

Misconduct Procedure

Procedure Purpose

To maintain the trust and confidence of members, participants, supporters, and the broader community, Lord Somers Camp and Power House (LSC&PH) seeks to ensure that its employees and volunteers (“staff”) demonstrate high levels of honesty and integrity, without 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 staff (employee and volunteer) misconduct
- Outline a process for dealing with staff (employee and volunteer) misconduct

Procedure Scope

This Procedure applies to all employees, members and volunteers; including Board, Committee and Working Group members.

This Procedure utilizes the investigative procedures and outcomes of both the *Managing Breaches of the Code of Conduct Procedure* and the *Child Safety and Client Protection Procedure* and these elements will not be reproduced herein.

Reporting and investigation procedures related to the reasonable suspicion of abuse of a child or vulnerable person are defined in the Lord Somers Camp and Power House Child Safety and Client Protection Policy and Procedure. Such cases should follow the reporting and investigation procedures under the Child Safety and Client Protection Procedure.

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 of membership for volunteers • Suspension with, or without pay for employees • Reallocation of duties • It is acknowledged that termination is not the only disciplinary action available in cases of serious misconduct. • In the case of repeated serious misconduct, termination of employment or volunteering without notice may be a consideration. • In the case of gross misconduct, termination of employment or
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	<p>volunteering and expulsion without notice may be a consideration.</p> <p><i>(Please refer to Managing Breaches of Code of Conduct Procedure)</i></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.
Gross misconduct	<p>Conduct that is intentional and causes extreme immediate risk to the health, wellbeing or safety of a person/s, or the reputation, viability or profitability of the organisation e.g. severe breach of LSC&PH Policy or criminal act.</p> <p>Gross misconduct is usually unacceptable conduct that would make it unreasonable for LSC&PH to retain the staff member (employee or volunteer) concerned.</p>
Leader	<p>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 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	A person who attends or takes part in an LSC&PH program or activity who is not a designated volunteer member or staff.
Procedural fairness	A principle that requires a fair and proper procedure be used when making a decision.

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<p>Serious misconduct</p>	<p>Conduct that is intentional and causes serious immediate risk to the health, wellbeing or safety of a person/s, or the reputation, viability or profitability of the organisation e.g. major breach of LSC&PH Policy.</p> <p>Serious misconduct is usually unacceptable conduct that would make it unreasonable for LSC&PH to leave it unaddressed and may take disciplinary action against the staff member (employee or volunteer) concerned.</p>
<p>Summary or Instant dismissal</p>	<p>Actions by staff which constitute 'serious or gross misconduct' are usually those which warrant instant or summary dismissal.</p>
<p>Volunteer</p>	<p>Any member or non-member who attends LSC&PH activities as non remunerated staff</p>

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Responsibilities

All staff (employees and volunteers)	<ul style="list-style-type: none"> • Comply with the LSC&PH's Code of Conduct • Comply with the Child Safety and Client Protection Policy • Comply with all other LSC&PH Policies and Procedures • Raise concerns about possible breaches of the Code of Conduct or any misconduct with the Executive Team
Camp Leader	<ul style="list-style-type: none"> • Manage instances of alleged misconduct in program and activities staff • Informs the CEO of any instances of alleged serious/gross 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/gross misconduct
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/gross misconduct
Delegate	<ul style="list-style-type: none"> • Delegates are appointed to investigate and manage alleged misconduct and in doing so ensure that the requirements of the Code of Conduct and other relevant requirements are fulfilled.
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/gross misconduct to their line supervisor

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 Code of Conduct and all LSC&PH Policies and Procedures.

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- 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 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/gross misconduct, termination of employment.
- Procedures for dealing with allegations of misconduct should be fair and observe principles of natural justice.
- 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).

Forms of misconduct

It should be noted that the distinction between 'serious misconduct' or 'gross 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 intentionally or
- It has serious workplace health and safety implications or
- Breaches legislation or regulations

And escalated to 'gross misconduct' if it also

- Unlawful and illegal activity

Behaviour which can be considered as misconduct includes:

- Wilful inefficiency or incompetence
- Malingering, neglect of duty or repeated lateness
- Theft of property or funds from LSC&PH
- Wilful damage and misuse of LSC&PH property
- Intoxication through alcohol or other substances during working hours or assigned hours of responsibility
- 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

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- Fraud
- Assault
- Misuse of alcohol and illicit drug use
- Failure to declare a conflict of interest to protect personal interests
- Refusal to carry out lawful/reasonable instruction
- Failure to uphold Child Safety Standards and or undermines the Child Safety and Client Protection Policy and Procedure
- 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 LSC&PH
- 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
- Conduct that causes reputational damage to the organisation
- A wilful and major breach of LSC&PH's Code of Conduct or other LSC&PH Policies and Procedures

Procedure

Reporting and investigation procedures related to the reasonable suspicion of misconduct relating to abuse of a child or vulnerable person are defined in the LSC&PH Child Safety and Client Protection Policy and Procedure. Such cases should follow the reporting and investigation procedures under the Child Safety and Client Protection Procedure. Disciplinary action detailed herein, or Managing Breaches of the Code of Conduct Procedure may also apply pending outcome of investigation.

Reporting and investigating alleged misconduct

Refer to *Managing Breaches of Code of Conduct Procedure* for investigative procedures.

Outcome and penalties

Refer to *Managing Breaches of Code of Conduct Procedure* for the outcome process where the outcome/s do not result in instant or summary dismissal.

Where a serious misconduct has occurred that does not warrant dismissal a formal discussion with the Delegate and offending person regarding what constitutes appropriate conduct will take place. At the conclusion of the meeting LSC&PH will advise the offending person in writing that their behaviour constitutes misconduct, that such conduct must not be repeated and that a record of the misconduct will be placed on file with the CEO.

Procedure before instant or summary dismissal

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Termination of employment/volunteering, whether by serious/gross 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 staff in anger no matter how serious/gross the misconduct of the staff. 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 in the case of employees, 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 support person 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 contractual entitlements.

Suspension and salary

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

Records

In the case of a dismissal, suspension or expulsion or where the matter is deemed serious enough to warrant it, a written record of the investigation with outcomes will be retained by LSC&PH.

Other relevant policies and procedures

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- Code of Conduct Policy
- Managing Breaches of the Code of Conduct Procedure
- Child Safety and Client Protection Policy and Procedure
- Risk Management Policy and Procedure
- Anti-Discrimination, Bullying and Harassment Policy
- Resignation, Termination and Redundancy Procedure
- Fitness for Work Policy
- Drug and Alcohol Policy

Policy review

This Procedure will be reviewed every two 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.