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| RELATED DOCUMENTS | <p> Australian Professional Standards for Teachers and Principals Catholic Schools Office Code of Conduct Counselling and Disciplinary Procedure Guide Diocese of Maitland Newcastle Code of Conduct Fair Treatment Policy Integrity in Ministry Integrity in the Service of the Church Workplace Grievance Policy </p> <p>Industrial Awards and Agreements:</p> <ul style="list-style-type: none"> ▪ Amusement, Events and Recreation Award 2020 ▪ Banking, Finance and Insurance Award 2020 ▪ Children's Services Award 2010 ▪ Clerks Private Sector Award 2020 ▪ Catholic Diocese of Maitland-Newcastle, Catholic Schools Office Staff Enterprise Agreement 2019-2021 ▪ Educational Services (Teachers) Award 2010 ▪ Miscellaneous Award 2020 ▪ New South Wales and Australian Capital Territory Catholic Systemic Schools Enterprise Agreement 2020 ▪ NSW and ACT Catholic Systemic Schools Principals Multi-Enterprise Agreement 2020 ▪ Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS Award) <p>Legislation:</p> <ul style="list-style-type: none"> ▪ Age Discrimination Act 2004 (Cth) ▪ Anti-Discrimination Act 1977 No 48 (NSW) ▪ Australian Human Rights Commission Act 1986 (Cth) ▪ Disability Discrimination Act 1992 (Cth) ▪ Fair Work Act 2009 (Cth) ▪ Racial Discrimination Act 1975 (Cth) ▪ Sex Discrimination Act 1984 (Cth) ▪ Work Health and Safety Act 2011 No 10 (NSW) |

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Purpose

The Diocese of Maitland-Newcastle, will deliver services consistent with the principles and standards detailed in the resources [Integrity in the Service of the Church](#) and [Integrity in Ministry](#). These documents, in accordance with legislative obligations, specify the expected behaviours of all workers within the DoMN. In turn, this policy ensures that objective actions are taken to correct any behaviour or performance that does not meet these standards.

The DoMN expects satisfactory standards of behaviour, conduct, performance and attendance from all its workers. The purpose of this document is to set down the expectations of the DoMN and provide consistency in the treatment of workers and to ensure matters are dealt with promptly. This document outlines the principles the DoMN and its agencies will follow when addressing counselling and disciplinary matters.

Policy Statement

The Catholic Diocese of Maitland-Newcastle, its agencies and parishes will address conduct and performance issues that breach either the guidelines detailed in the resources [Integrity in the Service of the Church](#) and [Integrity in Ministry](#), the [Catholic Schools Office Code of Conduct](#) (where applicable) or the [Diocese of Maitland Newcastle Code of Conduct](#) (where applicable), or the worker's employment contract. All counselling or disciplinary action will be carried out in a fair and reasonable manner and in accordance with the principles of procedural fairness.

The policy aims to provide a work environment where staff are motivated to perform at their best. Leaders who provide staff with clarity regarding expectations, feedback on their practice and support for their continuing development are central to achieving this aim, as is preparedness to address instances of underperformance.

Scope

This policy applies to all Workers of the Diocese of Maitland-Newcastle.

This policy does not apply to any matter involving a complaint about treatment of a child or vulnerable person. Any matters such of this are to be immediately referred to the Office of Safeguarding.

Definitions

Child

Means an individual under the age of 18 years

Counselling

A counselling session is a meeting between and worker and manager where the particular aspect of the worker's performance or conduct may have been identified by the manager as requiring attention, or the worker's overall performance or conduct may require adjustment.

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Diocese of Maitland-Newcastle

Diocese of Maitland-Newcastle means the Parishes within the Diocese and the following works:

- The Diocese of Maitland-Newcastle Catholic Schools Office;
- Catholic Schools within the Diocese of Maitland-Newcastle;
- Diocesan offices and shared services;
- St Nicholas Early Education;
- St Nicholas OOSH;
- Catholic Development Fund;
- CatholicCare Social Services Hunter Manning;
- Office of Safeguarding; and
- Development and Relief Agency

Discipline

Discipline is the corrective action taken to produce a specific characteristic or pattern of behaviour, especially guidance/training/delivery that produces acceptable improvement to that behaviour in line with the Catholic Diocese of Maitland-Newcastle values.

Manager

A manager is a worker with additional responsibilities including supervising workers and/or administering a service area. This includes, but is not limited to, managers, team leaders, directors, principals, assistant principals, heads of services, parish administrators and business managers.

Mediation

A form of alternative dispute resolution resolving disputes between two or more parties. It is the attempt to settle a dispute through active participation of a mediator who works to find points of agreement and make those in conflict agree on a fair result.

Misconduct

Unacceptable or improper behaviour, particularly when in regard to breaches of policy or Code of Conduct.

Performance Management

Encompasses processes and activities designed to support and guide workers in fulfilling the objectives responsibilities outlined in their position descriptions. Performance management is a process with objectives that are goal and time-bound and mainly involves setting and monitoring goals and progress as well as taking active steps to correct underperformance.

Procedural Fairness

The rules or principles of procedural fairness, have been developed to ensure that decision-making is fair and reasonable. Put simply, procedural fairness involves decision-makers informing people of the case against them or their interests, giving them a right to be heard (the 'hearing' rule), not having a personal interest in the outcome (the rule against 'bias'), and acting only on the basis of logically probative evidence (the 'no evidence' rule).

At every formal stage of a disciplinary process the respondent will be advised of the nature of the underperformance or poor performance and provided with information on when this has occurred or examples of the unacceptable behaviour. They will be given an opportunity to respond to the allegation/s. Similarly, the same principle of procedural fairness will be applied to any performance management processes resulting from any proven allegations.

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Respondent

A respondent is a worker against whom a grievance, allegations of misconduct, or poor performance, have been raised.

Underperformance or Poor Performance

Encompasses performance where there is a persistent or serious failure to perform the duties of a position or to perform them to the required standard having regard to:

- The nature and purpose of the position
- The level of the position
- Non-compliance with workplace policies, rules or procedures
- Unacceptable behaviour in the workplace
- Disruptive or negative behaviour that impacts on co-workers.
- Unsatisfactory work performance that is a failure to perform the duties of the position to the required standards.
- For a staff member to be managed under the Performance Management procedure, concerns about their work performance or behaviour must be based on valid reasons as evidenced by the following criterion:
 - Achievement of individual goals to the required standard within an agreed timeframe
 - Accountabilities as defined in position description
 - [Catholic Schools Office Code of Conduct](#)
 - [Diocese of Maitland Newcastle Code of Conduct](#)

Consideration will be given to any mitigating circumstances.

Unfair Dismissal

Unfair dismissal occurs when an employee is dismissed harshly, unjustly or unreasonably (Fair Work Act 2009 Section 385). There must always be a valid reason for any termination of employment to occur.

Vulnerable Person

An individual aged 18 years and above who is or may be unable to take care of themselves, or is unable to protect themselves against harm or exploitation by reason of age, illness, trauma or disability, or any other reason.

Worker

A Worker is a person who carries out work in any capacity for an employer or Person Conducting a Business Undertaking. This includes employees, clergy, trainees, apprentices, work experience students, volunteers, contractors and agency workers.

In the Diocese of Maitland-Newcastle, Worker includes those who carry out work in the Parishes within the Diocese and the following works:

- The Diocese of Maitland-Newcastle Catholic Schools Office;
- Catholic Schools within the Diocese of Maitland-Newcastle;
- Diocesan offices and shared services;
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Workplace Investigation

Workplace investigations are conducted to gather evidence to substantiate a grievance, worker complaint or alleged breach of policy, procedure or other standards. They are undertaken in a confidential, timely, independent, fair and reasonable manner in order to establish the facts in regard to presented allegation/s.

Policy Context

Underperformance or poor performance can be exhibited in the following ways:

- unsatisfactory work performance, that is, a failure to perform the duties of the position or to perform them to the standard required
- non-compliance with workplace policies, rules or procedures
- unacceptable behaviour in the workplace
- disruptive or negative behaviour that impacts on co-workers

Underperformance is not the same as misconduct.

Underperformance or poor performance should be dealt with promptly and appropriately by a manager, as workers are often unaware they are not performing well and so are unlikely to change their performance. Best practice employers understand that issues that are not addressed promptly also have the potential to become more serious over time. This can have a negative effect on the business as a whole as it can affect the productivity and performance of the entire workplace.

Misconduct is very serious behaviour which may warrant instant dismissal. In cases of misconduct employers should seek specific advice about how to proceed before taking any action.

In some instances, suspension of the worker from the workplace will be required whilst investigations are undertaken. In these instances a risk based approach will be taken and discussed with the Head of Human Resources (or delegate) prior to any suspension coming into force. The risk assessment will be documented with all identified risks in these categories weighing these up against any factors that reduce or remove the risk using the DoMN stated risk assessment methodology.

The Head of Human Resources will consult with the relevant senior manager prior to any suspension. Every effort will be made to advise the affected worker of the suspension in a face to face meeting, however, we acknowledge on some occasions this may not be possible and telephone or other advice may be utilised.

Where a face to face meeting is not possible, the affected employee will be offered a face to face meeting as soon as practicable after the suspension coming into effect.

This policy should be read in conjunction with the [Counselling and Disciplinary Process](#) and [Counselling and Disciplinary Procedure Guide](#).

Responsibilities

Head of Human Resources

The **Head of Human Resources** is responsible for:

- Ensuring the consistent implementation and maintenance of discipline outlined in this policy, through:
 - provision of appropriate training and coaching;

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- oversight of agency policy and procedures that support the Counselling and Disciplinary Policy; and
- regular reviews of the policy for continuous improvement purposes

Team Leader, HR Business Partners

The Team Leader, HR Business Partners is responsible for:

- Ensuring the consistent and fair implementation and maintenance of discipline outlined in this policy
- Investigating grievances
- Representing the DoMN in the Fair Work Commission and other Third Party jurisdictions
- Dealing with third party representatives (including Union representatives)
- Resolving as far as possible/practicable matters at the lowest possible level in the dispute settlement hierarchy.

HR Business Partners

HR Business Partners are responsible for:

- Providing coaching and training to management and workers on matters related to managing inappropriate conduct by workers
- Monitoring quality of application of the policy and procedure
- Ensuring relevant managers are kept informed on progress
- Investigating grievances
- Dealing with third party representatives (including union representatives)
- Maintaining confidentiality at all times, and
- Managing completed disciplinary documentation on the worker's personnel file.

Managers, Supervisors and Principals

Managers, Supervisors and Principals are responsible for:

- Ensuring that all staff are aware of the standards of conduct expected of them
- Ensuring that issues are raised at the earliest opportunity
- Ensuring that the discipline of all staff is managed in a structured way and in accordance with this policy, and
- Providing appropriate, timely action when behaviour does not meet the agreed outcomes and standard.
- Ensure line manager is notified if/when improvement targets are/are not met.

Workers

Workers are responsible for:

- Monitoring own behaviour and seeking feedback
- Compliance with the DoMN's behavioural expectations and performance requirements in order to avoid the counselling and disciplinary process
- Advising the manager when assistance is required to determine appropriate behaviour; and
- Adopting a cooperative approach to the review of own behaviour or conduct.

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