

8 May 2026

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Tēnā koe s9(2)(a)

Thank you for your email, received on 18 April 2026, to Oranga Tamariki—Ministry for Children (Oranga Tamariki) requesting copies of Oranga Tamariki guidelines. Your request has been considered under the Official Information Act 1982 (the Act).

You have requested:

a hard and soft copy of Oranga Tamariki's "Disciplinary Action and Disciplinary Process Guideline"

Please find attached two documents which we consider relevant to your request:

- Appendix A - Disciplinary Guidelines
- Appendix B - Disciplinary Policy

As requested, we are sending these to you both via email (pdf attachments) and in hard copy via mail.

Oranga Tamariki may make the information contained in this letter available to the public by publishing this on our website with your personal details removed.

I trust you find this information useful. If you wish to discuss this response with us, please feel free to contact OIA_Requests@ot.govt.nz. Alternatively, you are advised of your right to also raise any concerns with the Office of the Ombudsman. Information about this is available at www.ombudsman.parliament.nz or by contacting them on 0800 802 602.

Nāku noa, nā



Elizabeth Blanchfield
General Manager People and High Performance



Disciplinary - Supporting Guidelines

These guidelines supplement the Disciplinary Policy and give managers guidance on how to ensure disciplinary processes are fair, transparent and impartial. Where an informal resolution process is not considered appropriate, or has been undertaken without achieving the required outcome, a formal (disciplinary) process will likely follow. There is no 'one size fits all' approach to disciplinary processes or outcomes, however, the core principles for any disciplinary process are:

- ▶ Concerns regarding potential poor performance, misconduct or serious misconduct will be taken seriously and dealt with appropriately, and those who have concerns should feel comfortable and able to raise them.
- ▶ We will raise concerns with the employee and provide the employee with information relevant to the process.
- ▶ We will investigate what is alleged to have happened, and decide if and when disciplinary action is appropriate.
- ▶ The employee will have a reasonable opportunity to respond to the allegations and proposed disciplinary action before decisions are made.
- ▶ We will genuinely consider the employee's explanation before making any final decision.
- ▶ The employee is entitled to obtain support, advice and representation throughout.

Complaints

Allegations of misconduct or serious misconduct will sometimes be brought to the manager's attention by way of a complaint from another individual or organisation. The manager will need to consider whether they need further information from the complainant, for example about what happened, when, where, and who was involved, before deciding on the appropriate next steps. It is best practice for any complaint to be recorded in writing (preferably by the complainant themselves if possible, or if that is not possible, for any written summary of the complaint to be confirmed as accurate by the complainant). Unless there are genuine and significant concerns that justify a different approach (for example about the complainant's personal safety), a copy of the full complaint will be provided to the employee who the allegations are about. The complainant should be made aware of this as early as possible to enable any concerns regarding safety or retaliation to be considered and addressed.

The Ministry needs to ensure that they are addressing matters raised in an appropriate way in the particular circumstances. Furthermore, complainants need to have confidence in the Ministry and should be given reasonable feedback about the investigation process and whether their complaint is ultimately upheld.

First steps

When faced with a potential disciplinary issue, managers will need to consider the circumstances carefully, and decide what steps are required in the first instance. In some cases, for example where serious concerns are raised, a formal preliminary investigation may be necessary before a decision can be made about the need for a disciplinary process. In other instances, for example in situations where the allegations lack detail or can be easily

verified in some way, some less formal background enquiries might be undertaken before formal allegations are made. In other situations, for example where the employee has admitted the conduct or where it otherwise appears on the face of the information received that the conduct has occurred, it may be that no preliminary investigation is needed before raising the concerns in a disciplinary context. Other relevant considerations at this stage may include:

- ▶ whether the alleged conduct could (if substantiated) amount to misconduct or serious misconduct;
- ▶ whether the issue should be treated as poor performance (and the appropriate processes followed);
- ▶ the potential outcomes if it is established the alleged conduct has occurred;
- ▶ what type of investigation is required;
- ▶ who should be involved in investigating the matter and who the decision maker is;
- ▶ whether suspension or any other interim measures should be considered.

Managers should seek advice and support from HR as early as possible.

Initiating a formal process

If the manager believes there is sufficient information to begin a formal process, they should contact their Senior HR Advisor and once next steps are identified, write to the employee including;

- ▶ setting out the nature of the allegation, concern or complaint and (in general) who the complaint is from;
- ▶ explaining why the issue is of potential concern;
- ▶ including the relevant information currently available;
- ▶ referring to the relevant parts of the Code of Conduct, and any employment agreement, policy, or other requirement that may have been breached;
- ▶ advising of the possible consequences (i.e. the potential disciplinary outcomes) that the employee may ultimately face;
- ▶ Advising the employee that they are entitled to seek support and representation, and have free and confidential access to EAP as an employee.

Suspension

Suspension is in itself a serious step and should only be taken in a small number of sufficiently serious cases. However, in certain circumstances, it may be necessary that the employee is suspended from work while an appropriate investigation into an allegation of serious misconduct is completed. Such circumstances include, but are not limited to:

- ▶ A child or young person was harmed or potentially harmed as a result of the alleged employee actions.
- ▶ The employee or others are or may be at real risk.
- ▶ There is a risk of significant interference with the investigation.

In the first instance, reasonable alternatives to suspension should be considered such as working at an alternative location, restricting duties or putting additional monitoring in place. Suspension is a last resort if there are no suitable alternative options to mitigate the risk. In some cases, alternative actions will require agreement and cannot simply be imposed.

If you wish to suspend an employee you will need to engage with your Senior HR Advisor and your DCE for approval before proposing suspension. In most cases, the employee must be given the opportunity to respond to a proposal to suspend and to provide their view on whether the suspension is warranted, the duration is reasonable and to give any mitigating

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factors the employee thinks should be considered. Generally, the employee will remain on full pay during the suspension. The key steps will usually involve the following steps:

- ▶ The employee is advised that suspension is being considered and why, and that they are entitled to seek advice and representation;
- ▶ The employee has the opportunity to comment on whether the suspension is warranted, and to provide any mitigating factors the employee thinks should be considered;
- ▶ The employee's response and reasonable alternatives are considered before a decision is made. If the decision is made to suspend, this should be followed up in writing.

In extremely rare cases, there may be real or immediate concerns regarding health, safety or investigation integrity which require immediate resolution. You must engage with your Senior HR Advisor and your DCE immediately in these situations.

Investigation

When a manager is made aware of an issue or matter that may amount to misconduct or serious misconduct they will need to determine whether and what type of investigation is required before deciding what to do next. This will depend on the circumstances:

- ▶ including the nature and extent of the misconduct that has been alleged;
- ▶ the amount of information already available, and any initial response from the employee concerned (or admission in which case a full preliminary investigation may not be necessary);
- ▶ the number of people involved; and
- ▶ the complexity of the issues involved.

Generally the more serious the allegations (and therefore the potential disciplinary outcome), the more the Ministry will need to do by way of investigation to satisfy itself that the misconduct has in fact occurred as alleged. An investigation is a broad term and can take a number of forms but in all cases must be conducted thoroughly, objectively and fairly in the circumstances, and will include gathering the necessary information, considering the facts of the matter, and determining next steps as appropriate.

Investigator

In complex or serious matters, the investigator and decision maker tend to be different people. In this instance, the investigator could be the employee's manager, another manager, or someone else (internal or external to the organisation) with the skills, experience and independence impartiality to investigate the matter. Internal delegations should be checked to ensure that the investigator and decision maker hold the necessary delegated authority to act.

Terms of Reference

In some cases (and in all cases where an external investigator is to be appointed), it will be appropriate to draft terms of reference, which would usually include the following:

- ▶ Brief background notes including activity to date
- ▶ Allegations
- ▶ Process for investigation including potential witnesses to be interviewed and timeframes
- ▶ Clear guidance as to the extent of the investigator's task, including any restrictions in this regard.

Ideally, the employee (and any complainant) should be given the opportunity to comment on

any terms of reference, and provide feedback on the investigation process and the intended investigator. However, it is not mandatory to have agreement from parties on the terms of reference for the investigation to get underway.

Investigation process

The investigator's role is to investigate the alleged conduct by gathering, considering, and testing the evidence, and making findings about what has occurred to the 'balance of probability' (i.e. more likely than not) standard of proof.

The scope and nature of an investigation will depend on the circumstances but generally involves:

- ▶ keeping the investigation as confidential as practicable;
- ▶ interviewing the complainant and relevant witnesses and producing accurate and reliable records of those interviews;
- ▶ reviewing relevant documentation and other evidence;
- ▶ providing all material and interview notes to the employee whose conduct is the subject of the investigation;
- ▶ providing others involved with material and interview notes to the extent this is necessary or appropriate;
- ▶ seeking the employee's response to the material gathered during the investigation, including any new information that comes to light during the investigation, prior to drawing conclusions;
- ▶ re-interviewing people where there is new information that they need to respond to or where there are conflicts in the evidence that need to be explored and resolved; and
- ▶ keeping the parties as informed of progress as practicable throughout, and ensuring support is offered.

Interviews may be recorded, and transcripts produced from those recordings. Alternatively, accurate notes of any interview should be kept. In either case the person being interviewed should have the opportunity to review the transcript or notes and confirm that they are comfortable that the content is an accurate reflection of the information provided. Interviewees should be advised ahead of the interview commencing that their confirmed transcript or notes will be made available to the employee who is the subject of the disciplinary investigation for them to comment on, and all or parts may be provided to others as necessary.

If there is a dispute about the material facts the investigator should analyse the competing evidence using the balance of probability standard and make decisions on that basis. The more serious the allegation, the more convincing the evidence needs to be to uphold it.

Investigation Report

Once the investigation is complete, the investigator should prepare a report that summarises the information gathered and set out the investigation's findings. The report should draw conclusions about the facts and the employee's conduct in light of the information gathered during the investigation, and outline the reasons why those conclusions have been reached (i.e. how the evidence has been assessed and weighted, and why). Unless the terms of reference provide otherwise, the report will not make recommendations as to what, if any further action should or could be taken.

The investigation report and the information the investigator considered should be provided to

the employee and all or portions of it will also usually be provided to the complainant. Both parties should generally be given the opportunity to comment on the report and its findings (to the extent those may be provided to the complainant) in draft before it is finalised.

Having considered the report, the decision maker will need to decide whether to accept the report's findings, whether potential misconduct or serious misconduct has occurred, and if so, whether disciplinary action may be warranted.

Disciplinary process

A disciplinary process may be undertaken where allegations of misconduct or serious misconduct are identified, or in cases of continued poor performance if informal efforts to resolve the issue have not been successful (see Managing Poor Performance Policy and Guidelines for further information).

Before making any final decisions, and before any disciplinary outcome can be imposed, the decision maker needs to put the specific allegations (of misconduct, serious misconduct or continued poor performance) to the employee and advise the employee of the potential disciplinary outcomes that might result. This is important so the employee is fully and fairly informed of the potential consequences and has the opportunity to speak directly to, and be heard by, the decision-maker.

The employee must be given the opportunity to respond before any disciplinary decisions are made. The decision maker should invite the employee to a meeting to discuss the disciplinary allegations, the decision maker's view of the employee's conduct or performance and the potential disciplinary consequences. The employee should be provided with the opportunity to bring a support person or representative to any meeting.

If the decision maker does not accept the employee's response, they should advise the employee of this and the reasons why, and invite any further response from the employee. There needs to be genuine engagement in this regard. If further investigation or information gathering is required before the decision maker reaches a decision, they will need to follow this up. Any new information uncovered or any new conclusions the decision maker might come to should be put to the employee for comment before a final decision is made.

If the employee refuses to answer the disciplinary allegations or a question in relation to them, the decision will need to make a decision in the absence of the employee's response. The employee should be advised of this, and given a further opportunity to provide any relevant information if they wish to do so.

Preliminary and final decision

Once the decision maker has all the relevant information to hand, and has considered the employee's response, they will generally reach a preliminary view on whether the conduct is in breach of the Code of Conduct or any other relevant document, policy or procedure. They will also generally form a preliminary view on whether or not the employee's conduct amounts or may amount to misconduct or serious misconduct. They must then consider what proposed disciplinary outcome, if any, is or may be appropriate in the circumstances. When determining the appropriate disciplinary outcome, any mitigating factors should be taken into account, such as the employee's service (length and record) and any personal or other factors that might be relevant.

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In cases of continued poor performance, the decision-maker's preliminary view has already been provided ahead of each formal review meeting and does not need to be provided again.

The employee must be advised of any preliminary decision that is made and given the opportunity to comment on it before a final decision is made. Depending on the circumstances, and usually where the matter is less serious or complex, the investigation findings, preliminary decision and proposed disciplinary outcome might be discussed (with appropriate adjournments taken), and a final decision made and communicated in the one meeting. When the matter is more serious or complex, the decision maker should present the preliminary decision to the employee in writing and give the employee time to consider and respond to it before making and communicating a final decision.

The decision maker should take sufficient time, in the circumstances, to consider what the employee has said and to consider any issues that arise from this. It is also important for the employee to have confidence that his or her view have been genuinely and fairly considered.

The decision maker will then reach a final decision on the matter, communicate this to the employee, and confirm in writing.

Possible outcomes

The disciplinary outcome will be appropriate to the circumstances and seriousness of the issue. Any disciplinary action will be:

Non punitive: The primary focus is on changing behaviour and upholding standards, not exacting punishment or revenge.

Consistent: Disciplinary outcomes should be consistent across similar situations unless there are reasonable grounds for taking a different approach in particular circumstances.

Proportionate: Disciplinary outcomes will be proportionate to the disciplinary issue, taking into account the circumstances and any mitigating factors.

The following disciplinary outcomes are possible:

- ▶ No further action (other than formally closing the investigation)
- ▶ Letter clarifying expectations
- ▶ Performance Improvement Plan (PIP). Please refer to the Managing Performance Policy for more information
- ▶ First written warning
- ▶ Final written warning
- ▶ Dismissal with notice
- ▶ Summary dismissal (without notice).

Warnings

A first warning may be appropriate where the employee has engaged in misconduct or unsatisfactory performance whereas a final warning may be appropriate in cases of serious misconduct where extenuating circumstances mean a lesser outcome than dismissal is appropriate. A final warning may also be appropriate where the employee is already under a warning for similar conduct.

The warning should remain active for a period that reflects the severity of the issue, but will usually be for a period of 6 to 12 months. The ability to rely on a warning to justify further, more serious disciplinary action will diminish over time. Warnings need to be confirmed in

writing and will be held of the employee's personal file indefinitely.

Dismissal

Dismissal will only be appropriate where the employee has engaged in serious misconduct (in which case dismissal will generally be without notice or payment in lieu), or where an employee has engaged in further misconduct while subject to a final warning (in which case dismissal will be on notice or payment in lieu). The circumstances must justify the very serious step of terminating an employee's employment.

Police involvement

In cases where a child or young person has allegedly been harmed by the employee, a CPP (Child Protection Protocol) process will need to be initiated which includes referring the matter to the Police. The manager will need to work closely with their Senior HR Advisor to determine the next steps in relation to any investigation or disciplinary process as a referral may impact on any concurrent employment process in some cases.

In the event the matter at hand suggests possible criminal activity of another type, the manager should seek advice from HR and Legal on whether, and if so when, the matter should be referred to the Police.

Advising Professional Bodies

In circumstances where the conduct is serious, Oranga Tamariki may be obligated to notify the relevant professional body. The employee should be advised of this potential action at an early stage in the process and provided with a copy of any communication.

Stakeholders

Depending on the nature of the circumstances, it may be necessary to inform other stakeholders within Oranga Tamariki. For instance, the fraud team should be consulted in cases of conduct that could amount to fraud. Likewise if there is a potential privacy breach, advice from the privacy team should be sought. This should be done early on in the process to enable the relevant stakeholders to offer specialist advice accordingly. In all other instances, individual privacy and confidentiality should be maintained.

Rebuilding the relationship

If the outcome is not dismissal, it is important to put actions in place to rebuild or repair any impacted relationships within the workplace. While the emphasis may be that the employee's behaviour/conduct needs to improve, it is equally important to make them feel that this is possible and support them constructively through this. This may include:

- ▶ More regular meetings
- ▶ Further training or re-training if appropriate
- ▶ Arranging meetings with other parties potentially impacted by any behaviour or conduct to build an agreed or expected way forward
- ▶ Reminding parties of their ability to seek support and assistance through EAP
- ▶ Working through any actions or expectations set as part of the process
- ▶ Checking in and monitoring how relationships are working and providing additional assistance where appropriate.

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Last updated: February 2022
Due for review: February 2023

DISCIPLINARY POLICY

At Oranga Tamariki we're committed to ensuring that our work and work environments demonstrate a genuine commitment to our values and that all employees are empowered to behave and choose to undertake our work consistently with our policies and values.

We believe that the best way to resolve issues is to deal with them when they arise to avoid escalation, and to enable low level resolution as quickly as possible, where appropriate. The disciplinary process is used where there are concerns regarding an employee's conduct or performance in circumstances where low level or informal resolution is not appropriate.

Policy Statements

This policy must be read in conjunction with the provisions of your employment agreement.

The policy statements or must do's related to disciplinary action at Oranga Tamariki are:

- ▶ We will enter a disciplinary process where there are concerns over an employee's conduct or performance and action needs to be taken, and where informal resolution is not appropriate or has been unable to provide a successful outcome.
- ▶ We will treat employees fairly and respectfully, and provide a clear "rationale" in writing for any disciplinary decisions taken by Oranga Tamariki.
- ▶ We will support and communicate with those involved, and acknowledge that there may be times when it might not be appropriate for those involved in the matter to be in the workplace while we look into the matter.
- ▶ Our aim is to ensure that the relationship between the employee and their manager can remain professional and constructive throughout and following the conclusion of any disciplinary process where employment continues.

- ▶ We will support those who may be adversely affected by the behaviour, or conduct, of an individual. However, any false or vexatious complaints will be taken seriously and may themselves result in disciplinary action.
- ▶ Managers, who wish to investigate an issue, or address inappropriate conduct or poor performance, should involve their Senior HR Advisor before taking any action.
- ▶ We will report any serious misconduct allegations to the relevant professional body.

Key Definitions

In this policy, the definitions and guiding principles have been developed by Oranga Tamariki and reflect operational best practice based on a range of sources, including the SSC Model Standards on Creating a Positive and Productive Workplace Culture.

Poor Performance

Whilst not misconduct in and of itself, continued poor performance is not acceptable and can result in the imposition of disciplinary processes and sanctions in accordance with this Policy.

Please refer to the Managing Poor Performance Policy for further guidance.

Investigation

When a manager is made aware of an issue or matter that may amount to misconduct or serious misconduct they will need to determine whether and what type of investigation is required before deciding what to do next. This will depend on the circumstances and potential seriousness of the issue. An investigation is a broad term and the process can take a number of forms but in all cases, must be conducted thoroughly, objectively and fairly.

Please refer to the Disciplinary Guidelines for more information.

Misconduct

Misconduct is unacceptable conduct that does not meet Oranga Tamariki expectations as set out in the Code of Conduct, or any other relevant document, policy or procedure, but which is not immediately destructive of trust and confidence.

Please refer to the Guiding Principles below for non-exhaustive examples of misconduct.

Serious Misconduct

Serious Misconduct is unacceptable conduct that undermines, damages or destroys the trust and confidence that Oranga Tamariki must have in an employee to enable the employment relationship to continue.

Where an allegation of serious misconduct relates to an employee of Oranga Tamariki's action towards a child in our care, it is likely the Child Protection Protocol will be enacted. Please refer to the Child Protection policy and Child Protection protocol.

Please refer to the Guiding Principles below for non-exhaustive examples of serious misconduct.

Suspension

Suspension is in itself a serious step. However, in certain circumstances, it may be necessary that the employee is suspended from work while an appropriate investigation into an allegation of serious misconduct is undertaken.

Reasonable alternatives to suspension may also be considered. Suspension should only be implemented as a last resort.

Please refer to the Disciplinary Guidelines for more information.

Disciplinary Outcomes

The disciplinary outcome will be appropriate to the circumstances and seriousness of the issue. Any disciplinary action will be:

Non punitive: The primary focus is on changing behaviour and upholding standards not punishment or revenge.

Consistent: Disciplinary outcomes should be consistent across similar situations unless there are reasonable grounds for taking a different approach in particular circumstances.

Proportional: Disciplinary outcomes will be in proportion to the disciplinary issue, taking into account the circumstances and any mitigating factors.

The following disciplinary outcomes are possible:

- ▶ No further action (other than formally closing the investigation)
- ▶ Letter clarifying expectations
- ▶ Performance Improvement Plan (PIP). Please refer to the Managing Performance Policy for more information
- ▶ First written warning
- ▶ Final written warning
- ▶ Dismissal with notice
- ▶ Summary dismissal (without notice)

Guiding Principles

To support good decision making and ensure this policy is read and applied appropriately, we have included a 'guiding principles' section which is unique to the Disciplinary Policy. The Disciplinary Policy Guidelines are separate and should be read in conjunction with this policy to gain a good understanding of the obligations of both the employee and manager through a disciplinary process.

We will undertake any disciplinary process fairly, transparently, and impartially and in accordance with the following principles:

Good Faith

Good faith obligations are mutual and include the following elements:

- ▶ engaging openly, honestly and respectfully
- ▶ being responsive and communicative
- ▶ being active and constructive in maintaining a productive employment relationship

Natural Justice

The principles of natural justice include the following:

- ▶ the matter is raised with the employee as soon as practicable after identifying or being made aware of an issue
- ▶ all relevant information and material relating to the matter is provided to the employee
- ▶ the employee is provided with reasonable opportunity to respond to any allegations and intended actions, before a final decision is made
- ▶ all issues are investigated thoroughly, objectively and fairly

Procedural Fairness

The principles of procedural fairness are:

- ▶ the standards of conduct, behaviour and job performance required are reasonable, achievable and made clear to the employee
- ▶ the employee is made aware of the likely or possible next steps in the event that satisfactory behaviour is not maintained
- ▶ the employee has the right to be accompanied by a support person or representative at meetings at any stage of a disciplinary process
- ▶ allegations received from another person are usually verified through investigation before any disciplinary process is commenced or any disciplinary decision is made

Examples of Misconduct

Actions which are usually treated as misconduct include:

- ▶ Unauthorised absence from the workplace
- ▶ Failure to follow a lawful and reasonable instruction
- ▶ Lateness and/or absenteeism
- ▶ Abuse of sick leave
- ▶ Failure to notify the manager of absence
- ▶ Improper or unauthorised use of the Oranga Tamariki equipment, property, or resource
- ▶ Use of obscene or abusive language
- ▶ Breach of policy or procedure

Note: the above list is not exhaustive and other actions may also constitute misconduct or, in the case of poor performance, may result in disciplinary processes and outcomes. Equally, in some circumstances, misconduct may amount to potential serious misconduct.

Examples of Serious Misconduct

Actions which are treated as serious misconduct include:

- ▶ Any action or inaction that results in, or may have resulted in, harm to a child or young person in our care
- ▶ Any action that could amount to fraud or other significant misuse of Oranga Tamariki resources
- ▶ Impairment by drugs or alcohol at work or being under the influence of drugs or alcohol while driving a work vehicle
- ▶ Unauthorised removal or possession of Oranga Tamariki property or the property of others
- ▶ Serious breach of policy or procedure
- ▶ Any form of dishonesty
- ▶ Conduct or behaviour that results in, or may have resulted in, personal injury to others
- ▶ Failure to comply with a lawful and reasonable instruction
- ▶ Bullying, harassment, discrimination or other unreasonable behaviour

- ▶ Any action that could amount to assault, threatening or intimidating behaviour in the workplace or in the course of carrying out duties
- ▶ Deliberately falsifying or destroying, or inappropriate use of, Oranga Tamariki information or documentation
- ▶ Acts of serious negligence or gross incompetence
- ▶ Conduct that brings or has the potential to bring Oranga Tamariki into disrepute
- ▶ Inappropriate accessing or use of client's records
- ▶ Serious breach of confidentiality or privacy

Note: the above list is not exhaustive and other actions may constitute serious misconduct.

Guidance and Templates

- ▶ Refer to Disciplinary guidelines
- ▶ Refer to Managing Poor Performance policy
- ▶ [SSC Model Standards on Creating a Positive and Productive Workplace Culture](#)

Policy owned by GM, People and Leadership

Last updated: January 2020

Due for review: May 2022