

## MISCONDUCT POLICY ERJ 6.9.1

### PURPOSE

Edmund Rice Justice Aotearoa New Zealand Trust may discipline an employee who engages in unacceptable behaviour.

The purpose of this policy is ensure that employees are aware of behaviour that could amount to misconduct and that all relevant parties are aware of Edmund Rice Justice Aotearoa New Zealand Trust's policy for dealing with misconduct.

### SCOPE

This policy applies to all employees of Edmund Rice Justice Aotearoa New Zealand Trust unless otherwise specified.

### POLICY

Edmund Rice Justice Aotearoa New Zealand Trust expects employees to observe acceptable standards of behaviour.

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

#### ***Misconduct***

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

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

- failing to obey lawful and reasonable instructions of Edmund Rice Justice Aotearoa New Zealand Trust
- failing to follow defined policies, procedures and rules;
- failing to share relevant information with Edmund Rice Justice Aotearoa New Zealand Trust;
- unacceptable disruptive behaviour;
- unauthorised absence from the workplace; and
- repeatedly being late for work without lawful excuse.

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

### ***Serious misconduct***

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

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

- willful or deliberate behaviour that is inconsistent with the employee's contract of employment;
- theft;
- fraud;
- assault;
- intoxication at work;
- use of derogatory, violent or abusive language;
- fighting;
- failure to observe safety rules;
- concealment of a material fact on engagement;
- obscenity;
- dishonesty in the course of the employment; and
- criminal conduct including conduct that, if proven, renders the employee completely unfit for work.

## **AUTHORISATION**

Chair

2015

Edmund Rice Justice Aotearoa New Zealand Trust

Policy number	ERJ 6.9	Version	1
Drafted by	James Devereaux	Approved by Board	
Responsible person	ERJANZ Board	Scheduled review date	March 2017

## MISCONDUCT PROCEDURES

### RESPONSIBILITIES

The **Board** is responsible for ensuring that:

- the processes in this policy are followed in relation to all instances and allegations of misconduct;
- employees that are the subject of any investigation are afforded procedural fairness; and
- confidentiality is maintained to the greatest extent possible.

**The Board** are responsible for ensuring that:

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

**Employees** are responsible for ensuring that they:

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

## PROCESSES

A breach of this policy or related procedures may lead to disciplinary action and possible dismissal. Where Edmund Rice Justice Aotearoa New Zealand Trust considers that an employee has engaged in serious misconduct, Edmund Rice Justice Aotearoa New Zealand Trust may dismiss the employee without notice.

Each instance or allegation of misconduct will be considered by Edmund Rice Justice Aotearoa New Zealand Trust's on its own merits, and any mitigating circumstances will be taken into account.

Where an employee is accused of engaging in misconduct, it is open to Edmund Rice Justice Aotearoa New Zealand Trust to stand the employee 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. Employees 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 Edmund Rice Justice Aotearoa New Zealand Trust

Any meetings relating to instances or allegations of misconduct or serious misconduct will be conducted by two members of the Human Resources Department, one of whom will act as a note taker.

If Edmund Rice Justice Aotearoa New Zealand Trust decides that the appropriate action is to dismiss an employee, the employee will be provided with the full reasons for the decision.

## LEGISLATION & AWARDS

- *Fair Work Act 2009 (Cth)*
- *Fair Work Regulations 2009 (Cth)*

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Chair

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