

Title: Volunteer Disciplinary Policy		No: 43703
Policy or Practice Owner: Executive Manager Community Engagement		
Policy or Practice Operational Delegate: Volunteer Engagement Lead		
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Reference or source: Disciplinary Policy, Volunteering Australia Guidelines		
Purpose: To outline the processes to be followed when managing situations of unsatisfactory performance, misconduct and serious misconduct		
Application Volunteers and staff supervising and managing volunteers	Type Policy	Policy group People

1. Background

- 1.1. At Family Life we strive for a positive workplace and volunteering culture, and are committed to dealing with issues of misconduct and unsatisfactory behaviour and performance promptly and fairly.
- 1.2. Family Life requires all volunteers to perform their role in accordance with the standards and expectations of their position and act in accordance with established conduct requirements.
- 1.3. This policy outlines the processes to be followed when managing situations of unsatisfactory performance, misconduct and serious misconduct in accordance with the principles of procedural fairness.

2. Definition

- 2.1. Serious Misconduct
 - 2.1.1. Conduct which may include, but is not limited to:
 - Misbehaviour of a kind which constitutes a serious impediment to the carrying out of a volunteer's duties or to a volunteer's colleagues (including employees) carrying out of their duties;
 - 2.1.2. Serious dereliction of the duties required of a volunteer's position. This can include:
 - Wilful or deliberate behaviour which is inconsistent with a volunteer continuing in their employment, such as:
 - breaching confidentiality, and/or privacy legislation.
 - breaching Equal Employment Opportunity policies and procedures, including serious harassment, sexual harassment, discrimination or bullying.
 - inappropriate web browsing or downloading practices, abuse of the communication systems and/or any other company equipment.
 - 2.1.3. Behaviour that causes immediate and serious risk to:
 - health or safety, including physical or psychological violence or threats of violence.

- the reputation or financial viability of the employer's business.
- Unlawful behaviour such as theft, fraud, and assault.
- Being under the influence of alcohol or drugs at work.
- Refusing to carry out a lawful and reasonable instruction consistent with the volunteer's agreement.
- Victimisation and reprisal.
- A seriously breach of Family Life work and procedures or the law

2.2. Misconduct

The Courts have generally determined that 'misconduct' involves something more than mere negligence, error of judgement or innocent mistake. Both in law and in ordinary speech the term 'misconduct' usually implies an act done willfully with a wrong intention, and conveys the idea of wrongful intention. Whether a particular course of conduct will be regarded as misconduct is to be determined from the nature of the conduct and not from its consequences.

2.3. Underperformance

Occurs when a volunteer is not performing the duties of their role to the required standard or otherwise is not performing in a satisfactory manner. Performance expectations include the volunteer's technical duties and their conduct in connection with their role.

2.4. Support person

A friend or colleague but not a practicing barrister or solicitor. In the context of this policy the support person's role is to provide the volunteer with support through the process, not advocate on their behalf.

2.5. Vexatious

A vexatious complaint is one which is knowingly made without sufficient grounds and with the intention of causing annoyance.

3. Scope

- 3.1. This policy applies to all Family Life volunteers and staff who supervise and manage volunteers.

4. Objectives

- 4.1. The purpose of a disciplinary process is to encourage volunteers who are not reaching the desired standard of behaviour or role performance to improve, attain and maintain an acceptable level of performance and behaviour.
- 4.2. If misconduct allegations are made against a volunteer, Family Life will follow the processes that are set out in this policy.
- 4.3. This policy aims to:

- 4.3.1. support volunteers who are not reaching the required standard of performance and/or behaviour to improve and maintain an acceptable level of performance and behaviour;
- 4.3.2. ensure that volunteers conduct themselves in accordance with established conduct requirements, as outlined in the Workplace Conduct Policy, Code of Conduct and Volunteer Policy; and
- 4.3.3. provide a framework to address performance and/or behaviour that is not to the acceptable standard.

Note: Where concerns are raised in good faith in relation to “improper conduct associated with Family Life” under the scope of the Whistleblower Policy, then this conduct will be managed in accordance with the Whistleblower Policy.

5. Policy or Practice Provisions

5.1. Disciplinary Action

5.1.1. Stages within the disciplinary process:

- Initial Informal Action
- Formal Action
- Formal Warning/s, which may include a First Warning; Final Warning; or First & Final Warning
- Dismissal from volunteering

5.1.2. A volunteer facing formal disciplinary action is entitled to be accompanied to relevant meetings by a support person. See the definitions section for more information.

5.2. Procedural Fairness Principles

Procedural fairness principles apply when managing disciplinary issues.

5.2.1. The principles cover the following:

- Before starting formal disciplinary action with a volunteer, Family Life will provide the volunteer with a copy of the Volunteer Disciplinary Policy;
- If Family Life wishes to meet with the volunteer they must inform them in advance, of what the meeting is about;
- If Family Life wishes to meet with the volunteer, they must provide the volunteer with reasonable notice of the meeting (at least 24 hours);
- Family Life will provide the volunteer with the opportunity to respond, and to explain their behaviour or conduct;
- Before making a decision about disciplinary action, Family Life will take into consideration the volunteer’s response for their unsatisfactory performance and/or behaviour, and any mitigating circumstances.

5.3. INITIAL INFORMAL ACTION

5.3.1. Generally, cases involving behavioural issues or unsatisfactory performance are dealt with through informal counselling. As part of

this process, the volunteer is made aware of the expected standards of performance and/or behaviour and is supported to improve their performance and/or behaviour during a reasonable timeframe.

- 5.3.2. Where a volunteer's supervisor deems that initial informal action is necessary, the supervisor will schedule a meeting with the volunteer to discuss any matters of concern relating to unsatisfactory behaviour and/or performance and will seek to resolve such matters through an informal counselling process. Supervisors are expected to notify the Volunteering Team of this process and seek advice where necessary.
- 5.3.3. The supervisor and volunteer should work together to put strategies in place that will assist and support the volunteer. As part of this informal process, the supervisor will provide the volunteer with constructive feedback, reiterate the expected performance and behaviour standards, and where relevant, assist the volunteer with specific training and support to assist in improving their behaviour and/or performance.
- 5.3.4. During initial informal action, the volunteer's supervisor will monitor progress and regularly communicate with the volunteer to assist them in meeting the expected standards.
- 5.3.5. Where the supervisor deems that the volunteer's unsatisfactory performance and/or behaviour is satisfactorily resolved through this informal process, no further action will be taken.

5.4. FORMAL ACTION

- 5.4.1. Where initial informal action does not result in improved behaviour/performance, the formal disciplinary process may be initiated.
- 5.4.2. Depending on the seriousness of the matter, Family Life may commence disciplinary action at any stage of the formal process. Supervisors should seek assistance from the Volunteering Team.
- 5.4.3. Where the Volunteering Team deems that formal action is necessary, they will work with the supervisor to schedule a meeting with the volunteer to discuss the specified area/s of concern. Prior to formal action commencing, the volunteer will be advised that they are entitled to be accompanied by a support person during any meeting that forms part of the formal process. Wherever possible, the volunteer must be given at least 24 hours' notice (or less if mutually agreed by the parties) of the disciplinary meeting.
- 5.4.4. At this meeting, the particular concerns in relation to the volunteer's performance, behaviour or conduct will be clearly outlined, and the volunteer will be given an opportunity to respond.

5.4.5. A written record of the meeting will be kept on the volunteer's file by the Volunteering Team.

5.5. Formal Warning/s (First Warning; Final Warning; First & Final Warning)

5.5.1. After considering the response from the volunteer, the Volunteering Team (in consultation with the supervisor) may decide to issue the volunteer with a written warning.

5.5.2. First Written Warning

Prior to issuing a volunteer with a First Written Warning, Family Life will consider any response or mitigation the volunteer provides and make a decision as to the appropriate course of action.

A First Written Warning may be an appropriate outcome, where:

- A volunteer is aware of performance expectations but has not followed the correct procedures;
- A volunteer has failed to perform to the required standards, following prior initial informal action;
- Behaviour or conduct issues are of sufficient concern to warrant a First Warning.

5.5.3. Final Written Warning

Prior to issuing a volunteer with a Final Written Warning, Family Life will consider any response or mitigation the volunteer provides and make a decision as to the appropriate course of action.

A Final Written Warning may be an appropriate outcome, where:

- Following a prior First Written Warning, a volunteer's behaviour or performance has not improved to the expected and communicated organisational standards.

5.5.4. First & Final Written Warning

Prior to issuing a volunteer with a First & Final Written Warning, Family Life will consider any response or mitigation the volunteer provides and make a decision as to the appropriate course of action.

A First & Final Written Warning may be an appropriate outcome, where:

- A volunteer has been found to have serious performance or behaviour issues, which are in breach of the Family Life Code of Conduct or Volunteer Policy, however where dismissal is not justified in the circumstances.

5.5.5. Dismissal

If the volunteer's unsatisfactory performance and/or behaviour continues following the issue of a Final Written Warning or a First & Final Written Warning, or if Family Life deems the level of

unsatisfactory performance or behaviour to be “appropriate” the volunteer will be dismissed.

Where Family Life decides to dismiss the volunteer they will be informed in writing of the reasons for this decision.

5.6. SERIOUS MISCONDUCT

5.6.1. Preliminary Assessment

5.6.1.1. Where a volunteer’s supervisor holds a reasonable belief that a volunteer has engaged in serious misconduct, they must refer the matter to the Volunteering Team. A list outlining examples of what may constitute serious misconduct can be found in the definitions section of this policy.

5.6.2. Preliminary Inquiries and Discussions

5.6.2.1. Before making a decision to proceed to a serious misconduct allegation, the Volunteering Team in consultation with the supervisor, may make preliminary enquiries and have discussions with relevant employees and volunteers, including the volunteer suspected of serious misconduct.

5.6.3. In the event of a preliminary discussion, the volunteer suspected of serious misconduct will be advised:

- of the purpose of the discussion;
- that they may be accompanied by a support person;
- that the information obtained may be used as evidence if the matter ultimately proceeds to an investigation;
- that they have the right to respond;
- that they may provide details of any mitigating circumstances (where the volunteer makes admissions to the allegations).

5.6.4. After this discussion, the Volunteering Team, in consultation with the volunteer’s supervisor, may:

- if satisfied with the volunteer’s response, take no further action and inform the volunteer of this decision;
- deal with the matter otherwise than as serious misconduct, including informal counselling;
- decide that the matter should proceed to formal investigation.

5.6.5. Suspension of Duties

A volunteer may be suspended from volunteer duties where there are reasonable grounds for believing:

- there is an imminent serious threat to the safety of other volunteers, employees or members of the public;
- there is a real possibility that the volunteer will destroy or tamper with evidence or attempt to influence witnesses; or
- it is in the public interest and/or in the interest of Family Life, to do so.

5.6.5.1. The purpose of suspension is to allow time for the consideration of the issues which need to be settled before the volunteer’s future with Family Life can be determined.

5.6.5.2. The volunteer will be provided with written notification of suspension, including the grounds for suspension. A suspended volunteer will not have access to their workplace.

5.6.6. Investigation into allegations of serious misconduct

If a decision is made to proceed to formal investigation, the Volunteering Team will consult with the Executive Manager, People & Culture to seek guidance regarding formulating the allegations and then providing them to the volunteer in writing.

5.6.7. Breach of Criminal Law

Where there is reasonable belief that the alleged serious misconduct may be of a criminal nature, the matter may be referred to the Police. An investigation by Family Life may occur simultaneously to a Police investigation.

5.6.8. Appointing and briefing an investigator

The Executive Manager, People & Culture, in consultation with the Volunteering team, will appoint a suitable investigator (which may include an external investigator). The appointed investigator must not have any previous personal involvement with the matter.

5.6.9. The investigator may inform themselves in any manner they see fit so long as this policy and the principles of procedural fairness are adhered to. Volunteers may be directed to attend interviews conducted by the investigator.

5.6.10. Volunteer Notification and Opportunity to Respond

Family Life will notify the volunteer in writing of the:

- substance of the alleged breach of conduct requirements;
- intention to treat the matter as serious misconduct and to investigate the alleged breach (if required);
- person(s) who will investigate the allegation;
- volunteer's right to have a support person attend any disciplinary meetings relevant to this process;
- opportunity to respond in writing within a reasonable timeframe of receiving the allegation letter, including details of any mitigating circumstances where the volunteer makes any admissions to the allegations;
- possible disciplinary outcomes for the volunteer if the allegations are substantiated; and
- Family Life's EAP provider details.

5.6.11. Determination of Serious Misconduct

An investigation should only report on the facts. Upon receiving the investigation report, the Executive Manager, People & Culture, in consultation with the Volunteering Team must review all of the relevant material and make a decision as to whether serious misconduct has occurred, and the proposed course of action which may include:

- that no disciplinary action is to be taken and the volunteer is to be reinstated to their position;
- that the volunteer be disciplined in accordance with this policy;
- that the volunteer be dismissed.

5.6.11.1. Formal notice of the proposed outcome will be given to the volunteer in a timely manner.

5.6.12. Confidentiality

Every effort should be made to respect the confidentiality of the volunteer suspected of breaching the conduct requirements, the complainant, and other volunteers and/or employees who may be involved. The volunteer subject to the misconduct allegations and volunteers and/or employees who may be witnesses or complainants must also be directed to maintain confidentiality.

5.6.13. Vexatious Allegations

Allegations made by volunteers that are determined to be vexatious or malicious in nature are prohibited. If following an investigation, it is clear that this is the case the disciplinary policy may be initiated. See definitions for more information.