

Policy and Procedures

POLICY TITLE:	Separation/Termination: Misconduct and Performance
ADMINISTERED BY:	Director, Human Resources Management
APPLICABILITY:	All Employees

1. Introduction

This policy is to assist John Readings to identify unacceptable behaviour and performance and to ensure procedural fairness and natural justice when conducting investigations into allegations of misconduct and poor performance.

2. Policy

Misconduct (Disciplinary)

- 2.1 Nothing in the following provisions shall preclude John Readings from summarily dismissing an employee on the grounds of serious misconduct.
- 2.2 For the purpose of these procedures, misconduct shall mean behaviour of a kind which constitutes an impediment to the carrying out of the employee's duties or to other employees carrying out their duties.
- 2.3 The supervisor of an employee may formally report in writing through the relevant senior person, if appropriate, to the authorised officer, that an employee may have been guilty of misconduct. In the event of such a report being submitted, the supervisor shall:
 - a. Inform the employee of the intention to make the report,

- b. Provide the employee with a copy of the report at the time it is submitted, and
 - c. Inform the employee that he/she is entitled within 10 working days of receiving a copy of the report, to submit a written response to the authorised officer.
- 2.4 Should the authorised officer, after appropriate investigation, determine that the matter is not misconduct, no further action will be taken and the report will be destroyed. The authorised officer shall also advise the employee in writing of the decision.
- 2.5 If the allegation is admitted in full by the employee, and the authorised officer is of the opinion that the behaviour of the employee amounts to misconduct, the authorised officer may:
- a. Require the employee to undergo counselling,
 - b. Reprimand the employee,
 - c. Redeploy the employee to another position without loss of salary,
 - d. Withhold an increment of salary, where applicable, for a period of not more than 12 months,
 - e. Demote the employee,
 - f. Dismiss the employee from the employment of John Readings.
- 2.6 If the allegation is denied in part or in full by the employee, the authorised officer shall refer the matter to the General Manager, Human Resources Management (HRM).
- 2.7 The function of the Director, HRM shall investigate any case referred.
- 2.8 The Director, HRM shall consider any representations made either orally or in writing by the employee, who may make the representations in person or

through a colleague who is a member of the staff of John Readings or an officer of the Union. The Director, HRM may require the supervisor to respond to the matters raised by the employee.

- 2.9 The Director, HRM shall determine his/her own procedures, and shall not be bound by the rules of evidence but may inform itself on any matter in such manner as it thinks appropriate and as the consideration of the matter before him/her permits.
- 2.10 All proceedings by the Director, HRM shall be held in camera. No persons except the Director, HRM and any person providing secretarial assistance to the Director, HRM shall be present during deliberations after all submissions have been completed. All involved shall treat the proceedings, report and all matters relating thereto as confidential.
- 2.11 In the event that the employee does not attend either personally or by his/her agent after reasonable notice of the Manager, HRM's intention to meet has been given to the employee or his/her agent, the Director, HRM may proceed and may determine the matter in his/her absence.
- 2.12 The General Manager, HRM, after conducting investigations, shall promptly report in writing to the General Manager on:
- a. Whether it is satisfied that each of the facts or matters alleged has been proven,
 - b. Whether the facts as proven constitute misconduct on the part of the employee, and
 - c. A recommendation as to whether the General Manager should exercise any disciplinary powers, together with reasons for findings.
- 2.13 The Director, HRM shall, when furnishing the report to the General Manager, forward to the employee a copy of the same report.

2.14 The General Manager shall, after receiving the report of the General Manager, HRM, act on findings by proceeding forthwith to dismiss the case, or to take one or more of the following actions:

- a. Require the employee to undergo counselling,
- b. Reprimand the employee,
- c. Redeploy the employee to another position without loss of salary,
- d. Withhold an increment of salary, where applicable, for a period of not more than 12 months,
- e. Demote the employee,
- f. Dismiss the employee from the employment of John Readings.

2.15 The General Manager shall as soon as practicable give the employee and the supervisor written notice of the decision and the form of action to be taken, if any.

2.16 If at any time during the operation of these procedures the employee offers to resign with immediate effect, the resignation shall forthwith be accepted by the Director, HRM and the proceedings shall thereupon cease.

Unsatisfactory Performance

3.1 Should a supervisor identify unsatisfactory performance by an employee, the supervisor will counsel the employee on such shortcomings in performance, being specific as to the actual problem(s). Counselling must include exploration of ways in which performance can be enhanced and an opportunity must be provided to improve performance within a reasonable time span. Training may be required to enhance the standard of performance in line with the company's staff development and training policy.

3.2 If the employee's performance has not satisfactorily improved after counselling and the set time span, a formal written warning may be given to the employee by the

supervisor. Such a warning is not a penalty but merely documents, details of prior counselling, the full extent of the problem, the action taken by the employer to assist in rectifying the problem and the instructions which must be carried out in an attempt to alleviate the problem. The warning must also make it clear that failure to improve or comply may lead to a recommendation for disciplinary action to be taken. A copy of this documentation shall be placed on the employee' s confidential file.

3.3 Upon receipt of a formal warning, an employee may make within 10 working days a written statement concerning the subject matter of the warning. A copy of any written statement so made will be attached to the copy of the warning to be held on file by the employer.

3.4 If after the issuing of a written formal warning performance does not improve, a report shall be made to the Director, HRM through, if appropriate, the relevant section manager.

The report shall include a copy of the formal warning given to the employee, any statement made by the employee concerning the warning, and a clear statement of those aspects of performance still seen as unsatisfactory, and may recommend one of the following forms of disciplinary action:

- a. Reprimand the employee,
- b. Withhold an increment of salary, where applicable, for a period of not more than 12 months,
- c. Demote the employee,
- d. Dismiss the employee from the employment of John Readings.

3.5 In the event that the supervisor decides to lodge a report, the supervisor shall:

- a. Inform the employee of the intention to make the report,
- b. Provide the employee with a copy of the report at the time it is submitted, and

- c. Inform the employee that he/she is entitled within 10 working days of receiving a copy of the report to submit a written response to the authorised officer.
- 3.6 If the Director, HRM is of the opinion that the appropriate feedback, counselling and opportunity to improve performance have not been given to the employee, the matter will be referred back to the supervisor with an instruction that such processes take place.
- 3.7 If the Director, HRM is of the opinion that the appropriate feedback and counselling and an opportunity to improve performance have been given to the employee by the supervisor, the Director, HRM will investigate the situation.
- 3.8 The Director, HRM shall consider whether the performance of the employee is satisfactory or unsatisfactory, and shall report findings and reasons to the General Manager. The Director, HRM shall also comment on the nature of the disciplinary action considered appropriate.
- 3.9 The Director, HRM shall consider any representations made either orally or in writing by the employee, who may make the representations in person or through a colleague who is a member of the staff of John Readings or an officer of the Union. The Director, HRM may require the supervisor to respond to the matters raised by the employee.
- 3.10 All proceedings of the Director, HRM shall be held in camera. No persons except any person providing secretarial assistance to the Director, HRM shall be present during deliberations.
- 3.11 In the event that the employee does not attend either personally or by his/her agent after reasonable notice of the Director, HRM intention to meet has been given to the employee or his/her agent, the Director, HRM may proceed and may determine the matter in his/her absence.
- 3.12 The Director, HRM shall, when furnishing the report to the General Manager, forward to the employee a copy of the report.

3.13 After receiving the Director, HRM report, the General Manager shall as soon as practicable inform the employee and supervisor in writing of his/her decision and the form of disciplinary action to be taken if any.

3.14 If at any time during the operation of these procedures, the employee offers to resign with immediate effect, the resignation shall forthwith be accepted by the Director, HRM and the proceedings shall thereupon cease.

Related Documents/Information

The following legislation and organisational policies are relevant to this policy:

- Fair Work Act 2009,
- Equal Employment Opportunity (EEO) Management Plan,
- Access to Information Policy,
- Anti-Discrimination Act 1977,
- Complaints Management Policy,
- Employee Assistance Program Policy,
- Internal Mediation Procedure,
- Work Health and Safety Policy,
- Work Health and Safety Regulations 2015.

Approved by:	Name	Date
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Review Due:	Responsible person	Date