



# PMAbility

Code of Conduct Feb 2022

# Table of Contents

I.	<b>Purpose</b> .....	2
II.	<b>Scope</b> .....	2
III.	<b>Code of Conduct</b> .....	2
	Honesty.....	2
	Integrity .....	2
	Confidentiality .....	2
	Competence .....	3
IV.	<b>Reasonable care</b> .....	3
V.	<b>Serious Misconduct</b> .....	4
VI.	<b>Disciplinary Procedure</b> .....	4
	Step 1 – Get an initial understanding .....	4
	Step 2 – Investigate thoroughly .....	5
	Step 3 – Invite the employee to a disciplinary meeting .....	5
	Step 4 – Conduct the disciplinary meeting .....	5
	Step 5 – Decide on action to take .....	6
	First level of warning.....	6
	Final written warning.....	6
	Dismissal.....	6
	Step 6 – Confirm the outcome in writing .....	6
	Step 7 – Right to appeal.....	6

## Purpose

---

The purpose of this Code of Conduct is to describe the standards of behaviour and conduct expected from all people working with PMAbility. This Code of Conduct applies to PMAbility. All NDIS providers – registered or unregistered - of supports and services to people with disability are subject to the NDIS [Code of Conduct](#). This Code is intended to further compliment this National Code as detailed in NDIS Act (2013) Section 9.

## Scope

---

The policy applies to all staff (employees and volunteers) of PMAbility in their work. This covers all services and supports that are provided by PMAbility, not only under the NDIS but also any other schemes. This policy links to other policy documents including Incident Management, Risk Management, Quality Management & Continuous Improvement, and HR Management Plan.

## Code of Conduct

---

All employees are expected to observe the highest standards of ethics, integrity and behaviour during their employment. All employees are required to undertake their work complying with PMAbility's Code of Conduct. Noncompliance with this Code may result in disciplinary action.

We are committed to ensure that our conduct is of the highest standard, demonstrating honesty, integrity, confidentiality and competence.

### Honesty

- ✓ Staff must act honestly and with consideration to accountability.
- ✓ Staff must comply with the relevant financial accounting, taxation and other laws in the conduct of their personal affairs.
- ✓ If staff receive money or other property from or on behalf of a participant, and hold the money or other property on trust, it must be recorded and accounted for such that it can be identified by the participants.
- ✓ Staff will not take improper advantage of participants or employees or volunteers due to the position they hold.
- ✓ Ensure that we consider the expressed values, beliefs and culture of our participants, regardless of their faith, ethnicity, gender / identity / sexuality, age or disability.

### Integrity

- ✓ Staff must act lawfully in the best interests of their participants.
- ✓ Staff must recommend and provide supports and services appropriate to the needs of the participant.
- ✓ Staff must have in place adequate arrangements for the management of conflicts of interest that may arise in relation to the activities that they undertake in the capacity of a plan management agent or support coordination.
- ✓ Foster a supportive environment where there is a solid trust-based relationship between all stakeholders.

### Confidentiality

- ✓ Unless staff have a legal duty to do so, they must not disclose any information relating to a participants' affairs to a third party without their participants permission.
- ✓ Foster an environment where people with disabilities, their families, carers, advocates and workers feel safe to make a complaint, report incidents or issues and know it will be handled correctly.

- ✓ Staff must comply with Commonwealth and State privacy laws.

## Competence

- ✓ Staff must ensure that the services that they provide, or that is provided on their behalf, is provided competently.
- ✓ Staff must maintain knowledge and skills relevant to the services that they provide.
- ✓ Staff must take reasonable care in ascertaining a participant's situation, to the extent that ascertaining this is relevant to their NDIS plan they are working with, particularly when they are acting on behalf of a participant.
- ✓ Staff must not engage in conduct that is likely to cause harm to participants or bring discredit to PMAbility.
- ✓ Staff must take reasonable care to ensure that relevant laws are applied correctly to the circumstances in relation to which they are providing advice to a participant.
- ✓ Staff must ensure that they provide information in a manner that is accurate, timely and accessible (alternative formats should be always available).

## Reasonable care

---

Reasonable care is an important element of this Code. Under the Code, Staff are required to take reasonable care:

- ✓ in ascertaining a participant's situation that is relevant to a statement or plan you are managing funds on behalf of a customer.
- ✓ in ensuring NDIS and other laws, rules and guidelines are applied correctly to the circumstances in relation to which staff provide advice to a participant.

There is no set formula for determining what it means to take reasonable care in any given situation. Determining what reasonable care is will involve staff exercising their professional judgement, considering relevant factors including:

- ✓ the terms of engagement between staff and their participants
- ✓ the complexity of the transaction
- ✓ their participant's circumstances, including their level of sophistication (such as their level of knowledge in the subject area)
- ✓ the nature of any pre-existing relationship between staff and their participant.

It is the responsibility of the Principal Consultant to ensure this policy is communicated to all employees and volunteers on commencement of employment. All supervisors and managers will continue to reinforce the Code of Conduct with employees through performance reviews and regular staff meetings.

The terms of the engagement with a participant may arise in a variety of ways, including a letter of engagement, an email or via telephone. It is prudent to have a written agreement (such as a service agreement) between staff and participants' that sets out the terms and conditions of the arrangement.

Staff should avoid engaging in or promoting sharp practices, which might include:

- ✓ providing services or expending funds contrary to a participants plan and NDIS Price Guide stipulations
- ✓ asking for or accepting any additional fees for providing services
- ✓ offering inducements or rewards that have no link to the participants plan and
- ✓ engaging in high pressure sales tactics.

Note: Confidentiality of client information is further covered in the Privacy Statement.

## Serious Misconduct

---

Below are examples of behaviour which the organisation treats as Serious Misconduct. Such behaviour will render employees liable to dismissal without notice – the employee will only be entitled to be paid for the time up to the point of dismissal.

- Engaging in any act or omission constituting misconduct in respect of their duties.
- Willfully failing or neglecting to perform or carry out their functions or duties in an agreed manner.
- Engaging in offensive, harassing or bullying behaviour.
- Breaching Health & Safety Obligations.
- Breaching Policies.
- Being under the influence of illegal drugs or alcohol.
- Engaging in any conduct which may injure the reputation or standing of the employer.
- Refusing or neglecting to comply with any lawful and reasonable requests of the employer, or any other person duly authorised by the employer.
- Engaging in Theft or Fraud.
- Engaging in sexual activity with a participant or their carer.
- Engaging in assault or abuse with any person.
- Being convicted of an offence which is relevant to the performance of the employee's duties.

## Disciplinary Procedure

---

Discipline is to be affected fairly, consistent, progressively and promptly. The principles / ethics of natural justice and fair procedure must be adhered to notwithstanding any criminal and/ or civil action having been instituted. PMAbility is committed to providing a safe and healthy work environment in which all staff are treated fairly, with dignity and with respect. All staff have a right to a workplace that is free from discrimination, bullying or harassment. PMAbility seeks to resolve employee issues/grievances/allegations in a fair, transparent, consistent and confidential manner and adhere to relevant legislation.

The employer and employee have the right to contact an independent mediator or arbitrator to assist in resolving matters, such as The Fair Work Commission. Should it be deemed that the Principal Consultant who is ultimately responsible for overseeing the disciplinary process be the person believe to have breached the code, then an external facilitator will be engaged to oversee the proceedings.

The following steps will be undertaken as part of a disciplinary procedure and may be coordinated by an external consultant engaged for this purpose (referred to as 'convener').

### Step 1 – Get an initial understanding

Establish the facts as soon as possible. Get the staff members side of the story before you decide on next steps. If it is determined that the issue is more closely linked to performance or ability rather than behaviour, following a capability procedure may be more appropriate.

In the case of a minor or first offence, it may be most appropriate to issue an informal warning, avoiding the need to enter a formal disciplinary process. This could be as simple as having a conversation with the staff member and following it up with a letter reflecting what was said.

## **Step 2 – Investigate thoroughly**

If the offence is more substantial, or it is not the staff members first, it may be necessary to resort to formal procedure. Begin by gathering all the information needed to establish the facts about the situation: speak to witnesses, look at any information that may serve as evidence and hold an investigation meeting with the employee concerned.

It should be explained that the staff member has the right to bring a representative to the investigation meeting. Ensure they are informed that if the matter relates to a customer, that they do not access any electronic / business system / files / records held for this customer.

Make sure a record all the relevant notes and evidence at this point. If you're investigating an instance of possible gross misconduct, it may be appropriate to suspend the employee while the investigation is in progress. This can be with or without pay at the discretion of the Principal Consultant.

If it appears that there is no case to answer following the investigation, the matter stops here. Otherwise, proceed to a formal disciplinary meeting.

## **Step 3 – Invite the employee to a disciplinary meeting**

Invite the employee to a formal disciplinary meeting in writing. Provide them with notice of the meeting, be sure to advise them of their right to be accompanied and provide copies of all the evidence held against them for their review. Make sure the invite explains the conduct that the disciplinary matter will discuss.

Remember that the staff member has a right to view and respond to all evidence before a decision on disciplinary action is made and providing them with key evidence on the day of the disciplinary meeting is unlikely to be fair. They should be given 5 working days to respond.

If the meeting may result in their dismissal, because the matter is so serious (i.e. gross misconduct) or they are already on a final written warning, it should explained in the invitation letter that this could be a potential outcome of the meeting.

## **Step 4 – Conduct the disciplinary meeting**

In the disciplinary meeting you'll need to:

- Check that the staff member is aware of their right to be accompanied if they have not brought anyone with them.
- Run through the allegations held against them and invite them to respond.
- Review the evidence held and offer the staff member an opportunity to add any further comments.
- Make sure notes are taken throughout the meeting – ideally there will be a note-taker present. This not only provides a witness to discussions but also means the convener can concentrate on running the meeting.
- If it is felt that more investigation is needed before a decision is made, advise the staff member that a further meeting is necessary (ensure a maximum timeframe is established, ideally 3 more days). Ensure they are sent any new evidence uncovered before the meeting takes place (ideally 24 hrs).

## Step 5 – Decide on action to take

After the meeting, the convener will consider all the evidence available now have and whether it's sufficient to prove the allegation of misconduct. In the case where you find the staff member is innocent or feel that the behaviour doesn't warrant taking further action, the convener would explain this to the staff member and end the procedure.

If misconduct is proven, the next step is to decide on the appropriate level of warning. Consider whether the staff member has any previous warnings on file, any mitigating circumstances and their length of service. Also reflect on whether similar situations have occurred in the organisation previously and how they have been dealt with to ensure fairness and consistency.

The following levels of warnings will be possible, before reaching the dismissal stage, with the exception of gross misconduct where the convener would recommend to the Principal Consultant can progress directly to the dismissal stage.

### *First level of warning*

This is usually appropriate for relatively minor issues, or the first issue a staff member might have. Accompany this with the expectations of PMAbility for their behaviour going forwards, and the further actions that may be taken should they fail to meet these expectations.

### *Final written warning*

A final written warning may be applied if there is already a live warning in place, or in cases of serious misconduct just below the level of gross misconduct, such as breaching a very important procedure – a 'first and final warning'.

### *Dismissal*

This penalty can be issued for further misconduct when there is already an active final written warning on record. In this case, the staff member would be entitled to their contractual notice.

Alternatively, dismissal can be considered for instances of gross misconduct. This will often result in summary dismissal – immediate dismissal without the entitlement to notice or notice pay.

## Step 6 – Confirm the outcome in writing

Once the convener has made their decision in a report to the Principal Consultant then it would be confirmed it in writing to the staff member. They will need to inform of:

- The nature of the misconduct.
- The level of warning they are being issued with, or whether they are being dismissed.
- How long any warning will remain active (usually 2 years). Note it will be destroyed after this period.
- If they are place on warning – the necessary changes in behaviour and the likely consequences of further misconduct.
- In the case of a dismissal – the grounds for the dismissal.
- Their right to appeal and the timescales they must do this.

## Step 7 – Right to appeal

For the disciplinary to be considered fair, the staff member must be given an opportunity to challenge this decision. They may appeal to the Fair Work Ombudsman ([Workplace investigations - Fair Work Ombudsman](#)) who may conduct an investigation to determine if a fair process has been followed.

THE END