

# Managing Unsatisfactory Performance Policy - Senior Staff

## Section 1 - Purpose

- (1) This Policy outlines the procedures to be used in cases where a senior staff member's performance becomes unsatisfactory.
- (2) The policy builds on the [Performance Planning and Review for Senior Staff Policy](#). It outlines the rights and responsibilities of senior staff and their supervisors, and aims to provide opportunities for senior staff, assisted by their supervisors to regain and maintain a satisfactory level of performance.

## Section 2 - Application

- (3) This Policy applies to senior staff members employed on an ongoing or fixed-term basis at classification levels SSGA to SSGE excluding staff employed on a probationary or casual basis.

## Section 3 - Definitions

- (4) Disciplinary Action means action by the University to discipline a senior staff member and may include:
- a. formal censure or counselling;
  - b. withholding of a movement within the total remuneration range/performance bonus;
  - c. demotion;
  - d. suspension with or without pay;
  - e. reallocation of duties, and
  - f. termination of employment.
- (5) Unsatisfactory Performance Review Committee is the Committee established by the Vice-Chancellor and President to review unsatisfactory performance. The Unsatisfactory Performance Review Committee will comprise:
- a. a Chair who shall be external to the University appointed by the Vice-Chancellor and President in consultation with the senior staff member;
  - b. a staff member from within the University chosen by the senior staff member;
  - c. a staff member from within the University chosen by the Vice-Chancellor and President.
- (6) Representative means:
- a. in relation to a senior staff member, a person selected by the senior staff member to assist or represent the senior staff member;

- b. in relation to the University, a person who assists or speaks on behalf of the University before the Unsatisfactory Performance Review Committee;
- c. and in either case, excludes a person who is currently practising as a solicitor or barrister.

## Section 4 - Principles

(7) The principles which underlie this Policy are as follows:

- a. Senior staff have the following rights and responsibilities:
  - i. to perform their work at a satisfactory (at least) level;
  - ii. to know clearly the expectations of their performance;
  - iii. to receive feedback and advice regarding their performance; and
  - iv. to make reasonable efforts to improve any unsatisfactory performance.
- b. Supervisors have a responsibility to:
  - i. make their expectations of senior staff explicit;
  - ii. provide advice and support to enhance the senior staff member's performance; and
  - iii. make reasonable adjustments to accommodate individual circumstances.
- c. In situations, where the rights and responsibilities of a senior staff member and Supervisor have been observed, and performance remains unsatisfactory, it is reasonable for the University to take disciplinary action, including termination of employment.
- d. Procedures for dealing with unsatisfactory performance should be fair and observe principles of natural justice.
- e. PPR-SS should be the process within which unsatisfactory performance will be identified and measured, and relevant documentation from the PPR-SS process will be made available within the unsatisfactory performance process.
- f. Procedures for unsatisfactory performance should be timely, particularly in relation to contract renewal processes which commence six months prior to the expiration of a fixed-term appointment (or three months for fixed-term contracts of three years or less).
- g. Procedures for unsatisfactory performance should be conducted expeditiously but should allow sufficient time for senior staff performance to benefit from the advice and support provided by the Supervisor.

## Section 5 - Delegation by the Vice-Chancellor and President

(8) Despite any reference to the Vice-Chancellor and President throughout this Policy, the Vice-Chancellor and President may, at any time, delegate their roles or obligations under this Policy to another senior officer of the University. The Vice-Chancellor and President may not delegate their role to a senior officer who is directly involved in the matter which is the subject of the procedures governed by this Policy, or to a senior officer who the Vice-Chancellor and President intends to nominate as a member of a committee established under these procedures.

## Section 6 - Procedures

(9) There are three key phases in the procedures for managing unsatisfactory performance of senior staff:

- a. Phase 1: Identification of unsatisfactory performance and counselling;
- b. Phase 2: Intensive counselling, support and formal review;

c. Phase 3: Decision on unsatisfactory performance and disciplinary action.

(10) At the end of Phase 1 and Phase 2, there are exit points from the procedures, should performance be satisfactory again.

(11) Phases 1 and 2 together should normally take no less than three months and no more than six months to complete; however, the supervisor has discretion to set appropriate and reasonable timelines based on the nature of the job and specific areas of performance that are considered unsatisfactory.

### **Phase 1: Identification of Unsatisfactory Performance and Counselling**

(12) Where a Supervisor identifies the performance of a senior staff member as unsatisfactory, every effort must be made to resolve performance issues through guidance, counselling, appropriate staff development, and/or appropriate work allocation.

(13) A record of discussions will be kept and a copy supplied to the staff member.

### **Phase 2: Intensive Counselling, Support and Formal Review**

(14) Where a Supervisor believes the actions in Phase 1 have not produced the desired improvements in performance and that the performance of the staff member continues to be unsatisfactory, the supervisor will:

- a. advise the Vice-President (People) and Chief People Officer; and
- b. advise the senior staff member, in writing, of the following:
  - i. the specific areas of performance that are considered unsatisfactory;
  - ii. the nature of the improvement required;
  - iii. the time within which such improvement must occur;
  - iv. the date proposed for a review of the specific areas of performance
  - v. the availability of professional development and other resources to assist the senior staff member in improving; and
  - vi. withholding of movement within the total remuneration range/performance bonus.

(15) Where appropriate, the Supervisor may direct the staff member to undertake a course of professional development or other programs designed to assist in improving performance.

### **Phase 3: Decision on Unsatisfactory Performance and Disciplinary Action**

(16) Where following the review period in Phase 2, the performance of the staff member is deemed by the Supervisor as being no longer unsatisfactory, the staff member will be advised in writing and no further action will be taken under these procedures.

(17) Where following the review period in Phase 2, the supervisor believes that the performance of the senior staff member continues to be unsatisfactory, the Supervisor will make a formal report to the authorising officer. The report will state clearly the:

- a. aspects of performance that are considered unsatisfactory;
- b. record of attempts to remedy the problem; and
- c. recommended disciplinary action.

The Supervisor will provide the senior staff member with a copy of the report at the time it is submitted. The senior staff member is entitled to 10 working days from the receipt of the Supervisor's report to submit a written response to the authorising officer and may be assisted by a representative in preparing this response.

(18) Upon receipt of the Supervisor's report and any written response from the staff member, the authorising officer will first be satisfied that:

- a. the performance standards expected by the Supervisor are reasonable;
- b. appropriate steps have been taken to bring the unsatisfactory nature of the performance to the staff member's attention;
- c. adequate opportunity to respond to the Supervisor's report was given to the staff member;
- d. the response was given due and proper consideration; and
- e. a reasonable opportunity has been provided to remedy the unsatisfactory performance.

(19) The authorising officer will then decide to:

- a. take no further action; or
- b. refer the matter back to the Supervisor to ensure the matters in c) above have been complied with; or
- c. take disciplinary action and decide what that disciplinary action will be in accordance with Section 2 of this Policy.

The authorising officer will advise the staff member in writing of any decision made.

(20) Where a decision is made to take disciplinary action, the staff member may advise the authorising officer within 10 working days if they wish to refer the matter to an Unsatisfactory Performance Review Committee.

(21) Where the staff member elects to have the matter referred to an Unsatisfactory Performance Review Committee, the Vice-Chancellor and President will establish a Committee in accordance with Section 2 of this Policy.

(22) Where the staff member does not elect to have the matter referred to a Review Committee, the disciplinary action will take effect no earlier than five working days from the date of the authorising officer's written advice.

(23) Request for referral to an Unsatisfactory Performance Review Committee.

(24) Where a matter is referred to an Unsatisfactory Performance Review Committee, the Committee shall:

- a. conduct proceedings in private;
- b. take into account all information which it considers relevant to the case, including any response(s) by the staff member;
- c. provide the staff member with a copy of all written statements received by the Committee;
- d. interview any person that it considers relevant to the case;
- e. allow the staff member (and where they so choose their Representative) to be present during all interviews;
- f. provide parties to the review with a reasonable opportunity to call and question witnesses and to present and challenge evidence;
- g. provide the staff member a reasonable opportunity to provide a verbal or written response, including to matters raised in written statements, and/or present a submission; and
- h. keep a complete record of proceedings and make the record available to the staff member or Vice-Chancellor and President upon request.

(25) The staff member and the University shall be entitled, where they so choose, to be represented in the proceedings before the Unsatisfactory Performance Review Committee by a representative (refer to Section 2).

(26) The Unsatisfactory Performance Review Committee will provide the Vice-Chancellor and President with a written report containing its findings on the following matters only:

- a. whether the steps outlined in Phase 3, clause (18) have been followed; and/or
- b. the appropriateness of the disciplinary action decided by the authorising officer.

(27) The Committee shall perform its role as expeditiously as possible and will unless otherwise agreed with the Vice-Chancellor and President, report its findings within 30 days of the Committee being established.

(28) Following consideration of the report from the Committee (which will not be binding on the Vice-Chancellor and President), the Vice-Chancellor and President will either:

- a. advise the staff member in writing that they are satisfied that there has been no unsatisfactory performance; or
- b. take disciplinary action and decide what that disciplinary action will be in accordance with Section 2 of this Policy.

(29) The Vice-Chancellor and President will advise the staff member in writing of any decision made and such decision will take effect no earlier than five working days from the date of the Vice-Chancellor and President's written advice.

(30) Nothing in this Policy prevents the Vice-Chancellor and President referring a question of possible unsatisfactory performance to a supervisor for appropriate action.

(31) The action of the Vice-Chancellor and President under this Policy will be final, except that nothing in this Policy will be construed as excluding the jurisdiction of any external court or tribunal which, but for this Policy, would be competent to deal with the matter.

## **Section 7 - Relationship with Contract Renewal**

(32) The process for the renewal of fixed-term appointments is set out in the senior staff member's employment contract. Should any unsatisfactory performance procedures be in train at a date six months prior to the contract expiry date (or three months for fixed-term contracts of three years or less), those procedures will cease, and the contract renewal process will proceed consistent with the staff member's employment contract.

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	2nd December 2014
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<b>Policy Owner</b>	Gillian Bromley Vice-President (People) and Chief People Officer
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