

## **SECTION E: LABOUR RELATIONS POLICIES**

### **34. DISCIPLINARY CODE**

#### **OBJECTIVE**

The objective of this policy is to: -

- x Promote good order and efficient functioning of the Municipality;
- x Provide employees with a quick and easy reference for the application of discipline;
- x Ensure that discipline is applied in a prompt, fair, and consistent manner;
- x Ensure that all employees are aware of the Municipality's required standard of behaviour/performance; and
- x Ensure fair equal treatment of all employees.

#### **POLICY**

A grievance is regarded as any dissatisfaction that an employee or group of employees have, that is connected to their work situation.

- x It is the Municipal Manager's prerogative to ensure corrective procedures are followed within the Municipality;
- x Corrective actions will be exercised where work performance or behaviour is unacceptable or unsatisfactory, or where terms and conditions of employment are not met;
- x Human Resources shall keep corrective action records in the employee files specifying the nature of the corrective action taken and the reasons for taking such actions; and
- x This code applies to all employees including Managers.

Certain issues are specifically excluded from the definition of a grievance such as: -

- x Salaries and conditions of service that are subject to annual review;
- x Dissatisfaction over disciplinary action, which is subject to appeal;
- x Reporting of suspected disciplinary infringements, which should be handled according to the disciplinary procedure (if inadequate attention is paid to the matter, a grievance may arise against the way the matter is being handled); and
- x Harassment whether physical, racial or sexual, if there is a dedicated procedure for such grievances.

#### **VALUES AND THE PROBLEM SOLVING PROCESS**

- x The problem solving procedure is a framework within which Municipality management and employees must seek to solve internal problems when they arise;
- x Dealing with grievances in a sensitive, expeditious and compassionate manner is encouraged;

- x The Municipality must, through the Municipal Manager and Human Resources, deal with any valid grievances in a way that reflects progressive leadership and supports working in a participatory and inclusive manner;
- x By solving problems in a structured and non threatening way, Municipality management and employees seek to promote an environment of transparency and equality; and
- x At the heart of grievance management is the need for absolute integrity. Employees must be protected from any form of victimisation.

## **MISCONDUCT AND INCAPACITY**

### **1. BACKGROUND**

- 1.1 The Disciplinary Code needs to ensure fair and acceptable corrective action where an employee's work performance is unsatisfactory and/or where an employee's behaviour is unacceptable.
- 1.2 Management is responsible for ensuring that the Code is made available to all employees in order to make the employee's aware of the standards which are expected of them, thus ensuring the protection of the interests of both the employer and employees and promoting the practice of sound and equitable industrial relation within the enterprise.
- 1.3 This policy recognises the right of an employee to a fair hearing, and recognises the right of an employee to appeal against any measure considered unjust or unfair.

### **2. APPLICABILITY**

This policy shall apply to and form part of the contracts of employment of all employees and the principles contained herein shall apply equally to all employees.

### **3. GENERAL TERMS: MISCONDUCT**

- 3.1 The various disciplinary actions detailed in the Disciplinary Code are intended to serve as guidelines to management.
- 3.2 The Code is based on the principle of progressive discipline however, progressive discipline need not be meted out in the respect of certain serious offences, where dismissals would be the appropriate penalty in the circumstances where the offence is so grave that it makes a continued employment relationship intolerable.
- 3.3 In circumstances where rules or standards are well established and are not contained in the Code or where further rules or standards are communicated to the employees the employer will be entitled to take disciplinary action where there has been a transgression of such rule or standard.

- 3.4 Disciplinary warnings issued shall be kept in the personal file of the employee for the duration of that warning.
- 3.5 Expired warnings will not be taken into account in any subsequent disciplinary action.
- 3.6 The employer will be entitled to take into account warnings in respect of other categories of offences, together with the infraction for which an employee has currently against him and where the employee has two or more warnings running concurrently against him and where the employer clearly informs the employee thereof in order to enable the employee to properly prepare himself for the inquiry. The employer will be entitled to dismiss an employee for the cumulative effect of the concurrent warnings.
- 3.7 The following factors shall be taken into account when determining whether dismissal is the appropriate penalty;
- The gravity of the misconduct,
  - The circumstances of the infringement,
  - The circumstances of the employee which shall include the following:
    - Service period
    - Record
    - Personal circumstances

#### **4. TIME PERIODS RELATING TO THE EXPIRY OF WARNINGS**

- |     |                       |                  |
|-----|-----------------------|------------------|
| 4.1 | Verbal warning        | Three (3) months |
| 4.2 | Written warning       | Four (4) months  |
| 4.3 | Final written warning | Six (6) months   |

#### **5. NATURE OF DISCIPLINARY MEASURES**

- 5.1 There are four types of penalties that may be applied. In order of severity and depending upon the nature of the transgression, they are as follows:
- Verbal warning
  - Written warning
  - Final written warning
  - Formal inquiry and dismissal
- 5.2 The warnings are cumulative in nature subject to paragraph 4 hereof

An employee for example who is already in receipt of a verbal warning for a first offence and who commits a further offence of a similar nature within the prescribed time period will be subject to the following step in accordance with paragraph 6.1. Depending however on the nature and severity of the second offences the employee could receive a harsher penalty.

#### **DISCIPLINARY CODES**

**CATEGORY: TIMEKEEPING OFFENCES**

<b>NATURE OF OFFENCE</b>	<b>FIRST</b>	<b>SECOND</b>	<b>THIRD</b>	<b>FOURTH</b>
Late for work or leaving without permission	Verbal	Written	Final	Dismissal
Absence from place of work without permission	Verbal	Written	Final	Dismissal
Absent from work for three consecutive days without permission.	Dismissal			
Fraudulent timekeeping	Dismissal			
Failure to clock in or out	Final	Dismissal		
Unauthorised absence from work for more than 1 day without contacting the office	Final	Dismissal		

**CATEGORY: WORK OUTPUT OFFENCES**

Sleeping on duty	Final	Dismissal		
Refusal to obey a lawful & reasonable work instruction	Final	Dismissal		
Poor quality of work	Final	Dismissal		
Failing to work according to standard	Dismissal			
Attending to private work during company time	Written	Final	Dismissal	
Using company property for a purpose other than intended	Dismissal			

**CATEGORY: SOCIAL OFFENCES DURING WORKING HOURS**

Under the influence of alcohol or drugs	Dismissal			
Unauthorised consumption of alcohol during working hours	Dismissal			
Threat of assault, assault, fighting	Dismissal			
Unauthorised possession of weapons	Dismissal			
Intimidation or incitement to violence	Dismissal			
Committing unsanitary acts	Final	Dismissal		
Smoking in prohibited areas using insulting or abusive language	Final	Dismissal		
Sexual harassment	Counselling	Written	Final	Dismissal

**CATEGORY: ATTITUDINAL OFFENCES**

Insubordination; disrespect	Dismissal
Failure to observe security and safety regulation	Dismissal
Gross negligence	Dismissal
Gross incompetence	Dismissal

**CATEGORY: OTHER OFFENCES**

Theft	Dismissal
Unauthorised possession of company, client or employee property	Dismissal
Divulgence of confidential information	Dismissal
Fraud	Dismissal
Supplying incorrect or falsified information	Dismissal
Attempting or causing to bring the company into disrepute	Dismissal
Failure to follow company policies, procedures and rules	Final Dismissal
Failing to act in the best interests of the company	Dismissal
Any act which interferes with the normal operations of the company	Dismissal
Victimisation	Dismissal

<b>NATURE OF OFFENCE</b>	<b>FIRST</b>	<b>SECOND</b>	<b>THIRD</b>	<b>FOURTH</b>
Giving of a false identity	Dismissal			
Unprotected industrial action	Dismissal			
Failure to treat others and or their property with respect	Dismissal			
Threatening violence	Dismissal			
Sexual harassment	Final	Dismissal		
Competing with the employer	Dismissal			
Dishonesty	Final	Dismissal		

NOTE: Nothing in this disciplinary code shall affect the employer's right to summarily terminate an employee's contract of employment on grounds recognised by law as sufficient after holding a disciplinary enquiry.

## **35. INDUSTRIAL RELATIONS POLICY**

### **OBJECTIVE**

The objective of this policy is to: -

- x To advance economic development, social justice, labour peace and demonstration of the workplace by providing a framework through which employees and employers can collectively bargain on matters of mutual interest.
- x To ensure the right to fair labour practice.
- x To achieve equality in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination and implementing Affirmative Action measures to redress the disadvantage in employment experienced by designated groups, in order to ensure their equitable representation.
- x To develop the skills of the South African workplace and to use the workplace as an active learning environment.

### **POLICY**

- x The Municipality consists of individuals of different sexes, races and cultural creeds – all that we treat equally.
- x The Municipality promotes the sharing of ideas and views in an atmosphere of openness and trust between all individuals.
- x We believe in fair and open dialogue, should there be a dispute between an individual and the Municipality.
- x The Municipality adheres to all labour legislation of South Africa.

### **TRADE UNION MEMBERSHIP**

Any employee may voluntarily become a member of a trade union as defined in the Labour Relations Act, 1995.

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## **36. LOSSES AND DEBTS OWING TO MUNICIPALITY**

### **OBJECTIVE**

The objective of this policy is to provide guidelines for dealing with losses or debts owing to the Municipality. During the execution of its work, the Municipality might find itself incurring losses or acquiring debtors. The following policy illustrates the approach the Municipality should adopt to deal with losses and debts owing to it.

### **POLICY**

#### **1 Losses Arising through Unavoidable Circumstances**

Losses of this nature may be written off with the necessary authority or otherwise disposed of after a thorough investigation has established that no action or default of any employee or other person contributed to the loss or damage, or aggravated or facilitated it, and that no employee or other person can be held liable for the loss or damage, wholly or in part.

#### **2 Losses Arising from Criminal or Possible Criminal Action**

- 2.1 Whenever it appears that a loss was sustained or arose from criminal or possible criminal action (fraud, theft, arson, wilful, damage, wrong doing etc), the employee accountable for the money or property must immediately report the matter to the Manager: HR and Administration or their immediate supervisor
- 2.2 As soon as particulars of the identity and whereabouts of the person whose unlawful act caused the loss, or the whereabouts of any stolen moneys, property or of any assets alleged to have been acquired by means of such money become available, steps must be taken to recover the loss, e.g. by means of deductions from salaries, provident fund benefits, moneys owing to the employee and so on.
- 2.3 If the loss cannot be recovered by any of the foregoing methods, or if doubt exists as to the correct action to be taken, the matter must be reported, together with all available particulars, to the Municipality Attorneys for consideration and advise as to the method to be adopted for recovery of the money or property.
- 2.4 Losses occasioned through acts or default of employees or former employees
- 2.5 Steps must be taken immediately to institute such investigations and to obtain such written statements as may in the circumstances be necessary to determine the responsibility of an employee or former employee whose action, default, neglect, failure to comply with financial regulations or lack of vigilance may have caused a loss or contributed to such loss.

- 2.6 After the amount of the loss or damage has been determined and an employee or former employee is held responsible, it must be decided whether the amount should be recovered in full or in part only. If there is good reason to exempt the employee or former employee from repayment of the loss or damage in full or in part, the necessary approval must be obtained. The matter must be fully represented with all relevant facts to the Finance and Audit Sub-Committee.
- 2.7 Should it, in light of all circumstances, be decided that the loss or damage be recovered, the following steps must be taken:
- x The person must be ordered by the Municipal Manager, in writing, to repay the amount within thirty days of the date of such notice;
  - x If an employee fails to repay the amount during the stipulated period the amount must, subject to other provisions in this section, be deducted from their monthly salary.
  - x If a former employee fails to repay the amount within the stipulated period, the amount must, be recovered from them by means of a legal process, provided that such action is deemed justifiable economically and otherwise; if not, authority for the write-off of the loss must be obtained;
  - x An offer from an employee or former employee to repay the amount in instalments may be accepted with the necessary approval, provided the amount will be redeemed within a reasonable period. Other conditions upon which the amount should be repaid can also be determined.

### **3 Recovery of Debts Owing to Municipality**

- 3.1 The following requirements apply generally for the recovery of debts owing to the Municipality. It stands to reason that circumstances differ from case to case and employees must use their discretion and let themselves be guided by the facts of each case whenever called upon to decide if further steps towards recovery of debts would be economically justifiable.
- 3.2 Amounts up to Rxxx – If the amount is still outstanding a month after a final account was rendered or after the date on which the debt became payable, and it has been pertinently pointed out to the debtor that he had to pay the amount due before a specified date, approval can be obtained to write the debt off.
- 3.3 Amounts over Rxxx – A reminder should be sent out to the debtor ten days after the expiry date for payment of the debt. If the foregoing steps are unsuccessful, the matter may be referred to the Municipality Attorneys with a view to legal steps, should these be regarded as economically justifiable.
- 3.4 The debtor's financial position must be thoroughly taken into account. If they have no, or few assets, and can barely afford to pay off anything on their debt and there are no prospects of an improvement in their financial position, the writing off of their debt should be considered.



- 3.5 An offer of payment in full and final settlement of a debt, which is less than the balance owing, may only be accepted without prejudice, only if the Municipal Manager and the Manager: HR and Administration are agreeable.

## **37. POLICY FOR INDIVIDUAL/GROUP PROBLEM SOLVING / GRIEVANCE**

### **OBJECTIVE**

The objective of this policy is give guidance for the handling of employees' grievances. These guidelines apply to all members of the employees of the Municipality excluding the Municipal Manager.

### **MEANING OF GRIEVANCE**

A grievance, for the purposes of this policy, means any individual or group work related grievance concerning the conduct of a person in authority, a fellow employee or the implementation of a policy of the Municipality. It does not include grievances in respect of which the Municipality has already published policy guidelines. For example grievances in respect of disciplinary action must be dealt with in terms of that policy.

### **PRINCIPLES**

The employee must be granted the opportunity to use the following procedure shall used:

- a) The aggrieved employee shall verbally inform their immediate supervisor about the complaint, if the complaint involves or relates to the immediate supervisor the employee shall refer the issue to the next higher level of management. If the grievance is resolved it shall be recorded.
- b) If the grievance involves a third party the grievance shall be put down in writing and (union representation shop steward may be utilised) and shall be forwarded to higher level management. Three copies are made one is kept by the employee, one is sent to the HR Officer responsible for handling such cases and the third copy is given to management. If the grievance is still not resolved step three will follow
- c) A grievance investigation shall be conducted by an impartial grievance committee. This Committee will normally consist of a labour relations expert, employee representatives, management and any other expert who may be of particular value.

Management at the various levels must give careful consideration to every grievance lodged and make genuine attempts to resolve it.

Grievances must, whenever possible, be handled by line management at the lowest possible level. Other employees, in an advisory capacity, may help in facilitating a resolution to the problem.

No employee may be victimised for lodging or pursuing a grievance in terms of this policy.

## **38. BUSINESS MEETING VENUES POLICY**

### **OBJECTIVE**

The objective of this policy is to regulate access to infrastructural support for Municipality employees in order to enable them to carry out their duties in a cost effectively manner.

### **POLICY**

- (1) The Municipality business meeting venues should always take preference over external meeting venues. When using internal Municipality business venues, no equipment or furniture may be moved between venues without the consent of the Manager: HR and Administration.
- (2) Where the allocated facilities are not going to be conducive to the nature of the meeting, approval needs to be sought from the Finance Manager, to ensure that sufficient funds are available to host the function externally. Once approval has been granted for using an external venue, arrangements need to be made with the Finance Manager to ensure that timeous bookings and payments are made to the vendor.
- (3) It is the responsibility of the person booking the external venue to ensure that where there are special requirements, or logistical implications, these are fully investigated and communicated to ensure that the financial implications are highlighted to the Manager: HR and Administration. The onus is then on the individual presenting the request to do a cost-benefit analysis and to present this to the Finance Manager in good time.
- (4) Meetings that are held outside of Municipality official premises that incur costs to the Municipality will not be paid for if proper procedures were not followed and proper authorisation was not obtained.

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## **39. CONTRACTORS AND CONSULTANTS POLICY**

### **OBJECTIVE**

The objective of this policy is to standardise and regulate the appointment of contractors and consultants for the Municipality according to the procurement policy.

### **POLICY**

- (1) Contractors and consultants are not employees of Municipality. The contractors and consultants offer services on an agreed contractual basis for a specified period of time or for a specific task.
- (2) Every contractor and consulting organisation will sign a standard contract and/or a specific Memorandum of Agreement, which will be regarded as a legal document.
- (3) They may be appointed on a retainer basis, on fixed-term contracts, or on "once-off" type assignments. Consequently, they are neither entitled to the Municipality employee benefits as per the BCEA, nor any other Act that regulates employer-employee relationships, unless otherwise expressly agreed in the relevant contract or Memorandum of Agreement.

### **A. PROFESSIONAL SERVICES OF ATTORNEYS, AUDITORS AND CONSULTANTS, ETC**

- The Municipality will on an annual basis and, or at the close of the project, depending on the length and nature of the project, require projects to provide audited statements of their financial activities. The employ of auditors should be done in the most cost effective manner and where possible should enhance the Municipality's objective of empowering previously disadvantaged persons.
- Contractors and consultants should preferably and wherever practical be drawn or selected from those who are practising or operating in close proximity to the Municipality. A budget must be submitted by the contractors and consultants and approved in writing by the Municipality on all and any costs to be reimbursed. The budget must inter alia; have an outline of any intended air and car travel, which may have to be undertaken specifically for the project.
- A document in support of the claim, which must include copies of invoices, must be presented to the Municipality detailing the actual final charges together with the original budget estimates. The claim and the reconciliation document must be approved and signed by according to the following levels of authority:

- o Written contracts for the appointment of contractors and consultants, including budgets estimates, will be issued by the Manager: HR after written authorisation has been received from the Municipal Manager and/or the Exco.
- o All the procurement of service providers shall be conducted in line with the Procurement Policy).

#### **B. CONTRACTORS AND CONSULTANTS USED FOR SPECIFIC “ONCE-OFF” TYPES OF ASSIGNMENTS**

These appointments are referred to as “contract consultants” and may be suitable in the following circumstances:

- x For a definite predetermined period to carry out specific duties, the number of months required to complete the project and specified fee will constitute the budget estimate;
- x Where the precise period cannot be predetermined, but where it is clear that the appointment of a “career type” employee is not warranted; and
- x Where the Municipality wants to appoint scarce specialised persons on a permanent basis, but the individual is not interested in becoming a member of the Pension/Provident Fund and/or Medical Aid Scheme.

#### **C. INDIVIDUALS APPOINTED ON CONTRACTUAL BASIS**

- x Some individuals may be appointed on a contractual basis for a period of between 3 and six months where an all-inclusive fee is payable on a monthly basis for either a specific period or on an extended basis.
- x In either case, a formal letter of appointment is required, including a comprehensive task description. All such letters must be issued by Human Resources, whose task is to ensure the Municipality norms are dealt with in all respect, including for example, calling for the tax information forms required by law.
- x Where employees are required for a period of less than three months, the Municipality will make use of employment agencies to acquire the services of such an individual.
- x The contracted individual must not be led to believe the appointment is or may lead to a permanent employment relationship. This should be explicitly confirmed in the letter of appointment.
- x The Municipal Manager, having settled the terms of the appointment and the task description must, in consultation with Human Resources, issue a letter to the contracted individual confirming these terms. All fees paid to the contracted individual are subject to PAYE and UIF deductions.
- x Contracted individuals will not be entitled to membership of the Pension/Provident Fund or the Medical Aid Fund. However, they will be eligible for all benefits provided for them in the Basic Conditions of Employment Act, 1997.