavior. As an important fact, it should be very clearly stated that a continuous similar misconduct may lead to other disciplinary means, and that the employer may also have the possibility to terminate the employment contract.

Company X way of serving warnings.

- Consider the nature of employee's unsatisfactory performance, negligence or misconduct. Only in very serious cases the employee can be dismissed without giving a warning first. Is it according to company practice to give a warning for a behavior with only a minor reprehensibility? Specifically, following issues needs to be given due consideration:

- Have the set targets been reasonable and comparable in relation to other employees?
  - Has the employee agreed to the given targets and how?
  - Has reaching the financial targets been within the possibilities to influence by the employee? Have the circumstances within the employer, or external circumstances, for example the competitive field changed? Has this affected?
  - Are the skills and knowledge of that particular employee in negative relation to the set tasks and normal speed of performance? Has the employer been aware of that when concluding the employment contract?
  - Has the employee been instructed and guided enough, has there been a proper orientation to the work duties?
  - Has the employer explained to the employee the flaws in the performance and the expectations of the employer by giving proper and understandable feedback?
- Contact your own manager (and human resources department) before delivering the warning. In addition, the function head needs to be informed in prior. Always remember that Company X employees must be treated equally and thus also when judging the degree of employee's reprehensible behaviour.
  - The warning should be given by the employee's direct manager.
  - Call the employee to a meeting, which should be held so that you won't be disturbed. Advise the employee of the nature of the meeting you are calling, so that he has the opportunity to collect his thoughts. Invite one witness to the meeting, preferably your own manager or the department head. This protects you in case the employee makes false claims about what occurred at the meeting. Keep minutes of meeting in every case.
    - Communicate the message in a consistent and straightforward manner;
    - Be clear and professional;
    - Explain what and when;
    - Listen and do not get defensive;

- Repeat the message if needed; and
  - Be ready for emotional reactions
- Be specific about the employee's work performance, behavior or misconduct. This should be a broad description, as too narrow a description will limit the capacity to escalate from the first warning to possible dismissal.
- The warning should be written, dated and signed by the relevant manager. The employee and his witness (or a labor union representative) should be offered a chance to sign the document. An employee may decline to sign the warning, in which case the employer witness signs the warning.
- The warning should state clearly that any repetition of the complaint of misconduct or poor performance may lead to his/her employment contract termination.
- Give the employee a copy of the warning. Send your copy of the warning to the human resources department for its archives and save a copy for yourself also.
- Prepare a personal improvement plan including the results you expect and deadline for the tasks. Evaluate, whether proper training is needed.
- Follow the progress stated the performance improvement plan in regular meetings, first weekly, then bi-weekly and monthly. Give feedback and guidance and instructions if needed.
- If the performance does not improve as expected, then prepare for dismissing the employee. Ensure, that the employee been given reasonable time to reach the objectives or achieve expected performance after having been given the warning.
- Arrange proper hearing before dismissing the employee and ensure, that the employee has had enough time to prepare for the meeting. Employee may use assistant in the hearing.
- Evaluate, whether the employee be offered other work as an alternative to the terminating the employment contract. If not, hand out the letter of notice (see model in 6.9).

## 6.6 Warning

The disciplinary process before terminating the employment contract starts by giving a warning to the employee. In case the employer does not properly warn the employee, the termination of employment contract may be seen as illegal or without proper and weighty reason, even if it can be evidenced, that the employee has been underperforming and not achieving reasonable results. The warning needs to be clear and include the threat of dismissal if the behavior or performance does not improve. It is to be noted, that a discussion, whether had in formal development discussion, or informally, referring to the needed improvement in performance, is not enough and is not considered as “warning” as stated in the Employment Contracts Act. The employee needs to fully understand, that employer is going to terminate his employment relationship, if the inadequate performance, improper behavior does not change. The giving of warning needs to be either witnessed or the receipt of the warning needs to be signed by the employee. In some cases, if required by the collective agreement, the warning needs to be given, in addition to the employee, also to the union representative.

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### Letter of Warning

[Insert date and place here]

[Insert name of employee here]

Further to the meeting held with you on *[insert date here]* at the *[insert location here]*, I confirm that this letter serves as an official warning.

The reason(s) for the warning is due to your unsatisfactory work performance. More specifically, during the meeting we discussed:

- *[detail the specific performance / misconduct that warrants the warning here – eg, failing to perform your specific work duties which resulted in serious delays in development of xxx..., etc].*

As was discussed, the Company X's expectations and standards in your work performance as *[add position of the employee]* are as follows:

- *[list all the expectations to the position to ensure the employee is fully aware of the areas of concern]*

**Optional** - *[If there have been previous warnings (either verbal, written, etc) or discussions relating to these matters that have been issued or have taken place in the past, list them in detail here – eg, you have been spoken to and officially warned on past occasions about similar conduct on xx.xx.xxxx / in MONTH/YEAR. List also in case the issue has been brought up in performance appraisal or in other occasion.]*

Company X expects that you will show an immediate and sustained improvement in the areas for which you have been warned. Should this not occur, further disciplinary action may result up to and possibly including the termination of your employment contract.

*[Date, place]*

---

*[Insert name of the manager here]*

*[Insert title of manager here]*

I have received this document on *[add date and place]*

---

*[Insert name here]*

*[Insert title here]*

The employee has refused to sign this document. Therefore, the delivery of this document to *[insert employee name here]* is witnessed hereby on *[add date and place]*

---

*[Insert name here]*

*[Insert title here]*

## 6.7 Personal improvement plan

In addition to giving the formal warning letter for underperformance in writing, the manager should keep proper discussion with the employee, although it is not as such required in the law. However, there need to be communication and the process of correcting behavior needs to be given a chance, as discussed in Chapter 2.2.9.2. It is also to be kept in mind that the employer is required to give proper training and orientation to the employee, as discussed in Chapter 2.1.7. Therefore, the author has constructed a “Personal Improvement Plan” to help the manager in following the employee’s performance after the warning. The discussion elements the manager needs to address are:

- a) the symptoms (evidence of poor performance);
- b) the expected situation (where the behaviour should be normally);
- c) the treatment (the specific actions required from employee to improve the situation);
- d) how to avoid a relapse (by providing opportunities of training and guidance by the manager);
- e) when the situation is to be assessed again.

The underlying reasons for the discussion are that the employee needs to be given true possibility to change his behavior: the employer needs to give adequate guidance and instruct the employee properly. In addition to that, there needs to be adequate time for making the needed change, which time period may vary from case by case.

After the employer has given warning, the manager should follow up the employee’s performance closely, and instruct and steer as needed. A good way to do this is to establish a formal performance improvement plan with clear time tables, during which time the employee can correct performance in the close supervision of the manager. The manager should summarize in writing for the employee the standards, results, quality or level and the expectations that must be attained. In accordance with the time tables, manager should follow the achieved results closely. If there is evidence that the employee cannot or will not improve his performance, the termination process can continue, keeping in mind the company’s established practices also, whether another warning



is needed, or if the company has followed in its practice of giving one formal warning only. However, it is to be noted, that the warning also ages: according to the legal literature, it can be seen, that a warning is valid for approximately one year and after that time, it may not, in principle, be considered any more being in force, although, it may be given meaning in the overall evaluation, even if being dating back to five years of time.

This model is an example, which is to be modified after what is to be followed. Also, a timeline for tasks should be agreed. This kind of template can be done after each follow up meeting, should there be new tasks to be followed.

### Personal Improvement Plan

The Parties have agreed to personal improvement plan, which aims to better performance and /or results of the employee XX, with the title of [*Senior Human Resources Manager*].

The parties agree, that the following performance shall be closely followed, and assessed as set out in this document. The parties agree time schedule for the performance reviews.

Skill	Current proficiency	Target proficiency	Development opportunity / means	Criteria for evaluation	Time scale	Evidence	Comments and evaluation
Employment legislation	In a level of beginner. Not professional for Sr HR Manager	Knowing the relevant employment laws and principles	University course "Principles of Employment Law" books referred by the manager (see list)	Having taken the course exam with a grade above 2. Having read the referred books.	Course: Spring 2017 Books: End of January 2017.	Passed exam, presentation material made out of book "X".	
Coaching skills	In a level of Specialist, HR: knows only the principles but not able to	Ability to confidently support the managers in their superior role.	Attend the internal Service Development Module "Coaching". Analyse	Completed course. Analysis done. Coaching	Course: Spring 2017. Analysis by June 30 <sup>th</sup> .	Passed course. The completion of analysis is followed on a monthly basis with	

	use in practise. Not in a level required by Sr HR Manager.		coaching needs of your function's managers. Prepare coaching sessions.	plans available with detailed schedules and needs.	2017.	superior.  Completed plans by June 30 <sup>th</sup> , 2017.	
Team leadership & managerial skills	Lacking confidence: not good in delegating tasks and monitoring progress	Confident leader with delegation and performance management skills	Course: "Leading and leadership" in Aalto Open university.  Keeping self-assessment diary of learning.	Course completed.  Team satisfaction evaluated by 360 evaluation	Course taken on January  By April 2017.	Passed course.  The 360 results shall show significant improvement in leadership skills. To be compared to previous 360 analysis  Analysis of self-assessment	

Agreed and signed on November 18th, 2016, by

\_\_\_\_\_  
XX

\_\_\_\_\_  
Manager of XX.

[one copy to XX and one copy to [HR/CEO/Manager] files]

## 6.8 Guidance for hearing and considering other options

Hearing the employee is discussed in Chapter 2.2.9.3 and other options in Chapter 2.2.9.4. According to Employment Contracts Act 9:2 § the employer has to reserve time for the employee to be heard before his employment contract is terminated due to personal grounds. In this meeting, the employee has the right to use assistant, who maybe, an external attorney, or possibly employee representative. The reason for hearing is to give the employee possibility to present his view of the reasons behind the termination. The hearing obligation concerns situations where the employment is terminated

- due to personal grounds,
- when termination during trial period is used, or
- when the employment is terminated with immediate effects.

After having heard the employee, the employer is obligated to consider whether the employer has other work, which it could offer to the employee instead of terminating the employment contract (Employment Contracts Act 7:2 § 4 mom). This requirement has meaning specifically in larger companies, where there may be other, less demanding work available, where the employee could succeed, taking into consideration employee's experience, education, professionalism and other skills, capabilities and other personal characteristics.

The purpose of this document is to help the manager when he is terminating an employment relationship due to underperformance of the employee.

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- 1) Have warning given to the employee at your hands. Ensure that there has been enough time for the employee to make the expected changes and reach the set objectives. Ensure also, that the warning is not older than one year.
- 2) Have the personal improvement plan and the evaluation at your hands.
- 3) Check the individual notice period time from employment contract.

- 4) Prepare the letter of notice (see model in 6.9) copies, and take two copies with you.
- 5) Give a prior notice to the payroll person, IT department and corporate security.
- 6) Ensure that employee representative is available, should he be called in.
- 7) Invite the employee to the meeting. Ensure, that he has enough time to prepare himself to the meeting. Advise him of the nature of the meeting and that he is allowed to take an assistant to the meeting. Remind of the possibility to turn to possible union representative within the company.

Meeting:

- 8) Start the meeting by explaining that this is the hearing meeting in order for the employee to state his reasons for the possible termination of his employment contract.
- 9) In case the employee representative or other person assisting the employee is not present, ask the employee whether he wants to have employee representative to be called in.
- 10) Conclude, that the employer has been following the performance of XX, the work results, quality and overall performance for a longer time period, and refer to the possible personal improvement process dates. Repeat when [date] the warning of the specific issue also now in hands was given and conclude that XX has had enough time to improve his performance.
- 11) Go through the personal improvement plan and the meetings held for performance follow up. Give examples what kind of guidance, instructions and training XX has received after the warning was given.
- 12) State that the employer and XX have together followed the work of XX and set agreed, reasonable and achievable objectives to XX's performance and that the parties have, in setting the objectives, taken in to consideration the experience, education and professionalisms of XX.

- 13) Conclude that according to employer's perception, the work of XX has not progressed or improved as it should have and is not according to the expectations, nor according to the set personal improvement plan. XX has therefore not reached to the reasonable objectives the parties have agreed.
- 14) State, that the employer has proper and weighty reason, as defined in the Employment Contracts Act to terminate the employment contract of XX, because
  - XX cannot perform his duties which are set to him in the employment contract, which is an omission of work obligation by XX.
  - The employer has right to expect proactivity from the employee's side, and
  - That XX has been given a prior written warning stating the omission and XX has thereby had the possibility to improve his performance, what, however, he has not done.
  - End the summary by concluding that XX's performance is not in a level what employer could reasonably expect from a person in [*state position*], with comparable experience, education and professionalism what XX has.
- 15) Repeat, that the purpose of this meeting is to hear XX's opinion how he has been performing and give him opportunity to be heard and explain the reasons from his perspective.
- 16) Remember to stay in facts and refer to the documentation. Do not let the situation take over.
- 17) When the employee has been heard of his views to the underperformance, state to the employee, that employer has considered all possible other available positions, but has not found suitable position, which would be suitable for XX, taking into consideration all facts and circumstances of both parties.
- 18) Sign the letter of notice (two copies) and hand it to XX for his signature.
- 19) Read out loud the main facts from the letter of notice:

- Notice period of \_\_\_\_ weeks/months.
- State the last day of employment [xx.xx.201x]
- State whether there is a duty to work during notice period.
- State, that accrued holidays shall be paid.
- Inform that the services of occupational health care are at use during notice period.
- Inform that other employment benefits are also at the use of XX during the notice period.

20) Ensure that you get the signed copy of the notice letter.

21) Agree on how the hand-over of XX's duties and responsibilities will be done.

22) Hand the notice letter to payroll.

23) Inform IT and internal security.

24) Collect company belongings.

## 6.9 Termination

Termination is discussed in Chapter 2.2.9. After having reserved time for the employee to be heard and after considering other possible option instead for dismissal, the employer may make its decision and terminate the employment contract of the employee, should that be employer's decision. Manager should find out the applicable length of notice period and decide whether the employee has the duty to work within the notice period. In most cases, it is advisable to keep the working time at the work place in minimum, only to the extent necessary to hand in the employee's tasks to the person/persons directed by the manager.

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### Model of termination letter

*[Company name]*  
*[Company address]*

*[name "XX" and position of the employee]*

### Termination of Employment Contract

We hereby terminate the Employment Contract of XX with immediate effect on personal grounds. The underlying reasons for the termination are neglecting the work duties by means of underperformance.

In *[place, on date]*

\_\_\_\_\_  
*[Name of the manager, title of the manager]*

I have today, *[date]* received this notice.

\_\_\_\_\_  
*[XX, position]*

(In case the receiver of this notice does not agree to sign the receipt of this notice, two witnesses shall sign this as follows:)

We hereby witness that this notice of termination of Employment Contract has been given to XX:

In *[place, on date]*

\_\_\_\_\_  
Name:  
Tel:

\_\_\_\_\_  
Name:  
Tel:



## 7 CONCLUSIONS

Chapter 7 includes the author's conclusions of the research. The target audiences of this research are line managers and non-legal human resources personnel who do not have easy access to legal counsel assistance. The aim was to ensure that the target audience can deal with perceived underperformance issues within the boundaries set by legislation and using correct procedures. Simultaneously, the author aimed to produce guidelines and templates for line managers, with which the line managers could do their superior work without the assistance of human resources.

For the research the author has studied Finnish employment legislation, labor court decisions and read books and presentations from leading Finnish legal scholars and authors. For the performance management part, the author has widely studied international performance management literature as well as Finnish research on the topic. In addition, the author interviewed six line managers in order to get information from primary sources. As a conclusion of all the information and concluded interviews, the author has constructed easy to use templates which give proper and adequate information to the line managers, and designed general guidelines with which the line managers are more capable of acting independently when dealing with underperformance issues and when terminating the employment contract with personal grounds. The guidelines and templates are presented in Chapter 6 Handbook.

The benefit of this research is, that it brings up many important aspects for line managers and small size organization's top management about basic performance management templates and their creation as well as their use in the intervening in perceived underperformance issues in the organization. The research also brings valuable information and guidance about terminating the employment contract based in individual grounds and helps the employer in determining whether a proper and weighty reason exists when dealing with underperformance issues.

The main question for this Master's Thesis was how to address underperformance issue of an employee? The sub-questions for the research were:

- What are proper performance management tools to be used in cases of underperformance?

- When does the underperformance of an employee entitle the employer to terminate the employment contract?

Based on the information received in the interviews and taking into consideration the main question as well as the sub-questions of the research, the author considers answering the research questions in detail and presented detailed procedure for termination of the employment contract based on underperformance issues, which was also expected by the informants. The author believes, that by using the presented templates and following the presented guidelines and procedures and by giving profound thought and justified answers to the presented questions, the employer may, when coming to the conclusion that there is underperformance in question, dismiss the employee within the boundaries of the legislation. It is to be remembered however, that in case of court procedure, the court will always evaluate the matter on case-by-case basis, and no clear answers can be provided.

As a general conclusion, the author highlights the meaning of performance management tools in addressing underperformance issues: job description, objective setting, performance improvement plan, performance appraisal and orientation: In the management of employee performance, the manager may steer the productivity of the employee by setting objectives and following the results in the achievement of them, which derive from the set organizational objectives. This describes *what* the employee is (or should be) doing or achieving. The skills, intelligence, motivation and personality of the employee define the achievement of work results; describing more *how* the employee is doing his job. Giving feedback and the evaluation of work performance and the accomplishment of objectives are considered as essential *tools* in performance management, by the theory and by the informants – for both *what* and *how* –sector assessments. The proper use of the performance management tools will also act as evidence if a claimed illegal termination of an employment contract is being evaluated in court, that the employer has set a certain level of expectations which the employee has not met; that the employer has followed, guided and possibly given appropriate training and orientation to the employee to perform the expectations.

From a legal perspective, equal treatment of personnel is one of the most important principles affecting on employment relationship, but it was mentioned by the informants only once. When a manager is interfering in a case of perceived underperformance, or suspected neglect of work duties, the practice needs to be the same, when considering the size or seriousness of the act or omission as well as the intervention methods and processes in all comparable cases and with all employees. Therefore, it should be a topic of training the managers and is highlighted in Chapter 6.5. It is profoundly discussed in the theory (Chapter 2.2.3). Another personal note: the author will place bigger emphasis on the guiding, educating and training of the line managers on the legal issues in the employment relationship.

While doing the research, the author found multiple interesting considerations, starting from the meaning of the strategy, mission and vision for the generation of performance management guidelines and templates. It would be interesting to make further research under the general topic of “The meaning of corporate strategy for performance management in creating a high performing company culture”. This research has provided the author plenty of information on current human resources practices and topical issues. Upon concluding this research, the author has a better understanding of operational human resources, which will enable the author to further develop herself to the strategic performance management level.

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## APPENDIX 1. INTERVIEW QUESTIONS AND ANSWERS

- 17) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?
- 18) Kerro tilanteesta jossa katsoit että alaisesi on aikaansaamaton / jos sinulla olisi alainen, jonka suoritusta pidät riittämättömänä, miten toimisit?
- 19) Miten puutuit/puuttuisit tilanteeseen?
- 20) Hoiditko tilanteen itse, vai saitko apua muualta? Jos sait apua niin keneltä ja minkälaista apua sait?
- 21) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?
- 22) Minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?
- 23) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?
- 24) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?
- 25) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?
- 26) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?
- 27) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?
- 28) Jos tällainen tilanne olisi käsillä, miten toimisit?
- 29) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?
- 30) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?
- 31) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit? Ovatko ne mielestäsi hyödyllisiä?
- 32) Miten parantaisit niitä?

Informant A. She is 59 years old. She has been a direct line manager in research function in her past, but not currently in manager position. She is still working for the same employer, a global Finnish medium sized enterprise.

Interview on 7.11, 11.40-12.10

Duration: 21 minutes.

- 1) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?

Hitautena, tai ehkä myös tällaisena epämääräisenä, elikä asiat ei valmistu ajoissa ja toinen on se, että ei tule sellaisia tuloksia on ajateltu ja johtuu siitä että työntekijä on ehkä ymmärtänyt väärin mitä on haettu.

- 2) Kerro tilanteesta jossa katsoit että alaisesi on aikaansaamaton / jos sinulla olisi alainen, jonka suoritusta pidät riittämättömänä, miten toimisit?

Ensimmäisenä patistaisin tämän asian hoitamiseen varmistaisin että viesti asiasta on mennyt perille työntekijälle ja jos viesti on mennyt perille mutta ei ole syntynyt tuloksia lähtisin henkilökohtaisesti käymään keskusteluita tämän työntekijän kanssa.

- 3) Miten puutuit/puuttuisit tilanteeseen?

Tarkistamalla ensin että onko tehtävä ymmärretty, onko tehtävänannossa ollut joku ongelma, onko se ollut putteellinen ja lähtisin ensin hakemaan tarkaisua omata kannalta ja vasta sitten sitten työntekijän kannalta tavallaan tilanteesta lähtien oliko hänellä haastetta tehdä se, eikö hän osannut sitä tehdä vai eikö hän ehtinyt sitä tehdä tait ai oliko jotain muita syitä miksi ei syntynyt tulosta.

- 4) Hoiditko tilanteen itse, vai saitko apua muualta? Jos sait apua niin keneltä ja minkälaista apua sait?

Pääasiassa hoidan itse. Toivoisin... itse, mutta liittyy tietysti jos on ulkoinen toimeksianto niin voi kysyä apua myös toimeksiannon antajalta tai jopa kollegalta jolla on ollu jollain vastaavanlaista toimintaa ja apua voi saada siihen tai on saanut siihen että että millä lailla eee, tällaisiin tilanteisiin niin voi puuttua juridisesti esimiehen kannalta ja mikä on sopivaa.

- 5) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?

Ensinnäkin juridista apua koska tehtävien suorittaminen kuuluu tietysti työntekijä velvollisuuksiin työnantajaa kohtaa toinen voi olla tietysti kollegoiden tuki ja vastaavien asioiden ja tilanteiden käsittelemiseksi ja kolmas vois olla tämmönen yleinen tavalla juttelen toimintamalli työnantajan puolelta jolla voidaan lähteä lähestymään tätä tilannetta: toimi näin jos sinulla on tällainen



tilanne; ota esille nämä asiat työntekijän kanssa ja se liittyy hänen työtehtävään: onko hän oikeassa tehtävässä alkaen, onko tehtävät vaatimustason mukaisia ja miten miten niinku oikein eli liigalisesti niinkun miten tätä asiaa käsiteltävä. Arka asia, miten toimitaan.

- 6) Minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?

Yleistä toimintamallia, jossa käydään läpi se, mikä on tehtävien tekemiseen niinku yleinen merkitys niinku koko tiimille tai yhtiön toiminnalle ja tällöinen yhteinen vastuu siitä että jokainen hoitaa oman tonttinsa ja ehkä juuri tätä toimintamallia. ja sitten se että mitä siitä seuraa jos tilanne ei korjaannu. elikä kyllä tää on niinkun työnantajan ja työntekijän välisen niinku sopimuksen tämmöstä ehkä juridista juridista tai tai tai muu muuta tekstiä tai tai joku keskustelu tai joku joku proseduuri. Osa ei pysty mitenkään puuttumaan näihin. Nyt meillä on sellaisia esimiehiä jotka vähän niinkuin puolileikillään kertoo mitä näitä asioita et teidän pitäis niinku pitäis tehdä mut pitäis sitouttaa vielä enemmän, yhteisiin tavoitteisiin.

- 7) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?

Job descriptions yleensä tehdään, kun työntekijä astuu palvelukseen tai se ainakaan ei ole ei päivityt kovin usein se on mun mielestä aika yleinen. Siinähan on sovittu miksi henkilö on otettu töihin. Mutta se on aika kankee tai sen pitäis olla ehkä mukautuvampi ja muut ja sitä pitäis tarkastella osana kokonaisuutta jonkun verran useammin elikä se ei saisi olla ole niinku kiveen hakattu kuvaus siitä vaan sitä pitäis pystyä pystyä, ää ää, niinkun rakentamaan tässä suunnassa ja siinä pitäis pystyä kuvaamaan näitä tavoitteita mutta nehan tuleekin sit seuraavaks. Joo. Yhtiön tietyn toiminnan osa-alueetta.

- 8) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?

Erittäin tärkeänä koska niille henkilöille joilla ei oo, joilla ei ole tämmöst niinku sanotaan luovaa, tai tämmöstä mahdollisuutta niinku oman työ, työn jotka ovat osa tiimiä niin heillä pitää olla enää tavoitteiden pitää olla mitattavia koska niihin mitättävien tuloksiin pystyy vetoamaan ja sitten kun tarkastellaan onnistumista. Erittäin tärkeänä.

- 9) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?

Myös tärkeänä koska jollei alainen saa palautetta ja rakentavaa palautetta onnistumisestaan niin hän hänellä voi olla olen ku hankaluuksia sitoutua niihin tehtäviin. Elikä palaute on tärkeää

- 10) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?

Minulla on kokemusta asiantuntijaorganisaatioista joissa koen että jokaisella työhön tulevalle pitää olla tietyt taidot kun hän tulee tähän tehtävään. Ja tää oli ohjaustarve ei voi olla kovin suuri, koska esimiehellä on muutakin tehtävää kun ohjata yksittäisiä henkilöitä eikä työtehtävien pitää kehittää työntekijää ja tää pitää olla myös tavalla niinku työntekijästä lähtevä ohjauksen tarpeen pyyntö silloin kun sitä tarvitaan. Mutta näen tänne yleisen perehdyttämisen niinku organisaatio riittävänä ja tietysti tiimiin ja jätä syntyy niinku työn aikana. Ei meillä voi paapoa vaan pitää tehdä.

- 11) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?

Sillonku tästä aikaansaamattomuudesta on selvää haittaa töiden edistymiselle esimerkiksi sopimustilanteissa aiheuttaa viivästyksiä kyseisiin tehtäviin tai valmistumisesta joka tarkoittaa että ei saavuteta niinko tiimi ei saavuta tai henkilö ei saavuta tai projekti ei saavuta haluttuja tavoitteita voi olla myös joku voi olla myös niinkun sopimuksellisesti sopimusrikkomustilanne meidän puolelta, tai tän työntekijän puolelta syynä syntyy taloudellinen haitta tai syntyy selkeesti tiimin tai ulospäin olevan kumppanin yhteistyötä niinku hidastava tilannetta jopa sen katkeaminen.

- 12) Jos tällainen tilanne olisi käsillä, miten toimit?

Ensin yrittäisin tietysti löytää syyn mistä tämä johtuu ettei synny tuloksia onko taitojen puute vai onko ihan käytännössä motivaation ja tavallaan tämmösen työ haluttomuuden tilanne käsille vai onko joku muu syy. Voi olla että syytä löydy mutta käytännössä veisin asiaa eteenpäin ensin riittävästi ohjeistamalla tai opastamalla ja auttamalla alaista antamalla hänen mahdollisuuden onnistua jollei hän onnistu niin lähtisin omassa organisaatiossa sitten niinkun viemään sitä eteenpäin eteenpäin tällaisena tilanteena että henkilön työtehtäviä pitää muuttaa tai työsuhte voidaan purkaa.

- 13) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?

En tunne hyvin voin sanoa. Että en tunne oikeastaan ollenkaan ja tässä tarviin tarvitsisin apua.

- 14) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?

Koen tarvitsevani apua erityisesti näissä lainsäädäntöön liittyvissä asioissa, mutta myös tietysti jonku verran siinä itse niinku tilanteen ratkaisemisessa. Tilanteiden ratkaisemisessa yleisesti mutta lähinnä juridista apua.

15) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit?

Ovatko ne mielestäsi hyödyllisiä?

En tunne kovin hyvin koska omasta esimiesajastani on sen verran aikaa jo. Ja jonku verran tunnen sanotaan näin et niistä on hyötyä niitä on hyvä käydä katsomassa ihan niinku omasta omasta syystä, mutta en tunne kovin hyvin.

16) Miten parantaisit niitä?

Henkilöstöön liittyviä käytäntöjä, ainakin tässä tapauksessa tähän työsuoritteiden niinku alisuorittamiseen puuttumisessa ja niinku yleisissä niinku tavoitteiden saavuttamisessa ja tämmösistä ku alotteellisuudessa ja ehkä myös tällaisena niinkun ohjeistuksen asti sis yhtiön oman strategisten tavoitteiden tuomista mukaan näihin henkilöstökäytäntöihin myös jollain lailla.

Informant B, 32 years old, 2 direct reports. Her team deals with materials and packages. She is employed by a global Finnish medium sized enterprise.

Interview kept on 7.11.2016, 13.35 – 14.00,

Duration 14 minutes.

- 1) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?  
Ää määrittelin sen niin että ei päästä sovittuihin aikatauluihin, ja työtehtävät eivät tule tehdyksi pitkälti. Työaika käytetään jonkin muuhun tai yksinkertaisesti just tietysti yhtenä haasteena voi olla ollaan vaan erittäin hitaita työtehtävien suorittamisessa, koska siinä paljon henkilökohtaisia eroja.
- 2) Kerro tilanteesta jos sinulla olisi alainen, jonka suoritusta pidät riittämättömänä, miten toimisit?  
Kävisin varmaankin läpi alaisen työtehtäviä ää, yrittäisin aikatauluttaa niitä hänen kanssaan yhdessä jotta olisi selkeät raamit sille mitä pitää saada tietyssä ajassa aikaan ja sitä kautta yrittäisi lähestyä tietysti sitten toisena asiana käydä keskustelua siitä että onko hän yleensä niinku kykenevä kautta pätevä niihin tehtäviin mitä hän suorittaa.
- 3) Miten puutuit/puuttuisit tilanteeseen?  
Puuttuisin tilanteeseen tosiaan konkreettisesti käymällä läpi aikatauluja ja käymällä läpi päivittäisen työajan käyttöä siinä yhteydessä: varmaankin keskustelemalla asiasta kahden kesken.
- 4) Hoitaisitko tilanteen itse, vai pyytäisitkö apua muualta? Jos pyytäisit apua niin keneltä ja minkälaista apua?  
Lähtökohtaisesti pyrkisin aloittamaan tilanteen hoitamisen itse mutta jos kokisin että pienen seurata jakson aikana tilanteeseen ei tule muutosta keskustelun kautta ja aikatauluttamisen kautta, niin sen jälkeen varmaan hakisin apua muualta sisäisesti, eli varmaankin omalta esimieheltäni tai henkilöstöhallinnosta.
- 5) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?  
No, Jos omat keinot eivät toimi, niin varmaankin jonkinlaisia työkaluja tai muita neuvoja siihen miten tällaiseen tilanteeseen voi puuttua. jos tosiaan se oma lähestyminen ei riitä aika vaikea sanoa että minkälaisia konkreettisesti apuja koska näkisin että tällainen ongelma on aika haastava.
- 6) Eli minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?

Jonkinlaisia varmaankin työajan hallinnan työkaluja, mahdollisesti jotain tavote, tavoitteen asettamisen työkaluja tai tavoiteseurannan työkaluja. Ne ehkä olis sellaisia ensisijaisia.

- 7) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?

Pidän sitä erittäin tärkeänä koska siinä määritellään selkeästi henkilön toimenkuva ja eri erilliset työtehtävät jos se on kirjoitettu kunnolla.

- 8) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?

Pidän sitä tärkeänä mutta toisaalta näen että se riippuu, tai linkittyy aika paljon niihin työtehtäviin. Jos on rutiininomaista tasaisesti toistuvaa työtä niin se ei ehkä ole niin merkittävä asia. Kun taas jos on yksittäisiä isompia projekteja mitä voi asettaa tavoitteeksi ja sitten taas toisaalta jos henkilö on erittäin aikaansaava jo lähtökohtaisesti niin mielestäni tulostavoitteen asettamisen merkitys on vähäisempi kuin siinä tilanteessa jossa henkilö ei ole niin tehokas jo lähtökohtaisesti työssään.

- 9) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?

Näen sen erittäin tärkeänä ja toisaalta myös mielellään molemmin suuntaisena työkaluna. Mutta kyllä, erittäin tärkeä työkalu ja varmasti auttaa siinä että se aikaansaavuus paranee myös jatkossa.

- 10) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?

Hyvä perehdyttäminen on mielestäni erittäin tärkeää uudelle työntekijälle tai uusiin tehtäviin siirryttäessä. Aa, esimiehen erityisen ohjauksen tarve varmaan myös aika paljon linkittyy siihen kuinka tuttuja ne työtehtävät on ja kuinka rutiininomaisesti niistä suoriudutaan. toisaalta tietysti tässä kaikessa tavoitteen asentaanna kautta ja palautteen kautta niin varmasti se on lähestulkoon kuitenkin aina tärkeää.

- 11) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?

Mielestäni siinä tilanteessa kun työtehtävät eivät tule tehdyksi, eli eli henkilö ei selviydy hänelle työnkuvassa määrittelyissä työtehtävistä. Tietenkin tätä, jotta tällainen tilanne voidaan määrittellä ja todeta, niin silloin täytyy jonkinlaiset tavoitteet olla asetettuna jotta voidaan verrata että että näin oikeasti käynyt.

- 12) Jos tällainen tilanne olisi käsillä, miten toimisit?

No olettaisin, että ennenku tällaiseen tilanteeseen on päästy, niin on käyty läpi kehityskeskustelumielessä sitä työnkuvaa. On käyty läpi mahdollisia korjaustoimenpiteitä, on yritetty aikatauluttaa, asettaa tavoitteita jotta tilanne paranisi ja oletan että tällasen tilanteen sen päätyessä näin ei olisi käynyt. Ää, joten siinä tilanteessa sitten ottaisin ottaisin asian puheeksi varmastikin sekä kyseisen henkilön että henkilöstöhallinnon kera.

13) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?

En kovinkaan hyvin. Piste.

14) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?

Varmaan juurikin aiemmassa kysymyksessä esitetty yllä esitetyn työlainsäädännön raamien ja edellytysten osalta kokisin tarvitsevani apua ja ohjeistusta tällaisessa irtisanomistilanteessa.

15) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit?

Ovatko ne mielestäsi hyödyllisiä?

Tunnen ne varmastikin osittain mutta varmastikin osa niistä on itselleni vieraita.

16) Miten parantaisit niitä?

Tähän tähän teemaan liittyen etenkin parantaisin niitä varmastikin kehittämällä yrityksen tarjoamia pohjia ja raameja kehityskeskusteluista, vuosittaisten kehityskeskustelujenn käymiseen koska mielestäni ne ovat melko monimutkaisia.

Informant C: He is 44 years old and leading a partnering and marketing events team of six, employed by a global Finnish medium sized enterprise.

Interview was kept on 7.11. 14.50 – 15.30

Duration: 14 min.

1) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?

Ei täytä sovittuja tavoitteita; lipsuu aikatauluista; ja lisäksi ei tuota mitään uutta sovittujen tavoitteiden lisäksi.

2) Kerro tilanteesta jossa katsoit että alaisesi on aikaansaamaton?

Asiakkailta ja yhteistoimintahenkilöitä palautetta; myöskään sovittuja tavoitteita ei ole toteutettu.

3) Miten puutuit/puuttuisit tilanteeseen?

Henkilökohtanen keskustelu; määräaikainen tavoitekeskustelu; kysely mistä voi johtua; myös uudelleen tavoitteiden asettaminen. Jos on kyse esimerkiksi kompetenssin puutteesta, myös koulutus ehkä täytyisi vain orientoinnin tehtävään, ja myös tukiverkoston uudelleen miettiminen.

4) Hoiditko tilanteen itse, vai saitko apua muualta? Jos sait apua niin keneltä ja minkälaista apua sait?

Hoidin tilanteen itse. Keskustelimme myös esimiehen kanssa kyseistä tilanteesta ja kysyin, tai lähinnä tiedotin, että tilanne on tällainen ja kerroin miten aiot toimia.

5) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?

Jos kyse on työstä joka liikuttaa koko tiimin toimintaa, öö, tukea esimieheltä mitkä ovat tiimin prioriteetit ja myös tavoitteet ja aikataulut; jos kyseessä on enemmän henkilöstöhallinnollinen haaste niin henkilöstöhallinnolta miten toimia vastaavassa tilanteessa.

6) Minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?

HR:n tuki miten edetä kyseisissä asioissa, yhtiön henkilöstöpolitiikka onko siinä erilaisia toimenpidemalleja. Ja sitten lainsäädäntö jos tilanne on todella vakava niistä lainsäädännön ohjeistus.

- informant kertoo tilanteeseen liittyvän tarinan. Tämän juonena on, että tiettyyn työhön palkattu henkilö ei suorittanut tämän toimenkuvan mukaisista tehtävistä, mutta siirrettiin toisiin tehtäviin, jossa hän suorastaan loisti! -

7) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?

Alkuvaiheessa erittäin tärkeänä koska tältä pohjalta työntekijä ymmärtää mitä hänen tehtävänä on ja mitä häneltä myös odotetaan.

8) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?

Erittäin tärkeänä koska, ää tulostavoitteet määrittävät pääasiallisesti pääasiallisesti työn tavoitteet ja aikataulun ja johtaa työtä oikeaan suuntaan eli auttaa priorisoimisessa.

9) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?

Aivan olennaisena koska ilman palautetta kukaan työntekijä ei tiedä tarkalleen, miten työssä on onnistunut. Positiivinen rakentava palaute on aina työntekijän oikeaan suuntan ohjaava.

10) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?

Todella tärkeänä. Monissa yrityksissä työhön perehdyttäminen jää vajavaiseksi elikkä perehdyttämisessä tulee huolehtia että työntekijän tukiverkosto on hyvin määritelty ja että kun työntekijällä on haasteita niin on tieto, keneen voi ottaa yhteyttä ja kuka voi auttaa asiassa eteenpäin.

11) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?

Silloin kuin sovituista tavoitteista ei pidetä kiinni. Lipsutaan aikatauluista ja selvästi aiheutetaan projektin tai työn edistämiseksi ongelmia; yksityis, - sitten myös tiimin sisällä. Samalla myös palaute muita työntekijöitä, asiakkailta, on ratkaiseva. Jos korjaustoimenpiteisiinkään ei olla suhtauduttu vakavasti ja



lipsumista jatkuu jatkossakin, niin on aiheellista aloittaa keskustelu työsopimuksen purkamisesta.

12) Jos tällainen tilanne olisi käsillä, miten toimisit?

Työntekijän kanssa henkilökohtainen keskustelu toimenkuvasta. Onko mahdollista että toimenkuva on täysin väärä, onko odotukset ole täysin väärät, onko yksikössä muita työtehtäviä jolloin työntekijä olisi tosi soveltuvampi. Jos tällainen tilanne tule kysymykseen keskustelu esimiehen kanssa miten laajemmassa kuvassa työntekijä on performoinut oikein esimiehen mielestä. Jos kaikki nämä näyttävät negatiiviselta, sitten HR:n kanssa käytännön keskustelu siitä miten työsuhteen voi purkaa.

13) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?

Henkilökohtaisesti melko hyvin, mutta tarvitsen henkilöstöhallinnan tukea prosessissa mitenkä asiassa edetään lain mukaisesti.

14) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?

Kyllä koen. Tarkasti lainsäädäntöön liittyvissä asioissa ja myös työntekijän oikeuksiin liittyvissä asioissa.

15) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit? Ovatko ne mielestäsi hyödyllisiä?

Tunnen yleiset suomalaisessa työelämässä toimivat käytännöt ja prosessit ja toimintatavat. Ja tämä tuntemus on erittäin hyödyllinen.

16) Miten parantaisit niitä?

Parantaisin ehkä esimieskoulutuksen määrää ja myös lainsäädännön tuntemusta. Ja lisäksi ehkä perehdytyksen määrää esimiestasolla.

Informant D. She is 35 years old, leading a sales team consisting of seven persons, employed by a global Finnish medium sized enterprise.

Interview was held 7.11.2016, 15.40 -16.00

Duration: 11,13 min.

1) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?

Määrittelin sen niin, että kun annetut tavoitteet eivät täyty, tai annetut deadlinet eivät täyty.

2) Kerro tilanteesta jossa katsoit että alaisesi on aikaansaamaton / jos sinulla tällainen tilanne on ollut?

On tilanne missä on annettu selvä lista asioita, joita täytyy tapahtua ... viikon sisällä ja näistä asioista on tapahtunut vaan osa.

3) Miten puutuit tilanteeseen?

Varmistin, että annetut ohjeet oli ymmärretty ja tarpeeksi selkeät ja kävin uudestaan läpi tavoitteet ja niihin liittyvät aikataulut.

4) Hoiditko tilanteen itse, vai saitko apua muualta? Jos sait apua niin keneltä ja minkälaista apua sait?

Hoidin tilanteen itse.

5) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?

Toivoisin saavani vertailukohdetta siihen mikä on järkevä pyyntö ja vahvistusta sille, että antamani tehtävät on toteutettavissa annetussa ajassa.

6) Minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?

Olisi hyvä tietää mitä vaatimuksia on muilla samantyyppistä työtä tekevillä jotta vois vertailla niitä itse asettimia itse asetettuja tavoitteita.

7) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?

Mielestäni Job Description on erittäin tärkeä työkalu, koska siinä kerrotaan jo työsuhteen alussa mitään työntekijältä odotetaan ja mitkä asiat kuuluvat hänen hänelle.

8) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?

Etenkin kun kyseessä on myyntityö niin tolla tulostavoitteiden asettaminen on ensisijaisen tärkeätä myyntityössä on tärkeämpää se saavutettu tulos eli myynti, kuin se, miten paljon aikaa käyttää sen saavuttamiseen.

9) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?

Näen palautteen antamisen erittäin tärkeänä ja se tulisi tehdä säännöllisesti, jotta mahdollisimman mahdollisiin ongelmatilanteisiin voi tarttua heti alussa ja saada ohjatuksi takas oikealle tielle.

10) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?

Näen, että mitä paremmin pystyy hoitamaan perehtymisen alussa ni sen nopeammin työntekijästä saa avun kasvuun ja kehitykseen.

11) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?

Mielestäni aikaansaamattomuus voi tulla perusteeksi työsuhteen päättämiselle semmosessa tilanteessa että aikaansaamattomuus oleellisella tavalla haittaa yrityksen toimintaa.

12) Jos tällainen tilanne olisi käsillä, miten toimisit?

Kysyisin esimieheltäni sekä HR:ltä apua tilanteeseen ja varmistaisin, että olemme tehneet kaiken, jotta työntekijällä on selvä käsitys siitä mitä häneltä odotetaan.

13) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?

En tunne kovin hyvin.

14) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?

Koen tarvitsevani apua ja lähinnä liittyen siihen millä tavalla asia voidaan hoitaa reilusti ja lainsäädäntö huomioiden.

15) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit? Ovatko ne mielestäsi hyödyllisiä?

En tunne.

16) Miten parantaisit niitä?

Kun aloittaa uudessa töissä ois hyvä saada käydä ne läpi jonkun kanssa jotta talon tavat olis tulisi tutuksi kerralla eikä niin että että yksi asia kerrallaan opetellaan kun siihen tulee tarve.

Informant E. She is a 45 year old experienced leader, who used to be the CEO for a medium sized Finnish enterprise. Currently she has no reports.

Interview took place on 7.11.2016, 20.20 – 20.50

Duration: 18 minutes.

- 1) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?

Jos on asetettu tavoitteita ja hoitaa henkilö ei pääse tavoitteisiin mikäli ne on kohtuullisia tai toimii selkeesti linjasta poikki poiketen vertaisin työntekijän verrattuna silloin katson että kysymys on niinkun aikaansaamattomuudesta.

- 2) Kerro tilanteesta jossa katsoit että alaisesi on aikaansaamaton / jos sinulla olisi alainen, jonka suoritusta pidät riittämättömänä, miten toimisit?

Mä oon vetänyt myyntiorganisaatiota ja meillä ollut aika iso variaatio myyjien myyntiaikaansaannoksissa ja tällaisessä tapauksessa ollaan jouduttu puuttumaan siihen he eivät ole olleet riittävän aktiivisia myyntitoiminnassa.

- 3) Miten puutuit/puuttuisit tilanteeseen?

Puuttuminen on riippunut siitä, et onko kyseessä ollut työpäällikkö tai ihan suorittavaa suorittava tehtävä. mikäli kysymyksessä on suorittava tehtävä on kerrottu vielä tavoitteet ja seurantamenetelmät ja sit heidän kanssaan käyty hyvin aktiivista viikottaista tai joskus jopa tiheämpää keskustelua siitä ja pyritty löytämään syitä miksei miksei he ei pääse tavoitteesi miksi et toimi niin kuin on odotettu päälliköiden kohdalla tottakai käyty keskustelua mut sit heidän kohdallaan on on tuota nopeammin menty sellaseen menettelyyn jossa todetaan että eivät sovellu tähän tehtävään, uusiin vaatimustasoihin, tai muihin ja heidän kans on käynnistetty neuvottelut siitä löydetään heille uusia vastuita tai pitäiskö heidät vapauttaa nykyisistä.

- 4) Hoiditko tilanteen itse, vai saitko apua muualta? Jos sait apua niin keneltä ja minkälaista apua sait?

Mä oon ollut organisaatiossa liikevaihtoa jotain 100 miljoonan luokkaa ja tota vähän ylikin, puoltoista. Ja tota siinä tilanteessa mä olen itse asiassa toiminut enemmän suorien esimiesten tukena. Itse mä olen ollut johtoryhmätehtävissä. Meillä ei ollut kovin merkittävä henkilöstöhallinto-osastoa, tavallaan tän tyyppistä joka olisi auttanut tollasissa tilanteissa. Meillä oli yksi henkilöstöpäällikkö, joka muiden tehtävien ohella auttoi meitä niinkun lain mukaisessa toiminnassa ja työehtosopimusten

tulkinnassa, eli käytännössä hyvin pitkälle olen hoitanut itse ja kysynyt apua lain ja sopimusten tulkintaan.

- 5) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?

No suurin apu olisi, mikäli henkilöstöpuolelta saisi selkeät ikäänkuin raamit ja toimintaan minkä tyyppisillä seurannoilla pitää pitää tälläst tilanteen tilannetta seurata minkä tyyppisillä malleilla asiaan voi puuttua. Se olisi ihan niinkuin hyvin konkreettiset, käytännönläheiset ja kantaaottavat ohjeet.

- 6) Minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?

Meillä oli hyvin vähän henkilöstöhallinnon työkaluja käytössä. ää meillä ei ollut käytännössä esimiesten käytössä ja minkäänlaista henkilöstöhallinnon softaa tai tällaista tyyppistä. Tottakai jos on olemassa selkeet mittarit, jolla pystyisi vertaamaan eri yksiköissä olevien ihmisten suorituksia ja tekemään tällaisia niinkun analyysejä niin se olisi hyvin hyödyllistä. Tässä tapauksessa kun tämä oli myyntityötä niin pystyimme kyllä tai joudumme rakentamaan tätä varten myyntiraportointijärjestelmän kautta tapahtuvan seurannan.

- 7) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?

Mä pidän itse asiassa job descriptions -tyyppistä määrittelyä hieman haastavana. mä näen mennään että se on hirveän hyvä työkalu siinä vaiheessa kun rekrytoidaan mut sit se pitäis olla hyvin aktiivisesti päivittyvä koska yrityksissä on paljon varsinkin pienissä keskisuurissa yrityksissä on paljon tilanteen mukaan tapahtuvia asioita jotka pitää selkeästi kuitekin olla jonkun henkilön vastuulla ja siitä johtuen helposti on kokenut että tämmöset työnkuvan määritykset jää laahaamaan jäljessä ja niitten kanssa on joskus vähän haasteellista toimia. Jos se, tottakai, jos pidetään hyvin ajantasalla, se on hyvä mut siinä on pieni niinkuin tavallaan määrityksessä olla pientä haastetta sen tavoitteisen pääsemisen seurannassa.

- 8) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?

Tää on mun mielestäni hyvin konkreettinen asia. Ei ei voida seurata tavoitteisiin pääsemistä jollei tavoitteet ole selkeästi käyty henkilön kanssa läpi. Siis tää on ihan olennaisin sit pitää myöskin olla jollakin tavalla tavoitteet pitää olla niinkun linjassa eri henkilöiden välillä, et ne ei voi olla aivan mielivaltaisia, vaan että täs olis hyvä jos esimiehet pystyis keskenään näkemään et onks heidän tulostavoitteet, asetannat,

yrityksessä suhteellisesti samalla tasolla, tai äää jotenkin niinkun reilua keskinäisesti taä on mun mielestä se olennaisin koko seurannassa.

- 9) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?

No tää on ihan keskeinen. Mä olen itse ollut tilanteessa jossa oli mennyt vuosikausia että työntekijöiden alisuoriutumisen ei ollut puututtu ennen sitä aikaa kun olin tullut yritykseen ja huomasin että siinä tilanteessa ikäänkuin tavoitteiden asetanta ja uudelleen sitten oli suoriutumisen puuttuminen on hirvittävän vaikeeta koska täs on tänään hyväksytyt käytäntö johon voidaan aina vedota niinkun pitkänkin aikaa. Eli siinä suhteessa palautteen antaminen ja se seuranta on ihan niinkun jokaisessa organisaatiossa jos pitäisi välittömästi ottaa hyvin vahvasti käyttöön tää on kans sellanen asia missä moni esimies tarvitsisi tukea mä olen myöskin eri yrityksissä nähnyt että ehkä meillä en tiedä ett onko se suomalainen piirre vai onko vaan mun tielle osunut meinaan että on todella vaikeeta monelle ihmiselle puuttua silloin pitäisi niinku alisuoriutumiseen puuttua niistä mieluummin jätetään tekemättä ja vähän niinkuin toivotaan että se henkilö ymmärtäisi karata, mutta niin vaan ei käy jos siihen ei puutut

- 10) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?

Mutta varmasti riippuu jonkun verran työtehtävistä että kuinka itseohjautuvan roolin on henkilö otettu. tottakai alkuperehdytys ikään kuin firman tavoille perehdyttäminen pitää tehdä joka tapauksessa myös niissä tapauksissa kun työn työtehtävä hyvin itseohjautuva. Mut sitten riippuen ihan siitä kuinka mikään kaavamaista suoritusta odotetaan tai kuinka paljon henkilön pitää itse luoda sitä toimenkuvaansa jos olis uus tehtävä ja haetaan vaikka muutoksen käynnistäjää tai uusien prosessien käynnistäjää, niin silloin sillon tota näin että henkilö itsensä vastuulla on paljon enemmän myös ottaa selvää kuin että esimiehen pitäis niinkun olla se joka varmistaa että henkilö on ymmärtänyt asiat oikein.

- 11) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?

Mä nään että tän pitäis olla ihan selkeesti yks kriteeri jolla työsuhde voidaan päättää, koska koko työyhteisön hyvinvointia ajatellen täysin väärin kaikkia muita työntekijää kohtaan jos yks henkilö saa olla eikä vaan painolastina organisaatiossa. tällä hetkellä hirveen vähän organisaatioita jos olis varaa pitää vapaamatkustajia ja tästä syystä ihmisen on niinku velvollisuus oppia uusia työtehtäviä, pitää yllä omaa osaamistaan metro aktiivisesti ja mikäli sitä tavoitetasoo mikä yrityksessä

on määritelty johon keskimäärin kaikki pääsee tai pikkusen keskellä alle vähintään kaikki pääsee niin jossa selvästi on linjasta poikkeamisen pitäis aina olla peruste lopettaa työsuhde ellei kyseessä on sit joku tilapäinen syy niinkun sairastumiseen tai muuhun liittävä.

12) Jos tällainen tilanne olisi käsillä, miten toimisit?

Siinä kohtaa, mun kokemuksella, kun on on ruvettu seuraamaan tavoitteita ja tavoitteita ja se on tehty systemaattisesti ja sitten on voidaan tehdä vertailua läpi yrityksen, me tehtiin myös sopeutusta aika paljon sekä toimipisteiden suhteen mikä voi olla odotustaso. Sit me käynnistettiin keskustelut tekijöitten kanssa, jossa käytiin keskustelut siitä että miten heitä voisi vielä auttaa pääsemään tavoitetasolle ja pyrittiin saamaan heidät ymmärtämään, että heidän työtehtävän tyyppinen suoritustaso ei voi jatkua, että heidän ehkä esimerkiksi kannattaisi miettiä haluatko siirtyä toisen tyyppiin työtehtäviin ja meidän tapauksessa se oli organisaation ulkopuolella. tää keskustelu on vaikeeta mutta me saatiin, aika hyvin menestyttiin. Meidän tapauksessa monet myyntitehtävistä toimivista ihmisistä hakeutui hoitoalalle.

13) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?

Tää oli sellainen asia mistä Me tän henkilöstöpäällikön kanssa joka meillä oli yks konsernissa, vähemmän itseoppinut, paljon lakia tutkinut henkilö käytiin keskusteluja ja sit mul oli firman ulkopuolinen juristi jonka kanssa myös jonkun verran pääsee sparraamaan aika pitkälle perehdyn tosi muutakin sanoittaa viimeisen puolentoista vuoden aikana en ole päivittänyt tän hetkistä tilannetta mulle jo nyt ollu sellasta, sellasta vastuuta.

14) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?

Kyllä mä näen että tässä olisi erittäin hyvä jos yritysten, yrityksen henkilöstöpuolen ihmiset pystyisivät antamaan hyvin selkeät menettelyohjeet siitä, miten esimerkiksi keskustelut pitää dokumentoida tai miten ja minkälaisilla sanamuodoilla nää on niinkun on syytä hoitaa.

15) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit? Ovatko ne mielestäsi hyödyllisiä?

No mä olen ollut aktiivisesit ollut kehittämässä näitä toimintatapoja eli mä näen, että ne on sellaisia kun se sitä niitä syytä jatkuvasti ylläpitää mietiä vastaako ne vastaukseni sen hetken tarpeita. äärettömän tärkeä et prosessikäytännöt on olemassa, esimiehet tuntee, ne perehdytetään, niinhin saa riittävästi koulutusta



on tärkeää on se että sen on jatkuva vuoropuhelu sen suhteen onks käytännöt ajantasalla, onks siel turhia toimenpiteitä tai pitäisi niitä parantaa, muuttaa niin se on vähintään yhtä tärkeä osa silloin on hyödyllisiä kun vastaa ihan normitarvetta eikä tehdä esimerkiksi tätä raportoinnin tai paperin vuoksi.

16) Miten parantaisit niitä?

Tähän vastasinkin jo toteamalla että tää ois jatkuva vuoropuhelu henkilöstöhallinnon ja esimiesten välillä

Informant E. He is a 47 year old experienced team leader in multinational company. At the moment he has five direct reports.

Interview took place on 7.11.2016, 21.10 – 21.30

Duration: 10,46 minutes.

1) Miten määrittelisit aikaansaamattomuuden työvelvollisuuksien hoitamisessa?

Aikaansaamattomuus on sitä, että ei tehdä työtä sillä tasolla mihin pystyttäisiin vaan tyydytään huonompaan suoritukseen.

2) Kerro tilanteesta jossa katsoit että alaisesi on aikaansaamaton / jos sinulla olisi alainen, jonka suoritusta pidät riittämättömänä, miten toimisit?

Ehkä selkein tilanne oli henkilön kanssa jolle asetettiin selkeät tavoitteet joiden oletin olevan hänelle hyvinkin helpot, mutta syystä tai toisesta ei niitä kyennyt saavuttamaan.

3) Miten puutuit/puuttuisit tilanteeseen?

Asetin henkilölle lyhyemmän tähtäimen tavoitteet jota seurattiin hyvinkin säännöllisesti jotta pystyttiin puuttumaan heti aikaansaamattomuuteen.

4) Hoiditko tilanteen itse, vai saitko apua muualta? Jos sait apua niin keneltä ja minkälaista apua sait?

Hoidin tilanteen itse. En tarvinnut siihen henkilöstöosaston apua, enkä esimiestäni apua.

5) Minkälaista apua tai tukea toivoisit saavasi vastaavankaltaisissa tilanteissa?

Ehkä lähinnä esimieskollegoiden tuki olisi tärkeää tällaisissa tilanteissa, koska he kokevat usein vastaavanlaisia tilanteita omassa työssään.

6) Minkälaisia henkilöstöhallinnon työkaluja katsoisit voivasi hyödyntää aikaansaamattomuuteen puuttumisessa?

Ehkä lähinnä erilaisia performanssi improvement prosesseja, joita meidän yrityksessämme käytetään voisi hyödyntää tässä.

7) Kuinka tärkeänä pidät toimenkuvan (Job Description) roolia työsuorituksen johtamisessa?

Mielestäni viralliset kirjalliset toimenkuvat eivät ole niinkään tärkeitä, mutta on erittäin tärkeää että työntekijä ymmärtää mitä häneltä odotetaan ja mitä, mitä hänen tulisi tehdä.

- 8) Kuinka tärkeänä pidät tulostavoitteiden asettamista (Objective setting) ja niiden seuraamista työsuorituksen johtamisessa?

Mielestäni tulostavoitteet ovat erittäin tärkeitä koska ne määrittelevät käytännössä konkreettisen toimenkuvan lyhyellä tähtämellä.

- 9) Kuinka tärkeänä näet palautteen (Feedback) antamisen työsuorituksen johtamisessa?

Mielessäni palautteen antaminen on erittäin tärkeä ja sitä tulee antaa riittävän usein.

- 10) Kuinka tärkeänä pidät yleistä työhön perehdyttämistä (Orientation) ja esimiehen erityistä ohjausta työsuorituksen johtamisessa?

Perehdytys on tärkeä, jotta uusi työntekijä tietää mitä hänen tulee tehdä, mitä häneltä odotetaan ja tässäkin esimiehen rooli on erittäin tärkeä.

- 11) Milloin mielestäsi aikaansaamattomuus voi olla perusteena työsuhteen päättämisessä?

Jos aikaansaamattomuus on toistuvaa, koska se on merkki motivaation puutteesta. Jos ihminen ei ole motivoitunut työhönsä, tulisi hänen mieltä sitä että mitä muuta voisi tehdä ja hänet tulisi ohjata siihen suuntaan.

- 12) Jos tällainen tilanne olisi käsillä, miten toimisit?

Kävisin erittäin tiukan keskustelun alaisena kanssa ja kysyisin hänen motivaatiotaan ja pyrkisin ohjaamaan hänet itse siihen suuntaan, että hän tekisi oikeita valintoja ja mieltä mikä motivoisi häntä paremmin ja pyrkisi itse siirtymään siihen suuntaan.

- 13) Miten hyvin tunnet työlainsäädännön asettamat edellytykset henkilöön liittyvien syiden ollessa perusteena irtisanomiselle?

En tunne työsuhdelainsäädäntöä kovinkaan hyvin joten tarvitsen siihenkin henkilöstöosaston ja työsuhdejuristin tukea.

- 14) Koetko tarvitsevasi apua tai ohjeistusta irtisanomistilanteissa? Jos koet, niin mihin liittyen?

Tarvitsen tukea siihen, että perusteet täyttävät lainsäädännön edellytykset, mutta itse irtisanomistilanteessa koen pärjääväni hyvin.

- 15) Tunnetko yrityksesi henkilöstöön liittyvät käytännöt, toimintatavat ja prosessit? Ovatko ne mielestäsi hyödyllisiä?

Kyllä tunnen ne melko hyvin ja kyllä ne tukevat esimiehiä vaikeiden prosessien eteenpäin viemisessä.

16) Miten parantaisit niitä?

Mielestäni niissä tulisi olla enemmän joustavuutta siinä että esimiehet pystyvät toimimaan yrityksen parhaaksi paljon joustavammin kuin tällä hetkellä.