



Disciplinary and Performance Management Procedures

Purpose

The purpose of this policy is to outline the process for implementation of the Disciplinary and Performance Management Policy in respect of standards of performance, behaviour and compliance. This includes inconsistent or poor performance, misconduct, breach(es) of Unitec's Code of Conduct or any other Unitec policy.

Scope

This is a Unitec-wide policy.

Procedures

Disciplinary Investigations

An investigation process takes place to establish the facts of the issue or allegations. Where Unitec considers an investigation into an employee's conduct, performance, actions, omissions or breach may be necessary, it may conduct a preliminary investigation or formal investigation of the events surrounding the allegation.

Preliminary investigations

A preliminary investigation will only be used to determine whether or not to continue with a formal disciplinary investigation, including whether the employee should be suspended pending the outcome of a formal disciplinary investigation. During the preliminary investigation, Unitec may:

- a. interview the staff member and give him/her an opportunity to explain/comment;
- b. interview other people, if appropriate; and
- c. check records, or verify facts by other means, if appropriate.

A preliminary investigation will not necessarily lead to any disciplinary action, but may, if justified, lead to a formal investigation being carried out, from which disciplinary outcomes may result. However, no disciplinary action will be decided upon, or taken, before the relevant circumstances have been considered.

A preliminary investigation may not always be conducted; in some circumstances it may be appropriate to go straight to a formal investigation.

Formal investigation

When an allegation of misconduct/serious misconduct arises, Unitec is likely to commence a formal disciplinary investigation. In that case, the employee will be invited to attend one or more disciplinary investigation meetings with the relevant decision maker to discuss the allegations of misconduct or serious misconduct against him/her.

In preparation for this meeting, the employee will be:

- a. given details of all of the allegations against him/her and what standards of conduct, policies or terms and conditions of employment he/she has allegedly breached;
- b. given all of the information that Unitec may rely upon in making any decisions in the disciplinary investigation, including copies of any written complaints that have been made;
- c. advised of the seriousness of the allegation(s) and told that the investigation could result in disciplinary action (specifying to the most serious level possible);
- d. advised who the decision maker from Unitec will be and what disciplinary action may result (if any);
- e. advised that the meeting will be the employee's chance to give his/her explanation and that no decisions have been made at this stage; and
- f. advised that he/she may seek advice and have a representative or support person at the meeting.

The employee will be allowed reasonable time to seek advice and arrange for a union or other representative or support to attend the disciplinary investigation meeting. If the employee refuses to make him/herself available to attend a disciplinary investigation meeting or otherwise provide comment on the allegations within a reasonable period, Unitec may make a decision without his/her input, based on the information available to it.

Disciplinary investigation meetings

At any disciplinary investigation meeting, the decision maker will explain the alleged behaviour. The employee will then be given the opportunity to explain their version of events.

Before making any decisions about whether the allegations are upheld and what disciplinary action may be appropriate in the circumstances, the decision maker will carefully consider the employee's explanation, and all of the relevant information.

Following the investigation, if the allegations are not upheld, or the employee's explanation is acceptable in the circumstances, Unitec may decide to take no further action. However, if the allegations are upheld, the decision maker may go on to consider what disciplinary action would be fair and reasonable in all of the circumstances.

Performance Management

Unitec will address performance issues as they arise. It will generally be appropriate to raise the matter with the employee informally in the first instance. At this stage, the employee will be advised of the aspect/s of their performance not meeting expected requirements, and of the standard of performance that is expected of them. Clear expectations for improvement will be established, and Unitec and the employee should identify whether any support is required by the employee to meet these expectations.

If the matter is not successfully resolved informally, Unitec may implement a formal performance management process. The primary objective of this process is to lift or return the employee's performance to the expected standard. The employee will be given the opportunity, assistance and support to improve their performance and will be formally monitored and evaluated to assess improvement.

As part of a formal performance management process, the employee concerned will be:

- a. informed of the specific unsatisfactory aspects of his/her work;
- b. made aware of the required standards of work that he/she must achieve;

- c. given the opportunity to explain/comment on/respond to the issues raised;
- d. reasonably supported to achieve the required standards;
- e. advised that they are entitled to bring a support person to any meeting they attend. A support person may include a representative, friend or family member.
- f. allowed reasonable time to achieve the required standards; and
- g. told that failure to attain the required standards may lead to disciplinary action, up to and including dismissal.

If the employee fails to reach and/or maintain the standards of performance that Unitec reasonably expects of him/her following the performance management process, or otherwise seriously breaches performance expectations, Unitec may consider disciplinary action. A separate disciplinary investigation process is not generally required for disciplinary action following a performance management process.

Suspension

General

Suspension is the removal of an employee from work while an allegation of a serious nature in relation to that employee is investigated, and is not, of itself, disciplinary action. Unitec may suspend an employee in order to facilitate further investigation of the matter prior to making any decision about whether disciplinary action is necessary and if so, what disciplinary action is appropriate.

Suspension may be appropriate, including where:

- h. the allegation(s) potentially affect the employee's ability to carry out his/her duties (e.g. assault, unauthorised possession of company property, negligence, violent behaviour);
- i. there is a risk that the employee may engage in conduct similar to the allegations if he/she remains at work (e.g. misappropriation of funds);
- j. the continued presence of the employee is likely to cause concern to other Unitec employees, students and/or members of the public/third parties;
- k. it is reasonable, to take the heat out of a situation or reduce tension in the workplace, for example, where other employees are involved in the matter to be investigated;
- l. there is reason to believe that the investigation may be hindered if the employee remains at work while it is undertaken, including the employee tampering with the evidence or intimidating or influencing witnesses in Unitec's investigation;
- m. the employee's continued presence in the workplace poses a potential risk to the health and/or safety of the employee, other employees or students; and/or
- n. the allegation is such that work cannot continue until the allegation is investigated and/or rebutted.

Payment While on Suspension

Employees will generally be suspended on pay unless in Unitec's opinion, exceptional circumstances warrant unpaid suspension.

Procedure

Where Unitec considers that suspension may be reasonable in the circumstances, the employee will be advised of the allegations against them and that Unitec considering suspension and the reasons for this.

The employee will generally have an opportunity to take advice and comment about the proposed suspension before Unitec makes a decision about it, unless the suspension needs to be effected immediately. Unitec will then consider the employee's comments before reaching a decision about suspension.

Verbal advice to an employee that he/ she has been suspended will be followed by written confirmation of the suspension to the employee.

An employee who is suspended must remain available and contactable in order to participate in the disciplinary investigation and address matters that may arise.

Consequences

Consequences should be proportionate to the nature and extent of the failure to meet expected standards of performance or behavior. The decision maker must satisfy themselves that the consequence is proportionate having regard to all the circumstances. The types of consequences Unitec may apply to an employee for failing to meet expected standards of performance and behaviour may include (but not limited to):

- Caution
- Written warning (including final written warning)
- Termination (with or without notice)
- Referral to relevant external bodies
- Demotion
- Changes to reporting line
- Transfer
- Mandatory training
- Introduction of a performance plan
- Limiting or removing employment privileges (e.g. such as being taken off a development course)

In some cases, such as situations involving personality clashes, alternative measures such as mediation or counselling may be the most effective way to manage the issue. Different consequences may be applied to employees at various stages of the performance management process or unacceptable behavior process, not just at the conclusion of the relevant process.

Warnings

Introduction

For the most serious instances of misconduct, summary dismissal may be appropriate, followed by dismissal with notice. For less serious instances of misconduct, a verbal warning or caution, written or final warning may be appropriate.

Verbal Warning or Caution

May be appropriate in instances where an employee's actions are serious enough to warrant more than an outline of expectations or a coaching conversation, yet not serious enough to warrant a formal sanction.

Written warning

A written warning may be appropriate in instances where misconduct is found to have occurred. Warnings may also stipulate corrective actions and monitoring that may be required as a result of the warning having been issued.

Final written warning

A final written warning may be appropriate in instances where misconduct or serious misconduct is found to have occurred. (In some cases a final written warning may be issued as the first step in the disciplinary process.)

The decision maker must seek the employee's feedback on a preliminary finding regarding the proposed action.

All warnings must be recorded in writing, recorded in PeopleSoft and placed on the employee's personal file.

Once a first warning is given, further warnings need not be limited to the repetition of the same offence, but may be for any incident of misconduct. Additionally, incidents of a similar nature or severity may additionally be treated as an act of serious misconduct.

Dismissal

Where serious misconduct or repeated instances of misconduct are found to have occurred, the employee's employment may be terminated by dismissal. Unitec may terminate an employee's employment by:

- a) dismissal on notice; or
- b) dismissal without notice (or summary dismissal).

If the proposed action is dismissal, the decision maker will seek the employee's feedback on a preliminary finding regarding the proposed action.

Where Unitec has made a decision to dismiss an employee it will provide written notification of its decision to the employee.

Resignation

If an employee resigns during a disciplinary process that could result in dismissal, the DCE – People and Culture must be advised. The employee will only be permitted to cease employment before the end of the required notice period if this is approved by the DCE – People and Culture.

Responsibilities

Role	Responsibilities
DCE – People and Culture	<ul style="list-style-type: none"> Has the delegated authority to update any forms or appendices associated with this policy.

Appendices

- Appendix 1 – Flow chart of ordinary disciplinary procedure
- Appendix 2 – Examples of types of behaviour that may constitute misconduct
- Appendix 3 – Examples of types of behaviour that may constitute serious misconduct

Approval Details

Version number (this version):	2	Issue Date (this version):	January 2021
Consultation Scope:	All Unitec staff		
Approval authority:	Executive Leadership Team	Date of Approval	January 2021
Policy Sponsor (May have authority to approve minor amendments)	DCE – People and Culture	Policy Owner:	Human Resources
Contact Person	HR Business Partner	Date of Next Review	January 2023

Amendment History

Version History (Amendments made to this version)	Date of amendment/s: <ul style="list-style-type: none"> Dec 2017 Jan 2021 	Amendment/s: <ul style="list-style-type: none"> Reformatted for placement on Staff Portal and to reflect changes in organisational structure Clarification of preliminary investigation and dismissal process. Addition of verbal warning / caution sanction
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Appendix 1: Flowchart of ordinary disciplinary process

Appendix 2: Examples of misconduct

The following examples of standards of behaviour do not specify every potential act or behaviour that may justify disciplinary action, but rather are intended as guidelines as to what may generally constitute misconduct. In some instances, these examples may also constitute serious misconduct.

1. Failing to report any work-related accident or injury occurring at work, no matter how minor the incident.
2. Poor time-keeping and/or attendance, including arriving late for work and returning late from lunch and/or tea breaks.
3. Poor performance.
4. Being discourteous to another employee, visitor, or student.
5. Aggressive and/or argumentative behaviour.
6. Use of abusive or offensive language at work.
7. Failing to advise an appropriate employee of any unauthorised lateness or other absence as soon as possible, without good reason. Failure or inability to work cooperatively or harmoniously with others.
8. Comparatively minor breaches of Unitec's policies and/or procedures.
9. Indulging in unauthorised personal activities during working hours.
10. Failure to observe safety rules or working in an unsafe manner or failing to make proper use of safety equipment where such equipment is installed or provided.
11. Wasting time or material.
12. Smoking in non-smoking areas.

Appendix 3: Examples of serious misconduct

The following examples of standards of behaviour do not specify every potential act or behaviour that may justify disciplinary action, but rather are intended as guidelines as to what may generally constitute serious misconduct.

1. Insubordination or a refusal to comply with any reasonable and lawful instruction or direction.
2. Serious poor performance, neglect, indolence, inefficiency or incompetent behaviour in the discharge of his/her duties.
3. Reporting for work in a condition that prevents the performance of normal duties adequately and/or safely.
4. Criminal charges or convictions that have not been declared, or have occurred since hire.
5. Behaviour that causes unreasonable distress to a student, employee, visitor or member of the public.
6. Falsification of any Unitec or student documents or records, or provision of false particulars on such documents or records, including employment applications and any records relating to wages, working hours, accidents, expenses, or leave.
7. Deceitful and/or dishonest behaviour.
8. Any misrepresentations, including regarding qualifications, fitness or competence for work.
9. Unauthorised or improper use, possession, movement and/or removal of property belonging to another employee, student, visitor, and/or Unitec.
10. Damage or destruction of property belonging to another employee, student, visitor, and/or Unitec.
11. Behaviour which impacts adversely on hygiene, quality or safety.
12. Aggressive, argumentative, disruptive, intimidating or discourteous behaviour towards another employee, student, visitor or supplier.
13. Assault or fighting with any employee, student, or any other person on Unitec premises, or in the course of performing his/her duties on behalf of Unitec.
14. Bullying or sexual, racial or other harassment of an employee, student, visitor or other person on Unitec premises, or in the course of his/her duties on behalf of Unitec.
15. Unsafe behaviour, including any act or omission causing actual or potential risk or injury to other persons or equipment, or breach of health and safety policies and procedures.
16. Unfitness for duty due to the influence of alcohol or drugs, including reporting for or being at work in such a condition that, in Unitec's opinion, is due to the consumption of alcohol or other substance and is precluding proper and safe performance of work.
17. Possession, use or distribution of illegal drugs while on Unitec's premises and/or while performing any duties or responsibilities on behalf of Unitec.
18. Consuming alcohol on Unitec's property during or outside working hours without management's consent.

19. Irresponsible use of fire protection or safety equipment.
20. Repetition of an offence/behaviour/action/omission in respect of which a final written warning has already been given.
21. Any conduct or behaviour inside or outside of work that may bring the employee, the standing of his/her profession and/or Unitec into disrepute.
22. Serious breaches of Unitec's policies and/or procedures.
23. Being absent from work without authorisation and/or reasonable excuse.
24. Repetitive instances of misconduct.
25. Abandonment of employment.
26. Acting in a way that is in conflict with the commercial or legal interests of Unitec.
27. Inappropriate use of email, internet, mobile phones, software and/or hardware applications.
28. Assistance to a competitor including, but not limited to sharing knowledge of methodology, performance and resources required.
29. Breach of Unitec Confidentiality Agreement