

F.06 Management of Poor Conduct/Performance

1.0 INTRODUCTION/BACKGROUND

This document outlines Mercy Services' procedures for managing and resolving performance and conduct concerns. The objectives of this document are to ensure appropriate standards of conduct and performance are maintained within Mercy Services and that there is a transparent and fair approach to managing performance and conduct related concerns.

Mercy Services acknowledges that sometimes conflict and the difficulties regarding staff performance or conduct can be indicative of deficiencies in the wider organisation and its structures (see G.07 Anti Aggression, Harassment & Bullying Policy). This approach means that Coordinators and Managers may see it as appropriate to look at factors beyond the individual when there are performance or conduct management issues.

2.0 SCOPE

This document applies to all staff members of Mercy Services. It outlines how both remedial and/or disciplinary action can be used in managing performance and conduct concerns, depending on the nature and seriousness of the performance or conduct concern.

3.0 POLICY STATEMENT

Mercy Services will treat each case on its own merits on the facts provided. All decisions are to be made without bias or prejudice and be dealt with as soon as practicable.

Remedial and/or disciplinary action may be initiated in, but is not limited to, the following occurrences:

- Incident/s of poor performance (e.g. where work quality, work quantity or work timeliness is unsatisfactory);
- Misconduct (e.g. being consistently late for work or overusing the internet for personal purposes);
- Vexatious or false allegations; and
- Serious misconduct (e.g. threatened or actual physical assault, verbal abuse or harassment, theft and fraud).

4.0 PROCEDURES

4.1 STEPS FOR DEALING WITH PERFORMANCE OR CONDUCT CONCERNS

4.1.a *Identify the concern*

When Mercy Services becomes aware of a conduct or performance concern, Mercy Services should satisfy itself that there is sufficient evidence to act on the concern prior to proceeding. Where Mercy Services is satisfied that there is sufficient reason to proceed based on the evidence available, Mercy Services

should discuss the concern with the staff member/s involved. Where Mercy Services does not believe there is sufficient evidence or cause to act on the concern, Mercy Services should discuss this with the staff member who raised the concern.

4.1.b *Discussions with staff members*

Mercy Services will initiate discussions with the relevant staff member/s in circumstances where Mercy Services, in line with 3.1 above, believes there is sufficient evidence to do so. When doing this, Mercy Services should ensure the staff member is provided with sufficient detail of the conduct or performance concern so that they can properly understand it. The staff member should also be advised of the potential outcomes if the concern is not resolved, including, where relevant, that dismissal may be a consequence of continued poor performance or misconduct.

The staff member should be given a reasonable opportunity to respond to the concern raised. Mercy Services will consider the staff member's response and where appropriate, consider matters raised by the staff member. Staff members will also have the opportunity to have a support person present in any formal discussions with Mercy Services about the conduct or performance concern where dismissal is under consideration.

Where practicable, all discussions with staff members about performance or conduct, including outcomes, should be documented by Mercy Services.

4.1.c *Decision on which action to initiate*

After discussions with the staff member, the relevant Mercy Services Manager will consult the Catholic Commission for Employment Relations for advice. On the basis of this advice the Manager will decide what action, if any, should be taken. The approach taken in each circumstance will depend on the nature and seriousness of the performance or conduct concern and any other factors Mercy Services believes should be taken into consideration. This may mean that remedial action is initiated by Mercy Services in some instances and disciplinary action in others, even though the conduct may appear similar.

4.1.c.1 *Remedial action*

Remedial action attempts to correct the behaviour through a variety of means that may include counselling, training and/or issuing a warning (verbally or in writing). It may be appropriate in circumstances such as the first instance of poor performance or an isolated instance of misconduct.

When implementing remedial action, Mercy Services should clearly identify the areas that require improvement; specify the expected outcomes and where possible refer to objective standards of performance; monitor the performance regularly; identify any training that may assist the staff member improve their performance to a satisfactory level and specify the consequences if the staff member's performance does not improve within a reasonable time to a satisfactory level (Appendix one may be used to record these details).

4.1.c.2 Disciplinary action

Disciplinary action may include a caution (verbally or in writing), suspension, demotion, transfer and dismissal from employment. It may be appropriate where remedial action has been unsuccessful or where the performance or conduct concern warrants it.

If Mercy Services believes on reasonable grounds that the conduct constitutes serious misconduct, immediate dismissal may be appropriate. Where immediate dismissal occurs, the staff member is not entitled to payment in lieu of notice.

Where immediate dismissal has been initiated, Mercy Services will advise the staff member of the reason why they are being dismissed.

4.2 External notification requirements

In some instances, it may be appropriate for Mercy Services to notify external bodies about a conduct concern. For example, if Mercy Services reasonably believes that a staff member has committed a criminal offence, Mercy Services may refer the matter to the Police. Notification to an external body will not prevent Mercy Services from continuing its own investigation, unless requested otherwise by the external body.

4.3 Confidentiality

Staff members involved in the performance or conduct process must maintain confidentiality and not discuss any information about the process or action taken with anyone else unless expressly authorised by Mercy Services to do so. If this responsibility to maintain confidentiality is found to have been breached, the staff member who released the information could find themselves the subject of disciplinary action for misconduct.

4.4 Further Information

Further information about the processes outlined in this document can be sought from the Chief Executive Officer or one of the other members of the Mercy Services Management Team on (02) 4961 2686.

5.0 REFERENCES

1. Australian Standards	a) None identified
2. Legislation	a) Fair Work Act 2009 (Australia) b) Work Health Safety Act 2011 (NSW) c) Anti Discrimination Act 1977(NSW)
3. Professional guidelines	a) None identified
4. Codes of Practice	a) None identified
5. Codes of Ethics	a) Australian Association of Social Workers Code of Ethics http://www.aasw.asn.au/document/item/1201 b) Australian Psychological Association Code of Ethics http://www.psychology.org.au/Assets/Files/Code_Ethics_2007.pdf c) The Nursing and Midwifery Board of Australia. Registration Requirements http://www.nursingmidwiferyboard.gov.au/Registration-Standards.aspx d) Integrity in the Service of the Church https://www.catholic.org.au/media-centre/media-releases/cat_view/10-organisations/38-national-committee-for-professional-standards

	e) Mercy Services Code of Conduct
6. Evidence	a) None identified
7. Mercy Services Values	a) Justice, Respect, Care, Unity, Service

6.0 OTHER RELATED POLICIES AND PROCEDURES

- A.01 Mission and Philosophy
- A.02 Code of Conduct Policy
- B.02 Delegations Policy
- C.01 Management Roles and Responsibilities
- D.12 Anti-Fraud and Anti-Corruption
- E.01 Service Guarantee
- E.15 Privacy Policy
- E.16 Protection and Vulnerable Adults from Abuse and Neglect
- E.17 Protection of Children from Abuse and Neglect
- F.01 Employment Conditions
- F.05 Performance Management
- G.07 Anti-Aggression, Harassment and Bullying
- G.12 Stress Management Policy
- G.13 Post Traumatic Incident Policy

7.0 RELATIONSHIP WITH STANDARDS

<i>Aged Care Accreditation Standards</i>	<i>Home Care Standards</i>	<i>Disability Standards</i>	<i>EQuIP Standards</i>
1.8, 2.6, 3.5, 3.6, 3.9, 4.5, 4.6	1.4, 1.6, 2.2, 2.3, 2.4, 2.5, 3.5	1.1, 1.2, 1.3, 1.4, 1.4, 1.7, 1.8, 1.9, 2.1, 3.1, 4.5, 5.1,	1.1.1, 1.1.4, 1.1.5, 1.2.2

8.0 DOCUMENT CHANGES RECORD

<i>Dates of change</i>	<i>Section altered</i>	<i>Natures of changes made</i>
12/09/2006	12. Staff Management and Development Policy	Document created
09/02/2010	All sections	Major changes
16/08/2010	a) 1.0 b) 2.0 c) 4.1 d) 4.2 e) Appendix 1	a) Reference to Mercy Services principles b) Reference to conduct issues dealt with by other Mercy Services Policies c) Representative changed to support person; clarify that employee will have the option of a support person when s/he will be given a warning; details of investigation deleted; deleted reference to actions that could be taken as numbered steps; delete requirement to set a review date; d) Delete list of actions that constitute serious misconduct e) Added
28/03/2011	7.0 Relationship to Standards	Updated Community Care Common Standards and EQuIP5 Standards
27/11/2012	All Sections	Organisation name updated
12/10/2015	a) 1.0 Introduction/ Background b) 2.0 Purpose c) 3.0 Policy d) 4.0 Procedures e) 5.0 references	a) Include a paragraph from CCER template and clarify consideration of organisational factors. b) Renamed as Scope and Replaced with a paragraph from CCER template c) Replaced with two paragraphs from CCER template d) Replaced with many paragraphs from CCER template e) Update: Codes of Practice and Evidence

	f) 6.0 Other related policies g) 7.0 Relationship to Standards	f) Update g) Added Aged Care and updated Disability Standards
Review due 12/10/2015		

Record of meeting and actions required

Appendix 1

This is a record of a performance and/or conduct management meeting.

Copies of the Mercy Services Management of Poor Conduct/Performance Policy (F.06) are available from any Mercy Services office or www.mercyservices.org.au

Date: **Meeting place:**

Representing Mercy Services management:

Employee concerned: **Employees support person/advocate:**

<i>Performance/Conduct Issue</i>	<i>Action Required</i>	<i>By whom</i>	<i>By when</i>

Date of review meeting:

I sign that I agree this is an accurate record of this meeting:

Representing Mercy Services management:

Employee concerned: **Employees support person/advocate:**

An employee may appeal her/his supervisor's actions using the process outlined in the Mercy Services Staff Grievances Policy (F.08) available from any Mercy Services office or www.mercyservices.org.au