



## Misconduct Policy



“The service has high standards for staff. If misconduct occurs it is properly followed up.”

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### Intent

All kaimahi must work in a professional and competent manner. They must not engage in behaviour that amounts to misconduct at work. This includes refraining from behaviour, which while it may occur off-site and not during work time, could adversely affect the functioning or reputation of the organisation.

We respect the rights of our kaimahi to a fair and unbiased investigation and will be fair and reasonable when responding to misconduct. For example, we address lesser misconduct with lighter disciplinary measures while more serious misconduct may lead to a dismissal.

### Responsibilities

**The board** will apply this policy as line manager for the manager role.

**Management** will:

- apply this policy when dealing with concerns or allegations of misconduct



- ensure that kaimahi who are the subject of an allegation are afforded procedural fairness
- ensure that confidentiality is maintained to the greatest extent possible.

**Kaimahi and volunteers** will report any concerns or allegations about misconduct to management and comply with this policy.

## Principles

The following principles will be applied:

**Confidentiality** - personal information that identifies individuals must only be disclosed and used in accord with the law and our Protection of privacy policy.

**Impartiality** -allegations and concerns about misconduct must be addressed in an objective and unbiased way. Conflicts of interest, whether actual or perceived, must be managed responsibly.

**Due process**- anyone alleged of misconduct will be fully informed of the allegation, given a right of reply and listened to at key decision points.

**Participation** - kaimahi will be encouraged to access independent support through the process (eg union representation, lawyer) to assist them to participate and exercise their rights.

## Requirements

See [here](#) for an overview of the disciplinary process.

### Preliminary investigation

Where a concern or allegation of misconduct is made, a preliminary investigation will be undertaken to ascertain whether it warrants further



investigation. The staff member(s) involved, will be informed of the allegation if it is decided that further investigation is warranted.

### **Further investigation**

An investigation must be fair, unbiased and consider each alleged incident of misconduct. The extent of the investigation will depend on the circumstances but be proportionate to the seriousness of the allegation and the potential consequences. The investigation will be conducted by a person who is able to be impartial in the matter.

An external person will be employed for complex investigations or where no one in our organisation can provide an impartial perspective.

### **Address risks**

Risk of information being destroyed or people being harmed while the investigation is underway will be assessed and steps taken, as necessary, to address any risk. For example, property and files may be re-located, a change in duties negotiated with the kaimahi whose conduct is being investigated.

### **Suspension**

It may be necessary to suspend the kaimahi concerned. They will first be informed about the proposed suspension and given an opportunity to comment. Management will make a final decision after considering the employee's response.

If the suspension proceeds, it will be on normal pay unless otherwise specified in their employment contract. The period of suspension will only be for the time necessary to investigate the alleged misconduct.

### **Right of reply**



Information from the investigation and the outcome of the investigation will be shared with the kaimahi but with our [privacy](#) and [information-sharing](#) policies complied with. They will be notified in writing of the initial findings including whether [misconduct or serious misconduct](#) occurred. A timeframe will be given for their reply.

Hui will usually be held about the findings. Staff will be encouraged to bring support, a union or legal advocate.

Kaimahi feedback on the findings will be carefully considered and any new facts or issues they raise duly considered.

Once a final determination is made about misconduct, the kaimahi will be informed of the proposed disciplinary action and given an opportunity to comment. Their feedback will be considered with an open mind before a final decision about disciplinary action is made.

### **Consequences for misconduct**

Depending on the severity and circumstances, a finding of misconduct may result in [actions ranging from a formal warning, counselling, coaching, training, job change through to dismissal.](#)

A kaimahi will be summarily dismissed for serious misconduct. This means their employment will be terminated without notice. They must leave work right away and will not be paid for any notice period or part of the notice period. They remain entitled to any annual holidays etc they are owed, in their final pay.

### **Keep records**

All conversations and meetings through the process must be accurately recorded. Records will be [kept confidential](#) with the staff member's file.

### **Compliance**



NZS 8134: 2021 Workforce and structure; Health Care and support workers  
2.4

Employment Relations Act 2000

Social Sector Accreditation Standards L3 & 4, Staffing 1.0

## Helpful links

[Misconduct and serious misconduct](#)

[Unsatisfactory performance](#)

[Disciplinary action](#)

## Review

Date: April 2022

Next Review: by March 2024