

5.13	MANAGING UNSATISFACTORY WORK PERFORMANCE (significant misconduct, serious breaches and ongoing underperformance)
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Applies to: All staff
Specific responsibility: HECIS Co-Ordinator, President, Management Committee

Version: 1
Date approved: 24.5.16
Next review date: Aug 21

Policy context: This policy relates to	
Standards or other external requirements	
Legislation or other requirements	Fair Work Act 2009 Small Business Fair Dismissal Code, July 2009 (less than 15 staff members)
Contractual obligations	

POLICY STATEMENT

HECIS is required to comply with the Fair Work Act 2009 and the relevant industry employment awards. HECIS is also committed to internal accountability and a fair process for ensuring that staff work performance is adequate and staff conduct is appropriate at all times.

This policy sets out the policy and procedures for dealing with:

- significant misconduct
- serious breaches of the HECIS Code of Ethics and Conduct and/or Work Health & Safety
- breaches of the Working with Children Check Legislation
- other criminal offences
- ongoing underperformance that has not been satisfactorily managed under the *Performance Management & Review policy* using a Performance Improvement Plan.

The Small Business Fair Dismissal code (July 2009) applies to small business employers with fewer than 15 employees.

HECIS currently meets this requirement and this policy has been prepared on that basis.

This policy applies to all employees of HECIS, except employees within their probationary period (less than 12 months employment).

Action to address unsatisfactory work performance will be consistent with the principles of procedural fairness.

Where unsatisfactory work performance is not deemed to be serious and does not meet the requirements of this policy the Performance Management & Review policy should be used to address the problem.

PROCEDURES

The **HECIS Co-Ordinator** is responsible for:

- managing the Unsatisfactory Work Performance policy and procedures
- discussing underperformance issues with employees as and when they arise and listen to any mitigating factors presented by the employees
- consulting with the HECIS President where serious issues arise, and especially where termination of employment is contemplated

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- ensuring all documentation is completed to ensure employees receive their correct entitlements upon termination of their employment.
- reporting all incidents dealt with under this policy/procedures to the HECIS Management Committee through the Co-ordinators report

The **HECIS President** is responsible for:

- managing the Unsatisfactory Work Performance policy and procedures as they apply to the HECIS Co-Ordinator
- consulting with the HECIS Co-Ordinator where serious issues arise, and especially where termination of employment is contemplated.

Employees are responsible for ensuring they:

- discuss performance issues or difficulties with their supervisor as and when they arise
- seek assistance in the performance of their duties, if necessary
- make every effort to improve their work performance where underperformance issues are raised

PROCESSES

Where unsatisfactory work performance is not deemed to be serious and does not meet the requirements of this policy the *Performance Management & Review* policy should be used to address the problem.

Formal Process to manage unsatisfactory work performance

Where the unsatisfactory work performance does meet the requirements of this policy HECIS may proceed to manage employee's unsatisfactory work performance through a formal process.

Measures which may be used in the formal management of an employee's unsatisfactory work performance include, but are not limited to:

- increased supervision
- changes to the employee's performance plan
- mentoring
- training and professional development
- increased feedback
- coaching

The formal process for the management of employee's unsatisfactory work performance is:

- Stage One – formal counselling
- Stage Two – formal written warning
- Stage Three – final written warning

Stage One – Formal Counselling

The first stage of formal management of unsatisfactory work performance is formal counselling of the employee.

The employee will be advised of any consequences of not improving their performance within a reasonable period of time and of engaging in any further unsatisfactory work performance.

The *Unsatisfactory work/Underperformance Meeting Plan form* will be used to document a written record of the formal counselling session and will be placed on the employee's personnel file.

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Stage Two – Formal Written Warning

If the employee's work performance has not improved within a reasonable period of time following formal counselling in accordance with Stage One of the process set out in this policy, or if the employee engages in further unsatisfactory work performance, the employee will be given a formal written warning.

The formal written warning must indicate:

- The standard of performance expected of the employee
- Where and how the employee is not meeting this standard
- The consequences if the employee fails to improve their performance

The written warning will be placed on the employee's personnel file.

Stage Three – Final Written Warning

If the employee's work performance has not improved within a reasonable period of time following the receipt of a formal written warning in accordance with Stage Two of the process set out in this policy, or if the employee engages in further unsatisfactory work performance, the employee will be given a final written warning.

The final written warning must indicate:

- The standard of performance expected of the employee
- Where and how the employee is not meeting this standard
- The consequences if the employee fails to improve their performance, including that the employee's employment may be terminated by HECIS.

The final warning will be placed on the employee's personnel file.

At each of stages one, two and three of the formal process, HECIS will provide the employee with an opportunity to respond.

Termination of the employee's employment

HECIS may terminate the employee's employment for unsatisfactory work performance if stages one, two and three of the formal process have been followed. Notice of termination will be advised to the employee in writing and a copy placed on the employee's personnel file.

If the **HECIS Co-Ordinator** considers that termination of employment may be necessary, and prior to proceeding to this action must:

- consider all other options available
- 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
- refer matter to the President prior to termination of employment

Summary Dismissal

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

- drunkenness
- abusive language
- violence

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- concealment of a material fact on engagement
- obscenity
- serious breaches of Work Health & Safety procedures
- 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, the HECIS Co-Ordinator will:

- suspend the staff member from duty immediately pending further investigation.
- refer matter to the President prior to termination of employment
- 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 relevant Award or Act, clearly conveyed to the staff member and recorded on the staff member's personnel file.

DOCUMENTATION

Documents related to this policy	
Related policies	Code of Ethics and Conduct Performance Management & Review Work, Health & Safety M annual
Forms, record keeping or other organisational documents	Code of Ethics and Conduct Agreement Unsatisfactory work/underperformance meeting plan Warning letter Final Warning Letter Termination of Employment Letter

Reviewing and approving this policy		
Frequency	Person responsible	Approval
Annually	HECIS Co-Ordinator	Management Committee

Policy review and version tracking			
Review	Date Approved	Approved by	Next Review Due
1	14.8.17	HECIS CoOrdinator	Aug 2018
2	3.9.18	HECIS CoOrdinator	Aug 2019
3	20.8.19	HECIS CoOrdinator	Aug 2020
4	15.9.20	HECIS CoOrdinator	Aug 2021