

Cessation of Employment Policy

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Description	This document outlines the circumstances of terminating the employment relationship for staff on common law contracts.

Related documents

[Code of Conduct](#)

[\[Introduction\]](#) [\[Scope\]](#) [\[Application\]](#) [\[Delegated Authorities\]](#)

1. INTRODUCTION

Both the University and the staff member have the right to terminate employment for reasons as outlined in this policy.

For staff on a fixed term appointment, the contract of employment has a beginning and end date of completion. The University may offer a new contract of employment otherwise the contract will expire.

2. SCOPE

This policy applies only to staff members employed on common law employment contracts. Such employment contracts are directly between the University and the staff member and operate on the terms specified in the contract, subject to common and statute law. There is no underlying Award or Industrial Agreement.

3. APPLICATION

The employment relationship may be ended by one of the following events:

- Resignation;
- Dismissal;
- Redundancy; or
- In the case of no further contract being offered, through the effluxion of time.

3.1 Resignation

A staff member may resign from employment by voluntarily notifying the University that they intend to terminate their employment. The resignation will normally, but not necessarily, be in writing and the notice period as specified in the individual contract is to be given.

A confirmation of resignation letter will be forwarded to the resigning staff member. Any entitlements will be paid to the staff member on the last day of employment or no later than the next pay period after the resignation date.

3.2 Dismissal

The University may terminate a staff member's employment where the reasons for dismissal relate to:

- unsatisfactory work performance
- misconduct
- grounds of ill health
- a position being considered redundant (see 3.3 Redundancy).

The University will ensure that:

- the staff member knows the reason for dismissal and has an opportunity to respond;
- the disciplinary action is reasonable and commensurate with the seriousness of the unsatisfactory work performance or misconduct; and
- the appropriate notice is given, or notice is paid in lieu.

3.2.1 Unsatisfactory Work Performance

Unsatisfactory work performance is the failure to meet the University's requirements that specifically relate to the staff member's duties, responsibilities and/or inappropriate behaviour in the workplace.

Where a supervisor is of the view that the staff member's performance is unsatisfactory, the supervisor and staff member will attempt to resolve the matter.

Where the staff member has been unable to correct the unsatisfactory performance, the supervisor will make a recommendation of dismissal to the relevant senior officer, as specified in section 4 of this policy, and notify the staff member of this recommendation. At this time, the staff member will also be given a copy of this recommendation and will be allowed 10 working days to make a written submission to the relevant senior officer. A decision to terminate employment will be based on a review of the facts and circumstances as well as due regard for the decision not being harsh, unjust or unreasonable.

3.2.2 Misconduct

Misconduct includes, but is not limited to, criminal behaviour, assault, insubordination, misappropriation of funds, harassment, discrimination, or behaviour which is disruptive to other staff or threatening the health and safety of staff and students.

In the case of an allegation of misconduct, the relevant senior officer:

- may summarily suspend a staff member for a defined period of time where the alleged misconduct is serious enough to warrant summary action;
- will initiate an inquiry into the alleged misconduct with an opportunity for the staff member to provide a written statement in response;
- will consider the allegation of misconduct based on its own merits to determine whether instant dismissal is warranted.

The University may end the contract of employment instantly if the conduct of the staff member is such that it is unreasonable to continue the employment relationship.

3.2.3 Ill Health

Where the Vice Chancellor (or nominee) has doubts about a staff member's capacity to perform his or her required duties and whether he/she is unlikely to be able to do so within a reasonable period, the Vice Chancellor (or nominee) may direct the staff member to undergo an independent medical assessment/examination by a University appointed registered medical practitioner to determine the staff member's fitness to carry out his/her duties. The medical examination will be at no cost to the staff member where directed by the Vice Chancellor (or nominee).

The University appointed registered medical practitioner may request the services of certain registered health practitioners (including but not limited to physiotherapists,

occupational therapists, psychologists) when conducting a medical assessment of a staff member's capacity to work.

A copy of the registered medical practitioner's report will be made available to the Vice Chancellor and to the staff member.

If the medical examination reveals that the staff member is unable to perform the duties required of their employment and is unlikely to be able to do so within a reasonable period, being not less than 12 months, the Vice Chancellor may terminate the employment of the staff member with relevant notice period. Prior to taking action to terminate employment, the staff member will be afforded the opportunity to resign or retire.

Where a staff member applies to a superannuation fund for temporary or permanent disability benefit and the fund determines that the staff member is unable to perform the duties required of their employment and is unlikely to do so within a reasonable period and therefore approves a permanent disability benefit, this determination will be viewed in the same manner as a medical examination/assessment result described above.

These provisions shall not displace or override any current, relevant worker's compensation provisions contained in any worker's compensation legislation that may be enacted and would otherwise apply.

Failure or refusal by a staff member to have agreed to an appointment to undergo a medical assessment or cooperate fully in that assessment, as requested by the Vice Chancellor within two months of a written notification to do so, will be taken as prima facie evidence that such a medical assessment would have found that the staff member would have been unable to perform his/her duties and would have been unlikely to resume those duties in a reasonable period. As such, action may be taken in accordance with this policy in like circumstance.

3.3 Redundancy

Redundancy occurs where the University decides that the position is no longer needed. This decision is based on circumstances other than the ordinary and customary turnover of labour. The University will consult with the staff member and advise the reasons for termination, timeframe, options available such as redeployment if practicable, and the redundancy benefit including recreation and long service leave, where applicable.

A staff member who is made redundant, will either be paid the balance of their contract or severance pay as calculated below, whichever is the lessor.

Unless otherwise specified in the staff member's contract of employment, severance pay will be calculated as follows:

- 2 weeks normal salary for each year of completed service to a maximum of 52 weeks;
- all accumulated recreation and eligible long service leave where recognised eligibility for accumulation of credit is 10 years or more.

3.4 University Property

The University may withhold monies owing to the staff member on termination until-such-time as the staff member returns property of the University.

4. DELEGATED AUTHORITIES

All decisions to terminate the employment of a staff member will be by the relevant senior officer as designated in the following table:

Academic staff up to and including Level E	Deputy Vice Chancellor (Academic)
Directors; Deputy Directors; Associate Directors; or equivalent managers howsoever called	Vice Chancellor
General staff up to and including HEW Level 10	Vice President (Corporate Services)