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### **3.13 Child Care Services Taree & Districts Inc**

#### **Worker Misconduct and Discipline Policy**

**Child Care Services Taree & Districts Inc. (CCSTD) seeks to create a healthy, safe and rewarding working environment based on the principles of fairness, equity and tolerance while ensuring that the organisation is productive, its resources and governance are protected. Where worker behaviour and conduct has the potential to damage the effective and harmonious operation of the organisation, this policy will be invoked to ensure that the disciplinary procedure is fair, impartial and transparent.**

#### **The Purpose of the Policy**

The aim of this policy is to ensure that staff and support workers are aware of the reasons for disciplinary action being taken, the interventions and strategies implemented for improvement and possible outcomes of the disciplinary procedure relating to misconduct and serious misconduct. This policy provides a framework for the management and application of a disciplinary action relating to misconduct and serious misconduct.

#### **Procedure**

It is everyone's responsibility to report suspected misconduct and serious misconduct for the sake of CCSTD workers' health and safety, and CCSTD reputation and viability. As a result, it is CCSTD intention that disciplinary matters will be dealt with swiftly, fairly and in line with relevant legislation.

The objective of this policy is to ensure that behaviours that are consistent with and supportive of the law and that CCSTD values and desired culture are reinforced. In this respect, and depending on the severity of the misconduct, CCSTD recognises that;

- An initial supportive response may be more effective than taking immediate formal corrective and disciplinary action
- Objective and equitable approaches are used to identify the reasons for conduct
- All cases are treated with respect and sensitivity.

Where these responses and approaches fail, and formal corrective and disciplinary action is invoked, such actions are intended to be corrective rather than punitive, excepting where immediate termination of employment is justified.

For the purpose of this policy, misconduct includes the following;

- Misdemeanours, including inappropriate behaviour
- Making improper use of one's position for personal gain
- Failure to comply with organisational policies and NDIA Terms of Business or Guidelines
- Unexplained absences and failure to inform appropriate persons of unavailability to work
- Inappropriate use of CCSTD property and facilities.

Serious misconduct includes wilful or deliberate behaviour by staff or support worker that is inconsistent with the continuation of their contract (which could take the form of criminal behaviour) and/or conduct that causes serious and imminent risk to the health and safety of a person, or the reputation, viability or profitability of Child Care Services Taree & Districts Inc.

Where serious misconduct is involved, it may not be appropriate to follow each of the steps below concerning counselling, informal verbal warnings or formal written warnings.

The Worker Misconduct and Discipline Policy should be provided to workers prior to any discussions taking place and they are to be offered the option of having a support person attend any meeting. A

support person may be a work colleague or a Committee Member chosen by the worker, but cannot be a family member or lawyer.

## **The Disciplinary Procedure**

### **Step 1. Verbal Warning**

After observing or being notified of misconduct by a staff member or support worker, the manager should establish the facts and consult with the committee for advice and support as soon as possible. The manager will;

- Gather relevant facts and assess any relevant documentation
- Undertake an interview with persons who may (or should) have knowledge of the workers behaviour and who may have witnessed any incident or event
- Review any relevant policies and procedures, taking into account the workers past record and
- Prepare a chronology of events to record what has occurred, and make a critical assessment to determine an appropriate course of action.

Once sufficient information (facts) has been collected, the manager should arrange an appropriate time to meet with the staff member or support worker concerned. A verbal warning will be issued describing the offending action / behaviour, its effects, and consequences. The manager will also specify the corrective action and future behaviour required. An agreed and reasonable period for monitoring and review will be established. The objective of this step is for the matter to be resolved without progression or escalation.

The staff member or support worker must be given the opportunity to respond to issues raised. After the meeting, the manager will complete the Worker Discipline Record of Meeting form and record concise and detailed factual notes. A copy of this document will be provided to the worker and a copy placed on the workers file.

Step 1 should be concluded within 20 working days after observing or being notified of the misconduct.

### **Step 2. First Written Warning**

Where the workers behaviour does not improve and remains unacceptable, or a subsequent related issue has been raised, a written warning will be issued.

The manager will arrange a meeting with the staff member or support worker and provide an opportunity for the individual to respond to the issues raised.

At the meeting, the manager will provide;

- Details of the unacceptable behaviour
- Summary of acceptable behaviour
- Reference to previous meetings and support provided to resolve the matter
- Time frame for monitoring and reviewing progress
- Future meeting time to assess ongoing employment
- Advise that failure to address the concern may result in termination of the contract.

After the meeting, the manager will prepare the Managing Misconduct and Discipline Record of Meeting Form and, if satisfied that the concern has been substantiated, advise CCSTD Committee to issue the First Written Warning detailing the discussion at the meeting.

The written reprimand will include a section for the staff member or support worker to acknowledge its contents. If the staff or support worker refuses to sign the acknowledgement, the manager will duly note this on the document.

A copy of the completed form will be provided to the staff or support worker and a copy placed on the file.

### **Step 3. Final Written Warning**

If the required behaviour change still does not occur within a specified and agreed time, a final written warning will be issued. The manager will arrange a meeting with the staff member or support worker, which is to also be attended by a Committee member.

At the meeting, the manager will provide;

- Details of the unacceptable behaviour
- Summary of acceptable behaviour
- Reference to previous meetings and support provided to resolve the matter
- Time frame for monitoring and reviewing progress
- Future meeting time to assess the ongoing contract and to
- Advise to the staff member or support worker that failure to address the concern may result in termination the contract.

The staff or support worker will be given an opportunity to respond to matters raised. After the meeting, the manager will prepare the Managing Misconduct and Discipline Record of Meeting Form and, if satisfied that the concern has been substantiated, advise CCSTD Committee to issue a Final Written Warning detailing the discussion at the meeting.

The written reprimand will include a section for the staff or support worker to acknowledge its contents. If a staff member or support refuses to sign the acknowledgement, the manager will duly note this on the document.

A copy of the completed form will be provided to the employee and a copy placed on file.

### **Step 4. Notice of Dismissal (Termination of a contract)**

A meeting will occur if after a final written warning has been issued and, with a reasonable period of time to monitor and review, it is evident that the behaviour has not and will not reach the expected standards.

The manager will contact the committee to discuss and review the entire discipline process to date to ensure it has not been harsh, unjust or unreasonable. Any decision to terminate a staff or support worker must be endorsed by CCSTD committee and service manager.

The manager will then arrange a meeting with the staff or support worker which is also to be attended by a committee member.

At the meeting, the manager will;

- Advise that the unacceptable behaviour has continued
- Summarise the behaviour that was required and
- Provide details of previous meetings, counselling and warnings issued.

The staff or support worker will be provided with an opportunity to respond and give reason or provide details of any other relevant matters that may avert their potential termination of the contract.

After taking a reasonable time to consider the response, if it is determined termination is appropriate, the staff or support worker will be provided with confirmation of the termination of their contract in accordance with CCSTD policies concerning employment, conduct and relevant work place legislation.

After the meeting, the manager will prepare the Managing Misconduct and Discipline Record of Meeting form and a copy will be placed on the workers file.

The notice of termination will be applied in accordance with CCSTD policies or the National Employment Standards, whichever provides the maximum terms and conditions for workers.

It is also a provision of this policy that CCSTD may initiate the disciplinary process at any stage of this policy, where deemed appropriate, dependent on the seriousness and circumstance of each case. That is, if a matter is deemed serious, CCSTD may begin the disciplinary process at any of the steps within the policy, dependent on the facts surrounding the matter.

### **Relevant Legislation and Standards**

- NDIS Practice Standards
- NDIS Code of Conduct
- NSW Disability Service Standards (NSW DSS)
- NDIS Terms of Business
- Privacy and Personal Information Act 1988 (NSW)
- The Disability Inclusion Act 2014 (NSW) and Disability Inclusion Regulation 2014 (NSW)
- Mental Health Act 2007 (NSW)
- Ombudsman Act 1974 (NSW)
- NDIA National Quality and Safeguards Policy 2018
- Disability Discrimination Act 1992
- Anti-Discrimination Act 1977(NSW)
- Criminal Records Act 1991(NSW)
- Work Health and Safety Act 2011(NSW)
- Children and Young Persons (Care and Protection) Act 1998
- Fair Work Act 2009