

## **Defination Trial Periods and Probationary Periods**

### **Trial Periods**

A trial period allows an employer to terminate an employee within the first 90 days of employment due to performance or suitability issues, without the ability of the employee to raise a personal grievance for unjustified dismissal. This gives enough time to see how a new person performs on the job and whether they fit into the team. A trial period cannot exceed 90 calendar days and needs to be written into the employment agreement.

- You can employ new employees on a trial period of up to 90 calendar days.
- Trial periods must commence from the first day of employment. If the employment agreement is signed after they start work, the trial period is invalid.
- You can't put an employee on a trial period if you've previously employed them.
- A trial period can only be agreed on once for each employee.
- During the trial, you can give notice to dismiss the employee without them being able to take a personal grievance for reasons of unjustified dismissal against you.
- Dismissal cannot come out of the blue for the employee – they need to be aware of the trial period and that improvements needs to be made.
- You need to be procedurally fair when terminating someone on the 90 day trial period.
- Record the details of the trial period in the employment agreement. Don't forget to add in a termination of trial clause at the end of the agreement.

### **Probation Periods**

A probationary employee is a permanent employee who is yet to be confirmed in their position and the probation period provides time for this to occur. Probationary periods give the opportunity to provide training to a new employee, regular feedback about their performance and support. It is a period when expectations should be reinforced and skills should be demonstrated. Probationary periods do not allow employers to dismiss staff after the term is over or be used to justify a dismissal – even in a case of poor performance. Employers still need to follow procedural fairness requirements when terminating employment and the employee can raise a personal grievance for unjustified dismissal should they be terminated within their probation period. The period should only be long enough for the employee to demonstrate their suitability for the job.

- Record in writing the duration of the probation period, what you expect from your employee, and what you'll provide to help your employee achieve these expectations.
- Probation periods may be extended if both parties agree.

### **What you must do**

- Negotiate a trial or probation period in a fair way with your new employee.
- Follow the minimum employment rights regarding pay, conditions, holidays and leave, and health and safety during a trial or probation period. For more information see the Employment Relationships booklet.
- Consider and respond to any issues raised by the new employee during their trial or probation period.
- Ensure you clarify your expectations first and give employees the resources, support and training they need to succeed.
- Have the trial or probation period written into the employment agreement.

### **What you could do**

- Meet with the new employee frequently to talk about how they are getting on and to check if there is anything else they need to be successful in their role.