

Shire of Nungarin

Misconduct Management Practice and Procedure



1. Management Practice Intention

This Management Practice aims to ensure a fair and consistent procedure is applied when addressing issues relating to misconduct.

This Management Practice provides guidance for the process in which the Shire may discipline an employee due to inappropriate conduct in any circumstance that can be connected to, or impact upon, the Shire.

2. Definitions

The Employee Code of Conduct is the code determined by the Chief Executive Officer that outlines the standard of behaviour and conduct expected of all Shire of Nungarin Employees.

The Shire of Nungarin Values further underpins the expected behaviours and articulates the culture and operating ethos of the Shire of Nungarin. The Values are the core components to a positive culture and high performance.

Minor misconduct is behaviour that is inconsistent with employee obligations or duties, a breach of Shire Policy or procedure, or generally unacceptable behaviour. Examples including but not limited to are misuse of computers, resources or equipment, frequently late, unexplained absences.

Serious misconduct is defined as wilful and deliberate behaviour that is inconsistent with the continuation of the employment contract or causes serious and imminent risk to the reputation and viability of the Shire or health and safety of a person, often an illegal or dangerous activity or safety breach. Examples include but are not limited to fraud, theft, breaches of safety, threats or acts of violence, bullying or harassment, deliberate damage to Shire property.

3. Conduct

Appropriate conduct applies inside and outside the workplace and within and outside working hours where the employee's behaviour can have an effect on the workplace, other employees, stakeholders or the reputation of the Shire.

Employees need to ensure they exhibit appropriate out-of-work conduct where the circumstances or event can be connected to the Shire, so as not to damage the Shire's interests or reputation. This can include:

- Performing work duties outside of work.
- Attending work-related functions.
- Posting disparaging comments about the Shire on an online site with public access.

4. Responsibilities

Supervisors of staff have a duty to protect the health, safety and welfare of employees. It is important to address acts of misconduct early before it escalates.

Employees are required to act in accordance with the requirements of the law, the terms of the Shire's Employee Code of Conduct, and display behaviours that reflect the Shire's Values.

5. Reporting misconduct

All employees have an obligation to report misconduct without fear of retribution or repercussion. Suspect misconduct may be reported to:

- The employee's Supervisor or Manager.
- The Chief Executive Officer.

6. Disciplinary action outcomes

If, after a fair process the allegation of misconduct has been substantiated, the Shire can consider the following outcomes whilst considering the employee responses and any extenuating circumstances:

- Reprimand.
- Written warning.
- Verbal warning.
- Final written warning.
- Training.
- Counselling.
- Termination (if serious misconduct or after repeated warnings for the same or similar conduct).
- Referring the matter to the appropriate authority to manage such as the Corruption and Crime Commission (CCC).

7. Record Keeping

A record of all discussions, investigation and disciplinary process relating to an allegation of misconduct shall be kept on the employee's personal file.

8. Timeframe

Whilst every endeavour is to be made to complete the process pertaining to misconduct in a timely manner, with an outcome determined no longer than three months after commencement of formal misconduct action, it is understood that each case shall be subject to operational requirements, in-depth investigations and availability of relevant parties.

9. Confidentiality

All matters pertaining to an allegation of misconduct shall remain confidential. Failure to maintain confidentiality may result in disciplinary action.

10. Variations

In every case pertaining to an allegation of misconduct, the Shire has the right to vary the disciplinary procedure in consideration of the circumstances of the case as a whole and as the action is deemed to be warranted.

Procedure

1. Procedure Intention

The procedure outlined below is intended as a guide only to the disciplinary actions which may be implemented for inappropriate conduct. Consideration to the circumstances surrounding each case will determine the disciplinary procedure.

2. Initial action

On commencement of formal misconduct action, the employee suspected of misconduct will be notified in writing or:

- The nature of the alleged misconduct.
- The section of the relevant legislation, relevant Shire Policy, the Employee Code of Conduct or Shire Values that are suspected of breaching.
- Who will be investigating the alleged misconduct.
- The possible ramifications if the misconduct is proven.
- The date and time for a meeting to discuss the alleged misconduct, providing reasonable opportunity to prepare for the meeting. The notice of the meeting shall include:
 - Who will attend the meeting.
 - The employee's right to respond to the allegations against them in writing.
 - The employee's entitlement to bring a support person to the meeting.

3. Meeting to discuss alleged misconduct

The purpose of the meeting is to discuss the alleged misconduct, and provide the employee opportunity to respond to the allegations against them in writing and present any extenuating circumstances.

The employee's responses shall be taken into consideration when determining the next step of the process.

4. Investigation

Depending on the circumstances, it may be necessary to conduct an investigation into the incidents or allegations that have been raised either internally or through the services of an external consultant. This may involve collecting information and interviewing the employee and material witnesses.

In some instances, the alleged misconduct may be deemed serious enough to present a risk to the Shire's operations, employees or stakeholders. In these circumstances an employee may be suspended from employment on full pay whilst an investigation is undertaken.

5. Outcome

The employee shall be notified in writing of the date and time for a meeting to discuss the alleged misconduct and the outcome of the investigation. The notice of the meeting shall

include who will attend the meeting and the employee's entitlement to bring a support person to the meeting.

- **The investigation finds the reported misconduct substantiated**
If it was determined that some or all of the allegations were substantiated, the employee shall be notified in writing of the disciplinary action to be undertaken.
- **The investigation finds the reported misconduct not substantiated**
If the allegations are not substantiated, the employee shall be notified in writing that no further action will be taken and the basis for the decision.
- **The investigation finds the reported misconduct was malicious**
If the investigation reveals the allegations made against the employee were malicious, appropriate disciplinary measures against the person who reported the alleged misconduct will be taken.

