

## Question

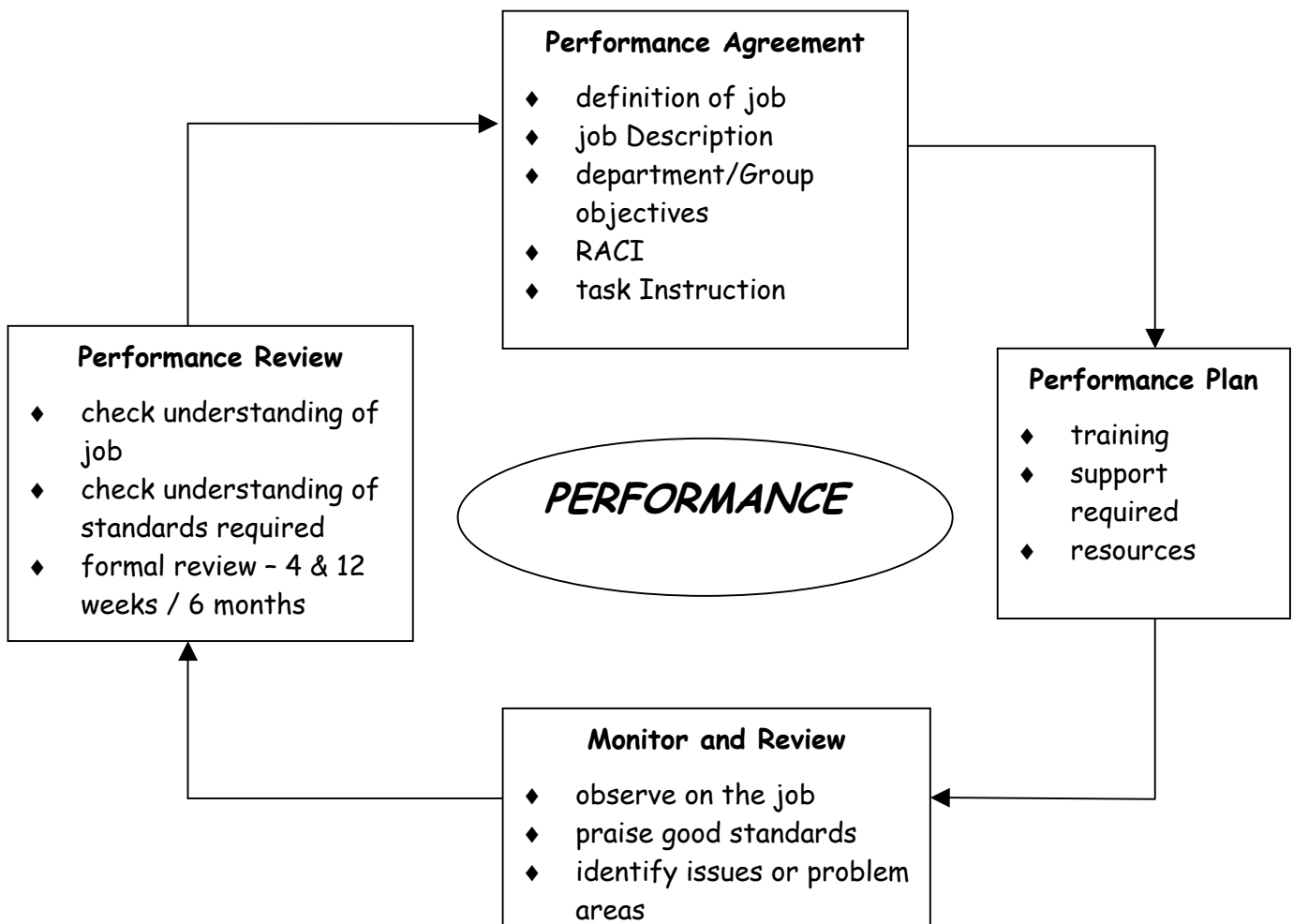
So how do you conduct an effective appraisal without;

- Performance Agreements?
- Performance Plans?
- Performance Monitoring?

## Answer

You cannot!

## 6 The Performance Management Cycle



## Conclusion

This section will have raised your awareness of;

The Performance Management Cycle and the significant benefits of evaluating an individual's performance.

Setting benchmarks for self-development and required standards, thus having a direct impact on improving business performance.

The general process of managing performance which requires capable, knowledgeable people to make it successful.

# Contracts of Employment

## 1 Introduction

This section covers the basic principles of managing an Employment Contract. The contract is a vital document as it describes the contractual relationship between the company and its employees.

It should provide you with a clear understanding of what forms an Employment Contract and the most appropriate methods of managing its requirements.

When you have completed this module successfully, you will know:

- What key elements form a Contract.
- How laws affect Contracts.
- The key benefits of forming Employment Contracts.

The Employment Contract is a vital document at the heart of the contractual relationship between the company and its employees.

The Contract of Employment is a legally binding document. Its purpose is to ensure employers and employees conform to Policies and Procedures.

Government regulations and both parties don't breach the fundamental terms of trust and confidence.

The whole process ensures consistent practices occur throughout employment.

All managers must be familiar with the contents of this document and ensure that all employees comply with its obligations.

A Contract of Employment governs the relationship between employer and employee. This is so that even if nothing has been put in writing, an Employment Contract may simply be an oral agreement.

The Contracts of Employment Act 1963, has mentioned a number of obligations required by employers and employees.

## 2 Contract Formation

A contract is a promise or set of promises governed by the law, e.g. an employee promises to perform certain tasks for the employer and in turn, the employer promises to pay a salary. The employer usually provides further promises such as holidays, sick pay and working conditions. These promises are enforceable in the sense that if either the employer or the employee breaks promises, the other party will be entitled to seek damages.

To create a contract, three conditions must be satisfied. Firstly, there must be an agreement (which usually consists of an offer, which is then accepted), made between two or more parties. The agreement must be made with the intention of creating legal relations and it must be supported by consideration, i.e. something of benefit must pass from one party to the other.

## 3 Reaching an Agreement – The Offer

An offer is an indication of the willingness to be bound by a contract, it need not be in writing but it must be made with the intention of being legally binding, as soon as the offer is accepted. (It must also be capable of immediate acceptance. In other words, it must be sufficiently clear to enable the person to whom it has been made to easily understand without further negotiation).

## 4 Creating Legal Relations

Often it is difficult to identify at what point a legally binding Contract of Employment is made. Some form of negotiation (which although they may resemble a contractual agreement) are lacking in one vital component – an intention to be legally binding.

## 5 Consideration

An agreement, even if it is made with the intention of creating legal relations, will not be binding with the people concerned, unless it is supported by consideration.

Consideration is something of value which passes between the parties when the contract is performed. e.g. if an employee promises the employer that he or she will perform a service, that promise will only be part of the contract if the employee is to receive something of value in return, such as a fee or wage. The consideration need not have monetary value but must be of benefit to the person who has made the promise. In employment, there are promises on both sides.

## 6 Approval

In searching for the true meaning of 'Contractual Terms', the courts and tribunals will look at the circumstances surrounding the making of the contract.

## 7 How Laws Affect Contracts

The Contract of Employment comprises of three elements: -

- ◆ **Implied Terms** – i.e. those created by Common Law, which a Judge made law in the High Courts. Implied terms may place duties on both parties; the employer to provide suitable work; the employee to obey reasonable instructions; each to respect the other's confidentiality. i.e. the company's plans/secrets and the employee's personal details. Each party to maintain the duty of trust and confidence. Where serious breaches of the contract take place, such as theft, it is usually the implied terms of trust and confidence that are also destroyed, thereby destroying the whole contract and bringing the employment relationship to an immediate close.
  
- ◆ **Oral Statements** – i.e. those created by Statute Law processes, used to manage people's performance – responsibilities. Every time performance is reviewed, new targets and perhaps support or coaching agreed, the performance part of the contract is amended. It is