

## MISCONDUCT POLICY

Policy number	2.06	Version	2021 V3
Responsible Person	Chief Finance and Operations Officer	Approval date	11-11-2021

### INTRODUCTION

This policy applies to all Board members, employees, consultants, mentors, and contractors of ASHM, unless otherwise specified.

### PURPOSE

The purpose of this policy is to ensure that ASHM representatives are aware of behaviour that could amount to misconduct and that all relevant parties are aware of ASHM's policy for dealing with misconduct.

### DEFINITIONS

For the purpose of this policy, all ASHM's Board members, full time and part time employees, contractors, consultants, mentors and volunteers will be referred to as an 'ASHM representative'.

#### ***Misconduct***

Behaviour amounting to misconduct includes, but is not limited to, the following:

- failing to obey lawful (relevant laws to any respective jurisdiction) and reasonable instructions of ASHM;
- failing to follow defined policies, procedures and rules;
- failing to share key relevant information with ASHM (the determination of key relevant information will be reasonably determined by the CEO);
- unacceptable disruptive behaviour;
- unauthorised absence from the workplace; and
- repeatedly being late for work without lawful (relevant laws to any respective jurisdiction) excuse.

#### ***Serious misconduct***

Behaviour amounting to serious misconduct includes, but is not limited to:

- a breach of ASHM's Code of Conduct;
- wilful or deliberate behaviour that is inconsistent with the representative's contract of employment;
- theft;
- fraud;

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- assault;
- intoxication at work or at an ASHM related event;
- use of derogatory, violent or abusive language;
- fighting;
- failure to observe safety rules;
- concealment of a material fact on engagement;
- obscenity and other forms of sexual misconduct;
- dishonesty in the course of the employment; and
- criminal conduct including conduct that, if proven, renders the representative completely unfit for work.

Whether misconduct amounts to serious misconduct may depend on the particular circumstances of a given case. Supervisors/managers should consider the circumstances fully as they apply to the particular representative when determining whether or not the representative has engaged in conduct that could be considered serious misconduct.

## **POLICY**

ASHM expects its representatives to observe acceptable standards of behaviour.

ASHM may discipline any representative who engages in unacceptable behaviour.

ASHM representatives must not engage in behaviour that amounts to misconduct (including serious misconduct) at the workplace. This includes where representatives are working on site or off-site, virtual or in person, attending a work-related conference or function, or attending a client or other work-related event, including retreats and social events.

When travelling for business purposes, an ASHM representative is always representing ASHM, including after work hours and is obliged to act in accordance with this policy and the ASHM Code of Conduct.

Where an ASHM representative engages in misconduct or alleged misconduct, the processes in this policy will be followed.

When proven, misconduct may provide a valid reason for termination of an ASHM representative's employment with notice.

If an ASHM representative believes they have been wrongly charged with misconduct, they may appeal their case to the ASHM Human Resources Manager and the CEO.

## **RELATED POLICIES**

- 2.05 Anti-Bullying Policy
- 2.07 Anti-Discrimination Policy
- 2.09 Child Protection Policy.
- 2.10 External Complaints Policy
- 2.13 Code of Conduct

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- 2.18 Prevention of Sexual Exploitation, Abuse and Harassment Policy
- 3.14 Confidentiality Policy
- 4.24 Staff Grievance Policy

## AUTHOSISATION

ASHM Board

## HISTORY

Version	Approved Date	Comments/ Amendments
V1	DD-MM-YYYY	Is not available
2018 V2	20-06-2018	Second version of this policy
2021 V3	11-11-2021	<u>New template. Compliance with Fair Work Act reviewed.</u>

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## MISCONDUCT PROCEDURE

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### RESPONSIBILITIES

**ASHM Representatives** are responsible for ensuring that they:

- \* comply with this policy and related procedures
- \* report any instances or allegations of misconduct to the relevant manager, or the Human Resources Department, as appropriate.

**ASHM Human Resources Department** is responsible for ensuring that:

- \* the processes in this policy are followed in relation to all instances and allegations of misconduct
- \* ASHM representatives (non-Board members) that are the subject of any investigation are afforded procedural fairness
- \* confidentiality is maintained to the greatest extent possible.

**Supervisors/managers** are responsible for ensuring that:

- \* where appropriate, they try to informally resolve any instances or allegations of ASHM representative (non-Board members) misconduct with the representative(s) involved in first instance (in consultation with the Human Resources Department)
- \* instances or allegations of misconduct are reported to the Human Resources Department
- \* all necessary assistance is provided to the Human Resources Department or any other person investigating an instance or allegation of misconduct.

**ASHM President** is responsible for:

- dealing with misconduct of ASHM Board members, similarly to the role of HR Manager above

### PROCEDURES

A breach of this policy or related procedures may lead to disciplinary action and possible dismissal. Where ASHM considers that an ASHM representative has engaged in serious misconduct, ASHM may dismiss the representative without notice.

Each instance or allegation of misconduct will be considered by ASHM on its own merits, and any mitigating circumstances will be taken into account.

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Where an ASHM representative is accused of engaging in misconduct, it is open to ASHM to stand the representative down on full pay in order to further investigate the matter.

Investigations into instances or allegations of misconduct will be conducted in accordance with the principles of procedural fairness. Representatives accused of misconduct will be given an opportunity to respond to the allegations against them and may have a support person present at any disciplinary meetings with ASHM.

Any meetings relating to instances or allegations of misconduct or serious misconduct will be conducted by the ASHM Human Resources Manager and an ASHM Division Manager. The ASHM Division Manager will act as a note taker to this meeting.

If ASHM decides that the appropriate action is to dismiss an ASHM representative (non-Board member), the representative will be provided with the full reasons for the decision.

Removal of an ASHM Board member or ASHM President will be conducted as per ASHM Constitution, clauses 37.4 Removal of President and Vice Presidents and 38.3 Removal of Director.

## RELATED DOCUMENTS AND FORMS

*Fair Work Act 2009 (Cth)*

<https://www.legislation.gov.au/Details/C2017C00323>

*Fair Work Regulations 2009 (Cth)*

<https://www.legislation.gov.au/Details/F2017C00559>

## AUTHORISATION

ASHM CEO

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