



Dr. Beyers Naudé
MUNICIPALITY | MUNISIPALITEIT | UMASIPALA

CONSEQUENCE MANAGEMENT POLICY

DEVELOPED : FEBRUARY 2020 ADOPTED : EXCO – 076.2/20 COUN-011.2/2020 12 NOVEMBER 2020	TO BE REVISED : JULY 2023	RESPONSIBLE ADMINISTRATION UNIT HUMAN RESOURCES
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1. PREAMBLE

The Municipality wishes to create a culture of accountability in the workplace. Such a culture is of vital importance to the future of the municipality. To this end attaching consequences to wrong doing will enhance accountability. To foster this accountability, it is necessary to have roles clearly defined, good leadership and processes that are not ambiguous so as to obviate confusion. Hence it has to be ensured that everyone knows what they are supposed to do and how they are to do it.

PURPOSE

- 1) To ensure that consequences for non-compliance with legislation, policy and reasonable and lawful instructions of superiors are dealt with.
- 2) To create an atmosphere where employees are safe to report recalcitrant behavior.
- 3) To ensure staff accountability in the municipal workplace.

2. LEGAL FRAMEWORK

- The Constitution of the Republic of South Africa Act 106 of 1996
- The Municipal Systems Act 32 of 2000 as amended
- Labour Relations Act 66 of 1995
- Basic Conditions of Employment Act, Act 79 and Regulations
- Employment Equity Act 85 of 1997
- All policies applicable to the municipality
- Top Management, Section 79 committees, Mayoral and Council Resolution
- All lawful and reasonable instructions of the superiors of the municipality
- Mission and values of the municipality
- Municipal Finance Management Act

3. DEFINITIONS

3.1 Accountability: being accountable means not only responsible for something but also answerable for your actions.

3.2 Consequence: means non-compliance will entail action against the non-complying employee which may include disciplinary action Defined in the Disciplinary Procedure Collective Agreement

3.3 Responsible person: a responsible person is the individual (incumbent) who is responsible for the completion of the task.

4. COMPLIANCE

- 4.1 Non-compliance with this policy carries the task to the institution and the individuals concerned.
- 4.2 Employees have a number of specific duties to minimize the risk, including the requirements to:
 - 4.2.1 Comply with all applicable laws and regulations;
 - 4.2.2 Adhere strictly to policies, Top Management, Section 79 Committees, Mayoral and Council resolutions and reasonable and lawful instructions of their superiors;
 - 4.2.3 Adhere strictly to the Code of Conduct and the Disciplinary Procedure Collective Agreement;
 - 4.2.4 Behave in a manner that is consistent with Dr Beyers Naudé Local Municipality, Report promptly any breaches that relate to any of the above;
 - 4.2.5 And Enforce a remedial action where a violation has taken place
- 4.3 It is an employee's duty to understand his/her obligations arising as a result and to act at all times in an open and transparent manner in line with the principles set out in the Disciplinary Code of Conduct and exercises good judgment.
- 4.4 The manager and supervisors of an employee must properly supervise or oversee the employee's conduct and ensure systems of work to enable employees to meet their obligations.

5 ADDRESSING POTENTIAL CONSEQUENCES

- 5.2 Inquiries regarding the laws, regulations, the Codes and Policies applicable should first be raised with the employee's line manager.
- 5.3 If necessary such inquiries must be raised with the relevant manager on matters concerning Codes and policies of the municipality.
- 5.4 It is the employee's duty to exercise good judgment when deciding whether to seek guidance or support and ensure compliance.
- 5.5 The provisions of the Codes and Policies shall apply to every employee without exception and irrespective of status.
 - 5.5 If any employee violates regulations, Codes of the municipality's policies or otherwise acts illegally, or in breach of any applicable law or regulations, the violation will be investigated and, where the investigation has confirmed a violation, the employee will be subjected to Disciplinary action.

- 5.6** The managers and supervisors of an employee who violated these rules may also be disciplined if they failed to supervise or oversee the employee's conduct or have created a system of work which led to or encouraged the employee to breach his/her obligations. Enforcement action will be taken in every case of a proven violation.
- 5.7** In determining the appropriate disciplinary action, the municipality will have regard to the employee's contract of employment and will follow the Disciplinary Procedure applicable to the municipality to ensure that a proportionate, clear and consistent approach is taken to all violations.
- 5.8** The nature of the disciplinary hearing action will depend on the facts of the individual case and the municipality will consider all relevant factors, including the following:
- 5.8.1** The employee's intentions when committing the violation;
 - 5.8.2** Whether the employee knew or could have known that he she was acting in violation of the policies;
 - 5.8.3** Whether the employee has been disciplined previously for the same violation;
 - 5.8.4** If the employee acted dishonestly or with bad intent or was open and transparent in his or her actions;
 - 5.8.5** Whether the employees conduct was criminal;
 - 5.8.6** The employees response to violation including whether the employee self-reported the violation and sought guidance on what steps to take to remedy the situation or whether the employee took steps to conceal or cover up his/her actions or those of someone else;
 - 5.8.7** The employees willingness to assist in managing the consequences of the breach, including co-operating fully and frankly with any subsequent investigation.
 - 5.8.8** The severity of the violation; and
 - 5.8.9** Employees are responsible for taking enforcement action in respect of breaches will themselves be in breach of this policy if they fail to enforce these procedures rigorously and appropriately in every case and without exception. Remedial action will be taken promptly in response to any concern raised.

6. RESPONSIBILITIES AND ACCOUNTABILITIES

6.1 The following responsibilities shall apply to the implementation of the stipulations of the Policy. If these are not completed effectively. The person responsible will be accountable and held liable.

6.2 All Directors, Managers, Supervisors and Employees

6.2.1 All directors, managers and supervisors of an employee must properly supervise or oversee their conduct and implement systems to enable employees to meet their obligations.

All Directors, Managers and Supervisors are responsible for:

- 6.2.2 Investigating all reported violations within (2) weeks and, when proven, invoking the disciplinary procedure;
- 6.2.3 Considering all relevant factors during an investigation when determining future actions;
- 6.2.4 Implementing remedial action and local controls where a violation has taken place to reduce the risk of violation in the future.

All employees are responsible for:

- 6.2.5 Complying with all applicable laws, regulations, resolutions of Top Management, Resolutions, of Section 79 committees, resolutions of Mayoral Committee, and Council resolutions, policies and reasonable and lawful instruction of the superiors;
- 6.2.6 Strictly adhering to all systems, controls governing business and standard operations procedures; and
- 6.2.7 Behaving in a way that is consistent with the values and ethical standards;
- 6.2.8 Promptly reporting any breaches that relate to any of the above;
- 6.2.9 Implementing a remedial action where a violation has taken place.

7. EMPLOYEE DISCIPLINE

The Dr Beyers Naudé Local Municipality has adopted a progressive disciplinary policy to identify and address employees and employment related problems. This policy applies to all employees of the municipality. No disciplinary policy can be expected to address each and every situation requiring corrective action that may arise in the workplace. Therefore, the municipality takes a comprehensive approach regarding discipline and will attempt to consider all relevant factors before making decisions regarding discipline.

Most often, employee conduct that warrants discipline results from unacceptable behavior, poor performance or violation of the municipality's policies, practices or procedures. However, discipline may be meted out for conduct that falls outside of these identified

areas. Equally important, the municipality needs not resort to progressive discipline, but may take whatever action it deems necessary to address the issue at hand. This may mean that more or less severe discipline is imposed in a given situation. Likewise, some policies of the municipality may contain specific procedures.

The municipality reserves the right to mete out progressive discipline on employees even when the conduct that leads to more serious discipline is not the same as those results in less severe discipline.

The municipality will in line with the Disciplinary Procedure Collective Agreement adhere to the following progressive disciplinary process.

PROCESSES SHORT OF DISMISSAL

1. **Verbal Caution:** An employee will be given a verbal caution when he or she engages in problematic behavior. As the first step in the progressive discipline policy, a verbal caution is meant to alert the employee that a problem may exist or one has been identified, which must be addressed. Verbal cautions will be documented and maintained by the Human Resource Department. A verbal caution remains in effect for the three months. The Audi alteram partem rule should be observed.
2. **Verbal Warning:** given a verbal warning when problem is identified that justifies a verbal warning or the employee engages in acceptable behavior during the period a verbal caution is in effect. Verbal warnings are documented and placed in the employee's personnel file and will remain effective for 3 months. The Audi alteram partem rule should be followed.
3. **Written Warning:** A written warning is more serious than a verbal warning. A written warning will be given when an employee engages in conduct that justifies a written warning or the employee engages in acceptable behavior during the period that a verbal warning or the written warnings are maintained in an employee's personnel file and remains in effect for 6 months.
4. **Final Written Warning:** A final written warning is more serious than a written warning. A final written warning will be given when an employee engages in conduct that justifies a final written warning or the employee engages in unacceptable behavior during the period that a written warning are maintained in an employee's personnel file and remains in effect for 12 months.
5. **Suspension without pay:** This sanction is more serious than a final written warning. Employees are being suspended without pay for ten (10) days, however the implementation of the sanction must be staggered.

6. DISMISSAL:

An employee will be dismissed when he or she engages in conduct that justifies dismissal. As such this must be the last resort.

Again, while the municipality will generally take disciplinary action in a progressive manner, it reserves the right, in its sole discretion, to decide whether and what disciplinary action will be taken in a given situation. Nevertheless the following guidelines may be followed in the Disciplinary Process:

DISCIPLINARY CODE
NATURE OF OFFENCE AND SANCTIONS

Misconduct Do not/Refrain	Sanction					
	Not Attend work regularly and punctually	Caution	Verbal warning	Written Warning	Final Written warning	Suspension without pay
Conform to the reasonable dress and uniform requirements of the employer	Caution	Verbal warning	Written warning	Final Written warning	Suspension without pay	Dismissal
Not Performing their tasks job, responsibilities diligently carefully and to the best of their ability	Caution	Verbal warning	Written warning	Final Written warning	Suspension without pay	Dismissal
Not Obeying all lawful and reasonable instructions given by a person having the authority to do so	Caution	Verbal warning	Written warning	Final Written warning	Suspension without pay	Dismissal
Not Conducting themselves with honesty and integrity.	Caution	Verbal warning	Written warning	Final Written warning	Suspension without pay	Dismissal
Not Requesting permission in advance for any	Caution	Verbal Warning	Written warning	Final written warning	Suspension without pay	Dismissal

leave of absence whenever possible						
from being absent without leave or permission, except on good cause	Caution	Verbal warning	Written warning	Final Written warning	Suspension without pay	Dismissal
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	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
from any rude, abusive, insolvent, provocative, intimidating or aggressive behavior to a fellow employee or member of the public	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
from wistful or negligent behavior, which may result in the damage of property	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal

from participating, either individually or with other, 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	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
from wrongfully disclosing privileged information	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
from consuming alcohol or drugs whilst on duty	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Intimidation, fighting and/or assault	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Theft, unauthorized possession or malicious damage to the employers property	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Being under the influence of alcohol or drugs whilst on duty such that performances is seriously impaired	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
The consumption of alcohol or intoxicating drugs whilst on duty if nature of work to be performed is such that intoxication endangers the	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal

safety of the employee or that of others						
Any act of gross dishonesty	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Any act of gross negligence	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Gross insubordination	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Wrongful disclosure of privileged information	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Any act of bribery or corruption	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Abscondment for more than ten (10) days	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal
Any other act of misconduct which would constitute just case of justice	Caution	Verbal warning	Written warning	Final written warning	Suspension without pay	Dismissal

Transfer to another post	Caution	Demotion without financial loss to a post that is one level below the post which the employee occupies during the finding	Withholding of salary increment not exceeding 12 months	Suspension without pay	Reduction in salary, allowances or other benefits	Dismissal
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In certain cases on Violation of the Code of Conduct the following sanctions may be implemented.

NB:

- The offences and sanctions meted out as indicated below do not constitute an exhaustive list
- This is only a guide and depending on the nature of violation a higher order disciplinary action can be instituted. This is dependent on the specific case and circumstances.

Approved by:



DR E M RANKWANA
MUNICIPAL MANAGER

13 November 2020

DATE

