Managing Staff Unsatisfactory Performance at the Local Level - Guidelines

To be read in conjunction with:
CDU and Union Enterprise Agreement 2011

All guidelines are intended to give further details to information contained in a particular piece of legislation, policy, code, agreement or procedure and must therefore be read in conjunction with them.

INTRODUCTION

The University is committed to encouraging an efficient and effective workforce, with a responsibility to ensure that staff members maintain high standards of conduct and performance. The Charles Darwin University and Union Enterprise Agreement 2011 (the Agreement) places specific obligations upon University management regarding managing staff performance.

The information in this document relates solely to the application of sub-clause 32.2 – Unsatisfactory Performance - Informal Stage. This stage should be followed where informal discussions about performance or behaviour have not been successful and where there are still concerns regarding a staff member’s performance or behaviour. In circumstances where unsatisfactory performance is unable to be resolved at the local level or the Informal stage advice must be sought from Employee Relations, within the Office of Human Resource Services before entering into the Formal stage (cl.32.3).

INTENT

The intention of this document is to assist supervisors to identify, document and address instances of unsatisfactory staff performance at the informal stage and to enable the staff member to reach and maintain a satisfactory standard as determined by:

- The staff member’s PDRS and position profile;
- The Charles Darwin University and Union Enterprise Agreement 2011; and
- The Code of Ethics and any other relevant University governing documents.

RELEVANT DEFINITIONS

In the context of this document:

Natural Justice means acting fairly, without bias, and the right of all parties to be heard;

Performance means a staff member’s overall work performance and includes not only performing what is required in the Position Profile or meeting KPIs satisfactorily but also contributing and engaging in the work environment positively towards colleagues and others in a manner consistent with the spirit of the Code of Ethics;

PDRS means the University’s Performance Development and Review System;

Supervisor means the immediate day to day manager of an individual staff member or group of staff;
The Agreement means the Charles Darwin University and Union Enterprise Agreement 2011; and

Unsatisfactory performance means the same as clause 3.41 of the Agreement.

GUIDELINES

Ensure effective communication

The provision of guidance, feedback and support to employees should be a priority for all supervisors and an essential preliminary stage for managing performance and/or behavioural concerns. Most performance and/or behavioural issues can be resolved at the local level if they are managed quickly, objectively and constructively.

Supervisors are responsible for articulating appropriate performance and behavioural standards at planning sessions and on a day-to-day basis through ordinary, everyday conversations with staff members under their supervision. An honest conversation and a practical solution can help a staff member who may be failing through no fault of their own.

Regular communication with the staff member is essential to ensure that staff members have a clear understanding of the work and conduct expected of them and to provide appropriate feedback (both positive and negative) on their performance.

The supervisor must ensure that expected performance standards are applied consistently to all staff members under his/her supervision, and if not, ensure there is a fair reason to support the unequal application of the expected performance standard.

From time to time, a staff member may need support to improve his/her performance at work and the supervisor shall provide guidance, counselling and, where appropriate, staff development, to address performance issues as they are identified.

As soon as issues or concerns about a staff member’s performance appear, the relevant supervisor should raise them with the staff member. The emphasis should always be on early intervention and informal resolution of an issue. A staff member may believe their performance is adequate if concerns are not raised with them in a timely manner.

Effective use of the University’s Performance Development Review System (PDRS), to plan, review and assess a staff member’s performance, as well as ongoing informal feedback, should in most cases help to improve the situation.

Considerations and documenting

When an issue or concern about a staff member’s performance arises, the supervisor should ensure he/she has enquired about and given due consideration to possible reasons for performance issues. This will enable the supervisor to provide effective support and give the staff member a reasonable opportunity to remedy unsatisfactory performance.

Staff members may perform unsatisfactorily because of:

- Personal circumstances, such as a medical condition, personal relationship issues, and/or financial concerns;
- Lack of the necessary skills, competence or a clear understanding of the work performance required; and/or
- Lack of application or effort on his/her part or refusal/failure to follow reasonable directions.

Regardless of the staff member’s personal circumstances or the nature of the unsatisfactory performance, all problems or concerns should be addressed by the relevant supervisor within a reasonable timeframe. Any
meeting of this nature must be documented as a foundation for performance management processes and to assist in addressing any possible future incidents of unsatisfactory performance.

The supervisor can develop options regarding possible professional development such as additional training or courses that might be offered to the staff member to assist him/her to achieve the desired performance.

**Identify the concern or problem**

The following questions may also assist the supervisor to determine the extent of the issue or concern identified:

- How serious is the issue or concern?
- How long has the issue or concern existed?
- Is the staff member’s record of service generally satisfactory, or has this kind of issue or concern occurred previously?
- How wide is the gap between what is expected, and what is being delivered?
- What is needed to close this gap and what reasonable assistance might be useful in doing so?

If the problem or concern about a staff member’s performance involves a third party, it is advisable to contact Employee Relations, Office of Human Resource Services, before the matter is raised. This is to ensure that privacy and confidentiality considerations are balanced against the staff member’s procedural rights.

**Evidence**

It is important that a supervisor is able to identify and substantiate an issue or concern about a staff member’s performance if it arises. Evidence that has been gathered from multiple sources or is repetitive and continuous may support a determination that the supervisor has acted fairly. The supervisor should collate evidence that relates to the unsatisfactory performance, such as:

- Documents, letters, emails;
- Reports or complaints by other persons; and
- Any diary notes that the supervisor may have made.

Only the factual specific details pertaining to the unsatisfactory performance needs to be shared with the staff member, in a timely manner, to give him/her reasonable opportunity to respond.

**Notify the staff member**

The supervisor should respectfully and discreetly approach the staff member about the need to meet and discuss his/her work performance. In doing so, the supervisor should attempt to put the staff member at ease and let him/her know, in advance:

- The purpose of the meeting;
- The meeting time and place, ensuring that it is somewhere that will be private, comfortable and non-threatening;
- Who will be attending the meeting; and
- That a support person or union representative for the staff member may be present.

The supervisor may or may not choose to have a witness present at the informal stage of unsatisfactory performance counselling. This is entirely up to the supervisor.
At the informal stage particularly, the dialogue regarding unsatisfactory performance should be between the supervisor and the staff member. If a support person or a union representative will not allow a staff member to speak for himself/herself, the supervisor should politely defer the meeting and seek immediate advice from Employee Relations.

The supervisor shall ensure verbal notification of a meeting to discuss unsatisfactory performance with a staff member is documented and maintain confidential records.

**Meeting with the staff member to discuss the concerns**

The supervisor should go over the purpose for the meeting (as previously advised to the staff member), and genuinely focus on achieving a positive outcome.

Discuss in specific terms:

- What the unsatisfactory performance is;
- Why it is a concern/issue; and
- How it impacts on the workplace.

Things to be aware of:

- Be objective - talk about the issue, not the person;
- Ask the staff member for further information as required to clarify their response;
- Stay calm and take a break during the meeting if needed, or if the staff member shows signs of distress; and
- Summarise or paraphrase back the staff member’s response to confirm a common understanding of the issues before moving on.

The staff member should be given an opportunity to respond to the issues raised, and their responses should be duly and impartially considered.

If the staff member’s response raises unforeseen issues, such as allegations of bullying; sexual harassment; personal issues that may raise complexities in relation to the University’s EEO obligations; or includes requests for training that you consider above reasonable obligations of the University, it is advisable to defer the meeting at this stage and contact Employee Relations immediately for advice.

The supervisor must maintain confidential records and document all discussions. A sample form – *Informal Meeting Record* - for recording the informal meeting is available through Employee Relations in the Office of Human Resource Services. The informal meeting record should be emailed to the staff member to acknowledge by return email.

**Note:** It is useful and encouraging whenever possible to also discuss any positive contributions the staff member has made in their work at this meeting.

**Agreeing to a plan**

The supervisor should develop an appropriate plan in consultation with the staff member, to address the unsatisfactory performance. The plan should be specific and have outcomes and targets that are measurable. Depending upon the staff member’s responses, where reasonable and as required, the supervisor should offer assistance such as further training, mentoring, flexible work practices, redefining roles and performance expectations.

Aspects of the plan may require additional searching or research before it can be completed. If this is the case it should be noted who is responsible for the action item and when it is to be completed by.
The supervisor should discuss with the staff member the potential consequences of continued unsatisfactory performance or non-adherence to the spirit and words of the plan. This may include further counselling or possible escalation to the formal stage.

The supervisor should provide a copy of the record of the meeting and/or plan to the staff member and ask them to sign it as a true and accurate account of the meeting and as an acknowledgement of his/her willingness to participate fully in the plan. Should the staff member not agree with the plan, he/she may note disagreement on the record of the meeting, however, where the process has been followed and the expectations are reasonable, the staff member is required to follow the plan in a positive manner.

It is recommended in this instance that the supervisor contact Employee Relations following the meeting.

**Follow up**

The supervisor should set a date for a follow-up meeting to continue the discussion, assess whether the staff member’s performance has improved and/or whether the plan is effective/adequate. It is best for the supervisor to maintain open and regular communication over this period, so that the staff member is aware of how their performance is tracking and will be aware of what may be discussed at the follow-up meeting.

**Monitor Performance**

Most instances of unsatisfactory performance will be remedied following a supportive and targeted management process, particularly when addressed by supervisors as soon as the issue or concern is identified. Supervisors should ensure that the staff member is given support, encouragement and regular and ongoing feedback to achieve the targets set in the plan, and:

- Follow up any items that were noted as the supervisor’s area of responsibility in the plan;
- Investigate any items/issues that were raised in the meeting as a concern to the staff member; and
- Make additional notes including any queries or points of clarification that should be discussed with management or Employee Relations.

**Continued Unsatisfactory Performance**

If unsatisfactory performance persists and/or the staff member does not demonstrate a reasonable level of improvement in the performance of his/her duties it is recommended that the supervisor contact Employee Relations prior to meeting with the staff member again.

**Documentation**

At the informal stage all documentation is maintained at local management level in confidence. Should it be necessary to escalate the matter formally then this documentation will be critical in assessing what has occurred and the procedural fairness of actions taken up to that point in time.
ESSENTIAL SUPPORTING INFORMATION

Internal

CDU and Union Enterprise Agreement 2011

Code of Ethics

Equal Opportunity Policy

Privacy Policy

Staff - Grievance Procedures

External

Anti-Discrimination Act 1992 (Commonwealth)

Fair Work Australia Act 2009 (Commonwealth)
## Document History and Version Control

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