55.5 FITNESS FOR WORK

55.1 Where a Head of Area identifies a definite Occupational Safety and Health (OSH) hazard or incident that has likely been caused by staff member not being fit for work, the Head of Area will consult with the University’s Health and Safety team regarding the OSH hazard or incident.

55.2 Where the Health and Safety team do not form the view that an OSH hazard or incident has likely been caused by a staff member not being fit for work, the matter will be at an end.

55.3 Where the Health and Safety team do form the view that an OSH hazard or incident has likely been caused by a staff member not being fit for work, the University may request that the staff member provide a clearance to attend to work duties from a registered medical practitioner of the staff member’s own choosing. This request must be in writing, include a copy of this clause and provide details of why the Health and Safety team believe that an OSH hazard or incident has likely been caused by the staff member not being fit for work.

55.4 Where such a request is made under clause 55.3, the staff member may provide a written response within 5 working days indicating why the alleged OSH hazard or incident has not been due to them being unfit for work.

55.5 Upon receipt of this written response, the University must give full and proper consideration to the response.

55.5.1 After giving consideration to the staff member’s response, where the Health and Safety team form the view that it is no longer likely that a definite OSH hazard or incident has likely been caused by the staff member not being fit for work, the University will withdraw the request for the staff member to provide the University with a clearance to attend to work duties from a registered medical practitioner and the matter will be at an end; or

55.5.2 After giving consideration to the staff member’s response, where it is still likely that a definite Occupational Safety and Health (OSH) hazard or incident has likely been caused by the staff member not being fit for work, the University will again make a request to the staff member in writing to provide the University with a clearance to attend to work duties from a registered medical practitioner of the staff member’s own choosing, which the staff member will have 10 working days to provide. This written request will also provide details of why the University...
believes that an OSH hazard or incident has still likely been caused by the staff member not being fit for work and respond to the issues raised by the staff member in their written response.

55.6 Where a staff member disputes that a definite OSH hazard or incident has likely been caused by them not being fit for work, and they do not wish to provide the University with a clearance to attend to work duties from a registered medical practitioner as requested by the University under clause 55.3 or subclause 55.5.2, they may access the Dispute Resolution procedure in clause 62 to determine the matter. While the Dispute Resolution Procedure is being applied, the staff member will not be required to provide the University with a clearance to attend to work duties from a registered medical practitioner and they will continue to work as normal.

55.8 Where a staff member is required to attend a medical practitioner to provide the University with a clearance to attend to work duties from them due to a request from the University under clause 55.3, subclause 55.5.2 or a finding of FWA, the University will meet the full cost of the consultation with the medical practitioner.

55.9 Where a staff member provides a clearance to attend to work duties from a registered medical practitioner due to a request from the University under clause 55.3, subclause 55.5.2 or a finding of FWA, and the medical practitioner provides a clearance to attend to work duties subject to some modifications, the University will make these modifications.

69 Termination on the Grounds of Ill-Health  (revised)

69.1 The University may only terminate a staff member on the grounds of ill health in accordance with this clause 69 and where the staff member has failed to provide a clearance to attend to work duties from a registered medical practitioner of the staff member’s own choosing due to a request from the University under clause 55.3, subclause 55.5.2 or a finding of FWA.

69.2 Where a staff member's capacity to perform their duties is in doubt, the Director, Human Resources or Associate Director(s) (Human Resources) may, by providing written notice of no less than 1 month, require the staff member to undergo a specialist medical examination with a specialist as agreed between the University and the staff member.

69.3 The University will bear the cost of the medical examination. A copy of the report will be made available to the Director, Human Resources or Associate Director(s) (Human Resources) and the staff member.

69.4 If the medical examination reveals that:

a) the staff member is unable to perform their full duties; and  
b) is unlikely to be able to resume them within a reasonable period, being not less than 12 months;

the Vice-Chancellor may terminate the employment in accordance with the notice required by the staff member's contract or, where no notice is specified, a period of 8 weeks notice.
69.5 Where a staff member, prior to the expiry of the notice period under Clause 69.1 applies to their superannuation fund for ill-health retirement or temporary disability benefit, the requirement for a medical examination under Clause 69.1 will lapse and no further action under this Clause 69 will be taken by the Vice-Chancellor.

69.6 Within 10 working days of the medical report being made available, the staff member, or their Union or other representative, may request the Vice-Chancellor not terminate the employment until the findings of the medical specialist’s report are confirmed by a medical specialist of the staff member’s own choosing.

69.7 In assessing whether or not a staff member is unable to perform their duties, the medical practitioner will be expected to assess the nature of the illness or injury against the inherent requirement(s) of the position outlined in the relevant description of the work required to be performed, inclusive of the same standards used by the relevant superannuation scheme in determining qualification for payment of a disability benefit.

69.8 The Director, Human Resources or Associate Director(s) (Human Resources) may construe a staff member's failure to comply with the provisions of subclause 69.1 within 3 months as prima facie evidence that a medical examination would have found the staff member:

   a) unable to perform their duties; and
   b) is unlikely to resume them within a period of not less than 12 months; and the Vice Chancellor may terminate the staff member’s employment in accordance with the notice required by the staff member’s contract.

69.9 The refusal to undertake a medical examination will not constitute misconduct or lead to a greater penalty or loss of entitlement than would have resulted from an adverse medical report.