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DISCIPLINARY PROCEDURES

Policy context: This procedure relates to

Legislation or other requirements

Fair Work Act 2009

Contractual obligations

Enhanced Lifestyle Inc EBA 2015

Procedures

The following procedures are to be followed in the case of misconduct:

Reporting misconduct

Any staff member with concerns about the behaviour or action of another staff member should contact Human Resources (HR) and report their concerns. HR may request that the allegations or concerns are provided in writing.

HR will be responsible for:

- ensuring that both the reporter and the staff member are afforded confidentiality.
- informing the manager of the staff member if a report is received.

Considering options

HR and any other relevant staff member should consider the report and determine an appropriate response:

- for minor misconduct or in cases involving personality clashes, refer the matter to HR who may undertake mediation or counselling.
- for minor infringement and/or atypical behaviour, provide a formal warning to the staff member about his or her conduct, noting that any further similar conduct could lead to formal action.
- for significant misconduct a formal process is to be followed - notify Management, commence investigation and consider suspension or a temporary reassignment of duties.
- if the allegation involves a criminal offence, it must be referred to the Police and HR notified.

Commence investigation

HR will:

- inform the staff member in writing of the detail of the allegations of misconduct and the possible outcomes.
- give reasonable notice of a meeting to be held with the staff member and any representative they wish to have with them.
- make clear the purpose of the meeting which is to give the staff member the opportunity to properly respond and put their case.
- conduct further investigation as required in a timely, systematic and effective manner to reach a determination based on fact, fairness and without bias.

Determination

- Where the investigation finds that there has not been any misconduct the staff member will be informed that there is no further action and any records associated with the matter disposed of.
- Where the staff member is found to have been involved in misconduct determine the sanction to be imposed. The sanction should be appropriate to the type of misconduct and within what is allowable under industrial regulations or agreements. This may involve a verbal or written warning or in more serious cases dismissal.

Formal warning process

The formal warning process must be followed if the situation potentially may lead to dismissal. HR will coordinate the following:

1. Formal counselling – first warning

- Schedule a meeting and inform the staff member of the seriousness of the counselling.
- Ensure at least 24 hours between scheduling the meeting and conducting the meeting.
- Give the staff member the opportunity to have an observer present.
- Ensure that all relevant information has been gathered and reviewed.
- Provide the staff member with a clear explanation of why their performance or conduct is unsatisfactory and the possible ramifications.
- Provide them with the opportunity to respond.
- Set a timeframe by which the issues will be addressed.

- Document the interview including all agreed outcomes. This document is to be signed by the staff member and the person conducting the interview.

2. Formal counselling - second warning

- If the issues have not been addressed within the agreed time frame, schedule another review meeting.
- Agree a revised timeline by which the issues will be addressed.

3. Final warning

- If after the first and second warnings have been given and the performance or conduct does not improve then schedule a final warning meeting.
- Discuss the final warning meeting with manager and have them present at the meeting.
- The purpose of this meeting is to clarify for the staff member that they must address the issues immediately.
- Advise the staff member of the options if they do not achieve the agreed goals.

Termination

HR will:

- consider all other options available including extension of probation, restricting work role, delaying salary progression.
- if there is still no agreed improvement in performance or conduct then termination may be the final step.
- before taking this step review all documentation to ensure that the processes have been fair and objective and that the staff member has been given both the opportunity and the support to improve their performance.

Summary Dismissal

Summary dismissals are only made for serious and wilful misconduct, including serious neglect of duty and serious inefficiency. Acts of misconduct may include, but are not limited to:

- wilful disobedience
- insubordination
- drunkenness
- abusive language

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- violence
- concealment of a material fact on engagement
- obscenity
- dishonesty in the course of the employment or conviction or an offence which renders the staff member completely unfit for the work.

Each case will be considered on its own merits, and if summary dismissal is found to be lawful and necessary, HR will:

- suspend the staff member from duty immediately pending further investigation.
- Consult the Chief Executive Officer and consider accessing external expertise (i.e. HR Pinnacle)
- ensure that the person delegated to conduct the dismissal has a responsible member of staff present to act as a witness.
- Ensure that the reason for dismissal is given in the terms of the Fair Work Act, clearly conveyed to the staff member and recorded on the staff member's personnel file.

Documentation

| Documents related to this policy | |
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| Related policies | <p>Q261 - Performance Management and Review Policy</p> <p>Q254 - Employment Conditions Policy</p> |