



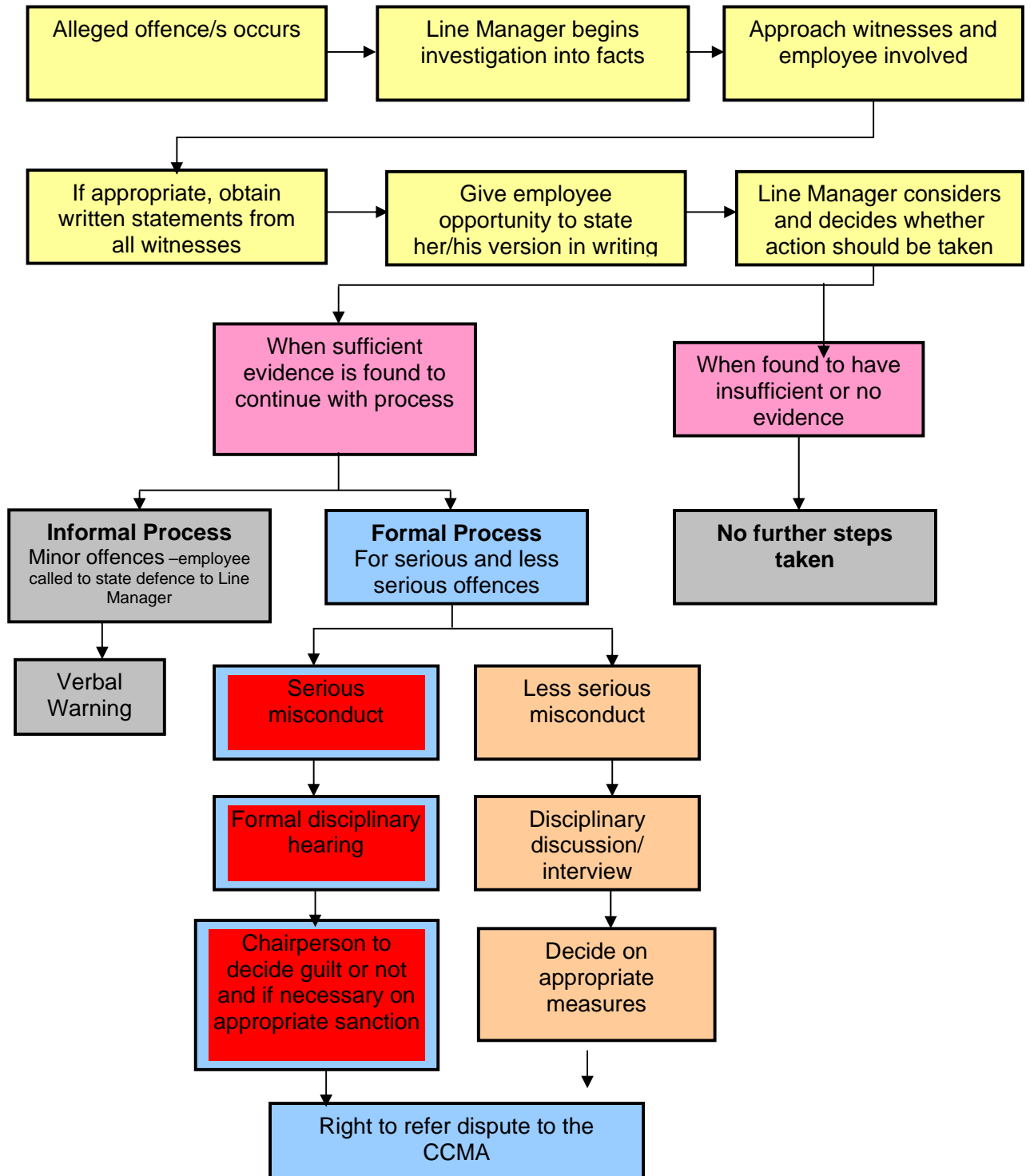
DISCIPLINARY CODE & PROCEDURE

Updated: August 2013

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FLOW DIAGRAM: BEREANURSES INSTITUTE DISCIPLINARY PROCESS



DISCIPLINARY CODE AND PROCEDURE OF BEREA NURSES INSTITUTE ("the Company")

(A) Introduction

- i. The implementation of a disciplinary code by the company is essential for the efficient running of the company's business, the confidence of patients and staff and the fair treatment of employees.
- ii. The disciplinary code and procedure applies equally to all employees of the company, including all assignees and regardless of their position in the company.
- iii. The disciplinary code is intended to ensure that employees have knowledge of the disciplinary rules governing their employment and it describes the action which may be taken by the company should an employee breach any rule or deviate from appropriate behaviour.
- iv. In general, the company regards misconduct as the failure of an employee to act in line with how the company could reasonably expect employees to act in terms of their contract of employment and in terms of their job descriptions. In this regard, each employee has the following five basic contractual duties towards the company:
 - a. The duty to enter and remain in service
 - b. The duty to perform diligently and competently
 - c. The duty of subservience
 - d. The duty to act in good faith and promote the interests of the employer.
 - e. In general, the duty not to commit misconduct.

(B) Definitions

- i. "**Act**" means the Labour Relations Act 66 of 1995 as amended.
- ii. "**day**" means any day including Saturdays, Sundays and public holidays;
- iii. "**Fellow employee representative**" means an employee who works at the same company or branch as the employee being disciplined, and who has been chosen by the employee as a representative for purposes of the disciplinary procedure. This could also be a shop steward (**not union official**) or other union member who works in the same company/branch.

(C) Guideline

- i. The disciplinary code and procedure is not intended to, nor does it set out all the grounds on which disciplinary steps may be taken. The common-law grounds for discipline and termination of employment exists hand-in-hand with this disciplinary code and procedure. Where there are no specific regulations set out, integrity, ethical behaviour and responsibility, seen against the background of the basic contractual duties of every employee, should be a guide.
- ii. Contravention of the code may also constitute a criminal act. The company shall not be precluded from acting in terms of this procedure, where criminal steps against the employee have been taken, or from initiating criminal steps against the employee at any time.

- iii. **This code is merely a guideline.** With good cause, deviations from the procedure and sanctions outlined in this Code may occur provided that such deviation is fair in the circumstances and that each case will be handled according to the circumstances and merits.
- iv. Furthermore, the list of disciplinary offences stated in the code is not intended to be exhaustive. This means the company may exercise disciplinary action against an employee who has committed an offence, which has not been stated in the disciplinary code, but which constitutes a breach of one of the basic duties mentioned in point A (iv) above.
- v. The severity of disciplinary action will depend upon the circumstances of each case and mitigating factors will be given proper attention. Importantly, **the penalties provided for in this code should be seen as guidelines and may be deviated from depending on the merits/circumstances of any particular case.**
- vi. The employer must have a fair reason for discipline (this is the requirement of 'substantive fairness') and follow a fair procedure (this is called 'procedural fairness') when taking disciplinary steps against an employee who transgressed these basic norms.

(D) Substantive Fairness

Substantive fairness is further subdivided into six requirements:

- a. A rule must exist, regulating conduct in or of relevance to, the workplace. The main purpose of this code is to lay down such rules;
- b. The employer must be able to prove transgression of the rule (on a balance of probabilities);
- c. The rule must be reasonable/ legitimate;
- d. The employee must know, or may reasonably be expected to know of, the rule. The purpose of this code is also to communicate these rules to employees.
- e. Rules should be applied consistently; and
- f. Should the employee be guilty of misconduct, the sanction imposed must be appropriate. The purpose of this code is also to provide guidelines as to the appropriate sanction for the different types of transgressions.

(E) Procedural Fairness

- a. Unless otherwise agreed with the affected employee and such agreement confirmed in writing, the company will conduct a formal disciplinary enquiry should a final written warning appear to be the most likely disciplinary action according to the guidelines provided for in this code, if the employee is found guilty of the alleged misconduct.
- b. Similarly the company will conduct a formal disciplinary enquiry should dismissal appear to be the most appropriate disciplinary action according to the guidelines provided for in this code.
- c. An informal process would be followed when a verbal or written warning appears to be the most appropriate disciplinary action according to the guidelines provided for in this code.

(F) Sanctions

i. Verbal Warning

- a. In cases of minor breaches of discipline the employee's line manager may, if necessary, issue a formal verbal warning to an employee with a view to correcting the conduct.
- b. It shall not be necessary to give written notice of the allegations against an employee, or to provide advance notice of the allegations when it is anticipated that only a verbal warning could result.
- c. This warning will be documented and filed in the employee's personal file for reference purposes.

ii. Written Warning

- a. It shall not be necessary to give written notice of the allegations against an employee, or to provide advance notice of the allegations when it is anticipated that a written warning could result.
- b. If it is believed that an employee has committed an offence and a verbal warning is inappropriate, the line manager shall make it clear to the employee that the first formal step in the disciplinary procedure is being taken.
- c. At a meeting / interview between the parties, the complainant and/or line manager of the employee shall advise the employee of the charges and allow the employee a fair and reasonable opportunity to state her /his case.
- d. If the line manager is satisfied that a written warning is the appropriate disciplinary action, the line manager shall record an account of the offence on a warning form, indicate that the warning is a written warning, and state the date the warning was issued.
- e. The line manager shall request the employee to sign the written warning after its contents have been explained to the employee.
- f. If the employee refuses to sign the written warning, the written warning shall nonetheless be valid and operative. The line manager shall indicate on the written warning that the employee refused to sign.
- g. The employee shall be given a copy of the written warning by the line manager.
- h. The written warning form shall be submitted by the line manager for filing to the Human Resources Manager..

iii. Final Written Warning

- a. Before any employee is given a final written warning for a breach of company rules or ethics, a disciplinary enquiry shall be convened, **unless otherwise agreed with the effected employee.**
- b. After an investigation of the incident, the complainant shall furnish the details of the incident complained of to the HR/ IR Manager, for the purpose of drafting a notification to attend a disciplinary enquiry.
- c. The employee shall be given written notification to attend a disciplinary enquiry as well as the allegations he /she have to answer to during the enquiry.

iv. **Dismissal**

- a. Before any employee is dismissed for a breach of company rules or ethics, a disciplinary enquiry shall be convened.
- b. The employee shall be given written notification to attend a disciplinary enquiry as well as the allegations he /she have to answer to during the enquiry.

v. As a general rule, warnings will lapse as follows:

- a. A **verbal warning** shall lapse after **3 months** have passed subsequent to the issuing of the verbal warning.
- b. A **written warning** shall lapse after **6 months** have passed subsequent to the issuing of the warning.
- c. A **final written warning** shall lapse after **12 months** have passed subsequent to the issuing of the specific warning, unless specified otherwise.

Notwithstanding the above-mentioned general rule regarding the duration of the different types of warnings, the employer reserves the right to take the employee's full disciplinary record into consideration when deciding on an appropriate sanction in any given case.

(G) Disciplinary Enquiry Guidelines

In case of a formal disciplinary enquiry, the following guidelines will apply. The company may deviate from the guidelines and suggested procedures provided that this is fair and may further invoke procedures to deal with events which are not contemplated by this disciplinary code and procedure.

- i. The Code of Good Practice, as per the LRA can be used as a guideline for a Chairperson to determine whether dismissal would be a fair sanction.
- ii. A disciplinary enquiry shall be attended by the chairperson of the enquiry, the employee concerned, a fellow employee representative or shop steward from the company or branch (if the employee has chosen a representative), the complainant and any witnesses called to give evidence and such other persons considered appropriate by the company, such as a Human Resources Representative.
- iii. An employee shall be given at least 48 hours' notice of a disciplinary enquiry.
- iv. The employee shall be read out the details of the charges as reflected in the notification to attend the enquiry given to the employee.
- v. The employee shall be given a fair and reasonable opportunity to make representations, call witnesses and cross-examine witnesses called by the company in circumstances where the employee denies the allegations
- vi. After the chairperson of the disciplinary enquiry has heard all the evidence, he/she shall consider all the evidence. If necessary, he/she may adjourn the enquiry to consider the evidence and re-convene the enquiry at a later stage, when the chairperson shall inform the employee of the decision on the facts.
- vii. Should the chairperson find the employee guilty of the alleged transgression(s), the employee or representative shall be entitled to furnish evidence and reasons in mitigation of any penalty to be imposed and the company representative shall be entitled to advance evidence and reasons in aggravation in this regard.

- viii. The chairperson **shall decide on the penalty after** considering mitigating and/or aggravating factors.
- ix. Proper consideration of the following factors may well require a deviation from the sanctions proposed in the code below and should be taken in consideration when determining an appropriate sanction:
 - a. The nature/gravity of the offence
 - b. The circumstances of the infringement;
 - c. The nature of the employer's business
 - d. Consistency (how the company has dealt with similar transgressions)
 - e. The employee's disciplinary record (prior warnings)
 - f. The employee's personal circumstances
 - g. The employee's years of service
- x. The chairperson shall keep or facilitate the keeping of the minutes of the enquiry proceedings and shall record decisions made on the "Chairperson Guideline & Record of Disciplinary Enquiry". The minutes shall be handed to the Human Resources Manager for filing.

(H) Representation and Shop Stewards

- i. Every employee has the right to be represented at a disciplinary enquiry by a fellow employee representative or shop steward, but may choose not to exercise this right.
- ii. The fellow employee representatives or shop steward are required to obtain permission to be absent from their places of work in order to act in terms of this procedure, which permission shall not be unreasonably withheld.
- iii. The employee representative, with the consent of the employee concerned, shall be entitled to have sight of the disciplinary record of the employee.

(I) Role of Line Manager

- i. The application, maintenance and enforcement of workplace discipline rest with the Line Manager
- ii. Management must be consistent in their application and enforcement of discipline.
- iii. It is the responsibility of line management to apply discipline in the department.
- iv. Where possible, disciplinary action should be taken by the transgressing employee's direct line manager or appointed deputy.

(J) Notification & Notice period

- i. Prior to taking formal disciplinary action, an employee is to be informed in writing of the fact that formal disciplinary action is to be initiated and the nature of the allegations against the employee, as well as the employee's right to representation.
- ii. Employees should be given at least 48 hours' prior notice of the holding of a formal disciplinary enquiry. This notice should, where reasonably possible, be given in writing by means of a pre-notification, which details the allegations, date and time of the hearing, who will chair the hearing, and also the employee's rights.

(K) General Rules

- i. Discipline should be initiated as soon as reasonably practicable after the alleged transgression comes to the attention of management.

- ii. Management shall be required to determine whether the alleged transgression constitutes misconduct or is more properly dealt with as mal-performance / poor performance. In such case it would be more appropriate in the first instance to counsel an employee in an endeavour to have the employee meet the standards required by the company.
- iii. Management shall in all circumstances be required to determine the appropriate level of disciplinary action to be initiated against the employee, by having regard to the provisions of the code and the circumstances of the alleged offence.
- iv. The Human Resources Manager may be requested to give guidance or assistance at any stage of the disciplinary procedure. Any party to the disciplinary process is entitled to obtain guidance from an appropriate source in respect of the disciplinary process and the disciplinary procedures.
- v. If a manager referred to herein is unavailable, the company may designate another manager to deal with the matter.
- vi. As the disciplinary process is an in-company procedure, either party will **not as of right be entitled to be represented by a person who is not an employee of the company**. This shall not, however, preclude the company appointing a person who is not an employee as chairperson of any hearing in terms of this disciplinary code and procedure.
- vii. Circumstances may justify the imposition of a penalty more or less severe than that recommended in the guidelines contained in this Code.
- viii. The managers responsible for exercising disciplinary action will use their discretion and on occasion may prefer to give a verbal warning for a minor offence.
- ix. If an employee refuses to sign a written warning, the written warning shall nevertheless be valid and operative.
- x. In the event that an employee wishes to challenge a finding or sanction consequent to a formal disciplinary enquiry, the employee may refer the issue to the CCMA. When an employee is dismissed that dispute should be referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) within 30 days or, if a lesser sanction is imposed, the dispute is to be referred within 90 days of such sanction for conciliation and/or arbitration or to the Labour Court if it has jurisdiction over the dispute or any other body agreed upon by the parties.
- xi. Where more than one employee is alleged to have committed the same or a similar offence, the company may at its discretion, choose to take disciplinary action against the employees as a group and in so doing, may require employee representatives to appear at any disciplinary procedure on behalf of the employees.

(L) Suspension

- i. During an investigation into any offence allegedly committed by an employee, and /or pending the institution and/or finalisation of disciplinary action, a manager may decide that in the interests of the employee and/or the company, the employee should be suspended from work.
- ii. At the time of making the decision the employee should be given an opportunity to make representations should he/she wish to challenge the suspension the representations made by the employee, if any, must be taken into account by the manager prior to the decision being taken to suspend the employee
- iii. The employee must be given written notice of the suspension where reasonably possible.
- iv. This suspension will be on full pay until the conclusion of the investigation or enquiry.

(M) Disciplinary Code of Offences

It is required of the manager in question (in case of informal discipline) or the chairperson (in case of formal discipline) to apply her / his mind to the circumstances of each case in order to determine an appropriate sanction, even if this means a deviation from this code.

Examples of offences which may lead to penalties such as dismissal, verbal, written or final written warnings are set out below. The suggested sanctions are guidelines on

a. Offences relating to absenteeism and other time-keeping offence

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| 1. | Leaving company premises or place of duty while scheduled for duty, without authorisation. | First offence: Second offence: Third offence: | written warning final written warning dismissal |
| 2. | Loitering in the cloakrooms or on company premises while on duty. | First offence: Second offence: Third offence: | written warning final written warning dismissal |
| 3. | Absent from work without valid reason / no show when booked to work. | First offence: Second offence: Third offence: | Written warning final written warning dismissal |
| 4. | Absent from work for two or more working days without valid reason. | First offence: | dismissal |
| 5. | Failing to report your absence to the company at the earliest possible opportunity. | First offence: Second offence: | final written warning dismissal |
| 6. | Failing to produce a medical certificate when required. | First offence: Second offence: | final written warning dismissal |
| 7. | Failing to report for overtime work when agreed to do so or when scheduled, without a valid reason. | First offence: Second offence: | final written warning dismissal |
| 8. | Bad time keeping such as late coming or leaving work early. | First offence: Second offence: Third offence: Fourth offence | Verbal warning and/or counselling. written warning final written warning dismissal |
| 9. | Fraudulent timekeeping and claiming payment before shifts has been worked | First offence: | Dismissal |

b. Offences relating to work ethic and employee's work obligations

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| 10. | Negligence in carrying out duties. |
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| | <p>This means that the employee failed to exercise the standard of care that could reasonably be expected of him/her in circumstances where a similarly qualified employee would have exercised a higher standard of care to prevent such consequences or potential consequences. The seriousness depends on persistence and / or nature and context of the act or omission.</p> <p>Sanction:</p> <ul style="list-style-type: none"> • As general rule dismissal will not be an appropriate sanction for a first offence of negligence. • In those cases where the actual or potential consequences are found to be serious, dismissal may be warranted (Also see clause C (v) above). • <u>The chairperson should determine whether the negligence is gross or not, based on the evidence and taking the circumstances in account.</u> |
| 11. | <p>Insubordination which means the failure / refusal to obey a lawful and reasonable instruction.</p> <p>Sanction: As general rule dismissal will be an appropriate sanction. The chairperson will determine whether the insubordination is gross or not based on the evidence and taking the circumstances in account.</p> |
| 12. | <p>Insolence which may be impudence, cheekiness', rudeness, disrespect.</p> <p>Sanction: As general rule dismissal will be an appropriate sanction.</p> |
| 13. | <p>Refusal and/or failure to comply with company procedures of a serious nature.</p> <p>Sanction: As general rule dismissal will be an appropriate sanction.</p> |
| 14. | <p>Sleeping on duty or relaxing or behaving in such a way to that the employee could not possibly have been concentrating on his or her duties.</p> <ul style="list-style-type: none"> • The nature of the employee's job will play an important role in determining how serious the misconduct is, for e.g. nurses sleeping on duty will be viewed in a very serious light. <p>Sanction: As a general rule dismissal will be appropriate.</p> |
| 15. | <p>Conflict of interest / competing with the employer / having an interest in a business in competition with the company / failure to promote the interest of the employer.</p> <ul style="list-style-type: none"> • By way of explanation, conflict of interest arises when employees place themselves in a position where personal interest is or may be at odds with the interest of the employer. • The above include having financial or other interests in the business of a supplier, competitor or any interest in a business, without written authorisation from the company. • This will include failure to inform the company that your wife, husband or life partner has a financial interest in a company with which the company is doing business and where you would have influence on the decision to do business with the particular business. <p>Sanction: As a general rule, dismissal will be appropriate.</p> |

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| 16. | <p>Failing to comply with company procedures.</p> <p>Sanction: As a general rule the following sanctions may be imposed:</p> <table border="0"> <tr> <td>First offence:</td> <td>Written warning</td> </tr> <tr> <td>Second offence:</td> <td>Final written warning</td> </tr> <tr> <td>Third offence:</td> <td>Dismissal</td> </tr> </table> <p>With good reason, the sanction above may be deviated from (See clause C v above). For example, in certain environments, such as nursing and where employees work with money, non-compliance with procedures may be found to be serious and may lead to dismissal for a first transgression.</p> | First offence: | Written warning | Second offence: | Final written warning | Third offence: | Dismissal |
| First offence: | Written warning | | | | | | |
| Second offence: | Final written warning | | | | | | |
| Third offence: | Dismissal | | | | | | |
| 17. | <p>If a driver, deviating from one's route, picking up hitchhikers or transportation of unauthorised personnel or goods</p> <p>Sanction: As general rule dismissal will be an appropriate sanction.</p> | | | | | | |

c. **Offences relating to Company property and assets**

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| 18. | <p>Intentional damage to company, visitors, suppliers', patients' or employee's property or loss of company property.</p> <p>Sanction: As a general rule, dismissal will be appropriate</p> |
| 19. | <p>Poor maintenance or neglect of equipment, material, vehicles or any company property.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the poor maintenance or neglect of equipment is gross or serious in that, for example, it is persistent and / or deliberate, dismissal may be warranted (Also see clause C v above).</p> |
| 20. | <p>Driving a company vehicle without authority.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence of driving a company vehicle without authorisation. In those cases where the conduct of the employee is gross or serious, in that, for example, it is persistent and / or deliberate, dismissal may be warranted (Also see clause C v above).</p> |
| 21. | <p>Reckless or negligent driving of a company vehicle on or off company premises. This will also include negligent driving on company premises in personal vehicle.</p> <ul style="list-style-type: none"> • This means that the employee failed to exercise the standard of care while driving a company vehicle that could reasonably be expected of him/her. • The seriousness depends on persistence and / or nature and context of the act or omission. <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence of negligence or reckless driving. In those cases where the actual or potential consequences are found to be serious, dismissal may be warranted (Also see clause C v above).</p> |

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| 22. | <p>Excessive personal use of company telephones, e-mail or internet. Refer to the Company's email/internet policy. Each unit / department's line manager will determine guidelines as what constitutes excessive use depending on the nature of business of that department /unit.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence of excessive personal use of company telephones, e-mail or internet without authorisation. In those cases where the conduct of the employee is gross or serious in that, for example, it is persistent and/ or deliberate, dismissal may be warranted (Also see clause C v above).</p> |
| 23. | <p>Using company property for personal purposes without written authority.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence of using company property for personal use without authorisation. In those cases where the conduct of the employee is gross or serious, in that, for example, it is persistent and/ or deliberate, dismissal may be warranted (Also see clause C v above).</p> |
| 24. | <p>Using company property for the distribution or accessing of offensive material or information. Refer to the Company's email/internet policy.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 25. | <p>Accepting or giving or taking steps to acquire or give gifts or money from or to a supplier, client, employee or their agent without prior authorisation.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 26. | <p>Disclosing company records or information of a confidential nature without authorisation.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 27. | <p>Industrial espionage or bribery.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 28. | <p>Failing to report damage to company property, employees', patients' or visitors' property immediately.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the conduct of the employee is gross or serious in that, for example, it is persistent and/ or deliberate, dismissal may be warranted (Also see clause C v above).</p> |

d. Offences of dishonesty

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| 29. | <p>Dishonesty – is defined as any conduct which shows the intention to deceive.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> <p>NB: Below is a list of examples of conduct that may be seen as dishonest by the employer. This list should not be seen as obliging the employer to charge the employee with specific conduct as mentioned on the list. The employer may simply choose to charge the employee with the offence of 'dishonesty'.</p> <p>Acts of dishonesty may include any of the following:</p> <ul style="list-style-type: none"> • Theft – defined as the appropriation of moveable property with the intent to permanently deprive the person entitled to possession of such property. • Fraud: an intentional misrepresentation that either causes actual prejudice to another or is potentially prejudicial to another. • conspiracy, attempted theft, attempted fraud, forgery or giving false or misleading statements to the company or to patients, suppliers, employees or persons having dealings with the company. • Falsification of records / documents. • Misappropriation of company property: To appropriate wrongly or dishonestly or to misuse or use for not intended to be used for, to embezzle. • Changing a medical certificate or using a false medical certificate. • Fraudulent timekeeping, such as clocking via another employee or allowing another employee to clock one in, including via the Agency. • Removal of company property without authority from the company. • Being in possession of company property without authorisation. • Theft or fraud from or in respect of a fellow employee, patient, supplier or visitor. • Working at another hospital during a period of sick leave. • Working for another employer / hospital on the same day after already worked more than 8 hours. • Any other dishonest conduct which is conduct with the intention to deceive. |
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d. Offences to the person or dignity of a fellow employee or any other person the employee comes into contact with in the course of his/her work

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| 30. | <p>Abusive or insulting language, signs or behaviour.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the conduct of the employee is gross or serious, in that, for example, it is persistent and / or deliberate, dismissal may be warranted (Also see clause C v above).</p> |
| 31. | <p>Promoting or engaging in racist incitement or being racially abusive or engaging in discriminatory behaviour based on sex, creed, political beliefs, sexual orientation or the like, including jokes of this nature.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |

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| 32. | <p>Harassment, including sexual harassment, unsolicited sexual behaviour, innuendo, suggestion or gesture and other inappropriate behaviour of a sexual or discriminatory nature.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 33. | <p>Threats to employees, patients, suppliers or visitors.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 34. | <p>Assaulting a person or fighting with any person on company property.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |

f. The offence of intimidation

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| 35. | <p>Intimidating or inciting employees, patients, suppliers or visitors, also including intimidation of employees in respect of unlawful work stoppages.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
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g. Offences relating to health and safety

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| 36. | <p>Creating or causing or allowing any condition or situation at work that did or could endanger the general safety or health of employees or other persons.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the conduct of the employee is gross or serious in that, for example it is persistent and/ or deliberate and/or creates or created a serious risk or led or could have led to serious injury, dismissal may be warranted (Also see clause C v above).</p> | | | | | | |
| 37. | <p>Failure to use protective clothing and/or equipment when required by legislation and / or Company Policy.</p> <p>Sanction: As a general rule the following sanctions may be appropriate:</p> <table style="margin-left: 40px;"> <tr> <td>First offence:</td> <td>Written warning</td> </tr> <tr> <td>Second offence:</td> <td>Final written warning</td> </tr> <tr> <td>Third offence:</td> <td>Dismissal</td> </tr> </table> <p>With good reason, the sanction above may be deviated from (See clause C v above).</p> | First offence: | Written warning | Second offence: | Final written warning | Third offence: | Dismissal |
| First offence: | Written warning | | | | | | |
| Second offence: | Final written warning | | | | | | |
| Third offence: | Dismissal | | | | | | |

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| 38. | <p>Smoking in a non-smoking area</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of smoking in a non –smoking area are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on persistence and / or nature and context of the act.</p> |
| 39. | <p>Failing to immediately report an accident or injury on duty.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of failing to immediately report an accident or injury on duty are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on persistence and / or nature and context of the act.</p> |

h. Alcohol or drug related offences

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| 40. | <p>Under the influence of alcohol or drugs on company premises or while on duty.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. * Where dependency is found, the incapacity process should be followed.</p> |
| 41. | <p>In possession of alcohol or drugs not prescribed to the possessor on company premises or while on duty.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence.</p> |
| 42. | <p>Unlawful distribution of alcohol or drugs on company premises.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |

i. Possession of dangerous weapons

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| 43. | <p>Being in possession of a firearm or dangerous weapon on company premise or while on duty, unless authorised in writing by the Company.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of being in possession of a firearm or dangerous weapon on company premises are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on persistence and / or nature and context of the act.</p> |
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j. Breach of Company security measures

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| 44. | <p>Failing or refusing to submit to a security search</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 45. | <p>Being present in an area in which the employee is not permitted.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of being in an unauthorised area are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on persistence and / or nature and context of the act.</p> |

k. General offences

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| 46. | <p>Breach of confidentiality, whether in respect of information regarding or belonging to the company or its patients and clients, which may include medical reports, personal information or in general for personal gain.</p> <p>Sanction: As a general rule, dismissal will be appropriate.</p> |
| 47. | <p>Distributing notices, posters etc. without authorisation and/ or which may be contrary to the interests of the Company or distasteful, or removing or altering Company notices without the company's written permission.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of distributing the notices, posters are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on the nature and context of the act.</p> |
| 48. | <p>Abuse of company privileges e.g telephone, internet, e-mail, credit card</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of abuse of company privileges are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on persistence and / or nature and context of the act.</p> |
| 49. | <p>Unauthorised statements or comments to the press or third parties regarding the Company.</p> <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of the unauthorised statements or comments to the press or third parties are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on the nature and context of the act.</p> |

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| 50. | <p>Improper conduct / conduct unbecoming and /or bringing the company's good name in disrepute.</p> <ul style="list-style-type: none"> This includes conduct which leads to or may lead to prejudiced of : a) the good name or reputation of the company and b) the good running and administration of the business or service delivery of the Company. <p>Sanction: As general rule dismissal will not be an appropriate sanction for a first offence. In those cases where the actual or potential consequences of the improper conduct are found to be serious, dismissal may be warranted (Also see clause C v above). The seriousness depends on the nature and context of the act.</p> |
| 51. | <p>Any action which may damage the trust relationship implied by the contract of employment.</p> <p>Sanction: As general rule dismissal will be an appropriate sanction for a first offence.</p> |

Conclusion

- a. In the event that an employee wishes to challenge a finding or sanction consequent to a formal disciplinary enquiry and can provide additional (new) evidence, the employee **may appeal within 7 days after receiving the outcome.**
- b. In the event that an employee wishes to challenge a finding or sanction consequent to the internal appeal process, the employee may refer the dispute to the CCMA.
- c. When an employee is dismissed that dispute should be referred to the Commission for Conciliation, Mediation and Arbitration (CCMA) within 30 days or, if a lesser sanction is imposed, the dispute is to be referred within 90 days of such sanction for conciliation and/or arbitration or to the Labour Court if it has jurisdiction over the dispute or any other body agreed upon by the parties.