

Disciplinary and Warning Procedure v4

HRM-PRO-008

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	Title	Name	Date
Owner:	Managing Director	John Mawson	
Creator:	General Manager – Human Resources	Simone Amohanga	09/06/2021
Approver:	Managing Director	John Mawson	21/07/2021

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1 PURPOSE

The purpose of this procedure is to outline the process for addressing unsatisfactory work performance, unsatisfactory conduct and/or serious misconduct. The key aim is to improve work performance, improve conduct and/or ensure identified instances of unsatisfactory work performance and/or unsatisfactory conduct is not engaged in, nor repeated in future.

2 APPLICATION

This procedure applies to all employees (including supervising and managers) except irregular casual employees.

3 DEFINITIONS

An “irregular casual employee” is a casual employee that does not work a clear, repetitive, regular pattern of hours.

“Unsatisfactory work performance” is performance that either is or continues to be below the expectations relevant to the position, as set by Mawsons. Unsatisfactory work performance includes, but is not limited to:

- neglect of duties;
- an inability to exercise good judgement (when the position requires the incumbent to exercise a level of judgement);
- an inability to complete tasks to a set and/or reasonable standard;
- an inability to complete tasks within a set and/or reasonable amount of time.

“Unsatisfactory conduct” is conduct that falls short of the standard of competence and diligence relevant to the position. Unsatisfactory conduct includes, but is not limited to:

- breach of discipline and/or insubordination;
- breach of policy or procedure;
- harassment and/or disrespectful behaviour;
- unauthorised absenteeism and/or lateness;
- behaviour that is inconsistent with the contract of employment;
- unsafe acts, which have potential to injure other persons, or to damage property;
- conduct that causes potential or actual risk to the reputation, viability or profitability of the Mawsons’ business and/or Mawsons;
- non-compliance with occupational health and safety rules.

“Serious misconduct” is conduct that includes, but is not limited to:

- wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the contract of employment;
- serious intentional neglect of duty and/or inefficiency;

- refusal to follow any lawful and reasonable instructions and/or Mawsons policy or procedures and/or the terms of one's employment contract;
 - theft, fraud, assault;
 - wilful dishonesty, insubordination, harassment, bullying;
 - deliberate unsafe acts, which have potential to injure other persons, or to damage property;
 - conduct that causes serious and imminent risk to the reputation, viability or profitability of the Mawsons' business and/or Mawsons;
 - being intoxicated at work; and
 - possession, handling and/or consumption of alcohol and/or illicit substances (other than prescribed medication which has been brought to the attention of Mawsons) while at work.
- "Immediate manager" is an employee's immediate supervisor, 2IC, manager, or any other representative as nominated by Mawsons who is entrusted to address instances of unsatisfactory work performance, unsatisfactory conduct and/or serious misconduct with an employee in accordance with this procedure.

4 PROCEDURE

Disciplinary action, except in the case of serious misconduct, may be an incremental process which can be terminated or varied at any stage. As performance and/or conduct must be assessed on a case-by-case basis, it will not always be appropriate or necessary to provide three (3) warnings before considering termination of employment. The following procedure is a guideline only and Mawsons retains the right to provide fewer than three (including zero) warnings before terminating an employee's employment.

For example, in circumstances of unsatisfactory conduct which are serious, but not sufficiently serious enough to qualify as an act of serious misconduct, it may be more appropriate to issue an employee with a first and final formal warning, confirming that any further instances of such or similar unsatisfactory conduct will result in termination of employment. Furthermore, there may also be circumstances in which it is appropriate to re-issue a first, second, third or final warning. Such a circumstance may arise when a significant amount of time has passed since the issuing of the last warning, which may justify the re-issuing of the warning, rather than progressing to the next warning.

Mawsons will, at all times, attempt to ensure that employees have full knowledge and understanding of the accepted company standards, rules, regulations, policies and procedures (howsoever described). It is Mawsons' policy that formal disciplinary procedures and termination of employment should only be used as a last resort (i.e. when informal measures have failed to rectify unsatisfactory work performance and/or unsatisfactory conduct).

Step 1 – informal counselling

Where an employee is exhibiting unsatisfactory work performance and/or unsatisfactory conduct, the employee will be informed by their immediate manager. This will be done by way of an informal

discussion between the immediate manager and the employee. The immediate manager will identify the concerns and the employee will be given an opportunity to respond to such concerns.

At the conclusion of the meeting the employee will (subject to their response) be:

- reminded of the relevant standard(s) or expected conduct/behaviour; and/or
- informally warned that further instances of unsatisfactory work performance and/or unsatisfactory conduct will result in more formal disciplinary measures being taken.

A file note will also be placed in the employee's personnel file including the time, date, location, employee, immediate manager, any other attendees, and a brief summary of the informal discussion.

* There may be circumstances in which the level of unsatisfactory work performance and/or unsatisfactory conduct is such that it warrants formal action, in which case the employee's immediate manager should proceed directly to Step 2.

Step 2 – first warning

Where an employee exhibits unsatisfactory work performance or unsatisfactory conduct, and:

- the employee has already undergone informal counselling; or
- such work performance or conduct is so unsatisfactory that it may warrant formal disciplinary action,

the employee will be informed by their immediate manager. The employee will then have an opportunity to respond to the allegation(s) and concern(s) raised.

If the immediate manager is unsatisfied with the employee's response, a first written warning will be issued to the employee advising of the nature of the unsatisfactory work performance and/or unsatisfactory conduct, and any corrective action required and Mawsons' expectations. The written warning will also confirm that further instances of unsatisfactory work performance and/or unsatisfactory conduct will result in further disciplinary action, including a second formal warning, final formal warning or termination of employment.

A date will be agreed upon in the future to review the employee's performance or conduct, subject to the nature of the unsatisfactory work performance and/or unsatisfactory conduct and corrective action. Some instances of unsatisfactory work performance may require multiple weeks to allow the employee sufficient time to undergo training and/or participate in practice to improve their performance. Alternatively, some instances of unsatisfactory conduct may not require any training or practice and simply require that the employee not repeat such unsatisfactory conduct in the future, effective immediately.

Step 3 – second warning

Where the employee fails to improve their unsatisfactory work performance or engage in further unsatisfactory conduct, the employee will again be informed by their immediate manager. The employee will then have an opportunity to respond to the allegation(s) and concern(s) raised.

If the immediate manager is unsatisfied with the employee's response, a second written warning will be issued to the employee advising of the nature of the unsatisfactory work performance and/or unsatisfactory conduct, and any corrective action required and Mawsons' expectations. The written warning will also confirm that further instances of unsatisfactory work performance and/or unsatisfactory conduct will result in further disciplinary action, including a third formal warning, final formal warning or termination of employment.

A date will be agreed upon in the future to review the employee's performance or conduct, subject to the nature of the unsatisfactory work performance and/or unsatisfactory conduct and corrective action. Some instances of unsatisfactory work performance may require multiple weeks to allow the employee sufficient time to undergo training and/or participate in practice to improve their performance. Alternatively, some instances of unsatisfactory conduct may not require any training or practice and simply require that the employee not repeat such unsatisfactory conduct in the future, effective immediately.

Step 4 – third and/or final warning

Where the employee fails to improve their unsatisfactory work performance or engage in further unsatisfactory conduct, and:

- the employee has already undergone the above steps (and received a first formal warning and second formal warning); or
- such work performance or conduct is so unsatisfactory that it may warrant a final formal warning, the employee will be informed by their immediate manager. The employee will then have an opportunity to respond to the allegation(s) and concern(s) raised.

If the immediate manager is unsatisfied with the employee's response, a third and final written warning (or final written warning, if a first written warning and/or second written warning has not already been issued to the employee) will be issued to the employee advising of the nature of the unsatisfactory work performance and/or unsatisfactory conduct. The written warning will also confirm that should further instances of unsatisfactory work performance and/or unsatisfactory conduct occur, termination of employment will be considered.

A date will be agreed upon in the future to review the employee's performance or conduct, subject to the nature of the unsatisfactory work performance and/or unsatisfactory conduct and corrective action. Some instances of unsatisfactory work performance may require multiple weeks to allow the employee sufficient time to undergo training and/or participate in practice to improve their performance. Alternatively, some instances of unsatisfactory conduct may not require any training or practice and simply require that the employee not repeat such unsatisfactory conduct in the future, effective immediately.

Serious misconduct and summary/instant dismissal

If an employee is alleged to have engaged in a form of serious misconduct, the immediate manager is to:

- investigate the allegations as reasonably as the situation requires (which may not require that a formal investigation be conducted, or which may require that the employee be stood down, pending the outcome of a formal investigation);
- afford the employee the opportunity to respond to any allegations and/or concerns being investigated (unless findings have already been made/accepted);
- advise the employee of the findings of the investigation (unless findings have already been made/accepted);
- inform employee of the proposed disciplinary action to be taken, including termination of employment;
- afford the employee the opportunity to discuss and show cause as to why such proposed disciplinary action (including termination of employment) should not occur;
- determine, on all of the available information (including investigation findings, the employee's response, and any other relevant and/or mitigating factors) whether termination of employment, or a lesser sanction, should apply in the circumstances; and
- inform the employee of the decision verbally and confirm the decision in writing.

5 DOCUMENT HISTORY

Revision	Date	Amended By	Reason for Change
0	09/11/2007	J Mawson	Document created.
1	27/01/2011	J Mawson	Document revised
2	23/07/2019	B Hildebrand	Document format changed and issued for use
3	14/02/2020	S.Gundry	Document format changed and issued for use
4	09/06/2021	S Gundry	Document recreated by S.Amohanga