

DISCIPLINARY CODE

1. OBJECTIVE

1.1. The objective of this policy is to: -

- Promote good order and efficient functioning of the Municipality;
- Provide employees with a quick and easy reference for the application of discipline;
- Ensure that discipline is applied in a prompt, fair, and consistent manner;
- Ensure that all employees are aware of the Municipality's required standard of behaviour/performance; and
- Ensure fair equal treatment of all employees.

2 APPLICATION

2.1 The code applies to all employees in the Municipality except for Senior Manager ,i.e managers appointed in terms of the Municipal Systems Act, Section 54 and 56.

2.2 This policy must be read in the context of the Disciplinary Procedure Collective Agreement. In case of conflict between this policy and the provisions of the Disciplinary Procedure Collective Agreement, the provisions of the Collective Agreement will prevail

3 POLICY

- 3.1. Discipline is to be effected fairly, consistently, progressively and promptly,
- 3.2. The maintenance of discipline is the responsibility of management and falls within the control function of any supervisory position,
- 3.3. The principles of natural justice and fair procedure must be adhered to notwithstanding any criminal and/or civil action having been instituted.
- 3.4. Subject to the requirements of substantive and procedural fairness, the Tribunal has the right to determine the sanction to be applied, having regard to the seriousness of the offence, provided it is consistent with the provisions set out herein,
- 3.5. Employees need to be made aware of this code, its annexures and the required standard of conduct at the workplace.

4. STANDARD OF CONDUCT

- 4.1. Employees are expected to comply in every respect with the conditions of employment and collective agreements and any related regulation, order, policy and practice and to refrain from any conduct which give just cause for discipline.
- 4.2. In particular, employees should:
 - 4.2.1. Attend work regularly and punctually;
 - 4.2.2. Conform to the reasonable dress and uniform requirements of the municipality;
 - 4.2.3. Perform their tasks and job responsibilities diligently, carefully and to the best of their ability;
 - 4.2.4. Obey all lawful and reasonable instructions given by a person having the authority to do so;
 - 4.2.5. Conduct themselves with honesty and integrity;
 - 4.2.6. Request permission in advance for any leave of absence whenever possible;
 - 4.2.7. Refrain from being absent from duty without leave or permission, except on good cause;
 - 4.2.8. Refrain from accepting any other employment outside of normal working hours without the prior permission of the Department Head or Municipal Manager, which permission shall not be unreasonably withheld;
 - 4.2.9. Refrain from any rude, abusive, insolent, provocative, intimidating or aggressive behaviour to a supervisor, fellow employee or member of the public;
 - 4.2.10. Refrain from wilful or negligent behaviour, which may result in the damage of property;
 - 4.2.11. Refrain from participating, either individually or with others, in any form of action, which will have the effect of disrupting the operations

of the employer, other than actions contemplated by the Labour Relations Act;

4.2.12. Refrain from wrongfully disclosing privileged information; and

4.2.13. Refrain from consuming alcohol or using intoxicating drugs whilst on duty.

5. SANCTIONS FOR MISCONDUCT

5.1 In accordance with the Disciplinary Policy, sanctions that is imposed for misconduct will be intended to defer future of that behaviour. The sanction imposed must be based on the seriousness of the offence and considering the employee's disciplinary record.

5.2 The imposition of discipline is progressive in that sanctions are to be applied with increasing severity with repetition of the offence. Sanctions will generally be applied in the following sequence by first issuing a written written warning and then final Written Warning ; except in cases of misconduct which would constitute grounds for immediate dismissal or suspension without pay or immediate imposition of a final written warning.

5.3 All written warnings and suspensions are to be recorded in the employee's personal file.

5.4 A written warning will remain valid and on the record of the employee for a period of six (6) months from the date of imposition and a final written warning will remain for a period of 12 months from date of imposition.

5.5. The municipality may impose as a sanction a suspension without pay having regard either to the serious nature of the misconduct or the fact that there has been a previous warning or warnings for the same behaviour in which event:

5.5.1 the maximum period will be ten (10) days;

5.5.2 in the event of a suspension in excess of five (5) days, the suspension without pay shall be spread over three (3) monthly pay periods;

5.5.3 suspension without pay shall be regarded as a sanction more serious than a final written warning.

5.6 As a guideline, an employee may be dismissed on the first occasion for, inter alia:-

5.6.1. intimidation, fighting and/or assault;

- 5.6.2. theft, unauthorised possession of or malicious damage to the municipality's property;
- 5.6.3. being under the influence of alcohol or intoxicating drugs whilst on duty such that the performance is seriously impaired or diminished;
- 5.6.4. the consumption of alcohol or intoxicating drugs whilst on duty if the nature of work to be performed is such that intoxication endangers the safety of the employee or that of others;
- 5.6.5. any act of gross dishonesty;
- 5.6.6. any act gross negligence;
- 5.6.7. gross insubordination;
- 5.6.8. wrongful disclosure of privileged information;
- 5.6.9. any act of bribery or corruption; and
- 5.6.10. any other act of misconduct which would constitute just cause for dismissal.

5.7 Abscondment

- 5.7.1 In the event that the Employee has absented himself for a period of More than ten days (10) without notification to the Employer , such an employee shall be deemed to have absconded from duty.

5.8 Collective Misconduct

5.8.1 This refers to the instances where employees embark on unprotected strike.

5.8.2 The employer shall inform the trade union and allow them 48 hours to try and persuade their employees to get back to work.

5.8.3 If after 5.8.2 employees have not returned to work, the employer shall issue an ultimatum and the rest of the Disciplinary procedure in terms of the Disciplinary Procedure Collective Agreement.

5.9 Financial Misconduct (Fraud and Corruption)

5.9.1 Reporting of allegations of financial misconduct

- 5.9.1.1 Any person must report financial misconduct against a municipal official to the accounting officer
- 5.9.1.2 The accounting officer must table an allegation referred to in 5.8.1 above, before the municipal council at its next sitting.
- 5.9.1.3 The person to whom an allegation of financial misconduct has been reported to must ensure that the report is treated in a confidential manner.
- 5.9.1.4 An employee against whom an allegation of financial misconduct is made must be given an opportunity to make written representation to the municipality as to why he or she should not be suspended, within seven days of being notified of the allegation.
- 5.9.1.5 If there is a likelihood of further financial loss for a municipality as a result of a financial offence, the accounting officer must report the matter without delay to the South African Police Service and not await the completion of any investigation.
- 5.9.1.6 Where a financial offence is successfully prosecuted, the judgment must be reported to the National Treasury as well as the MEC for Cooperative Governance and Traditional Affairs, together with full details of the convicted person, the name of the municipality where the offence was committed and the sanction that was imposed.

5.9.2 Establishment of disciplinary board and its functioning

- 5.9.2.1 A municipal council of a municipal entity must establish a disciplinary board to investigate allegations of financial misconduct in the municipality or municipal entity, and to monitor the institution of disciplinary proceedings against an alleged transgressor.
- 5.9.2.2 A disciplinary board is an independent advisory body that assists the council with the investigation of allegations of financial misconduct, and provide recommendations on further steps to be taken regarding disciplinary proceedings, or any other relevant steps to be taken.
- 5.9.2.3 A disciplinary board must consist of maximum five members appointed on a part- time basis by the council or board of directors for a period not exceeding three years, in accordance with a process as determined by the

municipal council or board of directors.

5.9.2.4 A member of a disciplinary board must-

- (a) be a natural person;
- (b) be a citizen or permanent resident of the Republic and resident in the province where the municipality is situated; and
- (c) not be disqualified under sub-regulation

5.9.2.4 The following persons are disqualified from membership of a disciplinary Board

- (a) a person who has been convicted of an offence in terms of this regulation or any other legislation ;
- (b) a person who, whether in the Republic or elsewhere, has been convicted of theft, fraud, forgery, the uttering of a forged document or any offence of which dishonesty is an element;
- (c) a person who has at any time been removed from any office of trust on account of misconduct or dishonesty;
- (d) an accounting officer of a municipality or municipal entity;
- (e) a political office-bearer or a member of a board of directors; and
- (f) a person who is an office-bearer in a political party.

5.9.2.5 A disciplinary board may consist of-

- (a) the head of the internal audit unit within the municipality or representative of an organisation performing internal audit functions for the municipality if the internal audit function is outsourced;
- (b) one member of the Audit Committee of the municipality ;
- (c) a senior manager from the legal division in the municipality ;
- (d) a representative of the National Treasury or the provincial treasury; and
- (e) any other person as may be determined by the municipal council .

5.9.2.6 If an official referred to in sub-regulation (5.9.25)(a) or (c) is implicated in the financial misconduct, the municipality may co-opt a senior manager in another unit, who does not have a conflict of interest.

5.9.2.7 If a municipality or municipal entity does not have sufficient capacity to establish a disciplinary board, a disciplinary board established by a district municipality or an equivalent provincial or national structure established for a similar purpose may, with approval of the district municipality or provincial or national structure, be used as a disciplinary board for the municipality.

6. DISCIPLINE PROCEDURE

- 6.1. An allegation of misconduct against an employee shall be brought in writing before the Municipal Manager or his authorised representative for investigation.
- 6.2. If the Municipal Manager or his representative is satisfied that there is prima facie cause to believe an act of misconduct has been committed, he may institute disciplinary proceedings.
- 6.3. The Municipality shall proceed forthwith or as soon as reasonably possible with a disciplinary enquiry but not later than three months from the date the Municipal Manager took the decision to institute the Disciplinary Hearing.
- 6.4. Depending on the seriousness of the misconduct, the Municipal Manager or his representative may refer the matter before either a Departmental Enquiry or Disciplinary Tribunal.
- 6.5. A Departmental Enquiry proceeding shall be reserved only for matters where the competent sanction is a verbal or final written warning.
- 6.6. In proceedings before a Departmental Enquiry the employee shall enjoy the same rights as he would have had before a Disciplinary Tribunal.
- 6.7. If in the opinion of the Municipal Manager or his representative the misconduct is serious and may result in a sanction of suspension, demotion or dismissal, a Disciplinary Tribunal shall be established to conduct the enquiry.
- 6.8. In which event :
 - 6.8.1. The Municipal Manager or his authorised representative shall constitute a Disciplinary Tribunal by appointing a suitably qualified person to serve as the Presiding Officer. In general a person appointed to serve as the Presiding Officer should be a senior employee in the employ of the municipality. However, if this is not possible or desirable, any other suitably qualified person may be appointed.
 - 6.8.2. The Municipal Manager or his authorised representative shall also appoint a person to be referred to as a Prosecutor to represent the municipality and to serve the function of prosecution. In general a person appointed to serve as Prosecutor should be a person in the employ of the municipality. However, if this is not possible or desirable, any suitably qualified person may be appointed.

- 6.9. The Prosecutor shall, within reasonable time five (5) days of his appointment, formulate and present the charges to be brought against the employee. The charge(s) is (are) to be set out in a Notice of Misconduct detailing:
- 6.9.1. the alleged misconduct
 - 6.9.2. the time, date and venue at which the enquiry will be conducted;
 - 6.9.3. the name of the Presiding Officer and the Prosecutor and the address at which notices and correspondence may be served on the Disciplinary Tribunal;
 - 6.9.4. the fact that the employee may appoint a representative of choice who may be a fellow employee, shop steward, union official and if this is not possible or desirable, any suitably qualified person; and
 - 6.9.5. the fact that if the employee or his representative fails to attend the inquiry, it may be conducted in absentia;
- 6.10. The employee should, wherever possible, acknowledge receipt of the notice.
- 6.11. The disciplinary hearing should commence as soon as possible not less than seven (7) days or more than fifteen (15) days calculated from the date of service of the Notice of Misconduct on the employee.
- 6.12. The period referred to in 6.7.above may be varied by agreement and failing agreement, either party may apply to the Disciplinary Tribunal for an extension of the period.
- 6.13. The Disciplinary Tribunal, on good cause shown, may extend any period of time fixed by or under this clause provided a return date is fixed and made certain.

7. CONDUCT OF THE ENQUIRY

- 7.1. The hearing shall be conducted by the Presiding Officer who may determine the procedure to be followed subject to the following:
- 7.1.1. the rules of natural justice must be observed in the conduct of the proceedings;
 - 7.1.2. unless otherwise agreed to by the parties, the hearing must be adversarial in nature and character, and

- 7.1.3. the Presiding Officer in discharging this obligation is to exercise care, proceed diligently and act impartially.
- 7.2. The Prosecutor shall bear the duty to commence and burden to prove each and every allegation(s) on a balance of probability set out in the Notice of Misconduct.
- 7.3. In discharging these duties the Prosecutor shall be entitled to call before the Disciplinary Tribunal any witnesses and produce any books, documents or things; and:
 - 7.3.1. subject to legal objection cross examine any witness called to testify on behalf of the employee and inspect any books, documents or things produced; and
 - 7.3.2. present argument based on the evidence in support of any submission.
- 7.4. The employee summoned before the Disciplinary Tribunal shall have the right to be heard in person or through a representative and to call before the Disciplinary Tribunal any witness and produce any books, documents or things; and
 - 7.4.1. cross-examine any witness subject to legal objection called to testify on behalf of the employer and to inspect any books, documents or things produced; and
 - 7.4.2. present argument based on the evidence in support of any submission.
 - 7.4.3. The right to make application, on good cause shown for the recusal of the presiding Officer.
- 7.5. The Presiding Officer shall have the power in terms of the Disciplinary Procedure Collective Agreement to:
 - 7.5.1. determine the procedure to be followed for the conduct of the enquiry that he deems appropriate with the minimum of legal formalities provided that the rules of natural justice shall be observed;
 - 7.5.2. put questions without cross examining the parties or their witnesses on any matter relevant to the issues;

- 7.5.3. proceed with the enquiry in the absence of a party who is in wilful default or fails to attend any meeting despite the expiry of a notice to attend;
 - 7.5.4. make such interim determinations or rulings as he deems necessary;
 - 7.5.5. propose to the parties compromise settlements in disposal of the whole or portion of the issues;
 - 7.5.6. make a finding of fact after having considered the evidence;
 - 7.5.7. invite and hear any plea in mitigation, aggravation or extenuation prior to deciding on the sanction to impose; and
 - 7.5.8. impose, *inter alia*, any of the following sanctions:
 - 7.5.8.1. written warning
 - 7.5.8.2. final written warning;
 - 7.5.8.3. transfer to another position either with or without financial loss;
 - 7.5.8.4. suspension without pay for a maximum of ten (10) days spread over a period of three (3) month pay periods;
 - 7.5.8.5. the withholding of any salary increment for a period not exceeding twelve months;
 - 7.5.8.6. demotion to another post with or without financial loss or
 - 7.5.8.7. dismissal.
- 7.6. The Presiding Officer shall within ten (10) days of the last day of the hearing confirm in writing the findings of fact, sanction imposed and the reasons in support thereof and provide a copy of determination to the Municipal Manager or his representative and to the employee or his representative.

8. SUMMARY PROCEDURE

- 8.1 If the municipality and the employee so agree in writing, the Summary Procedure as set out hereinafter may apply to the proceedings. The Presiding Officer shall, at such meeting(s) with the parties as he deems necessary:
- 8.1.1 confirm that the matter is ready for adjudication;

- 8.1.2 ascertain and record in writing, signed by himself and the parties, the fact on which the parties agree and those on which they disagree herein called the issues;
- 8.1.3 receive from the parties such documents or copies thereof as they consider relevant to the determination of the issues;
- 8.1.4 receive evidence or submissions, orally or in writing, sworn or unsworn at joint meetings with the parties or, if the parties so agree, by interchange of written statements or submissions, between the parties with copies to the Presiding Officer provided that each party shall be given reasonable opportunities to those of the other;
- 8.1.5 deliver a determination, in writing, within ten (10) days of the last day of hearing or submission of the last document to the Presiding, if there was no hearing.

9. RIGHT OF RESIGNATION

- 9.1 An employee who receives a Notice of Misconduct shall be entitled to resign from employment or to retire, if eligible, in terms of the retirement fund rules, provided that:
 - 9.1.1 the employee does so prior to the handing down of a determination;
 - 9.1.2 the employee consents in writing to the deductions of all and any amounts owing by him to the employer from monies payable to him by the municipality (including but not limited to retirement fund monies) arising out of or in connection with his resignation or retirement.

In such an event the disciplinary enquiry shall not proceed.

10. DISCIPLINARY TRIBUNAL

- 10.1 In general a person appointed to serve as the Presiding Officer should be a senior employee in the employ of the employer. However, if this is not possible or desirable, any other suitably qualified person may be appointed.
- 10.2 During the conduct of the enquiry the employee may make application on good cause shown for the recusal of the Presiding Officer.

10.3 The Presiding Officer shall not consult, confer or have casual contact with any of the parties or their representatives while handling a matter without the presence or consent of the other.

10.4 The determination of the Disciplinary Tribunal shall be final and binding on the municipality save that the employee may lodge an appeal thereto.

10.5 In general a person appointed to serve as Prosecutor should be a person in the employ of the employer. However, if this is not possible or desirable, any suitably qualified person may be appointed.

11. RECORDING

11.1. The proceedings of the Disciplinary Tribunal shall be recorded by means of a mechanical device.

11.2. The record of the proceedings shall be kept in safe custody by the employer and upon request a copy thereof provided to the employee or his representative.

12. NON-ATTENDANCE

In the event of the failure by the employee, or a duly appointed representative, to attend an enquiry or appeal without good cause and after proper service of the Notice of Misconduct was affected, the enquiry may be conducted in absentia and discipline affected.

13. RIGHT OF REPRESENTATION

An employee shall be entitled to representation at any enquiry by an employee, a shop steward or union official who is willing and able to represent the employee and, if this is not possible or desirable, any suitably qualified person.

14. SUSPENSION

14.1. The municipality may at any time before or after an employee has been charged with misconduct, suspend the employee or utilise him temporarily in another capacity should the Municipal Manager be of the opinion that it would be detrimental to the interests of the municipality if the employee remains in active service.

- 14.2. If the Municipal Manager intends to suspend an employee he shall give notice of such intention and afford the employee with an opportunity to make representation as to why he should not be suspended. The inquiry shall be done by means of the Summary Procedure as provided for herein.
- 14.3. The suspension or utilization in another capacity shall be for a fixed and pre-determined period and at any rate shall not exceed a period of three (3) months. Any suspension affected shall be on full remuneration.

15. APPEAL

- 15.1 The employee has the right to appeal against any disciplinary sanction, which has been given at a Disciplinary Enquiry.
- 15.2 An appeal must be lodged on the prescribed form within five (5) days of written notification of the disciplinary decision and the grounds of appeal must be clearly set out provided that the failure by the party to raise a ground of appeal shall not preclude that party from subsequently raising it before the Disciplinary Appeal Tribunal.
- 15.3 Appeals will be heard by a management level above that of the Presiding Officer of the enquiry in the case of Final Written Warnings and by a higher level of management who does not exercise direct management control over the affected employee in the case of dismissals and suspensions without pay.
- 15.4 By agreement, an appeal may be heard by an impartial arbitrator appointed by the parties to the appeal from a panel or list.
- 15.5 The appeal will only be heard on the grounds of an appeal submitted by the employee and any amendment thereto and by having regard to the record of the proceedings and submissions and arguments based thereon. The appeal should not entail the rehearing of the matter de novo.
- 15.6 The Presiding Officer of the Disciplinary Appeal Tribunal shall have the power to confirm or set aside any decision, determination or finding and to confirm, set aside or reduce any sanction imposed.

- 15.7 The Presiding Officer of the Disciplinary Appeal Tribunal shall fix the time and date of the hearing which will take place within ten (10) days of the date of appointment. In consultation with the parties, the Presiding Officer may vary the time and date and order a mutually convenient time, date and place.
- 15.8 The parties shall deliver to the other and to the Presiding Officer a brief statement of case at least two (2) days prior to the hearing and no further pleadings shall be exchanged unless otherwise agreed.
- 15.9 The statement of case shall concisely set out the facts upon which the party relies, the conclusions of law upon which the party relies and the relief which the party seeks.
- 15.10 The hearing will be conducted by the Presiding Officer in whatever manner and procedure, including the Summary Procedure as set out in clause 7.9. above that will produce the most expeditious hearing of the matter.
- 15.11 The Disciplinary Appeal Tribunal is to consider whether the disciplinary enquiry and sanction was fair. The Presiding Officer in his sole discretion shall be entitled to make whatever order he deems reasonable in the circumstances.
- 15.12 The Disciplinary Appeal Tribunal shall make its determination, in writing, within ten (10) days from the last day of the hearing.

16. PRE-DISMISSAL ARBITRATION

- 16.1. The Municipality may, with the consent of the employee, request the Bargaining Council, an accredited agency or the Commission for Conciliation, Mediation and Arbitration to conduct an arbitration into allegations about the conduct or capacity of an employee as provided for under section 188 A of the Labour Relations Act 66 of 1995.
- 16.2. The provisions of section 138 of the Labour Relations Act, read with the changes required by the context, apply to any pre-dismissal arbitration.

17. INTERPRETATION AND APPLICATION

In the event that there is a dispute as to the application and interpretation of this code, such dispute shall be dealt with in terms of the dispute provisions of the Constitution of the South African Local Government Bargaining Council.

19. GENERAL

- It is the Municipal Manager's prerogative to ensure corrective procedures are followed within the Municipality;
- Corrective actions will be exercised where work performance or behaviour is unacceptable or unsatisfactory, or where terms and conditions of employment are not met;
- Human Resources shall keep corrective action records in the employee files specifying the nature of the corrective action taken and the reasons for taking such actions; and

The Disciplinary Code needs to ensure fair and acceptable corrective action where an employee's work performance is unsatisfactory and/or where an employee's behaviour is unacceptable.

Management is responsible for ensuring that the Code is made available to all employees in order to make the employee's aware of the standards which are expected of them, thus ensuring the protection of the interests of both the employer and employees and promoting the practice of sound and equitable industrial relation within the enterprise.

This policy recognises the right of an employee to a fair hearing, and recognises the right of an employee to appeal against any measure considered unjust or unfair.

This policy shall apply to and form part of the contracts of employment of all employees and the principles contained herein shall apply equally to all employees.

The various disciplinary actions detailed in the Disciplinary Code are intended to serve as guidelines to management.

The Code is based on the principle of progressive discipline however; progressive discipline need not be meted out in the respect of certain serious offences, where dismissals would be the appropriate penalty in the circumstances where the offence is so grave that it makes a continued employment relationship intolerable.

In circumstances where rules or standards are well established and are not contained in the Code or where further rules or standards are communicated to the employees the employer will be entitled to take disciplinary action where there has been a transgression of such rule or standard.

Disciplinary warnings issued shall be kept in the personal file of the employee for the duration of that warning.

Expired warnings will not be taken into account in any subsequent disciplinary action.

The employer will be entitled to take into account warnings in respect of other categories of offences, together with the infraction for which an employee has currently against him and where the employee has two or more warnings running concurrently against him and where the employer clearly informs the employee thereof in order to enable the employee to properly prepare himself for the inquiry. The employer will be entitled to dismiss an employee for the cumulative effect of the concurrent warnings.

The following factors shall be taken into account when determining whether dismissal is the appropriate penalty;

- The gravity of the misconduct,
- The circumstances of the infringement,
- The circumstances of the employee which shall include the following:
 - Service period
 - Record
 - Personal circumstances

EMPLOYMENT RELATIONS

OBJECTIVE

The objective of this policy is: -

- To advance economic development, social justice, labour peace and demonstration of the workplace by providing a framework through which employees and employers can collectively relate on matters of mutual interest.
- To ensure the right to fair labour practice.
- To achieve equality in the workplace by promoting equal opportunity and fair treatment in employment through the elimination of unfair discrimination and implementing Affirmative Action measures to redress the disadvantage in employment experienced by designated groups, in order to ensure their equitable representation.

POLICY

- The Municipality consists of individuals of different sexes, races and cultural creeds – all that we treat equally.
- The Municipality promotes the sharing of ideas and views in an atmosphere of openness and trust between all individuals.
- We believe in fair and open dialogue, should there be a dispute between an individual and the Municipality.
- The Municipality adheres to all labour legislation of South Africa.

TRADE UNION MEMBERSHIP

Any employee may voluntarily become a member of a trade union as defined in the Labour Relations Act, 1995.

The Municipality believes and shall adhere to a good ongoing relationship with Organised Labour.

GRIEVANCE PROCEDURE

1. OBJECTIVE

1.1. The purpose of this procedure is to establish a common and uniform procedure for the management of grievances and to replace all existing procedures and regulations.

- 1.2. This procedure is a product of collective bargaining and application thereof is unconditional.
- 1.3. The procedure shall be deemed to be a condition of service.
- 1.4. The objectives of this grievance procedure are to ensure fair play, to resolve problems as quickly as possible and to deal with conflict through procedural means.
- 1.5. No employee shall suffer victimisation or occupational prejudice as a result of lodging a grievance.
- 1.6. The lodging of a grievance shall, except in exceptional circumstances, take place within ten (10) days from the time the employee first becomes aware of the matter that gave rise to such grievance.
- 1.7. This procedure shall address all grievances excluding those grievances for which a specific or particular procedure is provided.
- 1.8. The parties shall disclose relevant documents which may assist to resolve a grievance to one another save that no party will be required to disclose information :-
 - 1.8.1 that is legally privileged
 - 1.8.2 that the employer cannot disclose without contravening a prohibition imposed on the employer by any law or order of any court
 - 1.8.3 that is confidential and if disclosed may cause substantial harm to an employee
 - 1.8.4 that is private personal information relating to an employee unless that employee consents to the disclosure of that information.
- 1.9 Nothing shall prevent the employee or a union from pursuing a dispute in its own capacity in terms of any agreed or other dispute procedure provided it has the right in law to pursue such a dispute.

2. PROCEDURE

- 2.1. Step one: IMMEDIATE SUPERIOR
- 2.2. An aggrieved employee or 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.

2.3. The immediate superior shall endeavour, in consultation with the affected employee(s), to resolve the grievance within ten (10) days of the grievance having been referred to him and shall inform the employee(s) of the outcome in writing.

2.4. Should the grievance concern the conduct of the employee's immediate superior, the employee may proceed directly to Step Two provided that he submits the grievance on the prescribed form.

2.4.1. Should the grievance concern the conduct of the employee's Head of Department, the employee may proceed directly to Step Three provided that he submits the grievance on the prescribed form.

2.4.2. The employee may be assisted by a fellow employee, shop steward or union official at such meeting and the immediate superior may also be required to attend.

2.5. Step Two: HEAD OF DEPARTMENT

2.5.1. If a grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees, the employee shall refer the matter in writing within ten (10) days to the Head of Department.

2.5.2. The Head of Department shall arrange a meeting to consult and hold discussions with the affected parties in an attempt to achieve a resolution. The employee may be assisted by a fellow employee, shop steward or union official at such meeting and the immediate superior may also be required to attend.

2.5.3. The Head of Department or his nominee shall endeavour to resolve the grievance within ten (10) days of the grievance being referred and shall inform the employee of the outcome in writing.

2.6. Step Three: MUNICIPAL MANAGER

2.6.1. If the grievance has not been resolved to the satisfaction of the aggrieved employee or group of employees by the Head of Department, the employee shall refer it to the Municipal Manager or his nominee within ten (10) , 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.

2.6.2. The Municipal Manager or his nominee shall hear details of the grievance including proposals to resolve the issue and shall endeavour to reach a decision within ten (10) days.

2.6.3. The Municipal Manager shall inform the employee in writing of the outcome of the hearing as envisaged in 2.3.2. above, and such decision shall be final in terms of this procedure.

2.6.4. If the grievance has not been resolved to the satisfaction of the aggrieved party, that party may refer the grievance to the South African Local Government Bargaining Council for adjudication provided that a dispute has been declared and the party is entitled in law to declare such a dispute.

3. INTERPRETATION AND APPLICATION

In the event that there is a dispute as to the application and interpretation of this code, such dispute shall be dealt with in terms of the dispute provisions of the Constitution of the South African Local Government Bargaining Council.

4. GENERAL

Certain issues are specifically excluded from the definition of a grievance such as: -

- Salaries and conditions of service that are subject to annual review;
- Dissatisfaction over disciplinary action, which is subject to appeal;
- Reporting of suspected disciplinary infringements, which should be handled according to the disciplinary procedure (if inadequate attention is paid to the matter, a grievance may arise against the way the matter is being handled); and
- Harassment whether physical, racial or sexual, if there is a dedicated procedure for such grievances.

VALUES AND THE PROBLEM SOLVING PROCESS

- The problem solving procedure is a framework within which Municipality management and employees must seek to solve internal problems when they arise;
- Dealing with grievances in a sensitive, expeditious and compassionate manner is encouraged;
- The Municipality must, through the Municipal Manager and Human Resources, deal with any valid grievances in a way that reflects progressive leadership and supports working in a participatory and inclusive manner;

- By solving problems in a structured and non threatening way, Municipality management and employees seek to promote an environment of transparency and equality; and
- At the heart of grievance management is the need for absolute integrity.