

PERFORMANCE AND MISCONDUCT POLICY

1. PURPOSE

- 1.1 The objectives of Eureka Sustainability ('Eureka Sustainability')'s Performance and Misconduct Policy ('Policy') are to:
- a) improve the standard of an employee's performance and/or correct an employee's conduct where Eureka Sustainability deems this appropriate or necessary; and
 - b) provide employees with an opportunity to improve their performance or correct their conduct (other than in situations where summary dismissal is appropriate).

2. COMMENCEMENT OF POLICY

- 2.1 This Policy will commence from 01/08/2022. It replaces all other performance and misconduct policies of Eureka Sustainability (whether written or not).

3. APPLICATION OF THE POLICY

- 3.1 This Policy may be varied from time to time by Eureka Sustainability. This Policy does not form part of any employee's contract of employment.
- 3.2 This Policy may be used as guidance for the process or manner in which Eureka Sustainability may discipline an employee because of their poor performance or inappropriate conduct in any circumstances that can be connected to, or impact upon, Eureka Sustainability.
- 3.3 Consequently, employees need to ensure that they exhibit appropriate out-of-work conduct where the circumstances or event can be connected to Eureka Sustainability, such as a work-related function.
- 3.4 A work-related function is any function that is connected to work and includes events such as work lunches, dinners, conferences, Christmas parties and client/customer functions. This Policy also applies when employees go to other workplaces in connection with work, for example, when visiting a supplier, client or customer.
- 3.5 If an employee's conduct involves a potential breach of any Australian law, Eureka Sustainability may notify the police or other relevant government authority.

4. GROUNDS FOR DISCIPLINARY ACTION

- 4.1 Disciplinary action may be taken in response to any:
- a) unsatisfactory performance;
 - b) unacceptable conduct; and
 - c) wilful or serious misconduct.

5. DISCIPLINARY PROCEDURE

- 5.1 The procedures outlined below are intended as a guide only to the disciplinary procedures which may be implemented by Eureka Sustainability. In every case, Eureka Sustainability will determine the actual disciplinary procedure to be adopted at its discretion and in consideration of the circumstances of the case as a whole. Nothing in this Policy prevents Eureka Sustainability from issuing a final warning at any stage of the process. Similarly, nothing in this Policy prevents Eureka Sustainability from dismissing an employee at any stage of the procedure set out in this Policy if Eureka Sustainability deems this action is warranted, for example in circumstances involving an employee committing serious or wilful misconduct.

6. INVESTIGATION

- 6.1 Depending on the circumstances, it may be necessary to conduct an investigation into certain incidents and/or allegations that have been raised. This may involve collecting relevant data/information and interviewing the relevant employee as well as any material witnesses (such as the employee's co-workers or supervisors, or even customers and suppliers with whom the employee has had contact).
- 6.2 An employee may be suspended from duty on ordinary pay pending the completion of an investigation.

7. DISCIPLINARY INTERVIEW

- 7.1 If on the basis of the investigation, Eureka Sustainability is satisfied that there is a case to be answered by the employee, the employee may be asked to attend a formal interview meeting to address the area(s) of concern.
- 7.2 An example of a procedure that may be adopted by Eureka Sustainability] in these circumstances may involve:
- a) the employee being given notice of the meeting and what will be discussed at the meeting;
 - b) the employee being given a reasonable opportunity to have a support person present at the meeting.
 - c) putting the issue(s) of concern or allegations to the employee;
 - d) giving the employee an opportunity to respond to the concerns or allegations;
 - e) Eureka Sustainability considering the employee's response and making any further enquires or investigations (if necessary);
 - f) Eureka Sustainability determining whether the concern(s) or allegations have been substantiated on the balance of probabilities; and

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

8. DISCIPLINARY ACTION

8.1 Any disciplinary action taken by Eureka Sustainability against an employee will vary from case to case. This may include a consideration of whether the employee has received any prior verbal or written warnings in relation to their performance or conduct.

8.2 Examples of disciplinary action which may be taken by Eureka Sustainability include, but are not limited to, the following:

- a) training;
- b) verbal warning;
- c) written warning;
- d) demotion; and
- e) dismissal, including summary dismissal in circumstances of serious or wilful misconduct.

Variations

Eureka Sustainability reserves the right to vary, replace or terminate this Policy from time to time.