

Improving and Managing Unsatisfactory Performance Procedure



1 Purpose

To outline the mechanisms for the improvement of individual Employee performance through the performance planning and review process.

2 Scope

This Procedure applies to all Employees excluding casuals, Employees on probation, and Employees whose conditions of employment are covered by a written agreement or contract with the University.

3 Procedure Overview

This Procedure details the University's process for improving and managing unsatisfactory performance of its Employees.

4 Procedures

Supervisors must ensure that Employees are provided with the opportunity to respond to unsatisfactory performance concerns and will undertake performance management in accordance with the process set out below except where a Supervisor and Employee have completed a Performance Improvement Plan (PIP) as outlined in the Performance Planning and Review Procedure. Where a Performance Improvement Plan has been completed, and the identified goals have not been achieved, the unsatisfactory performance process will commence at 4.2 Formal advice.

4.1 Initial counselling

Where a Supervisor is of the view that the performance of an Employee is unsatisfactory, the Supervisor will first counsel the Employee on the nature of the improvement required and develop strategies to address underperformance.

These strategies will be given no less than four weeks to take effect for professional Employees, and up to a semester for academic Employees, having regard to the performance issues to be addressed.

A record of the counsel given will be kept and a copy supplied to the Employee.

At this time, and if the Supervisor believes it appropriate, the Supervisor will direct the Employee

to undertake a course of professional development or other appropriate program designed to assist in improving performance.

4.2 Formal advice

Where a Supervisor believes that counselling has not produced the desired improvements in performance and after the relevant period of time, the Supervisor will advise the Employee, in writing, of the following:

- the specific areas of performance that are considered unsatisfactory;
- the nature of the improvement required within a reasonable timeframe, having regard to the performance issues to be addressed;
- the date proposed for a review of the specific areas of performance; and
- the availability of professional development and other resources to assist the Employee in improving.

A copy will be provided to the Executive Director (Human Resources).

The Employee will be entitled to 10 working days from the receipt of the Supervisor's written advice to respond to the Supervisor.

The Supervisor must give due and proper weight to any response provided by the Employee and will do one of the following:

- confirm the advice of unsatisfactory performance and the remedial action required; or
- modify any or all of the particulars contained in the previous advice; or
- withdraw the advice and ensure that no records relating to the advice are kept on the Employee's file.

4.3 Review of progress

The Supervisor will review whether or not the required improvement in the Employee's performance has been made. This review will occur no earlier than the date set in the written advice.

Where the Supervisor is satisfied that the required improvements have been made, the Employee will be advised in writing and no further action taken.

4.4 Formal report

Where the Supervisor believes that the performance of the Employee continues to be unsatisfactory, the Supervisor, in consultation with the head of the work unit, will make a formal report to the Executive Director (Human Resources). The report will state clearly the aspects of performance seen as unsatisfactory, the record of attempts to remedy the problem, and the recommended Disciplinary Action. If requested by an academic Employee, the Supervisor will consult with the Employee's colleague.

The Supervisor will provide the Employee with a copy of the report at the time it is submitted to the Executive Director (Human Resources). The Employee will be entitled to 10 working days from the receipt of the Supervisor's report, to submit a written response to the Executive Director (Human Resources). Where the report recommends Disciplinary Action, the Employee may request that the matter be referred to an Unsatisfactory Performance Review Panel.

Where an Employee has made a written application for a review of Disciplinary Action under paragraph 2 of section 4.4, the Executive Director (Human Resources) will advise the Vice-Chancellor of the request. The Vice-Chancellor will consider the request and may decide to:

- take no further action; or
- refer the matter back to the Supervisor to ensure that the steps set out in 4.1 through to 4.4 are complied with in substance and in a manner appropriate to the circumstances; or
- convene an Unsatisfactory Performance Review Panel no later than 10 working days from the date of receipt of such a review application as set out in Clause 24.7 of the USQ Enterprise Agreement.

4.5 Unsatisfactory performance review panel

The Unsatisfactory Performance Review Panel will consist of:

- an Employee nominated by the Vice-Chancellor; and
- an Employee nominated by the Employee representatives on the Staff Consultative Committee.

The Panel will:

- provide an opportunity for the Employee to be interviewed by it and ensure that the Employee and/or their nominated representative, has adequate opportunity to answer findings of unsatisfactory performance;

- take into account such further materials as it believes appropriate to substantiate or otherwise the facts in dispute;
- interview any person it thinks fit to establish the merits or facts of the particular case;
- act as expeditiously as possible taking into consideration the need for procedural fairness and natural justice;
- make its report available to the Vice-Chancellor and the Employee within 10 working days following the conclusion of the review;
- advise of any perceived, potential or actual Conflict of Interest that may undermine the application of natural justice and procedural fairness.

The Panel will review the submission and report to the Vice-Chancellor on the following:

- whether appropriate steps were taken to bring the unsatisfactory nature of performance to the Employee's attention;
- whether appropriate timeframes were provided for the Employee to improve their performance;
- whether adequate opportunity was given to respond;
- whether due and proper weight was given to the Employee's response;
- whether reasonable time and opportunity was afforded to remedy the performance problem; and
- whether there was appropriate consultation with the academic Employee's colleagues, where requested.

4.6 Vice-Chancellor's Decision

Following consideration of the report, the Vice-Chancellor may decide to:

- take no further action; or
- refer the matter back to the Supervisor to ensure that the steps set out in 4.1 through to 4.4 are complied with in substance and in a manner appropriate to the circumstances; or
- take Disciplinary Action, which includes:
 - formal censure or counselling;

- demotion by one or more classification levels or increments;
- withholding of an increment;
- suspension with or without pay; or
- termination of employment.

The Vice-Chancellor will advise the Employee in writing of any Decision. The action of the Vice-Chancellor will be final, except that nothing in these provisions will be construed as excluding the jurisdiction of any external court or tribunal which, but for these provisions, would be competent to deal with the matter.

5 Delegated responsibilities

Approver	Level of Delegation
Vice-Chancellor	Decision (upon consideration of Unsatisfactory Performance Review Committee report)
Unsatisfactory Performance Review Panel	Determination
Executive Director (Human Resources)	Ensure matter proceeds in accordance with other relevant policies and timeframes; and to provide Procedure and process recommendations to the Vice-Chancellor

6 References

Nil.

7 Schedules

This procedure must be read in conjunction with its subordinate schedules as provided in the table below.

8 Procedure Information

Subordinate Schedules	
Accountable Officer	Executive Director (Human Resources)

Responsible Officer	Executive Director (Human Resources)
Policy Type	University Procedure
Approved Date	12/12/2018
Effective Date	3/4/2019
Review Date	3/4/2022
Relevant Legislation	Fair Work Act 2009 University of Southern Queensland Act 1998 USQ Enterprise Agreement
Related Policies	Performance, Development and Recognition Policy
Related Procedures	Performance Planning and Review Procedure
Related forms, publications and websites	
Definitions	<p>Terms defined in the Definitions Dictionary</p> <p>Conflict of Interest</p> <p>If a University Member has an interest that conflicts or may conflict with the discharge of the University Member's duties the University Member should Declare the nature of the interest and the conflict to the University Member's Supervisor as soon as practicable after the relevant facts come to the University Member's knowledge and must not take action or further action relating to a matter that is or may be affected by the conflict until authorised. An Executive Leader may direct a University Member to resolve a conflict or possible conflict between an interest of the University Member and the University Member's duties. A reference to an interest or to a Conflict of Interest is a reference to those matters within their ordinary meaning under the general law, and, in relation to an interest, the definition in the Acts Interpretation Act 1954, Schedule 1, does not apply. A Conflict of Interest will arise when a University Member's Private Interests conflict with their duty to the University or to serve the public interest as a University Member. The risk of having a conflict of interest increases where a University Member's responsibilities include the authority to make decisions. A conflict of interest may be potential, perceived or actual - when a University Member is in a role where future decision making may be influenced by their Private Interests if a certain condition is fulfilled, they have a potential conflict of interest; a perceived conflict of interest arises where it appears that decisions a University Member make in the course of their University employment</p>

may be influenced by their Private Interests, whether or not this is in fact the case; an actual conflict of interest exists where a University Member's actions could be unduly, improperly or excessively influenced by their Private Interests. Serious misconduct can occur when a conflict of interest is concealed, understated, mismanaged or abused.

[Decision](#)

A determination made by an Employee, contractor or other authorised delegate in the course of their duties on behalf of the University.

[Delegate \(noun\)](#)

Delegate (noun) means the officer, Employee or committee of the University to whom, or to which, a delegation of authority has been made under this Policy.

[Employee](#)

A person employed by the University and whose conditions of employment are covered by the USQ Enterprise Agreement and includes persons employed on a continuing, fixed term or casual basis. Employees also include senior Employees whose conditions of employment are covered by a written agreement or contract with the University.

[Procedure](#)

An operational instruction that sets out the process to operationalise a Policy.

[University](#)

The term 'University' or 'USQ' means the University of Southern Queensland.

[USQ Enterprise Agreement](#)

University of Southern Queensland Enterprise Agreement 2018-2021.

Definitions that relate to this procedure only

Disciplinary Action

Means action by the University to discipline an Employee for unsatisfactory performance and includes: formal censure or counselling; demotion by one or more classification levels or increments; withholding of an increment; suspension with or without

pay; or termination of employment for unsatisfactory performance only.

Nominated Representative

Means in relation to an Employee, a person selected by the Employee to assist or represent the Employee. The person may be an officer or Employee of the relevant Union, or any other person chosen by the Employee. In relation to the University, it means a person selected by the University to assist or represent the University. The person may be an Employee of the University, or an officer or Employee of AHEIA, or any other person selected by the University. The Nominated Representative must not be a practising barrister or solicitor and must not present a Conflict of Interest.

Supervisor

Any person responsible for leading the activities of others. In the context of this Procedure, a Supervisor includes Employees at any classification level or title who have responsibilities for leading, managing or supervising work teams and/or individual Employees.

Keywords

Performance, unsatisfactory, improvement, Enrich

Record No

13/361PL