

EMPLOYEE COUNSELLING AND DISCIPLINE POLICY AND PROCEDURES SECTION 6

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EMPLOYEE COUNSELLING AND DISCIPLINE POLICY SECTION 6.1

6.1 AUTHORITY

The minimum standards of behaviour and/or performance expected of every person employed by Australia Post are set out in the corporation's *Our Ethics* booklet. Clause 10 of Attachment A to the *Australia Post Enterprise Agreement 2004 - 2006* covers the Discipline provisions applicable to award-based employees and an employee's review rights to a Board of Reference.

6.1.1 POLICY

Behaviour and/or performance that falls below the standards in *Our Ethics* and/or the employee's contractual obligations is damaging to our workplace culture, our performance, Australia Post's image, reputation and business success.

Such behaviour and/or performance will therefore initiate the application of the Australia Post *Employee Counselling and Discipline Process* (the Process) in the case of award-based employees. The Process has three (3) distinct, but not necessarily sequential components, namely ongoing informal Face-to-Face Feedback, Counselling (Formal and Warning) and Discipline (Disciplinary Inquiry).

The decision as to which of the three components to initially apply will be based on the seriousness of the shortfall in the employee's behaviour and/or performance against the standards in *Our Ethics* and/or the employee's contractual obligations. That decision will depend on the facts and circumstances as identified by, or conveyed to, the employee's manager or supervisor. Where the manager or supervisor does not identify the behaviour and/or performance issue first hand, he or she must closely question the information source in order to obtain sufficient facts to determine the seriousness of the shortfall and appropriate intervention. At the time of initiating the Process, the status of these facts is that of allegations which will either be established or not established during the application of the Process, and in particular, after the employee has been given the opportunity to respond to the allegations.

All persons involved in any way or at any point in the application of the Process must maintain confidentiality at all times. The employee may choose to discuss the matter with a nominated observer, if the employee elects to bring someone along to any interview or counselling session conducted under the formal components of the Process, and/or his or her union (if applicable). However, the employee may only bring one person as an observer to the interview or counselling session.

The Face-to-Face Feedback and Counselling components of the Process are primarily based on ongoing personal and informal feedback and/or formal counselling. This is undertaken at progressively higher levels of line management commencing with the employee's line control supervisor, appropriate to the seriousness of the alleged shortfall in the employee's behaviour and/or performance against the standards in *Our Ethics* and/or the employee's contractual obligations.

Giving regular informal **Face-to-Face Feedback** to employees about their behaviour and performance is an important management responsibility. All feedback needs to be constructive ie developed and delivered to **encourage and recognise** behaviour and performance that is consistent with the standards in *Our Ethics* and/or the employee's contractual obligations.

In the context of the Process, where it is considered that there is a minor shortfall between the required standard of behaviour and/or performance and an employee's actual behaviour and/or performance, a supervisor or manager should promptly initiate informal Face-to-Face Feedback with the employee. The purpose of the feedback is to establish the facts including whether there are any mitigating circumstances or circumstances outside the employee's control that have led to the employee's behaviour and/or performance being an issue. Where the minor shortfall is established and there are no mitigating circumstances, the feedback should focus on identifying remedial actions to assist the employee to achieve and maintain the required standard of behaviour and/or performance.

The objective of **Counselling** is to:

- (a) promptly draw to the attention of an employee a more serious alleged shortfall(s) of the standards in *Our Ethics* and/or the employee's contractual obligations; and
- (b) where this shortfall(s) is proven during the course of the Formal or Warning Counselling interview, to assist the employee to **achieve and maintain** behaviour and/or performance that is consistent with the standards in *Our Ethics* and/or the employee's contractual obligations.

In the event that Face-to-Face Feedback and/or Counselling is ineffective in an employee achieving and maintaining the required change, or there appears to be a very serious breach of the standards in *Our Ethics* and/or the employee's contractual obligations, a Disciplinary Inquiry will be initiated. The outcome of a Disciplinary Inquiry may result in disciplinary action, namely dismissal, transfer to another position of the same or a lower level, or the imposition of a two (2) increment reduction for 12 months (or equivalent penalty).

It is inappropriate for a manager or supervisor to apply a component of the Process beyond Face-to-Face Feedback to an employee who is on a period of probation. Where there is an issue with the behaviour and/or performance of a probationary employee which would warrant the employee being counselled or being the subject of a Disciplinary Inquiry, serious consideration should be given to immediately terminating the employment of the probationary employee. (Refer also to s.3.9 - 'Probation - Permanent Appointment' of the H.R. Policies and Procedures Manual.) However, termination action should only be taken after the manager or supervisor has conferred with his or her Human Resources (HR) area. Additionally, an employee on probation must, in accordance with sub-clause 12.2.2 of the *Australia Post General Conditions of Employment Award 1999*, be given one week's notice of termination or payment in lieu of notice, unless the termination is for serious and wilful misconduct.

Any complaint of harassment or discrimination that is proven under the *Australia Post Harassment Discrimination Complaint Resolution Process* (the Harassment Process),

will also be a proven breach of the *Employee Counselling and Discipline Process*. All proven breaches of *Our Ethics* must be addressed through the application of the *Employee Counselling and Discipline Process*. The matters raised in the complaint of harassment or discrimination have already been fully investigated under the Harassment Process with the employee involved having been given the opportunity to respond. Therefore, it will not be reinvestigated or revisited afresh by the manager applying the *Employee Counselling and Discipline Process*.

If an employee's behaviour and/or performance involves non-compliance with relevant laws, it will normally also be referred to Corporate Security or other relevant area, or to the appropriate law enforcement authorities.

Where it is established that an employee's failure to achieve and maintain the required change is not deliberate on the part of the employee, the matter should be dealt with under clause 3 - 'Inefficient /Incompetent Employees' of the *Australia Post Principal Determination*. It should not continue to be progressed under the *Employee Counselling and Discipline Process*.

6.1.2 ADMINISTRATIVE ARRANGEMENTS

The parties at the Division/State level are responsible for agreeing on administrative arrangements associated with the application of the Process which best meet the particular needs of their Division/State. However, the parties must work within the provisions at clause 10 of Attachment A to the *Australia Post Enterprise Agreement 2004 - 2006*.

Managers wishing to obtain details of Disciplinary Inquiry procedures should contact their HR area.

EMPLOYEE COUNSELLING AND DISCIPLINE PROCESS SECTION 6.2

6.2 INTRODUCTION

This document is intended to assist managers and supervisors in applying Australia Post's *Employee Counselling and Discipline Process*.

6.2.1 OUR ETHICS

The minimum standard of behaviour and/or performance expected of all employees of Australia Post is set out in the corporation's *Our Ethics* booklet. We are individually and collectively responsible for demonstrating the standards in *Our Ethics* at all times. This has a positive impact on our workplace culture, our performance, Australia Post's image, reputation and business success.

Our Ethics is supplemented by the Australia Post *Employee Counselling and Discipline Process* (the Process), which is applied in cases where it is considered that an employee's behaviour and/or performance is inconsistent with the standards in *Our Ethics* and/or the employee's contractual obligations. Clause 10 of Attachment A to the *Australia Post Enterprise Agreement 2004 - 2006* covers the Discipline provisions applicable to award-based employees and an employee's review rights to a Board of Reference.

The Process includes the employee review rights to a Board of Reference. The review rights apply when an employee is subject to disciplinary action (ie the employee is dismissed, transferred to another position of the same or a lower level, or had imposed a two (2) increment reduction for 12 months (or equivalent penalty)) following a Disciplinary Inquiry conducted under the Discipline component of the Process. The review rights also apply when an employee is suspended without pay pending a Disciplinary Inquiry decision.

6.2.2 EMPLOYEE COUNSELLING AND DISCIPLINE PROCESS

a) OBJECTIVE

The *Employee Counselling and Discipline Process*, has three (3) distinct but not necessarily sequential components namely, ongoing informal Face-to-Face Feedback, Counselling (Formal and Warning) and Discipline (Disciplinary Inquiry).

The decision as to which of the three components to initially apply will be based on the seriousness of the shortfall in the employee's behaviour and/or performance against the standards in *Our Ethics* and/or the employee's contractual obligations. That decision will depend on the facts and circumstances as identified by, or conveyed to, the employee's manager or supervisor. Where the manager or supervisor does not identify the behaviour and/or performance issue first hand, he or she must closely question the information source in order to obtain sufficient facts to determine the seriousness of the shortfall and the appropriate intervention. The status of these facts and circumstances at the time of initiating the Process is that of

allegations which will either be established or not established during the application of the Process, and in particular, after the employee has been given the opportunity to respond to the allegations.

Giving **prompt** informal **Face-to-Face Feedback** to employees about their behaviour and/or performance is an important management responsibility. Where it is established during the informal discussion that there is a minor shortfall between the required standard of behaviour and/or performance and an employee's actual behaviour and/or performance, the feedback should be constructive, ie developed and delivered to encourage an employee to achieve and maintain behaviour and/or performance that is consistent with *Our Ethics* and/or the employee's contractual obligations.

The objective of the **Counselling** component of the Process (ie both Formal and Warning Counselling) is to:

- i) **promptly** draw to the attention of an employee a more serious alleged shortfall(s) of the standards in *Our Ethics* and/or the employee's contractual obligations; and
- ii) where the behaviour and/or performance is proven during the course of the Formal or Warning Counselling interview to be below those standards, to **assist** the employee to **achieve and maintain** behaviour and/or performance that is consistent with the standards in *Our Ethics* and/or the employee's contractual obligations.

Accordingly, the Counselling component is primarily based on personal counselling at progressively higher levels of line management, appropriate to the seriousness of the misconduct and/or deliberate under performance against an agreed or prescribed standard.

In the event that reasonable efforts to assist an employee to achieve and maintain the required change through Counselling is ineffective, or there is an alleged very serious breach of *Our Ethics* and/or the employee's contractual obligations, a Disciplinary Inquiry will be initiated. The outcome of a Disciplinary Inquiry may lead to disciplinary action in the form of the employee's dismissal, transfer to another position of the same or a lower level, or the imposition of a two (2) increment salary reduction for 12 months (or equivalent penalty).

Where it is established during the Formal Counselling interview or Warning Counselling interview or the Disciplinary Inquiry interview that an employee's failure to achieve and maintain the required change is not deliberate on the part of the employee, the matter should be dealt with under clause 3 - 'Inefficient/ Incompetent Employees' of the *Australia Post Principal Determination*. It should not continue to be progressed under the *Employee Counselling and Discipline Process*.

b) **KEY PRINCIPLES**

i) ***Remedial/Corrective Emphasis***

Supervisors and managers who apply the Counselling component of the Process need to be mindful of the fact that the principle **objective of Counselling** (both

Formal and Warning) is to draw allegedly inappropriate or unacceptable behaviour and/or performance to the attention of an employee and, where proven, explain to the employee the potential and/or actual consequences of that performance and/or behaviour and **assist** him or her in **achieving and maintaining** behaviour and/or performance that is consistent with the standards in *Our Ethics* and/or the employee's contractual obligations.

ii) ***Importance of Taking Prompt Action***

Giving regular **Face-to-Face Feedback** to employees about their behaviour and/or work performance against the standards in *Our Ethics* and/or their contractual obligations is an important management responsibility. Where it is established during the informal discussion that there is a minor shortfall between the required standard of behaviour and/or performance and an employee's actual behaviour and/or performance, the feedback needs to be constructive. That is the feedback must be developed and delivered to encourage the employee to achieve and maintain behaviour and/or performance consistent with *Our Ethics* and/or the employee's contractual obligations.

An employee's line control supervisor must take **prompt action** to address an identified issue relating to an employee's behaviour and/or performance, irrespective of whether **minor or more serious**. If follow-up action cannot be taken immediately after a behaviour and/or performance issue is identified, the employee concerned should be advised as soon as possible of when and where that follow-up action will take place.

The potential consequences of ignoring shortfalls in behaviour and/or performance and/or deferring taking any action are:

- perception that management condones or finds the shortfall(s) in the employee's behaviour and/or performance acceptable;
- contributes to an undesirable workplace culture;
- employees being unaware that their behaviour and/or performance is a problem; and
- the matter developing into a major issue requiring significant time, effort and expense to resolve.

If the issue is serious and there is a delay in taking follow-up action, this can potentially undermine its seriousness.

Furthermore, the lower the level at which the issue is resolved, the better the result.

iii) ***Application of the Employee Counselling and Discipline Process***

The *Employee Counselling and Discipline Process*:

- is **not** intended to be **adversarial**;

- needs to be applied discreetly out of public view as the **purpose is not to belittle** an employee or **subject him/her to public criticism or ridicule**; and
- must be applied **fairly and consistently**.

iv) ***Training and Support***

It is essential that supervisory and managerial staff receive **adequate training before** applying the *Employee Counselling and Discipline Process* and that all Delegates responsible for making a decision following a Disciplinary Inquiry have an understanding of the whole Process.

Supervisors and managers who apply the Process, should have **ready access to guidance and support** from a nominated person(s) in their HR area. This will facilitate the correct and consistent application of the Process, and ensure their confidence in applying it.

It is also very important that supervisors and managers who conduct a Disciplinary Inquiry are also appropriately supported by their management and senior management and care is taken not to undermine their authority and credibility.

v) ***Shortfalls/Breaches***

Proven shortfalls/breaches of *Our Ethics* and/or the employee's contractual obligations, whether in relation to repeated shortfalls/breaches of the same nature or separate shortfalls/breaches of a diverse nature, are to be treated cumulatively.

However, the current shortfall/breach must be proven before an employee's personnel file is accessed, only previous proven shortfalls/breaches that fall within the prescribed record retention periods will be taken into consideration when determining the appropriate action and the employee must be informed of the material that is used. (Refer s.6.2.7d) - 'Management Access to an Employee's Personnel File' and s.6.2.7 a) - 'Record Retention' of this document.)

vi) ***Standard of Proof***

If an alleged breach of *Our Ethics* and/or the employee's contractual obligations is sufficiently serious to warrant a Disciplinary Inquiry, the manager responsible for conducting the Disciplinary Inquiry (ie the Inquiry Officer) must be reasonably satisfied that the allegation is proven before recommending disciplinary action.

What amounts to reasonable satisfaction will be affected by matters such as the:

- seriousness of the allegation(s);
- likelihood of the allegation(s) in issue having taken place; and
- gravity of the consequences to the employee resulting from establishing the allegation(s).

6.2.3 OVERVIEW OF THE EMPLOYEE COUNSELLING AND DISCIPLINE PROCESS

A broad outline of the Process, to be applied when a manager or supervisor considers that there is a shortfall/breach in an employee's behaviour and/or performance against the standards in *Our Ethics* and/or the employee's contractual obligations, is as follows:

a) MINOR SHORTFALL(S)

- i) Giving regular personal Face-to-Face Feedback to employees about their behaviour and/or performance is an important management responsibility. All feedback needs to be constructive ie developed and delivered to encourage and recognise behaviour and/or performance that is consistent with *Our Ethics* and/or the employee's contractual obligations. Where it is considered that there is a minor shortfall in an employee's behaviour and/or performance against the standards in *Our Ethics* and/or the employee's contractual obligations, the employee's line control supervisor should promptly draw the behaviour and/or performance issue to the attention of the employee in an informal **face-to-face discussion**. The employee should be informed of the specific details that have given rise to the discussion and be given the opportunity to respond.
- ii) If the discussion confirms that a minor shortfall has occurred, the employee should be:
 - advised of how his or her behaviour and/or performance is inconsistent with the relevant standard(s) in *Our Ethics* and/or the employee's contractual obligations and why it is important to always demonstrate all of the expected standards of behaviour and/or meet the contractual obligations, pointing out the resulting positive effects on our workplace culture, our performance, Australia Post's image, reputation and business success; and
 - engaged in jointly identifying what needs to be done to achieve and maintain behaviour and/or performance which is consistent with the standards in *Our Ethics* and/or the employee's contractual obligations.
- iii) In the course of the discussion, it may be identified that there may be an underlying reason for the shortfall in the employee's behaviour and/or performance, which may be overcome through, for example:
 - the employee obtaining assistance through the Employee Assistance Program or alcohol and drug dependence programs; or
 - a clarification of the employee's job requirements and/or identification of training needs including a refresher or retraining program, etc.

In such circumstances, the employee should be recommended to use the relevant form of external assistance, and, where the intervention requires management action, such action should be initiated as soon as possible after the discussion.

- iv) While there is no need to formally document the discussion, a supervisor/manager must make a **brief** diary note to assist in the monitoring of the agreed action(s). It is essential that follow-up action(s) take place at the agreed time(s).

b) LACK OF IMPROVEMENT OR MORE SERIOUS SHORTFALL(S)

If the unacceptable behaviour and/or performance continues, or is repeated in spite of the discussion(s) and agreed action(s), or a more serious behaviour and/or performance issue is identified, the line control supervisor will need to decide whether the issue would be likely to be resolved by further Face-to-Face Feedback or whether it would be more appropriate to take action in accordance with one of the formal components of the Process.

Where it is clearly established that an employee's failure to achieve and maintain the required change is not deliberate on the part of the employee, the matter should be dealt with under clause 3 - 'Inefficient/ Incompetent Employees' of the *Australia Post Principal Determination*. It should not continue to be progressed under the *Employee Counselling and Discipline Process*.

c) FORMAL COMPONENTS

Unlike the Face-to-Face Feedback component of the Process which is informal, the other two components, namely Counselling (Formal and Warning) and Disciplinary Inquiry, are formal.

The three components of the Process **will not necessarily be applied sequentially** in all cases. The component of the Process used by a supervisor or manager will involve the exercise of judgement and **will depend upon** his or her assessment of the known **facts** and the **particular circumstances** of the individual case under consideration. It is possible that a manager may commence with one component of the Process but change it to another after having given the employee the opportunity to respond to the allegation(s).

An overview of the Process is at Appendix 1.

If a supervisor or manager is uncertain as to what component of the Process to use in a particular case, he or she should confer with his or her HR area.

6.2.4 INTERFACE WITH AUSTRALIA POST HARASSMENT DISCRIMINATION COMPLAINT RESOLUTION PROCESS

Any complaint of harassment or discrimination that is proven under the Australia Post *Harassment Discrimination Complaint Resolution Process* (the Harassment Process), will also be a proven breach of *Our Ethics*. All proven breaches of *Our Ethics* must be addressed through the application of the *Employee Counselling and Discipline Process*. The matters raised in the complaint of harassment or discrimination have already been fully investigated under the Harassment Process with the employee involved having been given the opportunity to respond. Therefore, it will not be reinvestigated or revisited afresh by the manager applying the *Employee Counselling and Discipline Process*.

Where the outcome is a Formal or Warning Counselling, the employee's manager will proceed to conduct the applicable counselling interview from the step after the alleged breach(es) has been proven.

Where under the *Employee Counselling and Discipline Process*, the matter would have warranted a Disciplinary Inquiry, then the investigation under the Harassment Process will be taken to constitute such an Inquiry. Where the outcome is disciplinary action (ie dismissal, transfer to another position of the same or a lower level, or the imposition of a two (2) increment reduction for 12 months (or equivalent penalty)), the employee will, after having been advised of the outcome and findings of the Harassment Discrimination investigation, receive a letter informing him or her of the proven breach(es) of *Our Ethics* and the subsequent course of events which will be consistent with the relevant provisions of the *Employee Counselling and Discipline Process*.

6.2.5 THIRD PARTY INVOLVEMENT

a) OBSERVERS

- i) An observer (who may be a union representative) may be present during any interview or counselling session conducted under the formal components of the Process (ie Formal or Warning Counselling and Disciplinary Inquiry) at the request of the employee concerned.
- ii) It is pre-eminent in Australia Post priorities that direct contact between the employer and employee occurs on all of these occasions and that the employee directly responds.
- iii) The role of the observer is to support the employee. The role of the observer at the interview, at counselling or at Inquiry is not intended to be that of an advocate. An observer present on such occasions is not there to answer a question on behalf of an employee when that employee can properly answer the question himself or herself. On the other hand an observer is not a person who must be seen and not heard. There are many circumstances in which an observer can add to the process to the benefit of the fellow employee or member of the union and the employer, without becoming an advocate or representative and thereby removing the direct contact which Australia Post considers desirable between the employer and the employee.
- iv) An observer will act in an appropriate and proper manner limited to the provision of support to the employee and will not be disruptive or obstruct the process. The interview, counselling or Inquiry, is not the appropriate venue to address general industrial concerns regarding Australia Post's *Employee Counselling and Discipline Process*.
- v) An observer will have the opportunity to assist the process after the employee has first had the opportunity to respond to all allegations directly, unless the observer is only requesting that the employee has a copy of the material relevant to the matter under review.
- vi) An observer can properly do the following things without changing the nature of the interview, counselling session or Inquiry:

- (a) add any information overlooked by the employee which might include matters in mitigation relevant to the employee;
- (b) add any information known to the observer independently or otherwise;
- (c) put any background information to the employer;
- (d) ask questions of the employee which might elicit helpful information from the employee beneficial to both the employee and the employer.

The above list is not meant to be all inclusive. The circumstances affecting each employee might differ substantially and the level of assistance required might differ accordingly.

- vii) Any enquiries concerning the role of the observer should be directed to your Divisional HR Advisor.

b) **INTERPRETER SERVICES**

Where necessary, arrangements should be made for the services of an interpreter.

c) **LEGAL REPRESENTATION**

- i) In each component of the Process, the **emphasis** should be on the **merits** of the individual case rather than on legalisms and technicalities. It is therefore intended that, except in the circumstances identified in s.6.2.5 c) ii) immediately below, and as a general policy, legal representation will **not** be used when any of the components of the Process are applied.
- ii) Where an employee's behaviour and/or performance has been the subject of a Disciplinary Inquiry, the Process provides for the Delegate to consider the Inquiry Report and recommendation of the Inquiry Officer. Where the recommendation of the Inquiry Officer is disciplinary action (ie dismissal, transfer to another position of the same or lower level, or the imposition of a two (2) increment salary reduction for 12 months (or equivalent penalty)), the Process further provides for the Delegate to also consider any written or verbal representation made by the employee or through his/her representative. (In circumstances where the recommendation of the Inquiry Officer is that the employee be dismissed, the representative may be a legal practitioner.)
- iii) The representation of the employee or his or her representative to the Delegate may only be on the question of the recommended penalty and procedural issues. The merits of the case will **not** be revisited. The role of the Delegate is to listen and take notes of issues raised by the employee or his or her representative, not to engage in a debate or discussion of the contents of the Inquiry Report. At the conclusion of the representation, the employee or his or her representative is to be informed that his or her comments have been noted and will be taken into consideration before the Delegate makes a final decision.

- iv) Given the intended informality of the Board of Reference hearing, Australia Post will continue to oppose legal representation at all Board of Reference hearings, but the decision on whether or not to allow such representation will rest with the Board of Reference.

6.2.6 MANAGEMENT OBSERVER IN AN INTERVIEW

In normal circumstances, there should be no need for a second management person to be present at either a Formal or Warning Counselling interview. This is because of the remedial and supportive nature of such interviews between the employee and his or her supervisor or manager.

Where a second management person is to be present at a Formal or Warning Counselling interview or a Disciplinary Inquiry interview:

- a) Care should be taken in selecting that person to ensure that he or she is independent and has not been involved in either the current matter or any previous matter(s) involving the application of the Process to that employee.
- b) The employee must be informed in writing of the following:
 - i) that there is to be another management person present, that person's name and job title, the role that person will be undertaking and, in the case of a Disciplinary Inquiry, that the person has no decision-making role; and
 - ii) that if the employee has a valid and supportable reason(s) why that second management person should not be present at the interview (eg perceived detriment or prejudice to the employee), the employee must urgently contact the person who will be conducting the interview to advise that he or she objects and the reason(s) why.
- c) Where an employee objects to the second management person being present at the interview, the person conducting the interview must make a detailed file note of the employee's objection and must take into consideration any reasonable objection put forward by the employee.
- d) The person conducting the interview must also advise the employee as soon as possible and before the interview, of the outcome of that consideration, which decision is final.
- e) The person conducting the interview will outline the role of the parties present at the interview and also their obligation to maintain confidentiality as the interview is essentially a private discussion between the employee and his or her manager.

The only situation where the requirements specified in s.6.2.6 b), c) and d) immediately above do not have to be met, is where the employee is accompanied by an unannounced union representative and the person conducting the interview considers it necessary for a management observer to be present.

In such circumstances, the interviewer must ensure that the person selected is independent and has not been involved in either the current matter, or any previous matter(s) involving the application of the Process to the employee.

6.2.7 RECORDS

a) RECORD RETENTION

A copy of **all** formal documentation produced during a Formal Counselling, Warning Counselling or Disciplinary Inquiry must, in accordance with the relevant archival requirements, be retained on the individual's personnel file for the following periods:

Documentation	Retention Period	Location
Formal and Warning Counselling where alleged shortfall(s) proved unfounded or not proved.	Destroyed immediately.	-
Disciplinary Inquiry where alleged breach(es) proved to be unfounded.	18 months after Disciplinary Inquiry completed.	Workplace.
Formal and Warning Counselling where alleged shortfall(s) established.	2 years after conclusion of final assessment date.	Workplace.
Breach(es) resulting in: <ul style="list-style-type: none"> • transfer; or • incremental reduction. 	7 years after disciplinary action re breach concluded.	State/National Records Management area.
Breach(es) resulting in: <ul style="list-style-type: none"> • dismissal; or • suspension without pay. 	For the life of the personnel file.	Transfer file to State/National Records Management area.

b) EMPLOYEE TO COUNTERSIGN RECORDS

- i) An employee is to be requested to countersign all formal records of any interview or counselling session with the supervisor or manager as soon as possible after its completion.
- ii) **Prior** to obtaining the employee's signature, the employee **must** be given the opportunity to read the document and any comments made by the employee must be recorded. It is to be noted that the employee's signature does **not** indicate his or her agreement with the contents - its purpose is to indicate that the employee was given the opportunity to comment. In the event that the employee refuses to sign, this must be noted on the document, together with any reasons given for not wishing to sign.

c) EMPLOYEE ACCESS TO RECORDS

- i) An employee who has a Formal or Warning Counselling must be given a copy of the completed Formal or Warning Counselling Interview form together with

the records of all periodic progress reviews undertaken during the set review period.

- ii) If, in a particular case, management concludes that there are legitimate grounds for not providing an employee full access to the relevant records, it is critical that the essence of the evidence and any allegations arising from the evidence be put to the employee and that the employee be given the opportunity to respond. The extent of information provided must be such that there is sufficient detail for the employee to be able to respond. It is expected that such situations will be the exception rather than the norm and would arise where, for example, employees have very real concerns about possible recriminations as a consequence of them being identified as a witness.
- iii) An employee who is subject to a Disciplinary Inquiry must be provided with a copy of the Inquiry Officer's report that is provided to the Delegate where the recommendation of the Inquiry Officer is disciplinary action (ie dismissal, transfer to another position of the same or lower level, or the imposition of a two (2) increment salary reduction for 12 months (or equivalent penalty)). This copy is to be enclosed with the letter notifying the employee of the Inquiry Officer's recommendation to the Delegate. This requirement does not apply where the recommendation of the Inquiry Officer is that arrangements be made for the conduct of a Face-to-Face discussion or a Formal or Warning Counselling.
- d) **MANAGEMENT ACCESS TO AN EMPLOYEE'S PERSONNEL FILE**
 - i) If the supervisor or manager who is conducting either a Formal or Warning Counselling or undertaking a Disciplinary Inquiry **concludes** that the allegation(s) is proven, he or she will **then** and not before, refer to any previous Counselling or Discipline record(s) on the employee's personnel file. The supervisor or manager will exercise his or her discretion on the use and/or relevance of historical data and the weight that is placed on any of that material.
 - ii) Where an employee's previous Counselling or Discipline record is taken into consideration in determining the next appropriate course of action, the employee must be informed of the material that has been used.

6.2.8 FORMAL COUNSELLING

a) OVERVIEW

- i) A Formal Counselling is a **personal interview** between an employee and his or her supervisor or manager and must be remedial and supportive.
- ii) Formal Counselling would be held in circumstances where misconduct and/or deliberate under performance against an agreed or required standard which has previously been discussed with the employee through Face-to-Face Feedback with his or her immediate supervisor, is repeated or continued and further Face-to-Face Feedback is considered ineffective. It may also apply where other alleged deliberate misconduct occurs (eg failure to adopt safe work practices or use personal protective equipment supplied by Australia Post, as trained and instructed or failure to show courtesy and respect to a fellow employee or failure to observe a prescribed work policy, procedure or standard etc*).

*[*These examples are used for illustrative purposes only. Each situation must be considered on an individual basis.]*

- iii) The objective of Formal Counselling is, where the conduct and/or performance issue is proven, to assist the employee in understanding what needs to be changed, why the change is necessary and to jointly discuss and agree on how the employee can achieve the required change(s) within a reasonable time-frame and maintain that change. The required change(s) in the employee's behaviour and/or performance is formally documented.

b) APPROPRIATENESS OF FORMAL COUNSELLING

In determining whether Formal Counselling is appropriate, a supervisor or manager must decide, on the facts and circumstances as known prior to hearing the employee's response, whether:

- the situation can be resolved through further Face-to-Face Feedback;
- the case should be handled at the next management level and addressed through a Warning Counselling or a Disciplinary Inquiry; or
- Formal Counselling is sufficient.

c) ADVICE TO EMPLOYEE REGARDING FORMAL COUNSELLING

- i) It is highly desirable that the Formal Counselling take place as soon as possible after the behaviour and/or performance issue is identified. The employee should be advised in writing:
- when and where the interview will take place;
 - of the matter(s) that will be discussed (ie specific details of the alleged behaviour and/or performance issue);
 - that he or she will be given the opportunity to respond;
 - that if the allegation(s) is unfounded (ie the employee provides an acceptable reason(s) for his or her behaviour and/or performance), or is not proven, all documentation relating to the Formal Counselling will be destroyed in the employee's presence;
 - that, in the event that the allegation(s) is proved, there will be a joint discussion about how the employee can achieve and maintain the required change(s). This will include agreeing on the dates to periodically review the employee's progress over a set review period. The completed Formal Counselling Interview form will be placed on the employee's personnel file and a copy given to him or her;
 - that the employee may bring an observer (who may be a union representative) to the interview; and

- where a second management person is to be present at the Formal Counselling, (which would not normally be necessary), the information specified in s. 6.2.6 b) above - 'Management Observer In An Interview'.

(Refer Appendix 2 for sample advice re Formal Counselling interview.)

- ii) Details of the alleged behaviour and/or performance issue that will be the subject of the counselling session, should be recorded in s.3 of the Formal Counselling Interview form (***refer Appendix 3***) prior to the interview.

d) **PROCEDURE FOR FORMAL COUNSELLING**

- Reiterate to the employee the specific **particulars** of the alleged behaviour and/or performance issue and the **reason** why it is an issue. Be as precise and objective as possible.
- Give the employee sufficient opportunity to explain the reason(s) for the unsatisfactory behaviour and/or performance and explore with the employee possible underlying causes and/or mitigating circumstances.
- If the employee provides an acceptable reason(s) for his or her behaviour and/or performance, or, if the issue(s) is proved to be unfounded or not proved, all documentation relating to the matter should be destroyed in the employee's presence and the interview concluded.
- If no acceptable reason(s) is provided, explain to the employee why his or her behaviour and/or performance is unsatisfactory and that the aim of the Formal Counselling is to assist him or her to achieve and maintain the required change.
- Jointly discuss the ways in which change is to be achieved and offer, where appropriate, assistance to the employee to achieve and maintain that change.
- If in the course of the discussion, it is identified that there may be an underlying reason for the shortfall in the employee's behaviour and/or performance, which may be overcome through, for example:
 - the employee obtaining assistance through the Employee Assistance Program or alcohol and drug dependence programs; or
 - a clarification of the employee's job requirements and/or identification of training needs including a refresher or retraining program, etc

the employee should be recommended to use the relevant form of external assistance and/or where the intervention requires management action, such action should be initiated as soon as possible after the discussion.

- Set a period of up to 3 months for further review of the employee's progress and jointly agree on the dates of periodic reviews that will be undertaken during the course of the set review period to provide the employee with constructive ongoing feedback.

- Complete the Formal Counselling Interview form during or as soon as possible after the Formal Counselling interview.
- Once the Formal Counselling Interview form has been completed, allow the employee to read it and note any relevant comments on the form. Ask the employee to sign the form to indicate that the opportunity to comment was given. The employee's signature does **not** indicate agreement with the content of the form. If the employee refuses to sign, make a note of this on the form, together with any reasons given for not wishing to sign.
- Provide the employee with a copy of the completed Formal Counselling Interview form and place the original on the employee's personnel file.

e) **AFTER THE FORMAL COUNSELLING**

- It is important that reviews of the employee's progress take place **on the agreed review dates** during the set review period and that the employee be provided with constructive feedback. If the employee makes and maintains the necessary improvement, a **final assessment** in the form of a follow-up discussion should be held **six (6) months after the end of the set review period**.
- If this final assessment demonstrates the required improvement, the employee should be advised in writing that management recognises the improvement. A copy of the advice should be placed on the employee's personnel file.
- If there is an improvement, but it is still not entirely satisfactory, the details should be recorded and another Formal Counselling session arranged, setting another review period.
- Should further alleged unsatisfactory behaviour and/or performance occur during the review period, consideration should be given to whether the initial Formal Counselling Interview form and details of the current unsatisfactory behaviour and/or performance issue should be referred to the **next level of management** to consider a Warning Counselling. If the current apparent breach is considered to be very serious misconduct or deliberate under performance or 'grossly negligent conduct'*, the specific details should be referred to the Facility Manager, Shift Manager/ Operations Manager or equivalent for consideration of a Disciplinary Inquiry.
[*Refer to page 27 for definition of 'grossly negligent conduct'.]
- Where it is clearly established that an employee's failure to achieve and maintain the required change is not deliberate on the part of the employee, the matter should be dealt with under clause 3 - 'Inefficient/Incompetent Employees' of the *Australia Post Principal Determination*. It should not continue to be progressed under the *Employee Counselling and Discipline Process*.

6.2.9 WARNING COUNSELLING

a) OVERVIEW

- i) If an employee's behaviour and/or performance does not improve after Formal Counselling or the nature of the allegations warrants it, Warning Counselling should normally be undertaken by the next level of management (ie the person to whom the employee's line control supervisor reports) in order to emphasise the seriousness of the employee's situation.
- ii) The purpose of the Warning Counselling is, where the alleged more serious misconduct and/or apparent deliberate under performance against an agreed or prescribed standard is proven during the Warning Counselling interview, to:
 - emphasise to the employee that his or her behaviour and/or performance is unacceptable, explain to the employee both why it is important to change by referring to the relevant standards in *Our Ethics* and/or relevant contractual obligations and also the actual or potential work consequences of his or her behaviour and/or performance;
 - establish the employee's commitment to making the necessary improvement; and
 - make clear to the employee that further misconduct and/or deliberate under performance against an agreed or prescribed standard may lead to a Disciplinary Inquiry, the consequences of which may be the employee's dismissal or transfer to another position of the same or a lower level or the imposition of a two (2) increment reduction for 12 months (or equivalent penalty).

b) APPROPRIATENESS OF WARNING COUNSELLING

The Supervisor/Manager who is responsible for undertaking the Warning Counselling, must decide on the facts and circumstances as known prior to hearing the employee's response on the more serious alleged misconduct and/or deliberate under performance, whether:

- further Formal Counselling would achieve the necessary improvement;
- Warning Counselling is appropriate; or
- details of the current allegation(s) should be referred to the next level of management to consider whether it is appropriate to conduct an immediate Disciplinary Inquiry.

c) PREPARATION FOR AND ADVICE TO EMPLOYEE REGARDING WARNING COUNSELLING

- i) The person responsible for the Warning Counselling interview should act as quickly as possible after the behaviour and/or performance issue is identified to arrange a time and place for the interview; and

ii) Inform the employee in writing:

- when and where the interview will take place;
- the matter(s) that will be discussed (ie specific details of the alleged unacceptable behaviour and/or deliberate under performance against an agreed or prescribed standard and/or the employee's contractual obligations);
- that he or she will be given the opportunity to respond;
- that if the allegation(s) is unfounded (ie the employee provides an acceptable reason(s) for his or her behaviour and/or performance), or is not proved, all documentation relating to the Warning Counselling will be destroyed in the employee's presence;
- that, in the event that the allegation(s) is proved, there will be a joint discussion about how the employee can achieve and maintain the required change(s). This will include agreeing on the dates to periodically review the employee's progress over a set 12 month review period. The completed Warning Counselling Interview form will be placed on the employee's personnel file and a copy given to him or her and the employee will be warned that further apparent misconduct and/or deliberate under performance against an agreed or prescribed standard during the course of the subsequent 12 month review period may lead to an immediate Disciplinary Inquiry which could result in the employee's dismissal from Australia Post;
- that the employee may bring an observer (who may be a union representative) to the interview; and
- where it is considered necessary to have a second management person present at the Warning Counselling, the information specified in s. 6.2.6 b) above - 'Management Observer In An Interview'.

(Refer Appendix 4 for sample advice re Warning Counselling interview.)

iii) Specific details of the alleged behaviour and/or performance issue that will be the subject of the counselling interview must be recorded in s.3 of the Warning Counselling Interview form (***refer Appendix 5***) prior to the interview.d) **PROCEDURE FOR WARNING COUNSELLING**

- Structure the interview in the same way as a Formal Counselling. Again reiterate to the employee the precise details of the allegation(s), including the reason(s) why the behaviour and/or performance is unacceptable and ensure that the employee is given the opportunity to respond.
- If in the course of the interview, it is identified that there may be an underlying reason for the employee's unacceptable behaviour and/or performance, which may need to be addressed through external assistance such as the Employee Assistance Program, alcohol and drug dependence programs or anger

management, the employee should be recommended to use the relevant form of assistance. Where the intervention requires management action, such action should be initiated as soon as possible after the discussion.

- Where the allegation(s) is proved, set a period of 12 months for further review of the employee's behaviour and/or performance and jointly agree on the dates of the periodic progress reviews that will be undertaken during this period to provide the employee with constructive feedback.
- At the end of the interview, the employee should be warned that further unacceptable behaviour and/or performance during the next 12 months may lead to an immediate Disciplinary Inquiry which could result in the employee being dismissed, transferred to another position of the same or a lower classification or imposed a two (2) increment reduction for 12 months (or equivalent penalty).
- When the Warning Counselling Interview form has been completed, the employee should be allowed to read it. Any relevant comments should be noted on the form which the employee should then be asked to sign to indicate that he or she was given the opportunity to comment. The employee's signature does **not** indicate agreement with the contents of the completed form. In the event that the employee refuses to sign the completed form, this should be noted on the form, together with any reasons for him or her not wishing to sign.
- Provide the employee with a copy of the completed Warning Counselling Interview form and place the original on the employee's personnel file.

e) **AFTER THE WARNING COUNSELLING**

After the Warning Counselling:

- Ensure that the reviews of the employee's progress take place **on the agreed review dates** during the 12 month review period and that the employee is provided with constructive feedback.
- If further unacceptable behaviour and/or performance occurs, details should be referred to the next level of management to consider whether a Disciplinary Inquiry should be conducted.
- Where it is established that an employee's failure to achieve and maintain the required change is not deliberate on the part of the employee, the matter should be dealt with under clause 3 - 'Inefficient/Incompetent Employees' of the *Australia Post Principal Determination*. It should not continue to be progressed under the *Employee Counselling and Discipline Process*.

6.2.10 **DISCIPLINARY INQUIRY**

a) **OVERVIEW**

- i) When it is clear that the required improvement in behaviour and/or performance has not been achieved and/or maintained after a Warning Counselling (ie where

all reasonable attempts to assist the employee have been unsuccessful), or where very serious misconduct (eg violence, misappropriation of monies, etc*) is alleged to have occurred, a Disciplinary Inquiry should take place. [*These examples are used for illustrative purposes only. Each situation must be considered on an individual basis.*]

- ii) In the normal course of events, the Disciplinary Inquiry will be conducted by the Facility Manager, Shift/Operations Manager or equivalent line manager of the work area. This is consistent with Australia Post's management philosophy of line managers being responsible for all aspects of managing, including staff management. However, in particular circumstances it may be necessary for the Authorised Officer/Delegate to appoint an Australia Post employee of an equivalent level to conduct the Disciplinary Inquiry. Such instances are expected to be isolated and would for example occur where the Facility Manager, Shift/Operations Manager or equivalent is directly implicated in the incident, or where it would be impractical for the manager to conduct the Disciplinary Inquiry given the sheer volume of investigatory work involved or where other extenuating circumstances exist.
- iii) Before proceeding to conduct the Disciplinary Inquiry, the Inquiry Officer must document the reason for proceeding to a Disciplinary Inquiry by direct reference to the specific details of the alleged breach(es) of *Our Ethics* and/or the employee's contractual obligations in the Notification of Disciplinary Inquiry to the employee.
- iv) The Inquiry Officer may determine in the course of conducting the Disciplinary Inquiry, that the alleged unacceptable behaviour and/or performance has not been established or that the matter would be more appropriately dealt with under any other of the preceding remedial and corrective components of the Process or should be addressed outside of the Process where the matter is outside the employee's control.

b) SUSPENSION DURING DISCIPLINARY INQUIRY

- i) An employee should only be suspended during a Disciplinary Inquiry if the line manager believes the employee's continued attendance would have a negative effect on the operations of Australia Post or suspension would be in the interests of the public, the employee concerned and/or fellow employees.
- ii) Suspension during a Disciplinary Inquiry will normally be on full pay and the employee is entitled to receive shift penalty payments which he or she would have received during the period of suspension. Shift penalty payments during suspension should be made on the basis of certification that the shift work would have continued but for the suspension.

Suspension may be without pay where:

- (a) criminal proceedings are pending; or
- (b) a police investigation involving a serious criminal act is involved which would adversely affect the employment relationship.

c) PREPARATION FOR DISCIPLINARY INQUIRY

Written advice of the Disciplinary Inquiry to the employee **must** include the following information:

- details of the alleged breach(es) of *Our Ethics* and/or the employee's contractual obligations, the specific particulars of the employee's behaviour and/or performance that is considered to be unacceptable and the reason why it is unacceptable. Be as precise and objective as possible.
[In the interests of natural justice, the employee **must** be provided with accurate particulars and not broad allegations so that the employee knows the full case against him or her and has a fair and satisfactory opportunity to present a case in response.]
- the name and contact details of the person conducting the Disciplinary Inquiry, together with the time, date* and location of the Inquiry interview with the employee.
[* While the objective is to conduct the Disciplinary Inquiry as quickly as possible, the employee should be given sufficient notice to prepare his or her response. This will be dependent upon the particular circumstances of the case.]
- the information specified in s.6.2.6 b) above, if a second management person is to be present at the Disciplinary Inquiry interview;
- that, should the alleged breach(es) of *Our Ethics* and/or the employee's contractual obligations be proved, the following disciplinary action may be recommended:
 - dismissal; or
 - transfer to another position of the same or a lower classification; or
 - where transfer is inappropriate or impracticable, a two (2) increment reduction for a period of 12 months (or equivalent penalty). (Refer Appendix 10 for 'Guidelines for HR Unit on Application of Monetary Penalty'.)
This penalty would be limited to breaches of *Our Ethics* and/or the employee's contractual obligations that are sufficiently serious to be only marginally short of justifying a recommendation for dismissal and there is no suitable position to transfer the employee to, or a transfer would advantage the employee or result in too harsh a penalty (eg a transfer to another work location involving unreasonable additional travel).
- that the employee will have an opportunity to present his or her case during the Disciplinary Inquiry;
- whether or not the employee is to be suspended during the Disciplinary Inquiry and if so, with or without pay; and

- that the employee may bring one person (who may be a union representative) as an observer to the Disciplinary Inquiry interview.

(Refer Appendix 6 for sample Notification of Disciplinary Inquiry.)

d) **PROCEDURE FOR DISCIPLINARY INQUIRY**

- i) The Inquiry Officer will determine the most appropriate procedure to be followed throughout the Inquiry.
- ii) The first priority will be an immediate and thorough investigation of the apparent unacceptable behaviour and/or performance.
- iii) However, the following principles should be observed:

- The Disciplinary Inquiry will be as informal as possible.
- It must focus on matters directly related to the allegation(s). Consideration of previous proven unsatisfactory or unacceptable behaviour and/or performance including Formal and Warning Counselling is **not** relevant **at this stage**. Therefore such records must not be accessed until after the current allegation(s) is proved.
- In the interests of natural justice, the employee **must** be fully informed of the case against him or her.
- Where witnesses or other employees or other persons (eg a member(s) of the public) are interviewed, the employee who is the subject of the Disciplinary Inquiry **must** be given the opportunity to respond to any allegations made.

***Note:** It is **not** necessary to provide the employee with witness statements as to do so may discourage relevant witnesses from coming forward and providing information. However, it is critical to put the essence of the evidence and allegations arising from the evidence to the employee and that the employee be given the opportunity to respond. As indicated earlier, the extent of the information provided must be such that there is sufficient detail for the employee to be able to respond.*

- The Inquiry Officer should examine all material relevant to the case including available Corporate Security Group (CSG) material.

e) **DISCIPLINARY INQUIRY FINDINGS, REPORT AND RECOMMENDATIONS**

- i) If the allegation(s) is proved to be unfounded (ie the employee provides an acceptable reason for his or her behaviour and/or performance) or is not proved, the employee and supervisory staff must be informed immediately. The formal documentation relating to the Disciplinary Inquiry is, consistent with the relevant archival requirements, to be retained on the employee's personnel file for 18 months after the completion of the Disciplinary Inquiry.
- ii) If the Inquiry Officer finds the allegation(s) proved and there are no mitigating circumstances and that the breach(es) constitutes:
 - (a) serious and wilful misconduct; and/or

- (b) serious and deliberate under performance against an agreed or prescribed standard; or
- (c) serious misconduct; or
- (d) 'grossly negligent conduct',

he or she should then access the employee's personnel file and refer to any Counselling or Discipline records. The Inquiry Officer will need to exercise his or her discretion on the use or relevance of such records that are within the record retention periods specified in s.6.2.7a) - 'Records' above and the weight that is to be placed on that material.

- iii) Where an employee's previous Counselling or Discipline record is taken into consideration in determining the next appropriate course of action, the employee must be informed of the material that has been used.
- iv) Based on a consideration of all the facts, the Inquiry Officer will then:
 - (a) submit the Disciplinary Inquiry Report including recommendation, to the Delegate. The recommendation may be disciplinary action (ie dismissal, transfer to another position of the same or lower level or the imposition of a two (2) increment salary reduction for 12 months (or equivalent penalty)) **or** that arrangements be made for the conduct of a Face-to-Face discussion, a Formal or a Warning Counselling;

and

- (b) where the recommendation is disciplinary action, also provide the employee with a copy of the Disciplinary Inquiry Report, including recommendation(s), together with written advice that:
 - the Disciplinary Inquiry Report and recommendation(s) have been referred to the Delegate (provide name and contact details) for consideration and decision; and
 - the employee may, if he or she so chooses, either directly or through his or her representative, forward a written statement to the Delegate or seek a meeting with the Delegate; and
 - either of these two (2) actions should take place within five (5) calendar days of the date of the advice; and
 - the representation of the employee or his or her representative to the Delegate may only be on the question of the recommended penalty and procedural issues. The merits of the case will **not** be reviewed.

(Refer Appendix 7 for sample Notification of Disciplinary Inquiry Recommendation where disciplinary action (ie dismissal, transfer to another position of the same or lower level, or the imposition of a two (2) increment salary reduction for 12 months (or equivalent penalty)), is recommended and Appendix 8 where the conduct of a Face-to-Face discussion or a Formal or Warning Counselling is recommended.)

Note:

- *Where transfer action is recommended, consideration must have been given to the full employment effect of the transfer (eg impact on penalty rate, overtime, travel and loss of higher duties) and included in the Disciplinary Inquiry Report. This is necessary to identify and address a situation where a proposed transfer would be to the advantage of the employee (eg effectively 'jumping' a transfer list, moving to a facility closer to their place of residence or working a more favourable shift) or would result in too harsh a penalty.*
 - *Where the breach of Our Ethics and/or the employee's contractual obligations is sufficiently serious to be only marginally short of justifying a recommendation that an employee be dismissed and a transfer is either not available or transfer action would either advantage the employee or result in too harsh a penalty because of the impact of the transfer, it is open to the Inquiry Officer to recommend a two increment reduction for a period of 12 months (or equivalent penalty).*
 - *Where an employee is found to have breached Our Ethics and/or the employee's contractual obligations, consideration needs to be given to the appropriateness of continuing the employee on higher duties (where relevant).*
- v) A copy of the Disciplinary Inquiry Report, including the recommendation(s), and the advice to the employee are to be placed on the employee's personnel file.

6.2.11 DISCIPLINARY ACTION**a) ACTION BY DELEGATE**

The Delegate will:

- consider the Disciplinary Inquiry Report together with any written or verbal* representations made either by the employee or through his or her representative. That representation may only be on the question of the recommended penalty and procedural issues. The merits of the case will **not** be revisited. The role of the Delegate is to listen and take notes of issues raised by the employee, not to engage in a debate or discussion of the contents of the Inquiry Report. At the conclusion of the representation, the employee is to be informed that his or her comments have been noted and will be taken into consideration before the Delegate makes a final decision. (*If the employee makes verbal contact, a file note of the conversation should be made by the Delegate for consideration and subsequent placement on the employee's personnel file);
- be satisfied that the employee has had reasonable opportunity to respond either verbally or in writing to the allegations against him or her; and
- take whichever of the following actions is considered to be appropriate **based on the evidence provided:**

1. Accept the Inquiry Officer's recommendation(s); **OR**
2. If the recommendation(s) is considered inappropriate (ie either too harsh or too lenient), implement a more appropriate course of action ie:
 - a) conduct or arrange a Warning Counselling; or
 - b) transfer the employee to a position of the same or lower classification; or
 - c) where the breach of *Our Ethics* and/or the employee's contractual obligations is sufficiently serious to be only marginally short of dismissal and transfer action would either advantage the employee or result in too harsh a penalty, reduce the employee's salary by two increments for a period of 12 months (or equivalent penalty); or
 - d) dismiss the employee; **OR**
3. Reject the recommendation(s) on the basis that no disciplinary action is required.

The employee should be advised as soon as possible, in writing, of the decision of the Delegate and the reasons for the decision. Where the decision is that the employee be dismissed, transferred to another position of the same or a lower level or have imposed a two (2) increment reduction for 12 months (or equivalent penalty), the advice should also include the review provisions (refer s.6.2.12 a) - 'Review Provisions' below).

(Refer Appendix 9 for sample Notification of Disciplinary Decision.)

b) DISMISSAL OR TRANSFER

i) *Restrictions*

No employee is to be dismissed or transferred for the following reasons:

1. For a first breach of *Our Ethics* and/or the employee's contractual obligations, unless the employee's work conduct is established as constituting serious and wilful misconduct or 'grossly negligent conduct'*; or
2. If the employee is inefficient or incompetent, or unable to discharge, or incapable of discharging the duties of his or her position for reasons that are not deliberate on the part of the employee. (Refer Clause 3 of the *Australia Post Principal Determination*.)

* 'Grossly negligent conduct' would apply in isolated circumstances. Such conduct would involve a reckless act or omission which causes or could cause significant damage or harm and which would adversely affect the employment relationship.

Decisions involving dismissal or transfer which are based on gross negligence and/or a serious breach of the employee's contractual obligations should not be made without a prior referral to the Corporate HR Group.

ii) **Period of Notice**

- An employee who is to be dismissed **must**, in accordance with the provisions in the *Fair Work Act 2009*, be given the minimum period of notice specified in the table below, **unless** the employee is guilty of serious and wilful misconduct or 'grossly negligent conduct', in which case no period of notice would be required (ie the employee would be summarily dismissed).

Note: Where the Delegate has any doubt about whether or not the circumstances warrant summary dismissal, he or she should consult their HR area.

Employee's Period of Continuous Service with Australia Post *	Period of Notice
Not more than 1 year	1 week
More than 1 year but not more than 3 years	2 weeks
More than 3 years but not more than 5 years	3 weeks
More than 5 years	4 weeks

[* The end of the period of continuous service with Australia Post is as at the end of the day the employee is given written notice of the date of termination.]

- The period of notice determined using the table above is to be increased by one (1) week if the employee:
 - is over 45 years of age; **and**
 - has also completed at least two (2) years of continuous service with Australia Post as at the end of the day the employee is given written notice of the day of termination.
- Alternatively, the employee must, unless summarily dismissed, be paid salary in lieu of notice which amount must be at least the amount that would have been payable to the employee had his or her employment continued until the end of the minimum period of notice. That total must, in accordance with the provisions in the *Fair Work Act 2009*, be worked out on the basis of:
 - the employee's ordinary hours of work;
 - the amounts ordinarily payable to the employee in respect of those hours, including eg allowances, loadings and penalties; and
 - any other amounts payable under the employee's contract of employment.

6.2.12 APPLICATIONS FOR REVIEW AGAINST DISCIPLINARY ACTION

a) REVIEW PROVISIONS

- i) An employee who has had imposed a two (2) increment reduction for 12 months (or equivalent penalty), been transferred to another position of the same or a lower classification, or been dismissed, may seek a review of the decision by a Board of Reference if the employee considers the decision to be harsh, unjust or unreasonable.
- ii) An employee who wishes to seek a review of Australia Post's decision must complete a form titled 'Application For A Board of Reference Review' (review form). (Refer Appendix 9 for a copy.) The review form must be enclosed with the letter to the employee advising of the Authorised Person's/Delegate's decision. The completed review form must be lodged within 14 days of the date of decision, with the relevant Divisional HR Manager in each State in the case of State employees or the Manager HQ HR Services in the case of Headquarters employees.
- iii) An employee who wishes to be represented by another person (who may be a union representative but not a legal representative), must provide all the relevant information requested in Section C of the review form. The employee is responsible for contacting and making the necessary arrangements in relation to the appeal hearing with his or her representative.

b) ADMINISTRATIVE ACTIONS

- i) Having received a completed review form, the relevant HR area will refer all relevant documentation to the Board of Reference Chairman within seven (7) days. All correspondence and relevant documentation will also be forwarded as requested by the employee in section E of the review form, within a reasonable time before the date of the hearing.
- ii) The employee, Australia Post and the relevant union (if requested by the employee) will be given at least one week's notice of the hearing.

c) BOARD OF REFERENCE HEARING

- i) The hearing will be informal and Australia Post will oppose legal representation. However, the decision on whether or not to allow such representation will rest with the Board of Reference (refer s. 6.2.5 c) – 'Legal Representation').
- ii) Where Australia Post objects to a review being heard on the grounds that the employee has filed an unfair dismissal claim with the Fair Work Australia tribunal, the Board of Reference will give due consideration and weight to this objection.
- iii) The Board of Reference will review the decision taking into consideration all of the information and material placed before it in relation to the matter. It may also inform itself as it sees fit.

- iv) Where it finds that the action taken was harsh, unjust or unreasonable, it may recommend that Australia Post reinstate the employee including the reinstatement of previously accrued rights and entitlements, or take some alternative action. Where the Board of Reference is considering a recommendation that Australia Post reinstate the employee, the onus is on Australia Post to alert the Board of Reference if there are any workplace issues that need to be taken into consideration.
- v) Where a Board of Reference proposes to hand down a recommendation that is outside the range of penalties specified in the *Australia Post Enterprise Agreement 2004 - 2006 (Attachment A clause 10 - 'Employee Discipline' refers)*, it should reconvene and consult with the advocates of both parties prior to handing down its recommendation. In such circumstances, there may be a delay before the recommendation is handed down.

6.2.13 CRIMINAL OFFENCES

a) CIRCUMSTANCES OF OFFENCE

In some cases an alleged breach of *Our Ethics* and/or the employee's contractual obligations may also be a criminal offence. Before dealing with the case under the Discipline component of the Process, it is important to determine whether the alleged breach occurred:

- i) in the course of duties as an employee of Australia Post; or
- ii) outside the person's employment with Australia Post.

b) WITHIN AUSTRALIA POST

- i) Cases where an alleged breach of *Our Ethics* might also be a criminal offence include: apparent theft, tampering with mail or serious traffic offences in an Australia Post vehicle. An Inquiry Officer would examine the matter **solely** as an alleged breach of *Our Ethics* and in the case of an alleged breach of the employee's contractual obligations, solely as an alleged breach of the employee's contractual obligations. The Disciplinary Inquiry would **not** concern itself with the question of whether the employee has allegedly committed a criminal offence as that is a question for either the Director of Public Prosecutions (DPP) or the Police.
- ii) For example, if postal articles were missing, the Inquiry Officer would investigate whether this was due to the employee's negligence in the performance of duties, failure to respect the security of the mail etc. and not whether the employee had stolen or destroyed the postal articles.
- iii) Where the Corporate Security Group (CSG) is able to establish a prime facie case for the offence, CSG must submit a brief of evidence to the DPP who will decide whether or not to initiate criminal proceedings. The brief of evidence may be referred to the DPP either before or after the Disciplinary Inquiry is completed. The Inquiry Officer must ensure that all relevant information is passed on to CSG.

c) **LIAISON WITH CORPORATE SECURITY GROUP**

- i) In any case where an alleged breach of *Our Ethics* and/or the employee's contractual obligations is also an alleged criminal offence or where there is uncertainty as to whether an alleged breach of *Our Ethics* and/or the employee's contractual obligations might also be an alleged criminal offence, the details should **immediately** be brought to the attention of CSG.
- ii) In cases where CSG is the first to become aware of the employee's alleged breach, the matter should proceed to be dealt with under the Discipline component of the Process using any relevant information obtained by CSG during the course of their investigation (eg procedural breakdowns).

d) **DELAY IN CONDUCTING A DISCIPLINARY INQUIRY**

- i) In many cases, the Inquiry Officer will have enough information about the alleged breach of *Our Ethics* and/or the employee's contractual obligations to take prompt and effective action.
- ii) Where the conduct of a Disciplinary Inquiry might alert another offender(s) or prejudice any criminal investigation, Australia Post would still proceed with the Disciplinary Inquiry, but the timing would need to be adjusted to avoid prejudicing criminal investigations.

e) **POLICE INVOLVEMENT**

Any manager who is considering calling in the police (eg if a suspended employee refuses to leave Australia Post premises) should first consult with CSG and his or her HR area.

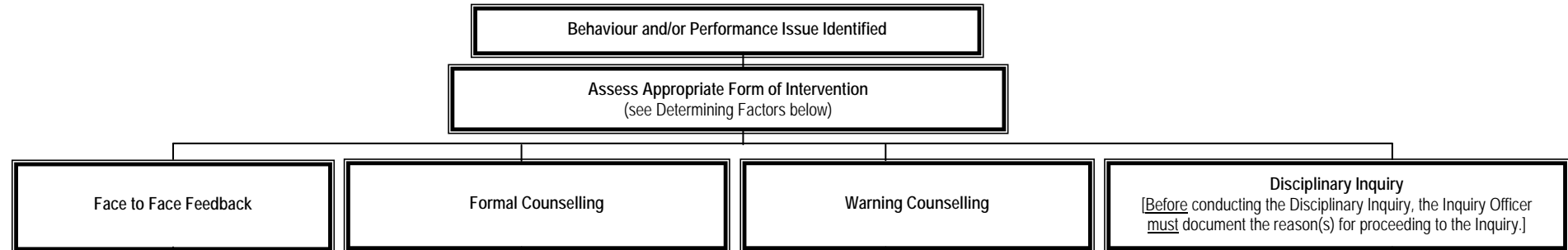
f) **OUTSIDE AUSTRALIA POST**

- i) If an employee is charged with a criminal offence that is committed outside work hours, there would not normally be any need for the matter to be dealt with under the Discipline component of the Process.
- ii) If the employee is **remanded in custody**, he or she should be given access to accrued recreation leave or long service leave and/or leave without pay.
- iii) If the employee is **not** remanded in custody, management needs to consider whether the alleged offence could make the employee unacceptable to other employees, prejudice the business operations of Australia Post or make the employee unsuitable for his/her normal duties. It is recommended that you seek guidance from your HR area in such instances.
- iv) It may sometimes be in the employee's or other employees' best interests to transfer the employee to other duties until the hearing. However, it needs to be noted that the charge does not always in itself make the employee unsuitable for their normal duties - hence the onus is on management to demonstrate the need for a transfer.

- v) Where delays are expected and transfer is not a workable alternative, an option may be to suspend the employee without pay.
- vi) Where an employee is suspended, the case should be referred to the appropriate line manager who will keep it under review.
- vii) If the employee is found guilty of the criminal charge and convicted, the line manager will consider:
 - whether the conviction is related to the employee's ability to discharge his or her employment obligations;
 - the continued suitability of the employee for that type of work;
 - whether the conduct would damage the interests or business of Australia Post; and/or
 - whether the conviction makes the employee unacceptable to other employees.
- viii) If it is determined that the matter should be dealt with under the Discipline component of the Process, a Disciplinary Inquiry will be conducted.

OVERVIEW OF AUSTRALIA POST EMPLOYEE COUNSELLING AND DISCIPLINE PROCESS

[This document **MUST** be read in conjunction with section 6 of the HR Policies and Procedures Manual. Managers should seek appropriate advice as necessary from their HR area.]



<p>DETERMINING FACTORS: NB: to be used as a guide only. The stage accessed will depend on the facts and circumstances and seriousness of the alleged shortfall in the employee's observance of <i>Our Ethics</i> and/or his or her contractual obligations.</p>	<ul style="list-style-type: none"> Alleged minor shortfall in an employee's behaviour and/or performance. NB – Giving regular Face-to-Face Feedback to employees about their behaviour and/or performance is an important management responsibility. All feedback needs to be constructive - develop and deliver it to encourage and recognise work conduct that is consistent with <i>Our Ethics</i> and the employee's contractual obligations. 	<ul style="list-style-type: none"> A serious alleged shortfall (eg deliberate work misconduct such as apparent failure to adopt safe work practices, treat a fellow employee with courtesy and respect or to observe a prescribed work procedure or standard), even though a first occurrence. Repeated alleged shortfall in behaviour and/or performance after Face-to-Face Feedback and further Face-to-Face Feedback considered ineffective. 	<ul style="list-style-type: none"> A more serious alleged shortfall in behaviour and/or performance even though a first occurrence. Further misbehaviour and/or deliberate under performance against an agreed or prescribed standard during Formal Counselling review period. Formal Counselling ineffective. 	<ul style="list-style-type: none"> Very serious alleged work misconduct (eg violence, misappropriation of monies) or 'grossly negligent conduct'* even though a first occurrence. Reasonable attempts to assist employee to rectify unsatisfactory behaviour and/or performance unsuccessful. Further shortfall in behaviour and/or performance during Warning Counselling review period. Warning Counselling ineffective.
<p>APPROPRIATE MGT LEVEL:</p>	<p>Employee's line control supervisor.</p>	<p>Employee's supervisor/manager.</p>	<p>Shift Manager/Ops Manager/Area Manager/Facility Manager.</p>	<p>Facility Manager, Shift/Ops Manager or equivalent.</p>
<p>POSSIBLE OUTCOMES:</p>	<ul style="list-style-type: none"> Satisfactory explanation provided – no further action (NFA). Appropriate intervention(s) identified and recommended and/or organised for employee (eg Employee Assistance Program (EAP), alcohol & drug dependence programs; clarification of job requirements and/or training needs including refresher or retraining programs etc). Brief diary entry and remedial follow up review(s). 	<ul style="list-style-type: none"> All documentation destroyed and NFA if : <ul style="list-style-type: none"> - acceptable reason for conduct and no shortfall; or - allegation(s) unfounded/not proven. Appropriate intervention(s) identified and recommended and/or organised for employee (eg Employee Assistance Program (EAP), alcohol & drug dependence programs; clarification of job requirements and/or training needs including refresher or retraining programs etc). Formal Counselling interview and reviews on agreed dates during set review period (up to 3 months) and final assessment 6 months later. 	<ul style="list-style-type: none"> Appropriate intervention(s) identified and recommended and/or organised for employee (eg Employee Assistance Program (EAP), alcohol & drug dependence programs; clarification of job requirements and/or training needs including refresher or retraining programs etc). Warning Counselling interview and reviews on agreed dates during set review period (12 months). 	<ul style="list-style-type: none"> Formal Counselling (Formal or Warning). Dismissal (no notice period if serious and wilful misconduct or 'grossly negligent conduct ' *). [*conduct involving a reckless act or omission which causes or could cause significant damage or harm and which would adversely affect the employment relationship] Transfer to another position (same or lower level classification). Two increment reduction in salary for 12 months (or equivalent penalty) where breach(es) marginally short of justifying dismissal but transfer inapplicable or inappropriate.

SAMPLE ONLY**Personal**

Employee's Name (include Courtesy Title ie Mr/Mrs/Ms)

Job Title (eg SMO Gr1, PDO etc)

Place of Work

Dear *(Courtesy Title ie Mr/Mrs/Ms and employee's surname)*

NOTIFICATION OF FORMAL COUNSELLING INTERVIEW

This letter is to advise that you are required to attend a Formal Counselling interview with *(insert courtesy title, name, job title and facility of line control supervisor who will conduct interview)...at (time)..., (day and date)... in (insert where interview will be held)...to discuss alleged behaviour and/or performance (delete whichever is not applicable) on your part which is inconsistent with Australia Post's Our Ethics.*

The alleged unsatisfactory behaviour that will be discussed at the interview is:

(Provide the particulars of the incident(s) that resulted in you deciding to conduct a Formal Counselling interview. In setting out the particulars, be as precise and objective as possible. Avoid generalisations so as to allow the employee to prepare a case in response.)

1. *your failure to wear your bicycle helmet throughout the outdoor component of your PDO duties between (specify duration of delivery round eg 10.00am and 1.30pm ...) on (insert date).**

In so doing, you allegedly failed to discharge your responsibility as an Australia Post employee to:

(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed above)

- (i) *use the safety protection equipment provided by Australia Post, as trained and instructed. [Refer Our Ethics, page 7, ethical standard 2.1b) - Health, Safety & Work Environment.]**

*[*Note: This example is used for illustrative purposes only.]*

The Formal Counselling interview is a component of Australia Post's *Employee Counselling and Discipline Process*. The interview is essentially a personal discussion between you and *(insert name of employee's line control supervisor)*. As you will be given the opportunity to respond to the above allegation(s), it is recommended that you take the time to prepare for the interview.

You may bring along one observer (who may be a union representative). Please note that an observer cannot act as your advocate or respond to questions on your behalf.

If the allegation(s) is proved unfounded (that is you provide an acceptable reason(s) for the behaviour and/or performance) or not proved, all documentation relating to the Formal Counselling will be destroyed in your presence.

If the allegation(s) is proven, there will be a joint discussion about how you can achieve and maintain the required standard(s). This will include agreeing on the dates to periodically review your progress over a set review period. The original completed Formal Counselling Interview form will be placed on your personnel file and you will also be provided with a copy for your records.

[If a second management person is to be present during the interview, which would not normally be necessary for a Formal Counselling, insert the following paragraph.]

You are further advised that *(insert courtesy title, name and job title of the second management person who will be present during the interview)* will also be present during the interview to *(insert relevant reason eg take notes)*. If you have a valid, supportable reason(s) why *he/she (delete whichever is not applicable)* should not be present, please contact me urgently to discuss the reason(s) for your objection. I will then advise you of my final decision as soon as possible before the interview.

Finally, it is important that you maintain confidentiality, as the interview is essentially a private discussion between you and your manager. You may discuss the matter with your union (if applicable) and your nominated observer, if you elect to bring an observer along to the interview. However, as advised above, you may only bring one person as an observer to the interview.

Yours sincerely

(Signature)

(Job Title)

(Date)



FORMAL COUNSELLING INTERVIEW

[IMPORTANT- *The Line Control Supervisor conducting the Formal Counselling Interview **must** complete section 3 **prior** to conducting the interview.]*

1. <i>Employee's name</i>	2. <i>Place of work</i>
3. <i>Date of counselling interview</i>/...../.....	4. (a) <i>Name of Line Control Supervisor conducting interview</i> (b) <i>Name and role of second management person (if applicable) and whether person acceptable to employee:</i>
5. <i>Others present:</i> Name (i)..... (ii).....	Reason for presence (eg interpreter/observer)

INTERVIEW PROCEDURE

PRELIMINARY STEPS

1. Introduce all persons present and their respective roles. Advise them of their obligation to maintain confidentiality.
2. Explain **nature and purpose** of the Counselling ie:
 - (i) the Formal Counselling interview is a component of Australia Post's *Employee Counselling and Discipline Process*;
 - (ii) it is essentially a personal and private interview between the employee's Line Control Supervisor and the employee;
 - (iii) the aim is to establish the facts behind the alleged shortfall(s) in the relevant standard(s) in *Our Ethics* and/or the employee's contractual obligations by asking questions, providing supporting facts (*where available*) and allowing the employee to respond and provide any supporting material and/or comment(s) the employee considers to be relevant;
 - (iv) if the allegation(s) is proved unfounded or not proved, all documentation relating to this matter will be destroyed in the employee's presence and the interview concluded;
 - (v) if the allegation(s) is proved, there will be a joint discussion and agreement on:
 - a) how the employee can achieve **and** maintain the required change(s);
 - b) a review period of up to three (3) months; and
 - c) the dates during that set review period when the employee will be provided with constructive feedback on his or her progress.
 - (vi) it will also involve the first formal documentation of the required change in the employee's behaviour and/or performance (*as relevant*); and
 - (vii) all documentation in relation to this matter will be retained on the employee's personnel file and destroyed two (2) years after the final assessment date.

5. **Note - Proceed to section 6 UNLESS employee denies allegation(s)**

If employee **denies** the allegation(s):

(i) **establish and record areas of agreement and difference:**

(ii) **discuss** areas of agreement and difference, undertake **further investigation** (if needed) and **record outcome:**

6. Invite **others present** to **comment** (if appropriate). **Record** comments made and **identify** who made the comments:

7. **Evaluate all information** obtained then **proceed to 7A OR 7B** as follows:

7A. If employee provides an acceptable reason(s) for the allegation(s), **or** the allegation(s) is proved **unfounded or not proved**:

- (i) destroy all documentation relating to the matter in the employee’s presence; and
- (ii) conclude the interview.

OR

7B. If **no acceptable reason(s)** is provided by the employee:

(a) **Explain etc. why** the behaviour and/or performance (*as relevant*) is **unsatisfactory** and **record reasons** [eg inconsistent with certain ethical standard(s) in *Our Ethics* (*cite the relevant standard(s)*) which we are all responsible for demonstrating and the actual or potential impact of this on operations, staff morale, safety, etc and Australia Post’s commitment(s) with respect to each of the relevant standard(s) which are set out in the paragraph immediately below the title of each ethical standard.]

Note - If the allegation(s) is proved, but significant mitigating factors become evident during the interview, it may be appropriate to regard the interview as Face-to-Face Feedback and to advise all relevant parties accordingly.

(b) Remind employee that the aim of the interview is to assist him/her to achieve **and** maintain the required standard of work conduct (behaviour and/or performance) (*as relevant*). **Discuss ways** in which the required change can be achieved and maintained and **offer**, where appropriate, any **assistance** that can be given to the employee to facilitate this.

(c) Record and sign off on understandings reached:

- Actions to be taken by employee to achieve and maintain the required standard(s):

Employee's signature _____

- Actions to be taken by supervisor/manager to assist the employee to achieve and maintain the required standard(s):

Manager's signature _____

(d)

(i) Set appropriate review period (up to 3 months), record end date / / ; and

(ii) Discuss, agree and record dates of periodic progress reviews to be held during the set review period:

/ / ; / / ;
 / / ; / / .

(iii) Transcribe the periodic review dates to Attachment A of this form.

- (e) Advise employee that if he/she achieves and maintains the necessary improvement, the final assessment date will be set for 6 months after the end date of the set review period. You should further inform the employee that the documentation relating to the Formal Counselling will be retained on his or her personnel file and then destroyed two (2) years after the final assessment date. Explain to the employee that the reason for this is because shortfalls in any of the standards in *Our Ethics* and/or in meeting his or her contractual obligations are treated cumulatively and it is therefore important that he or she always act in a way that is consistent with all the standards in *Our Ethics* and/or his or her contractual obligations.

8. Employee’s Signature

- (i) **Allow the employee to read** the completed Formal Counselling Interview form, then
- (ii) **ask the employee to sign** to indicate that he/she has been shown the completed form.
Note - Advise the employee that his/her signature does NOT mean the employee agrees with the report.

Employee’s Signature: **Date** .../ .../...

[If the employee refuses to sign, make a note of this on the report, together with any reasons given for not wishing to sign.]

9. Documentation

Provide the employee with a copy of the completed form and conclude the interview.

POST INTERVIEW ACTION

1. Place completed interview form on the employee’s personnel file.
2. Arrange for resubmit of the employee’s personnel file for the periodic progress reviews and the final assessment date.
3. Inform other **relevant** staff as appropriate of any required post-interview actions (eg supervisors on other shifts the employee may work, shift managers).
4. Complete Attachment A of the Formal Counselling Interview form on the specified progress review dates and the final assessment date.

ATTACHMENT A

(To Formal Counselling Interview form)

PERIODIC PROGRESS REVIEWS

Review Date : / /

Details of constructive feedback provided to the employee on his/her progress :

Name of manager conducting the progress review _____

Manager's signature _____

Review Date: / /

Details of constructive feedback provided to the employee on his/her progress :

Name of manager conducting the progress review _____

Manager's signature _____

Review Date: / /

Details of constructive feedback provided to the employee on his/her progress :

Name of manager conducting the progress review _____

Manager's signature _____

FINAL ASSESSMENT

Note: If the employee achieves and maintains the necessary improvement, a final assessment date should be set for 6 months after the end date of the set review period.

Final assessment date: / /

Comment:

Demonstrated required outcome? (Tick whichever appropriate)

- Yes (i) acknowledge the required improvement(s) made by the employee;
- (ii) provide the employee with a copy of the completed Attachment A;
- (iii) place copy of completed Attachment A on the employee's personnel file; and
- (iv) resubmit file for two (2) years later for destruction of Formal Counselling documentation.

OR

- No Arrange another Formal Counselling interview or escalate to a higher management level for a Warning Counselling or Disciplinary Inquiry.

Name of manager conducting the final assessment _____

Manager's signature _____

Appendix 4

SAMPLE ONLY

Personal

Employee's Name (include Courtesy Title ie Mr/Mrs/Ms)

Job Title (eg Admin Officer Level 5, PDO etc)

Place of Work

Dear *(Courtesy Title ie Mr/Mrs/Ms and employee's surname)*

NOTIFICATION OF WARNING COUNSELLING INTERVIEW

This letter is to advise that you are required to attend a Warning Counselling interview with *(insert courtesy title, name, job title and facility of the manager who will conduct the interview)... at (time)..., (day and date)...in (insert where the interview will be held)...to discuss alleged unacceptable behaviour and/or under performance (delete whichever is not applicable) on your part which is inconsistent with Australia Post's Our Ethics.*

The alleged unacceptable behaviour that will be discussed at the interview is:

(Provide the particulars of the incident(s) that resulted in you deciding to conduct a Warning Counselling interview. In setting out the particulars, be as precise and objective as possible. Avoid generalisations so as to allow the employee to prepare a case in response.)

1. *Your ongoing and often unreported absences from work as identified in the attached table which sets out the list of specific dates in question, the length of absence from work on each of those days and whether or not you reported the absence.**

In so doing you failed to discharge your responsibility as an Australia Post employee to:

(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)

- (i) *attend work reliably and on time, consistent with the hours of duty arrangements [refer Our Ethics, page 8, ethical standard 3.1.1c) - Work Practices & Performance];*
- (ii) *advise of your inability to attend work and absences during duty, in accordance with the defined procedures [refer Our Ethics, page 8, ethical standard 3.1.1d) - Work Practices & Performance].**

[Note - This example is used for illustrative purposes only.]*

The Warning Counselling interview is a component of Australia Post's *Employee Counselling and Discipline Process* (the Process). The interview is essentially a personal interview between you and *(insert name of employee's line supervisor)*. As you will be given the opportunity to respond to the above allegation(s) relating to your work conduct against the above-mentioned ethical standards in *Our Ethics*, it is recommended that you take the time to prepare for the interview.

You may bring along one observer (who may be a union representative). Please note that an observer cannot act as your advocate or to respond to questions on your behalf.

If the allegation(s) is proved unfounded (ie you provide an acceptable reason(s) for your behaviour and/or performance), or is not proved, all documentation relating to the Warning Counselling will be destroyed in your presence.

If the allegation(s) is proved and there are no mitigating circumstances, you and *(insert name of person who will conduct the interview)* will discuss how you can achieve and maintain the required change(s) and your commitment to ensuring that this occurs. This will include agreeing on dates to periodically review your progress over a set 12 month review period. The original completed Warning Counselling Interview form will be placed on your personnel file and you will also be provided with a copy for your records. You will also be warned that further misconduct and/or under performance during the course of the 12 month review period may lead to action under the Discipline component of the Process which could result in your dismissal from Australia Post.

[If it is considered necessary to have a second management person present during the interview, insert the following paragraph.]

You are also advised that *(insert courtesy title, name and job title of the person who will be present during the interview)* will also be present during the interview to *(insert reason eg take notes)*. If you have a valid, supportable reason(s) why *he/she* *(delete whichever is not applicable)* should not be present, please contact me urgently to discuss the reason(s) for your objection. I will then advise you of my decision as soon as possible before the interview.

Finally, it is important that you maintain confidentiality, as the interview is essentially a private discussion between you and your manager. You may discuss the matter with your union (if applicable) and your nominated observer, if you elect to bring an observer along to the interview. However, as advised above, you may only bring one person as an observer to the interview.

Yours sincerely

(Signature)
(Job Title)
(Date)



WARNING COUNSELLING INTERVIEW

[IMPORTANT- *The Manager conducting the Warning Counselling interview **must**:*

- i Complete section 3 **prior** to conducting the Warning Counselling interview; and*
- ii Where the Warning Counselling is due to lack of improvement/change in the employee's behaviour and/or performance following Formal Counselling, obtain copies of documentation relating to the Formal Counselling stage directly related to the current matter from the employee's personnel file.]*

1. <i>Employee's name</i>	2. <i>Place of work</i>
3. <i>Date of counselling interview</i> /...../.....	4. (a) <i>Name of manager conducting interview</i> (b) <i>Name and role of second management person (if applicable) & whether acceptable to employee:</i>
5. <i>Others present:</i> <i>Name</i> (i)..... (ii).....	<i>Reason for presence (eg Interpreter/observer)</i>

INTERVIEW PROCEDURE

PRELIMINARY STEPS

1. Introduce all persons present and their respective roles. Advise them of their obligation to maintain confidentiality.
2. Explain **nature and purpose** of the Counselling ie:
 - (i) a Warning Counselling interview is a component of Australia Post's *Employee Counselling and Discipline Process* (the Process);
 - (ii) it is essentially a personal and private interview between a manager and the employee;
 - (iii) the aim is to establish the facts behind the alleged inconsistency(ies) in the employee's work conduct against the standards in *Our Ethics* and/or the employee's contractual obligations;
 - (iv) if the allegation(s) is proved unfounded or not proved, all documentation relating to this matter will be destroyed in the employee's presence and the interview concluded;
 - (v) if the allegation(s) is proved:
 - a) there will be a joint discussion and agreement on:
 - how the employee can achieve **and** maintain the required change(s); and
 - the dates on which the employee will be provided with constructive feedback on his or her progress during a set 12 month review period.
 - b) the employee will be warned that further misconduct and/or under performance during the 12 month review period may lead to action under the Discipline component of the Process the consequences of which may be the employee's dismissal or transfer to another position of the same or a lower classification or the imposition of a two (2) increment reduction for twelve months (or equivalent penalty);
 - (vi) a Warning Counselling involves formal documentation of the required change(s) in behaviour and/or performance; and
 - (vii) all documentation in relation to this matter will be retained on the employee's personnel file and destroyed two (2) years after the final assessment date.

MAIN PART OF INTERVIEW

3. Provide an **accurate, detailed** and **objective** description of the alleged unacceptable behaviour and/or performance that has necessitated the interview because it is inconsistent with certain standards in Australia Post’s *Our Ethics* which we are all, as employees of Australia Post, personally responsible for demonstrating, and/or the employee’s alleged shortfall in meeting his or her contractual obligations. Cite each of the relevant ethical standards that have allegedly not been demonstrated and/or the contractual obligation(s) that have allegedly not been met.

[Note:

- (i) The particulars relating to the employee’s alleged behaviour and/or performance and/or his or her alleged failure to meet his or her contractual obligations and the relevant ethical standards and/or contractual obligations should be consistent with those in the Notification of Warning Counselling letter to the employee.
- (ii) If more than one allegation, address each separately during the interview.]

4. Invite **employee to respond** to each allegation(s) and **record** employee’s response. Explore possible underlying causes and/or mitigating circumstances (eg family or health problems etc)
 [Does employee acknowledge the allegation(s)? What reasons are given by the employee for the behaviour and/or under performance? Any mitigating circumstances? If so, what are they?]

5. **Note - Proceed to section 6 UNLESS employee denies allegation(s)**

If employee **denies** the allegation(s):

(i) **establish and record areas of agreement and difference:**

(ii) **discuss** areas of agreement and difference, undertake **further investigation** (if needed) and **record outcome:**

- 6. Invite **others present** to **comment** (if appropriate). **Record** comments made and **identify** who made the comments:

- 7. **Evaluate all information** obtained then **proceed to 7A OR 7B** as follows:

7A. If employee provides an acceptable reason(s) for the behaviour and/or performance, **or** the allegation(s) is proved **unfounded or not proved:**

- (i) destroy all documentation relating to the matter in the employee’s presence; and
- (ii) conclude interview.

OR

7B. If **no acceptable reason(s)** is provided by the employee:

- (a) **Explain why** the behaviour and/or performance (*as relevant*) is **unsatisfactory** and **record reasons** [eg inconsistent with certain ethical standard(s) in *Our Ethics (cite the relevant standard(s) which we are responsible for demonstrating and the actual or potential impact of this on operations, staff morale, safety, etc and Australia Post’s commitment(s) with respect to each of the relevant standard(s) which are set out in the paragraph immediately below the title of each ethical standard.*]

Note - If the allegation(s) is proved, but significant mitigating factors become evident during the interview, it may be appropriate to regard the interview as Face-to-Face Feedback and to advise all relevant parties accordingly.

- (b) Remind the employee that the aim of the interview is to assist him/her to achieve and maintain the required standard of behaviour and/or performance (*as relevant*). **Discuss ways** in which the required change can be achieved and maintained, including the effectiveness of previously agreed action(s) decided through a Formal Counselling (*if applicable*). **Offer**, where appropriate, any **assistance** that can be given to the employee to achieve and maintain the required standard(s).

- (c) **Record and sign off on understandings reached:**

- **Actions to be taken by employee to achieve and maintain the required standard(s):**

Employee’s signature _____

- **Actions to be taken by manager to assist employee achieve and maintain the required standard(s):**

Manager's signature _____

- (d) (i) Set **final assessment date** for 12 months after date of interview: / / ;
- (ii) Discuss, agree and record dates of **periodic progress reviews** to be held during the period up to final assessment date:
 / / ; / / ;
 / / ; / / .
- (iii) Transcribe periodic progress review dates and final assessment date to Attachment A of this form.

8. Warning

Explain to the employee the importance of achieving and maintaining the necessary improvement(s) and warn the employee that the consequences of further misconduct and/or under performance during the next 12 months may lead to an immediate Disciplinary Inquiry which could result in his/her dismissal, transfer to another position of the same or a lower classification or the imposition of a two (2) increment reduction for 12 months (or equivalent penalty).

9. Documentation

Inform the employee that the documentation relating to the Warning Counselling will be retained on his or her personnel file and then destroyed two (2) years after the final assessment date.
 Explain to the employee that the reason for this is because shortfalls in any of the standards in *Our Ethics* and/or in meeting the employee's contractual obligations are treated cumulatively and it is therefore important that he or she always act in a way that is consistent with all the standards in *Our Ethics* and/or his or her contractual obligations.

10. Employee's Signature

- (i) **Allow the employee to read** the completed Warning Counselling Interview form, then
- (ii) **ask the employee to sign** to indicate that he/she has been shown the completed form.

Note - Advise the employee that his/her signature does NOT mean the employee agrees with the report.

Employee's Signature:

Date:/...../.....

[If the employee refuses to sign, make a note of this on the form, together with any reasons given for not wishing to sign.]

11. Documentation

Provide the employee with a copy of the completed form and conclude the interview.

POST INTERVIEW ACTION

1. Place completed Warning Counselling Interview form on the employee's personnel file.
2. Arrange for resubmit of the employee's personnel file for the periodic progress reviews and the final assessment date.
3. Inform other **relevant** staff as appropriate of any required post-interview actions (eg supervisors on other shifts the employee may work, shift managers).
4. Complete Attachment A of the Warning Counselling Interview form on the specified progress review dates and the final assessment date.

ATTACHMENT A
(To Warning Counselling Interview form)

PERIODIC PROGRESS REVIEWS

Review Date: / /

Details of constructive feedback provided to the employee on his or her progress:

Name of manager conducting the progress review _____

Manager's signature _____

Review Date: / /

Details of constructive feedback provided to the employee on his or her progress:

Name of manager conducting the progress review _____

Manager's signature _____

Review Date: / /

Details of constructive feedback provided to the employee on his or her progress:

Name of manager conducting the progress review _____

Manager's signature _____

FINAL ASSESSMENT

Final Assessment Date: / /

Name of manager conducting the final assessment _____

Manager's signature _____

Where required outcome achieved and maintained:

- (i) acknowledge the required improvement(s) made by the employee;
- (ii) provide the employee with a copy of the completed Attachment A;
- (iii) place copy of the completed Attachment A on the employee's personnel file;
and
- (iv) resubmit the employee's personnel file for two (2) years later for destruction
of Warning Counselling documentation.

OR

If further apparent misconduct and/or under performance occurs, details should be referred to the next level of management to consider whether action under the Discipline component or another component of the Process should be taken.

SAMPLE ONLY**Appendix 6****Personal**

Employee's Name (include Courtesy Title ie Mr/Mrs/Ms)

Job Title

Place of Work

Dear *(Courtesy Title ie Mr/Mrs/Ms and employee's surname)*

NOTIFICATION OF DISCIPLINARY INQUIRY

This letter is to advise you that a Disciplinary Inquiry is to be held into an alleged serious breach(es) on your part of Australia Post's *Our Ethics*.

The alleged serious breach(es) that will be the subject of the Disciplinary Inquiry *is/are (delete whichever not applicable)* that you:

(Provide the particulars of the incident(s) that resulted in the decision to conduct a Disciplinary Inquiry. In setting out the particulars, be as precise and objective as possible. Avoid generalisations so as to allow the employee to prepare a case in response.)

1. *altered a medical certificate dated .../.../... from Dr..... of the Medical Centre by erasing the original certified return to work date and substituting it with another date. (Refer to attached medical certificate from Dr) **

In doing so, you failed to discharge your responsibilities as an Australia Post employee to:

(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)

- (i) *ensure that all declarations or statements you make about yourself are true and correct. [Refer *Our Ethics*, page 8, ethical standards 3.1.b) - Work Practices & Performance, General Requirements];**
2. *then used the altered medical certificate as supporting evidence for an improper claim for sick leave which you submitted on .../.../.... (Refer to attached application for sick leave dated.../.../...)**

In doing so, you failed to discharge your responsibilities as an Australia Post employee to:

(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)

- (i) *comply with all Australia Post policies and procedures and industrial awards. [Refer *Our Ethics*, page 8, ethical standard 3.1.1a) - Work Practices & Performance, General Requirements.]*

(ii) *not knowingly make a false record.* [Refer *Our Ethics*, page 19, ethical standard 7.2a) - *Corporate Records.*]*

[*Note - the above example is used for illustrative purposes only.]

I have been appointed by (*insert courtesy title, first name and surname of Group Manager, Unit Manager, Facility Manager, Area Manager or Delegate*) to conduct the Disciplinary Inquiry and to assist me in determining what actually happened and why and to allow you the opportunity to respond to the above allegation(s), you are required to attend a Disciplinary Inquiry interview which will be conducted by myself on (*insert time and date of the Disciplinary Inquiry interview*) ...in(*insert where the Disciplinary Inquiry interview will be held*)....

If you require further details of the allegation(s) against you, please contact me on (*insert Inquiry Officer's contact number*)....

The Inquiry is a component of the corporation's *Employee Counselling and Discipline Process* and its purpose will be to establish whether or not the alleged serious breach(es) of *Our Ethics* occurred and, if so, whether your actions (*use whichever of the following options is relevant*) were wilful (*use where it is a first breach of Our Ethics*) / constitute grossly negligent conduct (*use where the Inquiry relates to an accident in an Australia Post motor vehicle driven by an Australia Post employee whose duties require him or her to drive (ie a professional driver) where the driver's conduct apparently involves a reckless act or omission which causes or could cause significant damage or harm and which would adversely affect the employment relationship*) / or constitute incompetence or inefficiency for reasons within your control.

[*If it is considered necessary to have a second management person present at the Inquiry Interview, insert the following paragraph.*]

You are advised that (*insert courtesy title, name and job title of the person who will be present during the Disciplinary Inquiry interview*)..., who has no decision making role, will also be present during the Disciplinary interview to (*insert relevant reason eg take notes*)... If you have a valid and supportable reason(s) why *he /she* (*delete whichever is not applicable*) should not be present, please contact me urgently to discuss the reason(s) for your objection. You will be advised of my final decision on your objection as soon as possible before the Interview.

You may bring one person, who may be a union representative, to the interview as an observer. Please note that that person will not be able to act as your advocate or to respond to questions on your behalf.

[*Only insert this paragraph if the employee is to be suspended during the Inquiry.*] You will be suspended *on full pay/ without pay* (*use whichever is appropriate*) until further notice.

[*If the employee is to be suspended without pay, provide the reason for this by direct reference to the relevant provision in clause 10.3 of Attachment A to the Australia Post Enterprise Agreement 2004 -2006.*]

If the alleged breach(es) of *Our Ethics* is proved unfounded (ie you provide an acceptable reason(s) for your behaviour and/or performance), or not proved, the formal documentation relating to the Disciplinary Inquiry will, consistent with the relevant archival requirement, be retained on your personnel file for 18 months after the completion of the Disciplinary Inquiry.

If I find the alleged breach(es) of *Our Ethics* proven and there are no mitigating circumstances, I will be required to make a recommendation to the Delegate, who will be responsible for making the decision.

That recommendation may be that you:

- (a) be subject to disciplinary action ie
- be dismissed;
 - be transferred to another position or location at the same or lower level; or
 - incur a two (2) increment reduction for a period of 12 months (or equivalent penalty); or
- (b) be required to attend a Face-to-Face discussion; or
- (c) be required to attend a Formal or Warning Counselling interview.

You will be advised of my recommendation to the Delegate and if my recommendation is that you be subject to disciplinary action, you will be provided with a copy of my Disciplinary Inquiry Report and also have the opportunity to make either a verbal or written representation to the Delegate within **five (5)** calendar days of the date of the advice, should you wish to do so.

Finally, it is important that you maintain confidentiality, as the interview is essentially a private discussion between you and the Inquiry Officer. You may discuss the matter with your union (if applicable) and your nominated observer, if you elect to bring an observer along to the interview. However, as advised above, you may only bring one person as an observer to the interview.

Yours sincerely

Inquiry Officer's signature

Date

SAMPLE ONLY

Personal

Employee’s Name (include Courtesy Title ie Mr/Mrs/Ms)
Job Title or home address if employee suspended.
Place of Work

Dear *(Courtesy Title ie Mr/Mrs/Ms and employee’s surname)*

NOTIFICATION OF DISCIPLINARY INQUIRY RECOMMENDATION
[WHERE DISCIPLINARY ACTION RECOMMENDED (IE DISMISSAL, TRANSFER OR TWO INCREMENT DROP FOR 12 MONTHS (OR EQUIVALENT PENALTY))]

I have completed a Disciplinary Inquiry into your alleged breaches of Australia Post’s *Our Ethics*.

The allegations were that:

(Quote the particulars of the incident(s) that gave rise to the Disciplinary Inquiry as advised in the Notification of Disciplinary Inquiry letter to the employee.)

- 1. *on (insert date)... at approximately (insert time)... at (insert place)... you physically and verbally threatened (insert name of individual) ... by (insert what the employee did and said to the individual that was physically and verbally threatening)**
.....
.....
.....
.....
.....

In so doing you failed to discharge your responsibility as an employee of Australia Post to:
(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)

- (i) *treat everyone with courtesy and respect at all times. [Refer Our Ethics, page 10, ethical standard 3.3.1a) - Work Practices & Performance, Workplace Relationships.];*
- (ii) *not physically and/or verbally threaten another person. [Refer Our Ethics, page 10, ethical standard 3.3.2c) - Work Practices & Performance, Workplace Relationships].**

2. *conducted yourself in the manner described at point 1 above in the presence of others in the workplace namely (identify the names of the persons present at the time of the incident)**

.....
.....
.....

In so doing you failed to discharge your responsibility as an employee of Australia Post to:

- (i) *not cause discomfort, embarrassment and offence to others in the workplace. [Refer Our Ethics page 10, ethical standard 3.3.2a) – Work Practices & Performance, Workplace Relationships];*
- (ii) *not intentionally cause damage to Australia Post’s employee relations. [Refer Our Ethics, page9, ethical standard 3.1.2a) - Work Practices & Performance, General Requirements.]**

[* **Note** – The above example is used for illustrative purposes only.]

Having considered all the material that was presented during the Disciplinary Inquiry including the information provided by you during the Disciplinary Inquiry interview(s) and *(identify all other sources of information used eg the statements of witnesses, etc)...*, I have found the breaches proven.

Accordingly, I have recommended to the Delegate *(insert courtesy title and name)* ...that you be *(identify nature of disciplinary action eg dismissed, transferred from ...to.....)*.

(Insert courtesy title and name of Delegate)..., who is responsible for making the decision, has also been provided with a copy of the Disciplinary Inquiry Report. A copy of that Report is enclosed for your information.

If you wish, you or your representative may either forward a written statement to *(insert courtesy title and name of Delegate)*... or seek a meeting with *him/her*.* However, either of these two actions must be taken within **five (5)** calendar days of the date of this advice. Please also note that this representation may only be on the question of the recommended penalty and procedural issues. The merits of the case will not be re-visited.

(Insert courtesy title and name of Delegate) ...will write to you directly to inform you of *his/her* * decision on my recommendation.

[* Delete whichever not applicable.]

Yours sincerely

Signature of person who conducted Disciplinary Inquiry
Inquiry Officer
Date

SAMPLE ONLY

Personal

*Employee’s Name (include Courtesy Title ie Mr/Mrs/Ms)
Job Title or home address if employee suspended.
Place of Work*

Dear *(Courtesy Title ie Mr/Mrs/Ms and employee’s surname)*

**NOTIFICATION OF DISCIPLINARY INQUIRY RECOMMENDATION
[WHERE FACE-TO-FACE DISCUSSION OR COUNSELLING (FORMAL OR WARNING)
RECOMMENDED]**

I have completed a Disciplinary Inquiry into your alleged breaches of Australia Post’s *Our Ethics*.

The allegations were that:

(Quote the particulars of the incident(s) that gave rise to the Disciplinary Inquiry as advised in the Notification of Disciplinary Inquiry letter to the employee.)

- 1. *on (insert date)..., at approximately (insert time)..., at (insert place)... you physically and verbally threatened (insert name of individual)... by (insert what the employee did and said to the individual that was physically and verbally threatening)**
.....
.....
.....
.....

In so doing you failed to discharge your responsibility as an employee of Australia Post to:* *(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)*

- (i) *treat everyone with courtesy and respect at all times. [Refer Our Ethics, page 10, ethical standard 3.3.1a) - Work Practices & Performance, Workplace Relationships];*
 - (ii) *not physically and/or verbally threaten another person. [Refer Our Ethics page 10, ethical standard 3.3.2c) -Work Practices & Performance, Workplace Relationships]*.*
- 2. *conducted yourself in the manner described at point 1 above in the presence of others in the workplace namely* (identify the names of the persons present at the time of the incident)*
.....
.....

In so doing you failed to discharge your responsibility as an employee of Australia Post to:

- (i) *not cause discomfort, embarrassment and offence to others in the workplace. [Refer Our Ethics, page 10, ethical standard 3.3.2a) - Work Practices & Performance, Workplace Relationships];*
- (ii) *not intentionally cause damage to Australia Post's employee relations. [Refer Our Ethics, page 9, ethical standard 3.1.2a) - Work Practices & Performance, General Requirements].**

[* **Note** – The above example is used for illustrative purposes only.]

Having considered all the material that was presented during the Disciplinary Inquiry including the information provided by you during the Disciplinary Inquiry interview(s) and *(identify all other sources of information used eg the statements of witnesses, etc)...*, I have found all the breaches *with the exception of that relating to ethical standard 3.1.2a) - Work Practices & Performance, General Requirements on page 9 of Our Ethics, ** proven. However, as it was established that there were mitigating contributing factors, I have recommended to the Delegate *(insert courtesy title and name)...* that you receive a *Warning Counselling.* *

[* **Note** – The above example is used for illustrative purposes only.]

(Insert courtesy title and name of Delegate)..., who is responsible for making the decision, will write to you directly to inform you of *his/her* * decision on my recommendation.
[* Delete whichever not applicable.]

Yours sincerely

Signature of person who conducted Disciplinary Inquiry
Inquiry Officer
Date

Appendix 9

SAMPLE ONLY

Personal

Employee's Name (include Courtesy Title ie Mr/Mrs/Ms)
Job Title or Home address if employee suspended.
Place of Work

Dear *(Courtesy Title ie Mr/Mrs/Ms and employee's surname)*

NOTIFICATION OF DISCIPLINARY DECISION

I refer to the recent Disciplinary Inquiry undertaken by *(insert courtesy title, first name and surname of Inquiry Officer)*... on...*(insert date)*... into your alleged breaches of Australia Post's *Our Ethics*.

The allegations were that on *(insert date)*..., you:
(Quote the particulars as advised in the Notification of Disciplinary Inquiry letter to the employee)

1. *Deviated from your delivery round by (indicate how the employee deviated from their allocated delivery round)*.....*

In doing so, you failed to discharge your responsibility as an Australia Post employee to:

(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)

- (i) *follow a reasonable and lawful direction given by your manager, (insert name of manager).....a person authorised to give such a direction. [Refer *Our Ethics*, page 8, ethical standard 3.1.1g) - Work Practices & Performance, General Requirements.]**

2. *Destroyed (quantify the number of articles if known) mail articles entrusted to you for delivery to customers of Australia Post.**

In doing so, you failed to discharge your responsibility as an Australia Post employee to:

(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)

- (i) *comply with the laws relevant to your duties. [Refer *Our Ethics*, page 6, ethical standard 1.1a) - Compliance with Laws & Regulations.];*
- (ii) *not tamper with mail and obstruct the delivery of mail. [Refer *Our Ethics*, page 6, ethical standard 1.2a) - Compliance with Laws & Regulations.];*

(iii) *provide the highest possible standard of quality customer service.*
[Refer *Our Ethics*, page 9, ethical standard 3.2.1a) - *Work Practices & Performance, Customer Service.*]*

3. *Damaged Australia Post's official delivery motor vehicle (indicate the vehicle registration number and the nature of the damage to the vehicle)*.*

In doing so, you failed to discharge your responsibility as an Australia Post employee to:

(Specify all of the ethical standards that are relevant to the particulars of the incident you have detailed immediately above.)

- (i) *safeguard corporate property under your control.* [Refer *Our Ethics*, page 17, ethical standard 6.1.1a) - *Use of Corporate Property, Assets and Resources.*];
- (ii) *not intentionally cause damage to Australia Post's business interests, employee relations and public reputation.* [Refer *Our Ethics* page 9, ethical standard 3.1.2a) - *Work Practices & Performance.*];
- (iii) *not damage the property of Australia Post.* [Refer *Our Ethics*, page 9, ethical standard 3.1.2d) - *Work Practices & Performance.*].*

Having considered the Disciplinary Inquiry Report, findings and recommendation(s) of the Inquiry Officer *as well as your subsequent admission to me at our meeting on .../.../....., that you were not truthful to the Inquiry Officer in that you made false allegations concerning staff in your work centre conspiring against yourself* *, I find all of the above breaches of *Our Ethics* proven.

Having considered all of the written and oral material provided to me in relation to the Disciplinary Inquiry and being satisfied that the Disciplinary Inquiry was thorough and fair and that you were given the opportunity to respond to the allegations made against you, my decision is that *your conduct in relation to the three matters identified above constitutes serious and wilful misconduct.** Having also considered the options available, my decision is that you be dismissed from Australia Post.

[Note - These are examples and are used for illustrative purposes only.]*

Your dismissal will be effective from close of shift on *(insert date)*... and you will shortly receive a separate advice regarding any outstanding entitlements.

If you consider the penalty imposed in relation to your breaches of *Our Ethics* to be harsh, unjust or unreasonable and wish that decision to be reviewed by a Board of Reference, you must complete the enclosed 'Application For A Board of Reference Review' (review form). The completed review form must then be lodged with *(insert addressee details)*..... within 14 calendar days of the date of this letter ie by *(insert date)* ...

Should you exercise your right of review to a Board of Reference, and your appeal is successful, you will be required to repay in full, all monies paid in lieu of leave, including any leave bonus(es) and any monies associated with payment for a period of notice, which were paid on the termination of your employment. Failure to repay these monies in full, immediately on recommencement, will result in service prior to resumption of employment not being counted for leave accrual purposes.

Should you wish to consider your rights under the *Fair Work Act 2009* in respect to alternative legal remedies including the time limits that apply, you will need to seek external advice.

Yours sincerely

.....
Authorised Officer
Date

Appendix 10

<h2>APPLICATION FOR A BOARD OF REFERENCE REVIEW</h2>	<u>OFFICE USE ONLY:</u>
	File No: _____ Date received: _____

PLEASE NOTE:

Your application can **only** be accepted if:

(a) Australia Post has dismissed you, transferred you to another position of the same or a lower level classification or imposed on you a two (2) increment reduction for 12 months (or equivalent penalty) following an Inquiry under Australia Post's Discipline Process;

and

(b) your application is lodged within 14 days of Australia Post's decision.

If your application is lodged more than 14 days after Australia Post's decision, the Board of Reference will decide whether or not to accept your application based on the reason(s) provided in Section A, 3 below.

PLEASE PROCEED TO COMPLETE ALL OF THE SECTIONS BELOW AND TICK APPROPRIATE BOX(ES):

Section A : Information Regarding Your Appeal Application

1. What is the decision you are appealing against?

- Dismissal.
- Transfer to another position of the same or a lower level classification.
- Two (2) increment reduction for 12 months (or equivalent penalty).

2. Did you receive a written advice informing you of Australia Post's decision?

- Yes. If yes, please attach a copy of Australia Post's letter to you.
- No. If no, (a) when were you advised? (insert date)/...../.....; and
 (b) how were you advised? _____

3. Are you lodging your appeal within 14 days of Australia Post's written decision? Yes. No. If no, please state your reasons for not lodging the application on time.**Section B : Your Personal and Work Related Details****Surname:** _____**Given Names:** _____**Preferred Name:** _____ **APS No:** _____**Home Address:** __________ **Postcode:** _____**YOUR CONTACT DETAILS:****Business Hours:** () _____ **Mobile:** _____**Email address:** _____ **Fax Number:** () _____**WHAT WAS YOUR JOB TITLE WHEN THE DISCIPLINARY ACTION WAS TAKEN?****Job Title:** _____ **Facility:** _____**Full Postal Address Of Your Facility:** __________ **Postcode:** _____**FACILITY MANAGER:****Surname:** _____ **Given Names:** _____**FACILITY MANAGER'S TELEPHONE NUMBER:****Business Hours:** () _____ **Mobile:** _____

Section C : Representation At Appeal Hearing

Please note legal representation is not permitted.

Will you be representing yourself at the Appeal hearing?

- Yes. If yes, proceed to Section D.
- No. If no, please provide details in the box below of the person (who may be a union representative) who will be representing you.**
Please note - you are responsible for contacting and making the necessary arrangements in relation to this Appeal with your representative.

Surname (of representative): _____

Given Names: _____

CONTACT DETAILS:

Full Postal Address: _____

_____ **Postcode:** _____

TELEPHONE CONTACT DETAILS:

Business Hours: () _____ **Mobile:** _____

Email address: _____

If you will be represented by a union representative, please provide the following additional information:

Name of Union: _____ **Name of Union Branch:** _____

Position held by Union Representative: _____

Section D : Requirement For Interpreter Services

Do you require interpreter assistance?

- No
- Yes, and I will be accompanied by a family member or friend who will provide that interpreter assistance. My language is _____
- Yes, and I require interpreter assistance. Please specify language required (eg Auslan) _____

Section E : Correspondence

Where do you want correspondence from Australia Post and the Board of Reference to be sent?

- My home address

- My representative's address.

Section F : Grounds Of Your Appeal

Please provide all the reasons why you claim Australia Post's decision to dismiss you, transfer you or to impose a two (2) increment reduction for 12 months (or equivalent penalty) was harsh, unjust or unreasonable and which you or your representative will raise in the Board of Reference hearing. Please attach all relevant supporting evidence on which you will rely at the hearing to this application form.

Section G : What Recommendation Are You Seeking From The Board Of Reference?

Australia Post revoke its decision to dismiss me and reinstate me in my former position.

OR

Australia Post revoke its decision to transfer me and reinstate me in my former position and work location.

OR

Australia Post revoke its decision to impose a two increment reduction for 12 months (or equivalent penalty).

OR

Australia Post revoke its decision to impose a two (2) increment reduction for 12 months (or equivalent penalty) and impose a lesser monetary penalty.

Section H : Declaration

If you filled in this application you must sign the first of the two declarations below. Otherwise, if this application was filled in on your behalf, by your representative, your representative must sign the second declaration.

I declare that all the facts in this application are correct and complete to the best of my knowledge.

Signature of employee: _____

Date: _____

I declare that all the facts in this application are correct and complete to the best of my knowledge.

Signature of representative: _____

Date: _____

Please check that you have completed ALL sections of this application form before sending it to:

Appendix 11

GUIDELINES FOR HR UNIT ON APPLICATION OF MONETARY PENALTY

Where a monetary penalty is imposed on an employee as a result of the application of the Discipline component of the *Employee Counselling and Discipline Process*, the employee can elect to take a two (2) increment reduction in salary for 12 months **or** pay an equivalent penalty as a one-off lump sum payment.

OPTION 1: TWO INCREMENT REDUCTION

The precise application and calculation of the 2 increment reduction penalty can be complicated, particularly if the employee is on the minimum or first salary step. Please confer with Corporate HR as required.

In general terms:

- The employee is reduced 2 salary steps with effect from the date the monetary penalty is imposed;
- The employee retains his/her increment date and moves to the next salary step on his/her normal increment date; and
- At the end of the 12 month penalty period (ie 12 months after the penalty was initially imposed), the employee is moved to the salary step he/she would have been on had the penalty not been imposed (again retaining his/her normal increment date).

It is to be noted that the employee's salary will be reduced for all purposes including superannuation.

Case Study

An employee with:

- a **salary range** of '30000 – 31000 – 32000 – 33000';
- an **increment date** of **1 October 1999**; and
- elects for the application of the 2 salary step **reduction effective** from **1 July 1999**.

Example 1 :

The employee is on the **third salary step** of \$32000 at 1 July 1999. His/her salary would be:

- reduced to \$30000 with effect from 1 July 1999;
- increased to \$31000 on 1 October 1999; and
- increased to \$33000 when the 12 month penalty period expires on 1 July 2000.

Example 2 :

The employee is on the **first salary step** (ie \$30000) as at 1 July 1999. His/her salary would be:

- retained at \$30000 until 1 October 2000 (ie for a further 12 months after his/her first increment would normally have been due);
- increased to \$31000 (ie second salary step) from 1 October 2000 for a further 12 month period (ie to 1 October 2001); and
- increased to \$33000 (ie the salary step the employee would be on but for the penalty) from 1 October 2001.

Example 3 :

The employee is on the **second salary step** (ie \$31000 as at 1 July 1999). His/her salary would be:

- reduced to \$30000 on 1 July 1999;
- increased to \$31000 (ie the second salary step) on 1 October 1999 (ie his/her normal increment date) for a 12 month period (ie to 1 October 2000);
- increased to the third salary step on 1 October 2000; and
- increased to \$33000 (ie fourth salary step) on 1 July 2001 (ie the second anniversary of the penalty) which he/she would have been on but for the penalty.

OPTION 2: LUMP SUM

Staff can elect to take the lump sum payment option which represents the difference between the aggregate base salary the employee would have received if there had been no penalty during the 12 month penalty period and the amount they would receive with the penalty.

	Aggregate - No Penalty	Aggregate - With Penalty	Difference
Example 1: 1/7/99 – 1/7/00	\$32750	\$30750	\$2000
Example 2: 1/7/99 – 1/10/01	\$70500	\$68500	\$2000
Example 3: 1/7/99 – 1/7/01	\$64500	\$62500	\$2000

The full amount is to be paid as a one-off lump sum payment and no tax deduction is available to the employee.

The lump sum payment must be made at the close of the 14 day appeal period where no appeal is lodged for a review of a disciplinary decision by a Board of Reference. Where an appeal has been lodged, the payment is to be made within 14 days of the appeal being set aside by a Board of Reference.