



EMPLOYMENT RELATIONS

1. PREAMBLE

In order to promote stable and harmonious working environment, the municipality shall promote a fair, just, transparent and progressive industrial relations policy in dealing with issues and matters of employee discipline, grievances and misconduct.

2. OBJECTIVES

- 2.1 To ensure that the managers and employees share a common understanding of misconduct.
- 2.2 To provide employees and the employer with quick and easy guide for the application of Grievance and Disciplinary procedures.
- 2.3 To ensure that constructive and sound labour relations are maintained in the municipality.
- 2.4 To promote acceptable conduct and prevent undesirable one.
- 2.5 To prevent arbitrary or discriminatory actions by managers towards employees.

3. SCOPE OF APPLICATION

This policy applies to all stakeholders (management, employees & unions). This policy is applicable to designated and non-designated groups includes Blacks (Africans, Coloureds and Indians)

4. DEFINITIONS

- 4.1 All expressions used in this policy which are defined in the LRA, 1995, shall bear the same meaning as in that Act unless the contrary intention appears, words importing the masculine gender shall include the feminine.

5. PRINCIPLES

- 5.1 It remains the responsibility of management including supervisors to maintain discipline at all times.
- 5.2 Discipline must be applied in a prompt, fair, consistent and progressive manner.
- 5.3 The principles of natural justice and fair procedure must be adhered to.
- 5.4 The rights and obligations of management and employees will be respected.

6. LEGISLATIVE FRAMEWORK

The following documents provide a legislative framework and guidelines for the implementation of the disciplinary and grievances.

- RSA Constitution, Act No of 1996
- LRA, No 66 of 1995
- Collective Agreement on Grievance and Disciplinary Procedures.
- MFMA, No 56 of 2003.
- BCEA, No 75 of 1997
- Code of Good Practice

7. CLASSIFICATION OF ACTS OF MISCONDUCT AND ACTIONS TAKEN

To make it easier for the employees to understand the seriousness of the acts of misconduct and the concomitant sanction, a classification system shall be used.

(see annexure on classification of acts of misconduct)

8. DISCIPLINARY PROCEDURE

- 8.1 An accusation of misconduct against an employee shall be brought in writing before the Municipal Manager or his authorized representative.
- 8.2 The Municipal Manager or his authorized representative may refer the matter to a Departmental Enquiry of Disciplinary Tribunal.
- 8.3 An allegation shall be brought before the Manager of Directorate or his/her authorized representative in writing.
- 8.4 A Disciplinary Tribunal is instituted if the misconduct is serious and may lead to suspension, demotion or dismissal.
- 8.5 The Municipal Manager or his authorized representative will appoint both the Presiding Officer and the Prosecutor.
- 8.6 The Prosecutor shall within 5 days of his/her appointment formulate and present charges against the employee.

- 8.7 The charge(s) is(are) as set out in the Notice of Misconduct, will contain the alleged misconduct, the time, the date, venue at which the enquiry will be conducted and the names and addresses of the presiding officer and the persecutor at which notices and correspondence may be served on the Disciplinary Tribunal.
- 8.8 The employee may be represented by a fellow employee, shop steward or union official.
- 8.9 The employee should acknowledge receipt of notice of misconduct.
- 8.10 The disciplinary enquiry shall commence on a date not less than 5 days or more than 15 days calculated from the date of service of the Notice of Misconduct on the employee or may be varied by agreement or application.

9 CONDUCT OF THE ENQUIRY

- 9.1 The Presiding Officer will ensure that the rules of natural justice are observed.
- 9.2 The Presiding Officer shall act diligently and impartially with the proceedings.
- 9.3 The Prosecutor shall bear the duty to commence and the burden to prove each and every allegation on a balance of probabilities as set out in the Notice of Misconduct.
- 9.4 The Presiding Officer shall call witnesses and produce any books, documents or any piece of evidence as he argues his case.
- 9.5 The employee or his representative shall cross examine any witness and inspect any books, documents or any piece of evidence in counter argument.
- 9.6 The Presiding Officer shall run the proceedings of the enquiry.
- 9.7 After listening to both sides, the Presiding Officer may impose a sanction.
- 9.8 The Presiding officer shall after 10 days of the last of the last day of the hearing, confirm in writing the finding of the fact, sanction imposed and the reasons in support of his verdict.

10 APPEAL

- 10.1 Appeal shall be lodged by the employee or his representative on the prescribed form within 5 days of receipt of written notification of the disciplinary decision.
- 10.2 An appeal may be heard by an impartial arbitrator or a higher level of management.

- 10.3 The appeal is not rehearing of the matter all over again.
- 10.4 The Presiding Officer of the Disciplinary Appeal Tribunal shall fix the time and date of the hearing within 10 days of appointment.
- 10.5 The parties shall deliver the statements of the case to the Presiding Officer 2 days prior to the appeal hearing.
- 10.6 The Presiding officer will determine the fairness or otherwise of the disciplinary enquiry and the sanction.
- 10.7 The Presiding Officer will, within 10 days from the last day of the hearing, make his findings and rule a verdict.

11. SUSPENSION

11.1 The Municipality may suspend an employee on full pay or transfer the employee if:

11.1.1 The employee is alleged to have committed a serious offence and the employer believes that the presence of the employee at the workplace might jeopardize any investigations into the alleged misconduct or endanger the wellbeing or safety of any person or municipal property.

11.1.2 A suspension of this kind is a precautionary measure that does not constitute a judgement and must be on full pay.

11.1.3 If an employee is suspended or transferred as a precautionary measure, the employer must hold disciplinary hearings within a period of three months.

11.1.4 The chairperson of the hearing shall decide on any further postponements.

12 TERMINATION OF CONTRACT

12.1 When deciding whether to terminate an employee's contract, the Municipality shall consider other mitigating circumstances such as length of service, previous disciplinary record and personal circumstances.

12.2 Termination may occur if:

12.1.1 The employee is unable to continue doing his or her work.

12.1.2 The employee's work circumstances are not adaptable.

12.1.3 There is no alternative work available which would be more suitable to the employee.

12.1.4 If an employee participates in an unprotected strike it may constitute a fair reason for Termination of Contract. In determining whether or not the termination is fair, the code of good practice shall be taken into account.

11 GRIEVANCE PROCEDURE

11.1.1 It creates the opportunity for upward communication from employees.

11.1.2 It ensures that complaints are effectively dealt with by management.

11.1.3 It creates awareness of employee problems or of problem areas that need further investigation.

11.1.4 It prevents disputes from arising.

11.1.5 It raises management's concern for the well-being of employees.

11.2 STAGES OF PROCEDURE

STEP ONE : IMMEDIATE SUPERVISOR

11.2.1 An aggrieved employee or a group of employees must lodge in writing with his immediate superior a grievance on the prescribed form setting out the complaint and the desired result. Such an employee or group of employees may be assisted by a shop steward, fellow employee or union official. A copy of the grievance should be send to Labour/legal for recording and follow up purposes.

11.2.2 The immediate superior shall endeavour, in consultation with the affected employee(s), to resolve the grievance within 5 days of the grievance having been referred to him and shall inform the employee of the outcome in writing.

11.2.3 Should the grievance concern the conduct of the employee's immediate supervisor, the employee or group of employees may proceed directly to step two provided that he submits the grievance on the prescribed form.

STEP TWO : MANGER OF DIRECTORATE

11.2.4 If a grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees, the immediate superior shall refer the matter in writing within 5 days to the Manager of the Directorate.

11.2.5 The Manager of the Directorate shall arrange a meeting to consult and hold discussions with the affected parties in an attempt to achieve a resolution.
The aggrieved employee or group of employees may be assisted by a fellow employee, shop steward or union official.

11.2.6 The Manager of Directorate or his nominee shall endeavour to resolve the grievance within 5 days of the grievance being referred and shall inform the employee of the outcome in writing.

STEP THREE : MUNICIPAL MANAGER

11.2.7 If the grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees, the Manager or his nominee within 5 days in writing, who shall hold an enquiry into the grievance, attended by the employee, his representative, if required and any other persons who, in the opinion of the Municipal Manager or his nominee should attend.

11.2.8 The Municipal Manager or his nominee shall hear the details of the grievance including proposals to resolve the issue and shall endeavour to reach a decision within 5 days.

11.2.9 The Municipal Manager shall inform the employee in writing of the outcome of the hearing as envisaged in above, and such decision shall be final in terms of this procedure.

11.2.10 If the grievance has not been resolved to the satisfaction of the aggrieved party, that party may refer to the South African Local Government Bargaining Council for adjunction.

12 IMPLEMENTATION

12.1 The Supervisors, Management and Council will take responsibility in monitoring and evaluating this policy.

12.2 Contravention and non-compliances may result in Category C acts of misconduct and disciplinary tribunal.

Category of Misconduct	Misconduct	Action 1 st	Action 2 nd	Action 3 rd	Action 4 th
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		Offence			
Category A Very serious misconduct	Intimidation	Dismissal			
	Fighting	Dismissal			
	Assault	Dismissal			
	Theft	Dismissal			
	Unauthorised Possession Of municipal Property	Dismissal			
	Malicious Damage to Municipal	Dismissal			
	Being under The influence Of alcohol	Dismissal			
	Whilst on duty being under the influence of drugs whilst on duty.	Dismissal			
	Consumption of alcohol whilst on duty	Dismissal			
	Misrepresentation of information on cv	Dismissal Dismissal			
	Consumption of intoxicating drugs	Dismissal Dismissal			
	Gross dishonesty	Dismissal			
	Gross negligence	Dismissal			
	Gross insubordination	Dismissal			
	Wrong disclosure of privileged information	Dismissal Dismissal Dismissal			
	Insider				

	Trading	Dismissal			
	Bribery corruption	Dismissal			
	Gross violation of safety rules	Dismissal			
	Sexual harassment				
	Racism				
	Behaviour on or off the municipal premises that results in a major breach of trust or conflict of interest	Dismissal			
	Financial misconduct				
	Dereliction of duty	Dismissal			
Category B					
Serious Misconduct	Failure to declare interest	Final written warning	Dismissal		
			Dismissal		
	Failure to perform during probation	Final written warning	Dismissal		

Category of Misconduct	Misconduct	Action 1 st Offence	Action 2 st Offence	Action 3 st Offence	Action 4 st Offence
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Category very serious misconduct	Intimidation	Dismissal			
	fighting Assault	Dismissal			
	Theft Unauthorised	Dismissal			
	possession of	Dismissal			
	municipal property	Dismissal			
	Malicious damage				
	to municipal				
	Being under the	Dismissal			
	influence of alcohol				
	whilst on duty.				
	Being under the				
	influence of drugs	Dismissal			
	whilst on duty				
	Consumption of				
	alcohol whilst on	Dismissal			
	duty				
	Misrepresentation				
	of information on				
	CV				
		Dismissal			
	Consumption of	Dismissal			
	intoxicating drugs				
	Gross dishonesty	Dismissal			
		Dismissal			
	Gross negligence				
		Dismissal			
	Gross				
	insubordination	Dismissal			
		Dismissal			
	Wrongful				
	disclosure of				
	privileged				
	information				
		Dismissal			
		Dismissal			

	Insider Trading				
	Bribery corruption	Dismissal			
	Gross violation of safety rules	Dismissal			
	Sexual harassment	Dismissal			
	Racism				
	Behaviour on or off the municipal premises that results in a major breach of trust or conflict of interest	Dismissal			
	Financial misconduct				
	Dereliction of duty				
	Failure to declare interest	Dismissal			
Category B Serious Misconduct	Failure to perform during probation	Final written warning	Dismissal		
			Dismissal		
	Failure to operate equipment according to standard procedure	Final written warning	Dismissal		
	Absconding				
	Occupational detriment	Final			

	Refusal to execute a lawful instruction	written warning	Dismissal		
		Final written	Dismissal		
Category C Less serious misconduct	Late coming	Final written	Dismissal		
	Poor time keeping at work station				
	Abuse of sick leave	Counselling /warning	1 st written Warning	2nd Written warning	Final written warning
		1 st written warning	2 st written Warning	3rd written Warning	Dismissal
	Sleeping on duty	Counselling 1 st written Warning	2 st written Warning	3rd written Warning	
	Insubordination	Counselling 1 st written Warning	2 st written Warning	3rd written Warning	Dismissal
		Counselling 1 st written Warning	2 st written Warning	Dismissal	Dismissal
			Final written		

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Approved and adopted by the Municipal Council of the Waterberg District Municipality on
this17..... day ofJune..... 2015.



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S M MABOTJA
MUNICIPAL MANAGER