

# PERFORMANCE & CONDUCT POLICY

## PURPOSE

MECCA Brands recognises that it is essential to maintain standards of performance, conduct and behaviour for the business to operate effectively and for the safety and wellbeing of employees. The aim of this Policy is to ensure that there is an equitable and consistent process for addressing unsatisfactory work performance, behaviour and conduct.

## SCOPE

This Policy applies to all full time, part time, fixed-term contract, and casual employees across all Australian and New Zealand stores, Support Centre and the Warehouse.

## DEFINITIONS

**Allegation** means a formal claim that is made against an employee that is yet to be proven. Employees are given an opportunity to respond to allegations made against them.

**Balance of probabilities** is the standard of proof used by MECCA Brands to assess circumstances to determine whether it is more likely than not, that a factual matter or incident occurred.

**Misconduct** is where an employee's behaviour is found to be in breach of MECCA Brands policies, procedures or employment obligations and which may give rise to disciplinary action up to and including termination of employment.

**Record of Discussion (ROD)** is a formal disciplinary discussion where performance and/or conduct issues are addressed and a formal action plan is implemented to rectify the issue(s).

**Unsatisfactory performance** includes but is not limited to performance in relation to work quality, work quantity, work timeliness and behaviours displayed in carrying out work.

**Serious misconduct** occurs when the misconduct is of a serious and typically wilful nature. Even a single event could lead to termination of employment.

## REVIEW

MECCA Brands at its own discretion reserves the right to change this policy and/or related procedures in line with relevant legislation and business requirements.

# POLICY

<b>Performance or Conduct Management</b>	<p>MECCA Brands employees are required to perform their work safely, productively and efficiently in accordance with Company policies, procedures and guidelines.</p> <p>Where work performance or conduct is unacceptable, the Company may apply counselling and disciplinary action in accordance with this policy.</p> <p>Where performance or conduct is of a serious nature or in particular circumstances, the Company may bypass and not apply one or more of the steps outlined in this policy.</p>
<b>Performance or Conduct Management Principles</b>	<p>MECCA Brands is committed to ensuring that any performance or conduct management process that takes place is absolutely fair to the employee concerned.</p> <p>More specifically, this means that:</p> <ul style="list-style-type: none"> <li>▪ Absolute confidentiality is to be maintained throughout the process by all parties involved. Managers must not discuss the issue or action with any other employee or customer that is not directly involved. This excludes members of Talent and Culture or the relevant Department Manager</li> <li>▪ The employee involved must not make any inappropriate comments regarding the issue or process</li> <li>▪ Through the informal and formal processes the employee should fully understand the issues relating to their unsatisfactory performance or conduct, and be given a reasonable opportunity to improve their performance or conduct where appropriate</li> <li>▪ The relevant Manager must consider all reasonable alternatives before coming to the decision to dismiss; termination must be seen as the most appropriate action in the circumstance.</li> </ul>
<b>Reasons for Performance or Conduct Management and Examples</b>	<p>The Company will commence the process of managing performance or conduct improvement in the following situations:</p> <ul style="list-style-type: none"> <li>• Where you do not demonstrate performance to the level required for your position; or</li> <li>• Where your personal conduct or behaviour fails to meet the standards expected, whether stated in company policy or implicitly implied.</li> </ul> <p>Some potential reasons for performance or conduct management action include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Punctuality</li> <li>• Unauthorised or excessive absenteeism</li> <li>• Disrespectful behaviour towards customers or colleagues</li> <li>• Failure to carry out lawful and reasonable direction</li> <li>• Harassment or discrimination.</li> </ul> <p>These are defined further below.</p>

**Reasons for Performance  
or Conduct Management  
and Examples (cont.)**

**Dishonesty**

MECCA Brands considers 'Employee Dishonesty' to include any practice, behaviour or activity which is illegal, unethical or improper carried out by an employee, which results in a loss (financial or otherwise) to, or is not in the best interests of, MECCA Brands.

Theft, misappropriation, or wilful destruction of company assets including property, product, monies, and information, and additionally property belonging to customers or employees, will not be tolerated under any circumstances.

This conduct as well as behaviours described as 'staff dishonesty' will be considered to be serious misconduct, which is the most serious form of misconduct and may result in employment termination (dismissal) with or without notice or warnings.

**Specific Examples of 'Employee Dishonesty'**

The following are examples of the type of actions and behaviours that MECCA Brands considers to be dishonest and a form of serious misconduct. They may result in employment termination/dismissal, with or without notice or warnings:

- Removing any company, customer, or supplier owned property out of any store or company premises without the appropriate documentation and authorisation.
- Causing or contributing to company, customer, or supplier owned property being transported or dispatched from any store or company premises, unless as part of a genuine and paid for customer order, transfer, or authorized loan (i.e. to a PR company for promotional purposes).
- Taking or using company merchandise for personal use and failing to pay, or account for it in the correct manner.
- Disposing of company assets or property (in any condition) in any way without the appropriate permission.
- Taking, wearing or consuming company merchandise whilst working without the appropriate permission.
- The giving of unauthorised discount to employees, friends, family, customers or suppliers.
- Failing to record accurately, or deleting or voiding any part of a company transaction.
- Manipulation of point of sale system, sales records, invoices or orders, trading return, or banking documentation in order to provide deceptive data or figures or to conceal losses.
- Falsification of records or statements to obtain employment, disability insurance, workers compensation or any other benefit.
- Falsification of any record or document of MECCA Brands including time sheets, expense claims, or company transactions.
- Taking, using, appropriating and/or not declaring company monies.
- Giving or receiving an unauthorised loan of company money, property or merchandise.
- Not declaring shortage or overages in takings.

## Reasons for Performance or Conduct Management and Examples (cont.)

- Not declaring shortages or overages in stock counts, stocktakes, transfers or deliveries.
- Revealing any trade, professional or other like information of a confidential nature gained by the employee during the course of employment, which could be used to the detriment of MECCA Brands or to the personal gain of the employee.
- Receiving or accepting any form of benefit or personal gain as a result of a company transaction without first declaring to, and receiving approval from senior management e.g. State Manager or National Sales Manager, other than via company incentive programs.
- Providing company products or services outside of a company transaction in order to receive any form of benefit or personal gain.
- Assisting any other persons in the conduct of dishonest activities, whether or not a personal gain is made.
- Actively participating in theft, or passively supporting theft or dishonest activity including failure to report such theft or activity to MECCA Brands, through the correct channels.

### Specific Examples of 'Misconduct'

The following are examples of the type of actions and behaviours that MECCA Brands considers to be misconduct. They may, after warnings (first warning and/or final written warning) have been issued, result in employment termination/dismissal:

- Acting in a negligent or careless manner while carrying out duties, or consistent inefficiency or incompetence in performing duties or meeting job description requirements.
- Continual lateness or lack of application to assigned tasks.
- Unauthorised absence from work or leaving the assigned place of work without permission.
- Preventing or interfering with another employee carrying out their work functions.
- Failure to follow defined MECCA Brands policies or procedures.
- Failing to secure and bank company monies in the appropriate manner and timeliness as instructed.
- Publicly contesting the appropriateness of MECCA Brands policies or positions other than through official channels.
- Unfounded or unjustified negative portrayal of the company, its employees, or the company's actions to a fellow employee or member of the public.
- Representing the company through comment or opinion to or on any online or public forum without the express permission of senior management. v Posting offensive written or visual material on notice boards, computer systems or elsewhere on company premises.
- Failure to promptly report any serious workplace accident. v Unauthorised gambling on MECCA Brands premises.
- Accepting gifts which would compromise your impartiality or integrity, or that of MECCA Brands.
- Engaging in behaviour otherwise falling within the category of serious misconduct, but where the particular case is such as to fall short of warranting employment termination.

**Reasons for Performance or Conduct Management and Examples (cont.)**

- Solicitation of employees during working hours on MECCA Brands premises.

**Specific Examples of ‘Serious Misconduct’**

The following are examples of the type of actions and behaviours that MECCA Brands considers to be serious misconduct. They may result in employment termination/dismissal, with or without notice or warnings:

- Refusal or failure to undertake the duties of a position held or to carry out the lawful and reasonable instructions of a supervisor or manager.
- Acting in an official capacity in a manner that brings MECCA Brands into disrepute, or failing to act in an official capacity, which results in bringing MECCA Brands or its employees into disrepute.
- Negligent behaviour resulting in damage or loss of property belonging to MECCA Brands, customers, employees or members of the public.
- Physical or verbal violence against other people including members of the public, customers or fellow employees, on MECCA Brands premises, or while on MECCA Brands business or during work hours.
- Using or being in possession of illicit drugs while on MECCA Brands premises or engaged off site on MECCA Brands business.
- Reporting to work or being at work in such a condition of alcohol, drug or substance intoxication, as to be unable or unfit to perform designated duties effectively or safely.
- Engaging in behaviour detrimental to the quality or efficiency of MECCA Brands’ services or detrimental to the physical or mental safety of employees, customers or visitors.
- Sexual, racial, or other harassment, discrimination, or unwelcome behaviour towards customers, employees or visitors.
- Participating in, facilitating or condoning any practice, behaviour or activity which is illegal, unethical or improperly carried out by an employee, which results in a loss (financial or otherwise) to, or is not in the best interests of, MECCA Brands.
- Participation in a personal capacity in any sale, tender, auction, exchange, or other disposal of property, rights, or other benefit provided as part of, or as a result of employment by MECCA Brands without the express permission of senior management. This restriction includes trade in any form of product purchased, or received without payment from MECCA Brands, its suppliers or associated businesses.
- Acting in any capacity which is deemed to be a conflict of interest.
- Providing negative comment or opinion about the company, products or services, employees, customers or suppliers to or on any online or public forum.

<p><b>Reasons for Performance or Conduct Management and Examples (cont.)</b></p>	<ul style="list-style-type: none"> <li>▪ Blatant or repeated disregard for Occupational Health and Safety minimum standards as stated in company policies and procedures and / or as directed by company management.</li> </ul> <p>The above lists of examples of employee dishonesty, misconduct and serious misconduct are not exhaustive. Where an act is carried out by an employee which is not specifically covered by the descriptions of any of the above examples but is of a similar nature, MECCA Brands reserves the right to implement disciplinary procedures (Further detail is included in the MECCA Brands Policies Manual).</p>
<p><b>Probation</b></p>	<p>There is no legal requirement for the Company to provide a probationary employee with written warnings prior to their termination. However, as a new employee you will be informed of any performance or conduct issues and given ample opportunity to make the required improvements prior to the end of your probationary period.</p> <p>Should you be terminated in your probationary period and your notice period extends beyond the end of your probationary period, the Company will look to pay your notice in lieu.</p>
<p><b>Informal Action</b></p>	<p>During informal action discussions, your manager will explain the specific areas requiring improvement, and ascertain whether you require any guidance or additional assistance in meeting the Company's expectations. You should play an active role in this process and offer any suggestions or opinions which you feel may assist you reach the level of performance or conduct required. The expectations, actions and timeframe for review may be captured and issued to you on an Action Plan.</p> <p><b>Examples of informal disciplinary action which may be taken by MECCA Brands include but are not limited to, the following:</b></p> <ul style="list-style-type: none"> <li>▪ Coaching/re-training</li> <li>▪ Re-organisation of duties</li> <li>▪ Transfer</li> <li>▪ Performance improvement actions/ plan.</li> </ul> <p>Your Manager will record the outcomes of the discussion, and this will be placed on your personnel file.</p>
<p><b>Disciplinary Action Formal Process</b></p>	<p>Disciplinary action may be applied by the Company where support has been unsuccessful, or where a breach of a standard is considered serious enough to warrant disciplinary action.</p> <p>The consequences of formal disciplinary action are more serious than informal support as they may ultimately result in demotion or termination of employment.</p> <p>A formal process should be followed for more serious matters including misconduct, serious misconduct, or ongoing performance issues. A formal process may also be warranted for any repeated minor policy breaches and a consistent failure to meet performance or behaviour standards.</p>



<p><b>Disciplinary Action Formal Process (cont.)</b></p>	<p>Sometimes when a formal investigation is undertaken, it may be necessary to take some initial action to protect the interests of all team members involved and MECCA Brands. Any such initial action is taken without prejudice, and has no impact on the ultimate outcome of the investigation.</p> <p><b>For more serious misconduct investigations, this may involve:</b></p> <ul style="list-style-type: none"> <li>▪ Suspending the employee(s) pending the outcome of the investigation, so that they are not required to attend work in this period (although they must be available to attend if required, including for the purpose of the investigation);</li> <li>▪ Restricting access to company property and systems (e.g. IT);</li> <li>▪ Suspending company benefits or use of tools of trade (e.g. corporate credit cards, laptops, phones etc.).</li> <li>▪ Employees are welcome to have a support person present during formal investigation meetings.</li> </ul>
<p><b>Record of Discussion (ROD)</b></p>	<p>A record of discussion will be issued to an employee where there are repetitive performance or behavioural issues which have not improved after feedback has been given to the employee. The business will not complete an investigation prior to a record of discussion being issued.</p> <p>MECCA Brands reserves the right to move directly to the level of disciplinary action deemed suitable by the company in response to any breach. The company may bypass disciplinary action steps and not apply one or more of the steps where an employee's performance or conduct warrants such action.</p>
<p><b>Investigation</b></p>	<p>The procedures outlined below are intended as a guide to the disciplinary procedures used at MECCA Brands. In all cases, MECCA Brands will consider the circumstances of the case as a whole and will exercise its discretion when applying a disciplinary procedure. An investigation meeting should be conducted prior to any disciplinary action decision where performance or behaviour has not improved after a Record of Discussion or for situations that are more serious breaches of policy, code of conduct, and/or job description responsibilities.</p> <p><b>Step 1: Preliminary Investigation</b></p> <p>Relevant information is obtained at this stage of the process which establishes whether or not there is a case to be answered by an employee. This may include initial informal discussions with the employee to clarify information or facts.</p> <p>Depending on the circumstances it may be necessary to collect relevant data, review store video footage and interview relevant witnesses, such as the employee's co-workers or managers, or even customers and suppliers with whom the employee has had contact.</p> <p><b>Step 2: Allegations</b></p> <p>Employees are provided with written allegations and supporting information with sufficient detail to provide the employee with a fair and reasonable opportunity to respond.</p>

<p><b>Investigation (cont.)</b></p>	<p>The allegations letter will usually also set out obligations an employee must comply with relating to matters such as confidentiality, honesty, non-victimisation (if relevant), providing a response, and more as applicable, as well as an invitation for the employee to bring along a support person to the investigation meeting.</p> <p><b>Step 3: Response</b> Even if the facts of what has occurred are clear, the company will always give employees an opportunity to respond to any allegations. In some cases, an employee may also be invited to provide a written response. At the end of the investigation meeting, the employee will receive a copy of the completed investigation report and relevant supporting information for their personal records.</p> <p><b>Step 4: Outcomes</b> Once an employee's response has been duly considered by the company, and any further necessary investigation has been undertaken, any appropriate disciplinary action is determined and communicated. The company will not make a final decision until the investigation discussion has taken place.</p>
<p><b>Formal Written Warnings</b></p>	<p><b>First Written Warning</b> A written warning may be issued at any time when your performance is unsatisfactory or you have engaged in unsatisfactory conduct and:</p> <ul style="list-style-type: none"> <li>• you have received an earlier verbal warning for a related issue and your performance/conduct has not improved to the satisfaction of the Company;</li> <li>• you have previously received a verbal warning for an issue that is not directly related but is of a similar nature; or</li> <li>• the nature of your performance/ conduct justifies the issue of a written warning.</li> </ul> <p><b>Final Written Warning</b> A final written warning may be issued at any time when your performance is unsatisfactory or you have engaged in unsatisfactory conduct and:</p> <ul style="list-style-type: none"> <li>• you have received an earlier written warning for a related issue and your performance/conduct has not improved to the satisfaction of the Company;</li> <li>• you have previously received a written warning for an issue that is not directly related but is of a similar nature; or</li> <li>• the nature of your performance or conduct justifies the issue of a final written warning.</li> </ul> <p>If you are issued with a final written warning you should view this as final opportunity to improve your performance/conduct as the next step could be termination of your employment.</p> <p>In New Zealand, formal verbal/written warnings generally have a validity of 12 months. With regards to misconduct, warnings do not necessarily have to relate to similar incidents.</p>



<p><b>Formal Written Warnings (cont.)</b></p>	<p>Alternatively, Australian legislation does not stipulate a timeframe for verbal/written warnings and as such the HR department will consider each situation on a case by case basis and decide the relevance, and in turn applicableness, of any previous action whether informal or formal in nature.</p>
<p><b>Disciplinary Action</b></p>	<p>Examples of formal disciplinary action which may be taken by MECCA Brands in response to ongoing unacceptable performance, unacceptable conduct or behaviour include:</p> <ul style="list-style-type: none"> <li>▪ Record of Discussion (ROD)</li> <li>▪ First Written Warning</li> <li>▪ Final Written Warning</li> </ul> <p><b>Employment Termination</b></p> <p>Nothing in this policy prevents the Company from implementing alternative disciplinary action in addition to, or instead of, the warnings listed above. This may include (but is not limited to) one of the following:</p> <ul style="list-style-type: none"> <li>• Demotion</li> <li>• Loss of supervisory responsibilities</li> <li>• Withdrawal of benefits such product allowance.</li> </ul> <p>A demotion will generally come at the end of a formal disciplinary process which includes written warnings, however, there may be circumstances where a single incident could result in a demotion.</p> <p>Demotion can be used as an alternative to issuing a final written warning or termination. It may be used as an opportunity for you to show improvement prior to a decision around termination. Managers must contact Talent and Culture prior to any decision to demote.</p>
<p><b>Termination of Employment</b></p>	<p>If the decision is made to terminate the employee's employment with MECCA Brands, the employee should be given:</p> <ul style="list-style-type: none"> <li>▪ written notice of the day of the termination of their employment or payment in lieu of notice, except where the termination is due to serious misconduct;</li> <li>▪ payment of all accrued entitlements</li> </ul> <p>On termination, the employee must immediately return all MECCA Brands property in the employee's possession or control to MECCA Brands.</p> <p>Summary dismissal refers to termination of employment without notice.</p> <p>The Company is entitled to instantly dismiss you without engaging in the formal performance management process for serious misconduct which justifies such dismissal.</p> <p>Summary dismissal does not mean that the dismissal process should take place instantly, the procedural fairness standards still apply and must be afforded.</p>

<p><b>Suspension</b></p>	<p>In certain circumstances it may be necessary for the Company to conduct an investigation into allegations of unacceptable work performance or conduct.</p> <p>In highly sensitive cases, during the investigation process, you may be suspended with pay. The decision to suspend will only be taken after you have been consulted on the proposed suspension.</p> <p>Suspension may be considered where an allegation directly impinges your ability to carry out your duties because it involves:</p> <ul style="list-style-type: none"> <li>▪ Unauthorised possession or removal of company property;</li> <li>▪ Violence against another employee/customer;</li> <li>▪ Harassment of another employee;</li> <li>▪ Gross negligence; or</li> <li>▪ Risk of serious harm to yourself or another employee/customer.</li> </ul> <p>In the event that you are suspended, you are required to be available to assist the Company with its investigation and to comply with reasonable Company directions.</p>
<p><b>Procedural Fairness</b></p>	<p>To ensure that you are afforded procedural fairness in any disciplinary process, the Company will ensure that:</p> <ul style="list-style-type: none"> <li>▪ You receive adequate notice of the allegation of misconduct or poor performance and the likely consequences should the allegation(s) be established</li> <li>▪ You are given the opportunity to have witness/support person present in the disciplinary meeting</li> <li>▪ You are presented with real opportunity to explain or refute the allegation, or an opportunity to improve the performance/behaviour</li> <li>▪ There is an unbiased consideration of the explanation that is free from predetermination and uninfluenced by irrelevant considerations.</li> </ul> <p>In addition to the aforementioned standards, in New Zealand, the employment court dictates the Company also presents you with an opportunity to respond to the proposed outcome, for example after a preliminary view of the appropriate penalty based on the information available, you must be given a reasonable opportunity to respond before a final decision is made.</p>
<p><b>Witnesses/Support Persons</b></p>	<p>The Company will often have a witness present where there is a formal discussion to be held that may result in a written warning, demotion or termination. Where possible the witness will be another Manager within the business. If this is not possible, a senior team member or member of the HR department will be selected.</p> <p>Line Managers should ensure that the Company witness is independent to the issues being discussed (i.e. it is not appropriate for a Manager/ employee who has provided a statement in the course of the investigation to be involved in the meeting).</p> <p>You will always have the opportunity to arrange for a witness/support person to attend a formal meeting. A support person cannot be another employee of the company.</p>

<b>Witnesses/Support Persons (cont.)</b>	<p>Where you decline the opportunity to do so, this will be noted accordingly.</p> <p>Witnesses/support persons are primarily there to observe meeting proceedings and to ensure procedural fairness is adhered to. They may take notes if they deem it to be necessary. In Australia, under no circumstances are witnesses/support persons to participate in the discussions.</p> <p>Therefore, witnesses/support persons cannot be a lawyers acting in a professional capacity.</p> <p>In any situation where there is a possibility of disciplinary action or where there is a possibility that an employee's employment may be terminated, you should ensure that the standards around procedural fairness are followed. The HR department must be consulted to assist with this.</p>
<b>Reporting Breaches of this Policy</b>	<p>Any breach of this policy should be reported immediately to the Talent and Culture team.</p>
<b>Consequences of Breaching this Policy</b>	<p>Any breach of this policy may result in disciplinary action up to and including termination of employment.</p>
<b>Related Documents</b>	<ul style="list-style-type: none"> <li>▪ Values, Vision &amp; Purpose</li> <li>▪ Separation Policy</li> <li>▪ Customer Experience Policy</li> <li>▪ Honesty Policy</li> <li>▪ The Code of Conduct</li> </ul>