



DISCIPLINARY CODE POLICY
UTHUKELA ECONOMIC DEVELOPMENT
AGENCY
2026/2027 FINANCIAL YEAR

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1. DEFINITIONS

"Act" means the Labour Relations Act 66 of 1995, as amended.

"Disciplinary action" means any disciplinary action taken contrary to the principle contained in this policy.

"Employee" means any person, excluding an independent contractor, who works for the Agency and who receives, or is entitled to receive, any remuneration and any other person who in any manner assists in carrying on or conducting the business of an employer.

"Employee representative" means any employee of the Agency. Where applicable, 'employee representative' may mean an external legal representative.

"Inquiry" or **"hearing"** means a meeting chaired by a chairperson, the object of which is to consider relevant facts and to make an appropriate decision on the disciplinary matter at hand.

"Investigation" refers to the process of finding facts to establish whether there is *prima facie* evidence of wrongdoing in relation to the alleged disciplinary offences.

"Officer" means a person to whom an employee directly reports.

"Misconduct" means behaviour, conduct, action or inaction that is inconsistent with UCT policies.

"Prima facie evidence" means evidence which is sufficient to establish a fact or raise a presumption unless disproved or rebutted.

"Agency/UEDA" means UThukela Economic Development Agency.

2. PURPOSE

The purpose of the policy is to:

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

3. LEGISLATIVE FRAMEWORK

- 3.1. Labour Relations Act 66 of 1995 (as amended)
- 3.2. Basic Condition of Employment Act 75 of 1997
- 3.3. Local Government: Municipal Systems Act 32 of 2000 (as amended)
- 3.4. South African Local Governance Bargaining Council Main Collective Agreement

4. APPLICATION

The code applies to all employers and employees falling within the scope of the South African

4.1 LOCAL GOVERNMENT BARGAINING COUNCIL.

- 4.1.1 The code applies to all employees in the agency.
- 4.1.2 This policy must be read in the context of the Disciplinary Procedure Collective Agreement. In case of conflict between this policy and the provisions of the Disciplinary Procedure Collective Agreement, the provisions of the Collective Agreement will prevail

4.2 POLICY

- 4.2.1 Discipline is to be effected fairly, constantly, progressively and promptly,
- 4.2.2 The maintenance of discipline is the responsibility of the management and falls within the Control of function of any supervisory position
- 4.2.3 The principles of the natural justice and fair procedure must be adhered to notwithstanding any criminal and/or civil action having been instituted.
- 4.2.4 Subject to the requirements of substantive and procedural fairness, the Tribunal has the right to determine the sanction to be applied, having regard to the seriousness of the offence, provided it is consistent with the provisions set out herein,
- 4.2.5 Employees need to be aware of the code, its annexures and required standard of conduct at the workplace

4.3 STANDARD OF CONDUCT

- 4.3.1 Employees are expected to comply in every respect with the conditions of employment and collective agreements and any related regulation, order, policy and practice and to refrain from any conduct which give just cause for discipline.
- 4.3.2 In particular, employees should:
- 4.3.3 Attend work regularly and punctually.
- 4.3.4 Conform to the reasonable dress and uniform requirements of the Agency.
- 4.3.5 Perform their tasks and job responsibilities diligently, carefully and to the best of their ability.
- 4.3.6 Obey all lawful and reasonable instructions given by a person having the authority to do so.
- 4.3.7 Conduct themselves with honesty and integrity;
- 4.3.8 Request permission in advance for any leave of absence whenever possible.
- 4.3.9 Refrain from being absent from duty without leave or permission, except for good cause.

- 4.3.10 Refrain from accepting another employment outside of normal working hours without the prior permission of the Department Head or CEO, which permission shall not be unreasonably withheld.
- 4.3.11 Refrain from any rude, abusive, insolent, provocative, intimidating or aggressive behaviour to a supervisor, fellow employee or member of the public.
- 4.3.12 Refrain from wilful or negligent behaviour, which may result in the damage of property.
- 4.3.13 Refrain from participating, either individually or with others, in any form of action, which will have the effect of disrupting the operations of the employer, other than actions contemplated by the Labour Relations Act.
- 4.3.14 Refrain from wrongfully disclosing privileged information; and
- 4.3.15 Refrain from consuming alcohol or using intoxicating drugs whilst on duty.

4.4 SANCTIONS FOR MISCONDUCT

- 4.4.1 In accordance with the Disciplinary Policy that is imposed for misconduct will be intended to defer future of that behaviour. The sanction imposed must be based on the seriousness of the offence and considering the employee's disciplinary record.
- 4.4.2 The imposition of discipline is progressive in that sanctions are to be applied with increasing severity with repetition of the offence. Except in cases of misconduct which would constitute grounds for immediate dismissal or suspension without pay or the immediate imposition of a final written warning,
- 4.4.3 Sanctions will generally be applied in the following sequence.
 - 4.4.3.1 Written Warning
 - 4.4.3.2 Final Written Warning
- 4.4.4 All written and suspensions are to be recorded in the employee's personal file.

- 4.4.5 A verbal warning will remain valid and on the record of the employee for a period of six (3) months from the date of imposition.
- 4.4.6 A written warning will remain valid and on the record of the employee for a period of six (6) months from the date of imposition.
- 4.4.7 The Agency may impose as a sanction a suspension without pay having regard either to the serious nature of the misconduct or the fact that there has been a previous warning or warnings for the same behaviour in which event:
 - 4.4.7.1 The maximum period will be ten (10) days.
 - 4.4.7.2 The period of suspension will run consecutively.
- 4.4.8 In the event of a suspension in excess of five (5) days, the suspension without pay shall be spread over three (3) monthly pay periods.
- 4.4.9 Suspension without pay shall be regarded as a sanction more serious than a final written warning.
- 4.4.10 As a guideline, an employee may be dismissed on the first occasion for, inter alia: -
 - 4.4.10.1 Intimidation, fighting and/or assault.
 - 4.4.10.2 Theft, unauthorised possession of or malicious damage to the Agency's property.
- 4.4.11 Being under the influence of alcohol or intoxicating drugs whilst on duty such that the performance is seriously impaired or diminished
- 4.4.12 The consumption of alcohol or intoxicating drugs whilst on duty if the nature of work to be performed is such that intoxication endangers the safety of the employee or that of others;
 - 4.4.12.1 Any act of gross dishonesty.
 - 4.4.12.2 Any act gross negligence.
 - 4.4.12.3 Gross insubordination;
 - 4.4.12.4 Wrongful disclosure of privileged information;
 - 4.4.12.5 Any act of bribery or corruption; and

4.4.12.6 Any other act of misconduct which would constitute just cause for dismissal.

4.5 DISCIPLINE PROCEDURE

- 4.5.1 An accusation of misconduct against an employee shall be brought in writing before the CEO or authorised representative for investigation. If the CEO or representative is satisfied that there is prima facie cause to believe an act of misconduct has been committed they may institute disciplinary proceedings. The Agency shall proceed forthwith or as soon as reasonably possible with a disciplinary enquiry.
- 4.5.2 Depending on the seriousness of the misconduct, the CEO or representative may refer the matter before either a Departmental Enquiry or Disciplinary Tribunal. A Departmental Enquiry proceeding shall be reserved only for matters where the competent sanction is a verbal or final written warning. In proceedings before a Departmental Enquiry the employee shall enjoy the same rights as they would have had before a Disciplinary Tribunal.
- 4.5.3 If in the opinion of the CEO or representative the misconduct is serious and may result in a sanction of suspension, demotion or dismissal, a Disciplinary Tribunal shall be established to conduct the enquiry.
- 4.5.4 In which event:
- 4.5.4.1 The CEO or authorised representative shall constitute a Disciplinary Tribunal by appointing a suitably qualified person to serve as the Presiding Officer. In general, a person appointed to serve as the Presiding Officer should be a senior employee in the employ of the Agency. However, if this is not possible or desirable, any other suitably qualified person may be appointed
- 4.5.4.2 The CEO or authorised representative shall also appoint a person to be referred to as a Prosecutor to

represent the Agency and to serve the function of prosecution. In general, a person appointed to serve as Prosecutor should be a person in the employ of the Agency. However, if this is not possible or desirable, any suitably qualified person may be appointed.

- 4.5.5 The Prosecutor shall, within five (5) days of appointment, formulate and present the charges to be brought against the employee. The charge(s) is (are) to be set out in a Notice of Misconduct detailing:
- 4.5.5.1 The alleged misconduct
 - 4.5.5.2 The time, date and venue at which the enquiry will be conducted.
 - 4.5.5.3 The name of the Presiding Officer and the Prosecutor and the address at which notices and correspondence may be served on the Disciplinary Tribunal.
 - 4.5.5.4 The fact that the employee may appoint a representative of choice who may be a fellow employee, shop steward, union official and if this is not possible or desirable, any suitably qualified person.
 - 4.5.5.5 The fact that if the employee or representative fails to attend the inquiry, it may be conducted in absentia;
 - 4.5.5.6 The employee should, wherever possible, acknowledge receipt of the notice.
- 4.5.6 The disciplinary enquiry should commence on a date not less than five (5) days or more than fifteen (15) days calculated from the date of service of the Notice of Misconduct on the employee.
- 4.5.7 The period referred to above may be varied by agreement and failing agreement, either party may apply to the Disciplinary Tribunal for an extension of the period.
- 4.5.8 The Disciplinary Tribunal, on good cause shown, may extend any period of time fixed by or under t clause provided a return date is fixed and made certain.

4.6 CONDUCT OF THE ENQUIRY

- 4.6.1 The hearing shall be conducted by the Presiding Officer who may determine the procedure to be followed subject to the following:
- 4.6.2 The rules of natural justice must be observed in the conduct of the proceedings.
- 4.6.3 Unless otherwise agreed to by the parties, the hearing must be adversarial in nature and character.
- 4.6.4 The Presiding Officer in discharging this obligation is to exercise care, proceed diligently and act impartially.
- 4.6.5 The Prosecutor shall bear the duty to commence and burden to prove each and every allegation(s) on a balance of probability set out in the Notice of Misconduct.
- 4.6.6 In discharging these duties, the Prosecutor shall be entitled to call before the Disciplinary Tribunal any witnesses and produce any books, documents or things.
- 4.6.7 subject to legal objection cross examine any witness called to testify on behalf of the employee and inspect any books, documents or things produced.
- 4.6.8 Present argument based on the evidence in support of any submission.
- 4.6.9 The employee summoned before the Disciplinary Tribunal shall have the right to be heard in person or through a representative and to call before the Disciplinary Tribunal any witness and produce any books, documents or things.
- 4.6.10 cross-examine any witness subject to legal objection called to testify on behalf of the employer and to inspect any books, documents or things produced.
- 4.6.11 Present argument based on the evidence in support of any submission.
- 4.6.12 The Presiding Officer shall have the power to:
 - 4.6.12.1 Determine the procedure to be followed for the conduct of the enquiry that they deem appropriate with

the minimum of legal formalities provided that the rules of natural justice shall be observed.

- 4.6.12.2 Put questions without cross examining the parties or their witnesses on any matter relevant to the issues.
- 4.6.13 Proceed with the enquiry in the absence of a party who is in wilful default or fails to attend any meeting despite the expiry of a notice to attend
- 4.6.14 Make such interim determinations or rulings as he deems necessary.
- 4.6.15 Propose to the party's compromise settlements in disposal of the whole or portion of the issues.
- 4.6.16 Make a finding of fact after having considered the evidence.
- 4.6.17 Invite and hear any plea in mitigation, aggravation or extenuation prior to deciding on the sanction to impose.
- 4.6.18 Impose, inter alia, any of the following sanctions:
 - (a) Verbal warning
 - (b) Written warning
 - (c) Final written warning;
 - (d) transfer to another position either with or without financial loss;
 - (e) Suspension without pay for a maximum often (10) days spread over a period of three (3) month pay periods;
 - (f) The withholding of any salary increment for a period not exceeding twelve months;
 - (g) Demotion to another post with or without financial loss or
 - (h) Dismissal.
- 4.6.19 The Presiding Officer shall within ten (10) days of the last day of the hearing confirm in writing the findings of fact, sanction imposed and the reasons in support thereof and provide a copy of determination to the CEO or representative and to the employee or representative.

4.7 SUMMARY PROCEDURE

4.7.1 If the agency and the employee so agree in writing, the Summary Procedure as set out hereinafter may apply to the proceedings. The Presiding Officer shall, at such meeting(s) with the parties as they deem necessary:

- 4.7.1.1 Confirm that the matter is ready for adjudication.
- 4.7.1.2 ascertain and record in writing, signed by themselves and the parties, the fact on which the parties agree and those on which they disagree herein called the issues
- 4.7.1.3 Receive from the parties such documents or copies thereof as they consider relevant to the determination of the issues.
- 4.7.1.4 Receive evidence or submissions, orally or in writing, sworn or unsworn at joint meetings with the parties or, if the parties so agree, by interchange of written statements or submissions, between the parties with copies to the Presiding Officer provided that each party shall be given reasonable opportunities to those of the other.
- 4.7.1.5 Deliver a determination, in writing, within ten (10) days of the last day of hearing or submission of the last document to the Presiding, if there was no hearing.

4.8 RIGHT OF RESIGNATION

- 4.8.1 An employee who receives a Notice of Misconduct shall be entitled to resign from employment or to retire, if eligible, in terms of the retirement fund rules, provided that:
- 4.8.2 The employee does so prior to the handing down of a determination.
- 4.8.3 The employee consents in writing to the deductions of all and any amounts owing by them to the employer from monies payable to them by the agency (including but not limited to retirement fund monies) arising out of or in connection with his

resignation or retirement. In such an event the disciplinary enquiry shall not proceed.

4.9 DISCIPLINARY TRIBUNAL

- 4.9.1 In general, a person appointed to serve as the Presiding Officer should be a senior employee in the employ of the employer. However, if this is not possible or desirable, any other suitably qualified person may be appointed.
- 4.9.2 During the conduct of the enquiry the employee may make application on good cause shown for the recusal of the Presiding Officer.
- 4.9.3 The Presiding Officer shall not consult, confer or have casual contact with any of the parties or their representatives while handling a matter without the presence or consent of the other.
- 4.9.4 The determination of the Disciplinary Tribunal shall be final and binding on the agency save that the employee may lodge an appeal thereto.
- 4.9.5 In general, a person appointed to serve as Prosecutor should be a person in the employ of the employer. However, if this is not possible or desirable, any suitably qualified person may be appointed.

4.10 RECORDING

- 4.10.1 The proceedings of the Disciplinary Tribunal shall be recorded by means of a mechanical device.
- 4.10.2 The record of the proceedings shall be kept in safe custody by the employer and upon request a copy thereof provided to the employee or his representative.

4.11 NON-ATTENDANCE

In the event of the failure by the employee, or a duly appointed representative, to attend an enquiry or appeal without good cause and

after proper service of the Notice of Misconduct was affected, the enquiry may be conducted in absentia and discipline affected.

4.12 RIGHT OF REPRESENTATION

An employee shall be entitled to representation at any enquiry by an employee, a shop steward or union official who is willing and able to represent the employee and, if this is not possible or desirable, any suitably qualified person.

4.13 SUSPENSION

4.13.1 The agency may at any time before or after an employee has been charged with misconduct, suspend the employee or utilise them temporarily in another capacity should the CEO be of the opinion that it would be detrimental to the interests of the agency if the employee remains in active service.

4.13.2 If the CEO intends to suspend an employee, he shall give notice of such intention and afford the employee with an opportunity to make representation as to why he should not be suspended. The inquiry shall be done by means of the Summary Procedure as provided for herein.

4.13.3 The suspension or utilization in another capacity shall be for a fixed and predetermined period and at any rate shall not exceed a period of three (3) months. Any suspension affected shall be on full remuneration.

4.14 APPEAL

4.14.1 The employee has the right to appeal against any disciplinary sanction, which has been given at a Disciplinary Enquiry.

4.14.2 An appeal must be lodged on the prescribed form within five (5) days of written notification of the disciplinary decision and the grounds of appeal must be clearly set out provided that the failure by the party to raise a ground of appeal shall not

preclude that party from subsequently raising it before the Disciplinary Appeal Tribunal.

- 4.14.3 Appeals will be heard by a management level above that of the Presiding Officer of the enquiry in the case of Final Written Warnings and by a higher level of management who does not exercise direct management control over the affected employee in the case of dismissals and suspensions without pay.
- 4.14.4 By agreement, an appeal may be heard by an impartial arbitrator appointed by the parties to the appeal from a panel or list.
- 4.14.5 The appeal will only be heard on the grounds of an appeal submitted by the employee and any amendment thereto and by having regard to the record of the proceeding and submissions and arguments based thereon. The appeal should not entail the rehearing of the matter de novo.
- 4.14.6 The Presiding Officer of the Disciplinary Appeal Tribunal shall have the power to confirm or set aside any decision, determination or finding and to confirm, set aside or reduce any sanction imposed.
- 4.14.7 The Presiding Officer of the Disciplinary Appeal Tribunal shall fix the time and date of the hearing which will take place within ten (10) days of the date of appointment. In consultation with the parties, the Presiding Officer may vary the time and date and order a mutually convenient time, date and place.
- 4.14.8 The parties shall deliver to the other and to the Presiding Officer a brief statement of case at least two (2) days prior to the hearing and no further pleadings shall be exchanged unless otherwise agreed.
- 4.14.9 The statement of case shall concisely set out the facts upon which the party relies, the conclusions of law upon which the party relies and the relief which the party seeks.
- 4.14.10 The hearing will be conducted by the Presiding Officer in whatever manner and procedure, including the Summary

Procedure as set out in clause 7.9. Above that will produce the most expeditious hearing of the matter.

4.14.11 The Disciplinary Appeal Tribunal is to consider whether the disciplinary enquiry and sanction was fair. The Presiding Officer in their sole discretion shall be entitled to make whatever order they deems reasonable in the circumstances.

4.14.12 The Disciplinary Appeal Tribunal shall make its determination, in writing, within ten (10) days from the last day of the hearing

4.15 PRE-DISMISSAL ARBITRATION

4.15.1 The Agency may, with the consent of the employee, request the Bargaining Council, an accredited agency or the Commission for Conciliation, Mediation and Arbitration to conduct an arbitration into allegations about the conduct or capacity of an employee as provided for under section 188 A of the Labour Relations Act 66 of 1995.

4.15.2 The provisions of section 138 of the Labour Relations Act, read with the changes required by the context, apply to any pre-dismissal arbitration.

4.16 INTERPRETATION AND APPLICATION

4.16.1 In the event that there is a dispute as to the application and interpretation of this code, such dispute shall be dealt with in terms of the dispute provisions of the Constitution of the South African Local Government Bargaining Council.

4.17 GENERAL

4.17.1 It is the CEO prerogative to ensure corrective procedures are followed within the agency.

4.17.2 Corrective actions will be exercised where work performance or behaviour is unacceptable or unsatisfactory, or where terms and conditions of employment are not met.

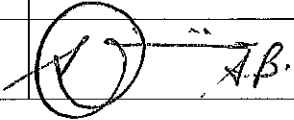
- 4.17.3 Human Resources shall keep corrective action records in the employee files specifying the nature of the corrective action taken and the reasons for taking such actions.
- 4.17.4 The Disciplinary Code needs to ensure fair and acceptable corrective action where an employee's work performance is unsatisfactory and/or where an employee's behaviour is unacceptable.
- 4.17.5 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.
- 4.17.6 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.
- 4.17.7 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. The various disciplinary actions detailed in the Disciplinary Code are intended to serve as guidelines to management.
- 4.17.8 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.
- 4.17.9 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.
- 4.17.10 Disciplinary warnings issued shall be kept in the personal file of the employee for the duration of that warning.

4.17.11 Expired warnings will not be taken into account in any subsequent disciplinary action. 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 them and where the employee has two or more warnings running concurrently against them and where the employer clearly informs the employee thereof in order to enable the employee to properly prepare themselves for the inquiry. The employer will be entitled to dismiss an employee for the cumulative effect of the concurrent warnings.

4.17.12 The following factors shall be taken into account when determining whether dismissal is the appropriate penalty:

- (a) The gravity of the misconduct
- (b) The circumstances of the infringement
- (c) The circumstance of the employee which shall include the following:
 - (d) Service period
 - (e) Record
 - (f) Personal circumstances

5 APPROVED BY

NAME	SIGNATURE	DESIGNATION	DATE
MR SB SIBISI		ACTING CHIEF EXECUTIVE OFFICER	29/05/2026