



# Staff Discipline, Suspension and Dismissal Procedure

Procedure Number  
WCDHB-HR-0009

Version Nos:  
6

## 1. Purpose

West Coast District Health Board (WCDHB) considers that there are minimum standards of behaviour, performance and responsibility expected between the organisation and its employees. WCDHB may utilise warnings, suspensions and/or dismissal Procedures in order to ensure the efficient performance and exercise of its functions. These Procedures apply to all staff but do not replace ongoing feedback, which is to be used in the first instance. These procedures are to be applied as a last resort where appropriate remedial actions have failed.

## 2. Application

These Procedures are to be followed by all staff throughout WCDHB.

## 3. Definitions

For the purposes of this Procedure:

**Conduct Detrimental to the Best Interest of WCDHB** is defined as:

- a) a conviction of a serious offence in a Court of Law which is punishable by imprisonment; or
- b) a conviction of an offence relating to the possession, receiving and/or supply of drugs, and may lead to suspension or dismissal.

## 4. Responsibilities

For the purposes of this Procedure:

the **Chief Executive Officer** (CEO) (or their Designate) is to:

- act in a fair and reasonable manner with regard to all aspects of staff discipline;
- evaluate all evidence and act in a procedurally fair manner where discipline, suspension or dismissal of staff is required;
- seek advice (where required) from the Human Resources Manager before taking any disciplinary action.

the **Human Resources Manager** is to:

- review biannually the WCDHB Code of Conduct and Staff Discipline, Suspension and Dismissal Procedures for Staff;
- act in a fair and reasonable manner with regard to all aspects of staff discipline;
- provide advice/direction, education and information to staff and managers (including the CEO).

the **General Managers** are to:

- act in a fair and reasonable manner with regard to all aspects of staff discipline;
- To make recommendations to the Human Resources Manager / CEO regarding suspension or dismissal of staff;
- evaluate all evidence and act in a procedurally fair manner where discipline, suspension or dismissal of staff is required;
- seek advice and direction from the Human Resources Manager before taking any disciplinary action.



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the *Heads of Departments* (HODs) are to:

- ensure all staff they are responsible for are aware of their responsibilities, including the WCDHB Code of Conduct for Staff;
- act in a fair and reasonable manner with regard to all aspects of staff discipline;
- make recommendations to the relevant General Manager, Human Resources Manager and CEO regarding suspension or dismissal of staff;
- evaluate all evidence and act in a procedurally fair manner where discipline, suspension or dismissal of staff is required;
- seek advice and direction from the Human Resources Manager before taking any disciplinary action.

### 5. Resources Required

- Letters (all disciplinary Procedures must be recorded in writing)

### 6. Process

#### 1.00 Definitions Of Misconduct

1.01 For the purposes of this Procedure, misconduct is divided into three sections.

1.02 ***Misconduct / Poor Performance*** is defined as offences that may lead to disciplinary procedures being invoked and can include, **but is not limited to** the following:

- (a) failure to comply with Policies, Procedures and Guidelines of WCDHB;
- (b) being absent from work for three consecutive days without notification via the WCDHB Leave Procedure (constitutes voluntary termination of employment);
- (c) misuse or unauthorised use of WCDHB tools, equipment, supplies, or vehicles;
- (d) defacing WCDHB property or posting offensive notices throughout WCDHB facilities;
- (e) an act or performance that is contrary to the maintenance of a satisfactory standard of service or to the efficiency of that service;
- (f) being absent from an assigned place of work during work hours without approval;
- (g) failure to notify a Manager if unable to commence work at the required time, without good reason;
- (h) failure to complete normal hours of work, except by reason of illness or personal emergency;
- (i) habitual lateness for work;
- (j) refusal to perform legitimate work or dereliction of duty;
- (k) disobedience or disregard of/ or wilful default relating to any lawful instruction;
- (l) negligence, carelessness, indolence, inefficiency or incompetence with regard to the discharge of duties;
- (m) gambling on WCDHB premises;
- (n) failure to maintain an appropriate standard of dress;
- (o) failure to record and report any accident or incident involving staff members, patients or visitors;
- (p) failure to report to a Manager any accident or incident involving personal injury or damage to WCDHB property.



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- 1.03 ***Serious Misconduct*** is defined as those offences that are more serious than those defined as misconduct/poor performance, and because of this seriousness will result in disciplinary procedures being invoked that may include suspension or dismissal. Serious misconduct can include, **but is not limited to** the following:
- (a) serious failure to comply with Policies, Procedures and Guidelines of WCDHB, in particular:
    - i. WCDHB Health and Safety Procedures
    - ii. WCDHB Prevention of Harassment Procedure
    - iii. WCDHB Information Technology Procedures
  - (b) falsification of time sheets, leave sheets, submitting false claims for expenses or otherwise knowingly making false statements;
  - (c) use of abusive or offensive language to another staff member, patient or visitor;
  - (d) behaviour affecting or likely to affect the safety, or cause injury or unreasonable distress to a patient, visitor or other staff member;
  - (e) unauthorised access to confidential information relating to a current or past patient, resident or staff member;
  - (f) disclosure to unauthorised persons of confidential information relating to a current or past patient, resident or staff member;
  - (g) wilful damage to WCDHB property;
  - (h) assaulting any person on WCDHB property;
  - (i) possession or removal of WCDHB property without authorisation, possession of a patient's or resident's property without authorisation, or possession of a staff member's property without that staff member's permission;
  - (j) sleeping during working hours in situations affecting the safety of patients, residents or other staff members;
  - (k) inappropriate, offensive or disruptive behaviour at place of work or elsewhere on a WCDHB facility;
  - (l) unauthorised use of fire protection or safety equipment;
  - (m) possession of an offensive weapon on WCDHB premises;
  - (n) providing false or misleading information as part of the recruitment process or a failure to disclose information relevant to the recruitment process (*as per the WCDHB Staff Recruitment and Selection Procedure*);
  - (o) any discussion relating to WCDHB activities with representatives of the news media without the prior authorisation of the Chief Executive Officer;
  - (p) failure to observe posted or otherwise stated safety Procedure;
  - (q) undermining the authority of a Manager;
  - (r) engaging in conduct detrimental to the best interests of WCDHB;
  - (s) unauthorised consumption of drugs on WCDHB premises;
  - (t) consuming alcohol on WCDHB premises or bringing alcohol onto WCDHB premises without the prior authorization of the Chief Executive Officer;
  - (u) reporting for work under the influence of alcohol, drugs or in such a condition that prevents the employee from performing their duties safely, efficiently or to the satisfaction of their Manager.



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### **2.00      Disciplinary Process**

- 2.01      The use of disciplinary actions by WCDHB will comply with the following criteria:
- (a)      the purpose of disciplinary action is to be corrective in nature and to prevent recurrence;
  - (b)      a staff member must be given notice of the specific allegations of misconduct to which they must answer and of the likely consequences if the allegation is established. A staff member must also be told he/she is entitled to seek assistance from an authorised bargaining agent or representative;
  - (c)      the disciplinary process must be applied in an equitable and fair manner, following the principles of natural justice;
  - (d)      similar disciplinary action will be taken in respect of similar acts of misconduct;
  - (e)      the disciplinary process will be implemented as soon as is practicable after the alleged act of misconduct occurs;
  - (e)      staff, patient and public safety is paramount;
  - (f)      that the dismissal of a staff member is a very serious matter and should only occur if there is no other appropriate means of resolving the situation;
  - (g)      the disciplinary process will be implemented as soon as is practicable after the alleged act of misconduct occurs;
  - (h)      where professional incompetence or misconduct has led to disciplinary action taking place this must be reported to the professional leader and General Manager who should consider reporting it to the appropriate registration authority;
  - (i)      where a health professional either resigns or is dismissed for reasons related to competence the WCDHB has a statutory obligation to inform registration authority.

### **3.00      Investigation Process**

- 3.01      Upon receipt of a complaint or information relating to alleged misconduct by a WCDHB staff member, the relevant Manager shall investigate (or General Manager in the case of a Manager or CEO (or their designate) in the case of a General Manager) and ensure that they have all the relevant facts and have sufficiently evaluated and considered them, including any explanation which the staff member offers. This investigation will be documented in writing.
- 3.02      Professional and technical expertise must be sought if the alleged misconduct involves professional or technical matters.
- 3.03      The investigation is to include:
- (a)      interviewing the staff member and giving them the opportunity to provide an explanation;
  - (b)      interviewing other persons involved;
  - (c)      checking records or verifying statements by any other means;
  - (d)      considering what disciplinary action has been taken previously;
  - (e)      documenting all aspects of the investigation in writing;
  - (f)      consider suspension if serious misconduct is alleged.



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- 3.04 When the staff member associated with the alleged act of misconduct is being interviewed they are to be:
- given prior warning of the nature and subject of the alleged act of misconduct that is being investigated (in writing);
  - given the opportunity to be accompanied during the interview by a representative / support person of their choice;
  - given the opportunity to explain their actions;
  - allowed to present any evidence that they believe is relevant to the investigation;
  - allowed to question any witnesses brought to the interview by Management.
- 3.05 The Manager conducting the interview (*as per Section 3.01*) must be accompanied by another Manager or HR Advisor to enable the discussions that occur as part of the interview to be corroborated. Where possible a gender and ethnicity balance should be maintained.
- 3.06 A written record of the interview (*as per Section 3.04*) must be kept by the Manager undertaking the interview.
- 3.07 The interview (*as per Section 3.04*) is to be conducted at an appropriate venue and any support required by the staff member (e.g. language assistance) is to be provided.
- 3.08 After all the relevant facts have been obtained and evaluated, the Manager is to:
- decide if any disciplinary action is to be taken (based on the evidence produced by the investigation, and taking into account the weight of probabilities); and
  - inform the staff member of their preliminary decision in writing;
  - if disciplinary action is considered necessary to be taken, warn the staff member of the consequences of continued acts of misconduct;
  - make available the opportunity for the staff member to provide any further information that would mitigate the circumstances, or change a final decision;
  - inform the staff member of their final decision in writing.
- 3.09 If the disciplinary action is to be a **warning (verbal, written or final written)**, then:
- The giving of the warning is to be witnessed by another Manager or HR Advisor and a support person for the staff member concerned;
  - The staff member is to be told:
    - that the warning is being given at this date;
    - the grounds for concern including the date and nature of the act of misconduct;
    - the findings of any investigations that were undertaken;
    - the improvements required;
    - the timeframe within which the improvements are to be made;
    - that if the staff member's performance/behaviour does not improve a further warning will be given;
    - about training or assistance that they will be given;
    - of any specific commitment required from the staff member regarding improving their conduct.
  - The staff member will be advised that written confirmation will be made of the warning (including verbal), that they will be provided with a copy and that the original will be placed on their personal file.



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3.10 If the staff member has already received a written warning or if the misconduct is considered serious enough, the disciplinary action taken may be a ***final warning***.

### **4.00 Dismissal Process**

4.01 A staff member's employment may be terminated by:

- (i) ***Notice of Termination*** which is given in accordance with the Disciplinary Procedures of WCDHB
- (ii) ***Summary Dismissal*** which is an immediate cessation of a staff member's employment without notice and can only be used in situations where there is evidence of serious misconduct.

4.02 Once an investigation into the staff member's behaviour has been completed (*as per Sections 3.01 – 3.08 of this Procedure*), and it is determined that the behaviour is either:

- (i) of such a level of seriousness that it warrants dismissal; or
- (ii) is a continuation of previous misconduct by the staff member;

then the General Manager in conjunction with the Human Resources Manager is to provide a written report to the CEO (or their Designate) with a recommendation (and justification) that dismissal of the staff member be considered. The staff member concerned is to be informed of this and provided with a copy of the report.

4.03 Upon receipt of the written report, the CEO (or their Designate) will undertake whatever investigation s/he requires to ensure they become fully conversant with all facts pertaining to the recommendation. If the CEO (or their Designate) is to interview any person or persons, then this must be as per Sections 3.01 – 3.08 of this Procedure.

4.04 Prior to the effective date of the cessation of employment, the relevant Manager is to ensure that the requirements of the WCDHB Exit Form Employment Procedure are followed.

### **5.00 Suspension Process**

5.01 WCDHB does not view suspension as a disciplinary action. It is a process to be taken to assist in the determination of whether or not disciplinary action is warranted.

5.02 Circumstances that can warrant the suspension of a staff member can include:

- (i) where it is alleged that there has been a serious act of misconduct and that it is necessary and/or advisable that the staff member concerned is removed from the workplace while the matter is being investigated;
- (ii) where the presence of the staff member in the workplace potentially compromises the safety of fellow staff members, patients or members of the public; or
- (iii) where the staff member has been charged in a Court of Law with an offence and the charge is such that:
  - (a) it affects directly the work of the staff member or WCDHB; or
  - (b) the continued presence of the staff member is likely to cause concern to other staff members, patients or members of the public and that it is therefore desirable that until the matter is resolved the staff member is removed from their duties.

5.03 Suspension will be undertaken by the staff member on full pay.



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- 5.04 The power to suspend a staff member resides with the relevant General Manager who will act to suspend a staff member upon the recommendation of the relevant Manager, who as part of an investigation (*as per Section 3.01 – 3.08*) has determined that suspension of the staff member concerned is warranted.
- 5.05 The General Manager will inform the staff member concerned of their suspension in writing. This written confirmation of suspension is to include:
- (i) date (period) of suspension;
  - (ii) reason for the suspension;
  - (iii) any reporting or other requirements during the period of suspension;
  - (iv) any other conditions of the suspension.
- 5.06 A copy of the notice of suspension is to be forwarded to the Human Resources Manager for monitoring and for placement on the relevant personal file.
- 5.07 As part of the suspension, the staff member concerned may be required to report to their Manager at regular intervals, and to provide a means whereby they can be contacted during normal working hours.

### 7. Precautions And Considerations

- ➔ All disciplinary actions need to be taken in line with the principles of natural justice
- ➔ Managers need to be able to demonstrate as part of all disciplinary actions just cause and procedural fairness.

### 8. References

There are no references associated with this Procedure.

### 9. Related Documents

There are no other documents associated with this Procedure.

<b>Revision History</b>	<b>Version:</b>	6
	<b>Developed By:</b>	Corporate Services: HR
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