

23. Misconduct Procedure

Purpose

To maintain the trust and confidence of participants, supporters, and the broader community, the Lord Somers Camp and Power House (LSC&PH) seeks to ensure that its employees and volunteers (“staff”) demonstrate high levels of honesty and integrity, with no incidents of misconduct.

The purpose of this procedure is to:

- Define what constitutes misconduct and serious misconduct at LSC&PH
- Clearly state LSC&PH’s position on employee misconduct
- Outline a process for dealing with staff misconduct.

Scope

These Procedures apply to all employees and volunteers at LSC&PH, including Board, Committee and Working Group members.

It does not apply to members, participants, or other stakeholders.

Definitions

Disciplinary action	<p>Action by LSC&PH to discipline a staff member in one of the following ways:</p> <ul style="list-style-type: none"> • Formal censure or counselling • Demotion • Suspension with, or without pay • Reallocation of duties or transfer, and • In the case of serious misconduct, termination of employment without notice. <p>(It is acknowledged that termination is not the only disciplinary action available in cases of serious misconduct).</p>
Employee	Any person employed by Lord Somers Camp and Power House.
Executive Team	A leadership team for a specific LSC&PH program or activity. Specific members/ roles of an Executive Team are at the discretion of the Program or Activity Leader.
Leader	Any person (paid or unpaid) over the age of 18 who is responsible for the control and safety of members/volunteers placed in their care whilst holding a

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	<p>formal position in Lord Somers Camp and Power House. A leader could include but is not limited to:</p> <ul style="list-style-type: none"> • Camp Leaders • Deputy Camp Leaders • Executive Officers • Programs Leader • Slushie King and Slushee Queen • Heads of Departments
Member	Any person who has a current membership subscription to LSC&PH, including various life memberships, term membership or honorary life membership.
Misconduct	Conduct that is unsatisfactory, but which is not so serious as to justify the possibility of termination of employment.
Participant	Any person who attends an LSC&PH program as a participant or a grouper.
Procedural fairness	A principle that requires a fair and proper procedure be used when making a decision.
Serious misconduct	<p>Conduct that is intentional and causes serious immediate risk to the health or safety of a person, or the reputation, viability or profitability of the organisation e.g. theft or assault in the workplace.</p> <p>It can be seen as conduct of a serious and wilful nature and is usually conduct of a type that would make it unreasonable to require LSC&PH to continue employment of the staff member concerned.</p>
Summary or Instant dismissal	Actions by an employee or volunteer which constitute 'serious misconduct' are usually those which warrant instant or summary dismissal.
Volunteer	Any non-member who attends LSC&PH activities as a member of the camp's staff under direction of a Camp Leader.

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Responsibilities

CEO	<ul style="list-style-type: none"> • Ensure that processes are in place that support all LSC&PH employees and volunteers to understand and follow LSC&PH's Code of Conduct • Manage instances of alleged misconduct in direct reports • Inform the Risk Committee of any terminations made resulting from serious misconduct
Camp Manager, Events manager, and Communications and Stakeholder Manager	<ul style="list-style-type: none"> • Manage instances of alleged misconduct in direct reports and serious misconduct in staff that they supervise • Inform the CEO of any instances of alleged serious misconduct
Supervisory Staff e.g. Activities Manager and Chef	<ul style="list-style-type: none"> • Manage instances of alleged misconduct in direct reports • Refer instances of alleged serious misconduct to their line supervisor
Camp Leader	<ul style="list-style-type: none"> • Manage instances of alleged misconduct in program and activities staff
All staff (employees and volunteers)	<ul style="list-style-type: none"> • Comply with the LSC&PH's Codes of Conduct • Raise concerns about possible breaches of the Code of Conduct with the Executive Team

Guidelines

The principles which underpin this policy are:

- LSC&PH staff have a responsibility to ensure their conduct is of the highest ethical standard, consistent with LSC&PH's Employee Code of Conduct and policies.
- LSC&PH has a responsibility to support the conduct referred to above and to assist staff in identifying and resolving ethical issues which may arise in the performance of their duties.
- In situations where allegation(s) of misconduct/serious misconduct are made against a staff member, it is reasonable for LSC&PH to investigate the allegation(s) and, where appropriate, to take disciplinary action, including, in the case of serious misconduct, termination of employment.
- Procedures for dealing with allegations of misconduct/serious misconduct should be fair and observe principles of natural justice.

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- Procedures for dealing with allegation(s) of misconduct/serious misconduct should be conducted expeditiously but should allow sufficient time for the staff member to understand, consider and respond to the allegation(s).

Procedure

Forms of misconduct / serious misconduct

It should be noted that the distinction between 'misconduct' or 'serious misconduct' can be subjective. Often, behaviour can be considered 'misconduct' in its minor form but can escalate to 'serious misconduct' if it

- Is repeated frequently or wilfully
- It breaches legislation or regulations
- It has serious workplace health and safety implication

Behaviour which can be considered as 'misconduct' or 'serious misconduct' includes:

- Inefficiency or incompetence
- Malingering, neglect of duty or lateness
- Theft of property or funds from LSC&PH.
- Wilful damage and misuse of service property
- Intoxication through alcohol or other substances during working hours
- Verbal or physical harassment of any other employee, volunteer, supporter or community member
- The disclosure of confidential information regarding staff members or the organisation to any other party without prior permission
- Falsification of any LSC&PH records for personal gain or on behalf of any other employee or volunteer
- Failure to comply with majority decisions made at staff meetings
- Fraud, dishonesty
- Assault
- Refusal to carry out lawful/reasonable instruction
- Conviction of a criminal offence, during the period of employment, which in the opinion of the CEO, either impacts adversely on the staff member carrying out their duties or adversely on the reputation of the LSC&PH.

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- Conduct of a kind which constitutes an impediment to the carrying out of a staff member's duties or to the staff member's colleagues carrying out their duties
- Bringing the organisation into disrepute through public undermining of other staff, organisational activities, policies or procedures
- A wilful and serious breach of LSC&PH's Code of Conduct or policies

Procedure before instant or summary dismissal

Termination of employment, whether by serious misconduct or otherwise, might still be held to be unfair by an industrial tribunal if the process leading to the dismissal was manifestly deficient in offering the employee procedural fairness.

However, any faults in the process need to be balanced against the seriousness of the allegations in the event they are proven.

LSC&PH will never instantly dismiss an employee in anger no matter how gross the conduct of the employee. The following is a list of actions LSC&PH management will carry out before a summary dismissal occurs:

- Conduct a full investigation into the misconduct. LSC&PH will ensure that the act of misconduct alleged did actually occur, and that the staff member 'charged' was actually responsible. There may be mitigating circumstances.
- While LSC&PH will not rush in to an instant dismissal, neither will they delay the dismissal. A lengthy period between the act of misconduct and the dismissal would suggest that management has condoned the act of misconduct. The staff member will be informed of the reason for the delay. Where an alleged offence is particularly serious, suspension on full pay may be appropriate during this period.
- Give the staff member the opportunity to respond / to be heard. This means providing them with precise details of the allegations against them. They should be allowed to be accompanied by a representative if they so desire.
- Following the investigation and the staff member 's response, LSC&PH will consider whether the offence is sufficient to justify instant dismissal.
- Where instant dismissal is determined to be appropriate LSC&PH will provide to the staff member:
 - (i) a written notice of termination
 - (ii) a brief written statement as to the reasons for termination, and
 - (iii) for employees, payment up until the time of dismissal, plus any payments of accrued leave.

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Suspension

In the event of misconduct, even if it is considered to be serious misconduct, an employee may be suspended with or without pay while an investigation is conducted.

Other relevant policies and procedures

- Code of Conduct Policy
- Resignation, Termination and Redundancy Procedure

Policy review

This Procedure will be reviewed every three years by the LSC&PH Risk Committee, or sooner if warranted by internal or external events or changes.

Changes to the Procedure will be recommended by the Risk Committee to the CEO.