Extract from Staff Disciplinary Code (updated September 2011)

# 5.2 PROCEDURE FOR MISCONDUCT OTHER THAN THOSE CATEGORISED AS UNFAIR DISCRIMINATION AND/OR HARASSMENT

5.2.1 LEVEL ONE (1) - Action by Supervisor…

Should more severe action be warranted the following procedure will apply

5.2.2 LEVEL TWO (2) – action by Head of Section / Head of Department

5.2.2.1 In the case of more serious misconduct, or, where previous verbal ***warning***s and ***corrective counselling*** have failed, the ***Head of Section*** (or, if no ***Head of Section*** or where the ***Head of Section*** is personally involved and wishes to refer the matter to higher authority, the ***Head of Department***), on receipt of a recommendation from the ***supervisor***, shall interview the ***employee*** alleged to have offended and any witnesses or persons having knowledge or information which may assist in establishing the facts of the matter and record such ***evidence*** in writing.

5.2.2.2 Either party shall be entitled to representation (ref 5.2.3 below), to call and question any witnesses, and, to present argument in their favour.

5.2.2.3 After all the ***evidence*** has been heard, the ***Head of Section/Department*** will consider it and decide whether any ***disciplinary action*** is required. Where such action is necessary, and according to the gravity of the offence, they will take one of the following two courses:

OPTION 1

5.2.2.3.1 Taking into account the guiding principles in Section 4, issue the offending person with a ***warning / final warning letter*** on the prescribed form.

If a letter is issued, the nature of the ***employee***’s misconduct must be clearly recorded and the letter signed by the ***Head of Section*** / **Department** concerned.

Unless good cause is shown, the letter must be issued to the ***employee*** within five (5) ***days*** of the completion of the disciplinary inquiry, and, shall also indicate what action must be taken by the ***employee*** to avoid further ***disciplinary action***.

The ***Head of Section*** / Department shall further counsel (see 5.2.3 above) the ***employee*** in order to induce behaviour or work performance that would avoid any further ***disciplinary action***.

The ***employee*** will be expected to sign the ***warning / final written warning*** and be given a copy. The original of the ***warning*** letter must be sent to the HR Division. Should the ***employee*** refuse to sign the ***warning / final warning letter***, two witnesses should verify that the ***warning*** was issued by signing the form.

OPTION 2

5.2.2.3.2 If the ***Head of Section*** is of the opinion that action other than issuing of a ***warning / final warning letter*** is warranted, they shall forward the ***evidence*** to the ***Head of Department*** together with their recommendation that one of the following penalties be considered:

* Suspension
* Dismissal
* Summary dismissal.

At the same time the ***Head of Section*** shall inform the ***employee*** concerned, in writing, that their case has been referred to a higher authority.

Action by Head of Department

5.2.2.4 The ***Head of Department***, on receipt of the recommendation from the ***Head of Section***, shall consider the ***evidence***. If deemed necessary, they may interview the ***employee*** alleged to have offended, re-interview any person who has given ***evidence*** in the matter or interview any other person who may be able to shed further light on the matter, recording such ***evidence*** in writing.

In the light of the ***evidence***, the ***Head of Department*** shall either:

* Dismiss the case
* Concur with the recommendation, or
* Recommend a lesser penalty

5.2.2.5 Where the ***Head of Department*** decides that the case should be dismissed, or, recommends a lesser penalty, they shall inform the ***Head of Section*** and the ***employee*** accordingly.

5.2.2.6 Where the ***Head of Department*** decides that the case should be referred to higher authority, they shall:

* inform the ***employee*** accordingly, in writing; and,
* forward the documentation to the HR Division.

5.2.2.7 Where the ***Head of Department*** decides to issue a ***warning / final warning letter***, they shall sign the letter/ form which shall clearly state the nature of the ***employee***’s misconduct.

Unless good cause is shown, the ***warning / final warning letter*** must be issued within five (5) ***days*** of the ***Head of Department*** considering the matter, and, shall also indicate what actions must be taken by the ***employee*** to avoid further ***disciplinary action***.

The ***Head of Department*** shall further counsel (see 5.2.3 above) the ***employee*** in order to induce behaviour or work performance that would avoid any further ***disciplinary action***.

The ***employee*** will be expected to sign the ***warning / final warning letter*** and be given a copy. The original of the ***warning / final warning letter*** must be sent to the Employee Relations Manager. Should the ***employee*** refuse to sign the ***warning / final warning letter***, two witnesses shall verify that the warning was issued by signing the form.

5.2.3 **Representation at proceedings in terms of 5.2.1 and 5.2.2 above**

An ***employee*** may, should they so wish, be accompanied by the full-time shop steward, or, a union ***representative***, of the constituency concerned, or, any other ***staff*** member at proceedings instituted in terms of 5.2.1 and 5.2.2 (Levels 1 and 2).

At the request of either party, a member of Human Resources Division shall attend these proceedings in an advisory capacity and to monitor proceedings.