

Name of Policy	Managing Unsatisfactory Performance Policy
Description of Policy	This policy outlines the Managing Performance Excellence provisions for Academic and Professional Staff, specifically the procedures for managing Unsatisfactory Performance.
Policy applies to	<input checked="" type="checkbox"/> University-wide <input type="checkbox"/> Specific (<i>outline location, campus, organisational unit etc.</i>) <hr/> <input checked="" type="checkbox"/> Staff Only <input type="checkbox"/> Students Only <input type="checkbox"/> Staff and Students
Policy Status	<input type="checkbox"/> New Policy <input checked="" type="checkbox"/> Revision of Existing Policy

Approval Authority	Vice-Chancellor and President
Governing Authority	Senior Executive Group Members
Responsible Officer	Director, Human Resources

Approval Date	26 March 2012
Effective Date	26 March 2012
Date of Last Revision	1 April 2019
Effective Date of Last Revision	1 April 2019
Date of Policy Review*	1 April 2020

* Unless otherwise indicated, this policy will still apply beyond the review date.

Related Policies, Procedures, Guidelines and Local Protocols	Performance Review and Planning Process for Academic Staff Performance Review and Planning Process for Professional Staff
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1. Background

One of ACU's strategic priorities is to become a high performing organisation with a culture of striving to achieve excellence in all areas of the University's activities. Performance Excellence requires the alignment of our academic and professional staff with organisational strategic priorities through employment processes including development, reward, planning and review, and the management of unsatisfactory performance. A culture of performance recognises the significance of the individual staff member's role in the whole that is the University, particularly the importance of aligning the goals of individual staff to those of their organisational unit and to the University.

2. Policy Statement

Staff members, supervisors and the University each have specific responsibilities for managing for performance excellence.

Staff members are responsible for their full participation in and engagement with the University including through its policies, procedures and processes; resolving issues at the lowest possible level, meeting the University's required standards and ensuring the quality of their work. Staff members are required to cooperate with their nominated supervisor when receiving feedback, including when undertaking performance reviews. During any meetings to discuss performance, a staff member may be assisted by a person of their choice including their staff representative, provided that person is not a practising barrister or solicitor.

The supervisor provides the context for the work of the Faculty/School/Centre /Directorate/Portfolio that clearly conveys the organisation's performance expectations of all individual staff. Supervisors provide direction and clarify how every individual role contributes to the strategic priorities of the work unit and the University. Supervisors support and monitor staff contribution, through ongoing dialogue with

staff, setting expectations of performance, implementing change, and, working with staff to resolve issues.

As part of their role, nominated supervisors are responsible for monitoring the performance of staff and providing regular feedback about individual staff member's performance. Supervisors are expected to deal promptly with any performance matters as they arise; and make all reasonable efforts to be fair and comprehensive in dealing with performance issues.

The University invests in Professional Development programs that provide a diverse range of practical and informative skill related courses, and opportunities for career development. Professional Development programs are designed to enhance the capabilities and performance of staff and support the implementation of organisational strategy. The University has performance excellence processes that support staff and supervisors including the capacity to manage individual staff members who do not meet the University's requirements for performance excellence.

The relevant Member of the Executive, Member of the Senior Executive or the Vice-Chancellor and President may, at any time, refer a question of possible unsatisfactory performance of a staff member to the nominated supervisor or manager for appropriate action.

The University reserves the right to take disciplinary action, which may include the termination of employment, with regard to a staff member who does not perform her or his duties to a satisfactory standard.

3. Purpose

The purpose of this policy is to explain the responsibilities and obligations of supervisors, staff members and the University with regard to performance management and development and managing unsatisfactory performance at ACU.

4. Application of Policy

This policy applies to Academic and Professional Staff who are covered by the provisions of *the Australian Catholic University Staff Enterprise Agreement 2017 – 2022* (the **Agreement**) other than probationary staff members.

5. Approvals

All approvals of decisions made must be in accordance with the Delegations of Authority Policy and Register.

6. Managing for Excellence Procedures at ACU

The performance review and planning processes at ACU provide a framework for identifying, evaluating and developing staff performance.

6.1 Annual Review and Planning Cycle

All continuing and fixed term staff members are required to participate on an annual basis in either

- the Performance Review and Planning process for Academic Staff,
- or
- the Performance Review and Planning process for Professional Staff.

6.2 Identification of Unsatisfactory Performance

In considering whether a staff member's performance is unsatisfactory, supervisors should ensure that their expectations of performance are reasonable, and are consistent with:

- the requirements of the relevant classification descriptor (MSAL or HEW Level);
- the University's required standards (as outlined, for example, in the Academic Promotions documents, or Research Plan and Academic Workload documents, or service standards KPIs);
- the Position Description for the role;
- any particular requirements detailed in the contract of employment, and
- the staff member's KPIs.

Supervisors should also take into account any personal circumstances which may be affecting the staff member's performance.

In circumstances where a staff member develops a medical condition which means that they will not be able to fulfil the inherent requirements of the position and this is likely to be ongoing, this would not normally be managed as unsatisfactory performance. If these circumstances arise, supervisors should contact their Human Resources for further advice.

6.3 Managing Unsatisfactory Performance - Initial Feedback Mechanisms

A supervisor should normally address issues of underperformance or possible unsatisfactory performance promptly as part of the performance review processes. Supervisors should provide ongoing feedback to the staff member, including notifying the staff member that this consideration is within the process of managing unsatisfactory performance. While informal counselling may produce the desired improvement, it is recommended that the supervisor makes a written record of any such informal counselling (eg, a diary note).

If a supervisor concludes that the performance of a staff member does not meet the University's expected standards, the supervisor will address the issue(s) promptly and, in consultation with the staff member, will develop and implement

specific strategies to address any concerns related to the staff member's performance.

6.4 Meeting to Discuss Performance Issues

To assist the staff member to address any concerns related to the staff member's performance, the supervisor will arrange to meet with the staff member to discuss the performance issues.

The supervisor will

- inform the staff member of the purpose of the meeting,
- allow sufficient time for the staff member to prepare for the discussion (normally 2 to 5 days depending on location),
- advise the staff member they may be assisted by a person of their choice such as their staff representative, (provided that person is not a practising barrister or solicitor), and
- advise that the supervisor may also be assisted during the meeting by a representative from Human Resources.

At the meeting, the supervisor will

- outline to the staff member the required standard of work and explain the specific nature of the performance concerns;
- explain the nature of the improvement/s required and the time within which reasonable improvement is expected;
- ask the staff member to comment if there are any factors which may have adversely affected their performance;
- identify any required skill development or training to be provided and discuss any training or strategies that the staff member may undertake to improve their performance;
- provide a realistic time frame for the required change/s (a review period); and
- determine a time line to review whether the staff member's performance has improved to the required level, or whether the matter should be pursued further.

The supervisor will also outline the possible consequences if the staff member's performance does not improve and advise that such consequences may include disciplinary action including the termination of employment.

In determining an appropriate timeframe for a reasonable improvement, supervisors should also consider the major dates that impact on the work to be assessed.

6.4.1 Examples of Time Frames and Development to Improve Performance

A supervisor may require an Academic Staff member to improve the quality and effectiveness of their teaching. As a strategy, the staff member may enrol in the ACU Graduate Certificate in Higher Education and/or request an experienced Academic Staff member to sit in on their

lectures and provide feedback. An appropriate timeframe for the staff member to be able to improve their teaching may be part or all a teaching semester.

The staff member may also be required to obtain feedback from students by requesting the Student Evaluations of Teaching Survey (SETs). Other measures of teaching performance may be obtained including through;

- student focus groups or other targeted feedback mechanisms;
- feedback from peers, practising professionals and/or experts in the discipline and/or pedagogy, in the form of observation of the staff member's teaching and/or comments on teaching materials and/or other learning resources; and
- feedback from employers, professional bodies and other key stakeholders.

Any such actions should be accompanied by;

- the staff member undertaking appropriate analysis and critical reflection on the outcomes of such feedback; and
- in consultation with the supervisor, the development/design of strategies and actions to address the results of such feedback, in order to achieve improvement of teaching and student learning outcomes;

The evidentiary requirement/s for the staff member to demonstrate their improvement would include;

- improvements in the staff member's teaching evaluations, and/or
- a report from suitably qualified and experienced academic/s who observe the staff member's lectures/seminars and/or tutorials, and/or
- some other form of discipline specific and/or school specific review mechanism.

The timeframes for improved performance for Professional Staff need to be reasonable in the context of the role and the nature of the improvement of performance required.

6.5 First Written Advice - Commencement of Performance Review

Following the meeting, the supervisor will provide the staff member with a written advice which confirms the matters covered at the discussion, including;

- details of the performance improvement/s required;
- the time frame within which improvement is expected (ie the review period);
- how the staff member's performance will be assessed, and
- the possible consequences if the staff member's performance does not improve, including further follow up and possible disciplinary action.

A copy of this advice will be placed on the staff member's personnel file. The staff member has the right to reply to the supervisor, and a copy of any response will also be placed on the personnel file.

Any training or other steps which are to be provided by the University will be organised promptly. The staff member must not unreasonably refuse to undertake the identified skill development and/or training and is required to complete the training or development within the allocated timeframe.

6.6 Assessment Following the Performance Review

The supervisor will monitor the staff member's performance during the review period and assess whether it has met the required standard by the review date.

6.6.1 Staff Member's Performance is Assessed as Satisfactory

If at the end of the review period, if the staff member's performance has improved to the required standard, the supervisor will;

- Organise a meeting with the staff member to advise her/him that the required improvements have been achieved and review the staff member's goals and KPIs for the next annual performance review and planning cycle;

and,

- Provide the staff member with a record of the meeting (with a copy forwarded to Human Resources to be placed on the staff member's personnel file).

6.6.2 Staff Member's Performance is Assessed as Unsatisfactory

If, following the steps taken above, the staff member continues to perform below the expected standards, the supervisor will provide the staff member with a second written advice of the need for the staff member's performance to improve. This advice will specify:

- the acceptable standard of work;
- how and/or why the staff member's work still does not meet that standard;
- any further required skill development or training to be provided;
- how the staff member's performance will need to improve over a specified period of time (the further performance review period; which will normally be a period of time equivalent to an academic semester for Academic Staff), and
- that, at the conclusion of the specified performance review period, a review of the staff member's performance will occur.

Where applicable, a copy of the second written advice will also be provided to the Member of the Executive responsible for the work unit in which the staff member works.

If, at the end of the specified review period, the staff member's performance has improved to the required standard, the supervisor will

- Organise a meeting with the staff member to advise them that the required improvements have been achieved and review the staff member's goals and KPIs for the next annual performance review cycle;

and

- Provide the staff member with a record of the meeting (with a copy forwarded to HR to be placed on the staff member's personnel file).

Where applicable a copy of the advice will also be provided to the Member of the Executive responsible for the work unit in which the staff member works.

If, at the end of the specified review period, the staff member's performance has not improved to the required standard, the supervisor may implement the Unsatisfactory Performance Procedures or take other appropriate action.

7. Unsatisfactory Performance Procedures

7.1 Submission of Report to a Member of the Executive

If, at the end of the specified review period the staff member's performance has not improved to the required standard, the supervisor will submit a report to this effect to a Member of the Executive (the Executive Dean/Director or equivalent) for consideration and, at the same time, provide a copy to the staff member. The report should include an outline of the process undertaken to that time and provide details of the nature of the unsatisfactory performance.

7.2 Staff Member Submits Response to Report

Within ten (10) working days of receiving a copy of the report, the staff member must submit to the Member of the Executive a written response to the report. The staff member will also be advised in writing that if they fail to submit a response, the Vice-Chancellor and President may determine that the staff member's performance has been unsatisfactory, and take disciplinary action as defined in sub-clause 1.3 (viii) of the Agreement.

7.3 Consideration by a Member of the Executive

The Member of the Executive will consider the report and the response provided by the staff member and consult with the supervisor and the Director, Human Resources (or nominee) as appropriate. Following consideration, the Member of the Executive will provide the Member of the Senior Executive with a copy of the report and the written response for appropriate action.

7.4 Report and Response Considered by a Member of the Senior Executive

The Member of the Senior Executive will need to be satisfied that;

- appropriate steps have been taken to bring the unsatisfactory nature of performance to the staff member's attention;
- an adequate opportunity to respond was given;
- any response was taken into account; and,
- a reasonable opportunity has been afforded to remedy the performance problem.

The relevant Member of the Senior Executive may then decide to;

- take no further action and advise the staff member accordingly;
- refer the matter back to the Member of the Executive or the supervisor to ensure that the steps referred to above are complied with in substance and in a manner appropriate to the circumstances; or,
- recommend to the Vice-Chancellor and President that disciplinary action be taken.

8. Decision of the Vice-Chancellor and President

On receipt of the recommendation from the relevant Member of the Senior Executive and having considered the report of the supervisor related to the unsatisfactory performance, and the response from the staff member, the Vice-Chancellor and President may consider taking disciplinary action, as defined in the Agreement.

Before deciding to take disciplinary action the Vice-Chancellor and President will have regard to the supervisor's report and the response from the staff member (if one is received). The Vice-Chancellor and President's decision will be made on the basis of information provided to the staff member and their response.

In circumstances where the Vice-Chancellor and President decides to terminate the staff member's employment for cause based on unsatisfactory performance, the Vice-Chancellor and President will provide the staff member with the opportunity to put any

matter to them directly to take into account in their decision. The staff member will have five (5) working days to do so.

Before deciding to take disciplinary action, the Vice-Chancellor and President will have regard to any such matters brought to their attention by the staff member.

The Vice-Chancellor and President will advise the staff member of his or her decision, and of the operative date of any disciplinary action to be taken. In circumstances where the Vice-Chancellor and President decides to terminate the staff member's employment, the following notice (or payment in lieu thereof) will be provided. The staff member will receive the minimum period of notice, or payment in lieu of notice, on their last day of duty as outlined below:

Period of Continuous Service at the end of the day the notice is given	Period of Notice
less than 3 years	At least 2 weeks
3 years but less than 5 years	At least 3 weeks
5 years or over	At least 4 weeks
Over 45 years old and greater than 2 years continuous service	Plus one additional week to the above

9. Staff Member May Request a Review

If, following receipt of advice from the Vice-Chancellor and President, a staff member believes that fair and proper procedures have not been followed, the staff member may seek to have the process reviewed by a member of the Panel of Independent Chairs.

The member of the Panel (Reviewer) will review, solely, the steps taken during the process of applying this policy to establish whether the staff member was afforded procedural fairness throughout that application. The Reviewer will submit a report on the findings of this review, including recommendations if appropriate, to the Vice-Chancellor and President.

Subject to the outcome of any review by the Reviewer, if formal disciplinary action is to be taken, the Vice-Chancellor and President will advise the staff member in writing of the decision and the date of effect of the decision.

No information in this policy shall be construed as excluding the jurisdiction of any external court or tribunal which, but for this sub-clause, would be competent to deal with the matter.

10. Revisions made to this Policy

Date	Major, Minor or Editorial	Description
1 April 2014	Major	This Policy has been updated to implement the provisions of the Australian Catholic University Staff Enterprise Agreement 2013 – 2017.
1 April 2019	Editorial	Updated to include reference to Australian Catholic University Staff Enterprise Agreement 2017 – 2021.

The University may make changes to this policy from time to time to improve the effectiveness of its operation. In this regard, any staff member who wishes to make any comments about this policy may forward their suggestions to Human Resources.

11. Further Assistance

Any staff member who requires assistance in understanding this policy should first consult their nominated supervisor who is responsible for the implementation and operation of these arrangements in their work area. Should further information or advice be required staff should visit [Service Central](#).

Appendix 1

Steps in the Unsatisfactory Performance Procedures

