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EMPLOYEE DISCIPLINE AND TERMINATION POLICY PROCEDURES

INTRODUCTION

The following Procedures are to be implemented to ensure that fair and effective systems exist for managing and settling cases of unsatisfactory performance and unacceptable conduct or workplace behaviour within all service streams of the #####

These Procedures should be read in conjunction with all relevant Nulsen Group Policies and Procedures and, in particular, the Employee Discipline and Termination Policy.

DEFINITIONS

Misconduct is behaviour that an employer deems inappropriate for an employee. It usually relates to an employee's conduct during working hours. There are varying degrees of misconduct, ranging from minor misconduct to serious misconduct.

Serious misconduct is misconduct of a serious and wilful nature that justifies termination of employment. Only extremely serious incidents constitute serious misconduct. Each case is judged on the surrounding circumstances. Serious misconduct may include:

- service user abuse. It can consist of Physical Abuse including Sexual Abuse and/or Verbal Abuse
- some of the examples of behaviour that would constitute physical abuse are:

a. hitting, slapping, pinching, kicking, pushing; b. corporal punishment; c. assault; d. wrongful restraints, either physical or chemical;

verbal abuse is the use of disparaging or derogatory language to, or about, a service user. Verbal abuse can exist whether language is written or oral, and even if delivered to someone other than the service user

- some examples of verbal abuse are:
- theft from the employer, service user or colleagues' insults; obscenities; ridicule; belittling; embarrassment intimidation fighting
- fraud or falsifying work documents
- accessing and/or distributing pornographic emails or websites
- deliberately damaging company property
- serious bullying or harassment
- bringing the employer into serious disrepute
- being intoxicated at work.

PROCEDURES

The following procedures are to be implemented to ensure that ##### meets its policy objective of managing unsatisfactory performance, allegations of misconduct and serious misconduct in a just and equitable manner.

"Disciplinary action" for employees is action by ##### to discipline an employee for unsatisfactory performance, misconduct or serious misconduct, as follows:

- (a) formal censure or counselling
- (b) demotion by one or more classification levels or increments
- (c) withholding of an increment
- (d) suspension with or without pay
- (e) and/or (e) termination of employment.

Notice of Termination

1. Notice of termination for employees will be in accordance, as appropriate, with the contract of employment, specific award and the ##### and United Voice Enterprise Agreement 2015, provided that any greater period of notice specified in the employee's contract of employment will continue to apply.

2. Notice shall not be required in relation to the termination of an employee found to have engaged in serious misconduct of such a nature that it would be unreasonable to require ##### to continue the employment of the employee concerned during the required period of notice.

3. Step 1: meeting to counsel employee regarding performance or behaviour.

The supervisor and employee shall attempt to resolve the difficulties through a counselling process including co-operation, setting of appropriate performance/behaviour standards and assistance with specific training and development programs where appropriate.

The employee will be:

- informed of the possible implications of continued unsatisfactory behaviour or performance;
- advised that they are being counselled under these procedures;
- and given an opportunity to respond to the allegations.

A record shall be kept of the counselling given and a copy supplied to the employee.

If the employee's performance or conduct does not improve after counselling, a formal interview with the employee is recommended.

Step 2 - first written warning if performance or behaviour has not improved following Step 1.

Where a supervisor believes that counselling has not produced the desired improvements in performance, or alleged misconduct is denied by the employee or, in the opinion of ##, counselling is not an adequate response to the alleged conduct, a formal interview with the employee is recommended.

A formal report should be provided to the Manager, Industrial & Workplace Relations by the Supervisor which will state clearly the aspects of performance and/or conduct seen as unsatisfactory and the record of any attempts to remedy the problem.

The Manager, Industrial & Workplace Relations, will conduct an investigation and hold a formal meeting. The employee should be given the opportunity to respond to each allegation. The employee's response should be considered to ascertain if it justifies the employee's performance or conduct.

Within 24 hours of the formal interview, the employee should be given a letter of warning, if warranted, which also confirms:

- date, time and place of interview
- people present at interview
- that the employee was given opportunity to bring someone to the interview
- matters discussed at interview
- additional training or coaching that will assist the employee to make the required improvements if warranted
- a time frame for monitoring progress against the standards
- a future meeting time to assess progress
- consequences of failure to improve
- access to the Employee Assistance Program (EAP).

A statement, signed by both the Manager, Industrial & Workplace Relations and the employee, acknowledging receipt of the warning, if warranted, and setting out any agreement reached at the interview will be placed on the employee's file. The signing of the statement will serve only as an acknowledgement of receipt of the warning and that the interview occurred. If the employee refuses to sign the statement, the Manager, Industrial & Workplace Relations will complete the statement and provide a copy to the employee in the presence of a witness.

Step 3 – hold a review meeting following first written warning (Step 2) and consider whether or not a second warning is to be issued.

A review meeting following the first written warning should be conducted to determine what (if any) improvement has occurred and whether or not a second warning is to be issued.

At the end of the time-frame set out, a meeting to assess progress will take place. Where reasonably practicable, this meeting will involve the same people as in the first interview.

The following actions will be taken at the end of the review meeting:

- if the matter is resolved satisfactorily no further action will be taken. A statement to this effect will be placed on the employee's electronic file; or
- if the employee's performance or conduct has not improved, the processes in Step 2 should be repeated, with the employee being issued with a further letter of warning

- where a second written warning has been issued and, after a further meeting to assess progress, the supervisor believes that the required standard of behaviour or performance has still not been achieved, the supervisor will again refer the matter to the Manager, Industrial & Workplace Relations for investigation (4th stage of the procedure)
- the employee will be given a maximum of three written warnings. When the employee has been given a third written warning outlining opportunities to improve their conduct or performance, and they have not shown satisfactory improvement, a final warning must be issued. The process in step 2 should be followed when a final warning is issued.

Step 4: Dismissal Once steps two or three have been repeated, another formal interview should take place. If performance or conduct has still not improved, the employee should still be provided with the opportunity to respond.

At the conclusion of the investigation, and based on findings of facts, the balance of probabilities and the conclusions reached on the evidence provided, the Manager, Industrial & Workplace Relations, in consultation with the relevant Executive Director and the CEO, will authorise the termination of the employee's employment, if deemed appropriate.

The employee's comments on the review follow-up and any other relevant matters will be

Serious Misconduct In the case of an allegation of serious misconduct the following procedures are to be followed.

The Manager, Industrial & Workplace Relations may suspend an employee for a defined period of time for behaviour considered to be of sufficient seriousness as to warrant summary action. Any such action will only occur pursuant to the following procedures.

Suspension will be on full pay and will extend until either the expiry of a period at the discretion of the relevant Executive Director or CEO, and until an inquiry is concluded.

Written notification of suspension, including the grounds for suspension, will be given to the employee as soon as practicable.

A suspended employee will not have access to his/her workplace except with the knowledge and approval of the relevant Executive Director and CEO, and then only for the purpose of preparing any case under this clause.

The Manager, Industrial & Workplace Relations will initiate an inquiry during which the employee will be given the opportunity to be heard.

At the conclusion of the inquiry, the Manager, Industrial & Workplace Relations, in consultation with the relevant Executive Director and CEO, may determine an action that will be one of the steps under the Notice of Termination above.

must not terminate an employee's employment unless:

- a. the employee is guilty of serious misconduct of a kind that makes it unreasonable to require ##### to continue employment during the notice period;
- b. the employee has been given the opportunity to defend himself or herself against the allegations made.

Formal notice of that decision will be given to the employee immediately following the inquiry. If a decision is made to terminate, the employee will be informed of the decision and given a termination letter.

They will be given the appropriate notice period or compensation in lieu of notice and any other accrued entitlements.

In the event of termination, all keys, identification card, vehicle and other ##### property must be returned to the employee's supervisor on the final working day.

Employees who have been terminated from ##### shall not be eligible for reemployment by ##### in any capacity.

Summary Dismissal In a Summary Dismissal ##### have the right to dismiss an employee without notice and not make a payment in lieu of notice but the employee should be given an opportunity to respond.

BREACHES OF THE POLICY PROCEDURES

Any breaches of the Employee Discipline and Termination Policy Procedures could constitute a possible act of misconduct. Reference is accordingly made to the ##### Employee Discipline and Termination Policy which outlines the relevant processes that may be followed if misconduct is suspected.