



## FACT SHEET/FORM

# Suspension by employers for serious misconduct

An employer may suspend a training contract without agreement from an apprentice\* on the grounds that the apprentice has engaged in serious misconduct.

### Process

Where it is alleged that the apprentice has engaged in serious misconduct and the employer wishes to suspend the training contract, the employer is required to provide written notice to the apprentice stating:

- the grounds of the suspension and why the employer considers it serious misconduct;
- when the suspension takes effect (which must be after the apprentice has been given the notice); and
- details of the serious misconduct.

An employer is required to provide the Apprenticeship Office with a copy of the written notice before 5.00 pm on the next working day.

The attached *Notice of suspension by employer for serious misconduct* form has been developed for this purpose. The completed form can be emailed to the Apprenticeship Office at [apprenticeshipoffice@dtwd.wa.gov.au](mailto:apprenticeshipoffice@dtwd.wa.gov.au)

### During the suspension

The employer is required to continue to pay the apprentice during the suspension period.

The apprentice should not attend the workplace during the period of suspension, but may attend off the job training with their registered training organisation.

An employer may cancel the suspension at any time, and reinstate an apprentice. In doing so, the employer is required to give the apprentice a written notice stating the date when the suspension will cease. The employer is required to notify the Apprenticeship Office before 5.00 pm on the next working day after giving such notice to the apprentice.

If the employer decides not to cancel the suspension, they should apply to terminate the training contract within seven days after the suspension. Contact the Apprenticeship Office on 13 19 54 for advice on the employer application for approval to terminate a training contract.

### Serious misconduct

For conduct to be deemed serious there needs to be wilful or deliberate behaviour by the person, that is inconsistent with the objectives of the training contract. The *Fair Work Regulations 2009* provides some guidelines on what constitutes serious misconduct.

Serious misconduct may include, but is not limited to, the following:

- wilful or deliberate behaviour by an employee that is inconsistent with the continuation of the training contract;
- conduct that causes serious and imminent risk to:
  - health or safety of a person; or
  - the reputation, viability or profitability of the employer's business;
- the apprentice, in the course of their employment, engaging in:
  - theft;
  - fraud; or
  - assault;
- the apprentice refusing to carry out a lawful and reasonable instruction that is consistent with the training contract; or
- the apprentice being intoxicated at work.

An apprentice is considered to be intoxicated, if the apprentice's faculties are, by reason of their being under the influence of intoxicating liquor or a drug (except a drug administered by, or taken in accordance with the direction of, a person lawfully authorised to administer the drug), so impaired that the apprentice is unfit to be entrusted with their duties or with any duty that the employees may be called upon to perform.

*\*The term 'apprentice' includes apprentices, trainees, cadets and interns.*

## Notice of suspension by employer for serious misconduct

Please read the fact sheet before completing and submitting this form. If you have any questions, contact the Apprenticeship Office before signing this form. Email the completed form to [apprenticeshipoffice@dtwd.wa.gov.au](mailto:apprenticeshipoffice@dtwd.wa.gov.au).

*This suspension notice has been given because the apprentice has engaged in serious misconduct.*

Apprentice details		
Name:	Training contract ID:	
Address:	Suburb:	Postcode:
Mobile:	Email:	

Employer details		
Legal name:		
Trading name:		
Address:	Suburb:	Postcode:
Contact person :	Contact no:	
Email:		
Host employer (if applicable):		

Description of the apprentice's alleged misconduct		
Suspension effective from:	Date:	Time:
Employer signature:	Date:	

Apprenticeship Office  
T: 13 19 54  
E: [apprenticeshipoffice@dtwd.wa.gov.au](mailto:apprenticeshipoffice@dtwd.wa.gov.au)  
W: [dtwd.wa.gov.au/apprenticeship-office](http://dtwd.wa.gov.au/apprenticeship-office)

Version 10/05/18