



**uniting
church**
in Australia,
Synod of NSW & ACT

Managing Performance and Misconduct Guide

Title: Managing Performance and
Misconduct Guide

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1. Overview/Background

Good working relationships founded in trust and mutual respect are the backbone of our success. However, sometimes things go wrong and, when that happens, we need a transparent process and approach for addressing concerns.

2. Purpose of Policy

This policy is to provide all individuals with transparency about our approach to any issues which may arise. We aim to be fair, equitable and consistent in all our dealings with those who've chose to work with us.

3. Applicability (scope)

This policy applies to all employees, volunteers and contractors ('**individuals**') of Uniting Resources, including Uniting Financial Services and the Secretariat, Uniting Mission and Education and churches and congregations within the ambit of the Synod of NSW and the ACT ('**Synod**').

This policy is to be read in conjunction with our Code of Conduct and related policies which govern standards of behaviour, conduct and performance.

4. Responsibilities

4.1 General Secretary, Senior Executives and Directors

The General Secretary is accountable for ensuring the implementation of this policy across the Synod.

The Senior Executives and Directors are responsible for the communication of this policy within their divisions and functional areas and for promptly referring any matters arising under this policy to the People and Culture Team or, in more serious cases such as actual or suspected unlawful, unethical or fraudulent behaviour, to Speak Out <https://nswact.uca.org.au/speak-out-in-confidence/>.

4.2 Policy Owner and Sponsor

The Director, People and Culture is the owner of this policy and is accountable for overseeing this Policy, for monitoring its effectiveness and for ensuring People Managers and individuals are adequately informed.

4.3 People Leaders

People Leaders are responsible for:

- ▶ Managing performance and inter-personal conflict as or when they arise and for promptly liaising with the People and Culture team in the cases of more serious or repeated concerns (whether of the same nature or not);
- ▶ Promoting and modelling appropriate behaviour;
- ▶ Maintaining confidentiality about any matters being dealt with under this policy, except insofar as is necessary to enable the People Leader to address the concern.

4.4 Individuals

Individuals are responsible for:

- ▶ Complying with our Code of Conduct and related policies;
- ▶ Meeting the appropriate standards of performance and proactively raising any challenges, difficulties or concerns with their People Manager;
- ▶ Immediately reporting any concerns in relation to misconduct to their People Manager, the People and Culture team or, in more serious cases such as actual or suspected unlawful, unethical or fraudulent behaviour, to Speak Out <https://nswact.uca.org.au/speak-out-in-confidence/>.

5. Principles

The Synod is committing to ensuring that whenever concerns arise, we hear both or all sides of the story. Specifically, we aim to ensure that:

- ▶ Disciplinary procedures and action are managed fairly, objectively and with regard to confidentiality;
- ▶ Relevant non-disciplinary procedures either in addition to, or instead of, disciplinary procedures are also considered;
- ▶ Individuals are given the opportunity to state their case and, if they choose, to have a support person present;
- ▶ All individuals subject to this policy are given reasonable opportunity and support to make the required improvements or changes.

Our disciplinary procedure is separate to any additional actions which may be required, e.g. reporting of certain behaviours or actions to the police or other relevant authority or body.

6. Matters related to disciplinary procedures

The circumstances under which disciplinary procedures may be entertained or implemented are broad. Examples of misconduct include (but are not limited to):

- ▶ Any breach of the Synod's Code of Conduct and Ethics or other policies which govern an individual's conduct while representing the Synod or the Uniting Church in Australia ('UCA') more broadly;
- ▶ Under-performance;
- ▶ Breaches of data security including unauthorised access (or attempted unauthorised access) to personal or sensitive information (whether related to individuals, congregation or community members) or inappropriate sharing of information or passwords;
- ▶ Unauthorised disclosures of confidential information either internally or publicly;
- ▶ Health and Safety breaches;
- ▶ Failure to submit leave forms and any required medical certificates in a timely way, or providing dishonest or fraudulent information.

Gross misconduct is a serious form of misconduct that can lead to immediate termination of employment (including termination without notice). Examples of gross misconduct include (but are not limited to):

- ▶ Theft from the Synod, individuals or community or congregation members;
- ▶ Assault;
- ▶ Dishonest or fraudulent conduct;
- ▶ Any inappropriate or objectionable behaviour either publicly or within the Synod that could negatively impact the reputation of the Synod or UCA;
- ▶ Vandalism or wilful damage to the property of the Synod, UCA, individuals, community or congregation members;
- ▶ Intoxication or use of illegal substances or behaviour which endangers others' wellbeing or safety;
- ▶ Unlawful activities such as assault, sexual assault, grooming or taking advantage of children or other vulnerable people;
- ▶ Using one's position of trust in the community to garner or seek sexual or other favours;
- ▶ Acts of bribery or corruption;
- ▶ Conviction for an offence which is detrimental to the reputation of the Synod or UCA or to the individual's responsibilities within the Synod or UCA.

7. Procedure

When a potential disciplinary matter arises, the first steps is to establish the facts. This may be done by

- ▶ speaking with the parties directly involved;
- ▶ conducting an investigation;
- ▶ or a combination of the above.

Depending on the nature and seriousness of the matter, the Synod reserves the right to stand individuals down on full pay pending further exploration or investigation of the matter.

At all times, individuals who may be under disciplinary action will have the opportunity to:

- ▶ Fully state their case and to provide any supplementary or supporting information; and
- ▶ Have a support person present. A support person's role is to support the individual, help them clarify any options and to make sure the individual understands the issues being raised. It is not the support person's role to advocate for the individual. That's because we need to hear from the individual directly. No-one understands their story as well as the individual themselves and it'd be a potential disservice to have another speak on their behalf.

8. Potential outcomes

The outcomes of a disciplinary matter will vary depending on the nature and seriousness of the matter and whether it is repeat concern or offence (including concerns or offences of a different nature to prior concerns or offences). Possibilities include:

8.1 Non-disciplinary action

Non-disciplinary action includes things like making a formal apology or mediated or conciliated

discussions between the parties where both (or all) parties agree. It may also include a reminder about the Synod's required standards of behaviour and performance and a requirement to attend specific training. Regular check-in meetings may also be implemented to ensure that the individual gets back on track and stays on track. In essence, the goal is to resolve the situation through clarification and support for all parties.

8.2 Disciplinary action

Disciplinary action may include the issuing of a warning, or for more serious offences, termination of employment (either with or without notice). In cases of criminal conduct, the police and/or other relevant authorities will also be informed.

Warnings may be written or verbal.

9. Potential sanctions

If misconduct or under-performance is found to have occurred, the sanctions could include:

▶ Informal warning

An informal warning is usually verbal and is appropriate for minor transgressions. In essence it's a reminder about what's expected of the individual.

▶ Written warning

A written warning is a more serious matter which could lead to termination of employment. However, it is the Synod's aim that the individual makes the necessary improvements, and that neither further disciplinary action nor termination is necessary.

There is no hard and fast rule about the number of warnings issued as each situation must be assessed on its merits.

Additionally, the action taken by the Synod will always depend on the seriousness of the matter. For example, in cases of unlawful or unethical conduct, immediate termination may be the most appropriate outcome.

Termination of employment

In cases of gross misconduct, termination of employment may be immediate and may occur with or without notice or pay in lieu of notice.

In the case of termination with notice, the Synod reserves the right to provide payment in lieu of notice, to place the individual on garden leave, to allow the individual to work their notice period or a combination of these things at the Synod's sole and absolute discretion.

Other actions

In addition to warnings, the Synod may require that the individual undergo counselling, coaching, training, tighter management controls or monitoring, reduction or change in responsibility e.g.

- ▶ if the individual is in a people leadership role, those responsibilities may be removed;
- ▶ If the individual has certain sign-off or other authority, this may be removed,

either temporarily or permanently.

10. Other Relevant Policies

Other relevant policies include:

- ▶ Code of Conduct and Ethics
- ▶ Bullying, Harassment and Discrimination Policy
- ▶ Social Media Policy
- ▶ Email and Internet Useage Policy
- ▶ Privacy Policy
- ▶ Surveillance Policy
- ▶ Performance Development Policy
- ▶ Working with Children and Vulnerable People

Any actions taken under this policy will accord with the provisions of the Fair Work Act (2009) Cth.

11. Terms and Conditions

This Policy does not form part of any contract of employment or contract of engagement and may be amended, replaced or revoked at any time by the Synod at its discretion.