

## ANNEXURE I

### CHECKLIST FOR DISCIPLINARY ENQUIRY

Name of alleged offender : \_\_\_\_\_  
 Salary ref. no : \_\_\_\_\_  
 Date of Enquiry : \_\_\_\_\_

STEP	TICK
Introduce parties and explain purpose of the enquiry.	
Establish the job grading of the alleged offender, the initiator, and the chairperson. The department in which the alleged offender works must also be recorded.	
Establish whether the employee/accused is a shop steward.	
Establish whether an interpreter is required.	
Inform the alleged offender of his/her right to representation. Confirm if employee is satisfied with the representative.	
<p><b>Note: If the employee indicates that no representative or interpreter is required, this should be recorded in writing and preferably signed by the employee.</b></p>	
Explain that every party will be afforded the opportunity to state his/her case and to ask questions. It should be done orderly and through the chairperson, who will control the hearing?	
Check whether the 'Notice of Enquiry' was issued and timeously received (at least three working days). Read the charge(s) to the alleged offender and ask whether he/she understand the charges. If not, explain the charge(s) [form 2].	
Explain that the charge(s) is/are serious, and if the accused is found guilty it could lead to dismissal.	
Ask all witnesses to leave the room.	
Ask alleged offender to plead Guilty or Not Guilty.	
Ask the initiator to present his/her opening statement.	
Ask the alleged offender to present his/her opening statement.	
<p><b>MANAGEMENT'S CASE (should include exhibits, testimony of witnesses, and cross-examinations, if applicable).</b></p>	

Allow for the <b>initiator</b> to present his/her case and call his/her witnesses. ( <b>Examination in Chief</b> ) Witnesses should leave the room after testifying.	
Allow the <b>alleged offender/representative</b> to cross-examine the witnesses of the initiator.	
Give the <b>initiator</b> the opportunity to re-examine his/her witnesses.	
<b>EMPLOYEE'S CASE (should include exhibits, testimony of witnesses and cross-examinations, if applicable).</b>	
Allow for the alleged offender/representative to present his/her case and call all his/her witnesses. ( <b>Examination in Chief</b> ) Witnesses should leave the room after testifying.	
Allow the initiator to cross-examine the witnesses of the alleged offender/representative.	
Give the alleged offender/representative the opportunity to re-examine his/her witnesses.	
Allow parties time to prepare closing arguments.	
Listen to the closing arguments of the parties.	
Send the alleged offender and initiator out and allow the HR consultant and representative to caucus with the chairperson to determine whether the alleged offender is guilty or not.	
After hearing the opinion of the HR consultant and representative, request them to leave the room. Determine guilt on a 'balance of probabilities'. Motivate reasons for finding.	
The chairperson writes out the decision to be read to the alleged offender, touching on all the witnesses' statements and evidence led. The following elements should be contained in the verdict: - Whether there is a rule/norm - Whether the alleged offender has broken a rule/norm - Whether the alleged offender knew the rule/norm or could be reasonably expected to know the rule/norm (clarify why/how was he/she supposed to have known the rule/norm?) - Is the rule reasonable?	
Chairperson calls in the HR consultant and representative and informs them of his/her decision.	
The chairperson should call in the alleged offender, representative, initiator, interpreter, secretary, and labour relations consultant and inform them of the decision.	
If found guilty, the chairperson should request the personal file of the offender. Ask for mitigating and aggravating circumstances. Mitigating circumstances should be requested from the offender/representative.	

Request the representative and HR consultant to stay behind to caucus on a suitable sanction. Request the parties to leave.

**Consider appropriate penalty against: -**

- Provisions of rules and regulations, disciplinary code and procedure.
- Seriousness of transgression (consider extent of damages/impact on organisation).
- Capacity of employee to perform.
- Extenuating circumstances (factors that may have led to employee committing transgression):
  - Provocation
  - Faulty systems/controls
- Mitigating circumstances (why a lesser penalty is appropriate)
  - Age
  - Length of service
  - Marital status
  - Work record
  - Number of dependants
  - Remorse/willingness to make amends (e.g. pay for damages)
- Aggravating circumstances (why a harsher penalty is appropriate)
  - Seniority of employee
  - Intent (pre-meditation, self-gain)
  - History of similar transgressions
  - Lack of remorse
- Employee's Personal Record
  - Past warnings (are they valid?)
  - Promotions
  - Work performance
  - Commendations
- Precedent
  - Action taken in previous cases of a similar nature
  - For the future

- Third party reaction
  - Customers
  - Supervisors
  - Employees
  - Staff association, etc.

<ul style="list-style-type: none"> <li>• Effect of the penalty <ul style="list-style-type: none"> <li>- Can the employees' behaviour be corrected?</li> <li>- How will it affect his/her dependants?</li> <li>- Does the 'punishment fit the crime'?</li> </ul> </li> <li>• Alternatives to dismissal</li> </ul> <p><b>Note:</b> The test for a dismissal should be "has the employment/trust relationship completely broken down?" or has progressive discipline been applied?</p>	
<p>The chairperson calls the labour relations consultant and representative and informs them of the sanction.</p>	
<p>The chairperson should call the alleged offender, representative, initiator, interpreter, and secretary and labour relations consultant and inform them of the sanction.</p>	
<p>If offender received a written/final written warning and is not satisfied about the outcome, he/she has the right to apply for representation within five working days to the chairperson in writing.</p> <p><b>This right will not be applicable if the sanction is an alternative to dismissal and has been agreed upon with the written consent of the offender</b></p> <p>If the offender is dismissed and regards the disciplinary hearing as unfair, he/she has the right to dispute the process.</p>	
<p>The chairperson should conclude the meeting and see to it that a signed copy of the minutes, and documents presented at the meeting should be given to the offender/representative,</p>	
<p>If the chairperson receives a representation or application dispute process, it should be sent to the HR Department immediately. <b>NO 'TIME DELAY' WILL BE ACCEPTED.</b></p>	

Name of chairperson: \_\_\_\_\_ Signature of chairperson: \_\_\_\_\_

Date: \_\_\_\_\_

Department: \_\_\_\_\_

Telephone number: \_\_\_\_\_