

# **EMPLOYMENT CODE OF CONDUCT**



**LUTHERAN DEVELOPMENT SERVICES**

**REVISED**

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# CODE OF CONDUCT

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## 1. INTRODUCTION

This document shall be cited as the Employment Code of Conduct (hereinafter referred to as the Code) of Lutheran Development Services.

- 1.1 This Code is a guideline of rules and procedures which bind both workers and management and is intended to provide discipline through fair and orderly response to misconduct at workplaces for the realization of employment harmony, efficiency and increased productivity.
- 1.2 It is also intended to solve problems, remove misunderstandings and reduce delays in the event of disputes between employers and employees.
- 1.3 This Code should therefore assist the parties to know the standards of conduct that are expected of them and the authorities to know the powers they may fairly and lawfully exercise. The Code shall provide penalties or sanctions for infringement of these rules.
- 1.4 Disciplinary action should be initially educational and corrective where appropriate and thereafter punitive. Punitive action shall be taken in terms of the Code after educational and corrective actions, where appropriate, have proved ineffectual. This does not mean that punitive action should not be taken immediately, even for a first offence if the offence is of a serious nature.
- 1.5 It is accepted that no Employment Code can be so comprehensive as to cover all possible eventualities. Where ambiguous circumstances occur therefore, the Code shall be interpreted through use of discretion and applied in the spirit of the general intentions as outlined in the objectives.
- 1.6 Corrective action -shall, wherever possible, be promptly administered as delays lead to dissipation of evidence connected with the alleged offence or misconduct.

- 1.7 As far as is practicable, similar offences committed in similar circumstances should be treated equally, through the award of similar disciplinary action.
- 1.8 Every employee has the right to have an appeal heard against any determination made in terms of this Code.

## 2. SCOPE

The Code shall apply to all employees (both Management and non-management staff) of Lutheran Development Services including expatriate staff, but except the Director or Head of Organisation who is the final arbitrator within Lutheran Development Services.

## 3. OBJECTIVES

The objectives of the Code are: -

- 3.1 To ensure that discipline is exercised in a fair, open and just manner and in accordance with the labour laws of Zimbabwe.
- 3.2 To provide both management and employees with a mutually acceptable code of discipline.
- 3.3 to exercise discipline in order to promote and maintain standards of conduct and performance.
- 3.4 to ensure that disciplinary actions are exercised in accordance with agreed procedures and in consultation with employee representatives.
- 3.5 to provide a fair grievance procedure.
- 3.6 to encourage speedy solution to disputes

## 4. PRINCIPLES

The Code is based on the following principles: -

- 4.1 that discipline and co-operation of employees is essential to the achievement of the objectives of the Lutheran Development Services and to the best-interest of its employees and management.
- 4.2 Management is responsible for maintaining discipline.
- 4.3 systems for appeal through proper and recognised channels are necessary.
- 4.4 a disciplinary code should be clear, simple and comprehensive.
- 4.5 the exercise of disciplinary action should be equitable, having regard to the nature of the offence, the circumstances in which it was committed and the previous employment record of the employee concerned.
- 4.6 The exercise of discipline should be undertaken in a spirit of co-operation and consultation between management and employees. Nevertheless, Management has the right to apply disciplinary procedures where a breach of conduct in terms of the Code occurs.

## 5. INTERPRETATION OF TERMS

- 5.1 Act means the Labour Relations Act Chapter 28:01, any amendments to the Act and its related Statutory Instruments.
- 5.2 Organisation means Lutheran Development Services.
- 5.3 Employee means an employee of Lutheran Development Services including a managerial employee and expatriate staff.
- 5.4 Committee means the Disciplinary and Grievance Committee (s) established in terms of this Code.
- 5.5 Director means the Country Director of Lutheran Development Services.
- 5.6 Managerial Employee means an employee whose contract of employment permits or requires him/her to manage or organise subordinate staff, and who therefore cannot be a member of the Workers Committee comprising ordinary employees. Any other employee is not a Managerial employee.



- 5.7 Head of Department/Function means the person who is directly responsible for a department or function of the organisation, and who is also a Management employee.
- 5.8 Supervisor means the person who is directly responsible for the supervision of staff of that section/department/function, and who is also a Managerial employee.
- 5.9 Workers Committee means a Committee elected in terms of the Labour Relations Act.

## 6. DISCIPLINARY PROCEDURE

### 6.1. Investigation

- 6.1.1. Investigation of the breach of discipline is carried out by one or more relevant Supervisor, Manager or Head of Department.
- 6.1.2. Depending on the nature and severity of the breach of discipline, the investigator (s) may require the following (as appropriate):
- 6.1.2.1. Statements from witnesses and others involved;
  - 6.1.2.2. Statement from accused employee (s);
  - 6.1.2.3. Examination of documents and records;
  - 6.1.2.4. Liaison with the Police;
  - 6.1.2.5. Physical examination of equipment, vehicles, etc. involved in the breach of discipline.
  - 6.1.2.6. Written description of the event.

### 6.2. Hearing Officials

The following guideline should apply as to who conducts a Hearing on a breach of discipline:

6.2.1 **Minor Offences** = Immediate Superior except where several minor offences have been committed and the current offence will result in a final written warning or dismissal. Hearing referred to Disciplinary Committee.

6.2.2 **Moderate and Serious Offences** = Head of Department except where the offence will result in dismissal. Hearing referred to Disciplinary Committee.

6.2.3 **Very Serious** = Disciplinary Committee.

6.2.4 **Dismissal Offences** = Disciplinary Committee.

### 6.3. Notification

6.3.1. When the Supervisor/Manager/Head of Department has completed the investigation, he/she shall notify the employee in writing of the date and time of the Hearing, the nature of the offence and the fact that the employee may call relevant witnesses and be represented by the Workers Committee if required. A copy of that notification should be sent to the Finance and Administration Coordinator and/or the Director.

6.3.2. If the employee admits the charge in writing, no further process is required. The Supervisor/Manager/Head of Department will issue the penalty and submit the record to the Financial Accountant/Director.

6.3.3. If the employee disputes the charge then a Hearing is held, either by the Supervisor/Manager/Head of Department, or by a Disciplinary Committee as noted in 6.2. A Supervisor/Manager/Head of Department may be assisted by another member of management in any hearing. The hearing process will be similar to that laid down in **Section 8**.

## 7. COMPOSITION OF DISCIPLINARY COMMITTEE

**The Disciplinary Committee for Non-Managerial** staff will comprise the following representatives:

- 1 Head of Department/Function or senior official
- 2 Finance and Administration Coordinator (chairperson) or an alternative appointed by the Director
- 3 Worker Committee Representatives (two)

**The Disciplinary Committee for Managerial Staff** will comprise the following representatives:

- 1 Head of Department/Function or senior official
- 2 Financial Accountant (chairperson) or an alternative appointed by the Director

It is generally recognised that a Managerial employee would represent him/herself. The employee may invite another member of staff to represent him/herself.

The committee will normally be made up of persons in the region or location where the offending employee works. The Director may require the Chairperson to be a person outside the region or location.

## 8. HEARING PROCEDURE

8.1 The following procedure will be followed during the proceedings:

8.1.1 The Chairperson shall explain to the accused the disciplinary procedures and the accusation against him/her.

8.1.2 The employee will then be asked to answer the accusation and

will be permitted to make any further comments he/she may wish to make, notwithstanding the fact that he/she may have already made a written statement. The employee and the Committee; may call any relevant witnesses to give evidence relating to the charge or misconduct. The employee has the right to legal representation if s/he so wishes.

8.1.3 The proceedings may be adjourned at any stage by the administering official or at the request of the employee to allow further investigation to be undertaken.

8.1 4 At the end of the proceedings or within fourteen (14) working days of the commencement of the Hearing, the Chairperson will advise the employee whether or not he/she has been found guilty.

8.1 4.1. If the finding is that the employee is not guilty, he/she will be informed in writing and "case dismissed" entered on the complaint form. A copy will be sent to the Director.

8.1.4.2 Where an employee is found guilty, the Chairperson will take notice of:

- a) the offender's record of service and disciplinary record
- b) any mitigating or extenuating circumstances
- c) comments by employee representative
- d) In all cases un-expired warnings will be taken into account when deciding penalty. Depending on the nature and seriousness of the case the whole of the employee's disciplinary record may be considered.

## 8.2. [Representation by Workers Committees](#)

8.2.1 The presence of Workers' Committee member (s) is to guarantee that the interests of the accused employee are fairly represented.

8 2.2 Any member of non-managerial staff can choose to be assisted by a member of the Worker's Committee and management staff by a fellow employee if he/she so wishes, but he/she shall not be compelled to be represented against his/her wish.

### 8.3 Non Attendance

The refusal by an employee, who is accused of a breach of discipline, to attend a hearing of which he/she have been given notice, or the refusal of the employee's representative to attend, shall not prevent the hearing from proceeding, hearing evidence, reaching a conclusion and deciding a penalty.

### 8.4 Written Record of Proceedings

8 4.1 A written record or summary of any proceedings and decisions shall be taken in terms of the Code by the Chairperson, which record or summary shall be made at the time such proceedings and decisions are taken, and shall be kept for not less than a twelve (12) month period. The record should note the contributions of all persons giving evidence in the Hearing, and include any written statements made by witnesses or parties to the incident.

### 8.5 Stipulated Period of Proceedings

8.5.1 No hearing proceedings commenced in terms of the Code in

respect of any misconduct or breach of the rules and procedures of the Code should continue beyond fourteen (14) days from the date of the first hearing without a decision being reached. All proceedings (disciplinary and appeal) should be completed within thirty (30) days from the date that the proceedings in terms of this Code are commenced. If the proceedings are not completed within the specified time frame, then the matter should be referred to a Labour Relations officer in terms of the Labour Relations Act.

8.5.2 Deliberate delays caused by non-attendance at hearings or non-response to notices shall not prevent the facts of the case being reviewed and a ruling by Management being given.

8.5.3 If an employee, charged with an offence in terms of the Code, is unable to attend a hearing owing to illness (supported by a Medical Practitioners Certificate) he/she may apply in writing for the thirty (30) day period to be extended. Failure to do so will result in the case being dealt with in his/her absence.

## 8.6 Decision Making

The aim of the hearing or enquiry is to hear the facts, hear arguments and testimony, and decide guilt and penalty. In any hearing or enquiry there may be opposing views. Whilst a consensus view is preferable, Management may have to be responsible for making and administering

the final decision in any disciplinary case.

## 9. APPEAL MECHANISM

The judicial adage is that justice should not only be done, but must be seen by all to be done. The Code embraces this maxim. To this end, provision is made in the Code for an appeal mechanism.

The appeal mechanism should facilitate the dispensation of justice in the award of disciplinary action. To do this, it should be simple in its structure and quick in its application.

9.1 When an employee wishes to appeal against disciplinary action, which has been taken-against him/her by the immediate superior, he/she may appeal to the immediate Head of Department.

9.2 Any employee, who is unhappy with the subsequent decision by the Head of Department, shall have the right to appeal to the Disciplinary Committee against the decision of the Head of Department.

The employee must clearly:

- a) state what he/she is appealing against
- b) give reasons why he/she feels that the determination was wrong in finding him/her guilty of the offence he/she was charged with

9.3 An employee, who wishes to appeal against a decision of the Disciplinary Committee, must notify the Chairperson within three (3) working days after the imposition of the penalty and must state the grounds of his/her appeal in

writing. Out-of-time appeals may only be considered when there is an acceptable excuse for the delay, and in such case the time delay shall not be counted as part of the thirty (30) day period for completion of the process.

9.4 The employee may finally appeal to the Director in writing stating his/her grounds of appeal. The decision of the Director shall be final.

9.5 Every employee has the right to appeal further to authorities outside the organisation as provided by the Labour Relations Act e.g. an appeal may be submitted in writing to the Labour Relations Tribunal within fourteen (14) days of receiving the Director's decision.

## 10. CLASSIFICATION AND DEFINITION OF OFFENCES

**Note: in this Code**

**VW means "verbal warning"**

**WW means "written warning"**

**SWW means "severe written warning"**

**FWW means "final written warning"**

**D means "dismissal".**



## 10.1 MINOR OFFENCES

1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup>	4 <sup>th</sup>	5 <sup>th</sup>
Breach	Breach	Breach	Breach	Breach
VW	WW	SWW	FWW	D

### 10.1.1. Lateness for Duty/Work

Less than 15 minutes' late arrival or early leaving on not more than two occasions within a 30-day cycle

### 10.1.2. Clock Watching

It is a misconduct for an employee to abandon work before time, even if he/she has no other work to do, unless he/she has obtained permission from his/her immediate supervisor.

### 10.1.3. Horseplay

An employee commits misconduct if he/she engages in rough or noisy behaviour that may affect the concentration of other employees.

### 10.1.4. Absence from specific place of duty

An employee is absent from his/her specific place of duty if he/she wanders off without permission or reasonable excuse when he/she should be present at his/her place of duty

## 10.2 MODERATE OFFENCES

<b>1<sup>st</sup></b>	<b>2<sup>nd</sup></b>	<b>3<sup>rd</sup></b>	<b>4<sup>th</sup></b>
<b>Breach</b>	<b>Breach</b>	<b>Breach</b>	<b>Breach</b>
<b>WW</b>	<b>SWW</b>	<b>FWW</b>	<b>D</b>

### 10.2.1. Absence without Approved Leave

An employee is absent without leave if he/she takes time off without leave or if he/she takes time off without being granted leave of absence. He/she may however, be excused if he/she can offer a reasonable excuse for his/her absence.

### 10.2.2. Damage, loss or misuse of Organisation property

An employee commits an act of misconduct if he/she is involved in a **MINOR** case of negligence, damage, loss or misuse of organisation property. (A second similar offence within twelve (12) months renders the offence very serious.)

### 10.2.3. Breaches of Organisation rules

An employee commits an act of misconduct if he/she commits a minor breach of standing Organisation rules as specified in his/her Conditions of Service or rules that are in common usage. (A second similar offence within twelve (12) months renders the offence serious.)

### 10.2.4. Concealing one's defective work

An employee commits an act of misconduct if he/she covers or conceals work, which is not properly done, and not up to standard. (A second similar offence within twelve (12) months renders the offence serious.)

### 10.2.5. Neglect of duty

An employee neglects his/her duty if he/she does not perform his/her job at all or half performs it or abandons it or does not care whether his/her job is done or

not and engages himself/ -herself in other unauthorised activities during working time.

#### 10.2.6. Improperly calling a meeting

It is a misconduct to call for and hold a meeting of employees during working hours without the prior permission of Senior Management. (This refers to matters not related to work envisaged in the Employment Contract and includes unauthorised meetings of Workers Representatives).

#### 10.2.7. Discreditable Conduct

It is discreditable conduct for an employee to be rude and un-obliging towards members of the public who have dealings with the employer.

#### 10.2.8. Incompetence

An employee is incompetent if he/she consistently turns out unsatisfactory work.

#### 10.2.9. Insubordination

An employee is insubordinate if by word or conduct, he/she openly defies the authority of any supervisor or manager, or shows open disrespect for any supervisor or manager.

#### 10.2.10. Inefficiency

An employee is inefficient if he/she is unable to perform those duties specified in his/her job description and for which he/she held himself/herself to be competent to perform.

#### 10.2.11. Sleeping on duty

An employee has a duty to be awake throughout the period of his/her working hours and therefore neglects that duty if he/she falls asleep. Sleeping on duty is aggravated if the job involves security or operating a vehicle or machinery, or involves dealing with the public.

#### 10.2.12. Disrespectful conduct

An employee is disrespectful if by words or conduct he/she degrades any person.

#### 10.2.13. Aiding Misconduct

An employee is guilty of misconduct if he/she enables, assists, encourages or permits any person to commit any misconduct or refuses to give any information within his/her knowledge concerning the misconduct or deliberately closes his/her eyes to obvious breaches of the Code by other persons.

#### 10.2.14. Deliberately Working Slowly

An employee is deliberately working slowly if he/she without reasonable explanation deliberately reduces his/her normal speed of working to below that of an average employee doing the same work; and in the same manner so that another employee therefore is forced to also reduce his/her output, or takes a longer period than normal to complete his/her work.

#### 10.2.15. Disobedience of Orders

An employee disobeys an order if he/she fails to carry out a lawful order from his/her superior or another manager. The order, which may be in the form of safety, rules, regulations, standing orders, circular or instructions, whether written or verbal, if brought to the notice of the employee by a person in authority, must be obeyed unlawful.

### 10.3 SERIOUS OFFENCES

1 <sup>st</sup>	2 <sup>nd</sup>	3 <sup>rd</sup> Breach
Breach	Breach	
SWW	FWW	D

#### 10.3.1. Negligence

An employee is negligent if he/she does not take reasonable care in the performance of his/her job to avoid acts or omissions, which he/she can reasonably foresee, would be likely to cause loss or damage or injury, or affect adversely the work of others.

#### 10.3.2. Refusing to perform a contractual duty

It is a misconduct for an employee to refuse to perform any of those duties, which he/she is bound to perform, and which are part of, or incidental to the job he/she is employed to do. (This refers to duties in the employee's Job Description and those additional duties related to a normal employment situation.)

#### 10.3.3. Repetition of an offence

Repetition of a minor offence for which a written warning has already been given.

#### 10.3.4. Failure to Wear Protective Clothing or Tampering with Safety Equipment

An employee commits an act of misconduct when he/she fails to wear protective clothing when it is provided, as well as for any employee to tamper with any safety/security guards or fire equipment at his/her place of work or in respect of equipment used by the employee.

#### 10.3.5. Private work/business after working hours

An employee commits a serious offence if he/she engages in any after-hours business or work, which may conflict with that of his/her employer and for which he/she did not have proper authority from his/her employer to undertake.

#### 10.3.6. Unauthorised use of machinery, tools, equipment or vehicles

An employee commits a serious offence if he/she engages in the unauthorised use of machinery, tools, equipment or vehicles belonging to the employer.

#### 10.3.7. Disregard of risk control procedures

It amounts to serious offence if an employee wilfully disobeys or disregards the organisation's risk control and security procedures to the possible detriment of the organisation or its employees.

#### 10.3.8. Sexual harassment

An employee commits a serious offence of sexual harassment when he/she involves himself/herself in unwelcome sexual advances or requests for sexual favours and other verbal or physical conducts of a sexual nature in any work-related situation.

#### 10.3.9. Debts

An employee commits a very serious offence by falling into debt to the extent of prejudicing his/her efficiency or brings the organisation into disrepute as a consequence of such indebtedness.

#### 10.3.10. Inconsistent conduct or omissions

An employee commits an offence if he/she engages in any act, conduct or omission, which is inconsistent with the fulfilment of the express or implied conditions of his/her contract.

#### 10.3.11. Malingering

An employee commits an offence if he/she feigns illness or other non-existent duties to escape work.

#### 10.3.12. Disregard of safety standards and health procedures

It amounts to a very serious offence if an employee wilfully disobeys and disregards the organisation's safety standards and health procedures to the detriment of the organisation or its employees, including himself/herself.

## 10.4 VERY SERIOUS OFFENCES

1 <sup>st</sup>	2 <sup>nd</sup>
Breach	Breach
FWW	D

### 10.4.1. Consumption or Possession of Alcohol or Drugs

It is a serious misconduct for an employee to be under the influence of, or to consume or to possess, intoxicating liquor or habit forming drugs during working hours. (At least two responsible persons must confirm that the employee is in an unfit state to properly or safely carry out his/her duties.)

### 10.4.2. Driving without permission or licence

An employee commits a serious offence if he/she drives any vehicle, including a forklift without authority and/or a valid driver's licence even though no accident or damage was caused.

### 10.4.3. Doing private business during working hours

An employee is bound to devote his/her time to the work he/she is employed to do during working hours. It is therefore a serious offence if he/she devotes-time (without proper authority) to his/her own private business or work whether or not it is for gain.

### 10.4.4. Use of abusive or insulting language

An employee uses abusive or insulting language if he/she uses language, which ridicules or shows contempt for another and is likely to provoke physical violence.

#### 10.4.5. Making threats

An employee makes threats if, intending to cause fear and alarm by any act or omission and whether by words or conduct, fear for his/her person or family whether immediately or in the future.

#### 10.4.6. Intimidation

An employee intimidates another if by threats or the use of force he/she prevents or obstructs another from performing his/her duties or uses unlawful norms to compel another to act or to refrain from acting, against his/her will or in the interests of the organisation.

#### 10.4.7. Misuse or Loss of Organisation property

It is a very serious offence to use Organisation property for unauthorised purposes or to remove the same from the organisation's premises to use for private purposes without authorisation. This offence includes the loss of property. If any property belonging to the employer, which is entrusted into his/her care or custody or is made available for his/her use in the performance of his/her work is lost through his/her negligence or deliberate act or omission.

#### 10.4.8. Fighting

This is an exchange of blows between two or more employees usually following a challenge by one to another.

#### 10.4.9. Assault

An employee commits an assault if he/she unlawfully and intentionally applies force to the person of another or inspires a belief in that person that force is immediately to be applied to him/her.

#### 10.4.10. Gambling

An employee commits an offence if he/she organises or participates in gambling at the work place. The offence is aggravated if money changes hands in the process. Certain exceptions may be granted with the express permission of Management.



#### 10.4.11. Absence without Leave

An employee is absent without leave if he/she takes time off leave or being granted leave of absence or overstays the leave for three (3) or four (4) consecutive days without reasonable excuse.

#### 10.4.12. Refusal to Work Overtime

An employee commits a misconduct if he/she refuses to work overtime without reasonable cause provided twenty-four (24) hours' notice is given or refuses to work emergency overtime in the event of a breakdown of equipment or the non-completion of important work which the organisation is committed to undertake.

#### 10.4.13. Carrying Unauthorised Passengers

It is a misconduct to carry non-employees or unauthorised passengers in an employer's vehicle.

#### 10.4.14. Unfair Labour Practices

Unfair labour practices are stipulated in the Act. Any employee who commits acts at work that can be classified as unfair labour practices will be guilty of serious misconduct.

#### 10.4.15. Breaching of Organisation 's Security Regulations

Permitting unauthorised and unlawful entry of any person (s) or article (s) onto the organisation's premises and failure to observe security regulations, likely to prejudice the organisation in any way.

#### 10.4.16. Conduct to the Prejudice of the Organisation

It is a misconduct for an employee to conduct himself/herself in such a manner as may be generally prejudicial to the organisation, its property, undertaking, business, labour relations and public image, without lawful excuse or reasonable cause.

## 10.5 DISMISSABLE OFFENCES

**1<sup>st</sup>**

**Breach**

**D**

### 10.5.1. Extortion

It amounts to extortion for any employee to demand money, service, or a favour from another employee or a member of the public dealing with the organisation.

### 10.5.2. Disobedience of lawful orders

An employee disobeys a lawful order if he /she shows a clear intention that he/she will not carry out the order or actually refuses to carry out the order. The orders which may be in the form of safety rules, regulations, standing orders, circulars or instructions, whether written or verbal, if brought to the notice of the employee by a person in authority, must be obeyed unless they are unlawful.

### 10.5.3. Breach of confidentiality

It is a breach of confidentiality for an employee who has access to confidential matters by virtue of his/her position to make disclosures to unauthorised persons, whether verbally or by allowing unauthorised persons access to or to have sight of, any confidential documents belonging to the organisation.

### 10.5.4. Habitual or substantial neglect of duty

It is a dismissible offence if an employee falls into habitual or substantial neglect of his/her duty.

#### 10.5.5. Wilful destruction of Organisation property

An employee commits a dismissible offence if he/she wilfully and unlawfully destroys his/her employer's property.

#### 10.5.6. Gross Misuse of Vehicle

It is a gross misconduct to pirate or use an organisation vehicle as a taxi i.e. carrying unauthorised passengers for reward either in cash or in kind.

#### 10.5.7. Committing a further offence while a final warning is still effective

An employee commits a dismissible offence if he/she commits a further offence while a final warning is still effective.

#### 10.5.8. Lack of skill, which the employee expressly or by implication holds himself/herself out to possess

An employee commits a dismissible offence if he/she lacks skills or qualifications, which he/she expressly or by implication holds himself/ herself out to possess.

#### 10.5.9. Absence from work for a period of five or more consecutive days

An employee commits a dismissible offence if he/she absents himself/herself from work without permission or valid reason for a period of five or more consecutive working days.

#### 10.5.10. Inciting other employees to take unlawful collective job action

An employee commits a dismissible offence if he/she incites other employees to take unlawful collective job action. This includes taking such action himself/herself in order to encourage or support other employees to take unlawful collective job action.

#### 10.5.11. Intimidation to strike

An employee commits a dismissible offence if he/she intimidates any other employee with the object of compelling him/her to take collective job action.

#### 10.5.12. Intoxication

An employee commits a dismissible offence if he/she is found to have a level of intoxication that renders him/her incapable of performing his/her duties properly, or to the point of endangering the safety of himself/herself or any other person.

#### 10.5.13. Falsifying records

An employee falsifies a record if he/she makes any record or document, which intentionally includes false statements or omits information required.

#### 10.5.14. Removal of documents

An employee commits a dismissible offence if he/she removes documents without permission from Organisation premises or if he/she copies or discloses confidential information to another employee or non-employee.

#### 10.5.15. Fraud

An employee commits fraud if he/she makes a false statement or claim whether in oral or written form, or makes any false representation by words or conduct calculated to result in some prejudice or potential prejudice to the organisation, and/or for benefit or potential benefit to himself/herself.

#### 10.5.16. Theft

An employee commits theft if he/she unlawfully takes any property of another with intent to permanently deprive the owner of ownership. Any attempt to commit theft is also a dismissible offence.

#### 10.5.17. Aiding theft

An employee aids theft if he/she enables, assists, encourages or permits any person to steal the organisation's or another employee's property or refuses to give any information, within his/her knowledge, concerning the stolen property or deliberately closes his/her eyes to such action by another person.

#### 10.5.18. Arson

An employee commits a dismissible offence if he/she unlawfully sets fire to any property belonging to or under the control of the organisation, with intent to cause damage to property or injury to people.

#### 10.5.19. Corruption

It amounts to corruption for an employee to take bribes in order to do or to refrain from doing anything for anyone in relation to his/her duties or alleged influence in the organisation.

#### 10.5.20. Criminal conviction

An employee commits a dismissible misconduct if he/she is convicted for any criminal offence, even outside of his/her employment, and is sentenced to imprisonment without the option of a fine, or is given a suspended sentence. Where the crime is committed against the organisation or any of its employees even the payment of a fine will warrant dismissal.

#### 10.5.21. Possession of dangerous weapons

An employee is guilty of an offence if found in possession of dangerous weapons (such as firearms, knives, etc.) on duty unless with special permission from the authorities.

#### 10.5.22. Embezzlement

An employee embezzles the organisation's property if he/she converts to his/her own use, property that has been received by him/her on behalf of the employer.

## 11. CLASSIFICATION OF PENALTIES

### 11.1 Verbal Warning

A verbal warning may be given by the offender's immediate supervisor after an investigation to establish the facts of the alleged offence. No formal disciplinary enquiry shall be necessary prior to the administering

of a verbal warning. A record of the verbal warning shall be kept within a separate file for record purposes only.

### 11.2 Written Warnings

A written warning (issued by the relevant party as specified in Section 6.2), including a first, severe and final warning, may be administered after a Disciplinary Hearing has taken place. It shall be in written form, which the Workers' Committee representative and employee shall sign. The copy of the form shall be given to the employee and another filed in his/her personal file. Refusal by the employee or Workers Committee Representative to sign the form shall be noted on the form but does not invalidate the warning.

The first written warning shall be valid for six (6) months; a severe written warning valid for nine (9) months; and a final written warning for twelve (12) months.

### 11.3 Suspension

Suspension without pay, may be imposed as a disciplinary measure after a disciplinary enquiry has taken place. The suspension should not be for a period exceeding three (3) months.

In the event that such suspension is imposed, the employee concerned shall be notified in writing thereof by the Director or Head of Department and such notification shall contain the following information:

11.3.1 the date on which the suspension shall take effect; and

11.3.2 the date on which it shall cease

11.3.3 the suspension shall be without pay.

#### 11.4. Demotion

11.4.1 demotion may be imposed as a disciplinary measure in respect of work performance related offences e.g. incompetence, inefficiency) after a disciplinary enquiry has taken place

11.4.2. if demotion is applied as a penalty, the employee shall be notified in writing and such notification shall contain the following information:

11.4.2.1 the level to which the employee has been demoted and the pay related to that level.

1 11.4.2.2 the date on which the demotion will take effect

1 11.4.2.3 the date on which the demotion will be reviewed by management, if at all

One calendar months' notice, for pay purposes, shall be given of any demotion.

An employee who is demoted shall not be allowed to apply for any vacancy in the organisation within a period of six months from the commencement of his/her demotion or for the duration of the period of his/her demotion, whichever is the greater.

#### 11.5. Dismissal

Dismissal from employment in terms of the Code, after the appropriate hearing, shall be:

11.5.1 Summary dismissal (meaning instant termination without notice or cash in lieu of notice); or

1 1.5.2. Termination after giving due notice; or cash in lieu of notice.

## 11.6 Application of Penalties

The circumstances and severity of the offence or misconduct will determine the degree of penalty to be applied. It is important to note here that the severity of the offence has to be judged by Management. For instance, a Very Serious Offence may provide for a Final Written Warning or Dismissal. This does not mean that a penalty for such an offence, at the first breach, is limited to Final Written Warning. If the circumstances of the case are judged to be grounds for dismissal, then Management may opt for such a penalty. Equally, where an offence carries a penalty of Written Warning, Severe Written Warning, Final Written Warning and Dismissal, a first breach of the Code may attract a more severe penalty than a Written Warning. It may in fact warrant a Severe Written Warning or a Final Written Warning, depending on circumstances.

The principle of progressive penalties shall apply where an employee has a number of prior current warnings. e.g. third warning equals a final warning. Such progressive warnings do not have to be related to the current offence and may be related to several different categories of offence. An offence or misconduct committed while on a final warning warrants dismissal.



## 12. GRIEVANCE PROCEDURE

### 12.1 General Observations

Frustration develops when aggrieved employees have no means of bringing their grievances before Management and when no modus operandi exists in an establishment for the grievance to be investigated and settled.

Unless grievances are settled internally, they may develop into disputes, which may require an outside agency to adjudicate them.

Grievance procedures should be as straightforward as possible to avoid delays in settling such grievances. The primary aim of a grievance procedure is to resolve grievances -

- a) through the chain of command i.e. Line Management
- b) as near to the point of origin as possible; and
- c) as speedily as possible

### 12.2 Definition of a Grievance

A grievance as covered by this procedure may be defined as any dissatisfaction or feeling of injustice on the part of an employee in connection with his/her work or employment situation

### 12.3 Grievance Handling Procedure

Step 1: An employee with a grievance must first discuss the grievance with his/her immediate supervisor. If the grievance is not settled within five (5) working days by the Supervisor, step two becomes effective.

Step 2: If the Supervisor is unable to settle the grievance he/she must request the employee to state the grievance in writing and forward it to the Head of Department (a Grievance Form should be available).

The Head of Department's decision shall be given within ten (10) working days. In arriving at his/her decision, the Head of Department shall consult with whoever he/she feels may assist him/her with his/her enquiries. The discussion or settlement arrived at by the Head of Department shall be recorded on the Grievance Form, signed by the employee who initiated the enquiry, and then filed in the employer's personal file.

Step 3: If the employee is not happy with the decision made by the Head of Department or if the Head of Department cannot or has not settled the grievance within ten (10) working days of having received it, he/she shall pass the grievance to the Financial Accountant, who shall settle the matter.

Step 4: If the Financial Accountant cannot or has not settled the grievance within ten (10) working days, the Financial Accountant shall refer it to the Director.

Step 5: The Director (as head of the organisation) shall make a final decision to resolve the matter within ten (10) working days.

Step 6: The employee may finally refer the matter to a Labour Relations Officer, if the matter has not been resolved and the Labour Relations Officer will resolve the matter in terms of Section 93 of the Labour Relations Act.



**LUTHERAN DEVELOPMENT SERVICES**

**GRIEVANCE FORM**

**ENSURE THAT ANY RELEVANT DOCUMENTS ARE ATTACHED TO THIS FORM.**

**NAME OF EMPLOYEE:**

**PROJECT/SECTION:**

**STEP ONE: I certify that I have discussed this grievance in full detail with my immediate supervisor, but will not accept his/her decision.**

Signed:\_\_\_\_\_

EMPLOYEE

IMMEDIATE SUPERVISOR

\_\_\_\_\_  
**STEP TWO: To Head of Department (from Employee)**

**Clearly state details of grievance:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Add details on separate sheet if required.**

**ACTION TAKEN BY HEAD OF DEPARTMENT      DATE RECEIVED:-**

**Grievance investigated and determined as follows:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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**(Determination required in 5 working days)**

**Accepted by Employee/Request for Referral to next step in procedure.**

**Signature of Employee: \_\_\_\_\_**

**STEP THREE:**

**a) If referred to Personnel Representative - note date received:**

**Yes/No**

**Date:**

**b) Referred to Grievance Committee**

**Yes/No**

**Date:**

**c) Referred to Head of Organisation**

**Yes/No**

**Date:**

**NOTE: ATTACH DOCUMENTS RELATING TO STEP 3 TO THIS  
FORM FOR RECORD PURPOSES.**

**LUTHERAN DEVELOPMENT SERVICES**

**NOTIFICATION OF DISCIPLINARY HEARING**

**TO:** \_\_\_\_\_

**You are hereby notified of a Disciplinary Hearing or Enquiry to be held in respect of a breach of the Code of Conduct by you.**

**DATE:** \_\_\_\_\_

**TIME:** \_\_\_\_\_

**PLACE:** \_\_\_\_\_

**NATURE OF OFFENCE:**

\_\_\_\_\_  
\_\_\_\_\_

**SIGNED:** \_\_\_\_\_ **SUPERVISOR/MANAGER/HEAD OF DEPARTMENT**

**Please note that you may be represented by a member of the Workers Committee if you wish (not Managerial employee). You may also call any relevant witnesses to speak on your behalf. Please ensure that these persons are available for the Hearing.**

**If you wish to plead guilty to this breach of' the Code of Conduct, and accept the penalty for such an please sign and return this form to the writer. If you do not plead guilty you must attend the Hearing as stated.**

**I \_\_\_\_\_ (name of employee) acknowledge guilt in respect of the breach of discipline noted above and accept the appropriate penalty in terms of the Code of Conduct.**

**Signed:** \_\_\_\_\_

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

**LUTHERAN DEVELOPMENT SERVICES**

**RECORD OF WARNING**

**TO:** \_\_\_\_\_

**As a result of the recent Hearing/Enquiry under the Code of Conduct the following penalty has been recorded.**

**(Delete those not applicable)**

**Written Warning Severe      Written Warning      Final Written Warning**

**In respect of a breach of the Code of Conduct listed as:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**This record of warning will be attached to your record of service and will be taken into account should any further breach of discipline occur.**

**Signed:** \_\_\_\_\_ **Authorised Official**

**Acknowledged Employee** \_\_\_\_\_

**Workers Committee** \_\_\_\_\_

**Note: A Written Warning stands for six (6) months.**

**A Severe Written Warning stands for nine (9) months.**

**A Final Written Warning stands for twelve (12) months.**

## **LUTHERAN DEVELOPMENT SERVICES**

WE, AS REPRESENTATIVES OF MANAGEMENT AND THE WORKERS  
COMMITTEE FOR THE LUTHERAN DEVELOPMENT SERVICES,  
ACKNOWLEDGE THAT WE HAVE BEEN INVOLVED IN THE  
DEVELOPMENT OF THIS DOCUMENT AND ACCEPT THIS CODE OF  
CONDUCT.

NAME OF WORKERS

COMMITTEE CHAIRMAN

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SIGNATURE OF CHAIRMAN

---

NAME OF WORKERS

COMMITTEE VICE CHAIRMAN

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SIGNATURE OF VICE CHAIRMAN

---

NAME OF MANAGEMENT REPRESENTATIVE

---

SIGNATURE OF MANAGEMENT REPRESENTATIVE

NAME OF DIRECTOR

---

SIGNATURE OF DIRECTOR

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## **LUTHERAN DEVELOPMENT SERVICES**

### **NOTIFICATION ALLEGED MISCONDUCT INVESTIGATION**

Full Name: \_\_\_\_\_

National ID Number: \_\_\_\_\_

Position held with Lutheran Development Services: \_\_\_\_\_

Duty Station: \_\_\_\_\_

Mobile Number: \_\_\_\_\_

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

### **SUBJECT: NOTIFICATION OF ALLEGED MISCONDUCT INVESTIGATION**

1. You are hereby notified of the following alleged offence(s) committed in breach of the Lutheran Development Services' registered Employment Code of Conduct by yourself.

#### **2. Nature of alleged offences:**

##### **2.1 Breach of paragraph \_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You, \_\_\_\_\_ (full name), as a(position title) \_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_ 20 \_\_\_\_\_ (year), you, \_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_ 20 \_\_\_\_\_ (year), you, \_\_\_\_\_ detailed, precise, alleged offence).

**2.2 Breach of paragraph\_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You,\_\_\_\_\_ (full name), as a(position title)\_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

**2.3 Breach of paragraph\_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You,\_\_\_\_\_ (full name), as a(position title)\_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

**2.4 Breach of paragraph\_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You,\_\_\_\_\_ (full name), as a(position title)\_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

You are required to submit your written response to the said misconduct allegation(s) on the attached Form within three (3) working days of receipt of this Notification of Alleged Misconduct Investigation.

Furthermore, you are also required to acknowledge receipt of this Notification of Alleged Misconduct Investigation by signing in the space provided below, retain one original copy and give by hand the other original copy to the employer's representative who has served by hand this Notification of Alleged Misconduct Investigation to yourself.

**For and on behalf of Lutheran Development Services**

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Full Name of Employer Representative)

\_\_\_\_\_ (Designation)

**SERVING OF NOTIFICATION OF ALLEGED MISCONDUCT  
INVESTIGATION**

This Notification of Alleged Misconduct Investigation was given under my hand at

\_\_\_\_\_  
\_\_\_\_\_

(Employee's physical address) this \_\_\_\_\_ day of \_\_\_\_\_ (month) 20 \_\_\_\_\_ (year)

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

Full Name: \_\_\_\_\_

(Employee on behalf of Lutheran Development Services)

**ACKNOWLEDGEMENT OF RECEIPT OF NOTIFICATION OF  
ALLEGED MISCONDUCT**

**INVESTIGATION**

I \_\_\_\_\_ (Employee's full name) hereby acknowledge  
receipt of this Notification of Alleged Misconduct Investigation.

Signed \_\_\_\_\_

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

National ID Number: \_\_\_\_\_

## **EMPLOYEE'S RESPONSE TO THE MISCONDUCT ALLEGATIONS**

**TO:** \_\_\_\_\_

[Name and Designation of employer representative]

**FROM:** \_\_\_\_\_

[Full Name employee]

1. I hereby acknowledge receipt of the Notification of Alleged Misconduct Investigation dated \_\_\_\_\_

2. I hereby respond to the alleged offences contained in the Notification of Alleged Misconduct Investigation as follows:

2.1 Alleged Offence No. 1:

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2.2 Alleged Offence No. 2:

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**2.3 Alleged Offence No. 3:**

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**2.4 Alleged Offence No. 4:**

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**2.5 Alleged Offence No. 5:**

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3 The persons listed below are my relevant witnesses:

(i) \_\_\_\_\_

(ii) \_\_\_\_\_

(iii) \_\_\_\_\_

(iv) \_\_\_\_\_

(v) \_\_\_\_\_

**Signed:** \_\_\_\_\_

**Date:**

\_\_\_\_\_

**[Employee]**

**Received by:** \_\_\_\_\_

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

**[Employer representative]**

## **LUTHERAN DEVELOPMENT SERVICES**

### **NOTIFICATION TO ATTEND DISCIPLINARY HEARING PROCEEDINGS**

**Full Name:** \_\_\_\_\_

**National ID Number:** \_\_\_\_\_

**Position held with Lutheran Development Services:**

\_\_\_\_\_

**Duty Station:** \_\_\_\_\_

**Mobile:** \_\_\_\_\_

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

### **SUBJECT: NOTICE OF DISCIPLINARY HEARING PROCEEDINGS**

1. Following the misconduct alleged against you and/ the suspension order served on the \_\_\_\_\_ 1<sup>st</sup>/2<sup>nd</sup>/4<sup>th</sup> day of \_\_\_\_\_ (month) \_\_\_\_\_ (year), you are hereby notified that the investigation is complete and the Lutheran development Services has decided to institute disciplinary proceedings against you.

2. Accordingly, the disciplinary hearing will held in respect of breach of the Lutheran Development Services' registered Employment Code of Conduct by yourself on the \_\_\_\_\_ (day), \_\_\_\_\_ (date) \_\_\_\_\_ (month) 20 \_\_\_\_ at \_\_\_\_\_ hours, at

\_\_\_\_\_

\_\_\_\_ (physical address).

**3. Nature of alleged offences:**



**3.1 Breach of paragraph\_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You,\_\_\_\_\_ (full name), as a(position title)\_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

**3.2 Breach of paragraph\_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You,\_\_\_\_\_ (full name), as a(position title)\_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

**3.3 Breach of paragraph\_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You,\_\_\_\_\_ (full name), as a(position title)\_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

**3.4 Breach of paragraph\_\_\_\_\_ of the Employment Code of Conduct:**

" \_\_\_\_\_ "

You,\_\_\_\_\_ (full name), as a(position title)\_\_\_\_\_ (summarized alleged offence) in that:

(a) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

(b) During the year / month of \_\_\_\_\_20\_\_\_\_\_ (year), you,\_\_\_\_\_ detailed, precise, alleged offence).

**For and on behalf of Lutheran Development Services**

**(Full Name)** \_\_\_\_\_

**(Position)** \_\_\_\_\_

**NB:**

If, as a party, you fail to attend the hearing at the time and date notified, the hearing may proceed without you to the possible detriment of your interests.

As a party, you may also call any relevant witnesses to speak on your behalf and you should make sure that these persons are available for the hearing.

You are welcome to bring a fellow employee or legal representative at the hearing.

If you wish to plead guilty to the breach of the Lutheran Development Services' registered Employment Code of Conduct, and accept the penalties for such offences, please sign and return one copy of this Notice to the writer by \_\_\_\_\_ (day), on the \_\_\_\_\_<sup>th</sup> **(date)** of \_\_\_\_\_(month) 20\_\_\_\_\_ (year). If you do not plead guilty you must attend the disciplinary hearing as stated above.

## **STATEMENT OF PLEAD OF GUILTY**

I \_\_\_\_\_ (Employee's Full

Name) hereby plead guilty in respect of the misconduct allegations noted above and accept the appropriate penalty in terms of the Employment Code of Conduct.

**Signed:** \_\_\_\_\_

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

**National ID Number:** \_\_\_\_\_

## **SERVING OF NOTIFICATION OF DISCIPLINARY HEARING**

This Notification of Disciplinary Hearing was given under my hand at

\_\_\_\_\_

\_\_\_\_\_ (physical address) this \_\_\_\_\_ day of

\_\_\_\_\_ (month) 20 \_\_\_\_ (year)

**Signed:** \_\_\_\_\_

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

**Full Name:** \_\_\_\_\_

**(Employee on behalf of Lutheran Development Services)**

**ACKNOWLEDGEMENT OF RECEIPT OF NOTIFICATION OF  
DISCIPLINARY HEARING**

I \_\_\_\_\_ (Employee's  
Full Name) hereby acknowledge receipt of this Notification of Disciplinary  
Hearing.

**Signed** \_\_\_\_\_

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

**National ID Number:** \_\_\_\_\_