



DBN Disciplinary Code and Grievance Policy and Procedures

Approval:

Signed on behalf of the document approver: _____

Signed on 22 Aug 2024, 17:46 WAT

Sarel van Zyl	Board Chairperson	12 August 2024
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<i>Name</i>	<i>Designation</i>	<i>Date</i>

INTERNAL USE**CONTACT INFORMATION AND RELEVANT DATES**

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SECTION A

1. INTRODUCTION

The policy is designed to help employees, management and their representatives deal with disciplinary and grievance situations in the workplace.

2. PURPOSE OF THE POLICY

It is designed to ensure that employees are dealt with fairly and consistently in disciplinary and other related matters affecting their work with the Bank.

3. SCOPE

The disciplinary system applies to all staff of the Development Bank of Namibia, including contract workers.

4. POLICY STATEMENTS

The Bank aims wherever possible to resolve informally matters of potentially unsatisfactory conduct, attendance or poor performance, without resorting to formal procedures. Recognising however, that this is not always possible, the purpose of this procedure is to provide a formal means of helping and encouraging employees to achieve and maintain acceptable standards.

The policy is designed to enable individual cases to be resolved fairly, consistently and in a timely manner. Wherever possible and reasonable, help and encouragement, including formal training, will be provided to allow staff to meet standards specified as a result of disciplinary action taken against them.

SECTION B

DEALING WITH DISCIPLINE

5. GENERAL OBSERVATIONS

- 5.1** This disciplinary procedure outlines the formal process that should be followed whenever a member of staff of the Development Bank of Namibia (DBN) contravenes a rule of the Bank or commits any act, which might be in breach of his contract of employment. The disciplinary procedure can, however, not function independently and should be read in conjunction with the disciplinary code. The disciplinary code provides detailed work rules

that should be adhered to by all DBN staff and also informs the staff members about the possible consequences of the transgressions of these rules.

5.2 Staff member behavior

- 5.2.1. All DBN staff are expected to perform their duties, assignments and reasonable instructions conscientiously and industriously and to behave in an acceptable and proper manner towards the Bank, management, their colleagues and members of the general public. Together with the adherence to all relevant legislation, policies, regulations and directives including disciplinary and grievance procedures, the service contract between individual members of staff and the Bank constitutes the basis for the service relationship.
- 5.2.2. Any behaviour or action by a member of staff that is not in line with the service contract may damage the relationship between the Bank and that person. Consequently, any action or behaviour of the employee that impairs this relationship or endangers it, ignores legislation, policy, procedures and policy rules and regulations; and/or causes damage to the Bank, will result in disciplinary action.

5.3 Terminology

- 5.3.1 The employment contract referred to can consist of either:
 - a) A complete contract of employment;
 - b) A letter of appointment with reference to the conditions of employment contained in the rules and regulations of the Bank; and/or
 - c) A tacit employment contract in terms of which a staff member tenders his/her services to the Bank.
- 5.3.2 Any reference in the disciplinary procedure or code to:
 - a) Staff member shall include a reference to officer, employee and/or manager
 - b) the singular shall include a reference to plural; and
 - c) any gender shall include reference to both the male and female genders.

6. PRINCIPLES APPLICABLE TO DISCIPLINARY ACTION

- 6.1 Discipline is both the prerogative and the inalienable right of:

- a) The Development Bank of Namibia and the Board of Directors in respect of the Chief Executive Officer and Heads of Departments;
- b) The Board of Directors in respect of any other officer or member of staff provided that the Board delegates its powers under this paragraph to the Chief Executive Officer and Heads of Departments.
 - Equally, discipline is a managerial and/or Line function and therefore all persons in supervisory positions must take disciplinary action towards subordinates committing a transgression or acting in an unacceptable manner.
 - No formal disciplinary action will be taken until a disciplinary complaint form has been completed, the HC department consulted and the matter has been fully investigated.
 - Disciplinary decisions and actions must be preventative and corrective. Only in cases where misconduct affected the trust relationship between the parties, correction is impossible or where the employee fails to react positively to corrective discipline, dismissal be considered.
 - The application of discipline must be lawful, just, fair and consistent at all times.
 - The application of discipline should not be delayed unduly and should ideally be dealt with at the lowest practicable level in the Bank.
 - Discipline is a personal matter and the smallest possible number of people should be involved in disciplinary enquiries; the employee's privacy should be protected as far as possible.
 - Discipline should be formalised in cases of serious misconduct and/or when it has become clear that the employee has not responded favourably to personal counselling or verbal warnings.
 - No disciplinary decision or action in respect of a final written warning, dismissal, suspension, reduction in remuneration/grade and or transfer of staff member to another post on disciplinary grounds can be made unless a procedurally just and fair disciplinary inquiry has taken place. A formal disciplinary inquiry should not be constituted where a verbal and written warning or counselling session would suffice.

- In the case of an employee refusing without good cause to attend a disciplinary inquiry, it may proceed without the person being present, provided that all procedures are adhered to.
- Employees who are subjected to a disciplinary inquiry should always:
 - be informed at least 48 hours in advance in writing of the nature of the alleged transgression;
 - be informed of the possible consequences of being found guilty;
 - be afforded sufficient opportunity to prepare themselves for such enquiry, inclusive of being entitled to request information, copies of evidence, documents and other material that may be relevant and would enable him/her to adequately prepare for the enquiry;
 - be notified of their right to be represented by a recognised trade union representative (shop steward) or colleague who is available on the allocated date of the inquiry and be encouraged to avail themselves of this right. Only in very exceptional circumstances, approved by the Board Human Capital and Remuneration Committee and upon application in writing to the chairperson of an inquiry, may external legal representation be allowed, where exceptional circumstances include all of the following factors: the complexity of the charges and alleged facts, seniority of accused employee, seriousness of sanction, availability and expertise of colleagues that can represent etc.:
 - be notified and encouraged to call witnesses and cross-examine all witnesses called to testify against them, to protect and promote their interests;
 - be afforded the right and the occasion to state their case; and
 - be informed of the outcome of the disciplinary enquiry.
 - Disciplinary action should only be taken if sufficient substantive evidence (proof), on a balance of probabilities, exists that misconduct had indeed been committed.
 - Mitigating and extenuating (aggravating) circumstances and evidence should be assessed and considered in all disciplinary enquiries, after the accused employee was found guilty of misconduct.
 - A transgression by an employee in the Bank must be dealt with in terms of this disciplinary procedure. Disciplinary action should be taken even if the transgression is a criminal offence to be referred to a court of law. Where supervisory staff fails to take disciplinary action against employees that committed

misconduct, without a reasonable justification, such failure will be regarded as serious misconduct.

- It is of the utmost importance that complete and accurate records of disciplinary enquiries are kept.
- In exceptional circumstances, the Bank may derogate from the disciplinary procedures as set out below, provided that the Bank still complies with a fair procedure as required by law.
- Where the disciplinary procedures refer to certain duties, tasks and/or obligations that must be performed by a certain official and such official is personally involved in, charged with misconduct and/or must recuse him/herself from a procedure for any reason, the Chief Executive Officer may direct that the tasks and/or functions to be performed by such official must be performed by that official's superior or any other person. In the event that the Chief Executive Officer is personally involved or charged with misconduct, the Board retains the right to perform the Chief Executive Officer's functions in terms of this disciplinary procedures policy or delegate such functions and duties to a third party in their discretion.

7. DISCIPLINARY PROCEDURES

The aim of the disciplinary procedure is to communicate the Bank's norms, values, standards and principles that apply to the handling of discipline. In addition, it serves to demarcate clearly what procedures would be followed should conduct be regarded as undesirable or unacceptable or as a transgression of internal rules, regulations, procedures or values. Finally, it ensures that corrective action is pursued in respect of each transgression or behaviour.

8. INDEPENDENCE OF TRANSGRESSIONS

- 8.1 It is preferable that, if an employee is accused of more than one transgression, the transgressions be dealt with separately. Likewise, disciplinary decisions should preferably be made separately and independent of one another. This, however, does not derogate from the Bank's right to have one disciplinary enquiry where an employee is charged with different independent transgressions, as long as the alleged transgressions are dealt with independently from each other on determination of guilt and sanction.
- 8.2 Only transgressions, which are related with each other, may contribute together towards a specific disciplinary action.

- 8.3 Disciplinary decisions shall be made in consideration of previous similar warnings that have not yet expired on the date of the alleged misconduct and in consideration of the general disciplinary record of the employee in question. It is important that previous transgressions, as well as the employee's disciplinary record, be considered in deciding on the most appropriate corrective measure or disciplinary action, once the employee has been found guilty of misconduct.

9. VALIDITY PERIODS

- 9.1 The validity periods of disciplinary warnings are as follows:

- verbal warning: three months
- written warning: six months
- final written warning: nine months
- comprehensive final written warning: twelve months

- 9.2 The above-mentioned periods will commence on the date of confirmation by the Chairperson of the Disciplinary Enquiry and the Disciplinary Committee.

- 9.3 For purposes of progressive disciplinary action, the date on which any further similar act of misconduct is committed within the validity period of the previous disciplinary warning will be taken into account, and not the date on which consideration is given by a chairperson of a disciplinary enquiry to such previous warning(s).

10. PROGRESSIVE APPLICATION OF DISCIPLINE

Despite the guidelines as set out in the disciplinary code, any transgression, whether a service irregularity or misconduct, depending on the nature and circumstances; could lead to dismissal. However, dismissal should always be considered only as a last resort. In some cases of serious misconduct such as, but not limited to, theft, fraud, any act of dishonesty, gross insubordination, wilful damage to property of the employer, wilful endangering of the safety of others, or physical assault on the employer, a fellow staff member or a client, dismissal could, however, be regarded as the appropriate penalty for a first transgression. The following progressive disciplinary steps will normally apply:

10.1. Counseling

Counselling sessions will be conducted in the event of less serious transgressions, such as attitude problems or minor misconduct by staff. A counselling is rehabilitative by nature and the session

must be recorded by the supervisor and placed on the employee's personal file. The possible consequences of a failure to correct the behaviour should also be pointed out to the employee. A counselling session shall form part of an employee's disciplinary record, and could be taken into account in future if the employee is again convicted for a similar type of offence.

10.2. Verbal warning

- 10.2.1. A verbal warning will be issued only after an enquiry (not hearing) had been conducted.
- 10.2.2. A verbal warning will be issued in the event of less serious transgressions, such as service irregularities or early signs of deterioration in behaviour and/or action by an employee. A verbal warning must be recorded by the supervisor (in accordance with the prescribed form) and noted by the employee; the nature of the offence must also be recorded.
- 10.2.3. The possible consequences of a failure to correct the behaviour must also be pointed out to the employee, and his supervisor should counsel him.
- 10.2.4. Normally a verbal warning is issued only after the employee underwent a counselling session for the same or similar type of offence. A verbal warning may, however, and depending on the nature of the offence, be issued for a first transgression.

10.3. Written warning

A written warning follows after one or more verbal warnings that have failed to produce the desired result. In the event of a first transgression, where the nature and circumstances indicate that a verbal warning would not be a suitable disciplinary measure, a written warning may be issued for a first transgression or a written warning can be issued after a supervisor discussed the allegations of misconduct with the employee, determined guilt and decided on a warning. If the employee does not agree or feel aggrieved a full enquiry can take place. In such an event, the chairperson of the enquiry, if the employee is found to be guilty, will not be restricted to original intended written warning as sanction may, depending on the seriousness of the incident and mitigating and aggravating circumstances, decide on a more severe sanction.

10.4. Final written warning

- 10.4.1 A final written warning will be issued only after a formal disciplinary enquiry or inquisitorial hearing has been conducted.

10.4.2 A final written warning normally follows one or more written warnings that have failed to produce the desired result. In the event of a first transgression, where the nature and circumstances of the transgression indicate that a final written warning will be a suitable measure, a final written warning may be issued.

10.5. Comprehensive Final Written Warning

- A comprehensive final written warning may be issued to an employee if he/she is found guilty of breach of conduct and he/she has already two (2) valid final warnings on his/her File.
- Where the conduct warrants dismissal but where mitigation was strongly motivated.
- A comprehensive final written warning should not be issued prematurely since the warning indicates that the next misconduct however different from the one committed and for which a comprehensive final written warning was issued, would justify summary dismissal.
- The comprehensive final written warning must contain the description of the misconduct and warn the employee to correct his/her behaviour.
- A comprehensive final written warning will remain valid for a period of 12 months from the date on which that warning was issued.

10.6. Dismissal

- Before dismissal can be considered, there must be a formal disciplinary enquiry. Dismissal is the most extreme form of disciplinary action and should be handled with circumspection. Dismissal normally follows only when all other corrective and preventive actions have failed.
- Dismissal will be the appropriate sanction if:
- No alternative sanction would be effective or practical; or
- Corrective measures, such as warnings and demotion, are not suitable; or
- The misconduct (or the repetition thereof) is of sufficient serious nature under the circumstances which leaves the continuation of the employment agreement impossible.
- The misconduct / transgression results in a material breach of the employment agreement and if, after investigation/hearing, it is confirmed that the employee have committed gross misconduct, the consequence will be dismissal.

10.7. Suspension without Pay

An employee may be suspended without pay for up to 3 months after being found guilty of misconduct as an alternative to dismissal. This will only be considered if the misconduct was not willful and did not involve dishonesty.

10.8. Monetary Fine

A monetary fine shall be handled in accordance with Section 12 of the Labour Act No 11 of 2007.

10.9. Demotion

This measure entails an adjustment of the conditions of employment of the particular member of staff and can be for a temporary or indefinite period, depending on the circumstances and reasoning behind such sanction. The conditions of employment of the member of staff cannot be adjusted unilaterally. The employee's consent will therefore have to be obtained. Should consent not be given by the employee, an alternative sanction should be referred by the chairperson in his/her findings as to sanction, such as dismissal. Demotion should only be considered in exceptional cases and only as an alternative to dismissal.

10.10. Transfer

An employee, could, for the good of the Department and the person, be transferred to another Department, provided that any intended transfer is done in agreement with the relevant Line manager/Supervisor and the Head: Human Capital and Operations Support, the latter who may recommend any such transfer to the Chief Executive Officer. Care should, however, be taken that where an employee's misconduct is of such a serious nature that it affects the trust relationship between the Bank and the employee, a transfer would not repair a relationship that has irretrievably broken down. As a transfer in certain circumstances may result in a change in the terms and conditions of an employee's employment, consent by the employee will be required. As a result, an alternative sanction, should the employee not agree to a transfer, should be provided for by the chairperson and be dealt with similarly as per the discussion of a demotion referred to under paragraph 10.6.

11. STEPS TO BE FOLLOWED WITH THE DISCIPLINARY PROCESS

11.1. Verbal warning

11.1.1 Should an employee, in the opinion of the direct supervisor, commit a minor transgression or display undesirable or unacceptable behaviour at the work place, such as a less serious transgressing of a rule, regulation or directive of the Bank, the supervisor should:

- a) determine whether there is a reasonable explanation for his behaviour;
- b) warn the staff member that his behaviour is undesirable, unacceptable or a transgression,
- c) if no reasonable explanation is forthcoming;
 - state that the employee's behaviour must improve or be corrected;
 - inform the staff member what desirable or acceptable behaviour (norms, standards, rules, etc.) is;
 - warn the employee that action will be taken against him if the undesirable or unacceptable behaviour continues;
 - provide counselling to the employee.

11.1.2 Should the employee's behaviour show no improvement, or should there, in the opinion of the supervisor, be no valid reason to believe that his behaviour has improved sufficiently and it is, in the opinion of the supervisor, desirable to do this, the verbal warning can be repeated. Should the employee fail to respond positively to counselling sessions or to repeat verbal warnings, or should his behaviour deteriorate, formal action must be taken.

11.2. Written warning

11.2.1 Should an employee commit a transgression or display undesirable or unacceptable behaviour at the work place as outlined in the Schedule of Offences in paragraph 3 that warrants a written warning, the supervisor should:

- a) determine whether the employee made him/herself guilty of the misconduct;
- b) determine from the employee whether there is a reasonable explanation for his behaviour;
- c) warn the staff member that his behaviour is undesirable, unacceptable or a transgression,

- d) if no reasonable explanation is forthcoming and in writing on the correct form;
 - state the misconduct and incident;
 - state that the employee's behaviour must improve or be corrected;
 - inform the staff member what desirable or acceptable behaviour (norms, standards, rules, etc.) is;
 - warn the employee that more serious action will be taken against him if the undesirable or unacceptable behaviour continues;
 - provide counselling to the employee; and
 - place a copy of the written warning provided to the employee on his/her personal file.

11.3 Final written warnings, Comprehensive final written warnings and Dismissals

In all cases where the transgressions are of such a nature that a final written warning, Comprehensive or dismissal could reasonably be justified, a formal/ and inquisitorial disciplinary enquiry shall be constituted. This would also be the case where circumstances such as the complexity of the case require it or where either party to the enquiry could call witnesses. In these instances, the steps set out in paragraph 13.5 should be followed.

12. REPRESENTATION AND CHAIRPERSON

12.1. Representation

Staff members will have the right of representation at their own request, on the following basis:

- The representative must be either a shop steward or colleague. The employee and such representative must arrange their own logistics i.e. transport, accommodation, leave of absence from work station with the representative's supervisor and manager. The Bank will not be responsible for these costs since this is entirely at the choice of the employee requesting such representation.
- Employees outside the Bargaining Unit may be represented by a fellow employee such representative has to get prior permission from his/her Line manager/Supervisor.

- If an employee voluntarily waives his/her right to make use of a representative (wishes to continue without) it is acceptable and regarded as fair.
- Should a representative not be available the hearing may be adjourned provided the employee informs an ER/HR representative **at least 24 hours** before the hearing.

12.1.1 Informal Process

Verbal and Written warnings

12.1.2 The accused member of staff has the right to be represented by any employee of his choice or trade union representative (shop steward) and may request to call witnesses during the informal proceedings prior to the issuing of a verbal or written warning.

12.1.3 No person from outside the Bank has the right to be present during this enquiry. These enquiries are an internal in-house procedure and legal practitioners, consultants or union officials who are not employees of the Bank are not allowed to be present and thus excluded.

12.1.4 Formal Process

All other disciplinary inquiries (Inquisitorial / Round Tables or Adversary hearing)

12.1.5 Representation by a trade union representative (shop steward) or fellow member of staff.

12.1.6 External legal representation may only be allowed in very exceptional circumstances as provided for in this policy.

12.1.7 Depending on the circumstances, the dates of disciplinary enquiries will not be dependable on the availability of internal or external representatives. It is the accused employee's own responsibility to ensure that the chosen representative is available on the allocated enquiry date(s). The finalisation of the disciplinary process cannot be dictated by the availability of external legal representatives.

12.2. Chairperson

- 12.2.1 The Bank may retain the services of a suitably qualified external chairperson to conduct a disciplinary inquiry on behalf of the Bank, should an impartial internal member of staff not be available or if it is required by other exceptional circumstances such as, but not limited to, the seniority of the accused employee and/or the complexity of the charges.
- 12.2.2 Subject to the provisions of 12.2.1 above, whenever Management has reason to believe that an enquiry under the provisions of this disciplinary procedure should be instituted against any employee or officer, an appropriate officer/Line manager/Supervisor/Line manager/Supervisor shall conduct such enquiry as chairperson. The Bank shall retain the right to appoint any other officer/s to conduct the enquiry, other than the officials in the specific Department.
- 12.2.3 At the conclusion of the inquiry, the employee shall be notified of the finding and recommended action of the Chairperson.

13. DISCIPLINARY INVESTIGATION

13.1. Investigation of alleged misconduct

If it should be alleged or suspected on reasonable grounds that an employee is guilty of misconduct or failure to maintain standards, and if it is sufficiently serious to justify resorting to formal disciplinary action by way of a disciplinary enquiry, the employee's superior or departmental head will report the matter to the Head: Risk and Compliance who will forthwith appoint a competent person (hereinafter referred to as "the investigator") to investigate the allegation.

In determining who should conduct the investigation, the following principles should be adhered to:

- The investigator should not be connected to the incident, i.e. he/she should not serve as a witness during the disciplinary procedures.
- The investigator should not report to the employee that is being investigated,
- The investigator should not be the person who will then conduct or be the chairperson of the disciplinary hearing.

- The investigator possesses adequate experience and had received training on how to conduct disciplinary investigations.
- Where deemed necessary, due to the high complexity or seriousness of the case, external resources may be appointed to perform the role.

13.2. Task of the investigator

- 13.2.1 The task of the investigator will be to ascertain when, where and under what circumstances the offence was allegedly committed. He/she should interview possible witnesses including the employees allegedly involved in the alleged misconduct may take sworn statements from all potential witnesses if regarded as necessary, take possession of all books, documents and other items that may be required as exhibits at a disciplinary inquiry. He will collate the evidence and, if it appears that there is evidence of misconduct committed, prepare a draft charge sheet, setting out all the potential charges against the employee(s).
- 13.2.2 The investigator will put all the draft accusations to the employee and give him an opportunity to respond. He may question the employee to ascertain the nature of his defense and to clarify any matter. He will record the questions and the answers, read it to the employee and give him an opportunity to sign it if he so desires.
- 13.2.3 The investigator will without undue delay submit all the evidence, the draft charges, details about the questions, which he put to the employee and the employee's answers, and his comments and recommendation to the Head Human Capital and Operations Support.

13.3. Suspension

- 13.3.1.1 An employee may, at any time before or after he has been charged with an offence of misconduct, be suspended from duty by the Manager / Supervisor and/or on recommendation of the Investigator in consultation with the **HR Department**. The following grounds may warrant suspension from duty with full pay and benefits:
- 13.3.1.2 The Line manager/Supervisor is of the opinion that the employee may tamper with evidence
- 13.3.1.3 When his or her presence on duty / the premises may hinder investigation into an alleged offence e.g. fraud, assault, threatening violence and sexual harassment;

- 13.3.1.4 When his or her presence on duty / premises may affect employment relations in such a way that colleagues may feel threatened by his or her presence and it be deemed in the business interest to suspend such an employee.
- 13.3.1.5 When his or her presence on duty or the premises may prejudice the interest of the Bank.
- 13.3.1.6 Suspension of senior management is done in compliance with the directives of the Minister of Public Enterprises.
- 13.3.1.7 The Line manager/Supervisor will determine if the alleged offender is to be suspended or not. This determination should be done in consultation with the HR Department.
- 13.3.1.8 A pre-suspension meeting should be held to inform the employee of the reasons for suspension and to allow the employee to make representations thereon.
- 13.3.1.9 The employee must be allowed the opportunity to state a case in response to the proposed suspension.
- 13.3.1.10 Should the alleged offence be of such nature that an employee has to be suspended; the employee should be notified of the suspension and his/her record updated with the suspension details.

13.4. Preparation of the charge(s)

- 13.3.2 The Line manager/Supervisor will satisfy themselves that there is sufficient prima facie evidence that the employee committed an offence of such a serious nature as to warrant a final written warning or even the dismissal of the employee.
- 13.3.3 The Line manager/Supervisor in consultation with a ER/ HR Representative will check and, if necessary, reformulate the charge sheet compiled by the investigator.
- 13.3.4 The employee concerned must be notified in writing of the date, time and venue of the disciplinary enquiry / hearing. The prescribed notice form (notice to appear at a disciplinary hearing or enquiry) must be duly completed and shall be handed to the employee at least 48 hours before the hearing to enable the employee to prepare his/her case on the charges levelled against him/her

- 13.3.5 The Line manager/Supervisor will ensure that all the alleged offences are covered in the charge sheet that each charge describes the alleged offence in clear and concise terms and states when and where it was allegedly committed.
- 13.3.6 The ER/HR Representative will also see to it that each charge contains such additional information as may reasonably be necessary for the employee to understand the charge and to prepare his defense.
- 13.3.7 An employee may not be charged for the same offence twice unless the charge is also charged in the alternative. Splitting of a charge in two or more charges is not allowed.
- 13.3.8 Should the employee decline to sign an acknowledgement, a witness must sign confirming that the employee has been notified and that the employee refused to sign in acknowledgement. Signature of this document is a receipt thereof (notice to appear) and not an admission of guilt.

14. INQUISITORIAL DISCIPLINARY AND/OR ROUND TABLE ENQUIRIES

- 1.3 An inquisitorial disciplinary and/or round table hearings will be held if the circumstances of the case require a more detailed investigation and no independent chairperson is available or needed. Inquisitorial disciplinary enquiries will be conducted by any person versed or trained in Human Relations and/or Industrial Relations and the purpose of the inquiry is to determine the truth of the allegations against the employee.
- 1.4 Guilt or innocence in any allegation will be determined on the principle of “Balance of Probabilities” and should not to be proven on the principle of “beyond a reasonable doubt”.
- 1.5 The Chairperson of the inquisitorial disciplinary enquiry will make the recommendations of his findings to the relevant management/line manager if the employee does not acknowledge guilt and who will then uphold his recommendations or request that an adversarial disciplinary hearing is held.
- 1.6 Schedule one Offences such as theft, fraud, dishonesty, cannot be dealt with under this provision.

15. ADVERSARIAL AND/OR DISCIPLINARY ENQUIRY HEARINGS

An adversarial and/or disciplinary inquiry must be held in the following circumstances:

- 1.7 If the Line manager/Supervisor believes that the disciplinary transgression is severe enough that a verbal or written warning would be insufficient;
- 1.8 If the behaviour of an employee has not been successfully modified as a result of prior verbal and written warnings;
- 1.9 If the employee has received two valid written warnings for similar disciplinary offences, or if the current transgression constitutes a serious disciplinary offence;

- 1.10 The person who presides over the hearing ("the Chairperson") must be impartial and must not be the person who initiated the complaint against the employee concerned. The Chairperson to be appointed by the ER/HR Representative.
- 1.11 The disciplinary measures must be initiated within a reasonable time after the Bank has become aware of the alleged disciplinary infraction

16. PREPARATION TO HOLD A FORMAL DISCIPLINARY INQUIRY

13.5.2 The chairperson

The chairperson must be impartial and objective and must not have a vested interest in the matter. The chairperson will be furnished with a copy of the charges, and the disciplinary pack so as to enable him/her to prepare for the inquiry. Any circumstances that create a reasonable perception of bias will disqualify the chairperson to act as such.

13.5.3 Timing

Provisions should be made for at least 48 hours during which the employee can prepare himself for the enquiry and consult with his representative from the time of receipt of the notice. This period could, upon application to the Chairperson, be extended if the enquiry is complicated. Preparations / consultations for the inquiry should take place outside of normal working hours. However, should the employee require time-off to consult during working hours where he/she has not been suspended, the employee will be entitled to utilize his/her annual leave to do so, subject to the Bank's leave policy.

13.5.4 Recording of the proceedings

Arrangements must be made for the accurate recording of the proceedings during the disciplinary inquiry.

13.5.5 The venue for the inquiry

The inquiry should be held in a place that is safe and removed from noise and possible outside interference while the inquiry is in progress.

13.5.6 Notice to the employee to attend disciplinary inquiry

The Line manager/Supervisor in consultation with the HR Representative will without undue delay inform the employee in writing of the date, time and place of the inquiry. A copy of the charge sheet will be attached to the notice.

13.5.6.1 Conducting the formal disciplinary inquiry

13.5.6.1.1 The Chairperson of the disciplinary inquiry should follow a checklist attached as **annexure C**

13.5.6.1.2 The inquiry will be conducted in the presence of the employee unless he/she refuses to attend, fails to attend without a reasonable explanation or behaves in such a way that the inquiry cannot proceed in his/her presence. Should an employee be medically unfit to attend a disciplinary enquiry, the employee must provide a medical certificate wherein it is certified that the employee is unable to attend and participate in the enquiry. The employer is entitled to obtain a second opinion should the employee be certified as medically unfit on more than one occasion to attend an enquiry and/or require the employee's medical practitioner to testify in a postponement application to confirm the employee's unfitness.

13.5.6.1.3 The Initiator will be the accused employee's superior, the investigator or any person appointed as such by the relevant Line manager/Supervisor. In complex matter or where exceptional circumstances require the need to utilize an external Initiator, the Line manager/Supervisor may request the Chief Executive Officer to appoint an external Initiator, provided that in such case the accused employee may also be represented by an external legal representative or external union official. If necessary, the Initiator may also be a witness, such as when the Initiator also investigated the alleged misconduct, provided that the Initiator testifies as first witness and an opportunity is provided to the accused employee and/or his/her representative to cross-examine the Initiator.

- 13.5.6.1.4 The chairman will bear in mind that his function is to establish the facts impartially and objectively.
- 13.5.6.1.5 The chairman will make sure that a proper record of the proceedings is kept.
- 13.5.6.1.6 On the day of the enquiry, the Chairperson of the Disciplinary Enquiry (appointed either from internal staff or external persons by the ER/HR Representative, or by the Board in the case of the Chief Executive Officer being accused) should follow the hearing checklist to ensure all required actions are completed.
- 13.5.6.1.7 He/She will introduce him or herself as well as all other people present. As discipline is a personal matter only the Chairperson, the Initiator, the Accused employee, his representative, a scribe and a representative of the Human Capital Unit should be present during the inquiry. The Head: Human Capital and Operations Support is the custodian of employee/employer relationship, thus he/she will have free access to the disciplinary enquiries at all times but in an observing capacity. Witnesses may be called into the enquiry but should leave as soon as the Chairperson no longer requires their services.
- 13.5.6.1.8 The Initiator should then continue to put the charge(s) to the employee and the employee asked to plea to the charges. If a plea of guilty is noted, the Chairperson must ensure that the employee understands his/her plea and pleads guilty to all the relevant elements of the charge. Should a plea of guilty be accepted, the enquiry will proceed to the stage dealing with mitigating and extenuating circumstances and a determination of sanction as discussed below. If there is a plea of not guilty, the Initiator can call witnesses to corroborate the charge(s). The employee or his representative should be allowed to ask questions to these witnesses (cross-examination) and state the employee's version of events to the witnesses for such witnesses to respond thereto. After the Bank's case was presented to the enquiry, the employee must be afforded the opportunity to state his case and to call other witnesses if required. The employee and his/her witnesses may be cross-examined by the Initiator. The Chairperson could also ask questions to these witnesses to clear uncertainties.
- 13.5.6.1.9 The Chairperson should then consider all the facts and make a finding as to the guilt or innocence of the accused member of staff.

- 13.5.6.1.10 If the charges against the employee have not been established, he will be found not guilty and acquitted. The fact that he was found not guilty and acquitted will be recorded and this fact will be reflected in the employee's personnel file.
- 13.5.6.1.11 Should the Chairperson of the enquiry find, on a balance of probabilities, that the accused employee is guilty of the misconduct as charged; the Chairperson should afford the staff member or his representative the opportunity to present evidence in mitigation. Similarly, the Initiator may present evidence and/or testimony as aggravating circumstances to be considered by the Chairperson.
- 13.5.6.1.12 The Chairperson should look at the employee's previous disciplinary record to determine whether valid previous warnings (as on date of incident for which the employee now has been found to be guilty off) for similar misconduct should be taken into consideration to determine a suitable sanction to be imposed.
- 13.5.6.1.13 The chairperson announces the sanction and gives his reasons for the decision. He explains the consequences of the penalty to the employee.
- 13.5.6.1.14 The ER/HR representative should inform the employee and his representative in writing of the decision of the Chairperson. A copy of this document should be filed on the staff member's personal file. Other relevant information should also be provided, among others, where an employee is dismissed he should be informed of the following:
- e) when his services will be terminated;
 - f) which day will be the last day of service;
 - g) whether he will be required to work during notice of dismissal;
 - h) when the employee's remuneration, payment of leave, bonus, etc. (if applicable) will be available; and
 - i) the staff member's right of appeal against the verdict and/or action and the period within which the appeal with reasons must be submitted.

17.CRIMINAL OFFENCES

- There is a difference between criminal offences and misconduct. Even if criminal charges are filed against the employee the internal disciplinary process shall continue and not be barred or stayed, notwithstanding the fact that the criminal proceedings are based on the same facts. The acquittal of the employee by a court of law shall not bar or set aside the internal disciplinary action.

- If an employee is unable to report to work due to the fact that he/she is incarcerated by the Police or is awaiting trial in custody, the Bank will keep his position open for a period of 30 calendar days after which the Bank reserves the right to proceed with an internal disciplinary procedure in absentia. The rule of No Work No Pay will apply in this regard.
- If an employee is convicted by a criminal court, whether inside or outside Namibia, of a criminal offence of which dishonesty is an element, the employee shall be guilty of a misconduct and may be dismissed, depending on the circumstances and the position of the employee.

18. RIGHT TO APPEAL

- 14.1 The employee shall have the right to appeal any finding of guilt and sanction imposed by a disciplinary enquiry and/or written warning given to him by his superior, within three working days as from the date on which he was so notified, against such finding and/or corrective action taken. The appeal should be directed to the Head: Human Capital and Operations Support within three working days and must contain the reasons for appeal, i.e. procedural irregularities, findings of guilt and/or sanction.
- 14.2 The Bank shall also be entitled to appeal or review a decision of guilt or sanction by the Chairperson, in which event the provisions of **14.1** shall also apply to such appeal.
- 14.3 Appeals will be dealt with based on the written record of the initial disciplinary enquiry and exhibits handed in and only arguments on the grounds of appeal and the disciplinary enquiry record will be presented to the Chairperson of the Appeal by the employee or his representative and the Initiator or alternate. In the event of an appeal against a written warning, a full appeal enquiry on evidence, including testimony of witnesses, must take place. In the latter case, the chairperson of the appeal will not be bound to the sanction appealed against and may decide on a more or less serious sanction if found to be guilty.
- 14.4 The noting of an appeal will not suspend a sanction of dismissal. In the event of an unsuccessful appeal on a sanction of dismissal, the date of dismissal will be regarded as the date on which the employee was dismissed by the chairperson of the disciplinary enquiry and not the date on which the outcome of the unsuccessful appeal is communicated to the employee. In the event that an appeal against a sanction of dismissal is successful, the employee will be reinstated on full back pay.

- 14.5 Should the chairperson of an appeal find that the procedures during the original disciplinary enquiry were irregular and to the prejudice of the employee, the chairperson of the appeal may set aside the original proceedings' outcome(s) and direct that a new disciplinary enquiry takes place on the same or similar charges relating to the same incident.

19. GROUNDS FOR APPEAL

- **Procedural Fairness:** The disciplinary action in terms of this policy was not followed; The disciplinary enquiry / hearing were procedurally unfair in terms of this Policy and process flow.
- **Substantive fairness:** Guilt was not proved due to insufficient evidence presented or led; Sanction was too harsh and is not consistent with sanctions issued for similar misconduct.
- **Jurisdiction:** The Bank does not have the right to discipline employee i.e. misconduct did not happen at the workplace/premises or misconduct is a private matter.
- **New Evidence:** Material evidence not presented or led at initial hearing is presented tendered to be led on good cause shown.

19.1 Different types of appeal hearing

Upon receipt of all the documents / records, the chairperson of the appeal shall decide how the appeal will be conducted, whether it will be either;

- **A complete re-hearing.** The procedures of the normal disciplinary hearing will be followed the Appeal chairperson informed the original initiator of his/her decision. The Chairperson of the initial hearing may become a witness; or
- **Hearing of new evidence only.** The chairperson will allow the transgressing employee/and or representative to present new evidence and then reconsider the initial decision based on the documents taking into account the new evidence. Statements and arguments by the transgressing employee and initiator will be allowed. The Chairperson of the Appeal Hearing may consult with the Chairperson of the initial hearing on reasons for his decision to enable him/her to arrive at an ap-proprate decision. Such consultation should be done prior to the Appeal hearing.

- **Appeal on record.** Depending on the grounds of appeal, the nature of the initial hearing (plea of guilty), the record / summary and/or audiotapes of the initial hearing, the chairperson of the appeal can reconsider the outcome of the initial hearing.

20. DISCIPLINARY CODE

1. PURPOSE

The purpose of this code is to:

- 1.1 outline the standard conduct and rules applicable to DBN employees. It is accepted that a disciplinary code and procedure is necessary for the efficient running of bank business, the safety and fair treatment of all staff, and for ensuring sound labour/management relations; and
- 1.2 provide guidelines for management to ensure just and uniform application of disciplinary measures and to provide a reference for management engaged in applying discipline.

2. UNDERLYING PRINCIPLES

This code is based on the following principles, which must be observed at all times:

- 2.1 Disciplinary steps are instituted in order to obtain the co-operation and involvement of all DBN staff, and to protect the interests of both the employee and the Bank in the process of dealing with unacceptable behaviour or poor work performance.
- 2.2 In the enforcement of discipline, the emphasis should be focused on guidance and rehabilitation rather than on the imposition of punishment. However, where necessary, punishment must be used as a legitimate deterrent in the maintenance of discipline.
- 2.3 Depending on the seriousness of the offence, the Bank is at liberty to apply more serious disciplinary action.
- 2.4 The application of discipline must at all times be lawful, just, fair and consistent.
- 2.5 Disciplinary action is not valid for an indefinite period, but as follows:
 - verbal warning: valid for three months
 - written warning: valid for six months
 - final written warning: valid for nine months
 - Comprehensive final written warning: valid for twelve months

NOTE: Disciplinary action is not only restricted to the above actions. Alternative actions may be considered with due regard to relevant legislation, including the Labour Act and the common law.

- 2.6 The Disciplinary Code must not be seen as an independent document. The applicable provisions of the disciplinary procedure should be adhered to, as far as possible, to ensure fair and just application of discipline within the Bank.
- 2.7 The proposed action as reflected in the columns below should not be imposed automatically. The nature and circumstances of each individual case should be taken into consideration prior to a decision being taken. Therefore, the proposed code serves as a guideline and the offences listed should by no means be seen as an exhaustive list;
- 2.8 Breaches, considered to be related, are grouped into a number of specific categories. In the application of discipline, previous breaches and penalties in a given category, which

are still valid, may be considered when deciding what action is to be taken against a related breach (in the same category).

- 2.9 If the Chairperson is of the opinion that there are valid mitigating factors, he or she may impose a lesser penalty.
- 2.10 The schedule of offences and proposed action indicated below merely serve as a guideline and do not constitute inflexible rules, which have to be followed to the letter. The circumstances and merits of each individual case be taken into account; and
- 2.11 The Chairperson is expected to use his or her discretion in making a value judgement.

3. SCHEDULE OF OFFENCES

Explanation	VW Verbal Warning WW Written Warning FWW Final Written Warning DISM Dismissal	Proposed action The proposed action should not be automatically imposed. The nature and circumstances of each case should be taken into account before making a decision. Therefore, the proposed code serves only as a guideline to enable the Bank to act consistently.
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3.1 Service Irregularities

3.1.1 Unauthorised absenteeism

Code	Offences	Definition/Interpretation	1st	2nd	3rd	4th offence
3.1.1.1	absent for one to three days	being absent from work without permission and without a reasonable excuse or a medical certificate. absent on Friday/ Monday or before a public Holiday line manager to identify pattern and to be used as aggravating	WW	FWW	DISM	
3.1.1.2	absent for four to six days		FWW	DISM		
3.1.1.3	absent for seven days or more		DISM			

3.1.2 Control at Work

Code	Offences	Definition/Interpretation	1st	2nd	3rd	4th offence
3.1.2.1	Poor timekeeping	Examples: - Reporting late for work; - leaving work early; - away from the Bank for excessive periods; - taking excessive breaks or breaks that are longer than permitted; - not proceeding to the workplace.	VW	WW	FWW	DISM
3.1.2.2	Loafing / idleness	- To stand or sit about idly or saunter lazily or aimlessly and thereby neglecting one's work. - Failing to work when there is work to be completed.	VW	WW	FWW	DISM
	Incompetence	The employee is incompetent if he/she is unable to meet the requirements of the job despite educational and or rehabilitative efforts by the Bank to assist with his/her performance/incapacity.	VW	WW	FWW	DISM
3.1.2.3	Incompatibility / Unsuitability	The employee does not fit into the working environment and relates	VW	WW	FWW	DISM

		poorly to new work challenges (i.e. structure, technology, leadership style and or reengineering) and / or clients. The employee's personality is not compatible with that of colleagues or seniors; however the work performance of the employee is good / sufficient.				
3.1.2.4	Negligence or wilful poor work performance	<ul style="list-style-type: none"> - If the work done is of a poor quality and/or quantity without prejudice to employer. - Failure to exercise proper care and attention in regard to the manner in which a task should be performed to the extent that the task has to be repeated or that equipment is at risk of being damaged. - Passing time idly or failing without reasonable cause to complete tasks set. - Displaying unreliability, poor co-operation and a lack of interest in work. 	VW	WW	FWW	DISM

NOTE

Attention must be paid to the differences between incapacity/incapability (cannot) and misconduct (will not/neglect). The disciplinary steps provided for in the code should be applied for **will nots**.

If the unsatisfactory work performance is due to incapacity (cannot), the following must be adhered to: (See Performance Management Policy.

- A formal evaluation must be made of the staff member's performance.
- Substandard performance as well as ways to correct such performance must be discussed with the staff member. The employee should also be informed as to the action that can be taken against him if his performance does not improve.
- Time should be allowed for the staff member to improve his performance. The Bank must assist the staff member as far as possible and re-train if necessary.
- The employee's performance should be re-evaluated.
- If the staff member's performance is still below standard, the Bank may invoke the procedure as set out in the Performance Management Policy.

Code	Offences	Definition/Interpretation	1st	2nd	3rd	4th offence
3.1.2.4	failure to notify the Bank of his absence from work	- a staff member has a duty to notify the Bank of his absence within a reasonable period (at least before 10:00 on the first day of absence) - it is of utmost importance to establish exactly why he failed to do so, especially if communication channels were at his disposal	VW	WW	FWW	DISM

Code	Offences	Definition/Interpretation	1st	2nd	3rd	4th offence
3.1.2.5	failure to produce a medical certificate	<p>- a proper legible medical certificate indicating the nature of the incapacity in layman's terms must be produced for all absences longer than two days. A staff member is expected to obtain such medical certificate <u>within</u> the stipulated two days.</p> <p>- failure to produce an acceptable medical certificate will result in the absenteeism being regarded as unauthorised and dealt with as unauthorised absenteeism as set out in 3.1.1</p>	See sanctions under 3.1.1			
3.1.2.6	abuse of sick leave	- if a staff member absents himself from duty under false pretences e.g. in order to conduct private business, it will be regarded as dishonesty	DISM			
3.1.2.7	sleeping at work	- sleeping at the Bank during working hours. Seriousness is directly linked to the nature of the job and consideration must be given to safety hazards and the physiological circumstances of the staff member.	FWW	DISM		
3.1.2.8	gross negligence	<p>Examples</p> <p>- any act or omission which has the potential to give rise to serious consequences to the Bank or members of the general public</p> <p>- any act whereby a staff member, through carelessness or negligence, causes major loss or potential major loss or is unable to properly account for assets and/or funds.</p> <p>- any action whereby the staff member, through carelessness or negligence, causes or allows major damage to the Bank's property or that of third parties that affects the employment relationship</p>	FWW /DISM	DISM		

Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.1.2.9	negligence	<p>- failure to take reasonable care in his daily work</p> <p>- any act whereby a staff member, through carelessness or negligence, causes minor loss or potential minor loss or is unable to properly account for it properly</p> <p>- any action whereby the staff member, through carelessness or negligence, causes minor damage to the Bank's property.</p>	WW	FWW	DISM	

REMARK

Bedding down is considered in a much more serious light than dozing.

3.2 Private Work, Conflict of Interest, Good Faith

Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.2.1	Performing private work during working hours.	Any act where an employee performs private work during working hours and/or utilising Bank's resources to perform private work or for private benefit.	WW	FWW	DISM	
3.2.2	Conflict of interest	Any act where the employee's private interests are in conflict with that of the employer or than can be reasonably perceived to be in conflict.	DISM			
3.2.3	Derivative Misconduct	Any act where an employee is charged for not informing the Bank of the identity of another employee who was involved in serious misconduct such as theft or fraud. Or where the employee might be in a position where the Bank can argue that he/she must have known or could reasonably have acquired knowledge about the misconduct	FWW/D ISM			

3.2.4	Breach of fiduciary duty	Any act whereby an employee breaches his/her fiduciary duty to always act in the best interest of the employer.	FWW/D ISM			
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3.3 Misconduct

3.3.1 Disorderly Conduct

Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.3.1.1	Practical jokes/horse play	The seriousness will be determined by the possible or actual repercussions of such action. The possible penalties are with regards to less serious repercussions.	WW	FWW	DISM	
3.3.1.2	Gambling during working hours	management's discretion should be appropriately exercised	WW	FWW	DISM	
3.3.1.3	Abuse, derogatory or insulting language	<ul style="list-style-type: none"> - The distribution of any document or other media, the uttering of any words or any written expression or act showing hatred, ridicule or contempt for any person. - The offence is more serious when it is wholly or mainly because of race, sex, tribe, creed, place of origin or colour. 	FWW/ DISM	DISM		
3.3.1.4	Sexual harassment	Sexual harassment is any unwanted sexual behaviour, comment or suggestion, which has an in-criminating effect on the recipient. Refer to Sexual harassment policy	FWW/D ISM	DISM		
3.3.1.5	Violent behaviour	Threatening to assault, injure or actual physical injury to any other person	FWW/ DISM	DISM		
3.3.1.6	Assault or attempted assault	Causing or attempting to cause bodily harm to any other person. The action to be taken is dependent upon, among others provocation, self-defence,	DISM			

		intention, nature and severity of injury sustained.				
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Code	Offences	Definition/Interpretation	1st	2nd	3rd	4th offence
3.3.1.7	Intimidation and/or incitement	To incite or intimidate other staff members to: - use violence - damage Bank property - adopt impermissible industrial action, or - indulge in any other disorderly behaviour or irregular action that the person in the ordinary course of events would not have performed.	DISM			
3.3.1.8	Sabotage	Any act by a staff member to interfere with the normal operations of the Bank by damaging machinery or equipment or by interrupting any supplies of power, fuel, materials or services necessary to the operations; and bomb threats, whether intended seriously or as a joke	DISM			
3.3.1.9	Strike illegally/ participating in an unlawful unrest	This will include, but is not limited to: - illegal and/or unlawful picketing; - wildcat strikes - go-slows - procedural and/or substantial unlawful strikes/industrial action	DISM			

3.3.1.10	Vandalism/ malicious damage to property	The intentional damage of Bank's property, vehicles or instruments (Bank vehicle, property or instrument in the possession or under the control of the Bank) and/or intentional acts that cause loss or potential loss to the Bank and/or the public	DISM			
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3.3.2 Alcohol and Prohibited Substances

Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.3.2.1	Under the influence of intoxicating liquor/drugs while on duty.	Incapable of working properly whilst under the influence of alcohol and/or drugs or reporting for work in an unfit condition whilst under the influence of alcohol and/or drugs; or being a health and safety risk to employees, third parties due to having alcohol in the employee's system.	FWW/DISM	DISM		
3.3.2.2	Unauthorised consumption of intoxicating liquor/drugs while on duty.	The actual consumption of drugs or liquor while on duty.	FWW	DISM		
3.3.2.3	Unauthorised / illegal possession of liquor or drugs while on duty.	The actual possession of liquor or drugs while on duty without the necessary permission or authority.	FWW	DISM		
3.3.2.4	Selling or distributing of liquor/drugs while on duty	The actual selling or distribution of liquor or drugs while on duty.	DISM			

3.3.2.5	Driving/or operating any Bank's vehicle or instrument while under the influence of intoxicating liquor or dependence producing drugs. (see alcohol testing procedure)	Bank vehicle or instrument will include any vehicle or instrument under the control or in the lawful possession of the Bank.	FWW/DISM	DISM		
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3.3.3 Disobedience

Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.3.3.1	Breach of Information System Policies	when unauthorized individuals access, use, or disclose sensitive data within a company's computer network	FW W/	DISM		
3.3.3.2	Disrespectfulness/ Insolence	An unwillingness to submit to authority, i.e. directly challenging the authority of a supervisor or being disrespectful towards the supervisor.	WW	FWW	DIS M	
3.3.3.3	Gross insubordination/refusal to carry out a legitimate instruction	When a staff member directly or deliberately confronts his supervisor by e.g. refusing verbally and/or making no effort to carry out the work when instructed to do so. The seriousness of the offence is determined by, among others, the following: - the instruction complying with statutory/ Bank regulations - it being within the capabilities of the staff member(s) - it being clearly issued	FW W/ DIS M	DISM		

3.3.3.4	Non-compliance with prescribed procedures, rules, regulations or instructions	<p>This pertains to any procedure, rule, regulation or instruction such as:</p> <ul style="list-style-type: none"> -safety regulations and procedures - task/work procedures - tender/financial regulations of the Bank - any provision of the Labour Act <p>The seriousness of the offence is determined by, among others, the following:</p> <ul style="list-style-type: none"> - intent or negligence - damages suffered by the Bank -safety regulations and procedures - task/work procedures - tender/financial regulations of the Bank 	FW W/D ISM	DISM		
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Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.3.3.5	Damage to company Property	This misconduct includes deliberate and malicious damage to the property of the Bank, a colleague or client of the Bank.	FWW/ Dismissal without payment of damages			
3.3.3.6	Unauthorised possession of firearms or other dangerous weapons on Bank premises.	It is a breach of security regulations to be in possession of firearms or lethal weapons on Bank premises. However, authorisation in the form of a written letter may be granted by the Line manager/Supervisor for security personnel, for example	DISM			

3.3.3.7	Divulging confidential information to unauthorised persons.	Revealing confidential information means and includes unauthorised presentation, revealing discussion, press release, publication and/or any communication whatsoever could or have the potential to embarrass or harm the Bank	DISM			
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3.3.4 Dishonesty

Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.3.4.1	Dishonesty / giving false evidence/ making a false statement/ declaration.	Conduct which demonstrates a deception or misrepresentation on the part of the employee. When a deliberate, through action or inaction, attempt is made, whether successful or not, to mislead any person and/or act in a deceitful manner; or defeat the ends of justice through misrepresentation of facts, either verbally or in writing.	DISM			
3.3.4.2	Breach of Trust	Occurs when an employee fails to act responsibly or honestly in a role where they are entrusted to manage or make decisions in the best interest of another party/and/or the Bank.	DISM			
3.3.4.3	Breach of the Code of Ethics/Business Conduct	An employee fails to adhere to the established ethical standards and principles of the Bank	DISM			
3.3.4.4	Convicted of Criminal Offence – dishonesty	When an employee has been found guilty in a court of law for committing a crime involving dishonest actions, such as theft, fraud, or embezzlement outside the bank.	DISM			

3.3.4.5	Giving a false statement/ declaration when applying for employment or undergoing a medical examination.	When a deliberate attempt is made to mislead the Bank through misrepresentation of facts, either verbally or in writing.	DISM			
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Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.3.4.3	bribery/ corruption	Giving or receiving or attempting to give or receive any bribe to induce or attempt to induce any person to perform any corrupt/dishonest act that will be to the detriment of the Bank.	DISM			
3.3.4.4	fraud/forgery	Any wilful misrepresentation that may lead to prejudice or potential prejudice to the Bank or any third party that may affect the employment relationship.	DISM			
3.3.4.5	misappropriation	The incorrect application of Bank funds, assets or property for reasons of personal gain or other unauthorised purposes.	DISM			
3.3.4.6	unauthorised possession of funds / assets / property	Being in possession of any funds, assets or property belonging to the Bank or co-staff member without any due authorisation and/or reasonable explanation.	DISM			
3.3.4.7	Theft/ Attempted Theft	The unauthorised removal or taking of property of any other person, with the intent to deprive the owner of possession thereof.	DISM			

NOTE

DBN has adopted a zero tolerance pertaining to dishonesty, corruption and fraud, irrespective of the value involved.

3.3.5 Other Misconduct

Code	Offences	Definition/Interpretation	1 st	2 nd	3 rd	4 th offence
3.3.5.1	Prejudicial conduct	Any conduct prejudicial to the maintenance of good order and the efficient operation and/or name/stature of the Bank.	FWW/D ISM	DISM		
3.3.5.2	Any act or omission which seriously impairs the relationship between the Bank and its staff members.	Any other act not referred to in this code, but which is serious enough to warrant the termination of the employment relationship.	DISM			

NOTE

Due cognisance must be taken of the fact that the competence to dismiss a member of staff or to implement the alternatives to dismissal rests with the Chairperson of the Disciplinary Enquiry provided the substantive and procedural fairness are adhered to (see disciplinary procedure).

GRIEVANCE PROCEDURE

1. PURPOSE

The aim of these guidelines are to achieve consistent treatment in the handling of personal grievances in the workplace and provide a procedure to follow in the event a personal grievance arises.

2. DEFINITION

A grievance is a complaint which an employee or a group of employees has concerning terms and conditions of employment, working environment or working relationships.

Employee grievances can arise for a variety of reasons including the following:

- Interpretation of conditions of employment
- Changing work practices
- Alleged discrimination, bullying or harassment
- Health and Safety issues
- Promotions
- Issues with fellow employees

3. PURPOSE

The purpose of a grievance procedure is to encourage consistency, transparency and fairness in the handling of workplace problems and complaints.

It also achieves the following:

- Provides individuals with a course of action if they have a complaint
- Provides a point of contact and timescales to resolve issues of concern
- Resolves employee problems quickly and informally
- Shows the Bank acting fairly
- Shows consistency in decision-making
- Prevents a build-up of issues
- Promotes good working relationships
- Promotes resolution of matters without needing third party mechanisms to facilitate investigation and resolution

The Grievance Procedures are not intended and cannot be used to address grievances related to disciplinary action and/or proceedings. Such issues must be dealt with under the disciplinary procedures and should an employee feel aggrieved by any disciplinary process outcome, the relevant appeal procedure must be followed. The Grievance Procedures will not suspend the commencement or continuance of any disciplinary process.

4. DEALING WITH GRIEVANCE

The Bank recognises that an employee may not perform to the best of their ability if they feel they are being treated unfairly or are feeling aggrieved. The Bank will endeavour to provide a fair and just work environment, by aiming to ensure that employees have access to processes for the resolution of genuine personal grievances related to the workplace.

As such, the Bank will use its reasonable endeavours to:

- Encourage staff to come forward with personal grievance;
- deal with personal grievances in a supportive way, without victimisation or intimidation of any person connected with the grievance;
- encourage fairness, impartiality and the resolution of personal grievances as reasonably promptly and as close as possible to the source of the grievance; and
- have supervisors seek to prevent and resolve personal grievances.

Where a personal grievance arises the Bank will endeavour, if appropriate, to resolve the dispute in line with the following procedures.

5. GRIEVANCE PROCEDURES

The grievance procedure will provide a mechanism to solve problems and no employee shall suffer any form of victimisation as a result of raising a grievance under this procedure. The procedure should be applied fairly and consistently to all staff.

5.1 Preliminary Steps

If the employee feels comfortable in doing so, they should attempt to address the issue directly with the person(s) involved in the grievance. The employee may find the other person was not aware of their grievance and the matter can be resolved directly.

5.2 Report the grievance to management

If the employee does not feel comfortable talking to the person(s) involved, or they have tried to and it was ineffective in resolving the grievance, or if there is no other person involved in the grievance, the employee should report the grievance in the first instance to their immediate supervisor.

After reporting a grievance, the immediate supervisor will use reasonable endeavours to conduct an initial meeting with the employee to:

- obtain information about the employee's grievance and what they consider will resolve it;
- explain how the personal grievance procedure works; and
- Decide if they are the appropriate person to handle the grievance.

5.3 Informal Procedure

A range of informal actions can often resolve the grievance. Such actions will depend on the individual circumstances of the grievance. Possible actions include, but are not limited to:

- The immediate supervisor discussing the issue with the person against whom the complaint is made; and/or
- The immediate supervisor facilitating a meeting between the parties in an attempt to resolve the issue and move forward.

Many grievances are able to be resolved through the informal procedure. If the matter has not been resolved satisfactorily through informal discussions, the employee may raise a formal complaint under the grievance procedure.

5.4 Mediation

Workplace mediation is an alternative method of resolving complaints. This is a separate, alternative method of resolution where both parties agree to the process of mediation. Mediation is an informal process where all parties agree that mediation may be appropriate in resolving the grievance. The grievance may be referred to a trained/external mediator who will help the parties in a dispute to talk about the issues between them and if they wish, to reach an agreement which is acceptable to both sides.

If the parties agree to this approach, the Bank will appoint a neutral and impartial mediator, with the agreement of the parties, to facilitate the process.

If the parties do not agree with the mediation approach the formal procedure will be followed.

5.5 Formal Procedure

5.5.1 Prepare and Submit Grievance Form to Head: Human Capital and Operations Support/Manager: Human Resources and Payroll for review by Second Level Supervisor.

If the employee feels the complaint was not resolved in discussions with his/her immediate supervisor, they may prepare and submit a formal written complaint for review by the person to whom the employee's supervisor reports ("second level supervisor"). To do so the employee should complete the **Grievance form** and submit to Head: Human Capital and Operations Support within seven working days of the discussion with the immediate supervisor. The Head: HC&OS will then review the complaint and send a copy to the second level supervisor and schedule a meeting for the employee, the second level supervisor and Head: HC&OS to discuss the complaint. The meeting will ordinarily be held within five (5) working days of receipt of Grievance. The second level supervisor will issue a written decision, generally within five (5) working days of the meeting. If the complaint is not resolved to the employee's satisfaction, they may proceed to the next step.

5.5.2 Prepare and Submit Grievance Form to Head: Human Capital and Operations Support/Manager: Human Resources and Payroll for review by Line manager/Supervisor.

If the employee is not satisfied with the decision of the second level supervisor, they may proceed with the complaint within five (5) working days of receipt of the second level supervisor's decision, to the Head: HC&OS for review by the Line manager/Supervisor. A meeting between the employees, the Head: HC&OS and Line manager/Supervisor will be held generally within five (5) working days. The Line manager/Supervisor will issue a written decision, generally within five (5) working days of the meeting.

5.5.3 Submit Grievance Form for Final Decision to the Chief Executive Officer

If the employee is not satisfied with the decision taken by the Line manager/Supervisor, the employee may submit the complaint to the Chief Executive Officer. The Chief Executive Officer will provide the final written response, generally within fourteen (14) working days. The employee's department's management will be notified as well.

5.6 Other statutory means

Should the finding/decision of the Chief Executive Officer not be acceptable to the staff member he/she may take up his grievance with the Chairperson of the Board. The Chairperson of the Board's decision will be the last stage of internal grievance stages within the Bank. If the employee is still unhappy with the outcome as given by the Chairperson; he/she may take the grievance(s) to any other statutory means available for the settlement of the complaint.