



# Disciplinary Process

## Category: Human Resource Management

### Policy and Procedure

---

#### POLICY

The organisation reserves the right to discipline or commence dismissal proceedings against any employee who has breached set standards of conduct or shown signs of a consistent sub-standard performance or breached any conditions of employment whilst on duty, in control of property and/or whilst officially representing the organisation.

The organisation has a defined set of procedures through which this policy shall be invoked. The Discipline Procedures shall conform to all legislative requirements under the Equal Opportunity Act of 1995, Fair Work Act 2009 and the employee's specific Award or Employment Agreement.

The organisation will ensure all employees have access to a copy of the Discipline Procedures. For consistency the organisation must ensure via appropriate training, that all supervisory employees are aware of and knowledgeable about this Policy.

#### RATIONALE

Dismissal and suspension are actions taken when an employee's performance is deemed to be seriously inadequate over a period of time, in cases of wilful misconduct or in breach of BCH Code of Conduct or any other BCH policy.

However, in the majority of instances, disciplinary procedures are followed so that management and employees are provided with an opportunity to work together for a prompt and early resolution of issues.

This policy outlines the procedures that are taken in addressing matters subject to disciplinary action.

#### SCOPE

The policy applies to all BCH employees and contractors.

#### PROCEDURES

##### *Notes:*

- In fairness to the employee and for protection against claims of unfair processes or dismissal, disciplinary procedures as outlined in the staff member's award are followed in *all instances*.
- Advice may also be sought from organisational advisors such as VHIA. The Board of Management should be advised of serious matters (for example, dismissal by the CEO).
- At any time throughout the disciplinary or dismissal procedures the employee may be suspended on full pay if it is deemed necessary for the smooth operation of BCH or for the protection of either clients or other staff.
- The employee has the right to representation, and the CEO or Team Leader should offer the employee the opportunity to have a representative at all meetings. However, an interview should not be unnecessarily delayed just because one particular official or representative is unavailable.
- BCH and staff of BCH where appropriate are required to adhere to the Mandatory reporting provisions as documented in the Health Practitioner Regulation National Law Act 2009.



# Disciplinary Process

## Category: Human Resource Management

### Policy and Procedure

Following is a *guideline* to the BCH disciplinary process:

#### First Warning (Verbal)

The objective of the first warning shall be to endeavour to remedy the performance or misconduct issue to the satisfaction of both the organisation and the employee. The first warning shall be verbal and will be recorded on the employee's Personnel File.

1. Before issuing the warning the CEO or Team Leader should conduct a full investigation of the facts, in a private and confidential manner.
2. The opportunity must then be provided for the employee to respond to any allegation or query, and for them to state their reasons or justifications for their actions. The employee should be given the opportunity to bring a representative to the meeting.

The parties should discuss the nature of the issue in an attempt to resolve it.

If the allegation is admitted or proven, and a warning is issued, then a written record of the interview, stating the process by which the required standard of work performance, or other remedy, is to be achieved. This should be negotiated, agreed to and signed by both the employee and the Employer or delegated officer. A copy of this record should be placed in the employee's personnel file and a copy offered to the employee.

If there is a performance issue, then the period within which the employee must improve his/her standard of work performance and the steps which are to be taken to improve that work performance, should be noted by the parties, and recorded in the written record of interview.

When that period has elapsed, the CEO or Team Leader must in conjunction with the employee assess progress against the defined objectives/achievements. If it is satisfactory, a record should be made on the employee's Personnel File. If the employee has made only partial progress on agreed objectives, a further period of review may be agreed to, again recorded in writing and signed by both parties, with appropriate targets and timelines.

#### Second Warning (Written)

If the problem continues a second warning in writing will be given to the employee as per the following steps:

1. If the employee's performance has not improved or has deteriorated further, then the delegated officer should detail the areas in which the employee's performance has still not reached a satisfactory level. This document, which may take the form of a letter, will serve as the first *written* warning.
2. The letter should be given to the employee who should have the opportunity to explain why his/her performance is not satisfactory. The employee will be advised that a further incident will lead to termination of his/her services.
3. This second verbal discussion shall have major requirements noted in a signed summary of the meeting. A copy of the Second Warning acknowledged by the employee's signature, is to be given to the employee and a copy is to be attached to the employee's Personnel File.

#### Final Written Warning

If the employee's performance does not show signs of improvement in the second review period and reasons for this lack of improvement are not satisfactory, then Final Written Warning Proceedings shall commence.

A copy of the Final Written Warning shall be given to the employee to sign acknowledging that discussions have taken place, and a copy of this will be held on the Personnel File.



# Disciplinary Process

## Category: Human Resource Management

### Policy and Procedure

---

#### Notice of Termination

Should a further incident occur after the first and second warnings then, the employee will be advised about the allegation and be interviewed by the Employer. Pending the explanation, if the allegation is substantiated then the Employer will give notice of termination under the Award and provide a written confirmation of the warning/notice of termination. Such confirmation should include reference to the prior warnings.

No dismissals can occur without the authority of the CEO.

Should the employee be involved in an incident which is considered by the Employer to be serious enough to warrant termination yet there are pressing or major mitigating factors, the Employer or delegated officer, after consideration of all the relevant facts, may elect to caution the employee with a First and Final Written Warning.

Where staff have been involved in such a serious incident, it may be appropriate for BCH and/or BCH staff to notify the Australian Health Practitioners Regulations Authority (AHPRA), who may then notify the appropriate professional board for further investigation. Notifiable conduct includes:

- Practicing while under the influence of alcohol or drugs
- Engaging in sexual misconduct in connection with practice
- Placing the public at risk of substantial harm because of impairment
- Placing the public at risk of harm due to practice that constitutes a significant departure from accepted professional standards

#### Cases of Serious Misconduct

In the case of Serious Misconduct, the employee can be suspended with pay immediately, while this matter is to be investigated. There is a need for evidence proving misconduct prior to action which may lead to dismissal.

Dismissal shall in all cases, be in accordance with the Workplace Relations Act 1996. With dismissal only the accrued annual leave entitlements and pay for hours of work performed up to the moment of termination are paid. Notice provisions do not apply.

Where there is an entitlement for long service leave between 10 and 15 years then this can be subject to forfeit if dismissal is due to serious and wilful misconduct. Consultation with VHIA is recommended in this instance.

The following forms of Serious Misconduct are a *guideline* to the decision making process relating to the types of behaviour or action that warrant immediate suspension of an employee or instant dismissal. In each instance a thorough investigation must be undertaken and the allegations put to the employee.



# Disciplinary Process

## Category: Human Resource Management

### Policy and Procedure

---

#### *Misbehaviour*

Where a singular act of gross misconduct has occurred or where repeated acts have continued throughout the course of the Disciplinary/Dismissal Procedures, whereby such acts or behaviour could endanger fellow employees, clients, damage property or adversely affect the organisation.

#### *Disobedience*

Where an employee persists in defying fair and reasonable instructions, in relation to her/his employment beyond a trivial or isolated act, and with wilful intent.

#### *Theft*

Where property or money has been stolen or taken without authority. In such cases, it is not necessary to prove a criminal offence, however an investigation should be undertaken which would be the basis of a report to the police.

#### *Intoxication/Drug Abuse*

Where there exists a case of abuse by an employee, which affects the safe capacity and performance of work duties and which may jeopardise the safety or well being of other employees and patients.

#### *Fighting, Insubordination, Abuse*

All of these reasons could be grounds for summary dismissal subject to the facts involved. Each case is a question of fact and a thorough investigation undertaken.

#### *Offences Outside the Workplace*

In some situations, offences outside the workplace may warrant dismissal, for example driving an organisation vehicle without a current driver's licence, or while substance affected, criminal activities etc.

Nothing contained in these procedures shall limit the rights of an employee under the Workplace Relations Amendment (Work Choices) Act 2005 or at Common Law.

## POLICY HISTORY

Adapted From	VHIA; GCHC, and BCH Disciplinary Procedures
Distribution:	All Staff
Authorised by:	Chief Executive Officer
Policy Legislative Base	Equal Employment Opportunity Act of 1985 Fair Work Act 2009 Health Practitioner Regulation National Law Act 2009
Related Policies	BCH Complaints and Compliments Policy BCH Client Information Rights and Responsibilities Brochure
First Approved Date	2005
Review History:	08/05/2007
Review Frequency:	Triennial
Next Review Due	May 2010
Responsibility for Review:	Chief Executive Officer