



**OVERBERG RENOSTERVELD CONSERVATION TRUST
("ORCT")**

POLICY NAME: Disciplinary Policy and Procedure

POLICY & VERSION NUMBER: 3 Version 1

APPROVED BY BOARD: DATE: 15 September 2023

EFFECTIVE FROM: DATE: 1 October 2023

1. **PURPOSE**

The purpose of this disciplinary procedure is to encourage and maintain standards of conduct and ensure consistent and fair treatment for all in order to promote good order and efficient functioning of the Trust.

2. **POLICY OBJECTIVES**

2.1 To guide the ORCT in actions to be taken to correct behaviour which contravenes the codes, rules and standards of the Trust.

2.2 To ensure that discipline is applied in a prompt, fair and consistent manner; To provide employees with a quick and easy guide to disciplinary procedures.

- 2.3 To allow the Trust to seek an informal resolution, where appropriate, but allow for more formal proceedings should the circumstances justify disciplinary action.

3. **REGULATORY FRAMEWORK**

Labour Relations Act 66 of 1995 (LRA).

4. **ROLES AND RESPONSIBILITIES**

Trustees have delegated to the Director responsibility for:

- 4.1 Ensuring minor and major offences are identified and actioned appropriately;
- 4.2 Ensuring that appropriate procedures are in place and followed to deal with offences in a fair and consistent manner.
- 4.3 Ensuring that all managers and employees are well informed regarding disciplinary procedures and enabled to take the correct action.

5. **PROCEDURE**

5.1 **Verbal warning**

- 5.1.1 In the event of minor offences on the part of an employee, the disciplinary action will be a verbal warning coupled with an instruction from the Director to correct his/her behaviour;
- 5.1.2 A record that such verbal warning has been issued should be kept by the Director.

5.2 **Written Warning**

- 5.2.1 A written warning may be issued if an employee commits an offence for which s/he has already received a recorded counselling or verbal warning, and where there has been insufficient improvement, or where the misconduct is of a more serious nature and a recorded counselling or verbal warning is considered to be inadequate due to the nature of the misconduct.
- 5.2.2 The written warning remains valid for six (6) months. If during the 6-month period the employee commits a further transgression of a similar nature, the written warning may be taken into account in deciding an appropriate sanction.

5.3 **Final Written Warning**

- 5.3.1 If an employee commits an offence for which s/he has already received a written warning within the previous six months, and where there has been insufficient improvement; or where the misconduct is of a serious nature, a final written warning may be issued.
- 5.3.2 A final written warning remains valid for twelve (12) months.
- 5.3.3 If during the 12-month period the employee commits a further transgression of a similar nature, the final written warning may be taken into account in deciding an appropriate sanction.

5.3.4 In the event of the employee refusing to sign receipt of a written/final written warning, a witness will be called upon to sign confirming that the warning has been issued to the employee and that the employee has refused to acknowledge receipt thereof.

5.4 **Dismissal**

Dismissal may be effected when:

5.4.1 repeated warnings have been issued, in line with the disciplinary code, without improvement in the conduct of the employee concerned; or

5.4.2 when a final written warning has been issued; or

5.4.3 serious misconduct has been committed.

6. **DISCIPLINARY PROCEDURE**

Employee conduct which may warrant disciplinary action is listed in Annexure A. The list is not exhaustive. Management may discipline any employee in respect of any other conduct if the employee knew, or ought reasonably to have known, that the conduct constituted grounds for disciplinary action.

The recommended sanctions in Annexure A are guidelines only and may be departed from in appropriate circumstances.

6.1 **Notice of hearing**

6.1.1 A hearing can be conducted when an employee is subjected to allegations of misconduct in the workplace.

6.1.2 An employee will be given notice of a disciplinary hearing at least 48 hours before the hearing unless there are exceptional circumstances that warrant a shorter notice period. Longer notice may be required in complex cases; the period of notice given must be sufficient to allow the employee a reasonable opportunity to prepare for the hearing.

6.1.3 An employee must sign receipt of the notice. If the employee refuses to sign receipt of the notice, it must be given to the employee in the presence of a fellow employee, who must sign as a witness.

6.1.4 An employee is entitled to be represented by a fellow employee, or where the employee is a member of a registered trade union that has the necessary recognition agreement with the employer, or where the union has organisational rights, a trade union representative.

6.2 **Precautionary Suspension**

6.2.1 An employee may be suspended by management on full pay when an investigation into alleged serious misconduct is to be instituted during a disciplinary hearing or when management believes that the presence of the employee at the workplace may jeopardize

any investigation into the alleged misconduct or endanger the well-being or safety of the employer or any person.

6.2.2 A precautionary suspension is a measure which does not constitute a judgment or penalty. It is aimed at protecting the employer from prejudice or harm pending the hearing.

6.2.3 The employee must be issued with a suspension letter.

6.3 **Constitution of the Disciplinary Hearing**

6.3.1 A disciplinary hearing shall be held as soon as is reasonably and practicably possible after the Trust becomes aware of the commission of the alleged offence, allowing for reasonable notice.

6.3.2 The hearing may be attended by:

- a. The chairperson;
- b. The person who will initiate the complaint on behalf of the Trust (usually the immediate supervisor);
- c. The employee concerned;
- d. The employee representative, if the employee has appointed one (co-employee);
- e. A person who can act as an interpreter, if required;
- f. Witnesses when required to testify.

6.3.3 The responsibility of instituting disciplinary action usually lies with the immediate superior of the employee concerned.

6.3.4 The responsibility of presiding over a disciplinary hearing lies with management. Management has the right to appoint an external chairperson in its sole discretion.

6.3.5 The chairperson, if an employee, must be senior to the person being disciplined except where circumstances dictate otherwise.

6.4 **Sanction**

The chairperson may impose the sanctions listed below depending on the nature of the case, the employee's previous record, any mitigating or aggravating circumstances and past practice (precedent):

6.4.1 A written warning

6.4.2 A final written warning

6.4.3 Suspension without pay, Demotion, and/or Dismissal

The chairperson may only impose the sanctions of suspension without pay or demotion as an alternative to dismissal if the employee agrees to this. If the employee does not agree to the alternative sanction the chairperson may impose the sanction of dismissal.

Appendix A provides a guideline on sanctions that may be instituted for various acts of misconduct. The guideline must be considered within the context of the merits of each case and thus not applied rigidly.

7. **RIGHT TO REFER TO CCMA**

If an employee is not satisfied with the outcome of a disciplinary hearing, s/he may refer a dispute to the CCMA in terms of the LRA.

8. **RECORDING OF ENQUIRIES**

8.1 The Trust may, but is not obliged to, record proceedings. If the proceedings are recorded the Trust has no obligation to transcribe the record of the disciplinary hearing. If an employee so wishes to obtain a transcription, s/he shall bear the costs of such transcription.

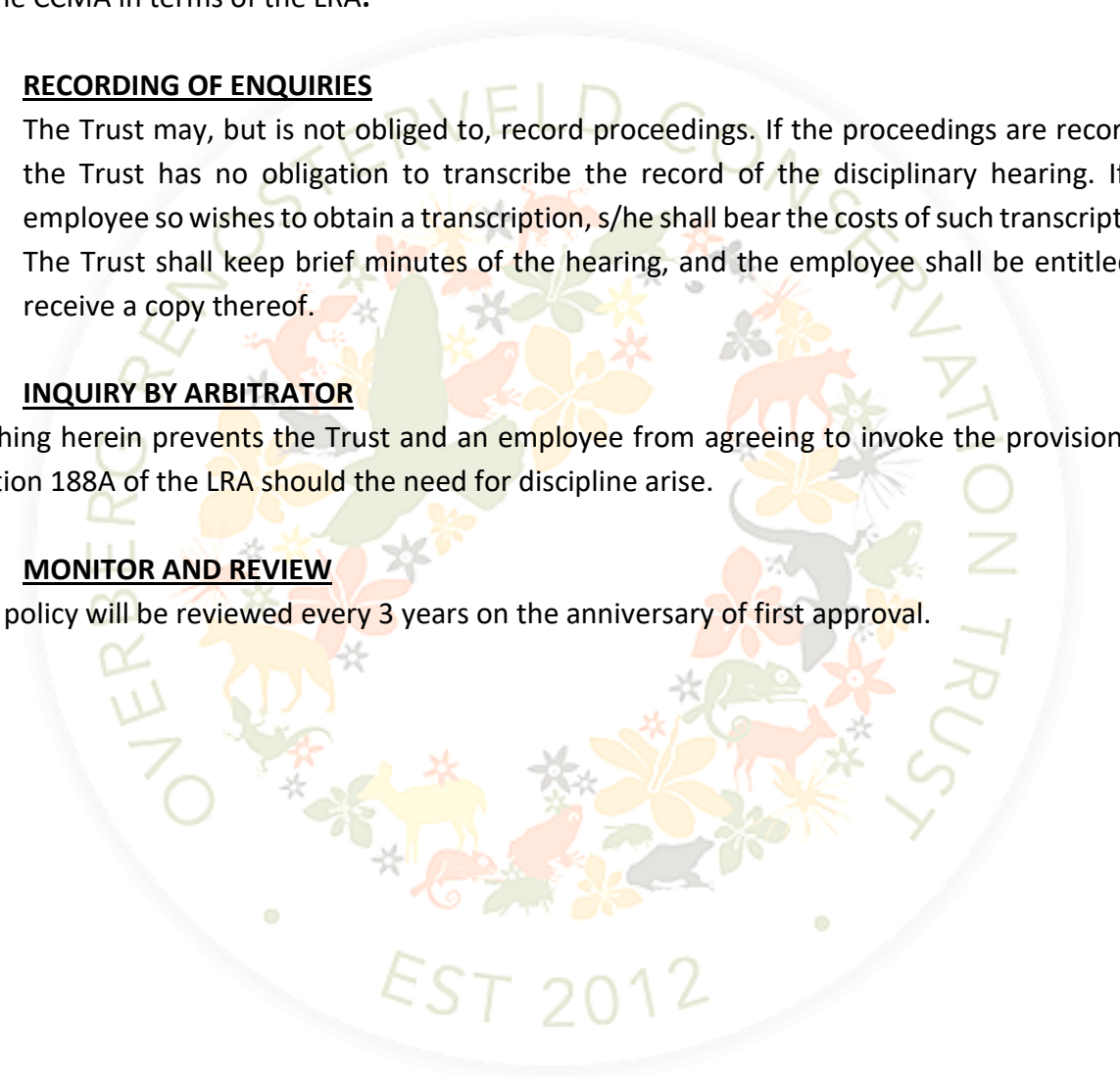
8.2 The Trust shall keep brief minutes of the hearing, and the employee shall be entitled to receive a copy thereof.

9. **INQUIRY BY ARBITRATOR**

Nothing herein prevents the Trust and an employee from agreeing to invoke the provisions of Section 188A of the LRA should the need for discipline arise.

10. **MONITOR AND REVIEW**

The policy will be reviewed every 3 years on the anniversary of first approval.



Appendix A

DISCIPLINARY CODE

Abbreviations:

VW = Verbal Warning

WW = Written Warning

FWW = Final Written Warning,

SD = Summary Dismissal

DN = Dismissal on Notice

TRANSGRESSIONS		GUIDELINES ON SANCTION			
CATEGORY 1: SERIOUS MISCONDUCT		<u>1st</u> <u>Offence</u>	<u>2nd</u> <u>Offence</u>	<u>3rd</u> <u>Offence</u>	<u>4th</u> <u>Offence</u>
1.1	Gross Insubordination	FWW	SD		
1.2	Assault, threatening violence, abusive behaviour	SD			
1.3	Harassment of any nature, including sexual harassment	SD			
1.4	Gross Dishonesty, including, but not limited to Theft, Fraud, Attempted Theft, Forgery, Making false statements, Misrepresentation	SD			
1.5	Corruption, Bribery (including offering, accepting or soliciting a bribe)	SD			
1.6	Unauthorised possession of company property, or the property of a customer, supplier or fellow employee	SD			
1.7	Any tampering with, wilful damage to, or grossly negligent handling of any property of the employer, supplier or customers of the employer	SD			
1.8	Insolence, including but not limited to swearing and abusive language	FWW	SD		
1.9	Intimidation / Victimization	SD			
1.10	Dereliction of duty	FWW	SD		
1.11	Gross Negligence	SD			

TRANSGRESSIONS		GUIDELINES ON SANCTION			
CATEGORY 1: SERIOUS MISCONDUCT		<u>1st</u> <u>Offence</u>	<u>2nd</u> <u>Offence</u>	<u>3rd</u> <u>Offence</u>	<u>4th</u> <u>Offence</u>
1.12	Misuse of company e-mail, internet and/or other company equipment	FWW	SD		
1.13	Gambling on company premises	FWW	SD		
1.14	Money-lending to fellow employees	FWW	SD		
1.15	Possession of / consuming of / being under the influence of alcohol or illegal drugs at workplace	FWW	SD		
1.16	Fighting, provocation at work	FWW	SD		
1.17	Being in possession of a dangerous weapon	SD			
1.18	Sleeping on duty (In the case of a Security Guard)	FWW SD	SD		
1.19	Acting in conflict with the company's interests	SD			
1.20	Wilful damage to company property	SD			
1.21	Uttering or circulating or distributing racially or sexually offensive language or material	SD			
1.22	Inciting others to commit an offence	SD			
1.23	Intentional interference with or obstruction of other employees in performance of their duties	FWW	SD		
1.24	Absence from work without authorisation for five days or more	SD			
1.25	Driving a company vehicle without a valid licence	FWW	SD		
1.26	Negligent / reckless driving	FWW	SD		
1.27	Disclosure of confidential company information	SD			
1.28	Participation in unprocedural work stoppage	FWW	SD		

TRANSGRESSIONS		GUIDELINES ON SANCTION			
CATEGORY 1: SERIOUS MISCONDUCT		<u>1st</u> <u>Offence</u>	<u>2nd</u> <u>Offence</u>	<u>3rd</u> <u>Offence</u>	<u>4th</u> <u>Offence</u>
1.29	Riotous and/or grossly offensive behaviour	SD			
1.30	Improper/indecent/disgraceful conduct	SD			
1.31	Failure to wear protective clothing / use safety equipment	FWW	SD		
1.32	Serious infringement of health, hygiene and safety rules and regulations	SD			
1.33	Any act or omission that has or may detrimentally affect the health and safety of any of the employer's employees, suppliers or customers	SD			
1.34	Desertion	SD			



TRANSGRESSIONS		GUIDELINES ON SANCTION			
CATEGORY 2: LESS SERIOUS MISCONDUCT		<u>1st</u> <u>Offence</u>	<u>2nd</u> <u>Offence</u>	<u>3rd</u> <u>Offence</u>	<u>4th</u> <u>Offence</u>
2.1.	Failure to carry out a lawful instruction	WW	FWW	SD	
2.2.	Failure to follow company procedures / adhere to company standards	WW	FWW	SD	
2.3.	Failure to comply with conditions of employment	WW	FWW	SD	
2.4.	Negligence (not gross)	WW	FWW	SD	
2.5.	Insubordination (not gross)	WW	FWW	SD	
2.6.	Performing work for another employer without prior written consent	WW	FWW	SD	
2.7.	Unauthorised absence from work (2-4 days)	WW	FWW	SD	
2.8.	Permitting an unlicensed person to drive a company vehicle	WW	FWW	SD	
2.9.	Failing to report an accident at work, or an accident involving a company vehicle	WW	FWW	SD	
2.10.	Refusal to work agreed overtime	WW	FWW	SD	
2.11.	Behaviour which could damage the employer's image or reputation	WW	FWW	SD	
2.12.	Smoking in a non-smoking area (In a hazardous area / near inflammable material)	WW FWW	FWW SD	SD	
2.13.	Less serious infringement of health, hygiene and safety rules and regulations	WW	FWW	DN	

TRANSGRESSIONS		GUIDELINES ON SANCTION			
CATEGORY 3: MINOR MISCONDUCT		<u>1st</u> <u>Offence</u>	<u>2nd</u> <u>Offence</u>	<u>3rd</u> <u>Offence</u>	<u>4th</u> <u>Offence</u>
3.1.	Unauthorised absence from work (1 day)	VW	WW	FWW	DN
3.2	Failure to advise employer of reason for absence	VW	WW	FWW	DN
3.3	Late coming / poor timekeeping without a legitimate reason	VW	WW	FWW	DN
3.4	Leaving workplace without permission	VW	WW	FWW	DN
3.5	Unauthorised breaks from work	VW	WW	FWW	DN
3.6	Abuse of sick leave	VW	WW	FWW	DN
3.7	Conducting private affairs during working hours (e.g. selling goods)	VW	WW	FWW	DN
3.8	Loafing, malingering, excessive socialising	VW	WW	FWW	DN

