

Ending Employment Policy

1. Purpose

Inala Community House (ICH) recognises that the employment relationship may be ended for a variety of reasons by either the employee or the organisation. This can occur through resignation, redundancy or termination.

ICH is committed to ensuring that regardless of how the employment relationship is ceased, that it is conducted in accordance with legislative and Award requirements. ICH will ensure that staff receive any entitlements that they are owed. In the case of termination or redundancy, ICH will ensure that this is fair, reasonable and justifiable.

This policy also addresses providing employment references and exit interviews.

2. Scope

This policy shall apply to all employees of Inala Community House.

3. Definitions

Continuous Service: Continuous service is the length of time an employee is employed by ICH. Service includes authorised unpaid leave (e.g. unpaid parental leave). Service will not include any periods of unauthorised leave or absences.

Serious Misconduct: Serious misconduct involves an employee deliberately behaving in a way that is inconsistent with continuing their employment. Examples include, but are not limited to:

- Causing serious and imminent risk to the health and safety of another person or to the reputation, viability or income of ICH
- Engaging in theft, fraud or assault
- Being intoxicated at work
- Refusing to carry out a lawful and reasonable instruction that is part of the job

References: The purpose of references is to obtain information from a third party, providing a factual check on a candidate's employment history, qualifications, experience and/or an assessment of the candidate's suitability for the position.

Statement of Service: A statement of service is a document which confirms the employee was employed by ICH and provides brief details regarding their employment including their position, period of service and summary of duties performed. The statement is limited to facts about employment and does not provide any opinions on the quality of work provided by the employee.

4. Policy

4.1 Notice Requirements

Either party wanting to end the employment relationship must provide notice to the other in accordance with the minimum notice periods within the National Employment Standards and the employment agreement. The minimum notice period is based on the employee's continuous service with ICH.

Notice is not required where an employee is:

- a casual employee
- terminated at the end of a fixed term contract
- terminated because of serious misconduct

4.2 Termination

Where ICH terminates an employment relationship, this shall be handled fairly and in accordance with legislative and Award requirements.

Termination shall not be:

- Harsh – because of its consequences for the personal and economic situation of the employee, or because it is disproportionate to the gravity of the misconduct
- Unjust – because the employee was not guilty of the misconduct on which ICH acted
- Unreasonable – because it was decided on inferences that could not reasonably have been drawn from the material before ICH
- Discriminatory – because of a protected characteristic in accordance with the Discrimination Policy.

If an employee is terminated by ICH, written notice will be provided in accordance with the minimum notice periods. ICH may choose to make payment in lieu of notice. This would be calculated as the workers full rate of pay, for the hours the employee would have worked, until the end of the minimum notice period.

If an employee has been given notice and the employee wishes to leave during the notice period, ICH can agree to reduce this period or alternately an employee can choose to resign and give their own minimum notice period.

If ICH provides notice which exceeds the minimum notice period, the employee only has to work out the minimum notice period. The extra notice is optional however if the employee only works the minimum notice period, ICH will not pay the extra notice period.

4.3 Redundancy

An employee may be entitled to redundancy pay if their employment is ended by ICH because the position is no longer required (except where this is due to the ordinary and customary turnover of labour), due to loss of funding or insolvency, etc.

ICH will ensure appropriate consultation occurs in accordance with the Award with employees who may be affected by redundancies.

If a redundancy results in an employee transferring to lower paid duties then ICH shall:

- Provide the employee with notice of the transfer (in accordance with the minimum notice period); or
- If the employee is transferred without giving notice or without adequate notice, ICH shall pay the employee in accordance with the Award

An employee who has been provided with notice of redundancy may terminate their employment during the minimum notice period. The employee is entitled to receive the benefits and payments they would have received had they remained in employment until the expiry of the notice however the employee is not entitled to be paid for any part of the period of notice remaining after the employee ceased to be employed.

Redundancy pay shall be calculated in accordance with legislation and the Award however this is not applicable where the employee's period of continuous service with ICH is less than 12 months immediately before the time of termination or at the time when they were given notice of the termination (whichever happens first).

If a redundancy of 15 or more employees is considered, ICH will give written notification to the Department of Human Services of the proposed dismissals.

4.4 Resignation

ICH is committed to creating a working environment which encourages employees to become long-standing employees. It is recognised however, that resignation can occur for multiple reasons including seeking other opportunities, pursuing study, personal commitments, retirement or travel.

If an employee chooses to resign, they should provide notice to ICH in accordance with the minimum notice period. An employee wishing to resign should provide notice in writing stating the proposed date of their resignation. If appropriate notice is not provided ICH may deduct up to one week's wages from an employee's pay in accordance with the Award.

During a notice period an employee can take:

- Paid annual leave if agreed to by both ICH and the employee
- Paid sick/carer's leave if eligible

- Some other types of leave such as compassionate leave (if eligible)

Any leave shall be taken in accordance with the Leave Policy.

4.5 Consultation

ICH shall ensure that affected employees are consulted about major workplace changes such as termination or redundancy in accordance with the Award. This shall occur by:

- Giving notice of the changes to all employees who may be affected (and their representatives; and
- Discussing with affected employees (and their representatives):
 - The introduction of the changes; and
 - Their likely effect on employees; and
 - Measures to avoid or reduce the adverse effects of the changes on employees; and
- Commencing discussions as soon as practicable after a definite decision has been made.

Written notice shall be provided to affected employees regarding the nature of the change, expected effects or other matters likely to affect employees.

ICH will consider steps to avoid and minimise negative effects on employees, this includes any suggestions from employees about the changes.

4.6 Job Search Entitlement

Where ICH has given notice of termination to an employee (not including redundancy), the employee is permitted to take time off without loss of pay of up to one day for the purpose of seeking employment. This is to be taken at times which are convenient for the employee after consultation with ICH.

Alternatively, where ICH has given notice of termination by way of redundancy to an employee, the employee is permitted to take time off without loss of pay up to one day each week of the minimum notice period for the purpose of seeking other employment. If an employee is allowed time off without loss of pay of more than one day, the employee must, at the request of ICH produce proof of attendance at an interview.

4.7 Final Payment

ICH will ensure that the employee's final pay is paid within 7 days after the employee's employment ends. In their final pay, an employee should receive:

- Outstanding wages for hours worked, including penalty rates and allowances
- Any accumulated annual leave (including leave loading) or time off in lieu of overtime
- If applicable:

- Accrued or pro rata long service leave
- Payment in lieu of notice
- Redundancy pay

4.8 Exit Interviews

Upon ending the employment relationship, employees may be offered an exit interview. These interviews can be an important evaluative tool for ICH regarding the work, the team, processes and procedures and the organisation generally. Any feedback provided in exit interviews can feed into continuous improvement processes.

4.9 Employment References

ICH acknowledges that the exchange of information between employers maximises the opportunity for employees to be fitted into positions for which they are best suited. However, ICH recognises that there are legal risks associated with the provision of references.

In most cases ICH will provide references for employees and ex-employees upon request, though ICH is not required to do so. As an alternative to a reference, a statement of service can be provided for an employee upon request.

References will be provided only to appropriate parties. Before providing a reference, ICH referees should verify the identity of the person requesting the reference. ICH referees will not disclose information to parties who do not have a legitimate need to know.

In considering whether to provide a reference and when determining what content to include, ICH referees must not discriminate on any protected characteristics as outlined in the ICH Discrimination Policy. References must also be provided in a way which does not defame the employee in question.

When providing references, ICH referees shall:

- Take reasonable care
- Provide information which is as far as possible true, accurate and fair and which does not give a misleading impression
- Provide only honest opinions
- Express opinions as opinions rather than statements of fact
- Limit the information given to the person's job-related performance

Any employee can act as a personal referee for an individual. However, where a personal reference is provided it must be made clear that the reference is being provided in a personal capacity and not be seen to be endorsed by ICH in any way (such as using ICH's letterhead).

Direct Managers where authorised by the Chief Executive Officer may provide written references endorsed by ICH.

5. Review

This policy shall be reviewed every 2 years.

This policy remains in effect unless otherwise determined by resolution of the Board of Directors.

6. Related Documents

Policies

ICH Leave Policy
ICH Performance Counselling and Discipline Policy
ICH Alcohol and Other Drugs Policy
ICH Discrimination Policy
ICH Code of Conduct Policy
ICH Conflict of Interest Policy
ICH Confidentiality Policy
ICH Suitability Policy

Procedures

ICH Termination Procedure

References

Fair Work Act 2009
Social, Community, Home Care and Disability Services Award 2010