

# Staff Misconduct and Discipline Policy



## 1. Purpose and Scope

---

### 1.1 Purpose

This policy provides a guide for the South Perth Learning Centre Inc (**Centre**) Management Committee and the staff to ensure that all staff are treated fairly and equitably, and that a correct process is followed in cases of dismissal.

### 1.2 Scope

The Centre is committed to maintaining a fair and equitable workplace for all staff and volunteers. All incidents of staff misconduct will not be tolerated and will be treated seriously.

Occasionally, the Centre Management Committee may need to initiate the dismissal of a staff member or volunteer due to misconduct. The Management Committee are required to meet certain requirements in respect to the termination of an employment contract. These requirements are prescribed by relevant legislation, and relate to notification, notice periods, process and reasoning.

## 2. Related Documents

---

The following documents either contain references to this policy or are referred to in this policy:

- All Centre policies

## 3. Relevant Legislation

---

Fair Work Act 2009

## 4. Definitions

---

<b>Staff</b>	Paid employees of the Centre
<b>Volunteer</b>	Unpaid staff

## 5. Policy

---

### 5.1 Fair Treatment

- The Centre will ensure all staff and volunteers are aware of and understand the expectations in regard to their work performance and standard of behaviour as part of their induction.
- Staff will also be made aware of their rights to consult with their union, the Industrial Relations Commission or the Equal Opportunity Commission.
- The Management Committee will provide every practical opportunity to motivate and support staff members who fail to meet these expectations or standards.
- In cases involving serious or gross misconduct, that opportunity will not be appropriate.

# Staff Misconduct and Discipline Policy



- The Centre has a clear process to follow in dealing with staff discipline issues or allegations of misconduct, which is designed to recognise and correct these issues.
- Staff are entitled to have a support person present during any interviews/meetings with the Centre regarding the investigation.
- The Management Committee and coordinator will ensure that their decisions are in line with the relevant legislation which govern the staff employment.

## 5.2 Substantial and Gross Misconduct

- Substantial misconduct refers to serious breaches of the Centre's rules, which could warrant the suspension under the Centre's performance management procedures and the issuing of a written first and final warning.

- Examples of substantial misconduct include:

- o Harassment of any other staff, volunteer, user or Management Committee member particularly in respect of race, sex or religion.
- o Intoxication through alcohol and/or other substances during working hours.
- o Disclosure of confidential information in respect of the Centre to any other party without prior permission e.g. using social media to post information about users.
- o The disclosure of information concerning the users and members of the Centre other than the information that is necessary to assist users/members and to ensure their safety.
- o Carrying on private business in an activity similar to that undertaken by the Centre without prior written permission.
- o Carrying on a private business from the Centre's premises or using Centre resources for private business without prior written permission.
- o Falsification of any Centre records for personal gain or on behalf of other staff.
- o Refusal or failure to obey reasonable directions of the Management Committee or coordinator.
- o Misuse of the Centre letterhead.
- o Involving unauthorised personnel in the internal affairs of the Centre.
- o Discrediting the Centre or Management Committee members.
- o Persistently failing to present at work without notification of absence or a medical certificate.

- Gross misconduct refers to very serious breaches of the Centre's rules, which could warrant the immediate suspension of a staff member pending an investigation, leading to immediate dismissal if validation of the breach occurs.

- Examples of gross misconduct include:

- o Fraud or theft of property or funds from the Centre, fellow staff or volunteers.
  - o Wilful damage of the Centre's property.
  - o Assault of any other staff, volunteer, user or Management Committee member.
  - o Wilfully, recklessly, or negligently endangering any other staff, volunteer, user or Management Committee member.

# Staff Misconduct and Discipline Policy



- o Misrepresentation of key facts in seeking employment (e.g., failure to disclose criminal record).
- o Possession of illicit substances, pornography, firearms, or explosives on the centre's property.
  - Any staff or volunteer who condones breaches of the law, whether it be on grounds of compassion or otherwise, can be charged as being an accomplice to the crime. They can also be disciplined for failure to conduct their duties appropriately.

## 5.3 Managing Staff Misconduct

- the Centre will treat each allegation or case on its own merits.
- If a substantial or gross misconduct occurs, the coordinator will consult with the Chair and Deputy Chair to determine whether the misconduct warrants a first and final warning or immediate dismissal.
- In making their determination, the Chair, Deputy Chair and the coordinator will be guided by these policies and procedures.
- Should the allegation of misconduct involve the coordinator, the investigation will be carried out by the Deputy Chair. The decision to issue a warning or immediate dismissal will be made by the Management Committee.

## 6. Procedures

---

### 6.1 Reporting Misconduct

- Any staff member or volunteer with concerns about the behaviour or action of another staff member or volunteer should notify the coordinator immediately.
- The coordinator may request that the allegations are provided in writing.
- If the allegation involves the coordinator, the staff member or volunteer should notify the Chair of the Management Committee.

### 6.2 Managing Misconduct

In addition to the steps outlined at clause 5.3:

- The staff member or volunteer against whom the allegation will be notified in writing of the misconduct allegation.
- The staff member will be suspended from their duties on full pay until the investigation of the allegation is completed. In the case of volunteers, they will be notified that they are not to attend the Centre until the investigation is complete.
- The coordinator will immediately report the allegation of misconduct to the Chair. The Chair and coordinator will jointly determine the appropriate process to investigate the allegation and who is responsible.
- Where appropriate, the Centre may also seek industrial advice e.g., Jobs Australia.
- The Chair and/or the coordinator will document all discussions, meetings and information related to the allegation. The records will be kept confidential in the staff's personnel file at all times.

# Staff Misconduct and Discipline Policy



## Gross Misconduct

- If gross misconduct has occurred and the outcome of the process is that instant dismissal is required, the Chair will convene a special Management Committee meeting.
- The Management Committee will decide whether the misconduct warrants immediate dismissal.
- In making their decision, the Management Committee will review the situation to ensure that all facts have been considered and the staff member has been provided with procedural fairness.
- The coordinator will prepare a letter of termination for the staff member or volunteer.
- The Chair and coordinator will arrange for a dismissal interval with the staff member/volunteer. At the interview, the Chair will formally dismiss the staff member/volunteer, providing full reasons for the decision.
- During the dismissal interview, the Chair will recover all the property of the Centre: e.g. Centre keys and documents. Where property cannot be immediately recovered, the staff member/volunteer will be asked to return the property within a reasonable timeframe.
- The Chair and coordinator will pass to the staff member/volunteer the letter of termination at the end of the dismissal interview.
- Where required, the coordinator should escort the staff member/volunteer back to their desk to retrieve any personal property. The staff member/volunteer will then be escorted from the Centre.

## 6.3 Appealing the Decision

- The staff member/volunteer against whom the allegation is made may appeal any decision that is made by the Management Committee as part of this process.
- The appeal should be made in writing and directed to the Management Committee.
- The Management Committee is the final point of appeal within the Centre.
- Staff may appeal the decision of the Management Committee externally to the Industrial Relations Commission or the Equal Opportunity Commission.

## 6.4 Responsibilities

- The Management Committee is responsible for ensuring that any staff member against whom the allegation is made is treated fairly during any investigation and subsequent dismissal.
- It is the Management Committee and the coordinator to ensure that all allegations follow a full and detailed investigation, and any dismissal follows procedural fairness.

# Staff Misconduct and Discipline Policy



## 7. Document History

---

Document name:			
Version number	Version date	Approved by	Description of changes
1.0	16 Jan 2019	Management Committee	Initial document.
2.0	22 June 2021	Management Committee	Revised for relevancy and clarity.

## 8. Approval

---

<b>Name</b>	Clementine Kohler
<b>Position</b>	Management Committee, Chairperson
<b>Date</b>	22 June 2021