

Policy: DISCIPLINARY POLICY	
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Policy Owner: People and Corporate Services	Authorised by: CEO
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1. Introduction
<p>Policy Statement</p> <p>The purpose of this policy is to establish a fair, equitable and consistent process for addressing unsatisfactory work performance and/or behaviour and conduct in the workplace. Should an issue or concern arise, ARA Property Services will endeavour to offer opportunity to improve unacceptable performance or behaviour so that they can consistently achieve the required standards. However, in cases of serious misconduct, immediate dismissal may be warranted. All persons have the right to have the principles of natural justice and procedural fairness observed, this means:</p> <ul style="list-style-type: none"> • all parties must have the right to be heard • all relevant submissions and evidence must be considered • the decision-maker must be impartial, fair and just • investigations and proceedings that are conducted honestly, fairly and without bias • no undue delay in investigations and proceedings.
<p>Scope</p> <p>This policy applies to all employees, contractors and volunteers of the ARA Property Services/.</p>
<p>Responsibilities</p> <ul style="list-style-type: none"> • It is the responsibility of all parties involved in counselling or disciplinary action to participate fully in the resolution process in good faith. • Confidentiality must be respected and maintained at all times within the constraints of the need to fully investigate the matter, subject to any legal requirements for disclosure and consistent with the principles of natural justice.

2. Policy

Disciplinary action, except in cases of serious misconduct, may be an incremental process which can be terminated at any stage. In managing the performance or behaviour and assessing any disciplinary action, which may be appropriate, the seriousness of the unacceptable performance and/or behaviour must be considered.

Typically, performance counselling will be provided before disciplinary warnings are given. However, in some circumstances, ARA Property Services/CMC 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 employee having been given formal or other warnings and/or without any prior counselling or coaching.

2.1 Step 1 – Guidance, Counselling

- Where an employee's work performance or conduct is considered to be unsatisfactory, the employee shall be informed, in the first instance, of the nature of the unsatisfactory performance or conduct and of the standard that is required to be achieved.
- The employee will be given the opportunity to respond to the allegation(s) by their immediate supervisor/manager and given the option of having their support person present.
- The purpose of the interview will be to identify the causes of the problem and agree on solutions. Where the problem is acknowledged by the employee, a corrective action/performance management plan will be agreed by the employee. A review date will also need to be agreed upon to allow reassessment of the employee to be discussed and assessed.
- At this stage a verbal warning may be issued with documented expectations of improvement.
- Any subsequent improvements will be acknowledged by the supervisor/manager and no further action will be taken. If no satisfactory improvement occurs then the matter will proceed to step 2.
- A file note of the verbal warning and the interview will be kept on file in Head Office and a copy will be given to the employee concerned for their own records.
- In the case of an employee in the probation period, all support and guidance will be given to improve areas of concern. If after four (4) months of employment the concerns still continue to be valid then the manager, in consultation with People and Corporate Services, will proceed towards termination

of the employment contract.

2.2 Step 2 – Formal Warning

- Where there is a recurrence of unsatisfactory work performance or conduct, and further coaching is not a useful consideration, the employee shall be warned formally in writing by the employee's manager.
- People and Corporate Services must be consulted prior to any recommendation being made by the manager to give a formal warning or to terminate employment.
- In the event that the investigation requires the employee to be removed from the workplace, ARA Property Services may suspend an employee with or without pay during the investigation process provided that:
 - if, after investigation, the reasons for the suspension are found to be inappropriate, the employee shall not suffer any loss of pay for the period under suspension.
 - the suspension shall not effect the employee's continuity of service for the purpose of accruing leave entitlements.
 - ARA Property Services will not unreasonably refuse an application for paid leave under this provision.
 - by agreement, consideration may be given to transferring the employee to another position or place of work.
- The employee shall also be counselled. Counselling should reinforce the standard of work or conduct that is expected and advise the severity of the situation and whether disciplinary action will follow if the employee's work performance or conduct does not improve. A suitable review period for monitoring the employee's performance will be set at this time.
- A written record shall be kept of this formal warning and counselling. The employee will be entitled to sight and sign this written record and add any notations regarding the contents of such record.
 - First warning
 - Where an employee's work performance or conduct is considered unsatisfactory, the employee will be given an opportunity to respond to the allegation(s).
 - If the response is unsatisfactory, a first written warning will be issued to the employee advising of the nature of the poor performance or conduct and any corrective action required.
 - The manager may endeavour to reach agreement with the employee about the

improvement plan (setting out required actions and outcomes), but if that is not reasonably possible in the circumstances, the manager may determine those matters.

- A date will be agreed upon in the future to review the employee's performance or conduct.
- Second and further warnings
Same as above.
- Final Warning
 - If the employee's unsatisfactory work performance/conduct continues or resumes following the formal warnings and counselling, the employee shall be given a final warning in writing giving notice of disciplinary action including termination should the unsatisfactory work performance/conduct not cease immediately.
 - As performance and/or conduct must be assessed on a case-by-case basis, it will not always be appropriate to provide three (3) warnings before considering termination.

The disciplinary procedures in this document will be considered a guideline only and ARA Property Services reserves the right to provide fewer than three (including none) warnings before terminating an employee's employment. In situations of serious concern, ARA Property Services may issue a first and final written warning.

2.3 Step 3 – Further Disciplinary Action

If, after careful consideration and investigation, it is concluded that the alleged offender is guilty of a breach of discipline which warrants penalty, the Manager may impose one or more of the following:

- A change of duties
- Closer supervision
- Lateral transfer
- Demotion
- Suspension or termination of employment

In matters where Serious Misconduct, Fraud, Corruption or any illegal activity is alleged, an investigation will follow to establish the truth and accuracy of any allegations. People and Corporate Services will require the relevant line manager or supervisor to provide full details of the allegations in writing, together with any supporting documentation or statements. ARA Property Services will conduct its own enquiry, even if the

matter has been referred to the Police, the Anti-Corruption investigators or the Ombudsman.

2.4 Non-attendance at disciplinary meetings

In the event that an employee refuses to attend a scheduled meeting, attempt will be made to provide the employee another chance. If the non-attendance reoccurs, then a decision will be made in writing to the employee in their absence.

3. Definitions

Unsatisfactory Work Performance	<p>Performance that continues to be below the expectations relevant to the position. It includes, but is not limited to:</p> <ul style="list-style-type: none"> • neglect of duties • an inability to exercise good judgement • an inability to complete tasks in reasonable amount of time
Unsatisfactory conduct	<p>Conduct that falls short of the standard of competence and diligence relevant to the position. It includes, but is not limited to:</p> <ul style="list-style-type: none"> • breach of discipline • breach of policy or procedure • harassment • unauthorised absenteeism • deliberate non-compliance with EHS rules
Workplace	Any site owned by, leased or contracted to ARA Property Services.
Harassment	This is any unwelcome and/or offensive comment or action concerning a person's race, colour, language, accent, ethnic origin, gender, marital status, pregnancy, disability, political or religious conviction. It is behaviour towards another employee or individual which is intimidating or embarrassing and adversely affects the work environment.
Counselling	The discussion and analysis of issues which affect an employee's conduct and/or work performance in an attempt to find solutions to on-the-job problems. Counselling is used to improve an employee's

	performance where their behaviour or conduct is unacceptable or unsatisfactory.
Disciplinary Action	Action taken by the company to deal with any actual or perceived breach of policies, codes or other standards of work performance and/or conduct.
Serious misconduct	Behaviour so serious in its nature that it may warrant severe discipline of the employee by the employer including but not limited to instant
Summary dismissal	Dismissal without notice, as may occur in the case of serious or wilful misconduct
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

4 Related documents	
Related policies	Termination Policy EEO Policy Grievance and Disputes Policy Performance Review and development Policy
Forms	File Note template
Legislation	Fair Work Act 2009
Appendix	Disciplinary Procedures

DISCIPLINARY PROCEDURES – APPENDIX 1

1. Reasons for disciplinary procedures

Generally the reasons fall into one of the following categories:

- Underperformance: This occurs when someone is falling below the standard required. It is not a conduct issue as much as a shortfall in performance. It often relates to matters of quality or quantity of outputs, meeting targets or deadlines.
- Misconduct: This occurs when a behavioural issue results in expectations not being met. It concerns the poor conduct of the individual, rather than any skill or knowledge deficit as with performance issues. It often relates to attitude issues, disregard for rules or failure to obey or adhere to set standards, for example attending work on time.
- Serious misconduct: This is contained in the Fair Work Regulations and is considered to be matters of such seriousness that the employment relationship is unable to continue.

2. Procedure Outline

- If an employee's performance/conduct is not at the level required, the employee should be advised their performance/conduct is not acceptable. ARA Property Services will determine how serious the problem is and how to deal with it.
- If required, the employee should be provided with appropriate training and/or guidance to assist them to reach an acceptable level within a reasonable timeframe (e.g. mentoring or coaching).
- The employee should be made aware of the consequences if they fail to improve to an acceptable standard. If the performance is not improved, the consequence will be disciplinary procedures up to and including termination of their employment.
- If ARA Property Services can display that the employee has been given every reasonable opportunity to improve their performance/conduct, as the employer we will be in the best position to justify a decision of terminating the employment relationship if the need arises.

3. Qualifying Period

- Managers should be aware of qualifying periods ("probation") and apply them properly. The qualifying period represents the period of time in which an employee would be unsuccessful in pursuing an unfair dismissal claim and is an opportunity to assess an employee's competency in their role.
- Due to other claims that can arise (e.g. discrimination or general protections) it is important to maintain a clear and transparent process so ARA Property Services can, if required, demonstrate reasons for a termination that are clearly related to performance or conduct.

4. Warning Procedure

A warning process can include informal and formal procedures aimed at resolving a problem by one of two ways:

- Ideally, the employee improving their performance/conduct, or
- If failing to get an improvement in response to warning/s and support, termination of employment.

Processes should be fair and transparent to both the employees and ARA Property Services in a delicate situation where both procedural and actual fairness is vital to uphold. In general:

- Matters relating to underperformance should be supported by clarification of expectations, training and support prior to using formal warnings or disciplinary action.
- Misconduct can also be supported by clarification of expectations, training and support but may also attract disciplinary sanctions if evidence supports that the person did, or should have reasonably known, what was required and has breached a requirement.
- Serious misconduct generally results in serious outcomes such as final warnings or termination of the employment relationship.

4.1 Informal Process

An informal process is appropriate for minor performance/conduct improvement where matters may not have been brought to the employee's attention, or expectations may not be clearly communicated or understood. For example, poor performance/conduct may be caused by different factors such as lack of skills, training and/or guidance.

- Informal Discussion

This may include on the spot feedback or comments relating to a specific aspect of performance and may be enough to guide the employee in the right direction.

- Informal Coaching / Counselling

Discuss performance/conduct with the employee giving examples where possible and detailing the employer's requirements and expectations:

- Give the employee an opportunity to respond.
- Detail any action required to rectify the issue. This may include counselling, training, workload adjustments or improved performance (give specific examples of where the improvement is required).
- Document the discussion. The employee should sign the documentation to confirm the discussion in the counselling session. Keep a copy on the employee's file and provide the employee with a copy.
- Include a review timeframe if appropriate/required.

The employee's performance should be monitored and if the informal process does not resolve the performance/conduct issues you may need to proceed to a formal warning process.

4.2 Formal Process

Before making any decisions on disciplinary matters, ensure the person has the opportunity to consider the claims against them and respond accordingly. The following standards must be followed when determining whether allegations are substantiated:

- whether there is sufficient evidence to substantiate allegations
 - the more serious the allegation against an individual is, the higher the standard of proof should be.
- i. First written warning
- Arrange a formal meeting with the employee.
 - Advise the employee of the option to have a support person present to assist with any discussions relating to their performance/conduct. The support person is of their choice; however, the person must NOT act in a professional capacity (such as a lawyer) and is there only to support the employee, not to participate in the discussions.
 - For the manager/supervisor conducting the meeting, a representative from People and Corporate Services, or an alternative representative, may also be present at the meeting.
 - Manager should explain the exact nature of the problem, giving examples where possible.
 - Give the employee the opportunity to respond to the allegations.
 - Detail any history of coaching/counselling (previous related matters within the last 12 months).

- Detail any action required to rectify the performance/conduct. This may include coaching, training, workload adjustments or improved performance (give specific examples of where the improvement is required).
- Confirm whether the employee fully comprehends the nature of the problem and the recommended solution.
- Advise the employee of the consequences that, if there is no improvement within the required timeframe, or a repeat of issues in the case of misconduct, further disciplinary action may be taken, up to and including termination of employment.
- Document the discussion. The employee should sign the documentation to confirm their understanding of the discussion.
- Send the document to Head of People and Corporate Services so a copy is kept on the employee's file and provide the employee with a copy.
- Consider the employee's response to the allegations before deciding whether the matter warrants a warning.
- Organise for warning letter to be drafted by People and Corporate Services and give to the employee in person.

ii. Second or further written warnings

Follow the above process.

iii. Final written warning

- Arrange for a formal meeting with the employee.
- Advise the employee they have the option to have a support person present to assist with any discussions relating to their performance/conduct. The support person is of their choice; however, the person is NOT to act in a professional capacity (such as a lawyer) and is there only to support the employee, not to participate in the discussions.
- For the manager/supervisor conducting the meeting, a representative from Human Resources, or an alternative representative, may also be present at the meeting.
- Detail any history of counselling (previous related matters and warnings).
- Clearly detail the employee's performance since the previous warning.

- The employee should be asked whether he/she fully comprehends the nature of the problem and the recommended solution.
- Give the employee the opportunity to respond to the allegations.
- Consider the employee's response to the allegations before deciding whether the issue warrants a final written warning.
- Advise the employee of the consequences that, if there is no improvement within the required timeframe, or a repeat of issues in the case of misconduct, their employment may be terminated.
- Clearly outline the action required to rectify the performance/conduct. This may include counselling, training, workload adjustments or improved performance (give specific examples of where the improvement is required).
- Document the discussion. The employee should sign the documentation to confirm they understand and are fully aware of the consequences if there is no improvement.
- Keep a copy on the employee's file and provide the employee with a copy.

5 Termination of employment

- Arrange a formal meeting with the employee.
- Advise the employee they have the option to have a support person present to assist with any discussions relating to their performance/conduct. The support person is of their choice; however, the person is NOT to act in a professional capacity (such as a lawyer) and is only there to support the employee, not to participate in the discussion.
- For the manager/supervisor conducting the meeting, a representative from People and Corporate Services, or an alternative representative, may also be present at the meeting.
- Detail any history of counselling (previous related matters and warnings).
- Detail the employee's performance/conduct since the previous warning.
- Confirm whether the employee fully comprehends the nature of the problem and the implications behind the lack of improvement.
- Give the employee the opportunity to respond to the allegations.
- Consider the employee's response to the allegations. If the response is unsatisfactory, termination may be considered.

- Take sufficient time to weigh up the employee's response. Get formal approval from State Manager and Head of People and Corporate Services before proceeding to termination. Often this may involve scheduling a second meeting to advise decision and outcome.
- Organise for warning letter to be drafted by People and Corporate Services and give to the employee in person.
- If the termination is not related to serious misconduct, ensure the employee is given the appropriate notice (or payment in lieu of notice), any outstanding wages and entitlements accrued such as annual leave, long service leave (if applicable) etc.
- Payment for outstanding entitlements should be made on the day of termination or within the next pay cycle.

6. Serious Misconduct Process

An employee who has committed serious misconduct can be dismissed without notice following the substantiation of allegations. Serious misconduct includes, in the course of employment, the employee engaging in theft, fraud, assault, intoxication at work, a serious breach of policies and procedures or conduct that causes serious and imminent risk to the health or safety of a person or the reputation, viability or profitability of the employer's business.

- Immediately arrange a meeting with the employee when you become aware of the employee's suspected misconduct.
- Advise the employee of the allegations.
- The Employee should be asked whether he/she fully comprehends the nature of the problem.
- Advise them of the process to be followed.
- If necessary, suspend the employee with full pay while commencing an investigation into the allegation.
- Provide the employee with the nature of the allegations in writing through consultation with People and Corporate Services.
- Document all conversations and findings of the investigation (this may include statements from other employees, clients etc.).
- On completion of any investigation, arrange a meeting with the employee to discuss findings.
- Advise the employee they have the option to have a support person present to assist with any

discussions relating to their performance/conduct. The support person is of their choice; however, the person is NOT to act in a professional capacity (such as a lawyer) and is there only to support the employee, not to participate in the discussion.

- Give the employee an opportunity to respond to the allegations during the process.
- For the manager/supervisor conducting the meeting, a representative from Human Resources, or an alternative representative, may also be present at the meeting.
- Discuss the findings of the investigation with the employee and consider the employee's response.
- Consider the employee's further response to the investigation. If not satisfactory, the employee can be terminated immediately.
- Provide the employee with the reason for the termination in writing.
- Pay the employee any outstanding wages and entitlements immediately.

7. The role of a support person

Attending a disciplinary meeting can be a stressful and unpleasant experience for an employee. If asked to attend a meeting, employees may want to bring someone to provide support, assist with note taking, or act as a witness to the discussion. An unreasonable refusal to allow an employee to have a support person present at a disciplinary meeting may contribute to a finding that a dismissal was unfair.

A support person may:

- Give emotional support to the employee
- Assist them in preparing for the meeting
- Advise them of the various options they may have
- Assist them to work through those options
- Advise them of the likely process to be followed.
- Assist the employee to present their views or concerns in the meeting
- Ask for a break if the employee is becoming upset or emotional

A support person may not:

- Take over the meeting
- Ask as a representative of the employee
- Speak for the employee
- Tell the employee what they should or should not do
- Be rude or aggressive to others in the meeting
- Act as a support person if they are in some way involved (i.e. are a potential witness)
- Provide personal opinions to all the attendees

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| <ul style="list-style-type: none">• Ask questions to clarify the process if needed• Take notes | |
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7.1 Using a support person

An employee may choose to bring their support person to a disciplinary meeting. However, if they become obstructive, aggressive or attempt to take over the meeting, the Manager should remind the person of their role in the meeting. If they continue to be uncooperative, the Manager should adjourn the meeting.