

**THE NORTHCOTT SOCIETY**

**POLICY ON DISCIPLINE AND DISMISSAL**

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<b>VOLUME:</b>	<b>2</b>	<b>Society Policy on Management &amp; Organisational Issues</b>
<b>SECTION:</b>	<b>A</b>	<b>Human Resources</b>
<b>SUBSECTION:</b>	<b>A</b>	<b>Personnel</b>
<b>NEXT REVIEW DATE:</b>		<b>October 2008</b>
<b>BOARD APPROVAL:</b>		<b>Not Applicable</b>

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**Policy**

**It is Northcott's policy that departure from the provisions of the Code of Conduct and Ethics may result in disciplinary action in line with Disciplinary Procedures contained in this document.**

**Definitions**

Serious misconduct:

Is defined in the (Federal) Industrial Relations Reform Act as "conduct of a kind such that it would be unreasonable to require the employer to continue employment". The types of conduct which fit this definition are not specified, however, it is generally accepted that the following will fall into this category:

- \* Serious criminal offence e.g. murder, armed robbery etc.
- \* Serious cases of negligence endangering consumers, staff and/or others.
- \* Being affected by alcohol or drugs whilst on duty.
- \* Property offences e.g. theft, wilful damage etc.
- \* Any deliberate action which endangers consumers, staff and/or others.

Less than serious misconduct:

By default, any misconduct which does not fall into the category of "Serious Misconduct", as defined in the (Federal) Industrial Relations Reform Act must fall into this category.

Poor performance:

Where a staff member is not performing their duties to a satisfactory standard. This applies only to the standards which have been set; and the duties to be performed are reasonable in the circumstances.

## **Principles**

1. To maintain the highest standards in all areas of Northcott's operations, it is essential that the behaviour of all staff members reflects the values of respect for other people, impartiality, honesty and integrity and that staff members are competent in the performance of their duties. Standards of appropriate personal and professional behaviour have been established in Northcott's Code of Conduct and Ethics.
2. Disciplinary procedures will be conducted in a non-discriminatory fashion and will be based on the facts of the matter, not any form of personal bias, in line with Northcott's Equal Employment Opportunity Policy.
3. Staff should familiarise themselves with this Policy and the accompanying Procedures in order that they fully understand their rights and obligations.
4. When addressing disciplinary issues, managers should adhere to the Disciplinary Procedures as any inappropriate action may result in industrial action.
5. A disciplinary issue should be discussed with the General Manager Human Resources before proceeding to stages 2 &/or 3 and the written approval of the Chief Executive Officer or Director Operations should be held before proceeding to dismissal.
6. The Disciplinary process is confidential. The details should only be discussed between the Chief Executive Officer, Director Operations, General Manager Human Resources and those directly involved.
7. Minutes of interviews and copies of supporting documentation are to be filed on the "Disciplinary Matters" file in a sealed envelope. This file is a confidential central records file held by the General Manager Human Resources and accessible only by the General Manager Human Resources, Chief Executive Officer and Director Operations.

## **Objectives**

1. By working together through the disciplinary process it is hoped that the staff member will achieve a better understanding of their responsibilities and a stronger commitment to Northcott and its objectives. The procedure should be conducted in a positive light and should not be tailored to eradicating difficult or unwanted staff. Dismissal is a last resort.

## **Procedures**

The (Federal) Industrial Relations Reform Act distinguishes between serious misconduct and less than serious misconduct or poor performance. Both are defined above. As well as recognising two categories of misconduct etc, the act also defines separate procedures for each category. Central to each is procedural fairness.

## 1 Serious Misconduct

Instances of serious misconduct should be dealt with immediately by the manager responsible for that staff member. Since the enactment of the (Federal) Industrial Relations Reform Act, time has become a consideration in matters of serious misconduct as any delay in acting can be construed by the Industrial Relations Court as condoning the staff member's actions.

- i) The staff member should be instructed to stop work immediately and should meet with his/her manager to discuss the matter. The staff member should be encouraged to respond to the allegations which have been made.
- ii) Once the substance of the allegation has been confirmed, the matter should be referred to the General Manager Human Resources. The Chief Executive Officer or Director Operations should be aware of the circumstances and the commencement of the investigation.
- iii) The manager to whom the staff member reports and the General Manager Human Resources should conduct a full investigation of the matter. In cases where other staff or visitors are involved, these people should be interviewed. Given recent decisions by the Industrial Relations Court, it is essential to interview every witness or participant involved.
- iv) The staff member should be suspended (on full pay) and to contact his/her manager at a fixed time daily, if the investigation is expected to take some time. However, the staff member should be suspended having regard for the circumstances of the misconduct. For example, in cases of theft or misappropriation, where criminal charges are possible, it may be more appropriate to keep the staff member at work.
- v) The details of the completed investigation should be referred to the Chief Executive Officer or Director Operations.
- vi) A meeting should be convened between the staff member, his/her manager, the Chief Executive Officer or Director Operations and the General Manager Human Resources. The staff member should be invited to bring another staff member or union delegate as support.
- vii) The staff member should be advised of the results of the investigation and be invited to respond. The staff member's comments should be taken into account when making a decision.
- viii) The staff member and their representative should be requested to wait in another office whilst final discussions and decisions are taken.
- ix) If it is the decision of the Chief Executive Officer or Director Operations to dismiss. The staff member and their representative should be advised of this and the reasons why.

- x) A letter should be prepared and given to the staff member stating that they have been dismissed and outlining the reasons and a summary of the investigation.
- xi) At this point the staff member should be instructed to gather their personal belongings and leave the premises. It may be prudent to have the General Manager Human Resources or another staff member escort them.
- xii) The staff member should be paid their statutory entitlements i.e. holiday pay, long service leave etc. as soon as possible.
- xiii) The details of the disciplinary process, investigations and decisions etc. should be recorded as a file note and filed on the Disciplinary Matters file (refer "Principles" point 7.)

## 2 Less than Serious Misconduct or Poor Performance

There are four stages in Northcott's disciplinary procedure in this category. These are listed and explained below. In each stage the staff member must be given sufficient opportunity to "state their case" to ensure procedural fairness and to enable reasonable working relationships to continue.

### 2a) Stage 1: Informal Warning

This is a preliminary stage in the disciplinary process and should take place prior to moving to subsequent stages of the procedure. The warning is usually verbal, involving only the staff member and their line manager who:

- i) Allow the staff member to offer their side of the story (particularly if you did not witness the incident/behaviour and are relying on third party reports).
- ii) It is suggested that the date, time and details of discussion are noted in a personal diary or log book in case these details are required at a later date.
- iii) The staff member should be advised that the situation will be monitored and will be reviewed again on a certain date. Fix a reasonable date for this review process. It is essential that the staff member understands that future breaches may result in a formal disciplinary interview.
- iv) Where possible this discussion should be conducted privately and discreetly on "neutral territory". Counselling for staff members should be carried out in a non-threatening manner. It is not appropriate to make accusations and allegations. Matters relating to inappropriate behaviour or performance should always be backed up by clear examples of those situations. The principle of "a fair go" should be adhered to.

### 2b) Stage 2: Written Warning

Hopefully, an informal warning will be the most that is required. Unfortunately, there may be occasions when there is a need to take matters further. On these occasions it will be necessary to proceed to stage 2, the written warning.

- i) A meeting should be convened on "neutral territory" as in stage 1 (above).
- ii) It would be prudent to invite the staff member to bring an observer of their choice to the meeting. This may be another staff member or a Union delegate. The staff member may refuse this right if they wish and if so the refusal should be included in the minutes of the meeting.
- iii) It is important that the General Manager Human Resources or delegate attends this meeting to act as a witness if required.
- iv) Sufficient notice should be given to ensure that all can attend.
- v) The meeting should take the form of another counselling session in which all participants are encouraged to express concerns, explanations, solutions etc. However, it is essential that the discussion deals with the matter at hand and is not sidetracked by other, irrelevant issues.
- vi) If the information obtained from this meeting is considered serious enough to warrant disciplinary action, the staff member must be given a letter specifying the unacceptable behaviour or performance area.
- vii) The letter should also stipulate what they should be doing to rectify the situation and should include a review date where the staff member's position will be reassessed. This reassessment should take place at a subsequent meeting which should, where possible, involve the same participants.
- viii) The letter should also refer to earlier counselling session/s and contain a warning that continued behaviour or performance of the kind mentioned in the letter may lead to further disciplinary action.
- ix) Both meetings should be minuted. One copy marked confidential and initialled by all participants should be forwarded to the General Manager Human Resources for filing. A copy is to be given to the staff member involved.
- x) The staff member must be advised, during the meeting, that a copy of the minutes will be retained on file.

2c) Stage 3: Final Warning

If it is required, the third step is conducted along the same lines to stage 2. (above) and varies only in the content of the letter. In this instance the letter should accurately outline the steps already taken in stages 1 and 2. It should also contain a statement clearly indicating that this is a final warning and if the problem continues, or occurs again, that the staff member may be terminated.

2d) Stage 4: Termination

It is hoped that all disciplinary issues will be resolved before they get to this stage, however, there are occasions when the only practical outcome is termination of employment.

- i) Only the Chief Executive Officer or Director Operations may terminate the employment of Northcott staff members. Consequently it is essential that the Chief Executive Officer or Director Operations is informed of the dismissal meeting and written authority held to proceed with this course of action. Refer to the relevant sections in the Northcott Award.
- ii) A meeting should be convened by the staff member's manager/supervisor. This meeting should take the same format as above (Stage 2.) and the same participants where possible.
- iii) As in previous meetings the staff member must be clearly advised that the unacceptable conduct/performance about which they have received previous warnings has not been rectified. They should be given an opportunity to respond.
- iv) The information obtained from this meeting should be considered carefully by the staff member's manager/supervisor and discussed with the Chief Executive Officer or Director Operations.
- v) The option to dismiss the staff member should not be utilised unless it becomes clear that there is no viable alternative.
- vi) If the behaviour or performance is considered serious enough to warrant dismissal the staff member should be given a letter signed by the Chief Executive Officer or Director Operations setting out the reasons for the dismissal; referring to the previous stages in the disciplinary process; and dismissing the staff member. This letter should be prepared in line with the relevant section in Northcott's Award and should include details of notice of termination.
- vii) In most cases it will be appropriate that the staff member finishes work immediately.
- viii) The meeting should be minuted, as before, with a confidential copy to Human Resources Department.

### **Supporting Policies and Documents**

1. Policy on Code of Conduct and Ethics
2. Policy on Grievance (Staff)
3. Policy on Equal Employment Opportunity and Anti-Discrimination
4. Relevant section of the Northcott Award

**Authorised by:** .....  
**Mike Fryer**  
**Director Operations**