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# Staff Disciplinary and Termination Policy & Procedure

APPROVED BY: Pathways SouthWest Board of Management

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THIS POLICY & PROCEDURE APPLIES TO: Pathways SouthWest Board of Management, Staff, Students, Volunteers, Consumers, Carers, other Stakeholders and the General Public

## Staff Disciplinary and Termination

### Policy & Procedure

#### Policy

This policy sets guidelines for implementing consistent disciplinary action for employees of Pathways SouthWest Inc (Pathways).

This policy and procedure applies when an employee has been identified as unable or unwilling to use skills to carry out tasks associated with a particular position competently. It also applies when employees have breached the organisation's policies or the Pathways SouthWest Staff Code of Conduct. The procedure provides staff with the opportunity to improve their performance through training and trial periods.

**Note:** The following procedure deals with repeated inappropriate staff behaviour, misconduct or minor offences. It does NOT refer to cases of serious misconduct, which would result in instant dismissal (see later section of this policy).

#### Procedure

The procedure must be investigated immediately, and applied within seven days of an incident.

##### Step 1: Verbal Warning

1. The line Manager will advise the employee as soon as possible of the offence, inappropriate behavior, breach of the organisation's policies or breach of the Staff Code of Conduct and provide them with an opportunity to discuss and respond to the issue or incident. The employee has the right to nominate a support person to attend the meeting with the employee.
2. The line Manager will then meet with the employee, outline the implications of their actions and seek an undertaking by the employee to change their behaviour. Any assistance the employee needs to change their behaviour will be identified and provided, where possible.
3. A date will be set to review the employee's behaviour. This will usually be one month from initial interview.
4. The line Manager will record a summary of this meeting, under the heading **Verbal Warning** on a File Note and place the file note in the employee's personnel file.

##### Step 2: First Written Warning

1. If, during the time of review arranged in step 1, the employee's behaviour continues to be unsatisfactory or inappropriate, there will be a further meeting with the employee. The employee has the right to nominate a support person to attend

the meeting with the employee. During this meeting, the line Manager will again stress the implications of the employee's actions and seek an undertaking by the employee to change their behaviour. Any assistance the employee needs to change their behaviour will be provided where possible. A date to review the employee's behaviour will be set – again, one month from the date of this meeting.

2. The line Manager will record a detailed account of this meeting, under the heading **First Written Warning** on a File Note. Both the line Manager and employee must sign the file note as a true and correct record of the meeting. The file note will be placed in the employee's personnel file.

### Step 3: Second and Final Written Warning

1. If, at the time of the review arranged in the First Written Warning meeting, the employee's behaviour continues to be unsatisfactory or inappropriate, there will be a further meeting with the employee. The line Manager will again seek an undertaking by the employee to change their behaviour. The line Manager will make it clear that this is a **final warning** regarding the inappropriate behaviour, and the implications of repeating this behaviour are **dismissal** of the employee.
2. The line Manager will record a detailed account of this meeting, under the heading **Second and Final Written Warning** on a File Note. Both the line Manager and employee will be required to sign the file note as a true and correct record of the meeting. The file note will be placed in the employee's personnel file.
3. If the behaviour is repeated after the final written warning is issued, the Chief Executive Officer will terminate their employment.

### Step 4: Termination of Employment

1. The Chief Executive Officer will record this outcome; actions will be instigated and recorded under the heading **Termination of Employment** on a File Note and the note placed in the employee's personnel file. The **Termination of Employment Procedure** specifies periods of notice that apply. The CEO will advise the President of the Board of Management of the decision.

### Misconduct

Misconduct can include:

- Failure to follow the policies and procedures of the organisation (providing the behaviour does not relate to an act of Serious Misconduct)
- Acting in an unsafe manner on the job
- Poor work performance
- Offensive behaviour, discrimination or harassment, such as telling jokes that may offend or transmitting offensive material
- Suspicion of illicit drug or alcohol use which may affect work performance
- Refusal or failure to obey reasonable directions from the management team.
- Inappropriate use of technology, electronic devices and social media.

### **Serious Misconduct**

Acts of Serious Misconduct constitute a serious breach of the Pathways SouthWest's rules, which warrant the instant suspension of an employee, pending an immediate full investigation of the circumstances by the CEO.

Examples of gross misconduct include:

- Theft of property or funds from the organisation
- Willful damage of organisation's property
- Intoxication through alcohol or illicit substances during working hours
- Verbal, physical or sexual harassment of any other employee, client, volunteer or member of the Board of Management, particularly in respect of age, race, sex or religion
- The disclosure of confidential information in respect to the organisation to any other party without prior permission
- The disclosure of information concerning the Service User of the organisation other than the information that is necessary to assist Service User and to ensure their safety
- Carrying on a private business from Pathways SouthWest's premises or using the service's resources for private business
- Falsification of any organisation's records for personal gain or on behalf of any other employee
- Discrediting the organisation or members of its Board of Management
- Significant abuse of power which could include developing a sexual relationship with service users, a member of staff or a volunteer.

The CEO will undertake an investigation of the serious misconduct. Documentation and evidence will be collected and retained, and this will be outlined to the employee. If the serious misconduct is substantiated, the employee will be given notice in writing. The President of the Board will be advised of the dismissal.

Pathways SouthWest does not have to provide any period of notice for termination for serious misconduct. The employee must be paid any outstanding entitlements for time already worked and annual leave.

### **Termination of Employment**

Except in instances of serious misconduct warranting immediate suspension, the employer will give notice in writing as specified below, or payment in lieu of notice, to any employee whose employment is to be terminated. In accordance of the Award

Where the employee has been employed:

- less than 1 year, 1 week's notice must be given
- 1 year and up to the completion of 3 years, 2 weeks' notice must be given
- 3 years and up to the completion of 5 years, 3 weeks' notice must be given
- 5 years and over, 4 weeks' notice must be given

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In addition to the above, employees over 45 years of age and with 2 or more years of continuous service shall receive 1 additional week's notice.

During the period of notice the employee shall be allowed up to 1 day off with pay for the purpose of seeking other employment.

### **Employee Appeals**

If an employee believes they were dismissed because of –

- Discrimination
- A reason that is harsh, unjust or unreasonable
- Another protected right

The employee has 21 days from the day of the dismissal to lodge an application with the Fair Work Commission.

If the dismissal of the employee is overturned, full pay for the period of suspension or dismissal and all entitlements shall be restored.

### **Related documents:**

Staff Code of Conduct

Social, Community, Home Care and Disability Services Industry Award 2010