

Forms: Disciplinary Hearing

Name, Surname and personnel number of alleged offender:	
Name and Surname of Chairperson:	
Name and Surname of Complainant:	
Scheduled date of hearing:	dd/mm/yyyy

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Notice of a disciplinary hearing

Details of alleged offender:

Name & surname	Personnel number	Position
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Details of Complainant:

Name & surname	Position	Department
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The alleged offender is herewith formally charged on the following charges:

<u>Charge 1:</u>	<u>Alternative charge:</u>	<u>Date of offence:</u> dd/mm/yy	<u>Detail:</u> In that the alleged offender allegedly Alternatively: That
<u>Charge 2:</u>	<u>Alternative charge:</u>	<u>Date of offence:</u> dd/mm/yy	<u>Detail:</u> In that the alleged offender allegedly Alternatively: That

Date of hearing: dd/mm/yyyy	Time of hearing: 00h00	Venue of hearing:	Town:		
Alleged offender suspended (with full pay and benefits / mark with X)			<table border="1"> <tr> <td style="width: 50%; text-align: center;">Yes</td> <td style="width: 50%; text-align: center;">No</td> </tr> </table>	Yes	No
Yes	No				

I, the alleged offender, confirm the following:

<ol style="list-style-type: none"> 1. That the charges and the details of the offence were explained to me and I understand it completely. 2. That I understand and know of my right to have a representative (employed by the employer) at the scheduled hearing and that I know that I am responsible to ensure his/her attendance at the hearing. 3. That I understand and know of my right to request the services of a translator but that such a request should be made to the complainant at least 24 hours before the start of the scheduled hearing. 4. That I understand and know of my right to call witnesses but that it is my responsibility to ensure their attendance at the scheduled hearing and that the hearing may continue in the absence of such witnesses if they are not present - without detriment to employer's rights. 5. That I understand and know that I must be reachable and at home during working hours when suspended with full payment. 6. That I know the date, time and venue for the scheduled hearing and understand and know that the hearing may continue in my absence, without detriment to the employer's rights, if I fail to attend the scheduled hearing. 7. That I understand and know that I must prepare myself thoroughly for the hearing. 8. That I was given opportunity to clarify the charges against me and that I was provided with all the necessary information in order to prepare myself for this disciplinary hearing. 		
Signed: Complainant Date: dd/mm/yy Time: 00h00	Signed: Alleged Offender Date: dd/mm/yy Time: 00h00	Signed: Representative Date: dd/mm/yy Time: 00h00

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Opening by chairperson (chairperson checklist)

Description	Yes	No	If answer "no", then....
Welcome all:			Start again.
Explain purpose of hearing:			Start again.
Explain roles:			Start again.
Alleged offender wants representative and representative of his/her choice is present: Alternatively that alleged offender is 100% confident to represent him/herself and agree irrevocably to self-representation:			Postpone hearing until representative is available (first time).
Alleged offender wants translator and translator is present:			Postpone hearing until translator is present.
Check if notice was received by alleged offender (charge sheet):			Re-schedule hearing.
Check if notice period was sufficient (at least 24 hours):			Re-schedule hearing.
Read through charge sheet:			Start again.
Does alleged offender understand content of charge sheet:			Explain and re-schedule.
Does alleged offender understand charges against him/her:			Re-schedule hearing.
All witnesses are present:			Get reasons for absences and make call whether to re-schedule or proceed.
Explain procedure to be followed: both opening statements, both leading case and calling witnesses, closing arguments, recess for verdict, verdict given, pleas if applicable, recess for penalty, penalty given and appeal procedure explained.			Start again.
Is there any reason why hearing should not continue? List reasons below:			Get details and make call to continue or re-schedule.
Signed: Chairperson	Signed: Alleged Offender		Signed: Representative

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Attendance register

Chairperson complete record and complete attendance register:

Role	Name	Signature
Chairperson:		
Complainant:		
Alleged offender:		
Representative of alleged offender:		
Translator:		
Observer:		
Observer:		
Witness # 1:		
Witness # 2:		
Witness # 3:		
Other:		
Other:		
Other:		

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Guilty / not guilty plea

Chairperson asks alleged offender to plead on charges against him/her

Main charge	Plea on main charge (guilty/not guilty)	Alternative charge	Plea on alternative charge (guilty/not guilty)
1)			
2)			
3)			
Signed: Chairperson		Signed: Alleged Offender	Signed: Representative

Confirm details of guilty plea

Chairperson complete following if alleged offender pleads guilty in order to establish if alleged offender pleads guilty to ensure that alleged offender pleads guilty to facts presented by company. Ignore section if alleged offender pleaded not guilty to all main and alternative charges:

Charge on which alleged offender pleaded guilty	Details of plea (alleged offender)	Plea accepted by company (Yes/No)
1)		
2)		
3)		
Signed: Chairperson	Signed: Alleged Offender	Signed: Representative

Hearing should continue if above is not completed or not completed in respect of all charges. Otherwise – move to mitigating and aggravating pleas.

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Commencement of hearing

1. Opening statements:

Chairperson record opening statement from complainant,
Opening statement not longer than 5 minutes per charge. No questions – just statement of what will be proven during the hearing.

Continue on separate page if necessary and please mark separate page clearly.

Chairperson record opening statement from alleged offender.
Opening statement not longer than 5 minutes per charge. No questions – just statement of what will be proven during the hearing.

Continue on separate page if necessary and please mark separate page clearly.

2. Case:

Chairperson record complainant's case. Witnesses may be called and questioned by alleged offender.
Apart from above, alleged offender may only answer on questions directed to him/her.

Continue on separate page if necessary and please mark separate page clearly.

Chairperson record alleged offender's case. Witnesses may be called and questioned by complainant. Apart from above, complainant may only answer on questions directed to him/her.

Continue on separate page if necessary and please mark separate page clearly.

3. Closing arguments:

Chairperson record closing statement from complainant.
Closing statement not longer than 5 minutes per charge. No questions – just statement of what was proven during the hearing.

Continue on separate page if necessary and please mark separate page clearly.

Chairperson record closing statement from alleged offender.
Closing statement not longer than 5 minutes per charge. No questions – just statement of what was proven during the hearing.

Continue on separate page if necessary and please mark separate page clearly.

4. Chairperson asks clarification questions:

5. Recess for verdict decision:

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6. Verdict:

Chairperson prepares and records verdict. Consider only that what was said during the hearing. Also, was there a rule, was the alleged offender aware of the rule, was the rule broken, and was it a reasonable rule. Consider that verdict is based on balance of probabilities – from the evidence presented, is it more probable that the employee is guilty or not. Note that alleged offender must be found guilty or not guilty on either the main or alternative charge.

Chairperson: I have taken all evidence presented into account; I weighed it on the balance of probabilities and find as follows:

Charge (main or alternative)	Guilty/not guilty	Reasons

Continue on separate page if necessary and please mark separate page clearly.

7. Pleads in mitigation and aggravation:

Chairperson record plea in mitigation as presented by the alleged offender.

Continue on separate page if necessary and please mark separate page clearly.

Chairperson record plea in mitigation as presented by the complainant.

Continue on separate page if necessary and please mark separate page clearly.

8. Chairperson considers alleged offender's record.

Charge	Type of warning	Validity of warning

9. Recess for penalty decision only if found guilty on one or more charges:

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10. Issue penalty

Chairperson prepares and records penalty. Consider substantive and procedural fairness. Consider penalties of previous similar cases. Consider that penalty will influence future penalties in similar cases. Consider record of alleged offender. Consider pleas in mitigation and aggravation.

Chairperson: I have taken all evidence presented into account, the pleas in mitigation and aggravation, the alleged offender's record, the alleged offender's years of service with the company and come to the following conclusion and penalty:

Charge (main or alternative)	Penalty	Reasons

Continue on separate page if necessary and please mark separate page clearly

11. Appeal procedure

Chairperson explains appeal procedures:

Description	Yes	No	If answer "no", then
1. Offender has heard the penalty and understands the penalty.			Start again until yes.
2. The offender understands that s/he have the right to appeal.			Start again until yes.
3. The offender understands that his/her appeal should be in writing.			Start again until yes.
4. The offender understands that his/her appeal should contain the specific reasons why he/she appeals.			Start again until yes.
5. The offender understands that his/her appeal should reach the employer within 48 hours after conclusion of the hearing.			Start again until yes.
Signed: Chairperson	Signed: Alleged Offender		Signed: Representative

Note:

- Comprehensive record need to be kept of the disciplinary hearing.
- Clearly understand the roles of every person participating in the disciplinary hearing.
- Notice of a hearing, attendance register and appeal information may be signed by a witness testifying that the content was explained clearly to the alleged offender but that s/he refused to sign the relevant documentation.
- The alleged offender sign at the appeal block above in acknowledgement that he has heard and understand the penalty and appeal process – s/he is not signing in agreement or acceptance of the penalty.