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Managing Workplace Discipline

*As a centre for Social Enterprise, FSG
Australia is committed to delivering on the
values of Freedom, Social Justice and Growth.*

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SECTION A – INTRODUCTION

Glossary

Refer to [FSG Australia glossary](#)

Scope

If there is an inconsistency between a particular procedure and your contract of employment, the terms of the contract of employment will override that particular procedure.

FSG Australia overarching policy is available at [FSG Australia Overarching Policy](#).

Refer to the Human Resources Department (HR) Operations Manual for procedures relevant to HR employees in the execution of their duties.

The [Staffing Solutions Operations Manual](#) details procedures outside of the scope of this document related to the management of casual staff including those brokered to other organisations or deployed from another organisation to perform work for FSG Australia.

Refer to [Managing Human Resources Procedures](#) for other human resource management procedures.

Legislation

Refer to [Legislation guide for more information](#)

Aged Care Act 1997(Cwlth)

Australian Human Rights Commission Act 1986 (Qld)

Equal Opportunity for Women in the Workplace Act 1999 (Cwlth)

Fair Work Act 2009 (Cwlth)

Racial Discrimination Act 1975 (Cwlth)

Sex Discrimination Act 1984 (Cwlth)

Privacy Act 1988 (Cwlth)

Human Services Quality Standards

Standard 6: Human resources

1. The organisation has human resource management systems that are consistent with regulatory requirements, industrial relations legislation, workplace health and safety legislation and relevant agreements or awards.
4. The organisation provides ongoing support, supervision, feedback and fair disciplinary processes for people working in the organisation.

Home Care Standards

Standard 1: Effective management

- 1.7 The service provider manages human resources to ensure that adequate numbers of appropriately skilled and trained staff/volunteers are available for the safe delivery of care and services to service users.

National Standards for Disability Services

Standard 6: Service management

- 6:1 Practice is based on evidence and minimal restrictive options and complies with legislative, regulatory and contractual requirements.
- 6:3 The service documents, monitors and effectively uses management systems including Work Health Safety, human resource management and financial management.

NSW Disability Service Standards

Standard 1 - Rights

- 1.3 Each person will receive a service in an environment free from discrimination, abuse, neglect and exploitation

Standard 6 – Service management

- 1.11 The corporate governance body of an organisation has strategies in place for communication with staff to promote continuous improvement and a collaborative, responsive organisation.

Principles

This procedure exists to provide clear instructions to all staff in regards to the disciplinary process when individual performance, work attitude or conduct fails to reach, or falls below the standard required of FSGA staff.

Policy

- FSGA staff will be subject to appropriate counselling and possible disciplinary action if their work attitude, performance or conduct breaches the standards required of FSGA staff.
- A fair and equitable procedure is used to address all issues consistently across staff.
- An appropriate level of response is used relative to the severity of the issue.
- Roles and responsibilities are clearly defined.

SECTION B - PROCEDURE

1.0 Overview of disciplinary procedure depending on issue severity

FSGA has clear procedures to follow in response to a matter requiring disciplinary action (please refer to [Table 1 – Action taken depending on issue severity](#))

Table 1 – Action taken depending on issue severity

Issue severity	Position Responsible	Discipline	Documents Required	Example
Minor	Coordinator/Team Leader	Informal discussion	Record details (e.g. diary entry or File Note - employee record form)	Being late for a shift or being inappropriately dressed
Moderate	Line Manager	Verbal warning	Performance issue record	Repeatedly arriving late for shift or not adhering to Human Rights in Practice principles
Serious	HR and Line Manager	Warning record	Warning record form	Failure to record medication assistance to administer
Major	HR	Varies depending on severity e.g. written warning, final warning or dismissal	Warning record form or termination letter	Aggressive behaviour towards a service user

2.0 Minor performance issues

Minor inappropriate conduct or poor performance may be handled informally by the line manager, with a record kept by the line manager of the problem and outcome (e.g. diary entry or [File Note - employee record form](#)). The file note does not need to be signed by the employee, but is a record of the conversation about the performance issues. Also a diary entry can be used. If a file note is completed, this needs to be sent to HR. The file note will then be placed on the employee's file. If there are numerous minor performance concerns, refer to [4.1 Verbal warning](#) for further information.

3.0 Recurring or serious performance issues

Although each situation will have individual differences, the following procedure will normally be used. The various stages set out below may be used alone or in combination with one another, depending on the nature of the issue. A staff member may be put on hold (i.e. not placed on shifts) until an investigation or disciplinary action is completed.

4.0 Warnings

4.1 Verbal warning

If a staff member's conduct or performance does not meet the required standard, the line manager will give a verbal warning. The staff member is provided with opportunity to explain their actions and any mitigating circumstances. If no mitigating circumstances exist, the staff member is issued with a verbal warning. The person will be advised of the reason for the warning and that it is the first stage of the disciplinary procedure. Specific areas for improvement are clearly explained. Agreed actions for improvement will be discussed. This should be recorded on a [Performance issue record](#) and forwarded to HR. The [Acknowledgement of understanding of specific policies & agreement to comply form](#) may be used to record agreement to comply with specific policies.

4.2 Written warning

It is important to involve HR at this stage and subsequent stages of the discipline process. A written warning is used if the issue is serious enough or if further issues exist after issuing a verbal warning. The staff member is provided with the opportunity to explain their actions. If no mitigating factors exist, the staff member is issued with a first written warning. The [Warning record form](#) is completed and is signed by all relevant parties. The written warning will indicate that, unless there is satisfactory improvement within the identified timeframe, further disciplinary action or termination may result. A copy of the [Warning record form](#) will be provided to the staff member and a copy will also be kept on their file.

If an issue is sufficiently serious, a first and final warning can be issued. If this is the case, it will be noted on the [Warning record form](#).

4.3 Final written warning

If there is a failure to improve conduct or performance after a written warning has been issued, a final warning may be given. The staff member is provided with opportunity to explain their actions. If no mitigating factors exist, the staff member is issued with a final written warning. A final written warning will specify the issues, improvements required, timeframe for improvement and will state that dismissal will result if there is no satisfactory improvement. The staff member is required to sign the [Warning record form](#). A copy of the [Warning record form](#) will be provided to the staff member and a copy will also be kept on their file.

5.0 Appealing a warning

An employee wanting to appeal a warning must do so to the General Manager Corporate Services in writing within 5 working days. The letter must detail the reason why they are appealing the warning decision.

An investigation will be conducted by FSGA and the outcome will be detailed in writing to the appellant within 5 working days of receipt of the appeal.

6.0 Follow-up meeting

After managing any performance issue, a follow-up meeting date is required to be set to review the staff member's improvement (usually within four to six weeks).

7.0 Termination

Investigation records that may lead to termination must go to the Chief Executive Officer to view. Terminations that result from housekeeping i.e. the employee is within their probationary period or a casual employee has not worked for 3 months, may be carried out by HR personnel.

If a staff member's actions constitute serious misconduct (refer to [9.0 Serious misconduct](#)) or if performance is still unsatisfactory after receiving written warnings, termination will normally result. Termination may also result if a person does not meet safety screening requirements (refer to [Managing Human Resources Procedures](#)).

The staff member will be presented with a termination letter stating the relevant notice period or payment in lieu of such. In the case of termination for serious misconduct no notice period or payment in lieu of notice will be provided. The termination letter will be created by HR.

8.0 Appealing a termination decision

An employee wanting to appeal a termination decision must do so to the General Manager Corporate Services in writing within 5 working days. The letter must detail the reason why they are appealing the termination decision.

An investigation will be conducted by FSGA and the outcome will be detailed in writing to the appellant within 5 working days of receipt of the appeal.

9.0 Serious misconduct

Serious misconduct refers to a serious breach of policies and procedures, guidelines, or legislation. Staff members deemed to have acted in a manner reflecting serious misconduct may have their employment terminated.

Examples of serious misconduct include the following:

- theft of FSGA property or funds
- willful damage of FSGA property
- carrying out a private business from FSGA premises or using FSGA resources for private business
- disclosure of confidential information or inappropriate disclosure of personal information in relation to the organisation, service users or staff
- substance misuse/intoxication, including prescribed drugs, while on duty
- work-related discrimination and/or harassment of any person
- work-related abuse, assault or neglect of any person
- non-reporting of incidents in relation to professional misconduct, unethical behaviour, negligence, hazards or unsafe work practices
- work-related acts involving malice towards or defamation of others
- taking advantage of service users
- a breach of FSGA policies and procedures
- engaging in sexual activities with current service users and former service users who do not have the cognitive capacity to give consent.

10.0 Summary of roles and responsibilities

FSGA has clearly defined responsibilities in the course of disciplinary procedures (refer to [Table 2 – Disciplinary action roles and responsibilities](#))

Table 2 – Disciplinary action roles and responsibilities

Role	Responsibility
Line Manager and Coordinator	<ul style="list-style-type: none"> • Document all performance issues. • Provide the staff member an opportunity to explain their actions. • Ensure that HR is aware of all performance issues and is involved in disciplinary processes. • Ensure appropriate processes are followed and discipline procedures are handled consistently and confidentially.
HR Advisor	<ul style="list-style-type: none"> • Ensure there is an investigation completed, where necessary. • Ensure appropriate processes are followed and discipline procedures are handled consistently and confidentially. • Assist line managers and coordinators with any staff performance issues or investigations.
CEO	<ul style="list-style-type: none"> • Assist with any unresolved issues. • Ensure appropriate processes are followed and disciplinary procedures are handled consistently and confidentially.

11.0 Disciplinary Process

When it has been identified that there are allegations against an employee the following must occur:

- The employee will be informed of the allegations made against them verbally and then confirmed in writing.
- Depending upon the seriousness of the allegations it will be determined if the employee will be placed on hold or removed from working in a specific area but found alternative duties where possible.
- The employee will be advised of the organisation's obligation to them whilst the process is being carried out (see [12.0 Employer obligations](#)).
- The employee will be given the opportunity to address the allegations at an investigation meeting.

- e) The employee will be provided with a copy of the notes taken at the meeting and the opportunity to add further information if they wish.
- f) The investigation report will be submitted to Senior Managers for consideration and to determine if disciplinary action is required.
 - I. If no disciplinary action is required then the employee will be informed and no record will be recorded on their file.
 - II. If disciplinary action is required then Senior Management shall determine the level of action to be taken.
- g) Disciplinary action to be taken will be communicated to the employee verbally then confirmed in writing. A record of the disciplinary action will be placed on the employee file and referred to in the event of any future disciplinary action taken.

12.0 Employer obligations

Employer obligations are as follows:

- a) To provide the employee with the allegations made against them in writing.
- b) To provide the employee time to consider the allegations.
- c) To provide the employee the option to respond to the allegations in writing.
- d) To provide the employee the right to be supported by friend, colleague, family member or trade union representative.
- e) To provide the employee with a copy of the notes made at the investigation meeting.
- f) To investigate any additional information provided by the employee to support their response.
- g) To provide an appeals process.

13.0 Employer conditions

Employer conditions are as follows:

- a) FSG Australia does not permit the recording of interview meetings in any other method than hand written notes—voice recording is not permitted
- b) FSG Australia will protect the rights of those involved in the investigation to privacy and confidentiality (unless disclosure is required by law).
- c) FSG Australia does not permit employees who have had allegation made against them to approach those who have provided witness statements or evidence with the intention of discussing the information provided directly with them.
- d) FSG Australia does not provide the original documentation.