



Department of
Community Welfare Services
Victoria

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DIRECTOR'S CIRCULAR - POLICY

Procedures for Divisional Action in Matters where Assault on Staff, Assault by Staff, or Assault by Trainee/Ward on Trainee Ward is alleged.

1. Upon receiving a report of an incident occurring which indicates an assault has occurred, the Superintendent of the facility must decide what action is required.
2. There are three alternatives. On review of reports submitted including preliminary interview with staff and/or trainees if necessary, the Superintendent may:
 - (i) Decide that no further action should be taken.
 - (ii) Have the matter dealt with at facility level.
 - (a) If assault by trainee or ward on staff, take disciplinary action within the facility or recommendation to Supervisor, for Divisional/Departmental disciplinary action.
 - (b) If assault by staff on trainee, the Superintendent shall report to Supervisor, with recommendations as to any further Divisional/Departmental action.
 - (c) Where the assault is by one trainee or ward on another trainee or ward, the Superintendent may take disciplinary action within the facility or make recommendations to the Supervisor as to other Divisional/Departmental action. Each facility would ensure that appropriate systems are operating to record such events and their outcomes.
 - (iii) Have the matter investigated by Police for possible reference to an appropriate Court

Clearance for this course of action to be taken must be obtained from Director of Family and Adolescent Services, Deputy Director of Family and Adolescent Services (Operations) or Supervisor before proceeding, as this involves giving police permission to interview.

NOTE: If action is proposed under this option, it is essential to ensure that the matter is referred as soon as possible after the incident to enable police to be involved, if appropriate, as close to the time of the incident as possible. It is also important not to have initiated disciplinary action under options (i) and (ii) prior to any police involvement. Copies of statements taken and reports of the incident are to be forwarded immediately to the Supervisor.

3. Facility Level

At the local level, the Superintendent must initially use own judgement to decide which of the above courses of action to follow, given all the circumstances at the time of the incident. Consultation and advice regarding the appropriate course of action to take is available from the Investigations Officer, Personnel Office, Investigation Unit and/or relevant supervisor.

4. Processes of laying charges

As a matter of law, the Department cannot lay charges in relation to a criminal offence such as assault. The onus is on the particular individual against whom the offence was allegedly committed to make the complaint to police.

The Department, through the Superintendent in exercise of option (iii) above, can, however, call on the police to investigate the incident.

Upon information received in the ensuing investigation, the police must determine whether appropriate charges should be laid.

5. Staff/Trainees' rights in the issue of charging

If on investigation the Superintendent of the facility decides that there is no case to answer, or if in the Superintendents view there is sufficient doubt, Superintendent may opt to deal with the matter internally or decide to take no further action. Such decisions must be recorded appropriately and filed after ensuring that appropriate parties are informed on an action and need to know basis.

If the staff/trainee is not satisfied with the decision of the Superintendent, the matter should be referred to the Supervisor to which the Facility is responsible.

The Superintendent is responsible to ensure that this happens.

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6. Situations requiring Police involvement

Although it is difficult to cover all situations, certain circumstances would seem to warrant police involvement:

- (a) In cases of malicious and unprovoked attack.
- (b) Where physical injury was incurred or grievous bodily harm, serious wounding to an officer, ward or trainee.
- (c) In cases of escape or attempted escape where a trainee, ward or an officer has been assaulted or injured in the process.

- 7. In all instances outlined in (i), (ii) and (iii) above, reports and an outline of actions taken must be kept on appropriate files, with copies being sent in serious instances to the Supervisor to which the facility is responsible.

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