



POLICY ON HANDLING MISCONDUCT ALLEGATIONS

1. PREAMBLE

In an organisation the size of Berry Street and despite every effort, at times there may be allegations of misconduct made against our staff, caregivers, volunteers, contractors and consultants.

A misconduct allegation may come from a variety of sources, including clients, staff, Berry Street managers or members of the public. At the time a misconduct allegation is made, it is considered neither definitely *true* nor *untrue*.

Where the misconduct allegation/s is serious (for example, where there may have been a breach of duty of care or a Berry Street policy) it will be formally investigated by Berry Street. The investigation is a process to determine whether the misconduct allegation can be substantiated. It should also be noted that the investigation of a misconduct allegation may form part of a disciplinary process and if proven, outcomes will be consistent with the seriousness of the misconduct and may include dismissal.

This Policy operates in conjunction with other Berry Street policies, such as the Equal Opportunity Policy, the Disciplinary Policy and Procedures and the Disputes Settling and Grievance Procedures (detailed in the Berry Street Enterprise Agreement).

Where a misconduct allegation involves a client and/or the Department of Human Services (DHS), a DHS Policy or Protocol may also be relevant.

This Policy does not cover allegations made against clients, as a different process will be appropriate in those circumstances.

This Policy may be changed from time to time at Berry Street's discretion.

2. PURPOSE

The main purpose of this Policy is to provide an overview of the guiding principles and processes for handling misconduct allegations within Berry Street.

3. SCOPE OF POLICY

This Policy applies to all Berry Street employees (including casual, part time, time-limited and sessional workers), caregivers, volunteers, contractors and consultants.

4. DEFINITIONS

A **complainant** is a person who has made an allegation.

A **misconduct allegation** is a complaint of inappropriate conduct *about a person for whom Berry Street has some direct responsibility* and includes conduct that is not consistent with Berry Street policy and/or an employee's job responsibilities or position description. When a misconduct allegation is made, it has not been proven.

An **investigation** is a process to gather facts and opinions, designed to assist the investigator make a decision about what occurred in the circumstances, including whether the misconduct allegation can be proven.

5. PRINCIPLES

- 5.1 All misconduct allegations will be dealt with as promptly as is feasible.
- 5.2 Individuals raising a genuine misconduct allegation will be taken seriously and will not be victimised for coming forward. A person who makes an allegation that cannot be proven, but is not deliberately false or malicious, will not be subjected to any detriment.
- 5.3 Both a person who makes a misconduct allegation and a person about whom an allegation of misconduct has been made will be treated fairly.
- 5.4 Similarly, the person/people making the misconduct allegation and the person/people about whom the allegation is made will, where appropriate, be informed of opportunities for support. A union representative or another employee are acceptable supports, as long as they are not involved directly in the allegations and they are not a witness to relevant events.
- 5.5 Any investigation will be carried out with impartiality and neutrality.
- 5.6 All relevant people will be kept informed, as appropriate, of the process, timelines and expectations.
- 5.7 All reasonable steps will be taken to maintain confidentiality. Information will only be shared between Berry Street staff on a 'needs to know' basis. Anyone making or responding to a misconduct allegation, or interviewed in relation to an allegation, must also keep

all details confidential. A breach of confidentiality may result in disciplinary action.

5.8 Where a person/parties have had a misconduct allegation made about them, they have the right, as soon as practicable, to:

- hear the allegations in full;
- have an opportunity to explain their version of events.

The person who has had a misconduct allegation made about them does *not* have an automatic right to any original documents about the allegation, including any document by the complainant outlining the misconduct allegation. The person *does* have a right to receive all relevant details of the misconduct allegation in writing.

5.9 Any action recommended as a result of an investigation will be appropriate to the circumstances.

5.10 Anyone found to have made a misconduct allegation that is deliberately false or malicious will face disciplinary action.

6. PROCESS FOR RESOLVING MISCONDUCT ALLEGATIONS

6.1 The process used by Berry Street for resolving misconduct allegations will be appropriate to the seriousness of the allegation made. For example, the Senior Manager may decide that the issue is most appropriately dealt with through supervision or mediation. A Senior Manager or person nominated by the Chief Executive Officer (CEO) will investigate all serious misconduct allegations (as defined in the Berry Street Disciplinary Policy and Procedures).

6.2 If a Berry Street staff member is alerted to a misconduct allegation, they are expected to:

- listen respectfully to the allegation;
- advise the person making the allegations that they will pass the information on to the relevant Senior Manager and that Berry Street will respond promptly;
- promptly fill in the “Misconduct Allegation Record” (Appendix 1), and give it to a Senior Manager to complete and action.

6.3 It is the responsibility of the Senior Manager to forward the Misconduct Allegation Record to the HR Manager. It is the responsibility of the Human Resource (HR) Manager to advise the CEO of the allegation.

6.4 An investigation may involve the following steps, in the order appropriate to the circumstances:

- taking a written statement from the person/people making the misconduct allegation;
- speaking to relevant witnesses;
- putting the allegations to the person/people complained about;

- making a decision regarding whether the misconduct allegations can be substantiated; and
- implementing appropriate actions in response to the findings.

7. OUTCOME

- 7.1 The outcome of an investigation will vary depending on the findings. It may include disciplinary action of an employee (up to and including termination of employment), an apology, training, changes in reporting responsibility, changes to placement arrangements, etc.
- 7.2 The person who made the allegation and the person against whom the allegation was made, will be given relevant information about the outcome and any action which will be taken.

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MISCONDUCT ALLEGATION RECORD

Date & Time of Allegation: _____ / _____ / _____ am/pm

Allegation received by:

Name: _____

Title: _____

Phone Number: _____

Details of person making allegation:

Name: _____

Address: _____

Phone Number: _____ Email: _____

Allegation made against:

Name: _____

Program/Location: _____

Phone Number: _____

Details of allegation: *(Attach if more space required)*

Action Taken: *(Attach if more space required)*

APPENDIX 1

Signed: _____ Date received: ____/____/____
Senior Manager

Received: _____ Date received: ____/____/____
Manager Human Resources

Signed: _____ Date received: ____/____/____
CEO