

## DISCIPLINE AND TERMINATION POLICY

Date	27/11/2019
Policy Number	BCOC2-11
Status	Version 2 (previously known as Performance & Misconduct Policy)
Approved by Board on	21/10/2024
Scheduled review date	10/2027

### Introduction

The Berwick Church of Christ ("the Church") is committed to the highest level of performance and conduct. As such, it is committed to investigating and managing staff performance and disciplinary matters in a timely and effective manner ensuring the process is fair and consistent.

The Church endeavours to provide all staff with guidance, support and advice on the processes which are to be followed when dealing with situations of poor performance, unsatisfactory behaviour and misconduct. Illegal behaviour and wrongdoing will not be tolerated.

Please refer to our Scriptural References for our Safety Policies to understand the foundational principles for our policies.

### Purpose

This Policy is designed to ensure the effective, fair and reasonable treatment of all staff of the Berwick Church of Christ where poor performance or inappropriate conduct in any circumstances may arise, by giving all staff an understanding of how performance, behavioural and misconduct issues should generally be managed and addressed.

However, nothing in this policy requires the Church to manage performance, behavioural or misconduct issues in a particular way and the Church reserves the right to adopt a different process to that set out in this policy.

The Church encourages anyone with knowledge or reasonable suspicion of illegal behaviour or wrongdoing to report it as soon as possible.

### Scope

This policy applies to all staff of the Church, irrespective of status, classification, length of service or workplace location and includes any official Church event held offsite.

### Definitions

Please refer to the General Definitions document – [www.berwickchurch.org.au/policies](http://www.berwickchurch.org.au/policies).

### Policy

The Church provides this policy to give guidance on performance and conduct management, and the discipline and termination consequences that may follow. It is strictly for general guidance purposes only and aims to provide staff and Senior Leadership with an understanding of the procedures that may be followed in certain circumstances.

In so far as this policy imposes any obligations on the Church, those obligations are not contractual and do not give rise to any contractual rights. To the extent that this policy describes benefits and entitlements for staff, they are discretionary in nature and are also not intended to be contractual. The terms and conditions of employment that are intended to be contractual are set out in a staff member's written employment contract.

The Church may unilaterally introduce, vary, remove or replace this policy at any time.

## What Constitutes Poor Performance?

A staff member's performance will be considered poor or unsatisfactory if the staff member is repeatedly not meeting the requirements of their role (as set out in their position description, contract of employment, key performance indicators, Church policies, or as communicated to the staff member otherwise). Poor performance may be observed by the Pastor they directly report to, Executive Pastor or other relevant person and may or may not be the result of a formal performance evaluation.

## What Constitutes Misconduct?

Misconduct includes, but is not limited to:

- Unauthorised absenteeism;
- Unacceptable behaviour towards a Pastor, Staff Member, Volunteer, Partner, Contractor, Church attender or visitor of the Church;
- Inappropriate or dishonest behaviour in the workplace;
- Any instances of harassment and/or bullying;
- Non-compliance with Church policies, procedures or practices;
- Failure to follow lawful and reasonable direction from an Elder, Senior Leadership or a Pastor.

Depending on the nature of the poor performance or misconduct, a number of disciplinary steps may be taken. The action taken will depend on the nature and severity of the staff member's conduct. The steps below are listed in order of seriousness of the poor performance and/or misconduct; however, they do not need to be followed in sequential order and how any matter is dealt with is always at the complete discretion of the Church.

## Informal Counselling

The Church may informally counsel a staff member in order to assist the staff member to better understand workplace practices, the required level of conduct and/or performance or any other matter the Church feels it appropriate to raise with the staff member for their development. If the staff member continues to engage in the conduct and/or poor performance which has been subject to informal counselling, the staff member may be subject to any of the disciplinary procedures set out below up to and including termination of employment.

## Formal Disciplinary Process

At any point in the staff member's employment the Church may suspend the staff member on full pay (i.e. direct them to not attend the Church premises). This should not be seen as a punishment and should not suggest any finding of wrongdoing on behalf of the staff member. Suspending a staff member might be necessary where there is a serious matter to be investigated and where it would not be appropriate for the staff member to attend the Church premises in the meantime. Generally during a period of suspension, a staff member will be required not to contact any other staff members, volunteers or Church participants, or to discuss the matter with anyone else. Breach of this requirement could of itself be grounds for disciplinary action.

Once the matter has been sufficiently investigated, the staff member will usually be given written notification to attend a meeting in relation to the staff member's performance or conduct. Generally, the staff member will be given at least 24 to 48 hours' notice of the meeting. The letter will set out the performance or conduct issues to be discussed and warn the staff member of the potential outcomes of the disciplinary process.

The Church will generally offer the staff member an opportunity to have a support person present during the meeting. The support person is not entitled to play an active role in the meeting and is not entitled to speak on behalf of the staff member, but may provide support, guidance and advice to the staff member (in private if they so wish).

Generally, the following process will be followed in the disciplinary meeting:

- The Church will explain to the staff member why the staff member's performance is not meeting the expected standards (by reference to the staff member's job description, contract of employment, key performance indicators, etc) or elaborate on any allegations of misconduct;
- The staff member will be provided with an opportunity to respond to all such issues;

- The Church will explain the potential outcomes of the meeting and the staff member will be given an opportunity to respond to this (for example, if termination is being considered, the staff member should be given an opportunity to say why they feel this is inappropriate).

Possible outcomes of the meeting include (but are not limited to): no action being taken, the need for further investigation, a verbal warning, a performance improvement plan, a written warning, termination of employment (with notice / payment in lieu of notice) and termination of employment without notice (only in cases of serious misconduct). These are discussed further below.

## No Action Taken

In certain circumstances the Church will decide that no action will be taken against the staff member (because, for example, the allegations of misconduct are found to be unsubstantiated). In this situation the Church will generally confirm the outcome of the disciplinary meeting (and that no action is to be taken) in writing.

## Further Investigation

In some circumstances the Church will need to undertake further investigation following the disciplinary meeting in order to decide on the appropriate action to take. This may occur when, for example, there are conflicting versions of events, and the Church is not in a position to make a finding on the issues/allegations.

## Verbal Warnings

A verbal warning will generally be appropriate where the staff member's performance or conduct has not improved following informal counselling, or in relation to an incident that is not serious enough to warrant a written warning. A verbal warning will involve warning the staff member that if their performance or conduct does not improve, they may be subject to more serious disciplinary action.

A written record of the verbal warning should be kept.

## Performance Improvement Plan (PIP)

A Performance Improvement Plan (or "PIP") is generally used where issues have been identified in a staff member's performance that need to be improved. A PIP will set clear goals or targets that the staff member is expected to meet by certain dates. The Church will review the staff member's performance during the period of the PIP and assist the staff member in trying to improve their performance. If the staff member's performance does not improve the staff member may be required to attend a disciplinary meeting and may be issued a written warning. If the staff member's performance does not improve after being issued one or more warnings, they may be required to attend a disciplinary meeting and (if no reasonable excuse can be given for the failure to improve) their employment may be terminated.

## Written Warnings

In the event that the Church has serious concerns about a staff member's performance or conduct, a written warning may be issued to the staff member. This may (but will not necessarily) occur following continued or repeated behaviour raised in earlier informal counselling or in a verbal warning. There may be instances where a written warning may be issued in the first instance, based on the seriousness of the poor performance or conduct.

A written warning will generally inform the staff member:

- of the staff member's performance or conduct issues that have been found to be an issue;
- why the Church did not find the staff member's response to such issues in the disciplinary meeting to be acceptable;
- of a reasonable timeframe within which the staff member must remedy their poor performance and/or conduct;
- that if the staff member continues to underperform or engage in misconduct, other disciplinary action may be taken, up to and including termination of employment.

## Termination Of Employment (With Notice or Payment In Lieu Of Notice)

Poor performance or misconduct may lead to the termination of a staff member's employment (either with notice or payment in lieu of notice).

The number of warnings provided to a staff member prior to termination of their employment may vary depending on the circumstances. For example, it may in some circumstances be appropriate for the Church to provide the staff member with a number of warnings in relation to the same poor performance or conduct where such poor performance or conduct is of a relatively minor nature, before terminating the staff member's employment. Similarly, the Church may provide a staff member with a number of warnings where a staff member engages in misconduct or poor performance which is separate to that which was the subject of an earlier warning, or which was not reasonably proximate in time to an earlier warning.

In extreme cases of poor performance or misconduct it may be appropriate to terminate employment without any previous warnings having been given.

At the disciplinary meeting, the staff member will be given an opportunity to explain why they consider termination of employment is not appropriate prior to the Church taking a final decision.

## Termination Of Employment Without Notice ("Summary Dismissal") In Cases Of Serious Misconduct

Serious misconduct is wilful and/or deliberate behaviour by a staff member that is inconsistent with the continuation of employment, including but not limited to:

- a material breach of the staff member's employment contract;
- serious failure in the performance of duties or improper or inappropriate use of the staff member's position;
- wilful violation of any law or rule of a regulatory body;
- accepting bribes or secret commissions;
- any conduct that in the reasonable opinion of the Church constitutes a serious or potentially serious conflict of interest;
- refusal to comply with a lawful and reasonable direction given by an Elder, Senior Leadership or any other person duly authorised by the Church;
- dishonest behaviour and/or acting in a way that is inconsistent with the best interests of the Church;
- deliberately providing false or misleading information to the Church or any of the Church's volunteers, partners, or participants;
- being convicted of a criminal offence which, in the reasonable opinion of the Church, may have the effect of bringing the Church into serious disrepute or affecting the ability of the staff member to meet obligations under the staff member's employment contract;
- theft or misappropriation of Church property;
- being under the influence of alcohol and/or illegal drugs whilst at work or on Church property;
- acting in a way which in the reasonable opinion of the Church may injure or be likely to injure the business or reputation of the Church;
- acts of bullying, harassment, or discrimination;
- threatening, violent or inappropriate behaviour; or
- conduct that causes imminent, and serious risk to the health, or safety, of a person (including the staff member) or causes harm to the reputation, viability, or finance position of the Church.

At the disciplinary meeting, the staff member will be given an opportunity to explain why termination of employment without notice is not appropriate, prior to the Church making a final decision.

## Criminal activity

Any alleged criminal acts committed in the course of the staff member's employment will be reported to the Police.

Where the staff member is the subject of a criminal charge, which is alleged to have been committed in the course of the staff member's work, the Church has a responsibility to respond to the allegation consistent with this Policy even when the Police are involved and to determine appropriate action with regard to the staff member's employment with the Church.

Liaison between the Police and the Church is necessary to ensure the Police investigation is not compromised in any way. At the discretion of the Church, disciplinary action may be put on hold pending the outcome of the police investigation.

## Confidentiality

Disciplinary discussions and meetings (and their outcomes) are confidential. They are not to be discussed with other staff members. Failure to maintain the confidentiality of performance management discussions or meetings is a breach of this policy and may result in disciplinary action.

## Whistleblower

If a staff member (whistleblower) has reasonable grounds to believe that there has been illegal behaviour or wrongdoing, then this person may report this information to the Senior Leadership or the Safety Contact Person. Investigations will be conducted in a manner that is confidential, fair and objective, and the whistleblower will be kept informed of the investigation's progress in a timely way. Confidentiality extends to all information received from whistleblowers. All information will be held securely and in strict confidence. In addition, certain legislation may offer statutory protection of whistleblowers. The Church will comply with all applicable legislative requirements.

## Record Keeping

Records of verbal warnings and any written warnings will be placed in a staff member's personnel file.

## Other Policies

Staff members are encouraged to read this policy in conjunction with other relevant Church policies, including:

- Bullying Policy
- Equal Employment Opportunity, Discrimination & Sexual Harassment Policy
- Code of Conduct or Minors Code of Conduct
- Grievance Handling Policy

## Raising Concerns

We encourage all staff and volunteers within the Church and our congregation to report any concerns they have about safety and wellbeing. We are committed to handling all concerns seriously, legally and in a child-focused way (if concerning children).

If you have any concerns about safety at the Church, we strongly encourage you to share your concern with one of our Pastors or the Safety Contact Person and fill in our [Reporting Concerns Form](#).

## Policy Review Statement

This policy will be reviewed regularly as a part of the ongoing review and continuous improvement cycle of all Church policies and procedures.

If you have any feedback you would like to make about this policy, please email [policies@bcoc.com.au](mailto:policies@bcoc.com.au).

## Safety Contact Person

Name:	Karen Fletcher
Phone number:	0438 886 337
Email:	karenf@bcoc.com.au
Other contact details:	Office: 9702 1011 (Tuesdays to Fridays)

## Applicable Legislation, References and Other Policies

Item	Description
<i>Fair Work Amendment Act 2013</i> (Cth)	Managing performance and warnings. <a href="https://www.fairwork.gov.au/employee-entitlements/managing-performance-and-warnings">https://www.fairwork.gov.au/employee-entitlements/managing-performance-and-warnings</a>
BCOC Policies	All Church policies can be obtained from the website link, <a href="http://www.berwickchurch.org.au/policies">www.berwickchurch.org.au/policies</a>
Scriptural references for our Safety Policies	<a href="http://www.berwickchurch.org.au/policies">www.berwickchurch.org.au/policies</a>