






a just society where diversity is celebrated and participation encouraged
 Maleny Neighbourhood Centre builds community networks,
 responds to diverse local needs and delivers Emergency Relief



In the Heart of Maleny...

MALENY NEIGHBOURHOOD CENTRE			
2024 DISCIPLINARY & DISMISSAL POLICY			
Authorised By: Maleny Neighbourhood Centre (MNC) Association Inc Management Committee (MC)			
Responsibility for the review:	MNC Management Committee and Centre Coordinator (CC)		
Policy Developed:	March 2020		
Last Review:	January 2025		
Approved by Management Committee:	<table border="1" style="width: 100%;"> <tr> <td style="width: 50%;">Signed: </td> <td style="width: 50%;">Dated: 9 JANUARY 2025</td> </tr> </table>	Signed: 	Dated: 9 JANUARY 2025
Signed: 	Dated: 9 JANUARY 2025		
Date of Next Review:	January 2028		
Review Process	This Policy will be reviewed by the CC and endorsed by the Maleny Neighbourhood Centre Management Committee.		
Documentation and Communication:	<p>Any decisions requiring policy changes will be recorded in the Minutes of MNC Management Committee and forwarded to CC for action and updating of policy documents.</p> <p>Policy changes relevant to staff and volunteers will be either emailed or discussed at staff and volunteer meetings.</p>		
POLICY CONTEXT			
Queensland Standards for Community Services:	Standard 6: Human Resources		
Other Standards:	Standard 1: Governance and Management Standard 4: Safety, Wellbeing and Rights Fair Work Commission Fair Work Ombudsman National Employment Standards (NES)		
Relevant Policies:	Staff Recruitment Policy Ethics Policy Work Health and Safety Policy Code of Conduct Policy		
Forms or other organisational documents:	Deed of settlement and release Work Agreement		
Legislation or other requirements:	<i>Fair Work Act 2009 (Cth)</i> <i>Anti-Discrimination Act 1991 (Qld)</i> <i>Workplace Health and Safety Act 2011 (Qld)</i> <i>Social, Community, Home Care and Disability Services Industry Award 2010 (SCHADS)</i> <i>Industrial Relations Act 2016 (Qld)</i>		

Purpose and Commitment	MNC is committed to ensuring that paid staff and volunteers behave in a way that ensures that everyone is treated fairly and without bias or discrimination. MNC encourages behaviour that supports and fosters self-discipline and promotes our Code of Conduct and Code of Ethics.
SCOPE	The policy will apply to all MNC staff when they have been identified as unable or unwilling to use their skills to carry out tasks associated with a particular position competently. It also applies when employees have breached the MNC's Code of Conduct and Ethics Policies.
Procedures	<p>This policy sets guidelines for implementing consistent disciplinary action for MNC's employees.</p> <p>This policy also establishes an equitable and consistent approach to addressing unsatisfactory work performance and/or misconduct by:</p> <ul style="list-style-type: none"> ● ensuring counselling takes place to reinforce the expected performance or conduct standards; ● establishing a process under which warnings may be issued and discussed; ● providing for disciplinary action where performance or conduct does not improve. <p>Maleny Neighbourhood Centre encourages relevant parties to resolve the matter by themselves first, informally.</p> <p>All persons have the following rights:</p> <ul style="list-style-type: none"> ● have the principles of natural justice and procedural fairness observed, this means: ● the employee who is the subject of concern must be informed of all the allegations in relation to his/her behaviour ● the employee must be provided with the opportunity to put forward their case ● the employee may be accompanied by a colleague or other support person in any formal meeting. The role of the colleague or support person is defined at Attachment A ● the colleague or support person will sign a <i>Support Person Agreement</i> (Attachment B) prior to being allowed to attend the meeting ● all parties must have the right to be heard ● all relevant submissions and evidence must be considered ● irrelevant matters must not be taken into account ● the decision-maker must be impartial, fair and just ● investigations and proceedings that are conducted honestly, fairly and without bias ● no undue delay in investigations and proceedings. ● the inability of a nominated support person to reach agreement on a suitable date cannot be used as a reason to postpone the meeting.

It is the responsibility of all parties involved in counselling or disciplinary action to participate fully in the resolution process in good faith. Confidentiality must be respected and maintained at all times within the constraints of the need to fully investigate the matter, subject to any legal requirements for disclosure and consistent with the principles of natural justice.

Definitions

“Inappropriate behaviour”:

- Disrespect and aggression (verbal or physical)
- Harassment, bullying or any kind of discrimination against other employees, volunteers, MNC MC members, visitors or other persons.

“Minor offences”:

- Failure to follow the policies and procedures of our organisation (providing the behaviour does not relate to an act of gross misconduct)
- Poor work performance
- Offensive behaviour, such as telling jokes that may offend or transmitting offensive material
- Suspicion of illicit drug or alcohol use which may affect work performance
- Refusal or failure to follow reasonable directions from the MNC MC or CC.
- Absent without entitlement or appropriate explanation or whose punctuality in attending work is poor
- Carrying on a private business from MNC premises or using the service's resources for private business without permission
- Discrediting other employees, the organisation or members of its Management Committee

“Gross misconduct”:

- Theft of property or funds from the organisation
- Willful damage of MNC property
- Proven intoxication through alcohol or illicit substances during working hours
- The disclosure of confidential information to any other party without prior permission from the CC or MNC MC
- Falsification of any MNC records for personal gain or on behalf of any other employee
- Failure to comply with MNC Work Health and Safety Policy and acting in an unsafe manner on the job for themselves and others
- Threats or acts of violence against other employees, visitors, volunteers, members of the MNC MC or other persons

“Counselling”:

The discussion and analysis of issues which affect an employee’s conduct and/or work performance in an attempt to find solutions on raised problems.

	<p>“The Manager”: An employee or MC member who conducts the Performance Reviews according to MNC’s Recruitment Policy (generally the CC or MC President).</p>
	<p><u>Note:</u> The following procedure deals with repeated inappropriate behaviour or minor offences. It does NOT refer to cases of gross misconduct, which would result in instant dismissal (see later section of this policy).</p> <p>If an employee exhibits inappropriate behavior or commits minor offences, the Manager will first address the issue through informal counselling, before moving to the four formal steps listed below. Any informal counselling should follow the process listed in the Fair Work document <i>Managing underperformance – the ‘initial steps’ checklist</i> (Attachment C).</p> <p>If the informal counselling does not result in the desired changes, the Manager will take formal action. The procedure must be applied immediately, or within seven working days of an incident. If the staff member absents themselves from work, or is medically assessed as unfit to attend work, the seven days will recommence upon their return.</p> <p>The Manager will follow the process listed in the Fair Work document <i>Managing underperformance – the ‘formal steps’ checklist</i> (Attachment D).</p> <p><u>Step 1: Verbal Warning</u></p> <ol style="list-style-type: none"> 1. The Manager will advise the employee as soon as possible of the offence, inappropriate behaviour or breach of policies. 2. The Manager provide the employee with an opportunity to discuss the issue or incident in a meeting. The Manager will explain the purpose of the meeting and outline the issues which will be addressed. 3. The Manager will provide the employee a minimum of 24 hours’ notice, in writing. Ideally 48 hours’ notice will be provided. 4. This meeting should follow the process listed in Fair Work document <i>Managing underperformance – the ‘formal steps’ checklist</i> (Attachment D). 5. The Manager will then meet with the employee, outline the implications of their actions and seek an undertaking by the employee to change their behaviour. Where possible, any assistance the employee needs to change their behaviour, will be identified and provided. A date will be set to review the employee’s behaviour. This will usually be six to eight weeks after the first formal meeting. 6. The Manager will record a summary of this meeting and place it in the employee’s personnel file. Both the Manager and employee must sign the document as a true and correct record of the meeting and it will be placed in the employee’s personnel file. If the employee refuses to sign the document, the Manager will make a record of the refusal. <p><u>Step 2: First Written Warning</u></p>

1. If, during the time of review arranged in step 1, the employee's behaviour continues to be unsatisfactory or inappropriate, there will be a further meeting with the employee. During this meeting, the Manager will again stress the implications of the employee's actions and seek an undertaking by the employee to change their behaviour. Any assistance the employee needs to change their behaviour will be provided, where possible. A date to review the employee's behaviour will be set – again, six to eight weeks from the date of this meeting.
2. The Manager will record a detailed account of this meeting, under the heading 'First Written Warning'. Both the Manager and employee must sign the document as a true and correct record of the meeting, and it will be placed in the employee's personnel file. If the employee refuses to sign the document, the Manager shall make a record of the refusal.

Step 3: Second and Final Written Warning

1. If, at the time of the review arranged in the First Written Warning meeting, the employee's behaviour continues to be unsatisfactory or inappropriate, there will be a further meeting with the employee. The Manager will again seek an undertaking by the employee to change their behaviour. They will also be notified about the consequences should the inappropriate behaviour or minor offence continue (dismissal). A date to review performance and behaviour will be set within two weeks from the date of this meeting.
2. The Manager will record a detailed account of this meeting, under the heading 'Second and Final Written Warning'. Both the Manager and employee will be required to sign the document as a true and correct record of the meeting. It then will be placed in the employee's personnel file. If the employee refuses to sign the document, the Manager shall make a record of the refusal.

Step 4: Termination of Employment

1. If the behaviour is repeated after the final written warning is issued, the Manager may suspend the employee until the recommendation for termination can be put to the MC. The dismissal decision must be by a majority vote of the MC.
2. The Manager will record this outcome; actions will be instigated and recorded under the heading 'Deed of settlement and release' and the document will be placed in the employee's personnel file.

Record keeping

All records relating to disciplinary meetings and actions will be retained in personnel's file for a minimum of 7 years after the staff member's employment has ended, and will be securely destroyed thereafter.

Employee Appeals

An appeal against dismissal can be made to the MC in writing. If the next meeting of the

	<p>MC is not due to be held within 10 working days of the date of the appeal, a special meeting should be requested. An appeal against dismissal of the employee can be upheld by a majority vote of MC members. If the dismissal of the employee is overturned, full pay for the period of suspension and dismissal and all entitlements shall be restored.</p> <p><u>Dismissal</u></p> <p>When terminating employment, except in instances of <u>proved</u> gross misconduct warranting immediate dismissal, the employer will give notice in writing as specified below, or payment in lieu of notice, to any employee whose employment is to be terminated.</p> <p>Where the employee has been employed:</p> <ul style="list-style-type: none"> ● less than 1 year, 1 week's notice must be given ● 1 year and up to the completion of 3 years, 2 weeks' notice must be given ● 3 years and up to the completion of 5 years, 3 weeks' notice must be given ● 5 years and over, 4 weeks' notice must be given <p>During the period of notice, the employee shall be allowed up to 1 day off with pay for the purpose of seeking other employment. If an employee is over the age of 45 and has worked for at least 2 years on the day of the given notice, is entitled to 1 extra week (Fair Work Ombudsman).</p> <p>In cases of proved gross misconduct the MC may dismiss the employee without notice and with no salary payable for any period following the time of dismissal. The employee may appeal to the MC as specified in the previous section – employee appeals.</p>
For more information	<p>For National Employment Standards https://www.fwc.gov.au/documents/awardmod/download/nes.pdf</p> <p>For SCHADS http://awardviewer.fwo.gov.au/award/show/MA000100#P232_18779</p> <p>For termination of employment https://www.fairwork.gov.au/how-we-will-help/templates-and-guides/fact-sheets/minimum-workplace-entitlements/ending-employment</p> <p>For Not-for-profit Law guide https://www.nfplaw.org.au/sites/default/files/media/Employee_contractor_or_volunteer_CTH.pdf</p>

Employee Support Person¹

You can ask an employee support person to accompany you to conduct and performance discussions, and other management enquiries and investigations.

A support person can provide emotional support, take notes and request breaks.

Who can you ask?

You can ask a work colleague, friend, family member, industrial representative (union officer), or lawyer to be your employee support person.

Make sure your support person does not have a conflict of interest. For example, if a colleague is required as a witness in the investigation, it's a conflict of interest for them to be your support person. Your supervisor or manager will usually have a conflict of interest between supporting you and their duty to the organisation as a manager.

The MNC may ask you to find a different support person if they think there is a conflict of interest. They must explain why they think this is the case.

Industrial representative

If you're a member of a union, you can ask a union officer to support you. A union officer will support your interests in line with industrial legislation and their union rules.

They may take a more active role in the meeting. They might ask clarifying questions, prompt you, or give you advice to ensure the process is fair and adheres to industrial legislation.

When can you ask for a support person?

You should consider asking an employee support person to accompany you to meetings to discuss:

- poor performance
- questionable conduct
- workplace investigations (where you are being interviewed as either a witness or the subject)
- decisions (e.g. an outcome to a disciplinary process).

The MNC should tell you in advance if they need you to attend one of these meetings. They should suggest you may want to bring a support person and give you enough time to arrange one. They should accommodate reasonable changes to the meeting time and date to allow a support person to attend.

¹ This document is based on advice provided by the Queensland Government for Queensland government employees, dated 1 March 2023. The original can be found at <https://www.forgov.qld.gov.au/human-resources/employee-management-conduct-and-performance/conduct-and-performance/employee-support-person>

You do not need a support person at:

- workplace operational discussions (e.g. changes to work allocation)
- general employee meetings and information sessions.

How does it work?

The support person will sign the Consent form

The meeting organiser should clearly outline each attendee's role in the meeting. This should include what a support person can and cannot do and, if there is a union officer present, what an industrial representative can and cannot do.

A support person can:

- provide emotional support
- take notes
- seek breaks so the employee can regain their composure.

An industrial representative can also ask clarifying questions, prompt you, contribute to a resolution or give you advice to ensure the process is fair and adheres to industrial legislation.

Your representatives cannot speak on your behalf, defend you or directly answer questions for you.

Confidentiality

The meeting organiser should remind everyone in the meeting that they must maintain appropriate confidentiality to protect the integrity of the process and the privacy of the people involved. This includes not discussing the matter with work colleagues or those likely to have information relating to the matter.

An industrial representative may discuss the matter outside the meeting to appropriately represent your interests. For example, they may need to seek further legal advice.

Disruptive behaviour

If anyone becomes difficult or disruptive during a meeting, the meeting organiser should remind them of their role. If it continues, the meeting organiser should suspend the meeting to give the employee time to speak with their representatives.

If the disruptive behaviour continues, the meeting organiser and employee might agree to:

- continue the meeting without the disruptive person
- reschedule the meeting with alternative representatives
- raise and address the questions in writing.

Maleny Neighbourhood Centre Support Person Agreement

Meeting Date	Meeting Time
Meeting Venue	Meeting Participants

I, _____
am attending this meeting as a support person for _____

I am an industrial representative
(please check one)

I am not an industrial representative

I understand that I must maintain confidentiality to protect the integrity of the process and the privacy of the people involved.

I undertake not to disclose issues raised during this meeting.

I understand that issues raised during this meeting may be referenced in any subsequent independent investigation approved by the MNC's Management Committee.

I understand that any issues raised during this meeting may be communicated to the MNC's Management Committee, which operates under a Confidentiality Policy.

As a support person, I understand that my role is limited to the following actions:

- Providing emotional support to the employee
- Taking notes
- Seeking breaks so the employee can regain their composure.

As an industrial representative, I understand that I can also:

- Ask clarifying questions
- Prompt the employee
- Provide the employee with advice to ensure the process is fair and adheres to industrial legislation.

I understand that I cannot speak on the employee's behalf, defend them, or directly answer questions for them.

I understand that if I fail to comply with these conditions or disrupt the meeting, I will be directed to leave. I agree to comply with such a directive if it is issued.

I have read and understood the *Employee Support Person* document provided to me prior to the meeting.

I accept all the conditions listed above.

Support Person's Signature	Witnessed by
Signed	Signed
Print Name	Print Name
Date	Date

Managing underperformance – the ‘initial steps’ checklist

The following checklist has been created to help you manage underperformance in your business.

Step 1: Identify the issue

Start by writing down specific examples of your employee’s behaviour that’s causing an issue, and when it’s occurring. Gather any documents that demonstrate the issue (eg. work examples, complaints or performance statistics).

Also write down why the behaviour is an issue – it may be affecting your business, other employees, customers or the safety of the workplace.

Write down how the behaviour needs to change.

Step 2: Assess the issue

Before you meet with your employee, think about how serious the issue is and how long it’s existed.

Assess how wide the gap is between what you expect of your employee and what they’re doing.

Think about the possible cause of the issue – make sure you keep an open mind.

Step 3: Meet with your employee

Discuss the issue with your employee as soon as possible – ignoring it is likely to make it worse.

Arrange to meet with your employee at a time and in a place where you won’t be interrupted, overheard or rushed.

Let your employee know in advance what the discussion will be about so they don’t feel ambushed.

Allow the employee to bring a support person of their choice to the meeting, if they want to.

A support person may be a co-worker, family member, friend or union representative. Their role is to support the employee during the meeting, not to speak or advocate for them.

Clearly describe the issue, using examples, along with how it’s affecting the business.

Invite your employee to respond.

Explore the issue and possible causes by asking open questions.

Make sure the employee understands the change required.

Think about the impression that your body language gives – face the employee, adopt an open posture, maintain good eye contact and try to be relaxed.

Giving constructive feedback can be difficult. For more information about having difficult conversations see our online learning courses at www.fairwork.gov.au/learning.

Managing underperformance – the ‘formal steps’ checklist

If you have followed the ‘initial steps’ and your employee’s performance hasn’t improved it may be time to move to the ‘formal steps’ part of the process.

The following checklist has been created to help you plan and conduct a formal underperformance meeting with your employee, and document the issue.

Before the meeting

Arrange to meet with the employee at a time and in a place where you won’t be interrupted, overheard or rushed. Consider having a senior employee to attend as a witness and note-taker.

Tell the employee why you want to meet with them and who will be at the meeting.

Allow the employee to bring a support person of their choice to the meeting, if they want to.

A support person may be a co-worker, family member, friend or union representative. Their role is to support the employee during the meeting, not to speak or advocate for them.

Carefully plan what you want to say at the meeting using our [underperformance meeting plan template](#).

Gather relevant paperwork (eg. the employee’s performance agreement, job description and any performance improvement plan) and any documents that demonstrate the underperformance (eg. work examples, complaints or performance statistics).

During the meeting

Clearly explain why you’re meeting with the employee.

Describe the underperformance in issue and clearly explain why it’s an issue, using specific examples and focusing on facts.

Set out any steps you’ve taken so far to resolve the issue (eg. feedback and warnings) as well as the support you’ve provided (eg. training).

Invite the employee to respond to what you’ve said and to explain their performance, and ask them what they think can be done to improve it.

Consider what the employee has said.

If you need more time to think about or look into what the employee has said, close the meeting and agree to meet again in a day or two.

Decide on a way forward with the employee, including if you’ll provide any further assistance or support or make any adjustments. Record this using our [performance improvement plan template](#).

Tell the employee if you’ll be issuing a verbal or written warning. Provide them with a written warning using our [template warning letters](#), or record a verbal warning using our [meeting record template](#).

Explain what will happen next if the employee’s performance doesn’t improve (eg. a further warning).

After the meeting

Confirm the outcome of the meeting in writing and invite the employee to respond. Include:

1. What was discussed (including any issues raised by the employee).
2. What the employee needs to do to improve their performance.
3. Any support or assistance you'll provide.
4. Whether a verbal or written warning was, or will be, issued.
5. What will happen next if the employee's performance doesn't improve.

Keep thorough notes of the meeting and copies of any letters, emails or warnings, and sign and date these documents. Ask the employee and any witnesses to do the same. If the employee refuses, make a record of the refusal.

Give the employee a reasonable period of time to improve their performance (typically 6-8 weeks).

Regularly check-in with the employee over that period to discuss how they're progressing.

Formally meet with the employee again at the end of the period to review their performance.

If the employee's performance has improved enough, close the process. Follow up in writing and clearly explain that they must maintain the improvement.

If the employee's performance hasn't improved, consider taking further action.

Find out more

For more information see our online learning course on managing performance at www.fairwork.gov.au/learning