

## Summary of procedures for investigating allegations of misconduct against a workplace participant



**Please note that the person against whom an allegation is made is referred to in this document as the 'person subject of the allegation' (PSOA).**

When an allegation has been received, the Principal will seek advice from the Catholic Education Office. The Catholic Education Office will discuss and provide advice to the Principal regarding any legal, industrial, mandatory notification, pastoral care and media implications of the allegation.

As soon as it has been established that an allegation warrants investigation, to be fair to all concerned (including the PSOA), a formal process is instigated that protects the rights of each person and allows information to be collected and considered fairly and without contamination. As a supplement to SACCS [Procedures for Dealing with Allegations of Misconduct](#), the procedures published by the NSW Ombudsman are used as a guide (with permission) when investigating allegations of misconduct.

An investigator (or panel, often the Principal and the Principal Consultant) is appointed, and a legal officer from the CEO is allocated to advise the panel. In accordance with relevant procedures, an assessment is made about whether the PSOA should remain in their current position, be relocated or released from duties pending the outcome of the investigation.

Factors to be considered in making this decision include such things as the nature and seriousness of the allegation(s), the vulnerability of the children the employee would be in contact with at work, the nature of the position occupied by the PSOA, the PSOA's disciplinary history, other possible risks to the investigation and advice from Families SA or SAPOL.

### **The Investigation**

Due process requires that an investigation must be done carefully and can therefore take some time. The general steps involved include:

1. Interviewing relevant persons who would be able to contribute information to the investigation to help develop an accurate allegation or set of allegations. It should be noted that the investigation panel would try to maintain confidentiality throughout this process to the extent that this is possible.
2. On the basis of the information gathered, a Notice of Meeting letter is prepared for the PSOA. This letter details the allegation(s) and invites the PSOA to a meeting with the panel to discuss the allegation(s). This meeting is designed to be the opportunity for the PSOA to put on the record their version of events related to the allegation(s) and to have any further information of relevance, including mitigating circumstances, considered. The PSOA has the opportunity to seek advice and attend the meeting with a support person and is also given the number of the ACCESS Counselling service which is available on a confidential basis without cost to all employees and their immediate families. The PSOA can engage in a discussion led by the panel and/or can table a prepared written statement at the meeting if they wish. The panel may need to ask some clarifying questions to ensure that the information they are collecting is absolutely clear.
3. Depending on the information received to this stage, it is possible that more people may need to be interviewed. This is particularly the case when after meeting with the PSOA, new information is received which needs to be verified or where there are inconsistent versions of the alleged incident.
4. After all information has been collected, a report is prepared by the panel detailing the background, process of investigation and the findings which the panel has reached.

5. The report is forwarded to the Director for the Director's consideration and decision (or to the relevant employer in non-diocesan schools).
6. Once the Director has decided on an outcome or proposed outcome, an outcomes letter is prepared for the PSOA. This letter details the process of the investigation, the findings related to the allegation(s), and the resultant outcome or proposed outcome.

### Findings

There are a number of possible findings following an investigation:

1. The allegation was false (investigation found that the conduct did not occur)
2. The allegation was vexatious (investigation found that the allegation was made without substance and with the intent of being malicious or to cause distress to the PSOA)
3. The allegation was misconceived (investigation found that even though the allegation was made in good faith, it was based on a misunderstanding of what actually occurred)
4. The allegation was not sustained (investigation found that there was insufficient evidence to establish that the alleged conduct did occur).
5. The allegation was sustained (investigation found that the conduct did occur in whole or in part)

### Outcome

There are a number of possible outcomes for the PSOA following the findings:

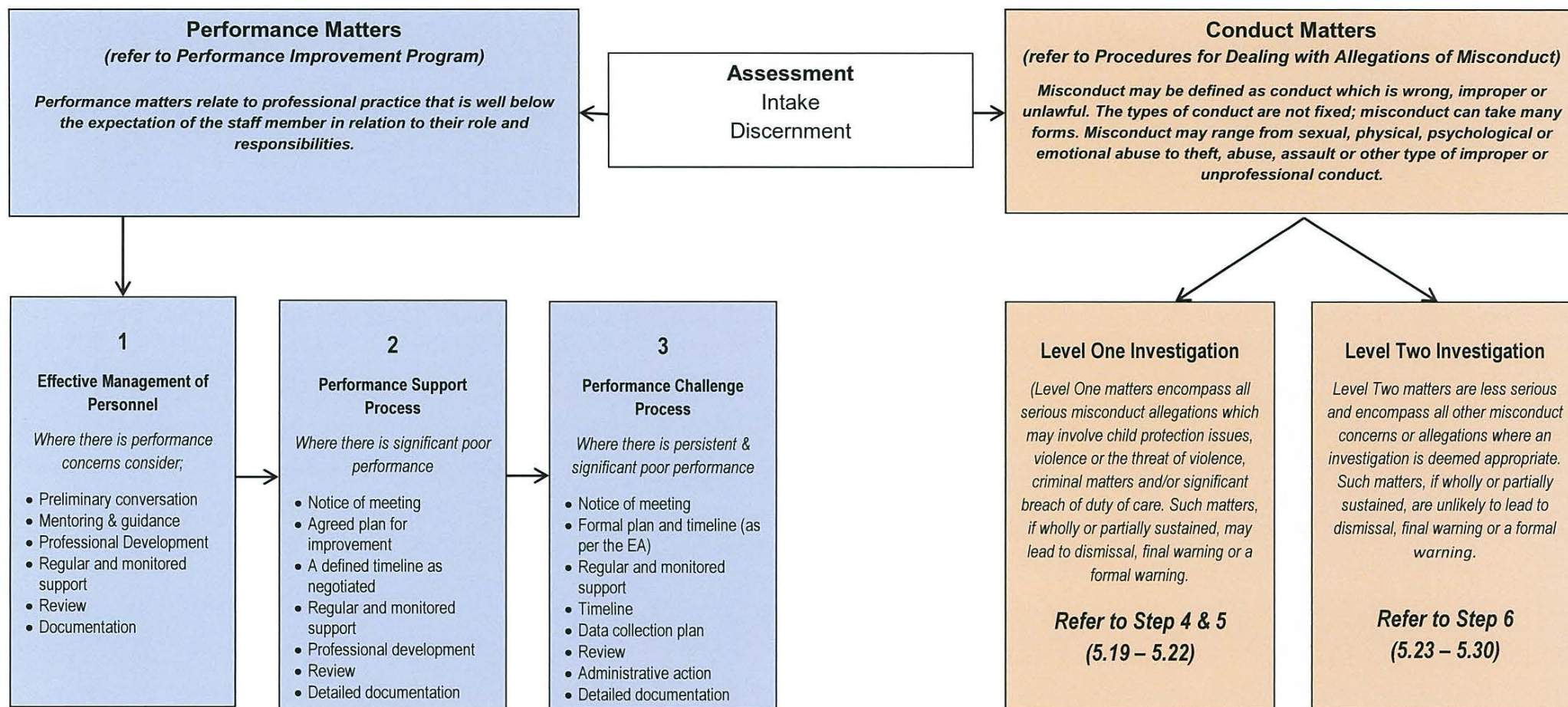
1. Where a finding of false, vexatious, misconceived or not sustained is made, the PSOA will receive confirmation in writing that no action will be taken.
2. Where a sustained finding is made, the range of outcomes includes:
  - Verbal warning/counselling
  - Written warning/counselling
  - Final written warning/counselling
  - Dismissal (for Diocesan schools, this requires permission from the Director. Non-diocesan schools are advised to ensure that they have consulted with the relevant Order/Employing authority).

It is probably clear from the steps outlined above that an investigation will take some time to complete properly, ensuring due process and fairness is adhered to. Some investigations can be handled within a shorter time frame than others. If at any stage, the PSOA is unsure of anything to do with the process or progress of the investigation, he/she is encouraged to get in touch with the CEO and ask to speak to the relevant Principal Consultant. More detailed information about these procedures can be accessed at the following link:

<http://online.cesamet.adl.catholic.edu.au/docushare/dsweb/View/Collection-360>



# Flowchart for determining action in performance and conduct matters relating to employees



**Note:** Where there is SAPOL or Families SA intervention, stop the investigation and consult with your PC. Processes to include some /all of the elements listed above, in part or in full as well as an offer of counselling through Access Counselling.

**Note:** During an investigation, information may arise which results in a Level Two investigation being treated as a Level One investigation.

**Critical References:** Procedures for Dealing with Allegations of Misconduct Guidelines  
[Protective Practices](#)  
[Managing allegations of sexual misconduct](#)