



4 July 2024

Tēnā koe

Official Information Act request

Thank you for your email of 5 June 2024, requesting information about Ministry of Social Development (the Ministry) staff obligations and responsibilities, disciplinary action data, Remote Services (RS) policy and the Accommodation Supplement (AS).

I have considered your request under the Official Information Act 1982 (the Act). Please find my decision on each part of your request set out below.

Question 1: What consequences do WINZ staff face when it's proven they have not adhered to their legal obligations under the Social Security Act or the published MSD "commitment to you"?

Question 2: What consequences do WINZ staff in the Remote Client Unit (RCU) face when they do not follow established process for returning clients to normal services after the expiry of a trespass notice, when there is no reason to keep the client under the RCU's remit?

Question 3: What consequences do WINZ staff/case managers face when they have intentionally ignored a request for help to go on the Kainga Ora housing wait list?

Ministry staff need to comply with a range of obligations and expectations in their employment and there are a range of policies and procedures which would apply if the scenarios you list above occurred.

All Ministry staff, including managers, are required to read, sign, and adhere to the Ministry's Code of Conduct, which sets out the Ministry's expectations of all staff to act in a way that is professional and respectful.

The Code of Conduct applies to anyone who works for the Ministry, including employees, contractors and consultants. It applies to both full time and part time workers, permanent employees and those who work for the Ministry on a temporary or casual basis. Please refer to **Appendix One**, which contains a copy of the Ministry's Code of Conduct.

The Ministry also has a range of policies and measures in place to support employee development and address situations where employees are not performing well or meeting expectations. These include:

- Te Ara Piki – the Ministry’s capability and development framework. It supports regular conversations between manager and employee about expectations, priorities and feedback so employees can perform at their best.
- Performance Management Policy - to help create an environment where staff are encouraged and supported to perform to the best of their abilities and be recognised for that performance. This helps the Ministry to turn its statement of intent into action and to ensure that the day-to-day work supports its vision, purpose and values and delivers the outcomes expected by the Government.
- Disciplinary Action Policy - outlines the process for when there are concerns about an employee’s performance or conduct and action needs to be taken.

The Ministry takes all complaints seriously, not only to resolve the particular issue raised, but also for continuous improvement of the service we provide to our clients.

Our complaints process states that complaints must be acknowledged within 24 hours unless it is resolved during that time. All complaints need to be fully investigated and resolved within five working days, unless there is good and sufficient reason for the delay. Where there is a delay, the client must be kept informed of the progress.

I have attached our Complaints Overview and Management page from the Ministry’s intranet. Also attached is the Ministry’s Disciplinary Process Guidelines, and our Disciplinary Action Guidelines. You can find these in **Appendix Two**.

Question 4: What are the duties/responsibilities of WINZ staff including management as per their employment agreement?

I have interpreted your request to refer to the duties and responsibilities of all staff of the Ministry. Your request for all information is very broad, and substantial manual collation would be required to locate and prepare all documents within scope of your request. As such, I refuse your request under section 18(f) of the Act. The greater public interest is in the effective and efficient administration of the public service.

I have considered whether the Ministry would be able to respond to your request given extra time, or the ability to charge for the information requested. I have concluded that, in either case, the Ministry’s ability to undertake its work would still be prejudiced.

The Ministry has previously published the position descriptions of Case Managers and Intensive Client Support Managers on our website in response to a previous request under the Act. You can view those position descriptions here: www.msd.govt.nz/documents/about-msd-and-our-work/publications-resources/official-information-responses/2024/march/08032024-the-difference-between-the-case-manager-and-integrated-services-case-manager-roles.pdf.

All permanent and fixed term staff are provided with a job description outlining expectations for their role and their specific duties and responsibilities. If you would like to see the job description for specific roles, you are welcome to submit a further request, specifying which particular roles you are interested in.

Question 5: How many WINZ staff/case managers have been through disciplinary action for failure to adhere to WINZ commitments and legal obligations after a complaint has been made in the last 3 years and of those, how many were dismissed from their employment?

For the period 1 June 2021 to 18 June 2024, 56 Work and Income Case Managers underwent a disciplinary action process as a result of a complaint being made. To date, 53 of these complaints have been resolved and 3 remain unresolved. Of the 53 complaints resolved, one case resulted in dismissal.

Question 6: Why do Remote Client Unit (RCU) clients need to leave a message on an answering machine and wait 24 hours for a response?

When a client calls the RS's toll-free number (0508 222 007), they can leave a voice message and the team will respond as soon as they are able to - usually within 24 hours. The Ministry has made an operational decision to manage calls in this way due to the complex nature of some of the requests. It also allows the RS Case Manager to provide a more tailored response when they call the client back. Clients can also choose to communicate via email or post.

Question 7: Why is the Accommodation Supplement (AS) based on the area a client resides in as opposed to the amount of rent they pay and why does Area 1 only apply to Auckland?"

A number of factors, such as a person's income, accommodation costs and cash assets influence the AS amount a person may receive. However, the maximum AS payment amount a person can receive is based on the area in New Zealand where they live and the size of their family.

Auckland is not the only area in New Zealand designated AS Area 1. Queenstown, Wanaka and Tauranga are also designated AS Area 1.

You can find more information about the AS on the Work and Income website here: workandincome.govt.nz/map/income-support/extra-help/accommodation-supplement/index.html.

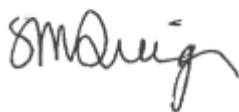
I will be publishing this decision letter, with your personal details deleted, on the Ministry's website in due course.

If you wish to discuss this response with us, please feel free to contact OIA_Requests@msd.govt.nz.

If you are not satisfied with my decision on your request, you have the right to seek an investigation and review by the Ombudsman. Information about how to make a complaint is available at www.ombudsman.parliament.nz or 0800 802 602.

Ngā mihi nui

pp.



Magnus O'Neill

General Manager

Ministerial and Executive Services



**MINISTRY OF SOCIAL
DEVELOPMENT**
TE MANATŪ WHAKAHIA TO ORA

Code of Conduct

August 2021

Introduction

As public servants each of us has the opportunity to make a positive difference in the lives of New Zealanders through the work we do.

So we can do our work, the taxpayers of New Zealand entrust us with the stewardship of their money and they trust us to protect their personal information. These are big responsibilities. It is important that the way we conduct ourselves reflects the trust New Zealanders place in us.

That's why we have a Code of Conduct. This Code provides you with guidelines on how to go about your work and how to best serve the government of the day. It is important you are familiar with the Code and that you read it regularly. In fact, it is a requirement if you work here.

The Ministry of Social Development (MSD) has a responsibility to you to be a good employer. You have the right to be treated fairly in all aspects of your job.

In return, there are some things MSD expects from you. The Code of Conduct includes clear expectations about behaviour and conduct we cannot and will not tolerate, and the consequences of not meeting these expectations. The Code clearly outlines the consequences of staff fraud, and the deliberate release of information to third parties without proper authorisation.

The Code of Conduct is a guide for you. It won't cover every situation or requirement you experience in your role. If you are ever unsure about what to do, ask for help.

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About the Code of Conduct

The Code of Conduct tells you about the way we work. It outlines how we should deal with the people we work alongside and the people we work for, to help make sure we all:

- work with honesty, integrity and respect
- provide the best possible service and advice to the Government, public, stakeholders and clients, and gain their trust and confidence in what we do
- do the best we can do and be the best we can be – every day.

This Code doesn't cover every possible requirement or situation. It gives us a benchmark to work from and gives others a basis from which to judge the way we are working.

We have policies and procedures that give you more detail on the way we work. You should understand and act on the policies and procedures that apply in MSD. You can find these on our intranet (doogle). Meanwhile, read the Code and understand its contents.

Please note, if you don't meet these standards of conduct your behaviour may result in disciplinary action which could include termination of employment.

It is important you fully understand the Code. If you have questions about parts of the Code and how they apply to you in your role, or you are uncertain as to what some of the information means, ask your manager to explain.

Coverage

The Code applies to anyone who works for us, including:

- employees
- contractors
- consultants
- volunteers at MSD.

Whether you are a permanent staff member, are here temporarily or casually, or are a full-time or part-time worker, the Code applies to you.

The Code is part of your employment terms and conditions. It should be read alongside your employment agreement or contract, our policies and procedures, and the Public Service Standards of Integrity and Conduct.

Standards for Public Servants

The Public Service Commissioner has issued the Public Service Standards of Integrity and Conduct. This document sets out the minimum standards of behaviour expected of public servants and is issued under section 17 of the Public Service Act 2020.

The standards say we must be:

- fair
- impartial
- responsible
- trustworthy.

You can find them in more detail at <https://www.publicservice.govt.nz/resources/code>.

The following pages outline what these standards mean for us as part of MSD, and what policies and procedures help us to comply with them.

Zero tolerance

All public servants are expected to uphold general standards of behaviour which are outlined by the Public Service Commission in the Standards of Integrity and Conduct for the Public Service. In MSD, there are other standards over and above these in some areas because of the work we do.

The Ministry of Social Development is responsible for paying benefits and for prosecuting those who defraud the benefit system. Our clients are required to provide us with highly sensitive, personal information to get what they need, or for our business reasons. This means that in these particular areas the standards we apply to ourselves must be higher than those we expect of others.

For example, it is unacceptable under any circumstances for an MSD staff member to:

- steal from the benefit system or MSD
- interfere with or in any way abuse a child or young person that MSD has a professional relationship with
- sell client information
- deliberately share client details or circumstances with any unauthorised person.

Where a staff member does any of these things, the staff member will be dismissed and the matter may be referred to police. In addition to any penalty the Court might impose, all money fraudulently obtained will have to be repaid in full.

Specific applications of MSD's staff fraud and misuse of information zero tolerance policy are in the following pages. You can find other information in relevant MSD policies on our intranet (doogle).

Fair

We must:

- » treat everyone fairly and with respect
- » be professional and responsive
- » work to make government services accessible and effective
- » strive to make a difference to the wellbeing of New Zealand and all its people.

Public Service Commission Standards of Integrity and Conduct: Fair

<https://www.publicservice.govt.nz/resources/code/?e200=1516-fair>

Conflicts of interest

At MSD we need to make sure we are always fair in the way we deal with people, no matter who they are, what their backgrounds are or what their needs are.

We must avoid any appearance or suggestion of preferential treatment or favouritism towards any individual or organisation which we or you have an interest in.

Because we live and work in our communities, it is sometimes hard to avoid conflicts of interest, whether real or perceived. That makes it even more important that conflicts of interest are identified, avoided when they can be, and managed when they cannot be avoided.

MSD has a policy and a procedure to help you and your manager identify and manage conflicts of interest that arise in the course of your work. You can find the policy and procedure for managing conflicts of interests on our intranet (doogle).

You must inform your manager if you have a relationship with someone you deal with in your role or someone we deal with at MSD that could cause or be seen to cause a conflict of interest.

Secondary employment and voluntary work – if you take on other work (paid or unpaid) or services while you work at MSD, you'll need to consider how it could affect your work here, and whether there is any potential or perceived conflict of interest. Talk to your manager about this. Refer to the Conflicts of Values, Interests and Politics policy for information on secondary employment and managing conflicts.

Respecting others

As an MSD staff member you need to make sure you respect the rights of other people, all the time. This includes any client, stakeholder, colleague or member of the public.

In particular, you must:

- treat each other with respect and courtesy
- show mana manaaki and look after the dignity of people
- support a positive and safe work environment free from any form of bullying, harassment or discrimination (refer to MSD's Positive Workplace policy and guides on our intranet (doogle))
- avoid acting in a way that could upset people, or cause harm or disruption
- not bring anything to work that could be seen as offensive to any person or group of people
- ensure any workplace relationships with colleagues don't have a negative effect on your work
- recognise MSD's commitment to the Treaty of Waitangi
- always be professional, fair and unbiased in the work you do, or the advice you give
- remember that everyone has the right to privacy and confidentiality
- make sure you don't abuse your position at MSD, or any power delegated to you in your role.

We understand that sometimes you may need to do something as part of your role that conflicts with your personal beliefs. If you find yourself in this position, talk to your manager. They will be able to discuss this with you and help you find the right solution.

Impartial

We must:

- » maintain the political neutrality required to enable us to work with current and future governments
- » carry out the functions of our organisation, unaffected by our personal beliefs
- » support our organisation to provide robust and unbiased advice
- » respect the authority of the government of the day.

Public Service Commission Standards of Integrity and Conduct: Impartial
<https://www.publicservice.govt.nz/resources/code/?e200=1518-impartial>

Political neutrality

While we work with the government of the day, we must also be able to work with future governments. This means we need to maintain the confidence of our current Minister and make sure the same relationship can be established with future Ministers. We do this by keeping politics out of our work and our work out of politics.

As public servants we have the same rights as other New Zealanders and may publicly express our own political or personal views. However, at the same time we need to work in a professional and politically neutral way.

Most people at MSD can be involved in social campaigns or the activities of political parties and other organisations without it affecting their ability to be impartial in the work they do.

Talk to your manager about your actual or intended political involvement. It's important to consider what you can do to avoid a perceived conflict with your work. This may include steps so that you are not identified as working for MSD or taking annual leave if you need time off for activities you are involved in.

For senior managers, people who have extensive contact with Ministers, and those responsible for interpreting and implementing government decisions we have to keep a balance and it is not appropriate to publicly express views about government policy related to their work area.

The Public Service Commissioner's guidance about political neutrality is available at www.publicservice.govt.nz or you can talk to your manager if you have any questions about what this means for you.

Commenting on government policy

MSD may view any staff members who publicly make strong or repeated criticisms of government policies as being unable to impartially implement, administer or advise on government policies.

For all staff, publicly expressing your personal view of government policy is unacceptable if you:

- disclose information gained by your work at MSD
- are or could be perceived to be representing MSD
- make personal attacks on a Minister, people at MSD or other Public Servants
- strongly or persistently criticise to the extent that it could be perceived that you cannot carry out your work in an impartial way.

Due to the nature of the roles, for Senior Managers, people working with Ministers, and those responsible for interpreting and implementing government decisions there is a greater responsibility to not publicly comment on government policy related to their work area.

Only people who are authorised by the Chief Executive or who have permission as part of their job can make public statements on behalf of MSD. This applies to responses to any media enquiry.

Private communications with Ministers or Members of Parliament

You have the same right to approach political representatives as any other person, but you must be clear that you are not representing MSD. Remember, any approach to a political representative about something that is not to do with MSD's work should be made with some sensitivity to your role as a public servant.

Any matters concerning MSD must go through the official channels.

Standing as a Member of Parliament

Public servants can seek election to Parliament but there are rules about this set out in the Electoral Act 1993. If you are thinking about putting your name forward for nomination as a constituency candidate or for inclusion on a party list, or if you have already done so, tell your General Manager, Regional Commissioner or the Group General Manager People (Human Resources). They will discuss this with the Chief Executive.

You can find more information on the Public Service Commission website

www.publicservice.govt.nz/resources/code and in the Public Service Standards of Integrity and Conduct.

Responsible

We must:

- » act lawfully and objectively
- » use our organisation's resources carefully and only for intended purposes
- » treat information with care and use it only for proper purposes
- » work to improve the performance and efficiency of our organisation.

Public Service Commission Standards of Integrity and Conduct: Responsible

<https://www.publicservice.govt.nz/resources/code/?e200=1520-responsible>

Probity

When we deal with public money and resources, there is a standard of behaviour expected of us. This is called probity.

Probity means we have shown integrity and professionalism in using public money to do our work.

Probity isn't about setting a list of rules; it's about showing we have used good judgement and a sensible process to make our decisions around how we spend money.

When spending public money, you can show probity if your expenditure:

- is reasonable
- demonstrates value for money
- is relevant to what we do, or to our goals
- can satisfy the questions of anyone who asks about it, including the public.

If you have questions about probity or how to apply it in your role, talk to your manager.

MSD's financial policies are available on our intranet (doogle).

Information and confidentiality

We need to keep all MSD information secure, including personal information about our clients, their families or other organisations.

How we treat this information – collect it, store it, share it and use it – affects how the public trusts us and whether they are willing to continue to share their information with us so we can do our jobs properly.

MSD has a number of policies and procedures in place to protect information and to help us manage information appropriately.

This includes complying with the:

- Official Information Act 1982
- Privacy Act 2020
- Public Records Act 2005.

If information is inadvertently or unintentionally released or disclosed, take action straight away to

minimise any risks, or impact on people. You must also contact MSD's Privacy Team to report the incident. They can give you further advice about handling it.

Refer to MSD's privacy and security policies on our intranet (doogle).

You can find more about MSD's information policies on our intranet (doogle), including our IT security policies (End User Security Policy).

Accessing information

Each of us must take care to ensure MSD and client information is only accessible to authorised people for authorised use.

Make sure you always observe people's right to privacy when you are dealing with their personal information.

- You must only access client information or records for legitimate work purposes.
- You must not access your own record or the record of a friend, relative, colleague or acquaintance for any reason, even if the person asks you to, including if you're just interested or browsing.
- Accessing information also includes processing actions on records. You must not undertake any processing action within your own record or the record of any current or former client, including your own record if you're a current or former client of MSD, without a legitimate business reason.

This applies to any information we hold in any form. If you are not sure whether it is appropriate for you to access information, always check with your manager first.

Misuse of information

Misuse of information includes accessing, falsifying, requesting, or sharing of information without a business purpose. To get the most valid information and to protect people's privacy, information should generally be requested from the person themselves, rather than a third party.

If you are found to have misused or falsified MSD information, formal disciplinary action will be taken, which may include dismissal.

MSD has a zero tolerance policy for the misuse of personal information. Any staff member found to have sold or deliberately given client information to any unauthorised person will be dismissed and the matter may be referred to police.

You can find more information about this on our intranet (doogle).

Trustworthy

We must:

- » be honest
- » work to the best of our abilities
- » ensure our actions are not affected by our personal interests or relationships
- » never misuse our position for personal gain
- » decline gifts or benefits that place us under any obligation or perceived influence
- » avoid any activities, work or non-work, that may harm the reputation of our organisation or of the State Services.

Public Service Commission Standards of Integrity and Conduct: Trustworthy

<https://ssc.govt.nz/resources/code/?e200=1522-trustworthy>

Client relationships

When we work for a government department it is important to be aware of how our relationships can affect the way we do our jobs or the reputation of MSD.

You must inform your manager if you have a relationship with someone you deal with in your role or someone we deal with at MSD that could cause, or be seen to cause, a conflict of interest.

Disclosing and managing these relationships is important to ensure the public's trust in MSD is well-founded and conflicts of interest are appropriately managed.

MSD has a vital role in our communities to help New Zealanders to be safe, strong and independent. Because of this, if you have sexual contact with, or abuse in any way, a child or young person we have a professional relationship with, you will be dismissed and the matter may be referred to police.

Fraud

As an MSD staff member, you must not commit, condone, encourage or be directly associated with any type of fraud.

MSD has a zero tolerance policy for staff fraud and misuse of client information (available on doogle). In every case where a staff member is found to have defrauded MSD, they will be dismissed and the matter may be referred to police. In addition to any penalty the Court might impose, all money fraudulently obtained will have to be repaid in full.

If you know, or think you know, that someone is involved in fraud against MSD, tell your manager, the Internal Fraud Unit or Fraud Intervention Services.

Prior or pending convictions

If you have a conviction we didn't know about before we hired you, or you weren't truthful about having a conviction, we may take disciplinary action which could result in dismissal.

This does not apply to anything covered by section 7 of the Criminal Records (Clean Slate) Act 2004.

You must tell your manager if you have any convictions or charges laid against you while you work for MSD.

Roles requiring National Security Clearance

People in roles which require National Security Clearance must obtain and maintain this clearance at the appropriate level.

Gifts and rewards

Receiving a gift or reward for doing your role could be seen as a bribe or as a way of making you obligated to another person or organisation. As a general rule you should not ask for or accept a gift or reward.

Consider the intention of the gift and whether it is related to a cultural practice. Some occasions (such as a hui) may require an exchange of gifts. We are committed to meeting the needs of different cultures and if a gift is offered in these situations, it should be accepted on behalf of MSD.

Refer to MSD's Gifts, Donations and Koha Policy when giving or receiving a gift.

Staff who are also clients

If you receive payments or services from MSD, you must make sure anything you do as a client is honest and lawful.

It is your responsibility to give the Staff Assistance Unit full details about your circumstances or any changes in your circumstances to ensure you receive the correct entitlement.

Exemptions and other considerations

For a small number of staff, obligations under the Code of Conduct must be considered alongside other requirements eg for staff to act independently from MSD or to uphold the maintenance of the law. MSD may consider exemptions on a case by case basis to specified sections of the Code of Conduct, taking ethical and legal considerations into account.

Any exemptions will be approved by the relevant Deputy Chief Executive and the Group General Manager People (Human Resources).

Breaches of the Code of Conduct

We need to identify breaches or potential breaches of the Code as soon as possible. We will always make sure any disciplinary process is impartial, fair, prompt and consistent. We will consider each case on its merits, including reviewing the reasons for the breach and taking into account the individual circumstances of each case before deciding on the action to take.

Reporting breaches of the Code of Conduct

If you find out about a breach or possible breach of either the Public Service Standards of Integrity and Conduct or this Code of Conduct, you should:

- think carefully about how you can deal with the situation responsibly
- discuss the issue or situation with your manager as quickly as possible – they may have additional information you might not know, so trust them to know the best way to deal with things.

Talk to your manager to report a breach of any other MSD policy, procedure, standard or guideline, unless another process is provided.

If you don't think you can talk to your manager, or if the situation remains unresolved, then you can talk to another MSD manager or the Group General Manager People (Human Resources).

If you need access to confidential counselling, MSD's Employee Assistance Programme (EAP) is voluntary, private, free, confidential and available to all MSD staff. You can find more details on EAP on MSD's intranet (doogle).

Managers who are advised of a breach or a possible breach will deal with the alleged breach in accordance with MSD's policy. This means anyone alleging a breach or who is being investigated for a breach of the Code of Conduct will be given adequate notice of meetings, have an opportunity to be heard, and have the right to representation and/or have a support person present at meetings.

Privacy breaches

Refer to the 'Information and confidentiality' section of the Code of Conduct and MSD's intranet (doogle) for reporting a privacy breach or near miss.

Reporting serious wrongdoing

In some cases, a breach of the Code of Conduct may also be serious wrongdoing under the Protected Disclosures Act 2000. If this is the case, you can use the MSD's Protected Disclosures procedures to report the incident or action and receive the protections of the Act. There is information about protected disclosures on our intranet (doogle).

If you think MSD has not met its obligations under the Code

If you think MSD has not met its obligations, follow the same process as the one to report breaches of the Code of Conduct (as set out above).

Once you have told us about your concerns, we will:

- treat your concerns confidentially, investigate them promptly and appropriately, and take action as necessary
- where appropriate, let anyone affected by an allegation know about it and ask for their explanation
- consider the use of a neutral third party to resolve the issue, if appropriate
- let you know if an investigation or action has started and stay in regular contact, if appropriate
- let you know about the outcome, where appropriate.

MSD will make every effort to maintain the confidentiality of an individual making a protected disclosure. This is set out in our Protected Disclosures policy.

Remember, you can also face disciplinary action for breaching other MSD policies, procedures and guidelines.

If you are unsure about how to deal with an ethical issue, discuss it with your manager. If your manager is involved, discuss the issue with your manager's manager or any senior manager.



**MINISTRY OF SOCIAL
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Complaints Overview and Management

This provides you with information about receiving and manage general or client (or their agent/advocate) complaints.

On this Page:

What is a complaint?

A complaint is an expression of dissatisfaction, usually about service, staff, behaviour or the environment. Complaints that relate to specific service received should not be dealt with by the person concerned, although the person concerned should be given an opportunity to provide an explanation.

A complaint can be made verbally, through the online complaint form on our website, or in writing. Complaints can be lodged with contact centres, service centres, regional offices or national office and should always be recorded in the [old HIYA system \[http://hiya/Default.jsp\]](http://hiya/Default.jsp).

Note a complaint is not a review of decision; these have their own guidelines and processes.

The link below provides you with definitions and examples of the types of complaints you may receive. These are also available via a link directly on the lodging a complaint form in the HIYA Complaints Management System.

[Complaint types, definitions and examples \[http://doogie/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/complaint-types-definitions-and-examples.html\]](http://doogie/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/complaint-types-definitions-and-examples.html)

Where are complaints recorded?

While complaints can be received through multiple channels, they should **all** be recorded in the HIYA Complaints system. This allows recording and managing of a complaint from receipt to resolution.

Standards about how to manage a complaint have also been developed.

Providing a central and standard complaint process supports Service Excellence. Service Excellence is an agreed set of standard practices and processes used to deliver service to Work and Income clients, resulting in a professional and consistent service.

[Our Client Commitments \[http://doogie/business-groups/helping-clients/service-delivery/strategy-and-change/client-commitments/client-commitment-overview.html\]](http://doogie/business-groups/helping-clients/service-delivery/strategy-and-change/client-commitments/client-commitment-overview.html)

Timeliness Standards

A complaint **must** be:

acknowledged within 24 hours (unless it is resolved within that time).

fully investigated and resolved within 5 working days, unless there is a good and sufficient reason for the delay.

Where there is a delay, the client must be kept informed of progress.

Who manages complaints?

A complaint can be received and recorded by any person (or through the online complaint form on the [Work and Income website \[https://www.workandincome.govt.nz/about-work-and-income/complaints/index.html\]](https://www.workandincome.govt.nz/about-work-and-income/complaints/index.html)). The webform will route the complaint to a person within the clients region. They will ensure it is sent to the correct place. Generally this person will lodge the complaint to HIYA for the appropriate unit. Exceptions to this will be where the complaint:

Relates to an unknown staff member at the Contact Centre - these can be lodged in HIYA under the site, 'Contact Centre Operations Team National Office'

Sensitive matters that may need to be escalated to HR or a Senior Manager

Non-complaints (i.e., requests for Hardship assistance; questions) - which can be booked to Q-Manager as an appointment, or sent to the local site

Once it is recorded it will automatically be assigned to a gatekeeper or designated person. The gatekeeper or designated person will be responsible for managing the complaint from the time it is received until the time it is resolved.

Gatekeepers or designated people are generally:

Service Centre - Manager Client Service Delivery or Manager Client Service Operations

Regional Office - Executive Assistant to the Regional Director

Contact Centres and Processing Units - specifically assigned gatekeepers

National Office - will vary depending on department

Gatekeepers and designated persons may assign the complaint to a more appropriate person to resolve, however they are still responsible for the complaint until it is resolved.

Recording and acknowledging a complaint

Once a complaint is received, it must be recorded in the HIYA Complaints Management System. Once recorded, it will be assigned a number then will automatically be assigned to a gatekeeper or designated person.

Information recorded must be factual because the client can request a copy of all information we hold about them.

[Process on how to log a complaint in HIYA \[http://doogole/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/hiya-instructions-for-complaints.htm\]](http://doogole/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/hiya-instructions-for-complaints.htm)

Assessing a client complaint

If a complaint is received, then the following steps should be taken:

Step	Action	Links
1.	<p>Initial assessment:</p> <ul style="list-style-type: none"> • Does the complaint need to be escalated immediately (e.g. threat of harm to self or others)? <ul style="list-style-type: none"> ◦ If yes, go to step 2. ◦ If no, continue. • Do we need more information? <ul style="list-style-type: none"> ◦ If yes, email the submitter to request more information. ◦ If no, continue to step 3. 	
2.	<p>Ensure you complete the following to escalate the complaint appropriately.</p> <p>Threats of self-harm:</p> <ul style="list-style-type: none"> • Contact the manager(s) of the local Service Centre for a welfare check to be arranged (by Police) immediately. • Ensure the complaint is lodged in HIYA and assigned to the appropriate manager. <p>Threats to staff:</p> <ul style="list-style-type: none"> • Email the following people/teams immediately: <ul style="list-style-type: none"> ◦ Manager(s) for the Service Centre, or Unit ◦ Regional Director - or Senior Manager (Manager Contact Centre Services/Manager Centralised Services) ◦ Health, Safety and Security and IT Security teams at National Office <p>Threat to contact media outlets:</p> <ul style="list-style-type: none"> • Email the following people/teams immediately <ul style="list-style-type: none"> ◦ DCE Office Service Delivery [https://doogole.ssi.govt.nz/business-groups/helping-clients/service-delivery/teams/dce-office.htm] ◦ Media [https://doogole.ssi.govt.nz/business-groups/organisational-assurance-and-communications/comms-and-engagement/media-team.htm] ◦ Manager(s) for the local office(s) <p>Next, continue to step 3 regarding the complaint itself.</p>	Recording incidents in STAR
3.	<p>For complaints about our Contact Centre or Processing Units, is the staff member been identified?</p> <ul style="list-style-type: none"> • If yes, continue to step 4. • If no, refer to Contact Centre Services [https://doogole.ssi.govt.nz/community/display/HIYA/Contact+Centre+laiison+guide] to confirm staff member details (or, speak with your Manager) and continue to step 4. 	
4.	Lodge details in HIYA. An email will be sent to the gatekeeper of the assigned site.	

Complaints from Emergency Housing Occupants or Suppliers

Complaints about EH suppliers and/or EH occupants are managed by Regional Managers or a delegated person.

For more information see:

[EH Supplier \(Complainant\) Complaint Process \[http://doogie/resources/helping-clients/procedures-manuals/social-housing/eh-suppliers-complainant-complaints.html\]](http://doogie/resources/helping-clients/procedures-manuals/social-housing/eh-suppliers-complainant-complaints.html)

[EH Occupant Complaint Process \[http://doogie/resources/helping-clients/procedures-manuals/social-housing/eh-occupant-complaints-process.html\]](http://doogie/resources/helping-clients/procedures-manuals/social-housing/eh-occupant-complaints-process.html)

Complaints for Youth Service (Youth Payment and Young Parent Payment)

Youth Service client complaints are generally managed by one of the following:

Youth Services Support Unit (YSSU)

Service Provider

Regional Contracts Manager

Service Centre Manager

For more information see:

[Complaints process for Youth Service clients \[http://doogie/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/complaints-process-for-youth-service-clients.html\]](http://doogie/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/complaints-process-for-youth-service-clients.html)

Complaints about Preferred Suppliers (Whiteware; Glasses)

The complaints process about a preferred supplier for Hardship Assistance will depend on what the issue is. For more information see:

[Complaints process involving Fisher & Paykel Appliances Ltd \[http://doogie/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/complaints-process-involving-fisher-paykel.html\]](http://doogie/resources/helping-clients/procedures-manuals/work-and-income/core-procedures/complaints/complaints-process-involving-fisher-paykel.html)

Reporting and monitoring

Monitoring

Complaints must be regularly monitored by gatekeepers and designated staff to ensure that standards are met, with an emphasis on quality, accuracy and timeliness.

Reporting

A report can be obtained from HIYA at any time and can provide information about complaint types, outstanding complaints and/or signed off complaints.

You can also monitor trends and other information by exporting the standard HIYA complaint report to 'csv' format. From this you can report on all data that is captured when a report is lodged.

Managers should regularly monitor for trends so that improvements can be made.

Automated reporting from HIYA is currently being developed and will be available from this page in 2008.

Disciplinary Process Guidelines

This page is intended to support managers and staff through the disciplinary process which is used to investigate and potentially sanction staff for breaching the Ministry's standards of behaviour.

On this Page:

The disciplinary process is used to investigate and potentially sanction staff for breaching the standards of behaviour set out in the State Services Standards of Integrity and Conduct and the Ministry's Code of Conduct. It is important to remember that staff can also face disciplinary action for breaching any of the Ministry's policies, procedures, standards, and guidelines.

This guidance is intended to support managers and staff through the disciplinary process and ensure that the process is impartial, fair, prompt, and consistent. It is important to note that these are guidelines only and the actual processes applied will need to take into account the individual circumstances of each case.

Managers must consult with their HR Consultant prior to commencing a disciplinary process to ensure that the Ministry's contractual and legal obligations are met and that all the relevant delegations are understood and followed.

[Contact your HR Consultant \[http://doogie/business-groups/organisational-solutions/who-we-are/human-resources/index.html\]](http://doogie/business-groups/organisational-solutions/who-we-are/human-resources/index.html)

Disciplinary principles

The following "principles" must be addressed as a minimum in any disciplinary process and should guide managers throughout the process.

The employee is to be informed of the issue in question and be given a reasonable opportunity to provide an explanation.

The employee is entitled to access confidential EAP counselling at any time.

The employee is to be advised of their right to representation, and/or support person of their choice.

In cases of alleged serious misconduct the employee may be placed on Leave of Absence/Suspension while an investigation is undertaken.

An appropriate investigation will be undertaken before any decisions are made or actions taken.

Depending on the seriousness of the issue a verbal warning will normally precede a written warning.

A written warning will specify the duration of that warning and where specified by the relevant employment agreement will be removed from the employee's personnel file on its expiry date.

Any disciplinary action is to be recorded in writing, signed by the employee, and placed on their personnel file.

Any corrective action required together with a reasonable period of time to improve performance, or change the conduct, will also be advised. Where this is a performance issue consideration should be given to appropriate alternative work, remedial training, coaching, and counselling.

Where an employee feels that they have been aggrieved by the Ministry, they are to be advised of the relevant employment relationship problem resolution process and their right to pursue a personal grievance.

Misconduct and serious misconduct - grounds for disciplinary action

While it is not possible to set out all unacceptable forms of behaviour, the following provides examples of actions and behaviour which may be treated as grounds for disciplinary action.

Misconduct

Misconduct covers situations where an employee's behaviour does not meet Ministry standards and where this misconduct (or a first incident of it) would not warrant dismissal. The process needs to focus on establishing what happened, clarifying future expectations, and if required, issuing a warning so the employee is aware that another instance of misconduct may result in further disciplinary action, up to and including dismissal.

Actions which may be treated as misconduct (or where that action is a first instance) include:

unauthorised absence from the workplace

failure to follow a lawful and reasonable instruction

failure to perform work to the required standard

lateness and/or absenteeism

abuse of sick leave

failure to notify the manager of absence due to sickness or emergency

improper or unauthorised use of the Ministry's equipment or other property (e.g. telephones, facsimile machines, photocopiers, computers, email and internet, cellphones, mail facilities, and vehicles)

not keeping computer passwords secret, or using email or internet to access, solicit, store or send on any offensive material

inappropriate workplace behaviours including the use of obscene or abusive language

providing false information or failing to declare information that is requested when applying for, and during employment with the Ministry

deliberately engaging in, and/or failing to disclose their involvement in an activity or commitment that constitutes a conflict of interest.

Note: the above list is not exhaustive and depending upon the circumstances any of these behaviours may be deemed “serious misconduct” by the Ministry.

Serious misconduct

Serious misconduct is conduct that the Ministry cannot and will not condone which destroys the Ministry’s trust and confidence in the employee to such an extent that the viability of ongoing employment must be called into question. Dismissal therefore becomes an option for the employer.

Actions which may be treated as serious misconduct include:

possession and/or consumption of unlawful drugs

being under the influence of alcohol, unlawful drugs or solvents, to the extent that duties cannot be performed to the required standard

unauthorised removal or possession of Ministry property

theft or other forms of dishonesty

intentional damage to Ministry property, an employee’s property, or the property of any other person

conduct or behaviour that results in, or may have resulted in, personal injury to others

repeated or deliberate refusal to follow a lawful and reasonable instruction

physical or verbal violence, or harassment/bullying of any kind (including racial and sexual harassment) towards colleagues, clients, or members of the public

assaulting, threatening, or intimidating another person in the workplace, or in the course of carrying out Ministry duties, or at any other time, when an employee of the Ministry

deliberately misusing, falsifying, or destroying client, and/or Ministry records

inappropriately accessing or browsing client records (including employee’s accessing their own record or the record of a friend, relative, colleague, or acquaintance in any of the Ministry’s systems such as CYRAS, UCVII, SWIFTT and SAL)

acts of wilful negligence or gross incompetence

conduct that brings the Ministry into disrepute (including behaviour by an employee in a private capacity that results in a criminal conviction)

breaching Ministry or client confidentiality

using information related to or contained in the Ministry’s systems, or files, for unauthorised purposes (e.g. providing access to information to others who are not authorised to see it).

Note: The above list is not exhaustive and other actions may constitute serious misconduct.

Zero tolerance

The Ministry takes a zero tolerance approach to the following conduct:

Stealing from the benefit system or the Ministry.

Interfering with, or in any way abusing a child or young person we are responsible for.

Selling client information.

Sharing client details or circumstances with someone outside of work without proper authority.

In every case where it is proven that a staff member has committed any of the above, the staff member will be dismissed and in every case, where appropriate, the matter will be referred to the Police.

Note: The Ministry applies the principles of good faith and fair process in each and every case irrespective of the alleged misconduct.

Potential disciplinary outcomes

Depending on the nature of the breach a disciplinary process may result in a:

verbal warning

written warning

final written warning

dismissal.

Managers must first consult with the HR Consultant and their own manager before taking any disciplinary action.

[\[http://doogle/working-here/managing-staff/managing-performance-issues/disciplinary-action.html#top#top\]](http://doogle/working-here/managing-staff/managing-performance-issues/disciplinary-action.html#top#top)

Verbal warning

A verbal warning is generally issued for relatively minor breaches of standards, or for a first minor incident of misconduct. A

record of verbal warnings should be kept on the employee's personnel file. The verbal warning should be signed by the employee to record both their receipt and understanding. If the employee refuses to sign the record this should be noted by the manager on the record, dated, and filed.

Written warning

A written warning may be issued:

when the manager considers the conduct to be serious enough to warrant action greater than a verbal warning where a verbal warning has previously been issued and there is a further incident of the same or similar misconduct.

Final written warning

A final written warning may be issued:

following a previous warning in cases where any further incident of misconduct of the same or similar nature will result in the employee's dismissal

without any previous warning (verbal or written) in cases of serious misconduct but where the circumstances do not warrant dismissal.

Duration of warnings

The duration of warnings will vary depending on the circumstances but all warnings must contain an expiry date. Where specified by the relevant employment agreement a warning will be removed from the employee's personnel file once it has expired - except where a further warning has been issued in regards to the same, or similar, misconduct while the previous warning was still in effect.

Placing an employee on Leave of Absence/Suspension

In cases of alleged serious misconduct an employee may be placed on Leave of Absence/Suspension while a full investigation is undertaken, and/or where the presence of the employee in the workplace could compromise the investigation or pose an ongoing risk to clients, and/or the Ministry. Leave of Absence/Suspension is usually paid unless special mitigating circumstances exist.

Managers must consult their HR Consultant and have the appropriate delegations to place an employee on Leave of Absence/Suspension.

Before an employee is placed on Leave of Absence/Suspension they must be offered an opportunity to make submissions which must be considered carefully before a final decision is made.

If after due consideration the manager decides that the employee will be placed on Leave of Absence/Suspension they must advise the employee in writing that they:

are being placed on Leave of Absence/Suspension

should not re-enter the workplace or contact any Ministry employee during the period of Leave of Absence/Suspension, unless authorised to do so

they have a right to seek legal advice or other support/representation (i.e. union assistance).

Where appropriate the manager should also take any steps necessary to prevent the employee returning to the workplace or accessing Ministry systems. These steps may include shutting off the employees computer and building access, and disconnecting any other Ministry tools in the employees possession, i.e. laptop and mobile phone.

Leave of Absence/Suspension should not be prolonged and should continue only as long as it takes to complete a full and fair investigation. If there are unavoidable delays then the continuation of the Leave of Absence/Suspension should be revisited

Disciplinary process

Managers must consult with their HR Consultant before proceeding with a disciplinary process. HR Consultants work with these issues across the Ministry so will be able to ensure the manager gets the right advice and that any response is consistent with current MSD practice.

When an issue of alleged misconduct is brought to a managers attention, the manager may need to make initial enquiries to determine if there is any substance to the issue and whether the issue should be taken into a formal disciplinary setting for further investigation.

Where appropriate it may be that the matter can be resolved informally without the need for escalation into the disciplinary process (e.g. a minor matter that is unlikely to reoccur).

Where initially there appears to be sufficient evidence for a full investigation the employee is to be advised in writing:

that a full and fair investigation will be carried out

of the nature of the issue and potential disciplinary outcomes

of their right to representation, and/or support person of their choice

of their right to access confidential EAP counselling at any time.

Investigation

A full and fair investigation of the situation must be carried out to determine the facts. During the investigation there should be ongoing consideration as to whether or not there is sufficient evidence for the investigation to continue.

An employment relationship is based on trust and confidence, and there is a duty on the manager carrying out the investigation to do so in a fair and reasonable manner, carefully considering both sides of the issue, and ensuring that the employee has every opportunity to present as full an explanation as possible.

The manager should:

conduct the investigation and interview the employee in a timely manner

provide the employee with a real opportunity to explain their point of view

never allow bias (e.g. personal likes or dislikes, relationships, or personality issues) to affect the investigation

use only information that is relevant to the case

keep an open mind until all facts are known and base decisions on fact alone, including any relevant extenuating or personal circumstances offered by the employee.

Relevant information and evidence collected should be copied to the employee so they can respond to the matter from an equally fully informed basis. At times a complainant/informant providing evidence may ask that their identity remains confidential. If this happens the manager should contact their HR Consultant to discuss options.

At all stages of the investigation the manager should keep written records to support their decisions. These records should also be kept in the event that there is a challenge through the Personal Grievance process.

Disciplinary interview with the employee

An employee should be given reasonable advance notice of an interview. However, in cases of serious misconduct a quick decision may be required, e.g. where there is a security risk or the potential of harm to another person.

In all cases the employee must be told in advance, and in writing what the interview will be about and the potential disciplinary outcomes. They must also be reminded of their right to representation and all reasonable attempts must be made to ensure that the employee has the opportunity to have their representative present at the interview. For example, if the employee's representative is unavailable the interview should be rescheduled as soon as possible to ensure that the representative can attend.

For evidence purposes managers should also have another person present at the interview with them. If the matter is serious misconduct then an HR Consultant should attend.

At the interview, the manager must clearly state the allegation and Ministry's position on it. The employee must be given every opportunity to respond, and/or explain. The employee's explanation must be properly considered before a decision is made. This may require an adjournment to follow up on any explanation provided, or reconvening the meeting at a later date if new information needs to be put to the employee and further explanation sought.

Managers must keep a record of the interview and provide the employee with a transcript, or the notes taken. If any agreement is reached, or any admissions/concessions made, it is important that these are recorded for later reference.

Referral documentation

Where the matter is referred for a decision the manager must prepare a complete set of all relevant documentation including copies of the warnings issued and a referral memo for the decision maker. The referral documentation should be copied to the employee so that they can see exactly what is being sent to the decision maker and are then able to respond in full. Your HR Consultant can assist with the referral documentation.

Option for the employee to meet with or make a written submission to the decision maker

Where the matter is referred for a decision the employee must be offered the opportunity to either meet with, or make a written submission to, the decision maker before a decision is made.

If the employee wants to meet with the decision maker, the manager and HR will arrange the meeting including allowing the employee to attend with representation, and/or support person of their choice.

Note: Representation, and/or support person costs to attend the meeting (i.e. travel costs) are the employee's responsibility.

Meeting with the decision maker

The decision maker attends the meeting supported by the HR Consultant who has worked with the manager throughout the process. The employee should be given every opportunity to explain their view of the situation, including providing written submissions, and the decision maker can ask any questions as appropriate.

Generally the decision maker does not make a decision at the meeting but instead will carefully consider both the employee's explanation and any supporting documentation provided to them, and will advise the employee's manager of their decision once that decision has been made. If considered appropriate, the decision maker may also inform the employee directly about their decision.

Decision to dismiss

If the decision is to dismiss, the employee's manager will meet with the employee and advise them of the decision. The

manager should also provide the employee with a Letter of Termination clearly stating the reasons for dismissal (your HR Consultant can assist with the drafting of the letter).

All the documentation should be placed on the employee's personnel file and Payroll should be notified via the Termination Form that the employee's personnel file should be clearly noted "Dismissed - Not Suitable for Re-employment: contact your HR Consultant".

Content owner: [Human Resources](#) **Last updated:** 29 November 2020

Disciplinary Action

This page outlines information about the various types of warnings in relation to unresolved performance issues, misconduct or serious misconduct.

Definition

Disciplinary action is a process that is used where there are concerns over an employee's performance or conduct and action needs to be taken. Refer to the [Managing Performance Policy \[http://doogole/resources/helping-staff/policies-standards/hr/managing-performance.html\]](http://doogole/resources/helping-staff/policies-standards/hr/managing-performance.html) for guidelines on the initial stage of managing performance issues.

The Process

The process provides a clear "rationale" for decisions on disciplinary action taken by the Ministry.

The process consists of a number of steps, and may result in a written warning, transfer to alternative duties or dismissal.

The steps are:

Verbal Warning.

Written Warning.

Final Written Warning.

Cases of serious misconduct will generally follow a different process, and a separate checklist is provided to guide managers.

The guidelines and checklists in the following sections are intended to illustrate processes that will ensure all contractual and legal obligations are met. They are guidelines only, and actual processes applied by managers will need to take into account the particular circumstances of each case.

The "principles" section sets out those matters that must be addressed as a minimum in any disciplinary process, and should guide managers throughout the process.

Mental Health Condition:

It is important that where a mental health condition may be a factor, managers read the Ministry's guidance on managing performance issues which may result from the mental health condition.

Prior to any action being taken, such as talking to, meeting with or writing to an employee, managers must seek advice from the HR Consultancy team.

[Mental Health Guidelines \(PDF 331.84KB\) \[http://doogole/documents/resources/helping-staff/forms-templates/hr/mental-health-guidance-gmhr.pdf\]](http://doogole/documents/resources/helping-staff/forms-templates/hr/mental-health-guidance-gmhr.pdf)

Verbal Warnings

Frequently, this is the first stage of disciplinary action. A verbal warning will be issued for relatively minor breaches of standards or for a first incident of misconduct. Before issuing a formal verbal warning the immediate manager must first consult with their own manager. Wherever possible the record of the verbal warning is to be signed by the employee concerned as an accurate record of the event.

Written Warnings

Written warnings may be issued:

After a verbal warning where there has been no significant improvement in performance or there is a further incident of misconduct.

Without a previous verbal warning where an incident is more serious.

As a final written warning where any further incident of misconduct or continuing non-performance will result in the employee's dismissal.

As a final written warning in cases of serious misconduct where there are special mitigating circumstances that do not warrant dismissal.

Before issuing a written warning the immediate manager must first consult with their own manager.

Before issuing a final written warning the immediate manager must first consult with their own manager and an HR Consultant.

Review of Warnings

The duration of warnings will vary, but will not normally be more than 12 months. All warnings must contain an expiry date. Once a warning has expired it is to be removed from the employee's file. The only exception to this is where a further warning

has been issued during the period when the previous warning was in effect.

Applying Disciplinary Action

The need to take disciplinary action and the type of action that is appropriate depends on the type and nature of the employee's behaviour or action.

Disciplinary action may arise as a result of:

Poor performance.

Misconduct.

Serious misconduct.

Formal Process - Performance Matters

Continued performance concerns must be addressed through the formal warning process. Performance problems will generally be dealt with informally at first, refer to the Managing Performance policy.

This process is similar to that for general misconduct, the difference being that the employee's performance will be reviewed regularly during the warning period and again at its expiry to determine the next appropriate action.

If, after a reasonable period of time during which appropriate monitoring and discussion have taken place (refer also to the [Managing Performance policy \[http://doogie/resources/helping-staff/policies-standards/hr/managing-performance.html\]](http://doogie/resources/helping-staff/policies-standards/hr/managing-performance.html).) the employee's performance continues to fall short of the standards expected, dismissal is the likely outcome.

Misconduct

Misconduct covers the situation where an employee does not meet the standards of behaviour, performance or conduct required of an employee (refer to the [Ministry's Code of Conduct \[http://doogie/documents/resources/helping-staff/policies-standards/hr/msd-coc-2021-sept-final.pdf\]](http://doogie/documents/resources/helping-staff/policies-standards/hr/msd-coc-2021-sept-final.pdf).) and where this would not warrant dismissal. The process needs to focus on identifying the problem with the employee, providing a solution to avoid further instances and issuing a warning so the employee is aware that further or continued instances of misconduct may result in dismissal.

A warning will be of limited duration (usually 12 months) and will be removed from the employee's personal file on expiry. Misconduct may result in a verbal or written warning. A failure to improve or continued actions of misconduct may lead eventually to dismissal.

Actions which are usually treated as misconduct include:

Unauthorised absence from the workplace.

Failure to follow a lawful and reasonable instruction.

Failure to perform work to the required standard.

Lateness and/or absenteeism.

Abuse of sick leave.

Failure to notify the manager of absence due to sickness or emergency.

Improper or unauthorised use of the Ministry's equipment or other property.

Use of obscene or abusive language.

Note:the above list is not exhaustive and other actions may constitute misconduct.

Serious Misconduct

Serious misconduct has been described as behaviour that strikes at the heart of the employment relationship, and which destroys the Ministry's trust and confidence in the employee.

It is conduct that the Ministry cannot and will not condone.

Serious misconduct may result in suspension on pay (during an investigation), followed by dismissal.

If, after an appropriate investigation by the Ministry it is established that an employee is guilty of serious misconduct, possible outcomes include:

A warning (only if extenuating circumstances exist).

Dismissal (dismissal with or without notice).

Actions which are treated as serious misconduct include:

Fraud.

Impaired by unlawful drugs or alcohol at work or while driving a Ministry vehicle.

Unauthorised removal or possession of the Ministry's property.

Theft or other forms of dishonesty.

Conduct or behaviour that results in, or may have resulted in, personal injury to others.

Failure to comply with a lawful and reasonable instruction.

Sexual or other forms of serious harassment.

Assault/threatening or intimidating behaviour in the workplace or in the course of carrying out Ministry duties.

Deliberately falsifying or destroying Ministry information or documentation.

Acts of willful negligence or gross incompetence.

Conduct that brings the Ministry into disrepute.

Inappropriate accessing of client records.

Breaching Ministry or client confidentiality.

Note: the above lists are not exhaustive and other actions may constitute serious misconduct.

Serious Misconduct – paid leave of absence leading to suspension on pay

An employee may be placed on paid leave of absence (and advised that they will be suspended on full pay after a period of 24 hours) in cases of alleged serious misconduct while a full investigation is undertaken, and/or where the presence of the employee in the workplace could compromise the investigation or pose a risk to the Ministry.

The period of paid leave of absence and reason for considering suspension will be stipulated to give the employee an opportunity to seek legal advice and to have an opportunity to respond to the manager (with delegated authority) as to whether they believe the suspension on full pay is justified.

Following the response from the employee (or failing a response from the employee) within the stipulated time, the manager (with delegated authority) will consider any explanation and then may proceed to suspend the employee (if justified) pending the outcome of an investigation. If it is considered justified, such suspension may be on full pay.

The decision to place an employee on special leave on pay will be made on a case by case basis and the manager (with delegated authority) must consult the required parties prior to taking this step.

Delegations

Authority to place an employee on leave on pay (pending suspension), to suspend an employee or to dismiss an employee rests with:

Service Delivery:

In Regions – Regional Commissioner after consultation with Human Resources and the National Commissioner W&I.

Note: National Commissioner W&I must be notified to enable discussion prior to making a decision.

Only in National Office – National Commissioner W&I or Director after consultation with Human Resources.

Note: Deputy Chief Executive Work and Income must be notified to enable discussion prior to making a decision.

Other areas:

General Manager after consultation with Human Resources.

Disciplinary Action Principles

The following is a summary of the principles that apply when dealing with any disciplinary issue.

These principles are based on the Ministry's Collective Employment Agreements.

The employee is to be advised of their right to representation and/or support person of their choice.

The employee is to be informed of the issue in question and be given a reasonable opportunity to provide an explanation.

An appropriate investigation will be undertaken before any substantive action is taken.

Any corrective action required together with a reasonable period of time to improve performance or change the conduct will be advised.

Where this is a performance issue, consideration should be given to appropriate alternative work, coaching, additional training, and counselling.

Any disciplinary action is to be recorded in writing, signed by the employee and placed on their personal file. If the employee refuses to sign the record, this refusal should be noted by the manager on the record, dated and filed.

A written warning will specify the duration of the warning and will be removed from the employee's personal file on its expiry date.

In cases of alleged serious misconduct the employee may be placed on special absence on pay (to give them an opportunity to seek advice and to respond to the advice that suspension on full pay is being considered pending the outcome of an

investigation) and then suspended on pay while an investigation is undertaken. (Refer to Serious Misconduct - paid leave of absence leading to suspension on pay).

Preliminary Review

When an issue of possible misconduct is brought to a manager's attention, the manager may need to make initial enquiries to establish that there is/may be some substance to the issue.

Once this has been done the manager will decide whether the issue requires further investigation.

Where appropriate (e.g. a minor matter that is unlikely to recur) it may be that the matter can be resolved informally before it becomes a disciplinary matter.

If a manager is in doubt of the correct procedure they must contact a HR Consultant before proceeding with a disciplinary situation.

Investigation

A full and fair investigation of the situation must be carried out to determine the facts and circumstances associated with the disciplinary matter.

At all stages of an investigation a manager should keep written records that will be used to reach a decision if this is necessary at some later stage. The records should also be kept in case the process is later challenged.

An employment relationship is based on trust and confidence and there is a duty on a manager carrying out the disciplinary investigation, to do so in a fair and reasonable manner and in good faith to consider both sides of the issue.

During the investigation there should be ongoing consideration as to whether there is sufficient evidence for the investigation to continue.

Information and evidence collected should be provided to the employee. Some people providing evidence may wish to keep their identity secret. Managers should contact their HR Consultant where this is the case.

A manager should conduct the investigation and interview the employee as early as possible.

A manager should provide the employee with a real opportunity to explain their point of view.

A manager should not allow bias (e.g. personal likes or dislikes, relationships, or personality issues) to affect the investigation.

A manager should consider the problem from the employee's perspective and determine the extent of the problem and possible causes of it.

A manager should use only information that is relevant to the case.

A manager should keep an open mind until all facts are known and base decisions on fact alone.

Employee Interview

An employee should be given reasonable advance notice of an interview. However, in cases of a serious nature there may be a need to take quick action e.g. where there is a security risk.

In all cases the employee should be told in advance why they are being interviewed and what the interview will be about as well as being advised of the allegations/information the Ministry has, and the potential outcome of the meeting/investigation.

This information must be conveyed to the employee verbally and should also be conveyed in writing as well.

The manager must remind the employee of their right to representation and all reasonable attempts must be made to ensure that the employee has the opportunity to have their representative present. Managers should also have support present.

Managers must keep a detailed record of the meeting. If any agreement is reached, or any admissions/concessions made it is important that these are recorded for later reference.

In the meeting, the manager must clearly state the allegation and the Ministry's position on it. The employee must be given every opportunity to respond and put their case forward.

The employee's explanation must be properly considered before a decision is made. This may require an adjournment to follow up on information arising, and reconvening the meeting later.

Possible courses of action, suggestions and alternatives may be discussed.

Where an employee feels that they have been aggrieved by the actions of the Ministry, they are to be advised of their right to raise a personal grievance.

In all cases where the Ministry terminates employment the formal letter to the employee must outline the reasons for the dismissal.

Disciplinary Action Procedure

This procedure outlines the steps a manager can follow where a staff member has a performance issue that has not been resolved through the normal process for managing performance, or if there is an issue of alleged misconduct or serious misconduct.

The [procedure contains links \[http://doogole/resources/helping-staff/procedures-manuals/hr/formal-disciplinary-procedure.html\]](http://doogole/resources/helping-staff/procedures-manuals/hr/formal-disciplinary-procedure.html) to checklists that can assist managers with the disciplinary action process.

HR Consultants

If a manager is in doubt about any of the steps or issues, an [HR Consultant \[http://doogole/business-groups/organisational-solutions/who-we-are/human-resources/index.html\]](http://doogole/business-groups/organisational-solutions/who-we-are/human-resources/index.html) should be contacted.

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