

## **DISCIPLINARY CODE**

### **1. OBJECTIVE**

- 1.1. It is the employer's objective to:
  - 1.1.1. Maintain discipline within the framework of its procedures in a reasonably, fair and consistent manner with emphasis on progressive discipline.
  - 1.1.2. To prevent unacceptable behavior of employees.
  - 1.1.3. To positively influence unacceptable behavior.
  - 1.1.4. To maximize productivity within the workplace.

### **2. PRINCIPLES**

- 2.1. Discipline is the responsibility of the supervisors, management and the board of the employer within the scope and application of the disciplinary code.
- 2.2. Disciplinary action must be based on the seriousness of the offence.
- 2.3. Employees must be aware of the employer's existing standards and rules.
- 2.4. Disciplinary action will only be taken where sufficient cause exist.
- 2.5. Discipline must be applied in a consistent / consequent manner.
- 2.6. Employees must be afforded the opportunity to appeal against a judgment if they so wish.
- 2.7. During any disciplinary process the employee will be entitled to representation by a co - worker or a shop steward if the employee is a member of a representative union.
  - 2.7.1. No representation from outside (union / legal representation) will be permitted unless the chairman of an inquiry allows it and only after the employee applied for such representation and showed good cause.
  - 2.7.2. The Employer shall have the right to hold disciplinary inquiries on a collective basis where more than one employee is charged with the breach of the same rules relating to the same event.
- 2.8. Any warnings will be placed in an employee's file for future reference.
  - 2.8.1. The employee's previous infringements / deviations and record will always be taken into considerations when decisions are made about new infringements / deviations, irrespective of the expiry date.
    - 2.8.2. Expired penalties will only be considered in order to show a trend of deviation.
- 2.9. Disciplinary hearings for serious offences will be conducted by FEOSA and/or a Manager and / or Director of the Employer.
  - 2.9.1. A serious offence is an offence that may lead to a final warning, a final warning and unpaid suspension or immediate dismissal or
  - 2.9.2. Where the Employees record for a certain offence is such that owing to progressive discipline applied, the employee may receive a final warning, a final written warning and unpaid suspension or be dismissed.
- 2.10. Disciplinary hearings for less serious offences will be conducted internally by FEOSA and/or a Manager and / or Director of the Employer.
  - 2.10.1.1. For purposes of application of Clause 2.10 management may include supervisors.
  - 2.10.1.2. Less serious offences are any offence that carries a penalty of a verbal or written warning.
  - 2.10.2. Where certainty exists that a penalty that may be invoked for a disciplinary offence will not be dismissal, formal disciplinary procedures need not be invoked where the employee accepts responsibility and admits guilt and in such instances, penalties up to final written warnings may be issued by a qualifying person as noted in 2.9 above.

### **3. DISCIPLINARY SANCTIONS**

**3.1** This section provides guidelines for FEOSA and/or a Supervisor and /or Manager and / or Director of the Employer to ensure the uniform application of disciplinary measures.

**3.2** Depending on the circumstances of the case, an offence may warrant a less or more severe penalty than that contained in this section. In some cases of first offence, a verbal written warning might be applicable.

### **3.3 TYPES OF DISCIPLINARY SANCTIONS**

#### **3.3.1 Verbal Warnings (Form 1.5)**

**3.3.1.1** Depending on the nature and severity of the offence informal disciplinary sanctions should be the first step in the enforcement of discipline.

**3.3.1.2** The employee should be counseled if the supervisor determined that his/her behavior was not acceptable.

**3.3.1.3** The employee could also be provided with the necessary training if the offence could be ascribed to a lack of knowledge or skills.

**3.3.1.4** No formal complaint will be instituted against the employee.

**3.3.1.5** However, when a verbal warning is given the supervisor should ensure that the employee being reprimanded is made aware of the existence of the disciplinary code.

**3.3.1.6** Formal Disciplinary action need not be initiated before a verbal warning or written warning is issued.

#### **3.3.2 Written warnings (Form 1.6)**

**3.3.2.1** A written warning is a documented reprimand and is issued when a verbal warning is considered inadequate due to the nature of the offence or when previous verbal warnings have not achieved the desired effect.

**3.3.2.2** A copy of the complaint form which contains the full particulars of the disciplinary action shall be filed in the employee's personal record.

**3.3.2.3** Written warnings are valid for a period of six months.

**3.3.2.4** Where an employee accepted guilt and where the facts and circumstances of the offence is not in dispute, this formal sanction may be drafted and accepted without following a formal procedure.

#### **3.3.3 Final Warnings (form 1.7)**

**3.3.3.1** A final warning is given for a repetition of the same offence or a similar offence during a period when the written warning is still in force, or for a first offence of a more serious nature.

**3.3.3.2** When a final warning is given it must be brought to the employee's attention that any other offence could lead to a more severe disciplinary action, which could include dismissal.

**3.3.3.3** Final warnings are valid for a period of twelve months.

**3.3.3.4** Where an employee accepted guilt and where the facts and circumstances of the offence is not in dispute and if there is certainty that the employee will not be dismissed, this formal sanction may be drafted and accepted without following a formal procedure.

### **3.3.4 Final Warning with unpaid Suspension (form 1.8)**

- 3.3.4.1** Unpaid Suspension may be used as an alternative to dismissal especially where an employee, after having received a final warning, makes him / her guilty of another offence which does not warrant a dismissal or where dismissal would be inappropriate due to mitigating circumstances.
- 3.3.4.2** Such Unpaid Suspension must be accompanied by a final warning.
- 3.3.4.3** The duration of suspension will be reasonable in consideration with the deviation of rules and could be for up to two weeks.
- 3.3.4.4** Suspension will only be used where there is enough mitigating circumstances and remorse on the side of the employee to warrant suspension and a final written warning instead of dismissal.
- 3.3.4.5** This sanction will only flow from a formal disciplinary inquiry after the employee was found guilty.

### **3.3.4.6 Dismissal (form 1.11)**

- 3.3.4.6.1** Dismissal is the most severe form of disciplinary action and comes into effect immediately.
- 3.3.4.6.2** Dismissal shall be appropriate when an employee makes him / her guilty of a deviation / breach of a rule, that either destroys the relationship of trust between the employer and the employee at first instance or where the employee failed to adhere with rules after the employer applied progressive discipline as regulated in this disciplinary code.
- 3.3.4.7** The Employee further acknowledge that any offence as tabled in this Disciplinary Code may result in a breach of the relationship of trust and that by implication, where dismissal is tabled as a penalty, it is presumed the relationship has deteriorated to such extend that the Trust between the parties is damaged irreparably.

## **4. FACTORS TO BE CONSIDERED WHEN TAKING DISCIPLINARY ACTIONS**

- 4.1.** The disciplinary action to be taken in a particular case must be based on the seriousness of the offence as well as the disciplinary and service record of the offender.
- 4.2.** It should be noted that certain factors may either aggravate or mitigate an offence for example; an employee with long service and a good record may be treated more leniently as a first offender than an employee with short service.
- 4.3.** On the other hand, an offence by an employee who should set an example may be considered as aggravating.
- 4.4.** The probable consequence of the offence should be considered.
- 4.5.** Negligence on the part of the employee responsible for safety or health of others or an employee under control of vehicles / machinery / tools which could place other employees and or property at risk should be regarded as particularly serious.
- 4.6.** Whenever the presiding officer decides, because of such considerations as those mentioned above, to impose a more lenient or more severe penalty than usual in relation to the type of offence, he must make a brief note to this effect on the case record.
- 4.7.** The presiding chairman of an inquiry may therefore, reasonably, deviate from prescribed penalties in this disciplinary code owing to consideration of mitigating and or aggravating factors.
- 4.8.** The Disciplinary Penalties tabled in this code is therefore not “set in stone” but is a guideline which may reasonably be deviated from owing to mitigating and aggravating circumstances in each particular case.
- 4.9** Where a particular offence tabled could result in different penalties, it is indicated as tabled.

## 5. FORMS AND ADMINISTRATIVE PROCEDURE

- 5.1. Where an employee accepts / admits guilt to an offence before formal disciplinary procedures are invoked, the employer may issue up to a Final Written Warning without formal notice to the employee.
- 5.2. Where 5.1 does not apply and once the decision has been taken to take formal disciplinary action against an employee which may result in a penalty from Final Warning, escalating to possible dismissal, the employee charged must be notified in writing by completing **form 1.1 (notice to attend a disciplinary inquiry)** and handing / issuing the accused employee either by hand, post or electronically.
- 5.3. The Employee must be suspended by issuing the employee with **form 1.2 (Notice of suspension)**:
  - 5.3.1. Where further investigation in regards with possible offences by an employee needs further investigation and the offences, if the employee is found guilty thereof, could result in dismissal and or;
  - 5.3.2. Where the employee could render a threat to the workplace / processes / fellow employees.
- 5.4. An employee has the right to fill in **form 1.3 (Procedural application Form)** at least 24 hours before commencement of a disciplinary inquiry to enable such employee:
  - 5.4.1. To request from management detail of evidence which will be used in the inquiry / hearing
  - 5.4.2. To request an interpreter;
  - 5.4.3. To request postponement with written reasons for such request;
  - 5.4.4. To request witnesses (fellow employees), the employee wish to have present who will need to be excused from their work by the Employer to attend the inquiry (the employee shall be responsible to secure witnesses not employed by the Employer)
- 5.5. The chairman of inquiries will make use of **form 1.4 (record of a disciplinary inquiry)** and if such chairman so elects, combined **form 1.4** with other means of recording such inquiry.
- 5.6. The chairman of a disciplinary appeal will make use of **form 1.10 (Record of a disciplinary appeal)** if the hearing is in the form of an appeal hearing where such has been granted after receipt of a **form 1.9 (Disciplinary Appeal Form)** from the affected employee who must table new evidence in order to be granted such appeal.
- 5.7. If an employee is not issued any sanction form (**verbal warning, written warning or final written warning forms 1.5 to 1.8**) and if such employee is dismissed, **form 1.11 (notice of dismissal)** must be issued by the employer where dismissal was the appropriate penalty recommended by the chairman and accepted by the employer.

## 6. CLASSIFICATION OF OFFENCES AND DISCIPLINARY ACTION

- 6.1 All the below tabled offences is inclusive of the possible attempt, instigation or conspiracy thereof and is the attempt, instigation and or conspiracy to commit the below offence punishable with the same sanction as that of the stipulated offence.
- 6.2 Offences are categorized as offences which has a negative impact on:
  - 6.2.1 **Absenteeism** as **category A** offences;
  - 6.2.2 **Control at work** as category B offences;
  - 6.2.3 **Unprotected Industrial Action** as **category C** offences;
  - 6.2.4 **Offences relating to disorderly behavior** as **category D** offences;
  - 6.2.5 **Offences relating to theft or fraud** as **category E** offences;
  - 6.2.6 **Offences relating to housing if so given as part of employment conditions** as **category F** offences.

- 6.2.7** The Offences and subsequent penalties are tabled below and serve as guideline for application in order to ensure reasonable consistency.
- 6.2.7.1** The tables list the more common offences which occur and the disciplinary action which would normally be applied.
- 6.2.7.2** However, each case must be treated on its own merits and also taking into consideration the aggravating or mitigating circumstances that might prevail in each set of facts as well as circumstances surrounding each case.
- 6.2.7.3** Consideration of mitigating and aggravating facts and circumstances, may lead to more severe or less severe sanctions being applied as those specified below.
- 6.2.7.4** All penalties as prescribed may be combined with unpaid suspension.
- 6.2.7.5** The Presiding Chairman may where sufficient mitigating factors present, resort to a Final resort of suspension where the employee already has on file, a final warning for the same or similar offence, where the Presiding Chairman may issue another final warning combined with suspension.
- 6.2.7.6** The Presiding Chairman may also combine suspension with any other penalty where the Presiding Chairman is of the opinion, it to be fitting the deviation.
- 6.2.7.7** The presiding Chairman may where no or limited mitigating factors present itself, and where the deviation was gross and malicious or where severe aggravating factors present, deviate from a penalty and recommend a more serious penalty as tabled, even resort to dismissal.

### **6.3 TABLED CATEGORIES OF OFFENCES**

#### **6.3.1 CATEGORY A OFFENCES RELATING TO ABSENTEEISM**

- 6.3.1.1** This Category of offences confirms the Employer's right that Employees be available to tender services during required shifts and or working hours and confirms the Employer's right to a productive workforce and workplace.

#### **A1 Offences relating to absenteeism / absconding / deserting the workplace**

<b>OFFENCE CODE</b>	<b>OFFENCE</b>	<b>FIRST OFFENCE</b>	<b>SECOND OFFENCE</b>	<b>THIRD OFFENCE</b>	<b>FOURTH OFFENCE</b>
A.1.1	Absent without permission for one day	Verbal Warning	Written Warning	Final Written Warning	Dismissal
A.1.2	Absent without permission for two days	Written Warning	Final Written Warning	Dismissal	
A.1.3	Failure to inform employer of absenteeism	Written Warning	Final Written Warning	Dismissal	
A.1.4	Absent without permission for three days	Final Written Warning	Dismissal		
A.1.5	Absence / Desertion / Absconding from the workplace for a period of 5 shifts / days or longer	Final Written Warning / Dismissal			

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
A.1.6	Misuse of sick leave	Final Written Warning / Dismissal	Dismissal		

### 6.3.2 CATEGORY B OFFENCES RELATING TO THE EMPLOYERS RIGHT TO CONTROL

**6.3.2.1** The Employee acknowledges the Employer right to control the workplace, work processes, work load as well as productivity.

**6.3.2.2** The Employee acknowledges that as Employee and as essential part of the Employment Contract, the Employer works under the Authority of the Employer.

**6.3.2.3** The Employee acknowledges the Employer's right to be respected and obeyed.

**6.3.2.4** The Employee acknowledges the Employer's right that the Employee shall be efficient and effective in the Employee's position.

**6.3.2.5** The Employee acknowledges that no workplace can function without well disciplined, committed staff members.

**6.3.2.6** The Employee acknowledge that diligent care for the effective execution of tasks and requirements is core to the employee's conditions of employment and the failure to perform tasks and duties during with diligent care, can result in damage / loss to the Employer or fellow Employees.

**6.3.2.7** The Employee acknowledges that the Employee should tender services in a pro active and assertive manner and ensure that the Employee is not negligent.

**6.3.2.8** The Employee acknowledges that the Employee may not use of the Employer's property / tools / equipment outside the Employees mandate / scope of instruction / work and that no private or irregular use without written permission is allowed.

**6.3.2.9** The Employee acknowledges that reporting for duty on time and effectively tendering services during agreed working hours, is essential aspects of productivity.

**6.3.2.10** This Category B offences are therefore broken up into:

#### B.1 Offences relating to poor time keeping

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
B.1.1	Reporting late for work	Verbal Warning	Written Warning	Final Written Warning	Final Written Warning
B.1.2	Leaving work early	Written Warning	Final Written Warning	Dismissal	
B.1.3	Extended or unauthorized breaks during working hours	Written Warning	Final Written Warning	Dismissal	
B.1.4	Fails to clock/sign in or out when commencing duties and or after conclusion or after/before required periods (such as lunch/tea) where required	Written Warning	Final Written Warning	Dismissal	
B.1.5	Purposefully signed/clocked in and out then leave workplace or does not turn up for work after checking in	Final Written Warning	Dismissal		

#### B.2 Sleeping on duty

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
B.2.1	Without causing damage to property or endangering lives of co-workers/ or other persons (or own life)	Final Written Warning	Dismissal		

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
B.2.2	Which results in damage or possible damage to property and/or endangering lives of co-workers / or other persons (or own life) / or putting the principle contract with a client of the business at risk.	Dismissal			

**B.3 Negligent loss, damage to or misuse of employer's property/tools/equipment/products as well as failure to adhere with safety regulations and failure to report risks**

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
B.3.1	Negligent loss of employer's property resulting in financial loss in the performance of duties ( <b>damage R0 to R10000 = Serious Warning or Final Warning and damage recouped; between R10 000 and R30000 = Final Warning or Dismissal for first offence and damage recouped</b> )	Written or final written warning or dismissal as well as recouping of damages / losses ITO sect 34 of the BCEA	Final written warning or dismissal as well as recouping of damages / losses ITO sect 34 of the BCEA	Dismissal	
B.3.2	Negligent damage to employer's property or negligence leading to financial loss in the performance of duties) ( <b>damage R0 to R10000 = Written Warning or Final Warning and damage recouped; between R10 000 and R30000 = Final Warning or Dismissal for first offence and damage recouped</b> )	Final Written warning or dismissal as well as recouping of damages / losses ITO sect 34 of the BCEA	Dismissal		
B.3.3	Misuse / unauthorised use of employer's property	Final written warning or dismissal	Dismissal		
B.3.4	Purposefully / negligently, disobeying / neglecting safety rules or service regulations and / or failing to report a safety risk / risk or potential risk, inclusive of the failure to wear PPE	Final written warning or dismissal	Dismissal		
B.3.5	Negligent Driving resulting in fines issued by the traffic department for speeding and or other violations. (if the offence resulted in fellow employees' life's being endangered, the employee will also be charged in terms of B.3.4 above)	Written warning or final written warning and recouping of fines in (section 34 BCEA)	Final Written warning or dismissal and recouping of fines in (section 34 BCEA)		

**B.4 Unsatisfactory work performance**

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
B.4.1	Performing a task or duty without exercising due care and attention resulting in sub standard performance outputs / products / services.	Written Warning or Final Written Warning	Final Written Warning	Dismissal	
B.4.2	Carelessness in performing a task in that the task has to be repeated.	Written or Final written warning.	Final written warning or dismissal	Dismissal	
B.4.3	Poor quality work or unsatisfactory work performance	Written warning	Final Written warning / Dismissal	Dismissal	
B.4.4	Passing time idly or failing to complete tasks within required time frames / delivery time/date as set without a reasonable explanation / cause	Written Warning or Final Written Warning	Final written warning or dismissal	Dismissal	
B.4.5	Playing games at work during working hours	Written Warning or Final Written Warning	Final written warning or dismissal	Dismissal	

**6.3.3 CATEGORY C OFFENCES RELATING TO INDUSTRIAL AND STAYAWAY ACTIONS**

**6.3.3.1** The Employer acknowledge the Employee's right to strike conditional that the Employee followed procedures as laid down in section 64 of the Labor Relations Act is followed, therefore where:

**6.3.3.1.1** The issue in dispute has been referred to a councilor to the Commission as required by this Act, and

**6.3.3.1.2** A certificate stating that the dispute remains unresolved has been issued; or

**6.3.3.1.3** a period of 30 days, or any extension of that period agreed to between the parties to the dispute, has elapsed since the referral was received by the council or the Commission; and after that

**6.3.3.1.4** In the case of a proposed strike, at least 48 hours' notice of the commencement of the strike, in writing, has been given to the employer.

**6.3.3.2** Where Employees partake in unprotected strike action the Employer shall issue ultimatum to Employees to warn them that their illegal action may result in the penalty prescribed in this Code being applied which may result in dismissal.

**C.1 Collective strike and stay away action**

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
C.1.1	Strike action (unprotected strikes) inclusive of stay-a ways, go-slows, sit-ins, grasshopper strikes	Dismissal			
C.1.2	Incitement to partake in an unprotected strike	Dismissal			
C.1.3	Intimidation to strike	Dismissal			
C.1.4	Misconduct during a strike (protected / unprotected)	See penalty as stipulated with offence/s applicable in this code	See penalty as stipulated with offence/s applicable in this code	See penalty as stipulated with offence/s applicable in this code	
C.1.5	Stay away / Protest Action where the Employee's did not inform the Employer and or obtain permission from the Employer.	Dismissal			

**6.3.4 CATEGORY D OFFENCES RELATING TO DISORDERLY BEHAVIOUR**

- 6.3.4.1** The Employee acknowledges the Employer right to control the workplace, work processes, work load as well as productivity.
- 6.3.4.2** The Employee acknowledge that a disorderly workplace as well as disorderly behavior, jeopardises levels of productivity as well as safety in the workplace which can in turn lead to financial loss due to substandard productivity and or damage to the workplace and or injury and or loss of life.
- 6.3.4.3** The Employee acknowledges that the Employee is employed under the authority of the Employer and must therefore comply with all reasonable requests and perform duties to the best ability of the Employee.
- 6.3.4.4** The Employee acknowledges therefore the Authority of the Employer over the Employee during working hours.
- 6.3.4.5** The Employee acknowledges that discipline is the key to any successful and productive business and that an undisciplined workforce cannot perform at peak levels.
- 6.3.4.6** The Employee acknowledges that the breach of the Employer’s contractual right to authority will be serious and may lead to dismissal.
- 6.3.4.7** The Employee acknowledges the Employers obligation to ensure as far as possible a safe working environment and that the Employee shall revert from actions / neglect to take action which may jeopardise the Employer, Fellow Employees and or property, equipment (fixed and movable assets) of the Employer and/or under the control of the employer.

**D.1 Insubordination and related offences**

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
D.1.1	Gross insubordination / Refusal to obey a reasonable instruction and/ or implemented procedures / policies. (Extremely serious if in front of fellow Employees / Clients / Visitors / suppliers)	Final Written Warning / dismissal	Dismissal		
D.1.2	Gross insolence / disrespect (Extremely serious if in front of fellow Employees / Clients / Visitors / suppliers)	Final Written Warning / dismissal	Dismissal		
D.1.3	Failure to comply/adhere with a reasonable Instruction and/ or implemented procedures / policies.	Written Warning / Final Written Warning	Final Written Warning / Dismissal	Dismissal	
D.1.4	Failure to comply with laid down procedures and policies.	Written Warning / Final Written Warning	Final Written Warning / Dismissal	Dismissal	
D.1.5	Playing games at work during working hours	Written Warning / Final Written Warning	Final Written Warning / Dismissal	Dismissal	

## D.2 Disorderly behavior related to breach of safety / fighting /intimidation and victimization

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
D.2.1	Horse Play (Extremely serious whilst in the vicinity of vehicles and / or Machinery and / or dangerous objects / situations)	Final Written Warning / dismissal	Dismissal		
D.2.2	Threatening the Employer and or fellow Employees with violence	Final Written Warning / dismissal	Dismissal		
D.2.3	Intimidation of fellow employees / the Employer / clients / suppliers and or any visitor to the Employer	Written Warning / Final Written Warning / dismissal	Final Written Warning / Dismissal	Dismissal	
D.2.4	Assault and/or attempted assault of fellow employees / the Employer / clients / suppliers and or any visitor to the Employer	Dismissal			
D.2.5	Fighting (verbal) in the workplace (extremely serious where in front of suppliers / customers and clients / any visitor to the Employer	Written Warning / Final Written Warning	Final Written Warning / Dismissal	Dismissal	
D.2.6	Abusive language / Swearing (the offence is more serious when it is aimed at race, religion or color of any party or gender and or when it occurs in front of customers / suppliers / visitors)	Written Warning / Final Written Warning / dismissal	Final Written Warning / Dismissal	Dismissal	
D.2.7	The disturbance of relationships within the workplace / causing distrust	Written Warning / Final Written Warning / dismissal	Final Written Warning / Dismissal	Dismissal	
D.2.8	Sexual harassment	Written Warning / Final Written Warning / dismissal	Final Written Warning / Dismissal	Dismissal	
D.2.9	Unauthorised possession of weapons, traditional weapon or self made weapon.	Final Written Warning / Dismissal	Dismissal		
D.2.10	Consuming food / drinks and/or smoking in unauthorized areas	Written Warning / Final Written Warning / dismissal	Final Written Warning / Dismissal	Dismissal	

### D.3 Alcohol and/or drug/illegal substance related offences

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
D.3.1	To be in the possession of and/or selling and/or supplying Alcohol and or an illegal substance / drug whilst on duty.	Final Written Warning / dismissal	Dismissal		
D.3.2	To be under the influence of Alcohol and / or an illegal substance / drug whilst on duty and/or whilst in control / responsible for a dangerous object / tool / machinery and or whilst driving and or whilst controlling / supervising / managing a process / procedure / type of work, where injury / damage / losses / death may occur	Final Written Warning / dismissal			
D.3.3	To be under the influence of Alcohol and / or an illegal substance / drug whilst on duty and whilst not in control / responsible for a dangerous object / tool / machinery and or whilst driving and or whilst controlling / supervising / managing a process / procedure / type of work, where injury / damage / losses / death may occur	Written Warning / Final Written Warning / dismissal	Final Written Warning / Dismissal	Dismissal	

### D4 Willful loss/damage

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE	FIFTH OFFENCE
D.4.1	Willful Loss of the Employer's property (fixed as well as non fixed assets)	Final Written Warning / dismissal	Dismissal			
D.4.2	Willful damage to the Employer's property (fixed as well as non fixed assets)	Final Written Warning / dismissal				
D.4.3	Willful / negligent damage to relationships between the Employer and a Client / customer / supplier which results / may result / could have resulted in negatively on the relationship / contract / agreement / goodwill, between the Employer and such client / supplier / contract	Final Written Warning / dismissal	Dismissal			

**6.3.5 CATEGORY E OFFENCES RELATING TO THEFT / FRAUD / DISHONESTY / BREACH OF CONFIDENTIALITY / BREACH OF TRUST**

**6.3.5.1** The Employee acknowledge that the Contract of Employment is firstly and fore mostly based on trust and that the breach thereof results therefore in the heart of the relationship between an Employer and Employee being destroyed.

**6.3.5.2** The Employee further acknowledge that any offence as tabled in this Disciplinary Code may result in a breach of the relationship of trust and that by implication, where dismissal is tabled as a penalty, it is presumed the relationship has deteriorated to such extend that the Trust between the parties is damaged irreparably.

**E.1 Relating to theft / fraud / dishonesty / breach of confidentiality / breach of trust**

OFFENCE CODE	OFFENCE	FIRST OFFENCE	SECOND OFFENCE	THIRD OFFENCE	FOURTH OFFENCE
E.1.1	Bribery / Corruption of fellow employee's / suppliers / visitor's / clients	Final Written Warning / dismissal	Dismissal		
E.1.2	Theft / of the Employer's property (material or immaterial) / assets / equipment / documentation / and or assets / equipment / documentation belonging to fellow employee's / clients / visitor's / suppliers	Dismissal			
E.1.3	Unlawful / unauthorized possession the Employer's property (material or immaterial) / assets / equipment / documentation / and or assets / equipment / documentation belonging to fellow employee's / clients / visitor's / suppliers	Final Written Warning / Dismissal	Dismissal		
E.1.4	Misappropriation of the Employer's property (material or immaterial) / assets / equipment / documentation / and or assets / equipment / documentation belonging to fellow employee's / clients / visitor's / suppliers	Final Written Warning / Dismissal	Dismissal		
E.1.5	Fraud	Dismissal			
E.1.4	Giving False Evidence / Making of False Declarations / Lying	Final Written Warning / Dismissal	Dismissal		
E.1.4	Divulging Confidential / Sensitive information of the Employer to fellow employees / clients / suppliers / visitors / any legal person without the Express written permission of the Employer	Final Written Warning / Dismissal	Dismissal		
E.1.4	Breaching / Destroying the relationship of Trust between Employer and Employee	Final Written Warning / Dismissal	Dismissal		

**7. DISCIPLINARY HEARING PROCEDURE**

**7.1. ROLE OF THE SUPERVISOR MANAGER**

**7.1.1.** When an offence is alleged to have been committed the supervisor/Manager will investigate the case/allegations and decide whether the case should be continued, a verbal or written warning be given or a formal disciplinary hearing be arranged.

## **7.2. SUSPENSION**

- 7.2.1.** In certain circumstances it would be advisable that the offender be removed from the workplace pending the investigation of the case. Such a suspension must be confirmed in writing.
- 7.2.2.** An employee should be suspended when the Employee's continued presence could lead to conflict in the workplace or where it could cause injury or loss or damage to the employer's property. An employee should be paid for the period he/she is suspended with exception where a disciplinary penalty of a Final Written Warning with unpaid suspension is the ruling by the presiding chairman, where the paid suspension could be reversed and substituted by unpaid suspension.
- 7.2.3.** Suspension in this context is therefore advisable in the cases where the Employee is allegedly guilty of :
  - 7.2.3.1.** Assault
  - 7.2.3.2.** Intimidation or incitement
  - 7.2.3.3.** Being under the influence of or in possession of liquor
  - 7.2.3.4.** Being emotionally unfit to carry out his/her duties
  - 7.2.3.5.** Riotous/ disruptive behavior
  - 7.2.3.6.** Any act which endangers the safety or health of others
  - 7.2.3.7.** Abusive or provocative language (which could lead to conflict)
  - 7.2.3.8.** Theft/fraud
  - 7.2.3.9.** Where the record of the Employer for the alleged misconduct is such that the next penalty may be dismissal.

## **7.3. FORMAL INVESTIGATION**

- 7.3.1.** The manager/supervisor/designated investigator/initiator on behalf of the Employer will record in writing statements from the complainant the alleged offender and the witnesses on an official statement form.
- 7.3.2.** The manager/supervisor/designated investigator/initiator must name all those witnesses who he thinks are necessary to ensure a fair hearing.
- 7.3.3.** The alleged offender must also be afforded the opportunity to name witnesses to testify in the case.
- 7.3.4.** The alleged offender must be notified of the date, time, and venue regarding the hearing and be informed that he/she can bring a representative to assist him/her in the case.

## **7.4. THE HEARING**

- 7.4.1** The manager/supervisor/designated investigator/initiator, responsible for handling the case, will make the necessary arrangements regarding the time and place for the hearing.
- 7.4.2** He/she must ensure that all those concerned are present at the hearing.
- 7.4.3** The presiding officer will use his/her discretion as to how and when the persons concerned will be heard, but in all occasions the case will be heard behind closed doors.
- 7.4.4** Should the accused fail to attend the hearing after being advised of the time and venue, the case could be heard in his/her absence and a decision take on the available evidence.

## **7.5 THE HEARING PROCEDURE**

- 7.5.1** The procedure as set out on form 1.4 shall be followed to ensure procedural consistency.
- 7.5.2** The stages of the hearing will be as follows:
  - 7.5.2.1** Preliminary matters is handled where the Presiding Chairman inquire :
  - 7.5.2.1.1** Did the Employee receive written notice of the hearing?
  - 7.5.2.1.2** Does the Employee understand the charges against him / her?
  - 7.5.2.1.3** Does the Employee require an interpreter?
  - 7.5.2.1.4** Is the Employee calling any witnesses?
  - 7.5.2.1.5** Did the Employee have enough time to prepare?
  - 7.5.2.2** The plea stage where the Presiding Chairman reads out the charges to the Employee and request the Employee to plead guilty or not guilty.
  - 7.5.2.3** The stage where the Employer's evidence is heard, witness by witness who are directly after testifying cross examined by the Employee.
  - 7.5.2.4** The stage where the Employee's evidence is heard, witness by witness who are directly after testifying cross examined by the Employer.
  - 7.5.2.5** Closing arguments by the Employer and thereafter the Employee.
  - 7.5.2.6** The Presiding Chairman makes a finding as to the guilt or innocence of the Employee with reasons.
  - 7.5.2.7** Mitigating and aggravating circumstances are pleaded by the Employer as well as Employee parties.
  - 7.5.2.8** The Presiding Chairman makes a recommendation as to what an appropriate penalty would be after considering those tabled in this Disciplinary Code which is communicated to the Employee after approved by the Employer.

## **7.6 APPEALS**

- 7.6.1** Every employee has the right to appeal with a valid reason against any decision which involves any entry on his/her disciplinary record and which may thus affect his/her future employment prospects or where the Employee is dismissed.
- 7.6.2** The employee must however provide acceptable grounds for appeal such as:
  - 7.6.2.1** Where new evidence is available which was not taken into consideration at the initial hearing.
  - 7.6.2.2** If it is alleged that the hearing had not been procedurally correct in any way.
  - 7.6.2.3** If it is alleged that the hearing had been substantively unfair.
  - 7.6.2.4** Any employee who wishes to appeal must notify the employer in writing of his/her intention within three days after the imposition of the penalty, and must state the grounds for the appeal.
  - 7.6.2.5** Late appeals will only be considered when there is a good reason for the delay.

# Disciplinary Flow Diagram

