

**AN INVESTIGATION INTO THE IMPLEMENTATION OF  
THE DISCIPLINARY PROCEDURE MANUAL OF THE  
DEPARTMENT OF CORRECTIONAL SERVICES: THE  
CASE OF POLOKWANE MANAGEMENT AREA**

**BY**

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## DECLARATION

I, KR Mabotja, declare that the mini-dissertation hereby submitted to the University of Limpopo for the Degree of Masters in Public Administration has not been submitted by me for a degree at this or any other university, that is my work and design and in execution, and that all material contained therein has been duly acknowledged.

Signed by

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Date: MARCH 2007

## ABSTRACT

This research was conducted under the topic: **AN INVESTIGATION INTO THE IMPLEMENTATION OF THE DISCIPLINARY PROCEDURE MANUAL OF THE DEPARTMENT OF CORRECTIONAL SERVICES: THE CASE OF POLOKWANE MANAGEMENT AREA.** The target group for this research was the employees of Polokwane Management Area, and so the responses are the views of the employees of the Management Area. With questionnaires administered, this research put on record the impact of the improper implementation of the Disciplinary Procedure Manual of the Department of Correctional Services and the proposed mechanisms in improving the proper implementation of the Disciplinary Procedure Manual that leads to effective and efficient management of workplace discipline.

Management of workplace discipline through the correct implementation of Disciplinary Procedure Manual is a problem of critical importance not only in the Department of Correctional Services but in all state departments and as well as in the private sector. With particular reference to Polokwane Management Area, this mini-dissertation attempts to investigate the implementation of the Disciplinary Procedure Manual of the Department of Correctional Services.

The study is structured into Five chapters. Chapter One gives an overview of the introduction, statement of the problem, objectives of the study, hypotheses and conclusion. Chapter Two deals with literature review looking at both local and international produced materials. Chapter Three is about the research methodology, the analysis and interpretation of findings. Chapter Four look at the interpretation of the study and the last Chapter, chapter five is about the conclusion and recommendations and the future research drawn from this report.

The study utilized two methods of data collection, namely, a documentary survey and self-administered questionnaire, which targeted employees of the Department of Correctional Services based at Polokwane Management Area, of all ranks.

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## **CHAPTER ONE**

### **INTRODUCTION**

#### 1.1 Background of the Study

The present study is based on the problems affecting the employees of the Limpopo Province's Department of Correctional Services, with specific reference to the Polokwane Management Area. These problems relate to the incorrect implementation of the department's Disciplinary Procedure Manual in the management of discipline in the workplace. The Disciplinary Procedure Manual is referred to as Department Bargaining Council Resolution 1 of 2001, developed by the department's negotiating team, together with recognised trade unions. These recognised trade unions are Police, Prisons and Civil Rights Union (POPCRU), Democratic Nurses Association of South Africa (DENOSA) and Public Service Association (PSA). The Manual outlines provisions of the Code of Conduct that employees, however, continue to fail to comply with.

The post-1994 public service faces enormous challenges, both in terms of its transformation and the transformation of the public services, which it provides to the people of the Republic of South Africa. These challenges should be tackled through a comprehensive programme of policy initiatives, underpinned by progressive legislative changes. One of the challenges facing the Department of Correctional Services is the correct implementation of the Department's Disciplinary Procedure Manual that has been agreed upon at different established department bargaining councils.

The Disciplinary Procedure Manual provides steps that regulate the day-to-day functioning of department's affairs. For example, the obligation that employees must maintain reasonable efficiency in their performance of given tasks, be respectful and obedient. The department finds itself in a position whereby it is supposed to take prompt disciplinary actions against employees who contravene the set employment rules and regulations that are referred to as the Code of Conduct.

## 1.2 Statement of the Research Problem

The research problem addressed in the present study is to identify problems and reasons why the Department of Correctional Services, particularly the Polokwane Management Area, is not following the provisions as outlined in the Disciplinary Procedure Manual when handling discipline. An argument can be raised that managers of the Polokwane Management Area wrongfully implement the Disciplinary Procedure Manual as they view the disciplinary mechanism to be serving the purpose of punishing wrongdoers, rather than helping the administration to improve staff management and the operation of the department. This argument is based on the information contained in the Department's Offence Register for the Years 2004/5.

This leads to the Human Resource Division's failure in its duties to assist, advise and counsel supervisors in employee related matters such as discipline. This failure leads public managers, whenever they hear the word 'discipline' in a work related context, to think firstly of a form of punishment, rather than a way to correct some behaviour or performance issues as a way to develop an employee. Most employees want to do what is right, however, they may not realize that the action is wrong and will not endeavour to correct it, until they have been informed of the proper action or behaviour. The shortcomings lay a solid foundation for timeous conflict between the management of the Polokwane Management Area and its workforce as they think that they are not treated as assets, and this creates a 'them and us' culture that is no more acceptable as was in the past.

In most cases, formal investigations are launched for less serious transgressions such as reporting late to duty, rather than establishing first what made the employee to come late for work on that day and handle the matter informally. If the concerned employee continues to report late to duty, it is then that a formal inquiry can be conducted. Again, the Management Area's Offence Register contains information about disciplinary cases that have been withdrawn during disciplinary hearings as the Management Area failed to adhere to steps that constitute procedural fairness as outlined (Polokwane Management Area Offence Register for 2004/5).

### 1.3 Research questions

*The main questions posed for the present study are the following:*

- i. Does discipline in the Limpopo's Department of Correctional Services, in the case of the Polokwane Management Area, operate in a harsher manner than in the past, as public managers now have the power to act as they wish?
- ii. Is the conduct of the Department of Correctional Services' employees determined by the morality of the environment in which they work?
- iii. Is the effective operation of the disciplinary mechanism one of the keys to upholding high standards of conduct and discipline in the Department of Correctional Services within the jurisdiction of the Polokwane Management Area?
- iv. Does the behaviour of an undisciplined employee lead to disorder in the workplace and eventually to the institution's failure to reach its objectives?
- v. Does the proper application of corrective discipline contribute to the achievement of institutional objectives as it ensures the co-operation of employees?

### 1.4 Objectives of the study

The objectives of the present study are, namely:

- to find a more effective discipline process that supports the achievement of workplace expectations and motivates employees towards positive change, and also that helps to avoid discrimination and retaliation claims;
- to develop plausible techniques or mechanisms that can help to check the incidence of discipline at the Polokwane Management Area in particular, and generally the Department of Correctional Services at large; and
- to ensure that when managers discipline employees, the process is legal, motivational and effective.

### 1.5 Hypotheses formulation

- I. The Department of Correctional Services public managers do not view the Disciplinary Manual as an attempt to promote a clean service and to instil a culture of integrity amongst employees;
- II. Discipline in the Department of Correctional Services is not kept as positive as possible and is used in a punitive or retaliatory way; and

- III. The type of discipline in the Department of Correctional Services, in most cases, does not fit the severity of the misconduct or the violation.

#### 1.6 Limitation of the research

Researchers normally experience problems when collecting data, mostly from senior public managers as the latter usually sees this as a way of proving their incompetence, rather than seeing this as a proactive approach in highlighting shortcomings regarding the handling of disciplinary matters in their institutions. This is usually the result of the change process that brings uncertainty and fear of the unknown amongst senior employees in any institutions.

In the light of the above-mentioned, the present researcher, in the process of administering questionnaires, explained the sole purpose of the research to respondents and attempted to motivate them to take the study seriously as it might improve their conditions of service in areas that the research attempts to cover.

This research study was conducted in the Department of Correctional Services at the Polokwane Management Area in the Limpopo Province, given that the present researcher is aware that the Management Area is experiencing a lot of problems when coming to compliance with the Disciplinary Procedure Manual with regard to handling discipline matters. The Department of Correctional Services was selected at the general level, as the present researcher knows that the whole department experiences the same characteristics like its institutions. Therefore, the findings were expected to be relevant to the whole department due to similar conditions. But the present researcher was more careful of overgeneralization because Management Areas and the national level could be different.

#### 1.7 Ethical considerations

Mouton (2001:238) states that the ethics of science are concerned with what is wrong and what is right in the conduct of research, and such conduct has to conform to the generally accepted norms and values. Mouton (2001:239) further states that ethical issues arise from one's interaction with other people and the environment, especially at the point where there is potential or actual conflict of interests.

As a way of adhering to ethical issues that occur in science, the present researcher, when conducting this research, considered the following when designing the research that will utilise participants who are human beings:

- the primary concern of the present researcher was the safety of the research participants, which was ensured by carefully considering the risk/benefit ratio;
- he, (i.e., the present researcher) obtained an informed consent from each research participant, either in writing or orally, after the research participants has had the opportunity to carefully consider the risks and benefits and to ask any pertinent questions;
- he respected each participant as a person capable of making an informed decision regarding participation in the research study;
- he ensured that the participants received a full disclosure of the nature of the study, the risks, benefits and alternatives with an extend opportunity to ask questions;
- he selected subjects equitably by avoiding participant populations that may be unfairly coerced into participating;
- he ensured that participation in the research is voluntary, free of any coercion or promises of benefits unlikely to result from participation; and
- he did not use deception as the research participants are humans and this would result in the jeopardising of the integrity of the informed consent process and can potentially harm the participants.

## 1.8 Definition of concepts

The following concepts will be defined briefly below, so as to establish a common ground for discussion:

### 1.8.1 *Discipline*

Nel *et al.*, (1993: 280) define discipline as action or behaviour, on the part of the authority in a social system, aimed at stopping a member's behaviour that threatens to disrupt the functioning of the system. Nel (1999:220) argues that discipline can therefore be viewed as orderliness, i.e., the opposite of disorder. But discipline does not imply rigid rules and regulations. On the contrary, it simply implies that persons

will work and act in a manner that is normal and orderly, as it would be expected of any reasonable superior or subordinate.

According to Finnemore *et al.*, (1996:182), discipline should thus aim at providing a constructive support and reinforcement for an approved action; whilst also correcting wrong behaviours. Slabbert *et al.*, (1998:130) state that discipline is the policy of an institution to ensure consistent, fair and reasonable disciplinary action, promote disciplined conduct and to ensure that disciplinary action indeed becomes a corrective measure rather than punishment.

Discipline should, therefore, as Nel *et al.*, (1993:280) argue, aim mainly at correcting unacceptable behaviour. This should be done by indicating clearly what constitutes unacceptable behaviour, thus leading to a common understanding of the nature of acceptable and desirable behaviour.

#### *1.8.2 Disciplinary procedure and procedural fairness*

According to Bendix *et al.*, (1991:376), disciplinary procedure is a principle of fairness that advocates that all parties be subjected to the same criteria and the treatment. Finnemore (1999:213) states that disciplinary procedures provide the means for employees to express their views and to defend themselves at every stage of the process. Tustin *et al.*, (2000: 139) are of the opinion that procedural agreement is a more extensive form of a recognition agreement. It should include detailed procedures relating to the handling of issues such as discipline, grievances, negotiations, and health and safety.

Bendix (2000:554) indicates that employers and employees or their unions may decide among themselves on a procedure to be followed in the event of a dispute arising. Such procedures could specify the manner in which a dispute is to be declared.

Nel (1999: 223) states that procedural fairness may in fact be regarded as the "rights" of employees in respect of the actual procedure to be followed during a disciplinary process. Disciplinary inquiry would be regarded as procedurally unfair in some of the following circumstances if:

- an offending employee was unaware of the nature of the offence;
- the employee was not given the opportunity to state his case or to call witnesses;
- the right to appeal or to demand a review has not been granted; and
- the employee is not fully informed of the reasons for the decisions given.

### 1.9 Sequence of Chapters

Chapter Two of this study comprises a brief discussion of literature review that basically presents the most authoritative scholarship on the research problem that the present researcher identifies with and relevant to the research topic. Chapter Three outlines the research methodology and design that was followed in the research process. The chapter also identifies the target group, sampling method and size of the population, as well as the research techniques.

Data analysis is dealt with in Chapter Four of the present study. The research also determined and selected, from the general field, exactly the data that were required for the correct implementation of the Disciplinary Procedure Manual of the Department of Correctional Services.

Chapter Five is the final chapter of the present study. It deals with the conclusions and recommendations of the study.

## **CHAPTER TWO**

### **LITERATURE REVIEW**

#### 2.1 Introduction

This chapter discusses the theoretical issues of this study. The chapter is divided into six sections. The first section is about the origin of disciplinary rules and procedures. The second section deals briefly with the historical development of South African labour relations, and section three deals with the formulation and implementation of public human resource policy in the workplace. The fourth section of this chapter deals with the basics of discipline and dismissal in the workplace. Section five looks into the national legislation that promotes and manages discipline in the South African Public Service. The last section discusses the labour dispute resolution mechanisms in South Africa.

After discussing all these critical issues as outlined above, conclusions would be drawn to show their linkage to the research topic and also to pave a way to for the next chapter.

#### 2.2 Disciplinary rules and procedures: The origin of discipline.

Clapper (1996:138) argues that no political or administrative system can run justly and efficiently without the personal morality of the people who run it. Mcshane (2003:8) argues that, if one walks into most institutions in the public service, one will see a much more diverse employee staff than existed a few decades ago. And this diversity presents both opportunities and challenges in institutions. In spite of all this, any management should get work done through the efforts of other employees.

According to Mullins (2002:184), management entails the process of delegation and entrusting authority and responsibilities to others. But delegation is not just the arbitrary shedding of work or the issuing and following of orders. It is the creation of a special public manager-subordinate relationship within the formal structure of the organisation.

But above these arguments, the primary factors that contribute to a healthy organisational climate, high morale and motivation, as Mullins (2002:811) states, is



the extent to which members of staff have a sense of commitment to the institution. The extent of their commitment will have a major influence on the level of work performance.

At the heart of institutional performance management systems lies the use of power by public managers, on behalf of the institution, to control employee behaviour. For employees to comply with an institution's wishes on standard of behaviour and conduct, individuals give up some of their personal freedom to comply with the way their employing institutions wants them to behave (Cornelius, 2001:179).

There are employees who, regardless of what the institutions have done in terms of its efforts at selection, socialisation, job design, performance standards and reward practices, create discipline problems for management. Problem employees may be chronically late for work, have excessive absences, fight with their co-employees, refuse to obey their basis orders, break safety rules, insubordination, horseplay, gambling, failure to use safety devices, carelessness, abuse of alcohol and drugs, dishonesty (theft, furnishing of false statements, and activities such as unauthorised strike activities), working for a competing institution, bad-mouthing the institution or questioning the institution's key values in public, or engage in other similar digressions (De Cenzo *et al.*, in Sisson, 1989:487).

According to Swanepoel *et al.*, (2003:814) in order to control behaviour, institutions develop rules and regulations to which they expect all employees to conform. All employers should adopt disciplinary rules that establish the standard of conduct required of their employees. But the form and context of disciplinary rules will obviously vary according to the size and nature of an employer's affairs.

According to Flippo (1984:473), a disciplinary action is confined to the application of penalties that lead to an inhibition of undesirable behaviour. Though the majority of employees do conform to orders, policies and regulations, a minority still require the stimulus generated by penalties. One of the most difficult tasks of a senior public employee is the effective administration of negative disciplinary action.

Public services have always needed to ensure the adequate performance of work by their employees. Formal rules become necessary when an institution becomes large and bureaucratic, with the results that the employer could not oversee operations personally (Cornelius, 2001:188; and Sisson, 1989:565).

Mafunisa (2000:79) argues that the South African public service needs public officials who are competent and loyal in their work. But positive work ethic and attitudes, such as loyalty to the public service, goals and values, do not develop automatically. They need the concerted effort of all interested parties to develop ethical norms and behavioural expectations of public employees.

As institutions have grown increasingly bureaucratic, old and informal models of discipline have become unworkable. Therefore, the rate of disciplinary sanction falls as institutions cease to wield the big stick in an arbitrary fashion. All this evidence suggests that it is dangerous to make a sharp distinction between punitive and corrective approaches. Many organisations mix these two approaches and even the most punitive management may well remind employees of their obligations as co-operation cannot be secured by force alone.

Torrington *et al.*, (1991:538-544) identify the following three elements of discipline:

- *Managerial*: Where everything depends on the leader, and the team is responsible and answerable to a team leader who may stand apart from the team;
- *Team*: Involving peer control arising from trust and respect of the team, as well as mutual dependency; and
- *Self*: With solo performance dependency on expertise and self-control, stemming from the personal values, skills, training and strength of character or pride of an individual.

Strauss *et al.*, (1980:218) maintain that the best discipline is self-discipline, the normal human tendency to do one's share and to live upon the rules of the game. They further state that the fact that discipline has three faces must be outlined. *Firstly*, application of punishment for breaches of the rules. *Secondly*, formulation of

the rules themselves, together with procedures to be followed in their application. *Thirdly*, creation of expectations, and a good understanding of what governs behaviour. Therefore, public managers are engaged in a discipline when they are engendering team spirit and self-discipline just as much as when they are penalizing wrongdoers.

According to Sisson (1989:562), discipline is part of the 'old' word of collective management-union relations, with emphasis on formulation and procedures as against the new order of teamwork and commitment. The term covers topics such as punishment and formal rules of behaviour, but this has connotations of the rigorous pursuit of goals without externally imposed sanctions, as is with concepts such as discipline of a profession.

To deal with the topic of discipline, as Ritzer (1992: 290) states, the Department of Correctional Services public managers should distinguish logically between an instrumental action and a strategic action as both involve the calculated pursuit of self-interest. Instrumental action is concerned with a single actor rationally calculating the best means to a given goal, whereas strategic action involves two or more individuals' co-ordinating purposive-rational action in the pursuit of a goal. The primary objective of both instrumental and strategic action is instrumental mastery.

Furthermore, as Thakhathi (in Mafunisa, 2000:68) states, the role of labour unions in enhancing discipline and professionalism in the public service cannot be overemphasised. Public employees have an obligation to ensure that they behave according to rules and regulations prescribed by their employer, in this case, the Department of Correctional Services. Where people work together in any institution, there should be rules and regulations to control their behaviour, to ensure maximum utilisation of resources and effective service.

De Cenzo *et al.*, (in Sisson, 1989:497) argue that before discipline is rendered, the following questions should be satisfied:

- did a fair investigation of the violation occur?

- did the investigation yield definite proof of employee activity and wrongdoing?
- have similar occurrences, both prior and subsequent to this event been handled the same and without discrimination?
- was the penalty in line with the seriousness of the offence and in reason with the employee's past employment record?

The argument developed from more than one view as to the purpose of a disciplinary hearing, inevitably affected by the circumstances surrounding its application. Thus, maintenance of discipline does not start by applying the procedure as procedures start only becomes active once other levels of discipline have broken down (IRS, 1991b: 494).

### 2.3 The historical development of South African labour relations: A brief overview

According to Nel (2002:51) and Nel *et al.*, (1993:95), employment relations in South Africa started with the arrival of Jan Van Riebeck at the Cape in 1652. For a period of two hundred years, South Africa was primarily on agricultural economy where mainly domestic servants and agricultural employees interacted with government.

Moreover, South African society has been deeply divided along racial and ethnic lines. Its torrid history is reflected, most little, in the repression of the black employee and the constant struggle against the almost exclusively white state and employer (Grossett *et al.*, 1998:47).

The most important legislation that affected the employer-employee relationship, as Nel *et al.*, (1993:95) and Nel (2002:51) state, was the Masters and Servants Act, 1856 (Act 15 of 1856) that was only directed at the individual level.

Industrialisation commenced in the 19<sup>th</sup> century with the discovery of gold and diamonds. This discovery of diamonds and gold captured South Africa into the era of mining, manufacturing and business that led to an industrial evolution. And it was only after this period that significant employee representation from outside the

institution developed in South Africa. This employee representation in South Africa was only formally regulated with the promulgation of the Mines and Works Act, 1911 (Act 12 of 1911). A characteristics of all labour legislation, however, was that it was based on racial discrimination. This approach to labour legislation culminated with the passing of the Black Labour Relations Regulation Act, 1953 (Act 48 of 1953) and the Industrial Conciliation Act, 1956 (Act 28 of 1956). These pieces of legislation formalised the dualistic approach to employee representation for blacks in South Africa (Grossett *et al.*, 1998:47; and Nel *et al.*, 1993:15).

The most influential employees on the mines were skilled craftsmen, mainly immigrants and this was informed by the South Africa's turbulent past that attempted to protect its own vested interests, whilst at the same time exploiting the black employee as a source of cheap labour. Black Africans and initially white Afrikaners formed the bulk of unskilled and semi-skilled employees. At this level, there was no real labour legislation, only the Master and Servants Act, 1956 (Act 15 of 1956)(Bendix, 2000:44; Grosset *et al.*, 1998:47; and Nel *et al.*, 1993:95).

A dual system of Labour Relations was perpetuated from these earliest days of slavery when the Master-Servant relationship existed with the white being in the authoritative position. This relationship was carried over from the primarily agrarian communities into the era of industrialisation (Nel, 1998:47).

Unions were established separately for black and white employees in the mines, but in the manufacturing industry there were united unions, were conflict led to numerous strike and political actions (Bendix, 2000:45). This conflict culmination was the 1922 Mineworkers' strike and results was change in government and in the 1924 Industrial Conciliation Act, 1924 (Act 28 of 1924) that excluded black African males. Amendments done in 1953 to this Act prohibit the formation of mixed unions, as well as impose job reservation, thereby reserving certain positions for whites only (Bendix, 2000:44 and Grossett *et al.*, 1998:47).

During the last four decades dramatic changes in the relationship between the people of South Africa took place, which resulted in an ongoing deterioration in industrial

relations. It thus became evident that a complete updating of South Africa's labour legislation was acutely necessary (Nel *et al.*, 1993:96).

In 1948, the Nationalist Party came into power and also institutionalised segregation in labour relations by passing the Black Labour Relations Regulations Act of 1953 and the Industrial Conciliation Act, 1956 (Act 29 of 1956). It then became evident that the interests of employees have been consistently served by the political policies of successive governments. Not only were black peasants deprived of access to land, thus creating a pool of cheap black labour, but the passivity of employees was assured by refusing legal status to their unions (Finnemore, 1999:41).

This made history of labour relations in South Africa a story of a long and intense struggle as further taking into consideration that, the Rand Rebellion of 1922 secured only rights for white employees. Therefore, for black employees throwing off the mantle of repression has proved a far longer and tougher road (Fennimore *et al.*, 2002:37).

But in the late 1960s and 1970s, dramatic changes in the relationship between the peoples of South Africa took place, resulting in an ongoing deterioration in employment relations. Black labour militancy re-emerged during this period and this led to the formation of two new union federations, Federation of South African Trade Unions (FOSATU) and Congress of South African Unions (CUSA). It then became evident that a complete updating of South African labour laws was acutely necessary. The government appointed a commission of Inquiry into labour legislation, namely Wiehahn Commission to investigate and advice on existing labour legislation. The formation of this Commission was informed by the Soweto riots of 1976, and in the face of growing international disapproval of the apartheid system and the growing shortage of and increasing demand for skilled employees (Bendix, 2000:45, Nel, 2002:52; and Grossett *et al.*, 1998:47).

This investigation, Nel (2002:52) and Nel *et al.*, (1993:96) argue, enabled the government to formulate an alternative policy and to promulgate amended labour legislation in 1980. This new labour legislation were mainly included in the Industrial Conciliation Amendment Act, 1979 (Act 94 of 1979). This paved the way for

experimenting with a non-racial system in South Africa. The government only opened up the labour relations system to all race groups in 1979 and this led to the formation of Congress of South African Trade Unions (COSATU) in 1995, followed by National Council Trade Unions (NACTU) (Grossett *et al.*, 1998:47).

Nel *et al.*, (1993:96) state that the more important amendment was the change in the definition of an employee. Industrial Conciliation Act, 1991(Act 9 of 1991) is regarded as a unique piece of legislation in that it represents the first piece of post-apartheid legislation since it was created by a unique extra parliamentary process in which the key actors determined for themselves by a process of negotiation, being the rule by which they prefer to be governed.

Further remedies followed some fifteen years later when the first democratic government was elected with the African National Congress at the helm (Grossett *et al.*, 1998:47).

After 1990 Congress of South African Trade Unions (COSATU) formed an alliance with the African National Congress (ANC) and the South African Communist Party (SACP). Interestingly, the Nationalist government further opened up the labour relations system to domestic, agricultural and public service employees. After 1994, the new government decided to revise all existing labour legislation (Nel, 2002:52; Bendix, 2000:45; and Grossett, 1998:47).

The labour scene changed dramatically and the Labour Relations Act, 1995(Act 66 of 1995) was promulgated. This was followed by the Basic Conditions of Employment Act, 1997(Act 75 of 1997), which came into operation on 1<sup>st</sup> of December 1998, and then by the Employment Equity Act,1998( Act No.55 of 1998). This was due to the government's mandate, an all encompassing constitution and Bill of Rights, that incorporate labour relations as a fundamental human rights (Bendix, 2000:46).

## 2.4 Formulation and Implementation of Public Human Resource policy in the workplace

Schwella *et al.*, (1996:31) argue that the public management functions require public resource managers to apply the function of policy-making, planning, organisation, evaluation, discipline and leadership and control to public sector human resources.

These human resource policy guidelines are expected from legislatures at different levels of government. This is so because public human resources play an important role in society (Cloete, 1990:21-28).

Beach (1985:35-36) lists the reasons why having clear policies on human resources is beneficial. Some of these reasons are, namely:

- formulating human resource policies forces management to focus deeply on basic institutional needs and those of its employees;
- policies contribute to a consistent and considerate treatment of employees. In this way favouritism or discrimination is reduced or avoided;
- when there are leadership or institutional changes, policies provide stability;
- policies serve as performance standard. Actual results can be compared with policies to find out how public managers and staff are performing. In this sense, policies are tools in the process of control and evaluation; and
- if policies are fair, just and equitable, they contribute to employee motivation and enthusiasm.

Policies, therefore, contribute to the context important to public human resource management. Matters normally provided for policy statements influencing public human resource in management are the following:

- policy guidelines may stipulate the ethical and moral conduct required of public employees. Often members of the public expect a higher standard of conduct and integrity from public employees than from the ordinary public;
- policy guidelines usually also regulates the activities of public employees in party politics; and



- policy guidelines normally provide for freedom of association and protect public employees' labour relations and collective bargaining rights.

(Cloete, 1990:21-28).

Beach (1985:37) maintains that an important aspect of human resource policies is their communication. Communicating personnel policy is an essential part of its achievements. All members of the workforce, including management, should be aware of relevant aspects of personnel policies governing workplace discipline. Management has to be educated and trained to ensure that personnel discipline problems are handled appropriately.

The discipline policy process has several phases. This includes initiation, design, analysis, formulation, dialogue and advocacy, implementation and evaluation (Cloete *et al.*, 2000:3). Cloete (1994:97-100) argues that there are always a considerable number of factors, which serve to change the nature and extent of the activities undertaken by public institutions. Amongst the main factors which can influence public policies on disciplinary procedures are circumstances, needs and expectations of the population, policies of political parties, activities and representations of interests groups, personal views of political executives, office-bearers and research and investigations, as well as the views and experience of public employees.

This means that, as Bendix (2000:95) argues, the employer needs to raise all policies, practices and procedures to ensure that they do not discriminate against any person or group. According to Mullins (2002:707), sound personnel policies help to foster good employee relations, when broadly defined, is concerned with the relationship between the policies and practices of the institution and its employees, and the behaviours of work groups.

## 2.5 Discipline and dismissal in the workplace: The basics

According to Nel (2000:245), an institution can only ensure its existence if institutional objectives are being met. The objectives vary and often entail the provision of products, services or activities to consumers or clients in society. Therefore, all institutions make use of some form of labour in order to achieve their objectives.

The labour to be used must attempt to be disciplined in order to allow the institution to achieve their objectives. Any failures, as Salmon (1992:592) states, disciplinary action would be initiated by the management in response to unacceptable behaviour on the part of employees. This is downward communication. According to Grossett *et al.*, (1998:253), this is informed by the fact that it is the employer's common law right to ensure that employees adhere to reasonable standards of efficiency and conduct, as the purpose of discipline under modern law is regarded as corrective rather than punitive.

According to Mafunisa (2000: 25), public employees should, therefore, not only strive towards attaining pre-determined public service goals, they should also ensure that, in the quest for those goals that have been set, they adhere to ethical values. Ethical values include efficiency and effectiveness.

Levy (1992:69) maintains that the way in which discipline is applied should always follow the principle of minimum force. This means that discipline is aimed at effecting an improvement in the conduct of the person who is being disciplined. Unfortunately, many employees regard discipline as a negative and threatening instrument in the hands of management. However, it must be argued that discipline has a positive side and that it can support morale, decrease labour turnover and create a more satisfied and efficient workforce in general. But if it dealt with inefficiently, management will lose the respect and co-operation of employees, and thus, undermine the success of the undertaking.

This indicates that a reasonable public manager should be able to get the co-operation of the majority of the employees under his or her control, without having to resort to punitive disciplinary action (Nel, 2002:246). Grossett *et al.*, (1998:253) state that the more common forms of discipline include: warnings, suspension with or without pay, transfers, demotions and dismissal, whereby the contract of employment of an employee or a group of employees may be terminated for disciplinary reasons and non-disciplinary reasons.

But no institution can function without discipline. Discipline here refers to the fact that order needs to be maintained, duties have to be performed and rules have to be obeyed. Indicating clearly what constitute unacceptable behaviour, thus, leading an understanding of the nature of acceptable, desirable behaviour should do this. Where employees break the rules or do not perform their duties, disciplinary action is instituted. Such disciplinary action is not necessarily intended to punish employees, but rather to correct behaviour. Discipline, therefore, consists to a large extent of behaviour adjustment and training (Bendix, 2000:209; and Nel *et al.*, 1993:280).

Nel (2002:246) argues that the focus of employees and their representatives (trade unions) on correct discipline and dismissal is supported by certain former Industrial Court rulings that resulted in clear guidelines in this regard.

Therefore, there is a great need for public managers at all levels to understand disciplinary matters developed. These developments are aimed at ensuring that disciplinary action taken against an employee emanates from justifiable reasons and there must be effective policies and that procedures serve to assist those responsible for taking disciplinary action and will help to ensure that employees will receive fair and constructive treatment (Sherman *et al.*, 1996:583).

Swanepoel *et al.*, (2003:806) argue that despite all human resource management efforts to ensure that employment relationships remain sound and that the match or fit between the parties adds value to the institution's quest for success, the employment relationship between individual employees and the employing institution will inevitably breakdown from time to time.

As a result of this, the services of an employee may be terminated following the provisions outlined in the Labour Relations Act, 1995(Act 66 of 1995).

But Sisson (1989:572-573) argues that the use of discipline short of dismissal is hard to measure. Thus, how serious does a conversation between a public manager and an employee have to be before it constitutes discipline?

Currently, popular attention has not focused on disciplinary practices, but on the operation of the unfair dismissals whereby worries are frequently being expressed that it is difficult or impossible to sack anyone. Most dismissals do not, however, even enter the unfair dismissal system. Therefore, there is a massive need for trade unions and collective bargaining that serves a number of 'managerial functions' (McCarthy, 1966:16).

Sisson (1989:568) maintains that for discipline to be applied effectively, the rules must be clear. But the administration must make sustained efforts to ensure that disciplinary actions are taken and punishment imposed in a timely fashion whilst preserving the principles of natural justice (SAMDI booklet, 2003:05). Nevertheless, it can be widely accepted that the conducts of the large majority of public employees will usually meet acceptable ethical standards, but there will always be employees who in moments of weakness will commit misconduct (Cloete, 1985:185)

Therefore, the process of integrating interest, according to Flippo (1984:461), requires both preventive and corrective activities. This is guided by the fact that despite the best of management practices in acting and communicating conflicts between employees and the institution, conflicts will continue to occur. Therefore, total absence of conflict would be unbelievable, boring and a strong indication that such conflicts are being suppressed. But one of the characteristics of mature group is its willingness and ability to bring suppressed conflicts to the surface where they may be discussed with a greater opportunity of resolution. Thus, the first step in the resolution of conflicts is their discovery and exposure.

Discipline is only applied in an institution to ensure that employees, who do not perform adequately, and therefore, do not meet the expected standards, are duly informed so that the enterprise's goals can ultimately be realised. Acting preventatively and correctly towards employees promotes stability, job security and the achievements of the institution's goals in an orderly fashion (Nel, *et al.*, 1998:119). And a progressive disciplinary procedure will usually provide for steps that start with a verbal warning and progress to a written warning and then a final warning before reaching a dismissal. The actual process is subject to the specific

situation, and serious transgressions may warrant immediate dismissal (Bezuidenhout *et al.*, 1998:197).

According to the Labour Relations Act, 1995(Act 66 of 1995), dismissal means that:

- an employer has terminated a contract of employment with or without notice;
- an employee reasonably expected the employer to renew a fixed term contract of employment on the same or similar terms but the employer offered to renew it on less favourable terms, or did not renew it;
- an employer who dismissed a number of employees for the same or similar reasons has offered to re-employ one or more of them but has refused to re-employ another; and
- an employee terminated a contract of employment with or without notice because the employer made continued employment intolerable for the employee.

## 2.6 National legislation for the promotion and management of discipline in the South African public service

As soon as human beings start living together in communities they are no longer self-sufficient. In communities they need goods and services, which they cannot provide individually or as families. The result is that they have to create institutions to provide goods and services to make living together in closer settlements possible, reconcile the conflicting interests of individuals and groups (Cloete, 1994:91).

According to Mafunisa (2000: 90), the Republic of South Africa comprises various ethnic groups with different languages and each one has its own value systems. In the provision of public services no person should be unfairly discriminated against. To obtain this objective all public employees should and must accept one of the central professional values of public administration: the ethos of objective competence.

The political dispensation that took place recently, ensured that all citizens of this country has the right access to any information held by the state, and any information that is held by another person and that is required for the exercise or promotion of any rights. Chapter 10 of the *Constitution of the Republic of South Africa, 1996*, outlines

how public administration should be done. These are basic values and principles governing public administration in the public service. Section 195 of the constitution states that public administration must be broadly representative of the South African people, with employment and personnel management practices based on ability, objectivity, fairness and the need to redress the imbalances of the past and to achieve broad representation. To achieve this requires complete loyalty to the democratic principles and fundamental rights the nation has enshrined in the *Constitution of the Republic of South Africa, 1996*.

The above-mentioned principle apply to public administration in all spheres of government, organs of state and public enterprises and national legislation must ensure the promotion of the values and principles listed above.

According to the Labour relations Act, 1995, (Act 66 of 1995), there are three grounds on which employment contract may be terminated: The conduct of an employee, the capacity of an employee, and the operational requirements of the employer's affairs. The main purpose of the Act remains the regulation of collective labour relations between the employer and employees or their unions. This Act establishes the basis of the labour relationship. The Labour Relations Act deals with the following: freedom from victimisation, dispute settlement mechanisms and structures, unfair dismissals and unfair labour practices (Bendix, 2000:147).

The Act further states that, a dismissal is automatically unfair if the employer acts contrary to Section 5 of this Act that deals with the protection of employees seeking employment. Amongst the reasons for dismissal as outlined in Section 5 are the following:

- that the employee participated or supported, or indicated an intention to participate or support a lawful strike or protest action
- to compel the employee to accept a demand in respect of any matter of mutual interest between the employer and employee
- the employee's pregnancy, intended pregnancy, or any reason related to her pregnancy; and

- that the employer unfairly discriminated against an employee, directly or indirectly, on arbitrary grounds.

Schedule 8 of the Labour Relations Act of 1995 deals with Code of Good Practice. This Code of Good Practice deals with some of the key aspects of dismissals for reasons related to conduct and capacity. The key principle in this Code is that employees should treat one another with mutual respect. The Code of Good Practice states that, a dismissal is unfair if it is not affected for a fair reason and in accordance with a fair procedure, even if it complies with any notice period in a contract of employment or in legislation governing employment.

Recently, Administrative Justice Act, 2000 (Act 1 of 2000) was passed by Parliament to “give effect” to the rights to just administrative action in Section 33 of the constitution. The Act sets out the rules and guidelines that public administrators must follow when making decisions, requires public administrators to inform employees about their rights to review or appeal and request reasons, and give employees of the public the right to challenge the decisions of administrators in court.

Public Finance Management Act, 1999 (Act 1 of 1999) states that an Accounting Officer for a Department or a Constitutional Institution commits an act of financial misconduct if that Accounting Officer wilfully or negligently fails to comply with certain requirements as indicated in some sections of this Act or makes or permits an unauthorised expenditure, an irregular expenditure or a fruitless and wasteful expenditure.

To regulate this, the Minister must make regulations prescribing the manner, form and circumstances in which allegations and disciplinary and criminal charges of financial misconduct must be reported to the National Treasury, the relevant Provincial Treasury and the Auditor-General including particulars of the alleged misconduct and the steps taken in connection with such financial misconduct.

The Public Service Act, 1994 (Proclamation 103 of 1994) states that the power to discharge an employee or an officer shall vest in the relevant executive authority, who

may delegate that power to an officer, and the said power shall be exercised with the due observance of the applicable provisions of the Labour Relations Act, 1996 (Act 66 of 1995). According to Grover (2002:147), the Public Service Act, 1994 (Proclamation 103 of 1994) was enacted to provide for organisation and administration of the public service of the Republic, the regulation of the conditions of employment, terms of office, discipline, recruitment and discharge of employees of the public service and matters connected therewith.

The Act further states that every officer, other than an employee of the public services or an educator or an employee of the agency or the public service, may be discharged from the public service:

- on account of continued ill health;
- owing to the abolition of his or her post or any reduction in or re-organisation or re-adjustment of departments or offices;
- on account of misconduct;
- if in the case of an officer appointed on probation, his or her appointment is not confirmed; and
- if his or her continued employment constitutes a security risk for the state.

According to the Act, an officer, an employee of the public services or an educator, or an employee of the agency or the public service, who absents himself or herself from his or her official duties without permission of his or her Head of Department, office or institution for a period exceeding one calendar month, shall be deemed to have been discharged from the public service on account of misconduct with effect from the date immediately succeeding his or her last day of attendance at his or her place of duty. If an employee who is deemed to have been so discharged, reports for duty at any time after the expiry period referred above, the relevant executing authority may, on good cause shown and notwithstanding anything to the contrary contained in any law, approve the reinstatement of that employee in the public service in his or her former or any other post or position. In such a case, the period of his or her absence from official duty shall be deemed to be absence on vacation leave without pay or leave on such other conditions as the said authority may determine.



The *White Paper on Human Resource Management in the Public Service* (1997:1-2) states that employees are required to uphold the highest standards of professional and personal behaviour, as laid down in the Code of Conduct for Public Servants. An employee who is guilty of misconduct so serious as to render him or her unsuitable for employment in the Public Service is, in effect, in breach of his or her contract and may therefore be dismissed.

In line with the *Public Service Regulations* (2001:1) an employee must be faithful to the Republic and honour the constitution and abides thereby in the execution of her or his daily tasks, puts the public interest first in the execution of her or his duties, loyally executes the policies of the government of the day in the performance of her or his official duties as outlined in all statutory and other instructions applicable to her or his conduct and duties, and co-operates with public institutions established under legislation and the constitution in promoting the public interest.

The regulations further states that when relating with the public, an employee promote the unity and well-being of the South African nation in performing her or his official duties, will serve the public in an unbiased and impartial manner in order to create confidence in the public service, and recognises the public's right of access to information, excluding information that is specifically protected by law. When relating with other employees, an employee co-operates fully with other employees to advance the public interest, uses the appropriate channels to air her or his grievances or to direct representations and refrains from party political activities in the workplace.

The regulations also states that, an employee during official duties dresses and behaves in a manner that enhances the reputation of the public service, acts responsibly as far as the use of alcoholic beverages or any other substance with an intoxicating effect is concerned, does not use or disclose any official information for personal gain of others, and does not without approval undertake remunerative work outside her or his official duties or use office equipment for such work.

## 2.7 Labour disputes resolution mechanisms in South Africa

As is in other relationship, points of conflict exist. Such conflicts arise mainly from substantive issues in the form of wages, benefits and conditions of service. However, this also extends to procedural matters such as the manner in which they are handled or decisions are made, the selection of persons for positions, training and promotion, the manner in which jobs are evaluated and the day-to-day management of an institution (Bendix, 2000: 12).

Grover (2002: 147) argues that to ensure that citizens have a chance, to prevent their cases and be heard fairly; agencies follow the principle of due process. This principle assumes that, no employees should be deprived without due process of law. In short, it is an assurance that the government will be administered by laws, not by the arbitrary will of people who condemn without a public hearing.

Dispute resolution entails the choice, design and application of a process aimed at resolving a dispute or conflict to the greatest benefit of all parties involved (Pretorius, 1993: 1). The purpose of dispute resolution is to:

- relieve pressure on the courts, and to avoid unnecessary costs and delays;
- increase community involvement in dispute resolution;
- facilitate access to justice; and
- improve effectiveness.

(Pretorius,1993:2)

Bendix (2000:162) states that two types of dispute exist: those that arise when bargaining fails, and those that came because one party transgresses a right, which the other party has. If the party to a bargaining arrangement cannot reach agreement and deadlock occurs, one or the other party will declare a dispute.

According to Ferreira (2000:114-131), dispute resolution can be undertaken in the following three distinct ways:

- a private decision by the parties involved by means of negotiations, conciliation and mediation;
- a private ruling by a third party, among others, through arbitration; and
- a judgement by a public authority through administrative decision-making and

a formal case brought before a court of law.

Thomson (1995: 1-17) states that the first dispute in South Africa was accompanied by serious disruptions that took place in Kimberley in 1884. The dispute was settled through a barrel of a gun without bringing the disputes or its consequences before court. Due to several disputes that arise, the government started to focus its attention seriously on labour relations in the country in 1922. Schaeffer *et al.*, (1968:77-79) mentioned that settlement of disputes was done by Industrial Councils and Conciliation Board.

Brand *et al.*, (2002: 41-72) say that the Labour Relations Act, 1995 (Act 66 of 1995) creates many rights for parties in the employment relationship whereby for every right there is a corresponding obligation and inevitable disputes about its enforcement. They further identify the following dispute resolution bodies as discussed also in the Labour Relations Act, 1995 (Act 66 of 1995) and the Act provides for five institutions to deal with disputes:

#### 2.7.1 The Commission for Conciliation, Arbitration and Mediation (CCMA)

The commission is intended to play a key role in the overall dispute resolution system. The establishment of an independent commission represents a major shift in labour dispute resolution policy. In the past, the state took primary responsibility for the resolution of labour disputes.

Under the Labour Relations Act, 1995 (Act 66 of 1995), employers share responsibility, labour and state jointly. The Act states that among the functions of the Commission are to:

- conduct conciliation, arbitration and facilitation and also to provide guidance on how to obtain advice;
- accredit Bargaining and Statutory Councils and private dispute resolution agencies; and
- publish guidelines on good industrial relations practice and subsidise accredited councils and agencies.

Commissioners who are appointed by the governing body perform the dispute resolution work of the commission. They may be either full-time or part-time and the experienced commissioners are designated as Senior Commissioners.

An important function of the commission is to accredit private agencies and bargaining and statutory councils to perform certain dispute resolution functions. The accredited bodies are not permitted to charge fees for the performance of accredited functions but will receive a subsidy from the commission to do so.

According to Bendix (2000: 163), advantages of conciliation and mediation are that they do not take the decision out of the hands of the parties. Where parties agree to submit to arbitration, they are bound by the decision of the arbitrator. Mediation is only effective where both parties are serious about finding a mutually acceptable solutions, where a positive settlement range exists, where conflict has escalated because one or both of the parties are inexperienced and have over committed themselves, but where the conflict is not yet extreme.

### 2.7.2 Consultative/Bargaining and Statutory Councils

The Labour Relations Act,1995 (Act 66 of 1995) contemplates that bargaining councils will replace Industrial Councils. In essence, Bargaining Councils are intended to be voluntary industry and sectoral level collective bargaining forums. Apart from being compulsory, Statutory Councils also differ from bargaining councils as they deal with a range of issues.

The councils are required to acquire accreditation from the CCMA and conduct dispute resolution functions under their own auspices. Alternatively, they may contract with the CCMA and for it to perform their dispute resolution functions. If a council fails to perform its designated dispute resolution function, the commission is empowered to take over this function and charge the parties a fee.

### 2.7.3 The Labour Court

The Labour Court is a superior court that has the same authority, inherent powers and standing in relation of matters under its jurisdiction as those that a court of a Provincial Division of the High Court has, in relation to matters under its jurisdiction. The Labour Court has, with limited exceptions, exclusive jurisdiction in respect of all matters, which the labour statutes stipulate must be determined by the Labour Court.

### 2.7.4 The Labour Appeal Court

The Labour Appeal Court consists of the Judge President of the Labour Court, Deputy judge President and any number of other judges of the High Court as many as required for the effective functioning of the Labour Appeal court. Cases in the Labour Appeal Court are heard by any three judges whom the Judge President designates from the panel of Judges. No Judge of the Labour Appeal Court may sit in on the hearing of an appeal against a judgement or an order given in a case that had been heard before that judge. The Labour Appeal Court is a court of law and equity and is the final Court of appeal in respect of all judgements and orders made by the Labour Court in respect of the matters within its exclusive jurisdiction (Labour Relations Act, 1995, (Act 66 of 1995)).

The Labour Court is a court of law that has authority, inherent powers and standing, in relation to matters under its jurisdiction, equal to those that the Supreme Court of appeal has in relation to matters under its jurisdiction. The Labour Appeal Court will here appeal from the Industrial court and the Agricultural Labour Court in respect of disputes pending before those courts at the time of the implementation of the new Labour Relations Act,1995(Act 66 of 1995).

### 2.7.5 Other privately organised institutions

The Labour Relations Act, 1995(Act 66 of 1995) expects private dispute resolution agencies to play a major role in the dispute resolution system. They may do this either as agencies accredited by the CCMA or as private bodies. An accredited agency may not charge the parties a fee for performing dispute resolution functions and must rely on whatever subsidy is given to it by the CCMA. A private agency wanting accreditation may apply to the governing body of the CCMA for

accreditation to perform conciliation and arbitration of disputes. Private Agencies may perform dispute resolution functions with and without accreditation.

The Labour Relations Act, 1995 (Act 66 of 1995) upholds voluntarism of the dispute resolution mechanism by making provision for voluntary conciliation, mediation or arbitration of disputes, or in certain cases, referral to the Labour Appeal Court. The Labour Appeal Court, a Provincial Division of the Supreme Court is the highest court dealing with labour issues.

#### 2.6.7 Conclusion

The reviewed literature clearly indicates how the Department of Correctional Services should formulate its disciplinary policy. It is proper that the Department of Correctional Services must have a clear understanding of the origin of disciplinary rules and procedures and the historical development of the South African labour relations system. This is necessary because the current behaviour of employees is partly influenced by the 19<sup>th</sup> century uprisings in the mining industry and employees learned this through the media. Furthermore, policy-makers should have a clear understanding of the policy formulation process as a way of giving different groups of employees a chance to participate in the process as the disciplinary process will be administered against them. Therefore, a clear understanding of both the national legislation that promotes and manages discipline in the South African public service as well as the labour disputes mechanisms is necessary.

The theoretical framework paved a way for the subsequent chapter. The chapter will dictate the methodology in terms of design, data collection and data analysis.

## **CHAPTER THREE**

### **RESEARCH METHODOLOGY AND DESIGN**

#### 3.1 Introduction

This chapter focuses on the research methodology and the design of the study. The instruments that were used to collect data will be explained and discussed. The chapter will also discuss what the researcher learnt during the process of the research. In conclusion, a brief summary of the chapter would be done, a move that provide an opportunity to tackle Chapter Four of the research report.

#### 3.2 Research methodology

For the purpose of the study, qualitative method was followed. Brynard *et al.*, (1997:29) indicate that qualitative methodologies refer to research that produces descriptive data, generally, individuals own spoken or written words. This means that no numbers would be used or assigned to observed behaviour. Welman *et al.*, (2001:191) also state that qualitative data are based on meanings expressed through words and other symbols or metaphors. Therefore, qualitative research is not concerned with the methods and techniques to obtain appropriate data for investigating the research hypotheses as in the case of quantitative research.

According to Winberg (1997:39), no numbers are usually assigned to observation in the sense that it produces description of how and why employees do certain things. And this is closely linked to the critical research paradigm and humanist approach to the issues being researched.

#### 3.3 Research Design

Mouton (2001:25) states that research design is a plan or blueprint of how you intend conducting the research. The study used a combination of empirical and exploratory study. The use of evaluation research is also supported by Mouton (2001:158), who state that implementation evaluation research aims to answer the question of whether an intervention (programme, therapy, policy or strategy) has been properly implemented as designed. Patton (1987:27) states that it is important to know the extent to which a programme is fully implemented and how the programme was actually implemented.

### 3.4 Target Group and Sampling

The target population for the study is the employees in the Department of Correctional Services employed at Polokwane Management Area, who are directly affected by the research, and generally all employees rendering service in the Department of Correctional Services, who are indirectly affected by the research. Currently Thirty thousands employees work in the Department of Correctional Services.

Polokwane Management Area consists of four hundred and fifty six employees. The present researcher chose a purposive sampling method to determine the size of the sample. All employees at the junior, middle and senior management level, who are twenty six in number formed part of the selected cases for the study. A representative random sampling method was applied in every institution using 3:1 criteria when further selecting cases from four hundred and thirty six employees at the production level in order to avoid biases. An attempt was done to obtain as broad a sample as possible by accessing participants through various existing channels.

The sampling method used is supported by Silverman (2000:104), who states that purposive sampling allows us to choose a case because it illustrates some feature or process in which they are interested. This does not mean purposive sampling provide a simple approval to any case chosen. Instead, purposive sampling methods demands that one thinks critically about the parameters of the population one's interested in and choose one's sample case carefully on those basis.

Burns (2000:85) further states that once the implementation has been carefully defined, a representative sample is that method of drawing a sample so that each member of the population has an equal chance of being selected and the selection of one subject is independent of the selection of any other.



### 3.5 Research Techniques

#### 3.5.1 *Self-administered questionnaire*

The present researcher made use of Self-administered questionnaire for the purpose of the study. The questionnaire targeted selected employees who are employed at Polokwane Management Area in the Limpopo Province.

The implication here thereof is that the researcher conducted a primary research being an original investigation. Employees of the Polokwane Management Area, as Swanepoel (2003:581) states, have been asked to complete a questionnaire on factors affecting them. According to Bailey (1994:174), the questionnaires are undoubtedly the single most frequently used type of evaluation instruments.

The present researcher used open and close questions. According to Gillman (2000:5), open questions are only occasionally used in questionnaires and that can lead to a greater level of discovery but that their number and kind has to be restricted to justify the cost. A closed-ended question is one where the possible answers are pre-determined.

During fieldwork, twenty six questionnaires were personally handed over to junior, middle and senior public managers for the Polokwane Management Area to complete and all responded positively as they were completed and were physically collected by the researcher. The present researcher also distributed randomly hundred and fifty questionnaires to employees at the production level. This was done in order to meet the required target of hundred and seventeen research participants through the set sampling method of 3:1 criteria when further selecting cases from four hundred and thirty six employees. Once the target was met, the present researcher stopped to collect the remaining questionnaires.

The present researcher analysed data collected from self-administered questionnaires through the adoption of the approach used by Rubin and Rubin (1995:226-227), as they state that data analysis begins while the interviews are still underway. In this process, the researcher would have the opportunity to redesign questions to focus on central themes of the study. Furthermore, the present researcher breaks down the collected data into manageable themes in order to ensure that the aim of analysis, as

Mouton (2001:108) states, is to understand the various constitutive elements of one's data through an inspection of the relationships between concepts, variables and to see whether there are patterns that can be identified or isolated. The present researcher followed an empirical analysis method to analyse data collected from self-administered questionnaires.

### *3.5.2 Survey /Records*

The present researcher also used the existing departmental records, especially the Management Area Offence Register that already has on file for the years 2003–2004, which contain information that is useful in revealing the required information.

This was done as the present researcher believes that historical studies review past information in order to identify unique patterns. The present researcher also used personnel records to assess the pattern followed when handling disciplinary matters at the Polokwane Management Area.

These research techniques were selected as they allow for an operational or applied research directed towards the solutions of an institution's particular problems. The payoff of this kind of research is immediate, observable and tangible.

The data collected from the Management Area's Offence Register was grouped into themes and analysed using the data matrix. The information that the present researcher gained from the Offence Register gave the kinds of problems that arise from the failure of the Management Area to follow the Disciplinary Procedure as outlined in the Department Bargaining Council Resolution 1 of 2001.

### 3.6 Conclusion

The reason that the present researcher distributed hundred and fifty questionnaires, whereas in need of only hundred and seventeen research participants at the production level, also helped a lot in minimising problems. The present researcher did not experience problems with the returning of the questionnaires by the targeted group. Respondents adhered to the time frame set to complete and return questionnaires to Research Assistants appointed by the present researcher. The readiness to submit

questionnaires, clearly illustrated the need of this kind of research work in the Department of Correctional Services.

The present researcher can, therefore, assume that all the respondents were quite interested in participating in the research project. Hence, the fact that some of the employees failed to return their questionnaires might have been the result of a resistance from involvement due to previous bombardment by the institution's public managers and hence would not want to develop false hopes for the latest initiative taken by the present researcher.

The present researcher attributes the participants' interest in the research project to the fact that during the process of administering questionnaires the sole purpose of the research was explained to them. An attempt to motivate employees to take the study seriously, as it might improve their conditions of service in areas that the research attempts to cover, was done.

## CHAPTER FOUR DATA ANALYSIS

### 4.1 Introduction

To answer questions asked in Chapter One, the present researcher included them in the self-administered questionnaires that were distributed to research participants within the Management Area of Polokwane.

This chapter is divided into two sections, which is empirical and exploratory analysis. The empirical analysis was based on the self-administered questionnaires for employees of the Department of Correctional Services employed at Polokwane Management Area, in the Limpopo Province. Exploratory analysis is based on the existing departmental records, especially an Offence Register that the institution already has on file for the years 2003-2004. At the end of the chapter, a conclusion is drawn to respond to critical issues raised.

### 4.2 Empirical Analysis

*4.2.1 Demographic Data: Analysis of the results dealing with the profile of members of the Department of Correctional Services employed at Polokwane Management Area*

**Table 4.2.1.1 Gender Specification**

<b>GENDER</b>	<b>NUMBER OF RESEARCH PARTICIPANTS</b>	<b>PERCENTAGE</b>
Male	80	56
Female	63	44
<b>TOTAL</b>	<b>143</b>	<b>100</b>

Fifty six percent of male employees participated in the research study, against forty-four percent of female employees who participated in the research study. The slight difference might have been caused by male employees' natural participation in political activities as compared to female employees.

The present researcher included gender specifications so that the sexual orientation of research participants can be known for the purpose of seeing which sexual group is more interested in issues of discipline at the workplace than the other.

**Table 4.2.1.2 Marital Status**

<b>MARITAL STATUS</b>	<b>NUMBER OF RESEARCH PARTICIPANTS</b>	<b>PERCENTAGE</b>
Married	95	66
Single	42	29
Divorced	06	4
<b>TOTAL</b>	<b>143</b>	<b>100</b>

Sixty six percent of married officials participated in the research study. Twenty nine percent of unmarried officials also participated in the study. This shows that only four percent of the research participants were divorced. Marital groups were well represented in the present study as research participants have different marital statuses. This shows that all employees are concerned with the way discipline is maintained and administered at the Polokwane Management Area.

**Table 4.2.1.3 Level of employment**

<b>LEVEL OF EMPLOYMENT</b>	<b>NUMBER OF PEOPLE BELONGING TO THE LEVEL</b>	<b>PERCENTAGE</b>
Correctional Officer Grade 1-111	117	82
Senior Correctional Officer	10	7
Assistant Director	10	7
Deputy Director	05	4
Director	01	0
<b>TOTAL</b>	<b>143</b>	<b>100</b>

Eighty two percent of the research participants come from Salary Level 1-111 group. This level in the Department of Correctional Services is referred to as the production

level. Eighteen percent of the research participants who fall under the category of junior and middle management levels participated in the study and only one official at the senior management level (directors) participated in the study.

The high number of respondents from the production level is informed by the reason that many questionnaires were administered to this category as compared to the others.

**Table 4.2.1.4 Institutions of Polokwane Management Area**

<b>NAME OF THE INSTITUTION</b>	<b>NUMBER OF RESEARCH PARTICIPANTS</b>	<b>PERCENTAGE</b>
Tzaneen Unit	06	04
Tzaneen Community Corrections	03	02
Modimolle Correctional Centre	42	33
Modimolle Community Corrections	10	06
Polokwane Correctional Centre	61	41
Polokwane Community Corrections	09	06
Area Commissioner's Office	12	08
<b>TOTAL</b>	<b>143</b>	<b>100</b>

Both Modimolle and Polokwane Correctional Centres provided seventy-four percent of the research participants. Community Corrections institutions provided fourteen percent of the research participants. The Tzaneen Unit and the Area Commissioner's Office jointly provided twelve percent of the research participants. Research participants at each of these institutions reflect the number of the entire employees employed at that particular institution during the period of the present research study.

**Table 4.2.1.5 Gross income earned per annum**

<b>TOTAL SALARY PACKAGE PER MONTH</b>	<b>NUMBER OF RESEARCH PARTICIPANTS FALLING UNDER THE INCOME CATEGORY</b>	<b>PERCENTAGE</b>
Less than R5,000	48	34
Between R5,001 and R10,000	69	48
Between R10,001 and R20,000	21	15
Between R20,001 and R30,000	04	02
More than R30,001	01	01
<b>TOTAL</b>	<b>143</b>	<b>100</b>

Eighty-two percent of the research participants earn less than R5, 000 and between R5, 001 and R10, 000 per month. These are employees at the production level. Fifteen percent of the research participants earn a salary of between R10, 001 and R20, 000. These are employees at the junior management level. Two percent of the research participants at the middle management level earn a salary between R20, 001 and R30, 000 per month, and only one research participant (director) earn more than R30, 000 per month.

**Table 4.2.1.6 Age group of the research participants**

<b>AGE GROUP OF RESEARCH PARTICIPANTS</b>	<b>NUMBER OF RESEARCH PARTICIPANTS UNDER THAT AGE CATEGORY</b>	<b>PERCENTAGE</b>
Up to 19 years	0	0
Between 20 and 29	48	34
Between 30 and 39	69	48
Between 40 and 49	13	09
Between 50 and 59	13	09
Between 60 and above	0	0
<b>TOTAL</b>	<b>143</b>	<b>100</b>

No employee up to nineteen years of age and between sixty years of age and above participated in the research study. The reasons behind this are unknown to the present researcher. Perhaps, no employee up to nineteen years of age are employed in this

department and based at the Polokwane Management Area, or else employees between sixty years and above are no more interested in this kind of activities as they might have thought that such are not helpful to them given that they are about to retire from the department. The majority of the research participants are between twenty and twenty-nine years of age (thirty-four percent) and between thirty and thirty-nine years of age (forty-eight percent).

**Table 4.2.1.7 Employment period in the Department of Correctional Services**

<b>SERVICE PERIOD/ CATEGORY</b>	<b>NUMBER OF RESEARCH PARTICIPANTS</b>	<b>PERCENTAGE</b>
0 to 5 years	09	06
6 to 10 years	86	61
11 to 15 years	30	21
16 to 20 years	11	07
20 years and above	07	05
<b>TOTAL</b>	<b>143</b>	<b>100</b>

Sixty-one percent of the research participants are employed in the Department of Correctional Services for a period between six to ten years, and only six percent of the research participants have a service record of less than five years. Twenty-one percent of the research participants have an employment service of eleven to fifteen years, whereas seven percent of the research participants have an employment service of sixteen to twenty years. The last category of twenty years and above is represented by five percent of the research participants.

Eighty-one percent of the research participants indicates that employees with less service record are more interested in research studies as compared to employees with service records that exceed ten years.



#### *4.2.2 Analysis of the results dealing with employees perceptions with regard to the implementation of the Disciplinary Procedure Manual and the management of discipline at Polokwane Management Area*

Many research participants' perceptions, viz., hundred and one, clearly indicates their dissatisfaction regarding the failure of the management to adhere to the Department of Correctional Services' Disciplinary Procedure Manual in the management of workplace discipline. However, no clear response is given if whether or not the Management Team is quite familiar with the rules and steps that regulate the day-to-day functioning of its affairs as outlined in the Disciplinary Procedure Manual. But a total of hundred and nineteen research participants, are very dissatisfied and dissatisfied about the failure of the Management Team to follow the provisions as outlined in the Disciplinary Procedure Manual when handling workplace discipline.

Again, fifty-eight research participants are unsure as to whether or not the Management Team sometimes launches formal investigations for less serious transgressions rather handling the matter informally as provided in the Disciplinary Procedure Manual, whereas forty-eight research participants are dissatisfied and Twenty-one research participants are very dissatisfied.

#### *4.2.3 Analysis of overall perceptions towards workplace discipline in the Department of Correctional Services*

Eighty-two research participants strongly agreed that discipline in the Department of Correctional Services, especially at the Polokwane Management Area, is operated in a harsher manner than in the past, as public managers now have the power to act as they wish. Twenty research participants agreed with the statement, whereas, twenty-five research participants strongly disagreed, and only six research participants neither agreed nor disagreed.

Hundred research participants agreed and strongly agreed that the conduct of the Department of Correctional Services employees is determined by the morality of the environment in which they work, ten research participants disagreed with the statement, three research participants strongly disagreed. Ten of the research participants neither agreed nor disagreed with the statement, whereas twenty research participants are not sure.

Hundred and ten research participants strongly agreed that the effective operation of the disciplinary mechanism is one of the key to upholding high standards of conduct and discipline in the Department of Correctional Services within the jurisdiction of Polokwane Management Area. Thirteen research participants simply agreed to the statement, whereas fourteen research participants neither agreed nor disagreed and Six research participants were not sure.

Ninety-seven research participants believes that an undisciplined workforce lead to disorder in the workplace and eventually to an institution's failure to reach its objectives and only twenty-six research participants agreed to the statement and only twenty research participants neither agreed or disagreed to the statement.

Sixteen research participants agreed that the proper application of corrective discipline contribute to the achievement of organizational objectives as it ensures the co-operation of employees, and this is justified to be correct by hundred and fifteen research participants who strongly agreed to the statement. Only three research participants disagreed with the statement, two research participants strongly disagreed and forty-seven research participants neither agreed nor disagreed to the statement.

#### *4.2.4 Analysis of the general questions asked with regard to the management of discipline at Polokwane Management Area*

Only twenty-three percentage of the research participants have been investigated and/or charged departmentally in the past five years. This clearly indicates that employees of the Polokwane Management Area do have a massive respect towards the Department's Code of Conduct. But still, ninety percent of the research participants believed that their direct supervisors are unreliable when coming to their quality in maintaining workplace discipline. On the other hand, the research participants (sixty-seven percent) believe that the Management Team at Polokwane Management Area is competent. Fifty-four percent of research participants believe that different specialists are quite responsible in terms of their quality of advising in matters of maintaining workplace discipline.

### 4.3 Exploratory Analysis

**Table 4.3.1 Information gathered from the Offence Register for the Year 2003**

<b>NAME OF THE INSTITUTION</b>	<b>NUMBER OF OFFICIALS CHARGED</b>	<b>NUMBER OF OFFICIALS FOUND GUILTY</b>	<b>NUMBER OF CASES WITHDRAWN</b>	<b>NUMBER OF OFFICIALS DISMISSED</b>
Tzaneen Unit	04	02	02	01
Tzaneen Community Corrections	0	0	0	0
Modimolle Correctional Centre	13	08	05	06
Modimolle Community Corrections	0	0	0	0
Polokwane Correctional Centre	15	10	05	01
Polokwane Community Corrections	0	0	0	0
Area Commissioner's Office	0	0	0	0
<b>TOTAL</b>	<b>32</b>	<b>20</b>	<b>12</b>	<b>08</b>

### 4.3.2 Information gathered from the offence register for the Year 2004

<b>NAME OF THE INSTITUTION</b>	<b>NUMBER OF OFFICIALS CHARGED</b>	<b>NUMBER OF OFFICIALS FOUND GUILTY</b>	<b>NUMBER OF CASES WITHDRAWN</b>	<b>NUMBER OF OFFICIALS DISMISSED</b>
Tzaneen Unit	04	04	0	01
Tzaneen Community Corrections	0	0	0	0
Modimolle	12	08	04	04

Correctional Centre				
Modimolle Community Corrections	0	0	0	0
Polokwane Correctional Centre	09	03	06	0
Polokwane Community Corrections	0	0	0	0
Area Commissioner's Office	01	01	0	01
<b>TOTAL</b>	<b>26</b>	<b>16</b>	<b>10</b>	<b>06</b>

Exploratory studies indicate that in some institutions, specifically Modimolle Correctional Centre, discipline is applied in a harsh manner as ten employees have been dismissed in 2003 and 2004. But in certain institutions, the level of discipline seems to be within the acceptable levels. However, the Management Area experienced a reduction in a number of employees who committed offences during 2004.

#### 4.4 Conclusion

On the basis of critical issues which were analyzed in this Chapter, it is quiet clear that the Department of Correctional Services, particularly the Polokwane Management Area, is experiencing problems with regard to the implementation of the provisions as outlined in the Disciplinary Procedure Manual in order to ensure that discipline is managed both effectively and efficiently. Both the empirical and exploratory analysis reveals this. It is also clear that the majority of employees who participated in the study are very dissatisfied with regard to the manner in which they are generally treated and they tend to lose trust towards their direct supervisors.

In Chapter Five, conclusions of the study will be provided. Recommendations will also be done for the Department of Correctional Services, in particular the Polokwane Management Area, on how best they can implement the disciplinary Procedure Manual in order to administer discipline in a properly acceptable manner, and not to be harsh.

## **CHAPTER FIVE**

### **CONCLUSIONS AND RECOMMENDATIONS**

#### 5.1 Conclusions of the study

The present study is based on problems affecting the Department of Correctional Services, in particular, the Polokwane Management Area, as a result of its failure to follow the provisions as outlined in the Disciplinary Procedure Manual when handling workplace discipline.

Discipline is one of the least enjoyable, but one of the most critical aspects of labour relations. It is essential for effective service delivery to have a disciplined workforce. Efforts should be made to correct employees' behaviour through a system of progressive disciplinary measures such as counselling and warnings. The purpose of discipline is accordingly to maintain acceptable standards of conduct in the workplace in a manner that is fair to both the public service and the employee.

The general objectives of the study, which are outlined above, show that there are clear guidelines to follow in order to ensure procedural fairness in the maintenance of workplace discipline, but in most cases, public managers tend to ignore them.

The formulated hypothesis that has been empirically tested revealed the following:

- the Department of Correctional Services managers do not view the Disciplinary Procedure Manual as an attempt to promote a clean service and to instil a culture of integrity amongst employees;
- discipline in the Department of Correctional Services is not kept as positive as possible and is used in a manner that is punitive or retaliatory; and
- the type of discipline in the Department of Correctional Services in most cases does not fit the severity of the misconduct or the violation.

The general objectives of the study, together with the formulated hypotheses that were empirically and exploratory tested, clearly indicates that, there is much work to be done around this issue, and is a significant area of concern in the proper maintenance of discipline in the Department of Correctional Services for some time to come.

Acknowledgement should be done, being that, no political or administrative system can run justly and efficiently without the personal morality of the employees who run it.

A common understanding should be developed that discipline is an integral part of performance management. Performance should ideally be managed through motivational mechanisms such as leadership ability, mentoring and team building. The reality is that such techniques do not always work with all employees and it becomes necessary to have a corrective system of discipline in place which has the initial aim of restoring the standard of performance and the relationship between the employees and the public managers.

Chapter One has outlined the introduction and background of the study which formed the basis of the understanding of the study. Definition of concepts used in the research project, statement of the research problem and an indication of the research questions, were outlined together with the objectives of the study. This was then followed by hypotheses formulation and ethical considerations. Chapter Two has discussed theoretical and conceptual framework of the study.

Chapter Three outlined instruments that have been used to collect data from different research participants. The chapter explained further how the data had been collected using the qualitative methods. Chapter Four outlined the empirical and exploratory results of the study. The chapter provided evidence of the extent in which employees of the Department of Correctional Services employed mainly at the Polokwane Management Area are affected by the failures of the Management Team to follow the provisions as outlined in the Disciplinary Procedure Manual when handling workplace discipline. The chapter also discussed the analysis of the results of the data collected through the distribution of questionnaires.

## 5.2 Recommendations of the study

Based on the conclusions drawn from the study the following recommendations are thus proposed:

- All employees of the Department of Correctional Services should be given an opportunity to participate in policy making processes so that their concerns

- could be taken into consideration when policies are drafted or amended;
- The Human Resource Directorate should develop a curriculum which places an emphasis on the proper maintenance of workplace discipline as its overall purpose is to generate usable knowledge that can result in the advancement and development of fair labour relations standards in the Department of Correctional Services;
  - Generally to improve things in an institution, the culture needs to be changed quite often through education and training and sometimes through disciplinary action;
  - There is a need to re-develop and re-distribute a Code of Conduct that will be a form of control that sets out the rules of behaviour and values for an ideal Correctional Officer, as explained in the White Paper on Corrections, 2000, with which Senior Managers in this department expect their subordinates to conform to. Such a Code of Conduct will only be accepted if subordinates observe that managers at all levels live this code in their actions, believe and are involved in collective learning;
  - The Department of Correctional Services Management should work together with recognised labour unions in enhancing discipline and professionalism in the department. It is a joint responsibility to teach department of Correctional Services employees that they have an obligation to ensure that they behave according to rules and regulations prescribed by the employer;
  - Timeous checking and dealing with shortcomings that lay a solid foundation for timeous conflict between supervisors and subordinates will help a lot as employees in this department think that supervisors are not treating them as assets, a situation that promote “them and us” culture that is no more acceptable. Thus, the Director: Labour Relations at Head Office should check and ensure that when public managers discipline employees, the process is legal, motivational and effective at all times;
  - The employees of the Department of Correctional Services should subscribe to the view that conflicting interests do occur in any institution and that this is a natural consequence of interactive process between employees, which while having conflicting interests, also share a mutual dependence, common interests and goals;



- The Department of Correctional Services should start to regard its employees as most important and most highly valued resource to care for, empowered and rewarded;
- Sound labour relations and consistency in decision making relating to labour relations between the Department of Correctional Services and its employees, should be promoted at all times;
- Both the employees and employers in the Department of Correctional Services should engage themselves in a self-assessment exercise as a learning opportunity. The main aim here is to afford different components of the department an opportunity of assessing their contribution towards the overall achievement of their department's strategic objectives and organisational effectiveness; and
- The Department of Correctional Services must start to apply discipline in a prompt, fair, consistent, uniform, timely, confidential and progressive manner.

Acknowledgement should be done that, despite the best of management practices in acting and communicating, conflicts between employees and the institutions will occur. A total absence of conflict would be unbelievable, boring, and a strong indication that such conflicts are being suppressed.

Conflicts occur when two or more people or groups perceive that they have incompatibility of goals and interdependence of activity. Unless one believes in a utopian world where all interests are additive, overlapping and compatible, one must admit to possible conflicts accompanied by deliberate behaviour characterized by interference and blockages.

The present researcher believes that there is much work to be done in handling and promoting discipline in the Department of Correctional Services. The topic of discipline, therefore, becomes a significant area of concern in the Department of Correctional Services.

The labour unions have the responsibility of ensuring that their members are disciplined and well behaved to enable them to deliver services efficiently and

effectively. Discipline in the public service should be promoted and enforced. Labour unions should ensure that their members are well conversant with the major laws in the public service that regulate the conduct of public employees.

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## ANNEXURE A: RESEARCH QUESTIONNAIRE

### *AN INVESTIGATION INTO THE IMPLEMENTATION OF THE DISCIPLINARY PROCEDURE MANUAL OF THE DEPARTMENT OF CORRECTIONAL SERVICES AT THE POLOKWANE MANAGEMENT AREA: RESEARCH SURVEY 2006*

WHAT YOU ARE EXPECTED TO DO WITH THE RESEARCH QUESTIONNAIRE:

- Please read all the questions carefully; and
- Please fill all the questions by ticking the appropriate button with a cross, for example :

1.3 What is your level of employment?

- Correctional Officer Grade 1-111
  - Senior Correctional Officer
  - Assistant Director
  - Deputy Director
  - Director
- Upon completion of the questionnaire, please hand the questionnaire to the appointed field worker.

#### 1. DEMOGRAPHIC DATA

*In Section 1 of this survey, the present researcher would like to get a clearer understanding of the profile of members of the Department of Correctional Services at the Polokwane Management Area.*

**1.1 Please indicate your gender :**

- Male
- Female

**1.2 Please indicate your marital status:**

- Married
- Single
- Divorced

**1.3 What is your level of employment?**

- Correctional Officer Grade 1-111
- Senior Correctional Officer
- Assistant Director
- Deputy Director
- Director

**1.4 Please indicate at which institution are you working within the jurisdiction of the Polokwane Management Area:**

- Tzaneen Unit
- Tzaneen community Corrections
- Modimolle Correctional Centre
- Modimolle Community Corrections
- Polokwane Correctional centre
- Polokwane community Corrections
- Area Commissioner's office

**1.5 Please indicate your gross income (your total salary package before any deductions such as tax, medical scheme, pension, etc:**

- Less than R5, 000
- Between R5, 001 and R10,000
- Between R10, 001 and R20,000
- Between R20, 001 and R30,000
- More than R30, 000

**1.6 What age group do you belong to?**

- Up to 19 years
- Between 20 and 29 years
- Between 30 and 39 years
- Between 40 and 49 years
- Between 50 and 59 years
- Between 60 years and above

**1.7 For how long you have been employed in the Department of Correctional Services?**

- 0 to 5 years
- 6 to 10 years
- 11 to 15 years
- 16 to 20 years
- 20 years and above

**2. STAFF PERSONNEL ATTITUDES TOWARDS THE MANAGEMENT OF THE DISCIPLINARY PROCEDURE MANUAL IN THE DEPARTMENT OF CORRECTIONAL SERVICES**

*In Section 2 of this survey, the researcher would like to understand the employees of the Polokwane Management Area's perceptions with regard to the implementation and the management of the Disciplinary Procedure Manual.*

**2.1 The Polokwane Management Team adhere to the Department's Disciplinary Procedure Manual in the management of workplace discipline:**

- Very dissatisfied
- Dissatisfied
- Neither satisfied or dissatisfied
- Satisfied
- Very satisfied
- Not sure

**2.2 The Polokwane Management Team is quite familiar with the rules and steps that regulate the day-to-day functioning of its business as outlined in the Disciplinary procedure Manual:**

- Very dissatisfied
- Dissatisfied
- Neither satisfied or dissatisfied
- Satisfied
- Very satisfied
- Not sure

**2.3 The Polokwane Management Team is not following the provisions as outlined in the Disciplinary Procedure Manual when handling discipline:**

- Very dissatisfied
- Dissatisfied
- Neither satisfied or dissatisfied
- Satisfied
- Very satisfied
- Not sure

**2.4 The Polokwane Management Team sometimes launch formal investigations for less serious transgressions rather than handling the matter informally as provided for in the Disciplinary Procedure Manual:**

- Very dissatisfied
- Dissatisfied
- Neither satisfied or dissatisfied
- Satisfied
- Very satisfied
- Not sure

**3. OVERALL PERCEPTIONS TOWARDS WORKPLACE DISCIPLINE IN THE DEPARTMENT OF CORRECTIONAL SERVICES**

**3.1 Discipline in the Department of Correctional Services, especially at the Polokwane Management Area, is operated in a harsher manner than in the past as managers now have the power to act as they wish:**

- Agree



- Strongly agree
- Disagree
- Strongly disagree
- Neither agree or disagree
- Not sure

**3.2 The conduct of the Department of Correctional Services employees is determined by the morality of the environment in which they work:**

- Agree
- Strongly Agree
- Disagree
- Strongly disagree
- Neither agree or disagree
- Not sure

**3.3 The effective operation of the disciplinary mechanism is one of the key to upholding high standards of conduct and discipline in the Department of Correctional Services within the jurisdiction of the Polokwane Management Area:**

- Agree
- Strongly agree
- Disagree
- Strongly disagree
- Neither agree or disagree
- Not sure

**3.4 An undisciplined workforce lead to disorder in the workplace and eventually to an organization's failure to reach its objectives:**

- Agree
- Strongly agree
- Disagree
- Strongly disagree
- Neither agree or disagree
- Not sure

**3.5 The proper application of corrective discipline contribute to the achievement of organizational objectives as it ensures the co-operation of employees:**

- Agree
- Strongly agree
- Disagree
- Strongly disagree
- Neither agree or disagree
- Not sure

**4. GENERAL**

**4.1 Have you been investigated and/or charged in the past five years?**

- Yes
- No

**4.2 How do you assess your direct supervisor(s) in terms of their quality of maintaining workplace discipline?**

- Responsible
- Unreliable
- Not sure

**4.3 How do you assess the Management Team of your institution (as indicated in 1.4) in terms of their quality of maintaining workplace discipline?**

- Competent
- Incompetent
- Not sure

**4.4 How do you assess the different Specialists (for example, Labour Relations, Legal Services, Corporate Services, etc) at the Polokwane Management Area in terms of their quality of advising in matters of maintaining workplace discipline?**

- Responsible
- Unreliable
- Not sure

**5. Provide any other comments on the implementation of the disciplinary Procedure Manual of the Department of Correctional Services, especially at the Polokwane Management Area :**

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**THANK YOU FOR PARTICIPATING IN THE RESEARCH**

## **ANNEXURE B: CODE OF CONDUCT FOR THE DEPARTMENT OF CORRECTIONAL SERVICES**

### **C.1 RELATIONSHIP WITH THE LEGISLATURE AND THE EXECUTIVE**

*A member of the Department of Correctional services:*

C.1.1 is faithful to the Republic and honours the constitution and abides thereby in the execution of her or his daily duties;

C.1.2 puts the public interest first in the execution of her or his duties;

C.1.3 loyally executes the policies of the government of the day in the performance of her or his official duties as contained in all statutory and other prescripts;

C.1.4 strives to be familiar with and abides by all statutory and other instructions applicable to her or his conduct and duties; and

C.1.5 co-operates with public institutions established under legislation and the constitution in promoting the public interest.

### **C.2 RELATIONSHIP WITH THE PUBLIC**

*A member of the Department of Correctional Services:*

C.2.1 promotes the unity and well-being of the South African nation in performing her or his official duties;

C.2.2 will serve the public in an unbiased and impartial manner in order to create confidence in the Department of Correctional Services;

C.2.3 is polite, helpful and reasonably accessible in her or his dealings with the public, at all times treating members of the public as customers who are entitled to receive high standards of service;

C.2.4 has regard for the circumstances and concerns of the public in performing her or his official duties and in the making of decisions affecting them;

C.2.5 is committed through timely service to the development and upliftment of all South Africans;

C.2.6 does not unfairly discriminate against any member of the public on account of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;

C.2.7 does not abuse her or his position in the Department of Correctional services to promote or prejudice the interest of any political party or interest group;

C.2.8 respects and protects every persons dignity and her or his rights as contained in the constitution; and

C.2.9 recognises the publics' right of access to information, excluding information that is specifically protected by law.

### **C.3 RELATIONSHIPS AMONG EMPLOYEES**

*A member of the Department of Correctional Services:*

C.3.1 co-operates fully with other employees to advance the public interest;

C.3.2 executes all reasonable instructions by persons officially assigned to give them provided these are not contrary to the provisions of the constitution and/or any other law;

C.3.3 refrains from favouring relatives and friends in work-related activities and never abuses her or his authority or influences another employee, nor is influenced to abuse her or his authority;

C.3.4 uses the appropriate channels to air his or her grievances or to direct representations;

C.3.5 is committed to the optimal development, motivation and utilisation of her or his staff and the promotion of sound labour and interpersonal relations;

C.3.6 deals fairly, professionally and equitably with other employees, irrespective of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language;

C.3.7 refrains from party political activities in the workplace;

C.3.8 upholds strong ethical values when dealing with others;

C.3.9 will protect the lives of others; and

C.3.10 treats his or her colleagues with respect and human dignity.

### **C.4 PERFORMANCE OF DUTIES**

*A member of the Department of Correctional services:*

C.4.1 strives to achieve the objectives of her or his institution cost-effectively and in the Public interest;

C.4.2 is creative in thought and in the execution of his duties, seeks innovative ways to problems and enhances effectiveness and efficiency within the context of the law;

C.4.3 is punctual in the execution of her or his duties;

C.4.4 executes her or his duties in a professional and competent manner;

C.4.5 does not engage in any transgression or action that is in conflict with or infringes on the execution of her or his official duties;

C.4.6 will excuse self from any official action or decision-making process which may result in improper personal gain, and this should be properly declared by the employee;

C.4.7 accepts the responsibility to avail herself or himself of ongoing training and development throughout her or his career;

C.4.8 is honest and accountable in dealing with the public funds and uses the public service property and other resources effectively, efficiently, and only for authorised official purposes;

C.4.9 promotes sound, efficient, effective, transparent and accountable administration;

C.4.10 in the course of her or his official duties shall report to the appropriate authorities, fraud, corruption, nepotism, maladministration, and any other act which constitutes an offence, or which is prejudicial to the public interest;

C.4.11 gives honest and impartial advice, based on all available relevant information, to higher authority when asked for assistance of this kind;

C.4.12 honours the confidentiality of matters, documents and discussions, classified or implied as being confidential or secret; and

C.4.13 promotes the Department of Correctional Services' vision and core values positively in the execution of his or her duties.

## **C.5 PERSONAL CONDUCT AND PRIVATE INTERESTS**

*A member of the Department of Correctional services:*

C.5.1 during official duties dresses and behaves in a manner that enhances the reputation of the Department of Correctional services and also respects the corporate wear and adhere to the dress code;

C.5.2 acts responsibly as far as the use of alcoholic beverages or any other substance with an intoxicating effect is concerned;

C.5.3 does not use her or his official position to obtain private gifts or benefits for herself or himself during the performance of her or his official duties nor does she or he accept any gifts or benefits when offered as these may be construed as bribes, and refrains from using the department property for personal gain;

C.5.4 does not disclose information that is protected by law, and/or confidential information.

C.5.5 does not without permission undertake or engage in remunerative outside his or her official duties, or use office equipment for such work.

## **C.6 RELATIONSHIP WITH STAKEHOLDERS**

*A member of the Department of Correctional Services:*

C.6.1 promotes the vision and mission and core values of the Department in dealing with its external stakeholders; and

C.6.2 strives to maintain sound mutual relations with stakeholders.

## **C.7 RELATIONSHIP BETWEEN MEMBERS AND PRISONERS**

*A member of the Department of Correctional Services:*

C.7.1 treats prisoners with necessary dignity and respect;

C.7.2 acknowledges and adheres to the limitations placed on social and intimate relationships with prisoners in his or her care;

C.7.3 will aim at developing prisoners to live law-abiding and productive lives on release from prison; and

C.7.4 follows acceptable directives and practices when dealing with prisoners.

**ANNEXURE C: LIST OF UNACCEPTABLE BEHAVIOUR/OFFENCES  
WITHIN THE DEPARTMENT OF CORRECTIONAL SERVICES**

<b>TRANSGRESSIONS WHICH COULD RESULT IN SUMMARY DISMISSALS</b> [ A ]	<b>OTHER TRANSGRESSIONS</b> [B ]
<p align="center"><b>1. Unauthorised absence</b></p> <p><b>1.1 Absence from work</b> during official working hours without prior permission/leave or a valid reason or staying away for longer than leave granted.</p> <p>- Seven (7) or more days</p> <p><b>1.2 Absence under false pretences</b> (e.g., using sick leave to do private work)</p> <p><b>Note:</b> When an employee is continuously absent for a period of twenty one (21) days without permission or without notifying his employer, such an employee will be considered to have deserted and his service contract with the department will be cancelled automatically without any formal disciplinary enquiry.</p> <p><b>Note:</b> A reasonable enquiry has to be made to trace the whereabouts of the absent employee.</p>	<p><b>1. Unauthorised absence</b></p> <p><b>1.1 Absence from work</b> during official working hours without prior permission /leave or a valid/acceptable reason or staying away for longer than the leave granted.</p> <p><b>1.2 Late for work;</b> lengthened or unauthorised breaks during working hours, leaving early; unauthorised absence/leaving the place of work.</p> <p><b>1.3 Uncommunicated absence</b> (e.g., should a member be absent from duty and fail to inform a responsible manager/supervisor within the line of supervision that he is ill within a reasonable time)</p> <p><b>Note : Perspective regarding reasonable time</b></p> <ul style="list-style-type: none"> <li>• Minor illness-reasonable to inform manager/supervisor before the start of a shift;</li> <li>• Serious illness such as hospitalisation/unconsciousness – reasonable time will be re-active (request family/next of kin/friend to inform manager/supervisor;</li> <li>• Test of the r</li> <li>• “Reasonable man” shall apply.</li> </ul>
<p><b>2. Unsatisfactory performance</b></p> <p><b>2.1 Gross negligence in</b> the execution of duties.</p> <p><b>Note:</b> Gross negligence is defined as any act or omission without considering the possible consequences thereof and where such consequences could be dangerous to human life or limb- an element of</p>	<p><b>2. Unsatisfactory performance</b></p> <p><b>2.1 Unsatisfactory work</b> due to negligence, apathy, carelessness, or a lack of interest (e.g., failure to meet return dates, on-compliance with directives, etc.</p> <p><b>2.2 Sleeping on</b> duty whilst guarding prisoners/not being in possession of a firearm</p>

<p>recklessness should be present.</p> <p><b>2.2 Sleeping on duty whilst guarding prisoner/being in possession of a firearm.</b></p>	
<p style="text-align: center;"><b>2. Gross Insubordination</b></p> <p><b>3.1 Gross wilful/intentional Insubordination</b>, e.g., refusal to work or to carry out legitimate instructions or any form of gross insubordination towards seniors without just or reasonable cause.</p> <p><b>Definition of insubordination</b></p> <p><b>Gross Insubordination</b> – include amongst others –the refusal to obey a lawful and reasonable command/request/instruction, resistance to or defiance of authority, or to be disobedient or rebellious and the refusal is wilful/intentional and very serious – a serious challenge to the employer’s authority.</p> <p>The insubordination must be extremely severe and gross.</p>	<p><b>3. Insubordination</b></p> <p><b>3.1 Insubordination</b>, e.g., refusal to work or to carry out legitimate instructions or any form of insubordination towards seniors without just or reasonable cause.</p> <p><b>Definition of insubordination</b></p> <p><b>Insubordination</b> – Include amongst others- the refusal to obey a lawful and reasonable command/request/instruction, résistance to or defiance of authority, or to be disobedient or rebellious.</p>
<p><b>4. Dishonesty</b></p> <p><b>4.1 Bribery or corruption:</b> Presenting or accepting or any attempt to present or accept bribes, or to influence someone or attempt to influence someone to corruption.</p> <p><b>4.2 Assisting prisoners to escape</b></p> <p><b>4.3 Furnishing of false statements:</b> The intentional giving of false evidence or statements or any attempt to give false or misleading evidence/make a false or misleading statement.</p> <p><b>4.4 Forgery or Fraud:</b> The forgery or alteration of any documentation or any other information, or an attempt to commit fraud, alter or misrepresent, or generally mislead in whatever respect (e.g., knowingly handing in forged</p>	<p><b>4. Dishonesty</b></p> <p><b>4.1 Bribery or corruption:</b> Falling to offers made to a person/fellow employee or the Head of Prison or to the Area Manager, or any other authority.</p>



<p>medical certificates, or giving false evidence during disciplinary or grievance procedures).</p> <p><b>4.5 Theft/unauthorised possession of government property:</b> The theft/unauthorised possession of or any attempt to possess property that belongs to the Department or a prisoner, or any other employee (if work-related).</p> <p><b>4.6 Use of prison labour for personal purposes:</b> To instruct a prisoner/probationer under his supervision/control, or any other person subject to community corrections without permission to do so, to perform labour in respect of which he or any other person will benefit, irrespective of whether such labour is done against repayment.</p> <p><b>4.7 Provision, receipt or claiming of money or any other article/reward to/from prisoners</b> or any other person subject to community corrections : other than in the performance or in terms of the requirements of his duties, to lend, sell, give or issue an article, tools or any other object to a prisoner or buy, borrow or receive as a gift, advantage, profit or other personal reward from a prisoner, or contrary to his duties and under any pretences, accept a promise of or conspire to obtain any of the above from a prisoner or a family member or friend of such prisoner.</p>	
<p><b>5. Disorder/irregular/uncontrolled behaviour</b></p> <p><b>5.1 Threatened and/or incite participation in violence and/or disruption of work and/or in an unprotected strike.</b></p> <p><b>5.2 Victimisation of employees</b> e.g. for their membership of a trade union, for reporting corruption, etc.</p> <p><b>5.3 Intimidation of fellow workers.</b></p>	<p><b>5. Disorderly/irregular/uncontrolled behaviour</b></p> <p><b>5.1 Threatening to cause bodily harm or fighting</b> while on duty.</p> <p><b>5.2 Calling and holding of unauthorised meetings on Departmental property during or after working hours:</b> Prior arrangement must be done with the Head of Prison (in case of meetings at prisons) and from the Area Manager (any other place on the prison reserve) for all meetings which take place</p>

<p><b>Note:</b> Intimidation is defined as – to inspire with fear, cow, specifically to influence conduct to compel someone to take action which is considered to be undesirable.</p> <p><b>5.4 Sabotage:</b> Any intentional or malicious act to interfere with the records and operations of the Department.</p> <p><b>5.5 Sexual harassment:</b> Behaviour of a sexual nature towards fellow employees and/or prisoners, or any other person subject to community corrections, <b>which</b> injures the sexual dignity. Such behaviour is unacceptable if it is offensive to the recipient.</p> <p><b>5.6 Publication or unauthorised use/misuse of confidential information or any other behaviour which endangers the safety of the Department or which indicates harmful feelings.</b> This also includes the publishing of information obtained in the course of an employee’s work, other than in the performance of his official duties, or the use of information for purposes other than the performance of his activities or official duties, irrespective of whether or not the information is made public.</p> <p><b>5.7 Assault while on duty :Including fighting.</b>(Objective self-defence will not constitute assault)</p> <p><b>5.8 Firearms/other dangerous weapons:</b> Unauthorised possession of any fire-arm or other dangerous weapon/object whilst on duty.</p> <p><b>5.9 Pointing of firearm:</b> To direct a firearm at any person (except in the scope of duty) or fire a firearm negligently or recklessly.</p> <p><b>5.10 Breaching of internal security arrangements.</b></p> <p><b>5.11 Wilfully, intentionally</b></p>	<p>on Departmental property (The Labour Relations Act, 1995 and the recognition agreements must be complied with).</p> <p><b>5.3 Participation in unprotected industrial actions/strikes/pickets</b> (LRA, Schedule 8,Code of Good Practice: Dismissal, Item 6 (1)]</p> <p><b>5.4 Damaging the public image of the department:</b> Involvement in disorderly behaviour/conduct in the performance of duties in public or to act rudely when performing duties that could damage or adversely affect the public image of the Department.</p> <p><b>5.3 Negligent behaviour or actions which endangers a person’s own or another person’s safety or health or negatively impacts on the relationship between employees.</b></p> <p><b>5.4 Gambling during working hours:</b> Participation in any form of gambling.</p> <p><b>5.5 Making a fire in an area where this is prohibited.</b></p> <p><b>5.6 Failure to report an injury or accident.</b></p> <p><b>5.7 Failure to comply with safety standards and procedures.</b></p> <p><b>5.8 Misuse of position for personal gain to the disadvantage of the employer.</b></p> <p><b>5.9 Use of improper language to any other person.</b></p> <p><b>5.10 Humiliating accusations directed at any other person.</b></p> <p><b>5.11 Indecent gestures and/or signs made to any other person.</b></p> <p><b>5.12 Without return approval from the</b></p>
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<p>endangering the lives of self or others by disregarding safety rules or regulations in accordance with the Occupational Health and Safety Act.</p> <p><b>5.12 Misuse of position in the Department/Public Service to promote or to prejudice the interest of any political party</b></p> <p><b>5.13 Wilfully or intentionally discriminating against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the RSA Constitution.</b></p>	<p>commissioner, performing work during working hours for compensation in a private capacity for another person or organisation.</p> <p><b>5.13 Breaching of conditions pertaining to authorised private work.</b></p> <p><b>5.14 Discriminating against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the RSA Constitution.</b></p> <p><b>5.15 Operating a money lending scheme or any other business (without permission) for own benefit during working hours or from the premises of the Department.</b></p>
<p><b>6. Alcohol and drugs</b></p> <p><b>6.1 Trading in prohibited drugs:</b> Trading also means supplying without return.</p> <p><b>6.2 Trading in alcohol on Departmental premises without official authorisation:</b> Trading also means supplying without return.</p> <p><b>6.3 Being in possession of prohibited drugs on Departmental premises.</b> “Possession” does not only mean “on his person” but also in a briefcase or other luggage compartment which has control over in/at the place of work.</p> <p><b>6.4 Permitting a prisoner, or any other person subject to community corrections to take alcohol or prohibited drugs or to have the above in his/her possession.</b></p> <p><b>6.5 Using of alcohol without authorisation whilst being on duty.</b></p> <p><b>6.6 Using of prohibited drugs whilst being on Departmental premises.</b></p>	<p><b>6. Alcohol and drugs</b></p> <p><b>6.1 Unfit to perform duties properly due to the influence of alcohol or drugs.</b></p> <p><b>6.2 Being in possession of alcohol in his place of work, without authorisation.</b> “Possession” does not only mean “on his person” but also in a briefcase, luggage compartment which he has control over in/at the place of work.</p>
<p><b>7. Government transport</b></p>	<p><b>7. Government transport</b></p>

<p><b>7.1 Driving a government vehicle under the influence of alcohol and/or drugs.</b></p> <p><b>7.2 Driving a government vehicle without the necessary permission or without a valid driver's licence.</b></p> <p><b>7.3 Allowing an unauthorised person to drive a government vehicle whilst being aware of or reasonably expected to be aware of the fact that the said person is not authorised to drive a vehicle.</b></p>	<p><b>7.1 Misuse of a government vehicle</b> e.g., private use of a government vehicle.</p> <p><b>7.2 Reckless and/or negligent driving of a government vehicle.</b></p> <p><b>7.3 Contravening the traffic laws and the municipal bylaws whilst driving a government vehicle.</b></p> <p><b>7.4 Neglecting to comply with logistics and other directives in respect of the use of government vehicles :</b> General maintenance of the vehicle, failure to keep record, etc.</p>
<p><b>8. Government property</b></p> <p><b>8.1 Damage: Deliberate damaging of departmental property or property hired by the department or allowing property in his care to be damaged.</b></p> <p><b>8.2 Misuse/use of government premises to store stolen goods.</b></p>	<p><b>8. Government property</b></p> <p><b>8.1 Loss through negligence:</b> Loss of departmental property through carelessness or negligence or when an employee cannot account for such property to the satisfaction of the department.</p> <p><b>8.2 Misuse:</b> Incorrect use of property or premises (using equipment for other purposes than it is intended for-in the workplace).</p> <p><b>8.3 Unauthorised use of departmental/government property for personal purposes.</b></p>

## **ANNEXURE D: THE DISCIPLINARY HEARING PROCEDURE FOR THE DEPARTMENT OF CORRECTIONAL SERVICES (ENSURING PROCEDURAL FAIRNESS)**

### **1. Investigation**

Upon being informed of an alleged transgression, the direct supervisor/investigator appointed by Management must investigate the incident. The investigation can be informal (in the event of a minor transgression) or formal (in the event of a more serious misconduct).

The supervisor must inform the employee who is the object of an investigation against him, the results of which may be used at the disciplinary inquiry.

An investigation should be finalised within two weeks from the date that the incident has come to the attention of the employer. If the timeframe cannot be met, the parties involved must be informed accordingly with the reasons for the delay. Chairperson and initiator confirm that all involved are present.

### **2. Incident Report**

Once an investigation has been completed and a decision taken to discipline an employee the direct supervisor (Initiator) must complete an incident report. This report must include written statement of witnesses or other persons who were involved in the incident where exists.

### **3. Notice of disciplinary hearing/inquiry**

- 3.1 Employees must be given reasonable time, but at least (7) working days' written notice of the disciplinary hearing.
- 3.2 The notification must be in writing on the applicable notification form and must indicate the alleged transgression as well as the date, time and venue of the hearing.
- 3.3 Upon being informed/notified of a disciplinary hearing, the employee may be request the presence of his/her shop steward/union official/fellow employee to assist him/her.
- 3.4 Together with the notification, the employer must furnish the alleged transgressor with a summary of the investigation report and with a copy of statements.

### **4. Time Frame**

The formal disciplinary hearing should be finalized within a period of 30 days from the date of finalization of the investigation. If the time frame cannot be met, the parties involved must be informed accordingly with the reasons for the delay. If the employer, without good reason, fails to institute disciplinary proceedings within a period of 3 months after completion of the investigation, disciplinary actions shall fall away.

## **5. Arranging a disciplinary hearing**

The initiator and the Head Personnel shall be co-responsible for arranging a venue, date and time for a disciplinary or appeal hearing and for notification/communication to involved parties. The venue should be large enough accommodate the persons who ought to be present. The proceedings of disciplinary and appeal hearings should be tape-recorded.

## **6. The pre-hearing phase**

6.1 The alleged transgressor and his representative must be given the opportunity to study any relevant documents before the start of the hearing.

6.2 This arrangement would however not preclude any of the parties to submit additional documentary evidence that may be relevant to the case and that becomes available shortly before or during the course of the hearing.

6.3 Since discipline is a confidential matter, hearings shall be held in camera and only those persons who may be present in terms of the disciplinary procedure may attend the hearing.

6.4 A pre-hearing meeting may take place between the Initiator and the representative of the alleged transgressor in an attempt to exchange information, clarify charges and to eliminate points that may obstruct the flow of the hearing.

## **7. The following is a pro-forma model to be used to ensure procedural fairness and comply with the Audi alteram partem-rule:**

- 7.1 Chairperson and Initiator confirm that all involved are present.
- 7.2 Chairperson welcomes the persons present and introduces him/herself and the persons present to one another.
- 7.3 Chairperson explains the procedure that will be followed and outline the rules that will prevail during the hearing, e.g., parties are to speak through the chair.
- 7.4 Witnesses present must be requested to leave the venue at that stage.
- 7.5 Chairperson addresses the alleged transgressor about his/her rights.
- 7.6 The Chairperson confirms whether the alleged transgressor received a copy of the incident report and sufficient notification of the disciplinary hearing.
- 7.7 The chairperson inquires whether a pre-hearing meeting has taken place between the parties and whether there are still any points to be eliminated.
- 7.8 The chairperson reads the charges/allegations to the alleged transgressor and makes sure that he/she understands it.
- 7.9 The Chairperson requests the alleged transgressor to plead on the charges (s). This may include plea of guilty, plea of not guilty, already found guilty on the same charges or already acquitted on the same charges.
- 7.10 The Chairperson requests the Initiator to present his/her case (no evidence is led at this stage).
- 7.11 The Chairperson requests the alleged transgressor/representative to make his/her opening statement (no evidence is led at this stage).
- 7.12 The Chairperson requests the initiator to present his/her case:
  - The Initiator may call and question witnesses (no leading questions may be allowed);

- The alleged transgressor/representative may cross-question the witness of the Initiator (leading questions are allowed);
  - Witnesses must leave the venue after testifying;
  - The Initiator may re-examine his/her witness, leading questions are allowed;
  - If the Initiator leads evidence by him/herself; the alleged transgressor/representative may cross-question him/her;
  - Evidence by the alleged transgressor or a witness may not be interrupted to allow for cross-examination in between.
- 7.13 If the representative of the alleged transgressor is of the opinion that the Initiator has not proved his/her case on the balance of probabilities, he/she may request the Chairperson to consider the acquittal of the alleged transgressor at this stage.
- 7.14 The Chairperson requests the accused/representative to lead evidence in his/her defence:
- The accused/representative may call and question his/her witnesses (no leading questions are allowed).
  - The Initiator may cross-question the witness of the defence (leading questions are allowed);
  - The alleged transgressor/representative may re-examine his witness (leading questions are allowed);
  - If the alleged transgressor gives/leads evidence, he/she may be cross-questioned by the Initiator.
  - Evidence by the alleged transgressor or a witness may not be interrupted to allow for cross-examination in between.
- 7.15 The Chairperson requests the Initiator to present closing arguments (no new evidence may be led).
- 7.16 The Chairperson requests the alleged transgressor/representative to present closing arguments (no new evidence may be led).
- 7.17 The Chairperson summarises the evidence heard.
- 7.18 The Chairperson presents his/her summary. The Chairperson checks his summary with both the initiator and the representative.
- 7.19 The Chairperson adjourns the hearing to consider all the evidence heard in order to make a finding of guilty/not guilty.
- 7.20 The Chairperson reconvenes the hearing and presents his/her finding. The chairperson must motivate his/her findings. If the alleged transgressor is found not guilty, the alleged transgressor is acquitted and the hearing ends.
- 7.21 If the alleged transgressor is found guilty, the Chairperson requests:
- The HR representative to present the factual information regarding the service record of the accused-referring to warnings about applicable convictions still valid, length of service, etc.
  - The Initiator to present aggravating/mitigating/extenuating factors and to address him on a suitable sanction;
  - The alleged transgressor/representative to present mitigating, extenuating factors and to address him on a suitable sanction.
- 7.22 The Chairperson adjourns the hearing to consider the further information and to come to a decision about a suitable disciplinary sanction.
- 7.23 The Chairperson reconvenes the hearing and conveys his/her decision. The Chairperson must motivate his/her decision.

- 7.24 The Chairperson informs the alleged transgressor of his/her right to appeal against the verdict and sanction and explains the process to be followed to apply for an appeal.
- 7.25 with the assistance of the HR representative, the Chairperson complete the applicable form-for warning or dismissal.
- 7.26 The Chairperson adjourns the hearing.