



Republic of Zambia

# **DISCIPLINARY CODE AND PROCEDURES FOR HANDLING OFFENCES**

**IN THE**

# **PUBLIC SERVICE**



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**DISCIPLINARY CODE AND  
PROCEDURES FOR HANDLING  
OFFENCES IN THE PUBLIC SERVICE**

MAY 2023

## **PART II**

# **DISCIPLINARY CODE**

### **PREAMBLE**

4. A Disciplined workforce is essential for the successful achievement of Government objectives. This requires a framework of rules or Code of Conduct to ensure that all employees know what is expected of them and of which they must comply with. Such a Code, should be fair, just and uniformly administered to ensure that all individual employees are treated in a consistent manner.
5. A Code of this nature cannot cover every specific case that will occur. Consequently, supervising officers must use their discretion within the framework of and in accordance with the spirit of this Code.
6. This Disciplinary Code provides procedures and sanctions in the event of breach of the Code of Conduct. When handling disciplinary cases, the Service Commissions, Responsible Officers and Human Resource Management Committees shall at all times observe the provisions of the Constitution of Zambia, the Industrial and Labour Relations Legislation, Employment Code Act No. 3 of 2019, Service Commissions Act No. 10 of 2016 and other relevant pieces of legislation and amendments thereto.

## PART III

# DISCIPLINARY PRINCIPLES

### BASIC PRINCIPLES

7. This Code is based on the following principles:
- (a) Prevention, counselling, correction and rehabilitation. Where these steps are ineffective, punitive action must be the last step.
  - (b) Just and uniform administration of the rules and regulations to ensure employees are treated in a fair and consistent manner.
  - (c) Efficiency in the handling and disposing of disciplinary cases.
  - (d) Protection of the Government against indiscipline.
  - (e) Protection of employees against arbitrary judgement and punishment.
  - (f) The right of an employee to be heard.
  - (g) Enhancement of the following principles and core values:
    - (i) Integrity
    - (ii) Honesty
    - (iii) Objectivity
    - (iv) Impartiality
    - (v) Loyalty
    - (vi) Respect
    - (vii) Accountability
    - (viii) Excellence

*Principles of  
Discipline*

8. The purpose of the Code is:

*Purpose of the  
Disciplinary Code*

- (a) To create awareness of the Government's rules and regulations.
- (b) To illustrate the expected standard of performance and conduct.
- (c) To facilitate the administration of discipline in a just, fair and consistent manner.

9. Parties Obligations

(a) Employer's responsibility

*Responsibility of an  
Employer*

Custom and practice of Industrial and Labour Relations Management recognise that it is the prerogative of the Government and its Management to discipline its employees for any improper conduct. When an offence is alleged to have been committed, disciplinary action shall be taken by a Disciplinary Authority in accordance with the provisions of this Code as follows:

- (i) Consider taking educative and corrective measures as a first step before any punitive action. This could be done by educating staff on their rights and obligations by providing them with all the policy documents and Terms and Conditions of Service.
- (ii) Undertaking thorough investigation into alleged offence.
- (iii) Take into consideration all the circumstances of each case before disciplinary action is taken, and such action should always be prompt, fair and firm.

(b) Employee's responsibilities:

*Responsibilities of  
an Employee*

An employee shall:

- (i) Perform conscientiously and diligently, functions of the Government to the best of the employee's ability, any work that the Government may require the employee to undertake;

- (ii) Attend to work as scheduled and when required to do so;
- (iii) Adhere to the Terms and Conditions of Service and the Code of Conduct for the Public Service;
- (iv) Obey and comply with all lawful orders;
- (v) Observe all the rules and regulations in force for the management of Government's property and maintenance of health and safety of the employees;
- (vi) Not cause wilful damage to the Government's reputation or property;
- (vii) Not engage in any activity or business which might interfere with the performance of one's duties;
- (viii) Not engage in any other employment during working hours without prior express consent of the Responsible Officer;
- (ix) Not engage in any other employment or activity that is in conflict with the Government's mandate. In this regard, an employee shall not undertake any act or omission prejudicial to the operations of the Government; and
- (x) Not divulge any confidential information which the employee may acquire during employment.

## PART IV

# CLASSIFICATION OF OFFENCES

10. In this Code, offences have been classified into two (2) main categories as follows: *Classification of Offences*

(a) **Category A**

- (i) Absenteeism;
- (ii) Poor Time Management;
- (iii) Sub-Standard Performance;
- (iv) Dishonest Conduct;
- (v) Illegal Industrial Action
- (vi) Loss, Damage and Misuse of Government Property;
- (vii) Financial Mismanagement; and
- (viii) Indiscipline, Improper, or Disorderly Behaviour.

(b) **Category B**

- (i) Bribery, Corruption, Theft and Fraud;
- (ii) Breach of Trust or Confidentiality;
- (iii) Sexual Harassment;
- (iv) Illegal Taping and Recording of Official Conversations;
- (v) Unauthorised Printing of Official Documents; and
- (vi) Unlawful Circulation of Official Documents.
- (vii) Active Participation in Politics

# DESCRIPTION OF OFFENCES

## CATEGORY A OFFENCES

OFFENCE	DEFINITION
<b>A. ABSENTEEISM</b>	
1. Absenteeism	Staying away from duty by an employee without verbal or written permission or acceptable reason.
<b>B. POOR TIME MANAGEMENT</b>	
1. Reporting late for work.	Reporting for work after the stipulated working hours.
2. Leaving work place early.	Leaving the work place before the stipulated working hours without permission from the supervisor.
3. Leaving work place without permission.	Leaving the work place during working hours without the verbal or written permission from the employee's supervisor.
4. Idling, Loitering or Loafing on duty.	The failure by an employee to engage in active and productive work during working hours.
5. Sleeping on duty.	Falling asleep while on duty.
<b>C. SUB-STANDARD PERFORMANCE</b>	
1. Negligence of Duty.	Failure to exercise proper care and regard to the manner of discharging duty to the extent that tasks have to be repeated or equipment or persons are at risk of damage/loss or injury.
2. Poor Supervision.	<ul style="list-style-type: none"> <li>(i) Failure to provide coaching and continuous performance appraisal to subordinates resulting in sub-standard performance.</li> <li>(ii) Failure to discipline subordinates.</li> <li>(iii) Inability to provide effective leadership and guidance to employees in achieving the agreed targets.</li> </ul>

OFFENCE	DEFINITION
3. Poor Performance.	(i) Failure to meet required performance expectations. Performing below the prescribed standard which may lead to loss or damage to Government property or may constitute a hazard to the safety and health of the offender or others.
4. Incompetence	Failure to achieve satisfactory standard of performance in one's position or lack of capacity to achieve desired results.
5. Causing road traffic accident due to negligence	Causing road traffic accident due to negligence, failure to observe road traffic safety rules and regulations or due to disorderly conduct while driving Government vehicle.
6. Carelessness	Performance of a task or duty without due care and attention.
7. Disregarding health and/or safety or security rules.	An act or conduct that puts the life, health or security of other employees or persons at risk.

#### D. DISHONEST CONDUCT

1. Conduct contrary to set standards.	Conduct not in line with agreed or set standards of acceptable behavior, untrustworthy, deceitful or insincere.
2. Deceit	Conduct where an employee conceals or misrepresents the truth. This includes illegal duplicity of documents, double-dealing, fraudulent behaviour, lying, pretense, artifice or treachery.
3. Untrustworthiness	Conduct where an employee is not worthy of deserving trust or confidence. This includes being undependable, unfaithful, crooked, disloyal, dishonest, irresponsible, questionable, treacherous, unreliable or posting unauthorised statements through mass media or social media on Government business.
4. Abuse of Government vehicle/vessel.	Carrying unauthorized passengers or goods on a Government vehicle or vessels without authority.

OFFENCE	DEFINITION
5. Driving Government vehicle without Certificate of Competence.	Driving Government vehicle without a Certificate of Competence issued by the Government.
6. Allowing unauthorised person(s) to drive Government vehicle.	Allowing unauthorised person(s) to drive Government vehicle.
7. Failure to declare interest.	Failure to disclose knowledge or one's connections in a matter.
8. Engaging in outside employment.	Engaging in formal employment outside the Public Service for remuneration or otherwise, without express authority from the Responsible Officer.
9. Abuse of office.	Use of one's office for personal, monetary and material or other advantage.

### E. ILLEGAL INDUSTRIAL ACTION

1. Illegal strike action.	Any concerted action by two or more employees to withdraw their labour or otherwise interfere with the normal operations of the Government in furtherance of a trade union dispute or with the object of compelling the management to take or refrain from taking any specific action, where the matter or matters in dispute have not been processed through all the relevant procedures set out in the Recognition Agreement and in any law for the time being in force relating to the settlement of industrial disputes and grievances.
2. Incitement to strike.	Any action by an employee to lure, persuade or encourage an employee to take any illegal strike action.
3. Intimidation	Any action by an employee, in consent with one or more persons, to frighten or threaten any employee with the object of compelling or persuading him or her to take part in an illegal strike action.

OFFENCE	DEFINITION
4. Riotous behaviour.	An action by an employee, in agreement with one or more persons, to engage in or incite a group of persons to indulge in disorderly behaviour or to willfully damage Government property.
5. Sabotage	Any act by an employee to interfere with the normal operations of the Government by damaging any building, machinery, equipment or installation, or by interrupting any supplies of power, fuel, materials, water, or services necessary to the operations of Government.

### F. LOSS, DAMAGE AND MISUSE OF GOVERNMENT PROPERTY

1. Negligent Loss	Any act where an employee, through carelessness or negligence, loses Government property or is unable to account for it satisfactorily.
2. Negligent Damage	Any act where an employee, through carelessness or negligence, causes or allows Government property to be damaged.
3. Willful Loss	Any act where an employee willfully or deliberately loses or causes Government property to be lost.
4. Willful Damage	Any act where an employee willfully or deliberately damages Government property.
5. Misuse of Government Property.	An action where an employee uses Government property and premises for purposes other than that for which it is authorised.

### G. FINANCIAL MISCONDUCT

1. Financial Mismanagement	Any act where Government funds are, deliberately or not handled in a way that can be characterised as "unethical, incompetent, or dishonest and contrary to the provisions of the Finance Management Act and other relevant Financial Management regulations.
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OFFENCE	DEFINITION
2. Failure to collect any money owing to the Government.	An act by an employee failing to collect money owing to the Government which results in the Government losing income.
3. Improper payment of Government funds.	An act by an employee or employees that involve the use of Government funds to make payment for goods or services not approved by the relevant authority or was made in an incorrect amount (over payments and underpayment).
4. Loss of Government money.	An act by an employee that results in loss or shortage of the expected money by the Government.
5. Misappropriation	The act where an employee attempts to apply or applies wrongfully or dishonestly any funds, assets or property belonging to the Government.

#### H. INDISCIPLINE, IMPROPER, OR DISORDERLY BEHAVIOUR

1. Refusal or Failure to Obey Lawful Instructions.	Deliberate refusal by an employee to carry out a lawful instruction given by a person in authority.
2. Indiscipline or Improper Behaviour.	<ul style="list-style-type: none"> <li>(i) Any act by an employee leading to failure to follow Established Procedures and/or Standing Instructions.</li> <li>(ii) An act or conduct that disregards the authorised method or practice in performing a task, duty or obligation.</li> <li>(iii) An act or conduct that disregards lawful and reasonable instructions and established Government procedure or protocol in the performance of duties.</li> </ul>
3. Refusing to work overtime.	Refusal by an employee to work overtime in line with the Terms and Conditions of Service for the Government when required to do so by a person in authority.
4. Unethical Conduct by Government employee.	Conduct by an employee which does not conform with the Code of Ethics for the Public Service or one's profession, dignity, integrity or which brings the Government into disrepute.

OFFENCE	DEFINITION
5. Use of Abusive Language.	<ul style="list-style-type: none"> <li>(i) The uttering of any words or showing gestures that are insulting or belittling in nature.</li> <li>(ii) The act of an employee being rude, discourteous, impolite or disrespectful to fellow employees or clients.</li> </ul>
6. Discrimination	An act of unfair, unjust or prejudicial treatment on the basis of sex, race, religion, place of origin, physical status or colour.
7. Tribalism and Hate Speech.	<ul style="list-style-type: none"> <li>(i) An act to discriminate or disadvantage anyone on the basis of a tribe.</li> <li>(ii) Abusive or threatening speech that expresses prejudice against a particular person or group on the basis of tribe.</li> </ul>
8. Insubordination	<ul style="list-style-type: none"> <li>(i) An act of disobedience, defiance and non-compliance by an employee to a superior officer's reasonable or lawful instructions; or</li> <li>(ii) An act of insolence towards anyone in authority by an employee, shown by demeanour, action or words.</li> </ul>
9. Disorderly Behaviour (horseplay).	An act of indulging in rough or unruly behaviour or practical jokes and insolent gestures whether or not such behaviour endangers the safety or health of others or the smooth running of the work place.
10. Threatening violence.	<ul style="list-style-type: none"> <li>(i) Any act of physical conduct by an employee that is forceful, disruptive, disorderly or rowdy. This includes threatening to do physical injury to any person at the work place or any place during the course of work.</li> <li>(ii) Physical or verbal act tending to instill fear or apprehension in other employees or third parties.</li> </ul>
11. Fighting on duty.	The use of physical violence or combat by an employee against other employees or third parties.
12. Attempted Assault or Assault on duty.	The act of attempting to cause bodily harm or injury or causing bodily harm to any person at the place of work.

OFFENCE	DEFINITION
3. Disloyalty	The act by employee of doing or saying things that do not support the organisation or tarnish its image.
4. Disclosure of confidential information.	The disclosure of confidential information to unauthorised persons/organisations.
<b>C. SEXUAL HARRASSMENT</b>	
1. Seductive sexual advances.	An act by an employee of making unsolicited sexual comments, indecent assault, looks, suggestions, physical contact or other gestures of a sexual nature which one finds objectionable or offensive or which cause discomfort in one's job or interferes with work performance or a conducive work environment.
2. Sexual Bribery	An act by an employee of soliciting, or attempting to solicit and/or offering sexual activities for a reward.
3. Sexual Threat or Coercion	An act by an employee of procuring or attempting to procure sexual activity by threats of violence and/or victimisation.
4. Sexual Imposition	An act by an employee of using forceful behaviour or assault in an attempt to gain physical sexual contact.
5. Rape	An act of having sexual intercourse without the consent of the victim.
6. Sexual Relationship with a Learner or pupil.	When any public officer impregnants, or engages in a sexual relationship with a pupil.

**OFFENCE****DEFINITION****D. ILLEGAL RECORDING OF OFFICIAL CONVERSATIONS**

1. Taping and recording of official conversations.

Unlawful recording of official conversations or a meeting for purposes of implicating, sabotaging, or defaming fellow employees.

**E. UNAUTHORISED PRINTING OF OFFICIAL DOCUMENTS**

1. Unauthorised printing of official documents.

An act by an employee of printing official documents without the authority of the Responsible Officer. This includes photocopying, scanning or re-production of official documents.

**F. UNAUTHORISED CIRCULATION OF OFFICIAL DOCUMENTS**

1. Unauthorised Distribution and Circulation of Official Documents.

An act by an employee of distributing or circulating official documents without the authority of the Responsible Officer. This includes distribution by social media or any other means.

**G. ACTIVE PARTICIPATION IN POLITICS**

1. Seek or accept nomination for election to National Assembly or the Local Authorities.

An act by an employee of seeking or accepting nomination for election to National Assembly or the Local Authorities.

2. Hold office in any political organization.

An act by an employee of holding office in any political organization.

3. Wear political party regalia.

An act by an employee of wearing political party regalia at a place of work or any public place.

13. When an Verbal Warning is given to an employee, the Supervising Officer shall not complete a Charge Form, in which case there will be no entry made on the employees' disciplinary record.

*Non-completion of Charge Form on Verbal Warning*

### **Written Warning**

14. A Written Warning shall be given for a repetition of an offence for which an unrecorded warning has been given and is still in force or for first offence of:

*Offences warranting Written Warning*

- (a) Absenteeism for periods of three (3) to nine (9) days;
- (b) Failure or refusal to obey lawful instructions;
- (c) Untrustworthiness;
- (d) Poor Performance and/or Supervision;
- (e) Incompetence;
- (f) Carelessness;
- (g) Using Government time for personal gain;
- (h) Negligence of duty;
- (i) Illegal access to a computer;
- (j) Illegal modification of computer systems, information or software;
- (k) Driving Government vehicle without Certificate of Competence or permission;
- (l) Allowing unauthorised person(s) to drive or operate a Government vehicle/vessel; and
- (m) Disregarding the health or safety of other employees or clients, or security rules.

### **Final Warning**

15. (a) A Final Warning shall be given to an employee who is on a Written Warning who commits another offence or for the first time offence of:

*Offences warranting Final Written Warning*

- (i) Using abusive language;
- (ii) Deceit
- (iii) Failure to declare interest;
- (iv) Failure to collect, improper payment and loss of Government Funds;
- (v) Negligent loss or damage;
- (vi) Threatening violence to other employees and clients;

- (vii) Causing a road traffic accident due to negligence
- (viii) Insubordination;
- (ix) Disorderly behaviour;
- (x) Abuse of Government vehicle/vessel;
- (xi) Issuance of unauthorised press statements; and
- (xii) Engaging in formal employment outside the Public Service.

(b) A Final Written Warning shall be effective for a period of six (6) months.

*Duration of Final Written Warning*

### **Demotion**

16. (a) This is the reduction of an employees' rank or position to a lower one.

*Definition of Demotion*

(b) The sanction instituted for persistent poor work performance and where an employee is unable to meet the requirements of his or her present job but is otherwise suitable for continued employment in a lower capacity.

*Offences warranting Demotion*

(c) A Disciplinary Authority may institute the sanction of demotion for any other offence under this Code.

(d) Demotion may only be sanctioned when there is an approved, funded and vacant post at a lower level within the Public Service. The demoted employee shall receive the emoluments for the lower position to which he or she has been demoted.

*Availability of a vacant position on Demotion*

### **Retirement in Public Interest**

17. An officer may be retired in the Public Interest by a Service Commission following disciplinary procedure arising from:

- (a) a failure to perform that officer's duties;
- (b) incompetence; and
- (c) any other offence resulting in retirement in public interest.

## Dismissal

18. A Dismissal is when an employee on Final Warning commits another offence or for the first time offence of:

*Offences  
warranting  
Dismissal*

- (a) Absenteeism for periods of ten (ten) or more days;
- (b) Abuse of office;
- (c) Bribery, Corruption, Theft, Fraud, and or Misappropriation;
- (d) Breach of Trust and Confidentiality, and Disloyalty;
- (e) Fraudulent misrepresentation;
- (f) Sexual Harassment;
- (g) Illegal Taping and Recording of Official Conversations;
- (h) Unauthorised Printing of Official Documents;
- (i) Unauthorised Circulation of Official Documents;
- (j) Unethical Conduct by an employee;
- (k) Financial Mismanagement;
- (l) Tribalism and hate speech;
- (m) Illegal industrial action, incitement to strike, intimidation, riotous behaviour; and sabotage;
- (n) Willful Loss, damage and misuse of Government property;
- (o) Fighting on duty;
- (p) Assault or attempted assault;
- (q) Being in possession of alcohol, narcotic drugs or psychotropic substances;
- (r) Drinking alcohol while on duty or reporting for duty under the influence of alcohol and/or narcotic drugs or psychotropic substances; and
- (s) Refusal to be tested for intoxication.

## Surcharge

19. This is a sanction instituted on an employee for loss of Public money or stores and for damage of Government property.

*Definition of  
Surcharge*

20. A surcharge shall be in imposed by a Disciplinary Authority in addition to an appropriate penalty. The fine shall be equivalent to the loss or wasteful expenditure incurred by Government.

21. Where the Secretary to the Treasury recommends to a Service Commission for disciplinary action to be taken against an erring employee in accordance with the Public Finance Management Act, the matter shall be referred to that employee's Ministry, Province or Spending Agencies for institution of disciplinary action.

*Recommendation by the Secretary to the Treasury*

## **SUSPENSION FROM DUTY**

22. There are two types of suspension as highlighted below:

- (a) Suspension to facilitate investigation
- (b) Punitive Suspension

### **Suspension to Facilitate Investigations**

23. An employee shall be suspended pending disciplinary action if he or she is alleged to have committed or have been involved in committing a serious offence or violation of the provisions in the Terms and Condition of Service, this Code, The Code of Ethics for the Public Service or any regulation that may warrant disciplinary action.

*Suspension of an employee for committing a serious offence*

24. The suspension is affected in order to allow for investigations into the matter or processing of the disciplinary case, and to ensure that an employee's presence does not cause interference in the process.

*Reasons for suspension*

25. Where an employee has been suspended pending investigations, the Supervising Officer will take immediate steps to ensure speedy commencement and conclusion of the investigations and report the findings to the Responsible Officer within a month after the suspension.

*Investigations and reporting of findings by Supervising Officer*

26. Once investigations are concluded and it has been established that an employee may have been in breach of the Code, the employee shall be charged in accordance with the provisions of this Code.

*Charge After Investigations*

- |     |  |  |
|-----|--|--|
| 27. | Where an employee is found not to be in breach of the Code, the Responsible Officer must inform him or her accordingly, lift the suspension immediately.   | <i>Lifting of Suspension</i>             |
| 28. | Where it comes to the notice of a Supervising Officer that an offence that warrants suspension may have been committed by an employee, the Supervising Officer shall inform the Responsible Officer.                               | <i>Notification of Offence</i>           |
| 29. | (a) Where the Responsible Officer suspends an employee under this Code, the Responsible Officer shall notify the employee in writing of the reason(s) thereof.   | <i>Notification of Suspension</i>        |
|     | (b) Subject to the provisions of (a) above, the suspension of an employee shall have effect during the period and in accordance with the conditions as the Responsible Officer shall specify by notice in writing to the employee. | <i>Conditions of Suspension</i>          |
|     | (c) Provided that, where it appears expedient, the Responsible Officer may at any time during such period abridge or extend the period by further notice in writing to the employee.   | <i>Period of Suspension</i>              |
|     | (d) An employee who is suspended under (a) above shall, during the period of suspension, receive the full pay he or she is entitled to.  | <i>Full Pay on Suspension</i>            |
|     | (e) An employee who is suspended under this Code, shall not leave Zambia without the permission of the Responsible Officer during the period of suspension.  | <i>Travel abroad while on Suspension</i> |
|     | (f) Where investigations are instituted against an employee who is on suspension and it is revealed that the employee is not liable for disciplinary action, the Responsible Officer shall be informed accordingly.                |  |

## **Punitive Suspension**

30. (a) Punitive Suspension:

(i) May be used where a Written or a Final Warning alone is inadequate and should not be used in isolation.

*Application  
of Punitive  
Suspension*

Is not a step procedure under the Disciplinary Code but an additional measure that may be applied to reinforce such warning.

(b) A Service Commission or the Responsible Officer may institute Punitive Suspension for a period not exceeding thirty (30) days without pay.

*Punitive  
Suspension as  
an additional  
measure*

- |   |   |
|---|---|
| (l) The Charging Officer shall not be part of the Committee but shall appear to make oral submissions if necessary and shall leave the meeting after his or her submission. The accused and the Charging Officer shall both be present at the time of giving their evidence;  | <i>Charging<br/>Officer<br/>Not Part of<br/>Committee</i> |
| (m) The procedure to be adopted during the hearing shall be as outlined below:  | <i>Hearing<br/>Procedure</i>                              |
| (i) The Human Resource Management Committee shall ascertain that the particulars on the Charge Form are correct and are in accordance with this Code;   |   |
| (ii) The Committee shall then proceed to inform the accused employee of the charge or charges leveled against him or her, and ensure that he or she fully understood the charge(s);   |   |
| (iii) The accused employee shall then be asked to answer to the charge and permitted to make any further comments he or she may wish to make, notwithstanding the fact that he or she may already have given a statement;   |   |
| (iv) Where the accused employee opts to remain silent at the hearing of the case, the Disciplinary Committee shall proceed to determine the case on the basis of the evidence available and the accused's choice to remain silent shall not be subject to discussion.   |   |
| (v) If, during the course of the hearing, the Human Resource Management Committee finds it necessary to obtain further information, the meeting shall be adjourned to allow for further investigations to be undertaken. Such investigations shall be carried out as soon as possible but not exceeding a period of fourteen (14) working days; and |   |

(vi) If the accused employee wishes to submit further evidence in their defense, the Committee shall allow this request, provided that the evidence is submitted within fourteen (14) working days of the request.

32. If any person present at the meeting of the Human Resource Management Committee is directly or indirectly interested in a case under consideration, that person shall declare interest and shall not, unless the Committee otherwise directs, take part in any consideration or discussion of, or vote on, any question relating to the case.

*Declaration of Interest*

33. (a) The determination of any matter before the Committee shall be according to the decision of the majority of the members of the committee present at the hearing.

*Determination of Cases*

(b) Matters for debate among Committee Members shall not be discussed in the presence of the accused and Charging Officer.

34. The Human Resource Management Committee, upon determination of the case, shall make a recommendation to the Responsible Officer within five (5) working days.

*Period of submitting recommendation*

35. Upon receipt of the recommendation of the Human Resource Management Committee, the Responsible Officer shall:

*Action by Responsible Officer*

(a) If in agreement, effect the recommendations; or

(b) If not in agreement, refer the case back to the Human Resource Management Committee for reconsideration with reasons.

36. Where the Responsible Officer does not support the recommendation of the Human Resource Management Committee after reconsideration of the matter, the Responsible Officer shall send a report to the appropriate Service Commission setting out:

*Unsupported Recommendation*

- (a) the recommendation made by the Committee; and
- (b) the decision of the Responsible Officer and the reasons thereof with supporting documentation, if any.

## THE RIGHT OF APPEAL

37. Every employee has the right to appeal against a decision which involves an entry on his or her disciplinary record which may thus affect his or her future advancement or employment prospects. *The Right of Appeal*
38. (a) Where the employee is not satisfied with the decision of the Disciplinary Authority, he or she shall submit an appeal to the Disciplinary Authority within thirty (30) days of receipt of the sanction. *Submission of Appeal*
- (b) The appeal must be in writing specifying: *Application of Appeal*
- (i) whether the appeal is against the finding or the sentence;
  - (ii) grounds for appeal; or
  - (iii) a plea in mitigation.
- (c) Upon receipt of the appeal, the Disciplinary Authority shall set a date for the appeals hearing but not exceeding seven (7) working days and inform the appellant accordingly. *Appeal Hearing*
- (d) The Human Resource Department or Unit shall be the Secretariat during the appeal hearing and maintain a record of the proceedings. *Role of Secretariat during Appeal Hearing*
39. During the appeal hearing, the accused employee has the right to be accompanied by a person of their choice who can either be a Union representative or any other public Officer to witness the appeal proceedings. The person(s) accompanying the appellant shall not participate in the proceedings unless otherwise invited to comment before a final decision is made. *Right to a Witness*

40. Where an employee has appealed but simultaneously commences action against the Government in the Courts of Law or any relevant authority as provided by law, such an appeal will automatically lapse.

### LEVELS OF APPEAL

41. The procedure to be followed by an employee who wishes to appeal against a disciplinary decision which has been taken against him or her, shall be as specified hereunder:
- Procedure of Appeal*
- (a) Appeals against Verbal, Written, and Final Warnings; Punitive Suspension; and Surcharge, shall be heard by the Responsible Officer;
- (b) Appeals against demotion or reduction in rank; dismissal; and retirement in public interest, shall be heard by the relevant Service Commission.
42. Every determination of the Responsible Officer shall have effect in accordance with the provisions of this Code, and notice in writing thereof shall be given to the appellant.
- Notice to the Appellant*
43. An employee may appeal a decision of the Disciplinary Authority to a Service Commission if the employee feels that his or her case has not been fairly dealt with.
- Appeal to Service Commission*
44. The Commission shall, within thirty days of receipt of the appeal, hear and determine the appeal and notify the employee and the Responsible Officer of the decision of the Commission.
45. A person aggrieved by the decision of the Commission may appeal to the High Court.

## PART VI

# CRIMINAL PROCEEDINGS

*Procedure for  
handling Criminal  
Offences*

46. Whenever it comes to the notice of a disciplinary Authority that an offence likely to warrant criminal proceedings may have been committed by an employee, the following procedure shall apply:
- (a) The Disciplinary Authority shall verify the allegation(s) and inform the Responsible Officer immediately;
  - (b) The Responsible Officer, in liaison with the Human Resource Management Committee, shall review the case and determine whether administrative action should be taken in accordance with the provisions of this Code, or the case be reported to relevant law enforcement agencies for prosecution within forty-eight (48) hours of receipt of the report. Notwithstanding the foregoing, Disciplinary Authorities are advised to institute administrative action whenever practicable before reporting to law enforcement agencies;
  - (c) If a decision is made to report the matter to Law Enforcement Agencies, no further administrative action shall be undertaken until the matter is disposed of by the Law Enforcement Agencies or the Courts of Law; and
  - (d) If the decision is made to take administrative action, then the due disciplinary process as provided for in this Code.

## SUSPENSION OF AN ACCUSED EMPLOYEE

47. (a) The Responsible Officer shall suspend an employee who is facing criminal proceedings from exercising the powers and functions of his or her office until the matter is determined by the concerned legal body.
- (b) Where the Responsible Officer suspends an employee under this Code, the employee shall be notified in writing, of the reason(s) thereof. *Notification of Suspension*
- (c) An accused employee who is suspended shall not leave Zambia without the express permission of the Responsible Officer during the period of the accused employee's suspension. *Travel abroad while on Suspension*
- (d) The accused employee shall, during the period of the suspension, continue to receive the full pay he or she is entitled to. *Full Pay on suspension*

## SUSPENSION OF DISCIPLINARY PROCEEDINGS

48. Where criminal proceedings are instituted against an employee, no disciplinary proceedings shall be instituted against such an employee upon any ground which is the subject of such criminal proceedings, or if such disciplinary proceedings have been instituted, they shall be suspended until the conclusion of such criminal proceedings and the determination of any appeal therefrom.

## PROCEDURE AFTER CONVICTION

49. (a) Upon the conviction of an accused employee, it shall be the duty of the Responsible Officer to obtain:
- (i) a copies of the charge, and judgment of the court by whom such officer was convicted; and
- (ii) in the case of any appeal, a copy of the judgment of any Court by whom such appeal was determined.

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- (i) a copies of the charge, and judgment of the court by whom such officer was convicted; and
  - (ii) in the case of any appeal, a copy of the judgment of any Court by whom such appeal was determined.

(b) (i) Where as a result of criminal proceedings, an employee is convicted of an offence, the Responsible Officer on the basis of a recommendation from a Human Resource Management Committee shall dismiss the convicted employee without taking into account alternative punishment regardless of whether the Courts sanction is a fine, suspended sentence or incarceration; and

Dismissal of  
Convicted  
Employee

(ii) In case of a Civil matter, a Human Resource Management Committee shall refer the matter to the Responsible officer who may further refer the matter to a Service Commission for determination.

(c) In the event that the the officer appeals and the conviction is upheld by the appellant court, Responsible Officer on the basis of a recommendation from the Human Resource Management Committee shall dismiss the convicted employee without taking into account alternative punishment regardless of whether the Courts sanction is a fine, suspended sentence or incarceration.

(d) Where the conviction is as a result of financial mismanagement or loss of Government property, any loss incurred by Government shall be recovered from the convicted employee.

Recovery of  
Funds

50. The effective date of the dismissal shall be the date that the Disciplinary Authority directs the sanction.

Date of  
Dismissal

### **PROCEEDINGS AFTER ACQUITTAL ON CRIMINAL CHARGES**

51. An employee acquitted of a criminal charge in any Courts of Law shall not be dismissed or otherwise punished for any charges upon which he or she has been acquitted.

52. An employee who is acquitted shall be reinstated to his or her substantive or equivalent position.

Re-instatement  
of an Acquitted  
Employee

## PART VII

### ROLE OF HUMAN RESOURCE DEPARTMENT/UNIT, TRADE UNION REPRESENTATIVE OR OTHER GOVERNMENT EMPLOYEE AND HUMAN RESOURCE MANAGEMENT COMMITTEE IN HANDLING DISCIPLINARY CASES

53. The role of the Human Resources Management Department or Unit:
- Human Resource Department/ Unit not to institute penalties*
- (a) The Human Resources Management Department or Unit shall not charge or institute penalties except in respect of their own subordinates.
- (b) The role of the Human Resources Management Department or Unit shall be:
- Role of Human Resource Department/ Unit*
- (i) In the case of the Head of Department, be a member of the Human Resource Management Committee;
- (ii) Act as Secretariat for the Human Resource Management Committee;
- (iii) Facilitate the processing of recommendations on disciplinary cases to the Responsible Officer;
- (iv) Advise the Responsible Officer and members of the Human Resource Management Committee on all disciplinary cases; and
- (v) Sensitise Government employees on the provisions of the Terms and Conditions of Service, Disciplinary Code and the Code of Ethics for the Public Service.
54. Further, the Human Resources Management Department or Unit shall:
- (a) Ensure the Charge Form properly identifies the offence and is correctly completed;

- (b) Ensure the accused is aware of the charge or charges against him or her;
- (c) Ensure all the facts are collected, collated and presented without bias;
- (d) Interview and take Exculpatory Statements from the accused and the witness(es); and
- (e) Investigate the domestic circumstances of the accused employee when as deemed necessary.

55. The role of the Trade Union Representative, or Public Officer shall be restricted to accompanying an accused officer to the case/appeal hearing as observers. Such a Trade Union Representative, or other Public Officer shall not form part of the Disciplinary Authority or Committee and will not participate in the proceedings unless otherwise but shall be invited to mitigate on behalf of the charged employee before the final decision is made.

*Role of Union/  
Another  
Representative*

# DISCIPLINARY HANDLING FORMS

DCF1

## CHARGE FORM

This Form should be completed by the Head of Department or the Supervising Officer who is charging an Officer who has committed an offence stipulated in this Disciplinary Code or any other regulations.

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**NAME OF ACCUSED EMPLOYEE:** .....

**Section/Department:**.....

**Job Title of the Accused:**.....

**Date and Time of the Occurrence:**.....

**NAME OF CHARGING OFFICER:** .....

**Job Title:**..... **Department:** .....

You are hereby charged with the offence of: .....

.....

.....

as stated under.....of the Disciplinary Code and Procedure for Handling Offences.

In this regard, you are hereby requested to submit a written statement to the Human Resources Section to exculpate yourself by .....(Date)

In the meantime you will cease/continue working for.....days

From ..... to.....



## SCHEDULE OF PENALTIES AND SANCTIONS

OFFENCE	1 <sup>st</sup> Breach	2 <sup>nd</sup> Breach	3 <sup>rd</sup> Breach
Absenteeism for up to two (2) days	Verbal Warning	Final Warning	Dismissal
Absenteeism for three (3) to nine (9) days	Written Warning	Dismissal	-
Absenteeism for ten (10) or more days	Dismissal	-	-
Reporting late for work	Verbal warning	Final Warning	Dismissal
Leaving work place early	Verbal warning	Final Warning	Dismissal
Leaving work place without permission	Verbal warning	Final Warning	Dismissal
Idling on Duty	Verbal warning	Final Warning	Dismissal
Loitering on Duty	Verbal warning	Final Warning	Dismissal
Sleeping on Duty	Verbal warning	Final Warning	Dismissal
Negligence of Duty	Written Warning	Final Warning	Demotion or Dismissal
Poor Supervision.	Written Warning	Final Warning	Demotion or Dismissal
Sub-Standard Performance.	Written Warning	Final Warning	Demotion or Dismissal
Incompetence.	Written Warning	Final Warning	Demotion or Dismissal
Carelessness	Written Warning	Final Warning	Dismissal
Loafing	Written Warning	Final Warning	Dismissal

OFFENCE	1 <sup>st</sup> Breach	2 <sup>nd</sup> Breach	3 <sup>rd</sup> Breach
Disregarding health and/ or safety or security rules	Written Warning	Written Warning	Dismissal
Conduct contrary to set standards	Final Written Warning	Dismissal	-
Deceit	Final Warning	Dismissal	-
Untrustworthiness	Written Warning	Final Warning	Dismissal
Issuing Unauthorised Press Statements to the public	Final Warning	Dismissal	-
Disclosure of Confidential Information	Dismissal	-	-
Misuse of Government property	Written Warning	Final Warning	Dismissal
Abuse of Government vehicle/vessel.	Verbal Warning	Final Warning	Dismissal
Driving Government vehicle without Certificate of Competence	Written Warning	Final Warning	Dismissal
Allowing Unauthorised person(s) to drive Government vehicle	Written Warning	Final Warning	Dismissal
Misappropriation	Dismissal	-	-
Theft	Dismissal	-	-
Bribery and Corruption	Dismissal	-	-

OFFENCE	1 <sup>st</sup> Breach	2 <sup>nd</sup> Breach	3 <sup>rd</sup> Breach
Fraudulent Misrepresentation	Dismissal	-	-
Failure to Declare Interest	Final Warning	Dismissal	-
Engaging in outside employment	Final Warning	Dismissal	-
Abuse of Office	Dismissal	-	-
Illegal Strike Action	Dismissal	-	-
Incitement to Strike	Dismissal.	-	-
Intimidation	Dismissal	-	-
Sabotage	Dismissal	-	-
Negligent Loss.	Final Warning and Surcharge	Dismissal and Surcharge	-
Negligent Damage	Final Warning plus Surcharge	Dismissal and Surcharge	-
Willful Loss	Dismissal and Surcharge	-	-
Willful Damage	Dismissal and Surcharge	-	-
Financial Mismanagement	Dismissal	-	-
Failure to collect money owing to the Government	Final Warning and Surcharge	Dismissal and Surcharge	-
Improper payment of Government Funds	Final Warning and Surcharge	Dismissal and Surcharge	-

OFFENCE	1 <sup>st</sup> Breach	2 <sup>nd</sup> Breach	3 <sup>rd</sup> Breach
Loss of Government Money	Final Warning and Surcharge	Dismissal and Surcharge	-
Refusal to Obey Lawful Instructions	Written Warning	Final Warning	Dismissal
Failure to obey Lawful Instructions	Written Warning	Final Warning	Dismissal
Refusing to work overtime	Verbal Warning	Final Warning	Dismissal
Unethical Conduct by Government employee	Dismissal	-	-
Using Abusive Language	Final Warning	Dismissal	-
Discrimination	Final Warning	Dismissal	-
Tribalism and Hate Speech	Dismissal	-	-
Insubordination	Final Warning	Dismissal	-
Disorderly Behaviour (horseplay)	Final Warning	Dismissal	-
Threatening Violence	Final Warning	Dismissal	-
Fighting on Duty	Dismissal	-	-
Attempted Assault or Assault on duty	Dismissal.	-	-
Riotous behaviour	Dismissal.	-	-

OFFENCE	1 <sup>st</sup> Breach	2 <sup>nd</sup> Breach	3 <sup>rd</sup> Breach
Causing road traffic accident due to negligence	Final Warning and Surcharge	Dismissal and Surcharge	-
Reporting for work under the influence of alcohol or narcotic drugs or psychotropic substances	Dismissal	-	-
Being in possession of alcohol, narcotic drugs and/or psychotropic substances	Dismissal	-	-
Being under the influence of narcotic drugs or alcohol during working hours	Dismissal	-	-
Drinking alcoholic beverages whilst on duty (except at officially authorized functions.)	Dismissal	-	-
Refusal to be tested for intoxication	Dismissal	-	-
Playing games on electronic gadgets during working hours	Verbal Warning	Final Warning	Dismissal
Illegal access to computer	Written Warning	Final Warning	Dismissal
Illegal modification of computer systems, information or software	Written Warning	Final Warning	Dismissal
Using Government time for personal gain	Written Warning	Final Warning	Dismissal

OFFENCE	1 <sup>st</sup> Breach	2 <sup>nd</sup> Breach	3 <sup>rd</sup> Breach
Unauthorised Disclosure of Classified Information	Dismissal	-	-
Disloyalty (Not defined)	Dismissal	-	-
Seductive Sexual Advances	Dismissal	-	-
Sexual Bribery (Not defined)	Dismissal	-	-
Sexual threat or coercion	Dismissal	-	-
Sexual Imposition	Dismissal	-	-
Rape	Dismissal	-	-
Sexual Relationship with a Learner or pupil	Dismissal	-	-
Taping and recording of conversations	Dismissal	-	-
Unauthorised Printing of Official Documents	Dismissal	-	-
Unauthorised Distribution and Circulation of Official Documents	Dismissal	-	-
Unauthorised Distribution and Circulation of Official Documents	Dismissal	-	-
Seek or accept nomination for election to National Assembly or the Local Authorities	Dismissal	-	-

OFFENCE	1 <sup>st</sup> Breach	2 <sup>nd</sup> Breach	3 <sup>rd</sup> Breach
Hold office in any political organisation	Dismissal		
Wear political party regalia	Dismissal		
Participate at political meeting(s), conference(s) and convention(s)	Dismissal		
Speak or ask question(s) in public or broadcast on political matters;	Dismissal		
Write letter(s) to the Press, publish book(s) or article(s) or circulate leaflet(s) giving views on political matters or other matters likely to raise political issues;	Dismissal		
Use state vehicles and other resources to transport political cadres and materials.	Dismissal		
Canvass or collect funds in support of any political candidate or any political cause or body.	Dismissal		
Propose, second, or support in any public way a candidate for an election.	Dismissal		
Participate in politics as an independent candidate.	Dismissal		