

## ACCESS AND EQUITY STATEMENT

In accordance with the State and Federal equal opportunity legislation, Master Builders SA is committed to providing equitable and accessible services to all people that are inclusive of culture, gender, and disability. Master Builders SA values diversity and respects social and cultural difference.

*For further information, please review the Master Builders SA Access and Equity Policy.*

This policy is designed to be applied fairly and consistently to all Master Builders Association SA Inc (Master Builders SA) staff that are involved in the delivery of services with the Group Training department.

All Master Builders SA staff are subject to regular performance reviews at which expectations of performance standards and outcomes can be negotiated.

When staff do not meet the expected behaviours, performance levels or outcomes, they may be placed in a formal performance management and review program. The purpose of this program is to clarify the expectations of the employer around behavior, performance and outcomes for the employee's role.

In some cases, this may include or later lead to disciplinary action.

Master Builders SA staff will be subject to disciplinary action for:

- **Poor performance**
- **Breach of contract**
- **Misconduct**

## 1 POOR PERFORMANCE

Is a situation where a staff member fails to meet standards expected of them in their role.

The following are some examples of a non-exhaustive list of situations which may lead to disciplinary action:

- 1.1 Failure to follow or comply with Master Builders SA policies and procedures.
- 1.2 Poor communication with Master Builders SA staff and key stakeholders.
- 1.3 Slow or low output.

- 1.4 Consistently failing to comprehend and respond to instructions from Master Builders SA management.
- 1.5 Behavior's which reflect negatively on Master Builders SA or the apprentice division.

## 2 BREACH OF CONTRACT

If any behaviour, conduct or action which contravenes a term of the employment contract, whether explicit or implied.

The following are some examples of a non-exhaustive list of situations which may lead to disciplinary action:

- 2.1 Breaches of any Master Builders SA or work place policies or procedures.
- 2.2 Lateness or being absent from work without authorisation.
- 2.3 Leaving work without permission.
- 2.4 Loss of drivers licence.
- 2.5 Inability to obtain or maintain a clearance to work with children or vulnerable adults.

## 3 MISCONDUCT

Is a situation where a staff member's behaviour falls below the standard expected by Master Builders SA.

The following are some examples of a non-exhaustive list of situations which may lead to disciplinary action:

- 3.1 Failing to follow reasonable and lawful directions from Master Builders SA management.
- 3.2 Damage to Master Builders SA and Master Builders SA stakeholder property, plant or equipment.
- 3.3 Driving offences under the Traffic Act attracting 3 demerit points or less.
- 3.4 Not wearing Master Builders SA issued PPE.
- 3.5 Failing to observe site specific policies and procedures.

## 4 SERIOUS or WILFUL MISCONDUCT

Is any conduct that damages the relationship of trust between the employer and employee, where the employee knows, or should have known, that the action or behavior is in breach of their contract, workplace policies or other legislation. Such conduct may include theft, dishonesty, intentional wrongdoing or refusing to obey a lawful and reasonable order or unwillingness to be bound by the employment contract.

### **SERIOUS OR WILFUL MISCONDUCT MAY RESULT IN INSTANT DISMISSAL.**

The following are some examples of a non-exhaustive list of situations which may lead to serious misconduct related disciplinary action:

- Violence, threatening behavior, bullying, harassment or abuse in any form whatsoever shown towards Master Builders SA staff and/or management, Host Trainers, apprentices or other associated stakeholders.
- Serious breaches of WHS legislation, policies or procedures.
- Serious breached of the employment contract.
- Intentional damage caused to Master Builders SA or other associated stakeholders.
- Activity bringing disrepute to Master Builders SA or other associated stakeholders.
- Refusing to follow reasonable and lawful directions from Master Builders SA management.
- Unlawful behaviour at work.
- Unlawful behaviour outside of work that causes detriment to Master Builders SA.
- Fraud, theft, bribery or willful dishonesty including falsifying timesheets or records of employment.
- Breaches of the Traffic Act attracting more than 3 demerit points, any criminal driving offence or repeated infringements within any 12 month period.
- Concealment of a material fact on engagement.
- Possession, use or dealing in any prohibited drug or other restricted or dangerous substance.
- Attending for work under the influence of alcohol.
- Acts of incitement to, or actual acts of discrimination or harassment on any unlawful grounds.
- Serious neglect of duties or serious incompetence.

In all cases of performance management or investigation, the offer of a support person will be given to ensure fairness and equity in the proceedings. As the request to terminate a training contract often necessitates acting quickly and with little notice, the offer to allow a support person to be present is not always practical or possible.

## 5 VERBAL WARNING

A more serious form of counselling where the Master Builders SA staff member is cautioned that their conduct or performance is such that immediate improvement is required or significant action may be taken against them.

## 6 ALLEGATION LETTER

An allegation letter sets out the behaviours, actions or performance issues in question and subject to investigation. They will be provided to all staff subject to investigation except those being summarily dismissed. The allegation letter will offer a time, date and location at which the employee can respond to the allegations.

## 7 SUPPORT PERSON

A support person is any person chosen by the employee subject to investigation or performance management to provide them with support during the interview process. This can include family members or friends but cannot include a person who is material to the investigation e.g. a witness. A support person is not entitled to advocate or act on behalf of the employee and must not address the matter at hand but rather, provides personal support to the employee.

## 8 WRITTEN WARNING

A written warning is formal documentation issued to the Master Builders SA staff member after the investigation indicating the outcome of the investigation and that their unsatisfactory conduct or performance is placing their continued employment with Master Builders SA in serious jeopardy.

## 9 FINAL WRITTEN WARNING

A final written warning has the intent to leave the staff member in no doubt as to the imminent termination of their employment contract should there be any further occurrences of poor performance or misconduct.

In the first instance, performance management and counselling matters will be dealt with by the Manager, Training and Apprentices or other appropriate Manager/Director as the situation requires. Serious matters of misconduct or matters which escalate due to the staff member not improving or engaging in the counselling process will be managed by the Chief Operating Officer or other appropriate Director or Human Resource Manager.

Dismissal of any staff member will be managed by the CEO, COO or other appropriate Director.

Master Builders SA staff will be counselled over incidents involving written warnings. Failure to respond to the meeting request may result in the preparation of appropriate documentation for the termination of their employment contract without further input from the staff member.

**Training Contract Termination** only the Training and Skills Commission or the SAET can terminate a training contract. As stated in the South Australia's Traineeship and Apprenticeship System information booklet "Generally the Training and Skills Commission will approve the termination if it is assured both parties have freely agreed to the termination. Parties to the contract must not be bullied or coerced into terminated at Training Contract". For further information please visit [www.skills.sa.gov.au](http://www.skills.sa.gov.au)

In all cases, termination will take place within the legislative framework for the National Employment Standards and other appropriate Industry Relations legislation.

## 10 SPECIAL CONDITIONS - SUSPENSION

No person other than the Training and Skills Commission (the Commission) may terminate or suspend or purport to terminate or suspend a training contract.

The Commission may, on application or of its own motion terminate or suspend a training contract.

Master Builders SA will make an application for termination or suspension of a training contract to the Commission in the manner and form approved by the Commission.

Master Builders SA will provide the Commission with any information required by the Commission for the purposes of determining the application.

The Commission will specify the date on which the training contract will terminate or be suspended or will be taken to have been terminated or suspended.

Master Builders may, after the commencement of the term of contract and within the probationary period, terminate the contract by written notice to the parties of the contract.

If the training contract is terminated during the probationary period Master Builders SA will notify the Commission in writing of the termination within 7 days.

If Master Builders has reasonable grounds to believe that an apprentice employed by Master Builders SA is guilty of willful and serious misconduct, Master Builders SA may (without first obtaining the approval of the Commission) suspend the apprentice from employment and will, in that event:

- a) Immediately refer the matter in the Industry Relations Commission and;
- b) Within 3 days of the suspension – confirm the reference in writing

A suspension under this arrangement will, unless confirmed or extended by the Industrial Relations Commission under section 65 not operate for more than 7 working days.

**Issue date: 10 January 2022**