

## 1. Scope

At Australian News Channel (ANC), we strive to create a culture that supports us in reaching our fullest potential. We aim to hire great people, do meaningful work and encourage honest two-way robust feedback.

The objectives of the policy are to:

- Ensure a consistent approach to improving an employee's performance, where necessary and appropriate, to align with ANC's expectations
- Maximise the employee's contribution to help meet the reasonable expectations of the position in which they are employed
- Provide a framework to deal with unacceptable/inappropriate behaviour and wilful or serious misconduct.

The matters outlined in this policy are intended to be a guide to the range of procedures which may be implemented by ANC in rectifying an employee's poor or unsatisfactory performance. In every case, the actual performance counselling plan or action taken will be subject to all relevant factors applicable at the time and the circumstances of the case as a whole.

The policy is not limited to an employee's conduct or behaviour in the normal workplace and/or business hours. It extends to all work-related events, for example, work trips, social activities, conferences, Christmas parties and/or client functions.

If the relevant conduct or behaviour involves a potential breach of ANC's Code of Conduct, the News Corp Standards of Business Conduct, the News Corp Anti-Bribery Policy and/or News Corp Anti-Corruption Policy, ANC will be required to consult with the Group Chief Compliance Officer (GCCO). The GCCO, within its absolute discretion, may determine to become involved in the disciplinary process initiated by ANC or investigate the potential breach independently of ANC.

Further, if conduct involves a potential breach of any Australian law, ANC may notify the police or other relevant government authority.

## Who does this apply to?

This policy applies to all employees of ANC.

## Definitions

*“employees”*: means all full-time, part-time, fixed term and casual employees employed by Australian News Channel Pty Limited.

*“industrial instrument”* means: any modern awards or transitional instruments (including enterprise awards), enterprise agreements or a preserved ‘transitional instrument’ as defined in the Fair Work (Transitional and Consequential Amendments) Act 2009.

## 2. What is Performance Management and Improvement?

Performance management means an ongoing communication process which involves both the manager and the employee in:

- identifying and describing essential job functions and relating them to the strategic and operational objectives of ANC
- developing realistic and appropriate performance standards
- giving and receiving feedback about performance
- participating in constructive (formal or informal) performance appraisals and/or
- planning learning and development opportunities to sustain, improve or build on employee work performance.

*Regular meetings/communications between the employee and supervisor/manager facilitates this process.*

## What is Poor or Unsatisfactory Performance?

Poor or unsatisfactory performance includes the inability of an employee to:

- utilise relevant skills to carry out their duties and/or
- demonstrate competencies, behaviours or responsibilities,

in a manner that meets the reasonable expectations and standards required by ANC.

Poor or unsatisfactory performance may be attributable to lack of appropriate skills/experience or incomplete knowledge.

The objective of managing poor or unsatisfactory performance is to correct and/or improve unsatisfactory performance where possible. In all situations, the management of the underperforming employee should be assessed whether it is appropriate to be managed under this policy.

### Informal and Formal Performance Counselling

ANC, in its discretion, will determine the appropriate performance counselling method to be adopted depending on the circumstances. There is no obligation to have completed informal performance counselling prior to commencing formal performance counselling. In some circumstances, it may be necessary to directly enter into formal performance counselling.

It is a requirement that all employees, where initiated by ANC, reasonably and genuinely participate in informal and formal performance counselling.

#### Informal Performance Counselling

Informal performance management and counselling may take place:

- When poor or unsatisfactory performance is first identified
- ANC wishes to improve upon the productivity or performance of unsatisfactorily performing employees
- During the course of formal performance counselling processes (for instance, while a formal performance counselling process is in place, informal feedback can often assist in rectifying employee performance) and/or
- Prior to the commencement of, or after completion of a formal performance counselling process.

Informal performance management usually involves regular communication between an employee and his/her manager.

#### First Formal Performance Counselling Meeting

Formal performance counselling may occur at any stage during an employee's employment regardless of whether informal performance counselling has taken place or not.

Formal performance counselling will be implemented where a manager has genuine ongoing concerns about an employee's work performance.

Prior to the first formal performance counselling meeting, an employee will be given notice that a performance counselling meeting will be occurring.

The employee will also be given an opportunity to have a support person present at the meeting, should the employee wish. The role of the support person is to provide support to the employee but not to advocate on behalf of the employee.

During the meeting:

- The employee's manager (or the person conducting the meeting) will raise the performance concerns with the employee
- The employee will be given an opportunity in the meeting to respond to the concerns and
- Ordinarily, the manager (or the person conducting the meeting) will consider the employee's response during the course of the meeting (in some circumstances, it may be necessary to adjourn the meeting for a reasonable timeframe for ANC to undertake further inquiries regarding the performance concerns).

Shortly after the conclusion of the meeting a file note of the discussion will be prepared and kept on the employee's personnel file and the employee will be informed of the 'outcomes' of the meeting.

#### First formal performance counselling meeting outcomes

The types of outcomes that may be implemented after the first formal performance counselling meeting include:

- **No action taken:** Where the employee has satisfied the manager that their concerns are unwarranted, or that no remedial action should be taken, then the manager may decide to take no action in relation to the performance counselling meeting
- **Counselling/Warning:** The employee is formally counselled or warned to improve his/her performance (and/or behaviour). The counselling session/warning is recorded in the employee's personnel file
- **Performance Improvement Plan (PIP):** The manager develops a written plan for the improvement of performance (and/or behaviour). The purpose of the PIP is to document the poor or unsatisfactory performance and provide a structured and appropriately timed plan for improvement in performance. The PIP should specify performance targets and the timeframes for meeting such targets and/or
- **Training/retraining:** If training or retraining is appropriate, then this will be provided to the employee at the manager's discretion. The training or retraining may also be specified as part of the PIP. The employee may be subject to further review during the training or after completion of the training in order to determine whether the manager's concerns have been alleviated.

#### Further Formal Performance Counselling Meetings

If, after an employee has been subject to one or more previous performance counselling meetings, ANC still has genuine concerns regarding poor or unsatisfactory work performance of an employee, further formal performance counselling may take place using the same process as the First Performance Counselling Meeting as outlined above.

Prior to the further formal performance counselling meeting taking place, an employee will be given notice of the performance counselling meeting.

The employee will also be given an opportunity to have a support person present at the meeting, should the employee wish. The role of the support person is to provide support to the employee but not to advocate on behalf of the employee.

#### Further formal performance counselling meeting outcomes

The types of outcomes that may be implemented at ANC's discretion, after a further performance counselling meeting include, but are not limited to, the same outcomes as listed in the first performance counselling meeting as outlined above and the following:

- **Final written warning:** A final written warning may be issued, specifying a timeframe for improvement (either over a period of time or immediately)
- **Removal of duties or responsibilities:** An employee may have duties or responsibilities withdrawn from his/her role in order to allow the employee to better meet the performance standards expected by ANC and/or
- **Termination of employment:** The employee's employment may be terminated (with notice or, where considered appropriate by ANC, payment in lieu of notice).

### Employee Records and Confidentiality

Documentation pertaining to performance counselling (including records of meetings, counselling records, warnings, PIPs, etc.) will remain on an employee's personnel file indefinitely.

Performance counselling discussions and meetings (and their outcomes) are generally confidential. Employees are not to discuss these with co-workers. Depending on the nature of the poor performance, it may be necessary for ANC to disclose information about poor or unsatisfactory performance to other relevant employees and management.

Failure to maintain the confidentiality of performance counselling discussions and/or meetings is a breach of this policy and may result in disciplinary action.

### Suspension of Employment

In some instances, poor or unsatisfactory performance may be serious enough to present a risk to ANC's operations, employees or customers. In these circumstances, an employee may be suspended from employment, either without pay or on ordinary pay as determined at ANC's discretion, whilst an investigation into the poor performance is undertaken.

### 3. Checking in through probation

Employees will have a probation period of 6 months where they and the business can evaluate the match. During this time, there will be a couple of touch points where they will meet with their managers to evaluate how they are going and to ensure things are working well for both parties.

During probation, an employee can expect the following to happen:

- A check in with their Manager to agree goals and commitments
- Regular discussion around goals and commitments to be established
- Just prior to month 6, confirmation of how they have gone in probation

Naturally we don't expect new employees to be fully up to speed from day one, however we do expect to see progress towards full proficiency within the probation period.

Generally, through feedback and coaching, most people are successful through probation however if despite our best efforts to help, ANC may terminate the employment of any employee on performance or behavioural grounds without prior notice (or warning) within the first 6 months of the employee's employment, subject to any notice requirements under applicable legislation or contract of employment.

### Misconduct

We all have responsibilities in relation to how we behave and conduct ourselves when at work or at any place where there is a connection to ANC. This policy has been implemented to ensure that all employees behave and conduct themselves in an appropriate and acceptable manner whilst employed or engaged by ANC. ANC aims to ensure there will be a fair approach in the treatment of everyone with regard to standards of conduct and behaviour throughout ANC.

### Prohibited Conduct

At all times, we are to act professionally and ethically and to demonstrate respect in our treatment of others. The following are types of conduct and/or behaviour that are prohibited by this policy, which may result in disciplinary action may include:

- Any conduct that is inconsistent with ANC's expectations set out in this policy
- Any breach of a contract of employment or service/consultancy agreement or arrangement
- Any breach of any ANC's policies
- Any instance of "*serious or wilful misconduct*". Serious or wilful misconduct includes:
  - Any conduct capable of giving rise to summary dismissal at common law
  - Attending for work intoxicated or under the influence of illegal drugs or narcotics
  - Gross or wilful negligence
  - The use, sale, dispensing or possession of illegal drugs on ANC's premises or when representing ANC
  - Engaging in harassment, discriminatory or bullying behaviour
  - Possession of firearms or other weapons on ANC's premises
  - Theft, destruction, defacement or misuse of ANC's property
  - Fraud and misappropriation of funds
  - Falsifying or altering ANC's records or reports without proper authorisation
  - Threatening, intimidating or coercing others into engaging in conduct that is in breach of ANC policies
  - Fighting
  - Failure to follow a lawful and reasonable direction by ANC
  - Acting dishonestly
  - Conduct which adversely affects the health or safety of others
  - Conduct which adversely affects the reputation, viability or profitability of ANC and/or
  - Breach of the *News Corp Standards of Business Conduct*.

### Determining a Breach (The Disciplinary Procedure)

In every case, the actual disciplinary procedure to be adopted will be a matter for ANC's discretion and in consideration of the circumstances of the case as a whole.



Nothing in this procedure prevents ANC from issuing a warning at any stage of the process.

Nothing in this procedure prevents ANC from dismissing an employee (or terminating an employee's contract or arrangement for services) at any stage of the procedure in circumstances involving willful or serious misconduct.

### Investigation

Depending on the circumstances, it may be necessary to conduct an investigation into incidents and/or allegations.

This may involve collecting relevant data, interviewing the relevant employee, interviewing witnesses such as the employee's co-workers, managers, clients or any other relevant person. Investigations may be conducted by ANC (which may include, by the direct manager of the employee, or a Senior Manager) or by an external investigator appointed by ANC.

In some instances, the alleged misconduct may be serious enough to present a risk to ANC's operations, other employees or clients. In these circumstances, an employee may be suspended from employment (or a suspension of the contract or arrangement for services), either without pay or on ordinary pay as determined at ANC's discretion, whilst an investigation into the alleged misconduct is undertaken.

### Disciplinary Interview

If on the basis of the investigation, ANC believes that there is a case to be answered in relation to the alleged misconduct, the employee may be asked to attend a meeting to discuss the issue(s) of concern.



An example of a procedure that may be adopted by ANC, though this may vary depending upon the nature of the circumstances, includes:

- The employee being given notice of the meeting and what will be discussed at the meeting
- The employee being given an opportunity to have a support person present at the meeting (the support person does not participate in the discussions)
- Putting the issue(s) of concern or allegations to the employee
- Giving the employee the opportunity to respond to the concerns or the allegations
- ANC genuinely considering the employee's response and making any further enquiries or investigations (if necessary) and
- ANC determining whether the concerns or allegations have been substantiated.

If it is determined that all (or some) of the concerns or allegations are substantiated, ANC will make a decision about what, if any, disciplinary action is appropriate in the circumstances.

#### Disciplinary Action

Any disciplinary action taken will vary from case to case. It will depend on the circumstances of the case as a whole and the severity of the breach. It could also include consideration of whether the employee has received any prior verbal or written warnings in relation to their conduct (and/or performance).

Examples of disciplinary action which may be taken by ANC, but are not limited to, the following:

- Informal counselling
- Formal counselling
- A verbal warning
- A written warning or reprimand
- Dismissal of the employee with notice (permanent employees only)
- Immediate termination of a contract or arrangement for services and/or
- Summary dismissal of the employee (with no payment of notice).

For the avoidance of doubt, it is not a pre-requisite to terminating the employment (or contract or arrangement for services) of an employee under this policy that the employee be provided with any type of warning prior to the termination. Where conduct is sufficiently serious, termination of employment (or contract or arrangement for services) can be imposed as a sanction at any time.

In some circumstances, if termination of employment is a consideration, ANC may give an employee a further opportunity to respond to this disciplinary action before the decision is made, however, ANC is not obliged to do so.

## Termination of Employment

Where a sanction of termination of employment is imposed for employees who are permanent *employees*:

- The employee will be provided with notice of termination (or payment in lieu)
- The employee will be paid all accrued statutory leave entitlements upon termination and
- The employee must return all ANC's property in the employee's possession or control to ANC on or before termination.

Where a sanction of summary dismissal is imposed for employees who are permanent *employees*:

- No notice of termination will be provided (nor any payment in lieu)
- The employee will be paid all accrued statutory leave entitlements upon termination and
- The employee must return all ANC's property in the employee's possession or control to ANC on or before termination.

## Employee Records

Documentation pertaining to employee misconduct (including records of meetings, counselling records and warnings) will remain on an employee's file indefinitely.

## 4. Further Information

This policy does not form part of any contract of employment or override the terms of any contract, award or registered agreement which might also apply to employment with ANC. The policy may also be varied or rescinded from time to time.

## 5. Policy Version and revision information

Title	Managing Performance, Misconduct and what happens if things go off track
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