

**The goal of a disciplinary hearing is to ensure that all parties are given the opportunity to state their case, that the correct procedure is followed to determine if the employee is guilty of the accused misconduct and if so, the appropriate sanction is reached. Under no circumstances may an employee be dismissed without holding a disciplinary hearing.**

Misconduct committed by an employee outside the working environment may be so. One of the role players in a disciplinary hearing is the chairperson, who is responsible for keeping the hearing in good order and conducting the hearing in an orderly manner free of anger, swearing and other insulting behaviour or language.

## **DURING A DISCIPLINARY HEARING, THE CHAIRPERSON WILL:**

- make it clear from the start that abuse and insults will not be tolerated and if it does occur, that person may be ordered to leave the room;
- listen to all the evidence presented during the hearing and adjourn after the hearing to study the evidence;
- make a finding of guilty or not guilty based on presented evidence – the employee will also have the opportunity to state mitigating factors and the employer to state aggravating factors;
- make a recommendation regarding an appropriate sanction in line with the disciplinary code – if the employee is unhappy with the ruling, he/she may submit a written notice of appeal within five days, stating reasons on which the appeal is based. The appeal hearing will be held under a different chairperson.

The chairperson must be objective and may not have any knowledge regarding the case prior to the hearing. It is not the chairperson's duty to prove if the accused employee is guilty or not.

The employer (or person acting on behalf of the employer) must lead all evidence, including calling witnesses, presenting documentation and/or video footage and emphasise the trust relationship between the employer and employee. The employer must take care to investigate and gather evidence in preparation of the disciplinary hearing to ensure that the employee is not found 'not guilty' due to a lack of evidence presented.

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- ***Training on workplace discipline***
- ***Any other ER/IR related matters***

***NB: Please note that this does not in anyway a Legal advice. You are advised to consult with your Legal expert or your ER specialist.***