

# STAFF COUNSELLING & DISCIPLINE POLICY

**This policy sets out the procedures and guidelines for:**

1. Work performance counselling.
2. Disciplinary procedures, including the handling of unacceptable conduct by Employees.

## **1. Purpose**

The purpose of this policy is to state how the Employer will deal with problems or concerns about an Employee's work performance or conduct. Issues related to Employee work performance or conduct will normally be addressed by the Employer through a procedure that commences with counselling, before proceeding to a formal and structured discipline procedure. Open communication is encouraged between the Employer and Employee, in order to ensure that matters of concern are dealt with in an appropriate and effective manner.

The right of all parties to confidentiality will be respected. The procedures set out in this policy will be implemented within the context of rights and obligations on both Employers and Employees under relevant Awards, industrial agreements or legislation.

## **2. Scope**

This policy applies to the Employer (Committee) and all Employees.

In implementing this policy, the Employer will act in accordance with the requirements specified under relevant Awards, industrial agreements or legislation, and in a fair and equitable manner.

Employees are to act in accordance with this policy.

## **3. Definitions**

**Counselling procedure** is a method of dealing with work performance of an Employee through discussion between the Employer and Employee without recourse to the discipline procedure.

**Discipline procedure** is a formal procedure normally consisting of one or more warnings and, if warranted can result in termination of employment.

**Employer** for the purpose of this policy refers to a legally constituted Committee or employing body.

**Unacceptable conduct** of an Employee is behaviour that justifies disciplinary action, which may include termination of employment, including termination without notice or pay in lieu of notice.

**Warning** is a formal discipline procedure issued both verbally and in writing.

## **4. Procedures**

### **Conflict of Interest**

Committee members, who may have lodged a complaint or have been interviewed as a witness, will normally refrain from involvement in the discussion or decision making processes relating to the complaint or performance issues or participating in the subcommittee investigating the issues or implementing the action.

### **Investigation and Verification of the Issues to be Raised**

In relation to work performance counselling and the disciplinary procedure, including the termination of employment, the Committee will ensure that the issues and concerns to be raised with Employees can be substantiated. This includes identifying appropriate and specific examples of those issues or concerns prior to any action being taken.

Therefore, the Committee delegates authority to the President to appoint any two Committee members (one of whom may be the President) to a subcommittee to conduct an investigation in order to verify the validity of the issues and concerns to be raised. This investigation would take place prior to the Committee authorising any action, including approval for a work performance counselling, the issuing of warnings or the termination of employment.

Where complaints have been received in relation to the actions or performance of Employees, the individual Employee concerned will be given the opportunity to rebut or reply to the contents of the complaint as part of that investigation.

This subcommittee will, when it has completed its' investigation, provide a report to the Committee.

## **5. Committee Approval**

### **Committee Decision Making**

Where the Employer is a legally constituted Committee, no work performance counselling, or the issuing of warnings, or the termination of employment, will occur without the prior approval of the Committee. This decision will be made at a Committee meeting and all Committee members will respect the confidentiality of the information discussed.

### **Implementation and Action**

After the Committee has decided what action is to be taken, a subcommittee, or Committee representatives, will be appointed by the Committee to meet with the Employee/s concerned and to implement the action in relation to counselling, disciplinary action and termination of employment in line with this policy. Meetings with Employees will occur in accordance with the guidelines set out in Section 8 of this policy.

## **6. Work Performance Counselling Procedure**

### **Purpose of Counselling**

This counselling procedure will not apply in situations where there is conduct by the Employee that justifies immediate disciplinary action, which may result in a warning or termination of employment.

The counselling procedure is intended as a positive exercise, to facilitate communication, and to assist the Employee to address matters related to their work performance or conduct, and for the Employer to clearly define what they see as the requirement of the position. It provides an opportunity for the Employer to discuss, and attempt to resolve, problems or concerns relating to an Employee's work performance, without needing to issue a warning.

In the event that issues relating to an Employee's work performance or conduct are not resolved within the time frame provided, the matters would be dealt with under the discipline procedure.

### **Counselling procedure**

The Employee must be notified in writing of the date time and venue of the counselling meeting and the nature of issues to be discussed.

The Employer will meet with the Employee to discuss identified areas of concern related to the Employee's work performance or conduct.

Discussions should identify what changes or outcomes are required in order to address the concerns raised by the Employer. During the counselling meeting, both the Employer and Employee should listen to, and carefully consider, the views, reasoning and explanations provided to them by the other party.

The general content of the counselling meeting, and any specific outcomes and the timelines for these to be achieved, will normally be recorded in writing, a copy of which will be kept by the Employer, and a copy given to the Employee.

### **Outcomes**

The Employer will clearly identify and inform the Employee of particular outcomes and/or changes required, and the timelines in which they are to be achieved, so that the Employee can address issues related to work performance or conduct.

## **7. Discipline Procedure**

### **Purpose of the Discipline Procedure**

The discipline procedure is intended to address areas of concern related to the Employee's performance or conduct, through a formal structured process within reasonable timelines, using relevant strategies for conflict resolution and a process of evaluation/review.

As part of the discipline procedure the Employee will be given a warning, issued in writing as well as verbally, after a meeting between the Employer and Employee convened to discuss areas of concern relating to the Employee's work performance or conduct. It is important for

Employees to understand that the discipline procedure normally consists of two warnings and if necessary will end in termination of employment where the performance or conduct of an Employee fails to meet the required standard within appropriate timelines. Conduct, which falls within the scope of unacceptable behaviour that justifies disciplinary action, may also result in termination of employment.

### **Discipline Procedure**

The Employee will be notified in writing of the date of the disciplinary meeting and the issues of concern. Employees may request the attendance of a union representative at the disciplinary meeting, where this is consistent with a relevant Federal Award or industrial agreement.

During the disciplinary meeting, both the Employer and Employee should listen to and carefully consider the views, reasoning and explanations provided to them by the other party. The general content of the disciplinary meeting, and any specific outcomes, will be recorded in writing by the Employer and a copy given to the Employee. Records of disciplinary procedures and the issuing of warnings will be kept on the Employee's personnel file normally for a period of 12 months, after which, if there are no further warnings, they will be removed and either destroyed or returned to the Employee at the discretion of the Employer.

The Employer will respect the right of the Employee to request in writing, a review of the decision to issue a warning in light of additional information provided by the Employee.

The Employer will abide by any obligations relating to disciplinary procedures, including maintaining Employees entitlements, contained in any relevant industrial agreement, to which the Employer is a respondent party.

Section 7 of this policy herein contains some guidelines for meetings between Employers and Employees convened as part of this procedure.

### **Unacceptable Conduct by Employees**

The Employer is required to promote an environment that is free of any harassment, intimidation or abuse. Staff shall not treat children, parents, visitors or other Employees in a manner involving any form of harassment, intimidation or any treatment of a demeaning, threatening or abusive manner. Staff will at all time act in accordance with the requirements of the *Children's Services Act 1996, Children's Services Regulations 2009*.

Conduct, which falls within the scope of unacceptable behaviour that justifies disciplinary action, which may result in termination of employment, including instant dismissal, includes but is not limited to:

- Verbal abuse or threats.
- Any form of physical abuse or corporal punishment.
- Remarks which could be seen as offensive or constitute sexual harassment.
- Intimidatory behaviour.

- Treatment, particularly of children, that involves frightening, threatening or demeaning techniques.
- A serious breach of the *Children's Services Act 1996* or *Children's Services Regulations 2009*.

These include:

- Failing to take every reasonable precaution to protect children from any hazard likely to cause injury.
- Failing to ensure that any child is adequately supervised.
- Subjecting children to any form of corporal punishment.
- Any discipline of children which is unreasonable in the circumstances.
- Endangering the health and safety of the children.
- Fraud and theft which are totally unacceptable.
- Attendance at work while under the influence of alcohol or non-prescription drugs which is totally unacceptable.

In the event of a suspected breach of this policy related to unacceptable conduct, an investigation of the suspected breach will be undertaken by the Employer as soon as possible, giving consideration to the relevant circumstances. The Committee delegates authority to the President to decide whether a suspected breach of this policy has occurred, and the President will appoint two Committee members (one of whom may be the President) to a subcommittee to conduct an investigation. The subcommittee would report their findings back to the Committee.

Where the Employer has reasonable grounds to conclude that a breach of this policy may have occurred, the Employee may be suspended from duty without loss of ordinary pay, pending an investigation. The Committee delegates to the President the authority for any decision relating to the standing down/suspension of Employees with pay, pending an investigation.

The Employee will be given an opportunity to respond to the matters raised, before the Employer makes any final decision.

The Committee will meet as soon as possible after the investigation has been completed and based on the report received from the subcommittee will decide action to be taken, and refer this to a subcommittee for implementation.

The Employer will notify the Employee of the outcome of the investigation and any decision or actions to be taken by the Employer.

## **8. Guidelines for Meeting with Employees**

The following are guidelines for meetings held with Employees as part of the Staff Counselling and Discipline Policy.

### **Convening a Meeting with Employees**

The procedures in this policy may necessitate meetings between a subcommittee or Committee members appointed by the Committee and

Employees to discuss or address issues of concern. The following are guidelines for the conduct of these meetings.

### **During the meeting with Employees**

- The subcommittee/Committee members will define the Employee's work performance issues or conduct that are of concern and refer as appropriate to the Employee's position description.
- When appropriate, the subcommittee/Committee members will provide details to the Employee of specific instances where there has been failure to comply with requirements relating to work performance or conduct.
- The Employee will be given an opportunity to comment on and explain their own view of the work performance issues or conduct.
- The subcommittee/Committee members will outline outcomes the Committee requires in relation to the particular work performance issues or conduct.
- Employees may request the attendance of a union representative at a warning meeting where this is consistent with a relevant Federal Award or industrial agreement.

### **Outcomes**

- The subcommittee/Committee members will clearly identify and inform the Employee of necessary requirements and/or changes so that the Employee can address issues related to work performance or conduct.
- The subcommittee/Committee members will consider any requests made by the Employee for appropriate and affordable training, or support that could be of assistance to the Employee.
- Where appropriate a review date will be set to monitor and review required outcomes.

### **Record of Meetings**

Where appropriate, the content and any specific outcomes or requirements identified during the meeting with the Employee will be recorded in writing by the subcommittee/Committee members and a copy given to the Employee. In situations where interviews or meetings are conducted with Employees as part of the discipline procedure, an appropriate written record of the meeting will be prepared by the subcommittee/Committee members and a copy given to the Employee.

## **9. Key Responsibilities and Authorities**

### **Responsibilities**

The Committee will determine whether it is necessary to take action under this policy in relation to:

- Counselling procedures
- Disciplinary procedures, including the handling of unacceptable conduct by Employees.

All Employees and members of the Committee need to be aware of the policy and its contents.

The Committee will provide a copy of the policy to:

- All current Employees.
- All new Employees as part of orientation process.
- All Committee members when policy adopted and as part of the handover process each year

## **10. Resources and Support**

- KPV Industrial Relation Advisers will provide advice and support when required.

## **11. Evaluation**

In order to assess whether this policy has achieved the purposed outlined in this policy the Committee will:

- Obtain feed back from Employees and Committee members on the effectiveness of the policy;
- Assess whether the issues dealt with under the policy were resolved.

**Date** Approved by the COM 18 October 2010

**Next review date** October 2012