MANAGING STAFF UNDERPERFORMANCE PROCEDURE

Performance Management has significant benefits for our Service, as it leads to inspired and enhanced performance from each educator, co-ordinator and staff member. Where there is underperformance, we will work to resolve this promptly and effectively in accordance with an individual *Performance Improvement Plan* developed in conjunction with the employee.

Underperformance is not the same as misconduct. Misconduct is a serious offence such as theft or assault, which may warrant instant dismissal. In cases of misconduct employers will seek specific advice from the Fair Work Ombudsman, or professional legal advice about how to proceed before taking any action.

Working in conjunction with the *Performance Management Policy and Code of Conduct Policy*, this procedure assists managers to manage underperforming employees in a prompt and professional manner.

Education and Care Services National Law or Regulations (R. 82, 83, 84, 155 and 168) NQS QA 4 and 7: Element 4.1.1, 4.1.2, 4.2.1, 4.2.2, 7.1.1, and 7.1.3 Staffing practices and procedures
Related Policies: Code of Conduct Policy Performance Management Policy

STEP 1: STAFF PERFORMANCE REVIEW		
1	The Approved Provider, Nominated Supervisor and educators will review and update the Service's *Performance Review Policy* each year to ensure an understanding of the performance review process	
2	The Manager/Nominated Supervisor will conduct *Performance Review* meetings with every staff member every 12 months to review work performance and outline further expectations and responsibilities and set professional goals.	
3	A Performance Review form will be used to assess employee's goals and objectives and identify areas of strengths, responsibilities and discussion as to what extent these have or have not been met.	
4	During the *Performance Review* meeting, the supervisor will complete a rating system to ascertain if the staff member is achieving an expected level of performance or achievement.	
5	If any areas are identified as underperforming by the staff member, or unsatisfactory behaviour has been demonstrated, further action may be taken	
6	Management will review past Performance Review reports to identify any previous concerns and review the employee's job description to identify any concerns or responsibilities that are not being met.	
	See: Staff Performance Review Procedure *Performance Review Form- Staff* (resource) *Performance Review Form- Cook* (resource)	

STEP 2: MANAGING STAFF UNDERPERFORMANCE		
1	Underperformance, or poor performance includes: • the employee not preforming tasks associated with the role according to the job description • the employee not carrying out the work to the standard as set by the job description • the employee displaying unacceptable, disruptive or negative behaviour at work • the employee not following policies and procedures of the Service	
2	The Manager/Nominated Supervisor will review past Performance Review reports to identify any previous concerns and review the employee's job description to identify any concerns or responsibilities that are not being met.	
3	The Manager/Nominated Supervisor will Assess and analyse the issue by determining: • the seriousness of the issue • how long the issue has existed • the employee's present performance and how this varies to what is expected of the employee	
	See: *Performance Discussion Plan- Prior to the meeting* (resource)	

STEP 3: PERFORMANCE MANAGEMENT MEETING		
1	The Manager/Nominated Supervisor will advise the employee of the purpose of the meeting in advance so they can adequately prepare for the meeting	
2	Advise the employee of the date and time of the meeting- allow for at least 24 hours' notice of the meeting	
3	Advise the employee they are permitted to bring a support person of their choice or union representative to the meeting. Their role is to support the employee during the meeting- not speak or advocate for them.	
4	Arrange for the meeting to take place in a private and comfortable environment that is non-threatening, away from distractions and interruptions	
5	Management will provide clear communication with the employee to clarify: • performance indicators (why there is an issue) • expectations around ethics, values and behaviour • how their underperformance or behaviour impacts the workplace environment and • why there is a concern from management.	
6	Management will clearly articulate the outcome they wish to achieve from the meeting	
7	Management will provide the employee with the opportunity to have their point of view heard and duly considered	
8	Management will listen to the employee about the issue or to any comments the employee makes	
9	Management will summarise their understanding of the meeting to the employee	

10	Management will clearly explain that more serious actions may need to be taken if the employee's performance does not improve. This may include, further mentoring, counselling, issuing formal warnings and ultimately if the issue cannot be resolved, termination of employment	
11	Minutes from this meeting will be documented accurately and verified by the employee and/or support person	
	See: *Performance Management- Meeting Minutes* (resource)	

STEP 4: PERFORMANCE IMPROVEMENT PLAN		
1	A *Performance Improvement Plan* will be developed in consultation with the employee outlining actions and goals to be implemented.	
2	The employee is requested to contribute to the development of the Performance Improvement Plan to help resolve the issue. • Explore ideas by asking open ended questions • Emphasise common ground • Keep on track • Focus on positive possibilities • Offer assistance such as professional development, redefining role and responsibilities etc.	
3	Performance expectations and what is to be achieved over a specific period of time will be discussed and documented with the employee.	
4	The employee's job description will be used to review the role and responsibilities of the employee	
5	Management will identify and document any areas for professional development that can be implemented as part of the *Performance Improvement Plan.*	
6	Dates for follow up meetings and monitoring of the plan will be established in consultation with the employee	
7	The *Performance Improvement Plan* will be finalised and signed by management and the employee. A copy will be provided to the employee and a copy placed in the employee's file.	
	See: *Performance Improvement Plan (resource)*	

STEP 5: PERFORMANCE PLAN REVIEW		
1	Management will monitor the employee's performance and continue to provide feedback and encouragement	
2	Management will work with the employee to ensure that performance improvements are sustained	
3	Management will conduct a review meeting- 6-8 weeks following the initial meeting and implementation of the *Performance Improvement Plan*	

4	Management will discuss how the employee believes they have performed against the set goals developed within the *Performance Improvement Plan* and review goals, strategies or make adjustments if required	
5	Timeframes of the *Performance Improvement Plan* may need to extended or further support offered to assist the employee	
6	Management will provide meeting minutes to the employee and a copy of any amendments to the *Performance Improvement Plan*	
	See: *Performance Management Follow Up- Meeting Minutes (resource)*	

STEP 6: OFFICIAL WARNING		
1	Management should provide the employee with an opportunity to 'fix' any performance issue before providing a warning.	
2	Management will provide an employee an official warning in writing before ending their employment	
3	If a warning is given to an employee, management will: • be clear about the reason for the warning • provide written clarification • set clear expectations about what actions need to be demonstrated to resolve the issue • ensure the warning is fair and reasonable in the circumstances	

STEP 7: TERMINATION OF EMPLOYMENT		
1	If an employee's performance does not improve to an acceptable standard, termination of their employment may be an option.	
2	Employers cannot dismiss their employees in circumstances that are "harsh, unjust or unreasonable". What is harsh, unjust or unreasonable will depend on the circumstances of each case. However, it is important to be fair to employees particularly when it comes to termination of employment. They should be given reasons for dismissal and an opportunity to respond to those reasons. (Fair Work Ombudsman 2013)	
3	An employer must provide an employee with written notice of the day of termination when ending their employment. The written notice must provide details of the employees last day and a reason why the employment was terminated	
4	Management must provide the employee with their entitlements such as their notice of termination and any annual leave that they have accrued. For more information on the entitlements owed after termination visit www.fairwork.gov.au or contact the Fair Work Infoline on 13 13 94.	

5	The employer must keep records of when an employee leaves the Service, including the name of the person who terminated the employment, and details of how the termination took place (notice given by employee, termination by employer, etc.).	
6	The employer will meet with the employee to provide the letter of employment and/or Separation Certificate and keep a copy for Service records.	

STEP 8: TERMINATION OF EMPLOYMENT (SERIOUS MISCONDUCT)		
1	Management will ensure all staff members are made fully aware that the identified breaches of the *Code of Conduct* and role responsibilities may lead to termination of employment. An employer can instantly terminate an employee's employment, where the employee has engaged in 'serious misconduct'.	
2	Prior to making final decisions to terminate an employee because of serious misconduct, the employer must take the following steps: • immediately arrange a meeting with the employee, and advise them that they are able to a have a support person present at the meeting • arrange to have a witness present at the meeting • identify the serious misconduct and present any facts or evidence that surrounds the alleged misconduct • allow the employee to respond to the allegations • consider termination options • if after considering the options, including any statements provided by witnesses, provide a letter of termination of employment to the employee • the letter will include the reasons for the termination of employment and the date the employment will end. (When an employee is terminated on the grounds of serious misconduct, the employer does not have to provide any notice of termination)	
3	Management will ensure that the employee is provided with any entitlements such as payment for time worked, annual leave or long service leave that they have accrued.	
4	The employer must keep records of when an employee leaves the Service, including the name of the person who terminated the employment, and details of how the termination took place (notice given by employee, termination by employer, etc.).	

REVIEW OF PROCEDURE			
Date procedure created	08/02/2023	To be reviewed	August 2025
Approved by	Krystle Hills		
Procedure Reviewed Date	Modifications/Changes		
Aug 2024	Updated process 1 on step 1: Staff Performance Review		