DISCIPLINARY ACTION POLICY

1. POLICY STATEMENT

Red Cross expects all workforce members to undertake their work duties and behave in accordance with organisational standards, including the Seven Fundamental Principles and the Red Cross Code of Conduct.

Red Cross aims to ensure that any concern or issue regarding unacceptable performance or unacceptable behaviour, and any consequent disciplinary action, will be handled appropriately, fairly and consistently and in line with the principles of natural justice.

Should an issue or concern arise, Red Cross will endeavour to offer the workforce member an opportunity to improve unacceptable performance or behaviour so that they can consistently achieve the standards required by Red Cross. However, in cases of serious misconduct, summary dismissal may be warranted.

2. SCOPE

This policy applies to all members of Red Cross workforce – that is, both members of staff and volunteers.

In the case of a staff member who is currently in their employment probation period, HR ENG 03 – Probation Policy, overrides this policy.

Awards and enterprise agreements

Some Red Cross staff are covered by industrial instruments (that is, a modern award or enterprise agreement) which may provide further information regarding entitlements and processes.

Where there is an inconsistency between a modern award or enterprise agreement and the Red Cross policy, the modern award or enterprise agreement will take precedence specifically in relation to staff who are covered by that industrial instrument.
3. **DEFINITIONS**

‘**behaviour**’ includes how a member of the Red Cross workforce behaves when performing their duties

behaviour is unacceptable if it is not in accordance with standards of behaviour at work or in connection with work, as reasonably determined or expected by Red Cross

examples of unacceptable behaviour include:

- breaching policies or delegations
- contravening the Red Cross Code of Conduct
- ignoring or not complying with Work Health and Safety policies and procedures
- absenteeism when there is no entitlement or appropriate explanation and/or poor punctuality in attendance for work
- harassing, discriminating against or bullying other workforce members or any other person
- not meeting the required personal presentation standards

‘**disciplinary action**’ includes:

- counselling and/or coaching
- the provision of a formal written warning
- termination of employment
- summary dismissal
‘performance’ includes the conduct of the workforce member’s duties and the output and outcomes of a workforce member’s role

conduct at work is unacceptable if it does not accord with standards for work performance as reasonably determined or expected by Red Cross

examples of unacceptable performance include:

- not performing, or inadequately performing, tasks that are required in the role
- not carrying out tasks or duties of the role in a timely way without reasonable cause
- not following established or instructed procedures
- not acting in accordance with Red Cross policies or delegations

‘principles of natural justice’ the principles which underpin procedures used when making a decision

often the term ‘procedural fairness’ is used interchangeably with the term ‘principles of natural justice’

in practice it includes principles that:

- the respondent is to be treated as innocent until such time as unacceptable behaviour or unacceptable performance is established
- any concerns about unacceptable behaviour or unacceptable conduct should be dealt with promptly
- the substance of the concerns about unacceptable behaviour or unacceptable conduct must be put to the respondent
- the respondent must be given the opportunity to provide a response to the concerns about unacceptable behaviour or unacceptable conduct
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‘respondent’

the workforce member whose behaviour and/or conduct is the focus of disciplinary action

must be provided with an opportunity to respond to the concerns about behaviour and/or conduct

‘serious misconduct’

includes:

wilful or deliberate behaviour which is inconsistent with a continuation of the employment or of the volunteer relationship

conduct which causes serious and imminent risk to the health or safety of a person

conduct which causes serious and imminent risk to the reputation, or commercial or other viability of Red Cross

theft

fraud

assault or bullying

intoxication at work (as defined in the Fair Work Regulations)

refusal to carry out a reasonable and lawful order or instruction

other conduct including conduct specified in the Fair Work Regulations

‘summary dismissal’

dismissal without notice, as may occur in the case of serious or wilful misconduct
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‘support person’ a person who, being reasonably available for the purpose, is selected by the respondent to provide support to him or her during a meeting in connection with matters raised regarding conduct and/or performance

the support person does not act as an advocate on behalf of the respondent during the meeting and is not permitted to speak on behalf of the respondent

4. RESPONSIBILITIES

4.1. Compliance with this policy

All people referred to in the scope are required to comply with this policy.

4.2 CEO sub delegations

The CEO Sub-delegations provide delegated authority from the CEO to a Red Cross staff member who occupies an identified position to undertake certain activities on behalf of Red Cross. The CEO Sub-Delegations document includes specific delegations in relation to Human Resources.

5. PROCEDURE

In managing the performance or behaviour of a workforce member, and assessing any disciplinary action which may be appropriate, the seriousness of the unacceptable performance and/or behaviour must be considered.

Typically counselling will be provided before disciplinary warnings are given. However, Red Cross may proceed to a formal written warning, without undertaking counselling and/or coaching first.

In cases of serious misconduct, termination of employment may be considered to be the appropriate disciplinary action, without the workforce member having been given formal or other warnings and/or without any prior counselling or coaching.

5.1. Counselling / coaching

When a workforce member’s behaviour or performance does not meet the required standards, the manager will identify the specific concerns to the workforce member and
will counsel or coach the workforce member to enable him or her to improve his or her behaviour or conduct.

The counselling or coaching meeting should include some or all of the following matters:

- the expected level of performance and/or behaviour for the role
- specific detail regarding how the required standards have not been met
- if appropriate, specific steps the workforce member should implement to achieve required standards
- any matter relevant to the workforce member’s performance or behaviour that the workforce member wishes to raise (such as personal, health or family difficulties, gaps in skills, difficulties in the workplace)
- a reasonable opportunity for the workforce member to respond to the concerns raised (this may warrant a subsequent meeting)
- an explanation to the workforce member of the possible consequences of failing to meet the reasonable standards of conduct and/or performance in the role
- a written plan of action to assist the individual to meet the reasonable standards of conduct and/or performance in the role (which may include training, where appropriate)

the manager should provide the workforce member with a written record of the counselling meeting within a reasonable time after the meeting.

The plan of action must include a review plan to monitor the workforce member’s progress (if any) achieved towards the objectives set in the counselling or coaching process.

When counselling / coaching has resulted in improvement in behaviour or performance, the workforce member’s efforts and achievement should be acknowledged.

If counselling / coaching has not resulted in sufficient improvement within the required timeframe, typically disciplinary action (issuing a warning) is the next step.

Objective records of all discussions should be maintained by the manager and must confirm the achievement of required actions and outcomes from review meetings.

The manager may endeavour to reach agreement with the workforce member about the required actions and outcomes, but if that is not reasonably possible in the circumstances, the manager may determine those matters.
5.2. Formal written warning

A formal written warning may be given in a range of circumstances, including:

- if there is inadequate improvement in performance and/or behaviour following counselling/coaching, the manager should follow the procedure outlined in this section. This may result in a formal written warning.

- in the case of disciplinary action being commenced without prior coaching and/or counselling, the manager should follow the procedure outlined in this section. This may result in a formal written warning.

At the meeting the workforce member may have a support person present. Furthermore, if the workforce member is under the age of 18, it is recommended that their parent or guardian is present or, if not available, another adult should be present.

In the meeting, the following points would usually be discussed:

- the expected level of performance and/or behaviour for the role
- specific detail regarding how the required standards have not been met
- any matter relevant to the workforce member’s performance or behaviour that the workforce member wishes to raise (such as personal, health or family difficulties, gaps in skills, difficulties in the workplace)
- if appropriate, specific steps the workforce member should implement to achieve required standards
- a timeframe for improvement, including a schedule for review / follow up
- whether and if so how Red Cross can reasonably provide assistance to help the workforce member achieve the required standards of performance / behaviour
- consequences of failing to achieve the required standards of performance / behaviour (including the possibility of termination of the employee or volunteer relationship, with or without notice)
The workforce member should be given the opportunity to respond to the issues raised either in this meeting or at a subsequent time when, as determined by Red Cross, they have had a reasonable opportunity to provide a considered response.

The manager should prepare a written record of the meeting (and any later response) and provide a review plan, which is to be signed by the manager. The workforce member is to be provided with a copy of the record and review plan, and is to be requested to sign it, to assist with the achievement of the actions.

Red Cross does not provide workforce members with a copy of personal notes kept by managers during meetings.

The manager may endeavour to reach agreement with the workforce member about the review plan (setting out required actions and outcomes), but if that is not reasonably possible in the circumstances, the manager may determine those matters.

The manager should review the situation in accordance with the review plan (or more frequently if necessary).

A further written warning may be appropriate (for example in the context of a review) if the workforce member is not achieving required standards of conduct or performance within a reasonable time.

In situations of serious concern, Red Cross may issue a first and final written warning.

Human Resources must be consulted prior to any recommendation by the manager being made to terminate employment or to cease a volunteer relationship.

### 5.3. Termination

Termination of employment may occur if this policy has been followed and the workforce member still has not achieved the required level of performance and/or demonstrated acceptable behaviours. Also, under 5.4 Summary Dismissal, Red Cross may summarily dismiss a workforce member for serious misconduct.

If there is inadequate improvement in performance and / or behaviour, the manager must seek advice from Human Resources.

Termination may be the appropriate course at any stage of the processes referred to 5.1 and 5.2, if the circumstances warrant that course. Refer also to HR TRA 01 - Termination Policy.
5.4. Summary dismissal

A workforce member may be summarily dismissed for serious misconduct.

Human Resources need to be involved in the decision making process related to summary dismissal.

Refer also to the HR TRA 01 - Termination Policy.

6. RELATED DOCUMENTS

- HR ENG 03 – Probation Policy
- HR DEV 02 - Performance Review and Development Policy
- HR SUP 13 - Equal Opportunity Policy
- HR SUP 16 – Workforce Complaints and Grievance Policy
- HR SUP 18 – Workforce Access to EAP Policy
- HR TRA 01 - Termination Policy

7. REFERENCES

Further information regarding industrial instruments

Some Red Cross staff are covered by industrial instruments (that is, a modern award or enterprise agreement) which may provide further information regarding entitlements and processes.

A list of modern awards and enterprise agreements applicable to employees within Red Cross can be found in HR PLA 02 – Human Resources Policies Overview. Additionally, all are available on the Wiki in the HR section under ‘My pay and employment conditions’.

Where there is an inconsistency between a modern award or enterprise agreement and the Red Cross policy, the modern award or enterprise agreement will take precedence specifically in relation to staff who are covered by that industrial instrument.
8. FEEDBACK

As part of HRs commitment to continuous improvement, all HR Policies are refreshed by 1 February annually. Additionally these policies will be updated throughout the year as required.

Your thoughts, comments and suggestions are welcome. Please direct any feedback to hrfeedback@redcross.org.au