

Health Commission of N.S.W.,  
9/13 Young Street,  
SYDNEY. 2000

File No. SG.372

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Date: 13 March 1974

(Distributed to all Schedule 5 Hospitals and Regional Directors)

Investigation and Reporting of Matters  
Involving Discipline of Staff.

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1. It has become apparent that some hospitals are not aware of the urgency of matters involving disciplinary action nor are they aware of procedures to be adopted in such cases.
2. In order that a uniform policy relating to disciplinary cases may be implemented, the undermentioned guidelines have been prepared to assist those officers required to conduct preliminary investigations. It is emphasised that they are only guidelines. It is expected that the interviewing officers will use initiative and sound judgement to get all the facts from those being interviewed.
3. All disciplinary matters are to be treated with the utmost urgency. It is essential that each person who may have any knowledge of the incident be interviewed as soon as practicable after the incident, while the events are still fresh in mind.
4. If the alleged misdemeanour e.g. striking a patient, occurred in an area where there may be witnesses, all staff and patients (if possible) in the area at the time of the alleged offence or offences should be interviewed on a question-and-answer basis and a written record made of the interview.
5. It has been the practice at some hospitals only to interview the complainant, the accused and any other person mentioned by these persons during the interview. When the case is being prepared for the Inquiry, which is usually about four weeks after the alleged offence, the trail tends to be "cold" and when witnesses who have not been interviewed previously are finally interviewed they are liable to forget some important details.
6. When interviewing witnesses etc. the Medical Superintendent should briefly inform them of the reason for the interview. All statements made at the interviews should be recorded.
7. The Medical Superintendent should not state any personal observations to the accused, the complainant or witnesses because, if the Medical Superintendent is called as a witness, he may be questioned on statements which he is alleged to have made.
8. Each page recording the interviews should be signed by those participating in the interview.
9. The report to the Commission by the Medical Superintendent should contain the following and be referred through the Regional Director, where such have been appointed:-

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9. continued.....

- 9.1 Full details of the alleged offence.
- 9.2 Recommendation by the Medical Superintendent.
- 9.3 Private address of the accused.
- 9.4 Details of accumulated recreation leave, extended leave due at a given date.
- 9.5 Complete side notes - i.e.

Born.

First Employed.

Details of broken service, if any.

Salary.

Dating from.

Permanent/Permanent on probation/Temporary.

- 9.6 Attach original and two copies of the signed statements.

10. Where it is impracticable to interview all the persons involved within a reasonable period (a reasonable period will be left to the discretion of the Medical Superintendent, but a period not longer than one working week would seem desirable), a preliminary report should be submitted through the Regional Director to the Commissioner, Manpower and Management Services, together with a recommended course of action.

11. In cases where Regional Directors are already appointed it is suggested that he or his nominated representative be in attendance at the hospital Inquiry as an impartial observer and to question the witnesses where desirable. It is important that the Regional Director acquire first hand information of the case in order that he may assess the hospital's recommendation, and to be in a position to assist in the presentation of the case at a later Inquiry, if necessary.

12. The role of the hospital in matters where disciplinary action may be required does not diminish once the report has been submitted to the Commission. It is important that all matters which may be of relevance to the case should be reported promptly as they occur.

13. In one recent case the Commission was considerably embarrassed by the fact that two of the key witnesses involved in the case had resigned and the Commission only became aware of this fact when the arrangements were being made for them to attend the Public Service Board Inquiry.

14. The attached Schedule may prove useful in matters relating to Disciplinary Procedures under the Public Service Act. It is to be noted that officers who are permanent on probation can only be suspended by the Public Service Board. Where disciplinary action is anticipated against a permanent officer, he may be temporarily suspended by the Senior Officer (only to be used in emergent circumstances) or may be invited to proceed on recreation leave or leave without pay, as an alternative to suspension from duty. It is important that the officer makes written application for leave.

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DISCIPLINARY PROCEDURES UNDER THEPUBLIC SERVICE ACT, 1902

	<u>PERMANENT OFFICERS</u>	<u>TEMPORARY EMPLOYEES</u>
<b>CHARGES</b>	Charges may be laid by the Public Service Board ONLY (section 56)	Cannot be charged
<b>SUSPENSION</b>	<ol style="list-style-type: none"> <li>1. May be temporarily suspended by senior officer of branch where employed, and must be immediately reported to Departmental Head - only to be used in emergencies (section 56)</li> <li>2. By Departmental Head (section 56)</li> <li>3. By Public Service Board (section 58)</li> <li>4. Where officer is on probation - by Public Service Board ONLY. (section 58)</li> </ol>	Cannot be suspended
<b>DISMISSAL</b>	<ol style="list-style-type: none"> <li>1. By Governor on recommendation of Public Service Board ONLY after an Inquiry under Public Service Act (section 56)</li> <li>2. If convicted of a felony (section 61(1))</li> <li>3. If made bankrupt by fraud etc. (section 61(2))</li> <li>4. By the Crown at any time (section 65)</li> </ol>	<p>Either by -</p> <ol style="list-style-type: none"> <li>1. Public Service Board (at any time)</li> </ol> <p>OR</p> <ol style="list-style-type: none"> <li>2. By Departmental Head, BUT subject to confirmation by the Public Service Board</li> </ol>
<b>APPEAL RIGHTS</b>	<p>To Crown Employees Appeal Board ONLY in respect of disciplinary matters.</p> <p>May appeal against -</p> <ul style="list-style-type: none"> <li>* dismissal</li> <li>* fine</li> <li>* reduction in grade or position</li> <li>* being required to resign</li> </ul> <p>N.B. There is no appeal against annulment of probation.</p>	<p>May appeal only to the Crown Employees Appeal Board, and ONLY where the employee has more than 12 months service.</p> <p>May only appeal against dismissal.</p> <p>There is no appeal against non-retention of services.</p>

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15. The foregoing information has been formulated as a guide to action in disciplinary cases and should be read in conjunction with Section 7 of the Procedure Handbook on Staff and Personnel Matters issued by the Public Service Board, and also to circulars that have been issued previously on this matter.

S. A. BINGHAM,  
Acting Secretary.