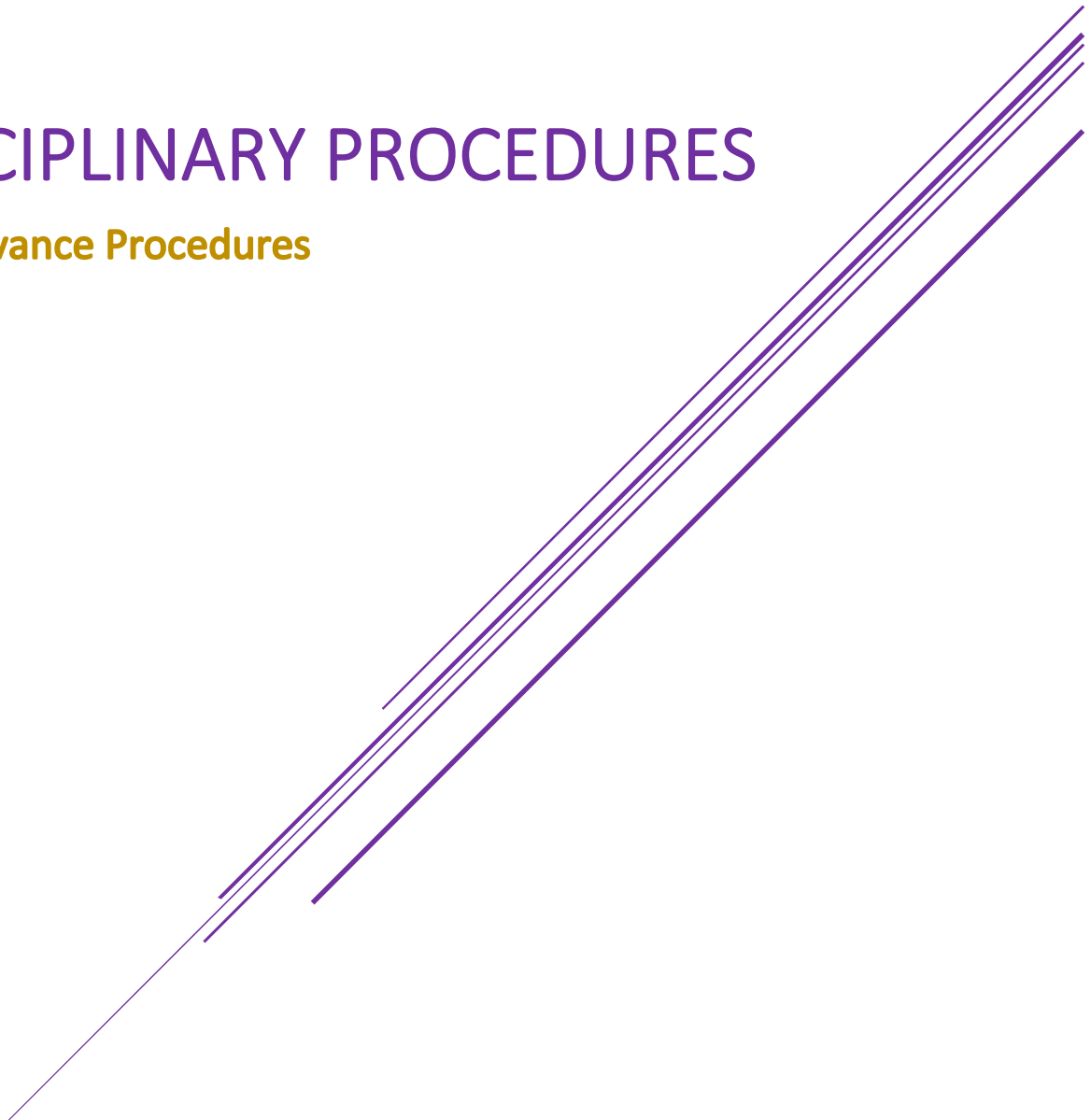




# DISCIPLINARY PROCEDURES

## & Grievance Procedures



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## DISCIPLINARY PROCEDURES

### Introduction

The object of the disciplinary procedure is to ensure that employees are treated fairly, equally and consistently and that employees work together productively and harmoniously. It is Company policy to follow non-discriminatory labour practices, especially in respect of:

- Selection, employment and termination of employees, and
- The fair and equitable treatment of employees.

Disciplinary procedures are intended to:

- Ensure the smooth and effective operation of the Company and that its standards rules and behaviour patterns are observed;
- Be lawful carried out in terms of the relevant laws and regulations and be fair both procedurally and substantively.

Non-compliance with the conditions of employment, unacceptable behaviour or performance by an employee justifies disciplinary action. The exercise of discipline is a management function and responsibility. Managers have a duty to ensure that at all times employees are aware of the standards expected of them and to take disciplinary action when it is required. Disciplinary action can be defined as any corrective action initiated by Management, in response to unacceptable employee performance or behaviour. Disciplinary action is intended to be **preventative and corrective**. It must be emphasised that this code is a managerial guideline, which can and should be implemented in a flexible way.

### Objectives

The objectives of The Company disciplinary procedures are to:

- Maintain acceptable standards within Company operations;
- Correct unacceptable behaviour or performance;
- Utilise punitive measures only when other measures have failed to produce the desired results. An investigation is conducted, prior to disciplining.

### Participation

The disciplinary procedure applies to all employees.

## DISCIPLINARY CODE

### Introduction

While this code does not cover all the circumstances which may lead to disciplinary action, it does provide guidance to management and employee regarding appropriate disciplinary action. It is emphasised that it is within the discretion of management to determine the degree of transgression and therefore, the disciplinary action, which correlates with the specific circumstances applicable to each incident.

The disciplinary procedure caters for the following levels of disciplinary action namely, a verbal warning, a written warning, a final written warning (formal reprimand), suspension, dismissal or summary dismissal, and an appeal hearing (if required). Disciplinary action should not only be fair and just, but should be seen to be so, and should be based on:

- The contract of employment;
- Principles of Law, particularly in criminal and civil cases where the Company is directly affected;
- Departmental domestic rules, mostly embracing operational and safety regulations;
- An employee's past record – which may either mitigate the offence in case of good record or aggravate in the case of a bad record.

### Principles

The following principles should be adhered to in every case:

- There should be a thorough investigation into every incident and careful consideration of the circumstances before disciplinary action is taken;
- Clear evidence of a breach of the employer rules and regulations or unsatisfactory performance, must be established;
- Disciplinary action must be prompt, fair and firm;
- The employee should always be given the opportunity to state his case;
- In any formal proceedings, the employee has a right to be represented or accompanied by a fellow employee of his choice;
- Precedence in enforcement of rules and discipline of employees involved in similar misconduct to be treated essentially the same, unless there are good reasons for varying the penalty, such as different degrees of the fault or mitigating or aggravated circumstances affecting some but not all employees;

- The employee has the right to appeal, as provided for within the procedures, to finding and/or sanction;
- The employee may be suspended from his place of work, with or without a reduction in pay and/or benefits until such time as he is dismissed. In the case of an appeal and the appeal overturns the dismissal, then the individual is due back pay and benefits to the date of his dismissal;
- Summary dismissal shall be in addition to any possible prosecution under the Law.

### Disciplinary Measures

Management will endeavour to investigate all circumstances in order to come to a fair and accurate judgement of what disciplinary measures shall be taken. The Board of Directors shall be responsible for appeals. For the purposes of this rule, disciplinary measures that can be taken against an employee found guilty of misconduct or incompetence shall include the following:

- Verbal warning;
- Written warning;
- Formal reprimand;
- Suspension for a period with reduction in pay and benefits;
- Demotion;
- Dismissal;
- Summary Dismissal.

### Validity of Disciplinary Records

Each disciplinary action taken against the employee shall cease to be a valid reference twelve months after the pronouncement and application of such disciplinary action. In the event that the employee has their contract renewed, then disciplinary actions from the previous contract shall continue to be valid.

## MISCONDUCT

The following definitions of misconduct are intended to provide examples of behaviour inconsistent with the Company's principles and they should not be taken to be an exhaustive list of areas of misconduct. The final determination of misconduct will be decided by the Managing Director.

### Minor Misconduct Examples

The following represent examples of minor misconduct:

- Inattention to punctuality regarding official working hours;
- Using official company working hours for personal gain;
- Display of behaviour and attitudes that is deemed to be outside the bounds of social norms, and is likely to influence others in a negative and detrimental manner, e.g. racism, tribalism, smoking, drunkenness and being under the influence of intoxicating substances;
- Absence from work without permission for a period of less than 3 working days, where no satisfactory reason is given;
- Reporting back late after leave without valid reasons.;
- Malingering/loitering on duty.

### Minor Misconduct Actions

On being found guilty of minor misconduct, or is performing unsatisfactorily, the employee will be subject to the following actions:

- On the first breach, the employee will receive a verbal warning from his supervisor/manager. No representation is present during these discussions;
- On the second breach, the employee will be issued with a warning letter;
- On the third breach, the employee will be issued with a final letter (Formal Reprimand), and may be suspended;
- On the fourth breach, the employee will be dismissed from employment.

At each stage, the employee will be made aware that further misconduct or non-compliance with employer standards is likely to lead to further disciplinary action being taken against him, with the possibility of dismissal. He will also at this time be made aware of the standards expected of him.

A written record of the warning will be made in the employee's staff file.

## Major Misconduct Examples

The following represent examples of major misconduct:

- Gross negligence of duty;
- Incompetence;
- Insubordination or refusing to comply with any lawful directions given to him by his superior officers;
- Repeated or frequent commission of minor misconduct;
- Endangering the lives and safety of fellow employees or customers;
- Financial dealings pertaining to the Company by any Employee engaged as a secretary, general worker, etc, who has not specifically been instructed to do so by Management;
- Financial misconduct or negligence by persons engaged as accountants, cashiers, etc and authorised to handle monetary matters;
- Failure to observe any of the conditions or stipulations of this contract or the Workers Manual;
- Improper disclosure of any information respecting the affairs of the Employers to any unauthorised person;
- Inability to perform any of his duties (other than ill-health not caused by his own misconduct),
- Neglect of duty;
- Physical assault or verbal abuse;
- Disrespect to fellow employees;
- Riotous behaviour or inciting violence;
- Fraud or misuse of company funds, equipment or materials, of any nature, or submission of false claims;
- Criminal conviction any offence involving fraud, dishonesty, moral turpitude;
- While on duty, intoxication by alcohol or other substance which affect his ability to perform duties;
- Malicious damage to company property or engaging in any deliberate action leading to the disruption of any Company function;
- Disclosing any information concerning the Company's activities to the press or any non-Company party;
- Allowing his name or photograph to be used for a form of testimonial advertising or endorsement by any other comparable organisation without prior permission having been granted by the Managing Director.



## Major Misconduct Actions

On being found guilty of major misconduct, the employee will be subject to summary dismissal at first breach, or to final warning at the discretion of the Managing Director.

## Notice of Charge for Misconduct

Immediately a case of Major Misconduct has been brought to the attention of the Superintendent, he should charge the employee in writing with the offence. The employee must be requested to submit a written response in his own defence within 48 hours.

## Suspension

For any misconduct as defined above or for any other action which Management considers to be detrimental to the good and professional operation of the Company, Management may suspend the employee without pay until such time as the employee is either reinstated in his duties and employment, or the case is brought by the Employee before the Disciplinary Board.

## Dismissal

Any dismissal must be reported to the Labour Office within four days and the case entered into the Dismissal Register at the said government department.

An Employee who is dismissed is entitled to notice or pay in lieu of notice, accrued leave days less any indebtedness to the employer.

## Summary Dismissal

Summary dismissal refers to the right of the employer to terminate the employment contract without rights or benefits. Usually, but not always, a criminal offence is involved. No pay in lieu of notice is given. This type of dismissal is sometimes necessary, but it must be used with care because it is harsh and because the staff member could take legal action against the Company for wrongful dismissal. Summary dismissal must be approved by the Managing Director.

In some cases, the offence is not inherently criminal, but the dismissal is made because the staff member's behaviour renders impossible the continuation of, the contractual relationship. In summary dismissal, therefore, the offence completely disrupts the basic contract.

## DISCIPLINARY BOARD

The Disciplinary Board shall be convened to hear cases of Major Misconduct involving suspension of an employee as well as any other cases of Major Misconduct if requested by the employee in question.

### Composition of the Disciplinary Board

The Disciplinary Board shall constitute the Managing Director, Department Manager under whom the Employee falls, and two senior members of staff that will be appointed on a rotational basis as specified by Managing Director.

The Board shall be chaired by the Managing Director.

### Binding Decisions of the Disciplinary Board

The extent and nature of all disciplinary measures shall remain at the discretion of the Disciplinary Board. The decision of the Disciplinary Board shall be binding.

### Proceedings of the Disciplinary Board

The employee shall be notified in writing of the misconduct which he alleged to have committed, the time and venue of the Disciplinary Board sitting, and his rights at the enquiry at least 48 hours or 2 working days (which ever is the greater) prior to the enquiry.

Proceedings will be led by the CEO and will evaluate the case against the employee. This will involve hearing all evidence, defence and mitigation. Decisions will be made by majority vote, with the CEO having a casting vote in case of tie.

A tape recorder shall be used to record proceedings or a Minute comprising a fair summary, shall be taken during the course of the enquiry.

The Disciplinary Board not consult the employee's record until after a decision has been reached on whether or not the alleged misconduct was committed. The Disciplinary Board makes its decision on the balance of probability. A Disciplinary Enquiry is not a judicial enquiry.

Once the Board has made its decision regarding the alleged misconduct, it will hear evidence in mitigation (from alleged offender) and in aggravation (from complaint) prior to sanctioning.

The outcome of the enquiry must include one or more of the following:

- Exoneration;
- A written warning;
- A demotion;
- A final written warning;
- Suspension with reduction in pay and benefits for defined period;
- Dismissal or Summary dismissal.

## Rights of The Employee

During an enquiry by the Disciplinary Board, an employee charged with misconduct shall be entitled to:

- Defend himself before the Disciplinary Board. (i.e. call witnesses, furnish evidence and argue the question of his defence);
- Have an interpreter if required;
- Be represented by an employee of his choice;
- Have the opportunity to confer with his representative reasonable times before, during and after the enquiry;
- Through himself/herself or through his representation, question or cross-examine complainant and witnesses during an enquiry;
- No documentary evidence shall be used against the employee unless he has previously been provided with a copy thereof or unless he has been given access thereto;
- Furnish evidence and argue in mitigation of disciplinary sanction.

## Employee's Right to Request Appeal Hearing to the Board of Directors

In cases where the Disciplinary Enquiry results in serious disciplinary action such as Formal Reprimand or Dismissal, the employee shall have the right to make a written appeal to the Board of Directors.

This written appeal must be received by the Board of Directors within seven days of the employee receiving the decision of the Disciplinary Board, and should give details of reason for appeal and any other relevant information.

The Board of Directors shall convene a meeting to deal with the appeal within 30 days at which the employee shall be invited to attend.

## Proceedings at the Appeal Hearing

At the start of the Appeal Hearing, the Board will elect a Chairman for the purpose of the Appeal Hearing to avoid any conflict of interest with the original Disciplinary Enquiry if the Managing Director is also Chairman of the Board of Directors.

Decisions will be made by majority vote, with the Appeal Hearing Chairman having a casting vote in case of tie.

During the Appeal Hearing, the Managing Director will act in an ex-officio capacity and will present the findings of the original Disciplinary Enquiry. He will not vote on Decisions regarding the appeal.

The Employee will be allowed opportunity to make verbal submissions in support of his written appeal.

Appeal Hearing shall focus on the proceedings of the original Disciplinary Enquiry and will evaluate the reasons behind the decisions made. Submissions by the employee shall focus on any perceived injustices or procedural shortcomings of the original Disciplinary Enquiry. They will also evaluate any evidence presented and mitigation given.

The decision of the Appeal Hearing shall be final and binding on the Employee and Management and must include either:

- Upholding the original decision of the Disciplinary Board; or
- Reduction of the original decision to a lesser punishment due to mitigation. The Appeal Hearing shall not result in greater disciplinary action than that issued by the original Disciplinary Board.

## COMPLAINTS & GRIEVANCE PROCEDURES

### Intention

It is in the mutual interests of the employers and employees alike to set up and maintain a grievance procedure which is capable of resolving any dissatisfaction or feeling of injustice which may arise at the work place or out of the employment relationship. The intention is that grievances must be resolved:

- As speedily as possible and;
- As close as possible to the source of origin.

### Assistance

Any employee who has a grievance may at any stage be assisted, or represented by a fellow employee of his choice.

### Victimisation

There will be no victimisation of, or prejudicial action taken against any employee who makes use of this procedure.

### Resolution

If at any stage the grievance is resolved, this shall be acknowledged and recorded in writing by the employee who lodged the grievance.

### Stages of the Procedure

#### Stage 1- Immediate Superior

Any grievance must first be taken up by the employee with his immediate superior who will endeavour to resolve the matter without delay. The nature and details of the grievance shall be recorded in writing by the employee. Where such matters affect other members of staff, such members mentioned shall be notified of the existence of such complaints in writing.

If the immediate superior does not settle the matter within 2 (two) clear working days to the satisfaction of the employee, or makes inadequate progress towards resolving it, the employee may raise the matter further with the immediate superior.

If a grievance affects two or more employees, the employees in question should appoint no more than 2 (two) representatives who shall raise the issue with their immediate superior.

The immediate superior shall endeavour to resolve the issue and may consult if necessary with other members of management. If the grievance is not resolved within 3 (three) clear working days, the employee(s) may submit the grievance form to the departmental manager for resolution.

### Stage 2- Departmental Manager

Where an employee has a grievance against his immediate superior which he considers to be inappropriate to discuss with the immediate superior, he may lodge the grievance with the Departmental Manager. On receipt of a completed grievance form, the Departmental Manager will arrange a meeting with the employee's supervisors and will attempt to resolve the matter within 3 (three) working days.

### Stage 3 – General Manager/Managing Director

If the grievance is not resolved satisfactory at Stage 2, it must be referred with all supporting documents, to the MD. The Managing Director will consider all aspects of the grievance, the evidence surrounding it and the action and findings of the supervisor and/or the Departmental Manager. The Managing Director will first attempt to achieve consensus, but in any event will try to resolve the grievance in discussion with the aggrieved employee(s) and where appropriate, he will attempt to conciliate or mediate between the parties to the grievance.

The General Manager will consult with all parties involved in the process thus far and may call for any additional information he considers necessary. He will inform, all the parties concerned of his decision, within 5 (five) working days.

The decision of the Managing Director will be final.

### Recordings

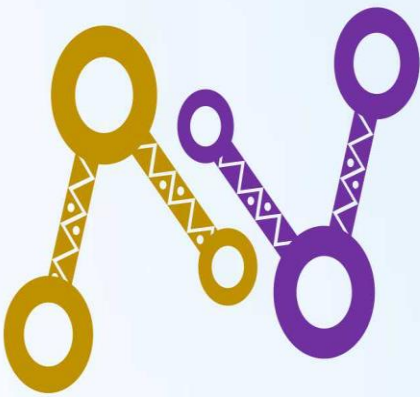
Minutes and proper records shall be kept of all grievance procedures and proceedings.

### Flexibility

These procedures are intended to be guidelines and not a rigid code as to conduct. The object of the code is to ensure fairness and to this end, flexibility must be maintained at all times to ensure the objectives of the code. These procedures may, therefore, be amended, altered or varied from time to time as the exigencies of the matter determine.

### Other

Terms of Employment and salaries offered for the duration of the employment cannot be disputed.



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