# Disciplinary Procedure

### Overview

An employee shall conduct him/herself in accordance with their obligations and duties, whether expressed or implied, arising from their employment, whether during or out of working hours, at their workplace or elsewhere. Any conduct which is incompatible with such obligations and duties would constitute misconduct comprising of either minor or major offences which by implication are not tenable with their position as employees.

### Disciplinary Procedure

The disciplinary procedure below sets out the formal internal processes to uphold a just and fair procedure pertaining to disciplinary action.

* All acts of misconduct shall be reported to the HR division.
* The HR division shall hold a preliminary investigation to ascertain whether there is a prima facie case for the issue of a show cause notice. Accordingly, a preliminary statement shall be taken from the employee involved and thereafter written statements shall be taken from the witnesses. However, if the accused employee refuses to make such statement, he shall not be compelled to do so. Nevertheless, such fact should be recorded and endorsed by the officer conducting the preliminary investigations with two other officers as witnesses.
* If the charges relate to goods and documents, such items shall be preserved, marked, signed on a masking tape and sealed. This procedure should, as far as possible, be done in the presence of the accused employee. If they are perishable, necessary documentation should be made before the goods are destroyed.
* In the event it is observed that there is a prima facie case for further inquiry, it shall be ensured that principles of natural justice towards accused are observed through providing;
  + information of charges and reasonable notice of the case he has to meet,
  + reasonable opportunity of being heard in his/her defense
  + an independent and impartial person or body not directly a party to any of the matters in issue to hold the inquiry
  + a person who shall act in good faith, reasonably and not arbitrarily
* Accordingly the HR division shall issue a ‘show cause notice’ outlining the charges and requesting explanation from the accused, whilst requesting response within 14 days. Failure to submit an answer shall amount to acceptance of the charges specified in the letter. The ‘show cause letter’ may specify, as the case may be, that the accused is suspended without pay until further notice, pending an inquiry to be held by the management on a charge or charges of misconduct, where such charge/s relate/s to:
  + Fraud, theft, misappropriation or a like offence by the employee in the course of employment.
  + Abuse, threat or gross insubordination by the employee of or to a member of the executive or management staff of the CSO.
  + Breach of peace of damage to property, or disturbance of the business of CSO.
  + Charges which, in the opinion of CSO shall warrant dismissal.
* In the event, the accused admits to the charges, appropriate disciplinary action shall be taken against him and shall not necessitate holding of inquiry, unless migratory circumstances are pleaded. However, it may be prudent to hold a summarily inquiry.
* In the event, the accused fails to submit a reply within the period specified, it shall imply that the accused has no explanation in defense of the charges made against him and appropriate disciplinary action shall be taken against him and shall not necessitate holding an inquiry. However, it may be prudent to hold an inquiry.
* In the event the accused provides a satisfactory answer to the charges, if he is under suspension, he shall be recalled to work and shall be paid all emoluments and entitlements due to him during the period of such suspension.
* In the event the answer provided by the accused is unsatisfactory, such answer or explanation is rejected by the management, the management shall commence an inquiry within fourteen (14) working days from the date of receipt of the written answer or explanation to the show-cause notice.
* To commence a domestic inquiry procedure, the HR division in consultation with the CEO/ED shall appoint an independent Inquiring Officer. If the Inquiring Officer is an employee, he/she should be of a superior rank than the accused employee unconnected to the issue of the charge. In a case where the virtual complainant is from senior management it should be prudent to obtain the services of an outsider to hold the inquiry.
* The inquiry officer will record all evidence (with their signatures), any objection and his rulings with reasons etc., during the inquiry and may question any witness or recall any witness he considers as useful and vital to ascertain facts. The accused shall present his /her case to the Inquiring Officer and shall be allowed to submit witnesses in his favor.
* Upon completion of the Inquiry, the parties to the inquiry shall authenticate that the inquiry was held in a fair manner and place their respective signature. If there is any dispute in this regard, reasons for such objections shall be recorded.
* The Inquiring Officer shall analyze the evidence recorded at the inquiry and based on that evidence give his verdict within14 working days of closing of the inquiry to the head of HR division indicating whether the accused is guilty (or not) with reasons on each charge.
* If as a result the accused is found not guilty, he will be allowed to resume work with full wages/benefits for the period of suspension.
* In the event the accused is found guilty, the accused employee’s previous record, length of service, position and other extenuating or aggravating circumstances that may exist shall be taken into account in determining the gravity of the misconduct and in arising at the penalty to be imposed. Accordingly, An employee found guilty of misconduct may be:
  + Cautioned (If the misconduct is minor and a lesser bearing)
  + Warned or reprimanded
  + Annual increment may be suspended stopped or deferred
  + Suspended without pay
  + Dismissed without notice (effective from the date of suspension)
  + Given any other appropriate punishment.
* The result of the inquiry shall be conveyed to the party concerned by letter, a duplicate of which shall be signed by the employee or on his refusal to sign such duplicate copy, the punishment will be conveyed in the presence of two witnesses, or the letter sent by registered post to his address as appearing in the company records.
* The management may accept the resignation of an accused employee during / pending domestic inquiry proceedings in respect of the employee’s concerned.
* Any employee charged / indicted by a Criminal Court shall forthwith inform the HR division of this fact through his /her divisional head. On receipt of this information, the HR division shall call for a certified copy of the court order /findings and on receipt of such order shall decide what disciplinary action should be taken against the employee.
* In the case of certain minor offences committed for the first time and if the misconduct reported is not of a serious nature, the divisional head should summarily deal with the incident by warning the employee verbally and thereafter the HR division shall have this recorded in writing obtaining the signature of the employee.

**Forms of Disciplinary Actions**

The form of disciplinary action will vary with the nature of the lapse or misconduct in question.

* Where there has been a grave act of misconduct the disciplinary action consists of five steps;

1. Preliminary investigation
2. Charge Sheet
3. Explanation letter
4. Formal inquiry
5. Disciplinary order

* Where necessary an order of interdiction would also be made. This procedure is in respect of charge under Schedule ‘A’
* In respect of minor misconduct the procedure consists of only four steps,

1. Preliminary investigation
2. Charge Sheet
3. Explanation letter
4. Disciplinary order

* This procedure is in respect of charges under Schedule ‘B’ though no formal inquiry would be held here, such an inquiry may be held on an application by the accused employee and decided at the discretion of the Disciplinary Authority.
* Where there has been only a very minor lapse the action taken against the employee is summary in procedure and takes only two steps;

1. Calling for explanation in writing
2. Disciplinary order

**Disciplinary Flowchart**

**Are there grounds for disciplinary action?**

**No**

**Yes**

**Take no further action**

**Is this a case of serious misconduct?**

**No**

**Is it misconduct?**

**No**

**Yes**

**Yes**

**Is it a case of poor performance in the** job?

**Suspend employee prior to final hearing**

**No**

**Issue written warning and follow up in due course**

**Agree performance improvement to be achieved and set date; notify in writing**

**Yes**

**Counsel employee appropriately**

**Take appropriate action in light of hearing**

**No**

**Dismiss employee and notify of right to appeal**

**Yes**

**Does the final hearing confirm the misconduct?**

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