



All Red Cross people are empowered, engaged, accountable and acknowledged for their contribution to our humanitarian goals



## DISCIPLINARY POLICY

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### POLICY

All Red Cross people commit to behaving in accordance with the Australian Red Cross Ethical Framework, which reflects our values and Fundamental Principles and guide how we work, *every person, every day*.

As a Red Cross Person – as a member of staff, a volunteer or a member of Red Cross - I am accountable for contributing to an environment that is harmonious, where all people are treated with dignity and respect.

I understand and acknowledge that I will undertake my activities and duties, and behave:

- In accordance with the Red Cross Ethical Framework and other obligations in relation to my activities and duties as a Red Cross Person and any reasonable instructions given to me; and
- In accordance with Australian and relevant State and Territory laws, including those regarding discrimination, harassment, bullying or victimisation.

This means I must not engage in unacceptable conduct in the workplace. In particular I will not engage in unlawful discrimination, sexual or other harassment, bullying or victimisation.

*More information about unlawful discrimination, harassment, bullying and victimisation is set out in Annexure A.*

### POLICY SCOPE

As a Red Cross person, I am responsible for my own actions, behaviour and conduct, including under equal opportunity or anti-discrimination legislation. I am aware that I may be personally liable under that legislation.

In relation to discrimination, bullying or sexual or other harassment, I understand that it is irrelevant that I may not have intended to behave inappropriately.

In addition, I understand that if I discriminate unlawfully or harass another person, Red Cross as an employer may be legally responsible for discrimination and sexual harassment if this occurs in the workplace or in connection with a person's potential employment.

This responsibility arises unless it can be shown that 'reasonable steps' have been taken by Red Cross to prevent the discriminatory or harassing conduct occurring. I must therefore ensure that I act in accordance with the Ethical Framework and not in a discriminatory or harassing manner.

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In addition, I understand that it is my responsibility to identify, disclose, manage, register and report any avoidable or unavoidable conflicts of interest that is suspected in the course of performing my official duties.

Relevant positions in Red Cross (such as but not limited to Directors, line managers and HR staff) may, in some cases, be found to be personally liable for breaches of relevant laws by Red Cross (in addition to the liability of Red Cross for any breach) – for example, if they were aware of those breaches of relevant laws by Red Cross but those breaches have not been remedied.

I understand that this policy includes my behavior in the workplace, whether the conduct is concerned with or involves other members of staff, volunteers, members of Red Cross, contractors, agents, customers, clients, visitors or members of the public generally.

The ‘workplace’ includes:

- Any premises or place where, as a Red Cross Person, I conduct an activity or work, including premises I attend for functions, conferences and training sessions, as a representative of Red Cross; and
- Any premises or place where I conduct an activity or where work is undertaken (for example in a client’s home, a community venue, etc.) as a representative of Red Cross.

## **PROCEDURES**

### **Application of disciplinary procedure**

The procedures in this policy apply to all:

- Members of staff of Red Cross (whether engaged on an ongoing, maximum term or casual basis); and
- Volunteers.

### ***Other procedures***

If I am a member of staff and am currently in my employment probation period, the Probation Policy (HR ENG 03) will apply.

If I am a member of Red Cross, the procedures in the Divisional Regulations to deal with complaints or concerns about the behaviour of a member of Red Cross will apply.

Any concerns about the behaviours of a member of a governance body of Red Cross, in that capacity, are to be dealt with, as appropriate, under the Board’s Code of Conduct and processes, or in accordance with the Divisional Regulations.

In each case, the relevant procedures will apply instead of the procedures set out in this

policy. **WHAT WILL HAPPEN IF I DO NOT COMPLY WITH MY OBLIGATIONS?**

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As a volunteer or a member of staff of Red Cross, I may not have undertaken my work satisfactorily and/or I may not have behaved in accordance with the Australian Red Cross Ethical Framework or other obligations in relation to my activities and duties as a Red Cross person.

I understand that a disciplinary process may be commenced and that I may be subject to disciplinary action.

### **DISCIPLINARY PROCESS**

The disciplinary process will be undertaken appropriately, fairly, consistently with the principles of natural justice, and Red Cross standards and policies in accordance with the Australian Red Cross Ethical Framework.

The general principles to be applied in a disciplinary process will be in accord with the relevant investigation sections of the Grievance Policy and Procedure (HR SUP 16).

#### **Outcomes of a disciplinary process**

The outcome of the disciplinary process may be that the concerns about my work performance and/or behaviour are not substantiated in any respect. In this case, no disciplinary action will be taken.

Alternatively, the outcome of the disciplinary process may be that some or all of the concerns about my work performance and/or behaviour are substantiated, in whole or in part.

- If so, as a general rule, and on terms determined by Red Cross, Red Cross will endeavour to offer me an opportunity to improve performance and/or to modify my behaviour, with the objective of ensuring that I can consistently achieve the work performance and/or behaviour standards required by Red Cross.
- However disciplinary action, up to and including summary dismissal, may be warranted. Red Cross will determine the disciplinary action which will be taken, in its discretion.

#### **Conduct which may be a Criminal Offence**

I understand that conduct which may be a criminal offence (such as violence, sexual assault or stalking, or child abuse, child neglect or child exploitation) will be referred to the police, if I am individually, or Red Cross is, required to do so in accordance with mandatory reporting requirements.

In other cases, as a general rule, any concerns about possible criminal conduct will be also referred to police, after consultation when appropriate with any person who has raised a concern about behaviour which may constitute a criminal offence.

### **RELATIONSHIP WITH EXTERNAL AGENCIES**

Nothing in this Policy is intended to affect my right to approach an external agency such as the Australian Human Rights Commission in relation to any complaint.

## **VEXATIOUS COMPLAINTS**

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Red Cross will not tolerate vexatious complaints.

I understand that if I raise a concern other than in good faith (for example, my concern is initiated without reasonable grounds to do so), disciplinary action may be taken.

## **SUPPORT FOR RED CROSS MEMBERS OF STAFF AND VOLUNTEERS**

Support is available for all members of staff and volunteers at all times, including throughout the Disciplinary Process.

Confidential counselling is available through the Red Cross Employee Assistance Program (EAP) which is operated by a third party and is available 24 hours a day 7 days a week. Refer to the Workforce Access to EAP Policy (HR SUP 18).

*For a fixed period of 12 months please include the following paragraph.*

This policy replaces the previous Equal Opportunity Policy HR SUPP 13 and the Disciplinary Action Policy.

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the  
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### ANNEXURE A

#### UNDERSTANDING DISCRIMINATION, HARASSMENT AND BULLYING

##### 1. DISCRIMINATION

###### Prohibited grounds

Unlawful discrimination can be direct or indirect.

Prohibited grounds or attributes for discriminatory conduct vary, depending on the State or federal jurisdiction, and include:

- sex
- age
- gender identity
- breastfeeding
- actual or potential pregnancy
- marital, parental or carer status or family responsibilities
- making employment record enquiries
- sexual orientation
- race or national origin
- religious belief and / or activity
- disability or impairment
- physical features
- medical or irrelevant criminal records
- industrial activity / inactivity
- political beliefs and / or activity

Discrimination on the basis of an attribute (or a ground) may include:

- an attribute a person has, used to have or may have in the future
- an attribute a person is presumed to have
- discrimination on the basis a person associates with a person that has or had a particular attribute

##### 2. SEXUAL HARASSMENT

Sexual harassment occurs where a person:

- makes an unwelcome sexual advance or request for sexual favours

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- engages in other unwelcome conduct of sexual nature, towards another person
- makes a spoken or written statement of a sexual nature to a person, or in the presence of a person

where a reasonable person would have anticipated having regard to all the circumstances that the person harassed would be offended, humiliated or intimidated.

***Some examples of sexual harassment***

- uninvited touches, kisses or embraces, or other unnecessary familiarity such as deliberately brushing against a person or putting an arm around them
- displays of sexually graphic or obscene material including posters, internet material, photographs or screensavers
- sexual jokes, abusive language, innuendos, offensive telephone calls or email (see also the Red Cross Computer Acceptable Use Policy)
- gender-based jokes or insults
- suggestive comments about a person's physical appearance
- repeated invitations to socialise after prior refusal
- persistent questions or insinuations about a person's private life

***What sexual harassment is not***

Sexual harassment is not sexual attention or friendship that is invited and consensual. Red Cross has no concern with the private lives of its people, unless it affects job performance, workplace behaviour or reputation.

**3. DISCRIMINATION AND EMPLOYMENT**

**Discrimination in the area of employment is unlawful and may occur:**

- in determining, or in the process of determining, who should be offered paid positions
- in the terms on which employment or a volunteer position is offered
- by denying a person access (or limiting access) to opportunities for promotion, transfer or training or to any other benefits associated with employment or volunteering
- by dismissing the person from employment or engagement as a volunteer
- subjecting them to any other detriment

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## 4. HARASSMENT

Conduct that may constitute harassment based on a prohibited attribute may include, but is not limited to:

- distributing offensive material
- making belittling comments about a person's gender or religion
- mimicking a person's accent or disability
- displaying lewd pictures, images or gestures
- bullying
- intimidation

## 5. BULLYING

*Conduct that may constitute bullying*

- verbal abuse
- physical violence (such as pushing or shoving)
- throwing objects
- excluding or isolating a person
- assigning a person meaningless tasks unrelated to their job or giving a person impossible assignments

***Conduct that may not constitute bullying***

A single incident would not constitute bullying. However, even single incidents of behaviour such as that outlined above will not meet Red Cross' expectations of appropriate workplace behaviour and a person engaging in such conduct may be disciplined.

*Reasonable action is not bullying*

**A reasonable action or decision by Red Cross is not bullying. Examples of this include:**

- performance management
- disciplinary action
- allocation of work
- implementation of organisational change or downsizing
- transferring or redeploying a person