


STANDARD OPERATIONAL POLICY AND PROCEDURES



TOPIC	Disciplinary Procedure – SOPP 35.33		
RESPONSIBILITY	Human Resources		
AUTHORISATION	Chief Executive		
SIGNED		DATE	20/07/2016
VERSION	1.2	LAST REVIEWED	July 2016
EFFECTIVE	October 2014	NEXT REVIEW	July 2019

1. PURPOSE

Overriding any discipline issue is the requirement that there is a duty of respect required for the Health Service and the employee.

- East Grampians Health Service will always have as first priority, to retain employees, and to resolve errant behaviour and/or action towards complying with the Health Service's Values.
- The procedures outlined in this policy are designed to ensure that any employee subject to disciplinary proceedings will be treated fairly, in accordance with the requirement of the Fair Work Australia provisions, the Code of Practice for State Public Service and with dignity and respect.
- Every incident warranting action under this policy will be investigated before a decision is made on the appropriate course of action.
- This policy applies to all EGHS staff, regardless of level within the organisation.

2. POLICY

The purpose of this policy is to inform East Grampians Health Service employees of the disciplinary procedure.

The required standards of performance and behaviour will be judged against the Health Service's Values. This policy will be enacted where an employee, following an investigation, has had claims of bullying, harassment or serious misconduct substantiated. This policy will also apply to staff who after three performance counselling meetings, have not been able to achieve the agreed performance improvements required to fulfil their roles and responsibilities and / or EGHS performance standards

This policy represents the formal procedure necessary to stress the importance and seriousness of an individual's behaviour or actions, and bring about an appropriate resolution.

It should be noted that the behaviour of individuals within a team or department rests with the supervisory staff of that team. Therefore, constructive counselling and improvement planning for adverse behaviour initially rests with the person in charge of the employee at the time they become aware of the errant conduct.



Integrity



Excellence



Community Focus



Working Together



Learning Culture

3. DISCIPLINARY PROCEDURE

The warning process allows for up to three warnings to be issued to an employee in relation to repeated unsatisfactory work performance or misconduct that could not be corrected via the constructive counselling and improvement plan process. A matter may however, be referred to the relevant Director for investigation with a view to dismissal at any stage should the seriousness of the incident warrant such action. It is not necessary that three warnings be issued sequentially before a recommendation to terminate employment is made if the matter is deemed serious enough to warrant such action.

Following the three step sequential process of disciplinary warnings is the usual method applied to the management of work performance issues, and to unsatisfactory behaviour of a less serious nature.

All warnings must be provided to the employee in writing.

The employee has a right to representation by a union official or other support person at a disciplinary meeting.

3.1 First Disciplinary Warning (Verbal)

The manager must consult with the Human Resources Department prior to initiating any disciplinary action.

Despite being a first 'verbal' warning, a first warning must be documented in the same way as any other disciplinary warning.

The manager will write to the employee, advising him/her of the following:

- He/she is required to attend a formal disciplinary meeting at a nominated time and place.
- The purpose of the meeting will be to discuss a matter of unsatisfactory work performance/misconduct.
- That the outcome of the meeting may result in the employee being issued with a disciplinary warning.
- The right to representation by a union official or other support person at the meeting.
- A record of the meeting will be made and a copy provided to the employee.

A template for this letter is available from Human Resources.

The manager will chair the disciplinary meeting and may choose to have another member of the management team or a Human Resources representative present as a witness and/or for support.

The manager should ensure that the meeting attends to the following items of business:

- If the employee has presented to the meeting without representation, he/she should be reminded of the right to have a representative present. The manager should confirm the employee's willingness to proceed without representation and advise him/her that the waiving of representation will be noted in the record of interview.
- Re-affirm that the meeting is a formal disciplinary meeting.

- Specifically identify the unsatisfactory work performance or inappropriate behaviour which is of concern and give reference to any previous meetings, discussions, improvement plans, attempts to resolve the matter.
- The manager must keep an open mind and consider fully the employee's response. The information provided by the employee may cause the manager to opt not to proceed down a disciplinary path or to suspend the interview to allow sufficient time to conduct further investigation or give further consideration to the matter.
- Identify the required standard of work performance or conduct.
- Discuss any support or assistance the employee may require in order to meet required standards.
- Set a review period where appropriate (e.g. in matters of unsatisfactory work performance standards).
- Advise the consequences of further failure to meeting the required standard of performance or conduct.
- Prior to concluding the meeting ask if the employee has any queries or concerns about the disciplinary meeting.

The details of the meeting must be documented on the standard Disciplinary Warning Interview Report – 35.20.15, and signed by the manager and employee. The original copy of the form should be forwarded to the Human Resources Department for filing on the employee's personal file, a copy given to the employee and a copy retained by the manager.

Warnings relating to work performance issues will remain on the personal file for a period of 12 months after which time they will be removed if no further incidents of a similar nature have occurred in that time. Warnings relating to inappropriate behaviour will remain on the employee's personal file permanently and may be activated at any time in the future should further behaviour related issues emerge.

3.2 Second Disciplinary Warning (Written)

If the employee fails to meet the required standard of work performance within the agreed timeframe, or where there is a recurrence of inappropriate behaviour after a first warning, the manager should continue the disciplinary process by issuing a second 'written' warning. The Department Director and Human Resources Manager must be present at any interview where a second disciplinary warning may be issued.

The second written warning should refer to and follow the first warning.

The process to be followed in administering a second disciplinary warning is consistent with that described for a first warning (letter of notice, formal interview, documented record), the only exception being that all references will relate to a second warning.

The details of the meeting must be documented on the standard Disciplinary Warning Interview Report – 35.20.15, and signed by the manager and employee. The original copy of the form should be forwarded to the Human Resources Department for filing on the employee's personal file, a copy given to the employee and a copy retained by the manager.

3.3 Final Warning

The manager must consult with the relevant Department Director and the Human Resources Department before issuing a final warning.

If the employee fails to meet the required standard of work performance or fails to change their behaviour within the agreed timeframe, or where there is a recurrence of inappropriate behaviour after a second warning, the manager should obtain the necessary authorisation from senior management and continue the disciplinary process by issuing a final warning.

The Department Director and the Human Resources Manager must be present at any meeting where a final disciplinary warning may be issued.

If the employee has not previously engaged the support of a representative, he/she should be strongly encouraged to do so prior to conducting an interview which may result in a final warning being issued.

Where the employee has engaged the support of his/her union, copies of all correspondence and reports relating to the issuing of the final warning should be forwarded to the union by the Human Resources Department.

The process to be followed in administering a final disciplinary warning is consistent with that described for a first warning (letter of notice, formal interview, documented record), the only exception being that all references will relate to a final warning.

The details of the meeting must be documented on the standard Disciplinary Warning Interview Report – 35.20.15, and signed by the manager and employee. The original copy of the form should be forwarded to the Human Resources Department for filing on the employee's personal file, a copy given to the employee and a copy retained by the manager.

A confirmation letter must be forwarded to the employee and where applicable, the union, confirming that a final warning has been issued and continuation of the unsatisfactory performance or a repeat of the misconduct will result in a recommendation to terminate employment.

At the first available time the manager must make a detailed written record of the incident (what happened, when, what was said, who witnessed the event etc). The record should be signed and dated at the time of compilation.

3.4 First and Final Warning

Where the action or actions of the employee are shown to be a direct breach of policy and/ or procedure that either places a patient/fellow employee in danger (breach of safety) or places EGHS or the employee in breach of the law, the matter may be escalated direct to a First and Final nature.

3.5 Dismissal

No employee will be dismissed without the express authority of the Chief Executive.

Staff members may be instantly dismissed upon discovery of serious misconduct, harassment, sexual harassment or bullying.

Grounds for termination shall be specific, substantiated and initially communicated to the staff member verbally

Unless a specific delegation has been given, the relevant Director and Chief Executive Officer shall be consulted before termination of employment takes place. A final decision is to be assessed and weighed against a staff member's length of service and conduct during employment.

A decision as to whether a matter is to be reported to police shall be made by the Chief Executive Officer in accordance with relevant legal obligations placed on the individual and organisation.

3.6 Documentation

Comprehensive, timely and accurate documentation is an essential element of the effective handling of any disciplinary matter. Managers should be mindful of the fact that such documentation may be subjected to external scrutiny and placed on the public record. Every effort must be made to ensure that the standard of all documentation relating to disciplinary matters meets the following criteria:

- 'Old' issues or matters that were not dealt with must not be brought in to current issues under investigation or discussion.
- Here say must not be relied upon as fact.
- The notations must be accurate, consistent and specific;
- A record of facts which can be substantiated and not opinions;
- A record of directly observed and/or verifiable work behaviours, actions, statements and results. It should not include statements which would imply subjective judgement, or prejudice about the employee's personality, character or motives.
- Notations should be made as action occurs or as soon as is practicable thereafter.
- Document appropriate information only.

The details of all meetings must be documented on the standard Disciplinary Warning Interview Report – 35.20.15 and signed by the manager and employee. The original copy of the form should be forwarded to the Human Resources Department for filing on the employee's personal file, a copy given to the employee and a copy retained by the manager.

3.9 General Rights and Conditions

- The **employer** has the right and obligation to treat each case on its own merits. Therefore the above process may vary according to the circumstances as they present.
- The **employee** has the right to a fair hearing and a genuine right of reply to respond to the allegations made against them.
- The **employee** has the right to be represented, and/or to a support person of their choosing at any stage during the formal counselling process.
- Although the employee has the right to natural justice (the right to defend themselves), they do not have the right to know the name of a person or persons raising the issue, or providing information against the employee. In all respects, it is EGHS that is making the claim against the employee.
- Information and investigations will be based on "the balance of probability".

4. REFERENCES

Disciplinary Policy – Swan Hill Health Service

Fair Work Act 2009

Workplace Relations Act 1996

A/Care Standard 1.6

National Safety and Quality Health Service Standards – Standard One

Victorian Child Safe Standards 2015

5. RELATED DOCUMENTS

[Disciplinary Warning Interview Report – 35.20.15](#)

[Employee Complaint Form – 35.12.00](#)

[Employee Complaints and Grievance – SOPP 35.12](#)

[Improving Performance Action Plan - 35.12.01](#)

[Serious Misconduct/Harassment/Sexual Harassment/Bullying – SOPP 35.18](#)