# Discipline and Termination Policy

## Purpose

The purpose of this policy is to outline how Company name undertakes disciplinary action, where necessary, when managing their employees and to ensure that employees understand potential discipline and termination consequences and their rights as an employee. It aims to provide employees and management with an understanding of the procedures to be followed.

## Scope

This policy applies to all employees of Company name. The scope of this policy is not limited to just the workplace or just within work hours. It extends to all work-related functions and or events and out of work conduct that may impact the Company name and reputation. In circumstances where an employee’s behaviour or conduct may involve a breach of any Australian law, Company name may notify the police or other relevant government authorities.

### Grounds for disciplinary action

An employee may be the subject of disciplinary action for matters relating to their performance, capacity, or conduct, including (but not limited to) the following:

* Unsatisfactory Performance
* Unacceptable Conduct
* Deliberate or Serious Misconduct

### What constitutes poor performance

An employee’s performance will be considered poor or unsatisfactory if the employee is repeatedly not meeting the requirements of their role (as set out in the employee’s position description, contract of employment, key performance indicators (if any), Code of Conduct and company policies). Poor performance may be observed by the employee’s manager or other relevant staff and may be the result of a formal performance appraisal.

### What constitutes misconduct

Misconduct includes, but is not limited to:

* Unsanctioned absenteeism;
* Unacceptable behaviour, that breaches Company Name, towards managers/supervisors/employees/clients/customers/contractors/stakeholders of the Company;
* Inappropriate or dishonest behaviour in the workplace;
* Any instances of harassment and/or bullying;
* Non-compliance with Company policies, procedures or practices;
* Failure to follow lawful and reasonable direction from the employees line manager or any other authorized representative of the Company.

### Disciplinary steps

Depending on the nature of the poor performance or misconduct, a number of disciplinary steps may be taken by Company Name. The action taken will depend on the nature and severity of the employee’s conduct. The steps below are listed in order of seriousness of the poor performance and/or misconduct. They do not, however, need to be followed in sequential order. The order in which they are implemented is dependent on the situation and at the discretion of the Company.

### Informal supervision/counselling

Prior to moving to any stage of verbal warning, an employee’s manager or supervisor may hold an informal supervision or counselling session with the employee in order to assist the employee to better understand workplace practices, the required level of conduct and/or performance or any other matter the employees’ manager or supervisor feels has been unsatisfactory or impacting the employees performance. The employee is entitled to have a support person present during any informal supervision or counselling session. If the employee continues to engage in the conduct and/or poor performance which is the subject of informal supervision/counselling session, the employee may be subject to any of the disciplinary procedures set out below up to and including termination of employment.

### Verbal Warnings

If the employee’s performance or conduct does not improve following informal supervision/counselling session, the Company may give the employee a verbal warning. A verbal warning may be given prior to, or in addition to, any other disciplinary measures (e.g. a performance improvement plan) and will be conducted confidentially. The employee will be requested to attend a meeting in relation to the employee’s performance or conduct and the employee will be offered the opportunity to have a support person present during the meeting (the role of the support person is defined below).

During the meeting, it can be expected that:

* The employee's manager will explain to the employee why the employee's performance is not meeting the expected standards (by reference to any previous supervision sessions, the employee’s job description, contract of employment, key performance indicators, Code of Conduct and any allegations of misconduct;
* The employee will be provided with an opportunity to respond to all such issues; and
* The employee will be informed that if there is no improvement in their performance or
* the conduct continues, they may be subject to any of the other disciplinary procedures, up to and including termination.

### Written warnings

In the event that the Company has concerns about an employee’s performance or conduct, a written warning may be issued to the employee. This may (but not necessarily) occur following continued or repeated behaviour raised in earlier informal counselling or a verbal warning. There may be instances where a written warning may be issued in the first instance, based on the seriousness of the poor performance or conduct. The employee will be required to attend a meeting in relation to the employee’s performance or conduct. The employee will be entitled to bring a support person to the meeting (the support person’s role is set out below).

During the meeting, it can be expected that:

* The employee's manager will outline why the employee's performance is not meeting the expected standards (by reference to the employee’s job description, contract of employment, Code of Conduct, key performance indicators (if any) or provide particulars of the alleged misconduct.
* The employee will be provided with an opportunity to respond to all issues.

If, following the meeting, the employee’s responses to the issues of performance or misconduct do not prove to be satisfactory, and Company name determines it appropriate to formally discipline the employee for such issues, the employee may be issued with a written warning.

A written warning will inform the employee:

* Of the performance issues or issues of misconduct and the required expectations in the
* relevant areas moving forward;
* Why the Company does not find the employee’s response to such allegations to be acceptable;
* Of a reasonable timeframe within which the employee must remedy their poor performance and/or conduct;
* That if the employee continues to underperform or engage in misconduct, other disciplinary action may be taken, up to and including termination of employment.

### Role of support person

The support person is not entitled to play an active role in any performance meeting and is not entitled to speak on behalf of the employee, but may provide guidance and advice to the employee (in private if they so wish). They are able to take notes on the employee’s behalf during any formal meeting.

### Termination of Employment

Poor performance or misconduct may lead to the termination of an employee’s employment (with notice; or payment in lieu of notice in the case of permanent employees not involved in any instance of serious misconduct). The number of warnings provided to an employee prior to termination of their employment may vary depending on the circumstances. For example, it may in some circumstances be appropriate for Company name to provide the employee with a number of warnings in relation to the same poor performance or conduct, before terminating the employee’s employment. Similarly, Company name may provide an employee with a number of warnings where an employee engages in misconduct or poor performance which is separate to that which was the subject of an earlier warning, or which was not reasonably proximate in time to an earlier warning. Where Company Name has decided to hold a meeting with an employee which may result in termination of their employment, or where Company name has decided to terminate the employment of an employee due to poor performance or misconduct, the employee will be entitled to bring a support person of their choice to a meeting or teleconference.

### Serious misconduct and summary dismissal

Serious misconduct is willful and/or deliberate behaviour by an employee that is inconsistent with the continuation of employment, including but not limited to:

* A material breach of the employee's employment contract;
* Willful neglect in the performance of duties or improper or inappropriate use of the employee’s position;
* Willful violation of any law or rule of a regulatory body;
* Deliberately diverting customers or business away from Company name;
* Accepting bribes or secret commissions;
* Any conduct that in the reasonable opinion of Company name constitutes a serious or potentially serious conflict of interest, including working for a competitor during the term of the employee’s employment;
* Refusal to comply with a lawful and reasonable direction given by management or any other person duly authorised by the Company name;
* Dishonest behaviour and/or acting in a way that is inconsistent with the best interests of the Company name;
* Deliberately providing false or misleading information to the Company or any of the
* Company's customers or suppliers;
* Being convicted of a criminal offence which, in the reasonable opinion of Company name, may have the effect of bringing the Company into serious disrepute or affecting the ability of the employee to meet obligations under the employee’s employment contract;
* Theft or misappropriation of Company property;
* Abuse of alcohol and/or drugs whilst at work or on Company property;
* Acting in a way which in the reasonable opinion of Company name may injure or be likely to injure the business or reputation of Company name; or
* Conduct that causes imminent, and serious risk to the health, or safety, of a person or the reputation, viability or profitability of Company name.

What constitutes serious misconduct will depend on the circumstances of the case. It may be necessary for Company Name to conduct an impartial and unbiased investigation into the incident or behaviour to determine whether the misconduct or behaviour constitutes serious misconduct. In the event that an employee is alleged to have engaged in serious misconduct, the employee will be invited to a formal meeting. Before the meeting, they will be invited to bring a support person of their choice.

During the meeting, it can be expected that:

* The employee’s manager will outline the allegation/s of serious misconduct;
* Provide the employee with an opportunity to respond to all such allegations;
* Where Company Name is substantiated on the balance of probabilities that the employee has engaged in serious misconduct and is not satisfied with the employee’s response(s), the employee’s employment may be terminated without notice.

### Record keeping

Records of verbal warnings and any written warnings will be placed in an employee’s personnel file. Records of termination will be placed in an employee’s personnel file.

Employees and staff are encouraged to read this policy in conduction with other relevant Company policies, including:

* Workplace Harassment and Bullying Policy
* Equal Employment Opportunity and Discrimination Policy
* Code of Conduct
* Grievance Handling Policy