

# DISCIPLINARY PROCEDURES AND COUNSELLING

## DISCIPLINE

Workers who breach the Company's rules outlined in the policies, Site Specific Rules or Code of Conduct have placed their own safety and/or the safety others at risk will be subject to the following disciplinary procedures:

- Workers who are performing unsatisfactorily will be performance managed so they understand the standards expected of them. They will be offered assistance, guidance and appropriate support to allow them to meet the expected standards;
- Confidential records of any performance management undertaken will be made (if required). The worker will be shown and given a copy of the written records and will have an opportunity to comment on its contents. The record will only be placed on the worker's personal file when the worker has been given the opportunity of responding to the record and adding any notations regarding the contents of the record;
- Workers whose performance or behaviour is unsatisfactory will be given adequate time to demonstrate a willingness to improve. If at the end of this period the worker shows no willingness to improve in the opinion of the PCBU, a final warning in writing will be issued to the worker. This notice will inform the worker in writing that disciplinary action including dismissal may be taken if the worker does not cease the unsatisfactory performance or behaviour immediately;
- The PCBU also has the right to instantly dismiss a worker for serious and wilful misconduct; and
- At every stage of the disciplinary process, the worker has the right to have another worker or union representative present as a witness.

## ANONYMOUS COMPLAINTS

Charles Sturt Campus Services will generally not act on anonymous complaints unless the issues raised are serious and sufficient information is provided to warrant further inquiry into the allegations.

## INFORMAL PROCEDURE

Staff are encouraged to try to resolve a workplace concern or concerns informally unless they believe serious misconduct or a breach of the law has occurred.

Informal resolution of concerns at the local level can be the most effective way of dealing with many issues.

While the approach outlined below is informal, concerns raised in this manner will be taken seriously and appropriate action taken.

The informal procedures involve the following steps.

**Step 1. If you can, try to sort it out directly with the person involved.**

If possible tell the person(s) the substance of the problem. For example, where the matter relates to interpersonal issues tell the person you find their behaviour unacceptable or offensive. Often, people do not mean to do things that hurt or offend others, however, this does not mean their behaviour is acceptable. Telling them can give them a chance to stop or to change what they are doing.

### **Step 2. Seek assistance**

Ask for help if you feel that you cannot approach the person yourself, or if this approach doesn't work. You can seek assistance from your supervisor, or if this is not appropriate talk to the Workplace Improvement Officer, or General Manager who can offer information on the process, or approach any other supervisor or manager to attempt to identify and explore available options.

### **Step 3. Facilitating a mutual understanding**

If the workplace concern is not resolved at this stage, those involved may agree to either proceed to the formal procedure or to participate in mediation in order to facilitate a mutual understanding.

If mediation is unsuccessful, the person who raised the concern can request the use of formal procedures.

As a guide, every effort should be made to resolve the workplace concern raised through the informal procedures within 2 weeks.

## **FORMAL PROCEDURE**

Commencement of the formal procedure should only take place if the workplace concern could not be resolved using the informal procedure.

The formal procedures involve the following steps.

### **Step 1: Lodge formal complaint**

The staff member should notify their immediate supervisor, or other appropriate person, of the substance of the workplace concern and the outcome they are seeking. If the concern is about the staff member's immediate supervisor, then the staff member should notify that officer's immediate supervisor. Where the concern relates to a named person or persons, for reasons of procedural fairness, it will be necessary to identify the person by name. The person to whom the complaint has been made will advise the Workplace Improvement Officer of the receipt of the complaint. If an informal attempt to resolve the matter has not been made, such an approach may be suggested at this stage.

## **Step 2: Investigation**

Following the clarification of the complaint, the person receiving the complaint may contact the Workplace Improvement Officer to receive advice on how to proceed. Note: it is important in the management process to ensure the matter is not currently under address by another person within the company.

The Area Manager or Supervisor will generally, with the agreement of the person who raised the concern and within 2 weeks, investigate the matter and make recommendations to those involved in the matter for its resolution.

The Investigation will ordinarily involve:

- a. Informing the subject (if the concern is about a named person or persons); of the workplace concern and that an investigation is being undertaken;
- b. requesting the person(s) to provide a formal written response or to be formally interviewed;
- c. formally interviewing or obtaining statements from people who can help to ascertain the facts;
- d. obtaining documentation that is necessary; and
- e. identifying options for the resolution of the matter and discussing these with those involved.

If the complaint concerns a policy or procedure, for example, the investigation may consist of the Area Manager or Supervisor writing to the Workplace Improvement Officer, who is responsible for the policy or procedure, setting out the concerns and seeking a response.

## **Step 3: Making recommendations**

The person investigating the concern will write to the parties involved to identify the findings of the investigation and make recommendations for resolution to all those involved in the workplace concern. The preferred options for resolution may be discussed with all those involved, including a support person.

The recommendations will be in keeping with the seriousness of the matter which was the basis of the complaint. Some of the possible outcomes of a workplace complaint include:

- a. through the resolution process the staff member gains a better understanding of the situation so that his/her concerns are addressed;
- b. one or more of the parties are directed to take certain action that the Area Manager views as appropriate for resolution of the concerns;
- c. the respondent is directed to apologise to the complainant and to avoid similar conduct in the future;



- d. if the matter is serious, and the Area Manager is satisfied that the conduct complained about amounts to serious misconduct, the matter may be referred for disciplinary action and such other actions by the Company to address the complainant's concerns.

Unless the matter is referred for disciplinary action, the recommendations for resolution should be discussed with all those involved, and the people involved provided an opportunity to submit comments or objections to the findings and recommendations, normally within 5 working days. In general, this should be in writing. Any comments and objections received by the due date will be noted and taken into account by the person examining the complaint in making a final decision on the matter.

#### **Step 4: Final Decision**

After considering any comments or objections by those involved, the General Manager, Area Manager or Supervisor will make a decision on the workplace concern, including any actions that may be taken by those involved in response to the workplace concern. The decision will be communicated in writing to those involved (including a statement about the right of each party to seek an internal review), and a copy will be sent to the Workplace Improvement Officer.

A decision by the General Manager, Area Manager or Supervisor constitutes a management direction. A failure to follow a management direction may constitute misconduct.

#### **Step 5: Monitoring and Evaluation**

If the recommendations are accepted by the parties involved as resolving the concerns, the parties will continue to monitor the environment under which the concern or dispute occurred until recommendations have been implemented and evaluated. Feedback on the process will be sought from the parties to identify where any improvements can be made through the Governance processes.

### **Part E - General Procedures**

#### **Serious Misconduct**

Where at any time during the handling of a workplace concern it appears to an officer involved in the handling of the workplace concern that the matter may involve serious misconduct, the matter must be referred to the General Manager who will determine if the definition of Serious Misconduct is applicable and the management of the issue is transferred to the Workplace Improvement Officer.

#### **Corruption, Maladministration or Waste**

If the matter involves any form of corrupt conduct, maladministration or serious waste the officer handling the matter must seek advice from the Workplace Improvement Officer. If the concerns appear to raise substantive issues, the complaint must be dealt with under the Companies policies on internal reporting.

### **Criminal Conduct**

If a matter involves evidence of criminal conduct, Charles Sturt Campus Services may refer the matter to the Police or an appropriate agency.

### **Victimisation**

Any person handling a complaint should be aware that fear of victimisation prevents many people from lodging a complaint in the first instance. All efforts should be taken to ensure that victimisation does not occur.

### **Counter-claims**

A complaint may lead to counter allegations from the responding party. It is important that the initial complaint should be considered and resolution sought on the matter in its own right. This does not preclude both the original complaint and the subsequent complaint from the respondent(s) being considered together.

### **Workplace Concerns Involving Staff from 2 Different Areas**

Where a workplace concern involves staff from two different areas, the Area Manager or Supervisors of the staff will consult together on the handling of the complaint.

### **Equity-related Complaints**

An equity-related complaint is when a staff member believes they are being discriminated against or harassed because of a trait that is subject to applicable antidiscrimination legislation. Applicable legislation varies across different jurisdictions; this may include their gender (including pregnancy), sexual orientation, transgender status, race, colour, ethnic or ethno-religious background, descent or national identity, marital status, family responsibilities, disability, age, political conviction or religious beliefs. Because of the complex issues sometimes involved in identifying some forms of indirect discrimination and harassment, Area Manager s handling equity-related complaints or complaints with a significant equity dimension are strongly advised to consult the Workplace Improvement Officer to request advice and assistance on legislation and policy requirements. In general, Area Manager s will continue to handle the complaint with advice and assistance from the Workplace Improvement Officer. Because of the sensitive nature of some equity-related complaints, Area Manager s should be aware that some complaint

resolution options may not be appropriate, e.g. mediation of discrimination / harassment complaints.

## Health and Safety Complaints

Health and safety concerns should be raised directly with the Area Manager or Supervisors of the area concerned in the first instance. All hazards, accidents and incidents must be formally reported to Charles Sturt Campus Services using the forms provided under the occupational health and safety policies.

## Workers Compensation Issues

Issues about Workers Compensation and/or injury management that concern Charles Sturt Campus Services participation and management of an injury or illness (either compensable or non-compensable) should, in the first instance, be raised directly with the Area Manager .

## DISCIPLINARY ACTIONS POSSIBLE

- a) **Verbal Warning:** Where it has been established, by interview and investigation that an employee who has displayed poor work performance (examples include unacceptable work quality, unsafe work practices, wilfully failing to abide reasonable and lawful direction and excessive absenteeism) and/or unsatisfactory conduct, viewed by Management to be of a minor nature. The Area Manager or Supervisor will issue a formal verbal warning and keep a record, noting the date of the occurrence and details of the event.
- b) **Written Warning:** Where despite the issue of a formal verbal warning, the employee continues to display poor work performance and / or unsatisfactory conduct, the Area Manager or Supervisor, following interview and investigation, will issue a written warning confirming the reason for the disciplinary action and expected action to be taken by the employee to rectify the situation

Where it is decided that the poor work performance and / or unsatisfactory conduct is of a sufficiently serious nature, the Area Manager or Supervisor, following interview and investigation, may issue a written warning without a verbal warning having been previously issued.

Once a written warning has been issued, a subsequent offence within a period of 6 months may result in dismissal. Employers should give employees warnings in writing before ending their employment.



CSCS doesn't have to give an employee 3 warnings, or even 1 warning but in most instances CSCS will give the employee a chance to fix any performance issues prior to dismissal.

- c) **Instant Dismissal:** The above procedures dealing with poor work performance and / or unsatisfactory conduct are not intend to interfere with the right of Charles Sturt Campus Services Limited to dismiss any employee without notice for serious and wilful misconduct that justifies instant dismissal.

## EMPLOYEE ASSISTANCE PROGRAMS (EAPs)

An Employee Assistance Program (EAP) is completely independent and confidential service providing professional counselling and onward referral as required for all employees and their families.

An Employee Assistance Program is by definition an employer funded counselling, health and work-life balance initiative. CSCS has decided to provide this service to you at no personal charge.

Optum will not share any information about your counselling with anyone and your employer will never know who has used the service. Only if you want and give written permission can information be shared.

### How can I contact an Optum Counsellor?

Self-referral is the predominant method for accessing this service. Employees and eligible family members can make an appointment from anywhere in Australia by calling **1 300 361 008**

NB - On occasion managers or work colleagues can encourage each other to use the service. The decision to make an appointment is at the discretion of the individual and participation is entirely voluntary.

For traumatic incidents and crisis counselling the above numbers are accessible **24 hours a day, 7 days a week.**

### How is the service delivered?

EAP sessions can be delivered face-to-face at an Optum location, over the phone or online via Skype.

### How long is an EAP session?

Each EAP session is approximately 1-hour in duration.

### Who are our Counsellors?

Optum's counsellors are a highly professional, friendly and caring team of qualified psychologists and social workers. All counsellors have peak industry body accreditation and substantial experience.