



Organisational Human Resources Policies and Procedures Manual

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Contents

1. Overview of Policy Guidelines.....	4
2. Our Organisation.....	4
3. Governance Structure.....	5
4. Values Statement.....	5
5. Recruitment and Selection of Staff.....	7
6. Staff orientation.....	10
7. Conditions of Employment.....	12
7.1 Contract of Employment	12
7.2 Probation and Review	12
7.3 Notice Period	12
7.4 Relocation	12
7.5 Hours of Work	13
7.5.1 Ordinary Hours.....	13
7.5.2 Overtime.....	13
7.6 Public Holidays	14
7.6.1 Annual Leave.....	14
7.6.2 Sick Leave.....	15
7.6.3 Maternity Leave.....	16
7.6.4 Adoption Leave.....	17
7.6.5 Paternity/Parental Leave.....	18
7.6.6 Family Responsibility Leave.....	18
7.6.7 Study and Examination Leave.....	18
7.6.8 Unpaid Leave.....	19
7.6.9 Accumulated Leave.....	19
7.6.10 Application for Leave.....	19
7.7 Absenteeism	19
7.8 Remuneration	22
7.8.1 Payment of Salaries.....	22
7.8.2 Review of Salaries.....	22
7.9 Annual bonus	22
7.10 Deductions	22

7.11	<i>Life, Disability and Provident Cover</i>	23
7.12	<i>Compensation for Occupational Injuries and Diseases Act (COIDA)</i>	23
7.13	<i>Medical Aid</i>	23
7.14	<i>Termination of Employment</i>	23
7.15	<i>Staff Passport Renewal</i>	24
7.16	<i>Retrenchment</i>	25
8.	Alcohol and drugs in the workplace.....	26
9.	Smoking in the Workplace	27
10.	Appropriate Attire.....	27
11.	Private Work	27
12.	Organisational consulting work	27
13.	Dispute Resolution.....	28
13.1	Grievance Policy and Procedure (“GPP”)	29
13.2	Disciplinary Code and Procedure (“DCP”)	32
14.	Incapacity / Poor Performance Procedure (“PPP”).....	41
14.1	<i>Introduction</i>	41
14.2	<i>Reasons for incapacity / non-performance</i>	41
14.3	<i>The counseling procedure</i>	41
14.4	<i>Assistance and review of performance</i>	42
14.5	<i>Enquiry</i>	42
14.6	<i>Other forms of incapacity</i>	43
15.	Sexual Harassment Policy	44
15.1	<i>Principle</i>	44
15.2	<i>Scope</i>	44
15.3	<i>Forms of Sexual Harassment</i>	44
15.4	<i>Procedure for handling Sexual Harassment</i>	45
15.5	<i>Procedures for Settling Complaints and Grievances Relating to Allegations of Sexual Harassment</i>	46

1. Overview of Policy Guidelines

To deliver on its mandate, MINDS seeks to attract and retain employees with relevant qualifications, experience and work ethics. In this regard, MINDS is committed to a work environment that encourages a high-level of employee satisfaction. This includes helping employees manage work-related and personal issues.

In all of the employment practices including recruitment, hiring, retention, grievance and disciplinary processes, MINDS strives to ensure that the organisation is free of barriers, both systematic and deliberate, that may cause discrimination.

MINDS is committed to working in the most cost effective and responsible way possible, using the resources that donors invest in our work to maximize organisational performance. Our policies must be informed by considerations of financial and human sustainability.

This set of policies related to employment conditions is not a contract or guarantee of employment or guarantee of terms and conditions of employment with any staff member on an individual basis. The conditions of employment, which are particular to each individual, are set out in the contract and job description.

These policies have been developed to conform to current best practice and legal requirements and to support the achievement of MINDS's goals and objectives. They do not apply to individuals undertaking specific assignments for MINDS on a consultancy basis.

2. Our Organisation

The Mandela Institute for Development Studies (MINDS) is a continental institute that seeks to address the short, medium, and long-term development challenges in Africa in a holistic and comprehensive manner.

MINDS emerged out of the observation that development efforts in Africa have failed to meet expectations with respect to social, institutional and economic outcomes in comparison to other regions of the world such as Asia.

The Institute seeks to influence policy formulation and practice to address Africa's development challenges. It does so by conducting rigorous studies on the causes of Africa's under-performance and creating a platform for probing dialogue amongst African leaders, thinkers, policy makers and policy implementers. The specific areas of MINDS work are:

Culture Issues – What is, and what should be, the role of Africa's cultures in shaping development and governance practice?

Governance Issues – Are the models of government and governance that most African countries are using appropriate for Africa?

Economic Issues – How does Africa effectively use its rich indigenous knowledge and practices to stimulate a broad-based economic resurgence so as to catch up and keep up with the rest of the world?

Leadership development – How can the next generation of African leaders be capacitated to facilitate for economic integration and social cohesion?

MINDS aims to bring about a profound change in the course that Africans and the African continent will take in tackling the social, economic and political challenges that face them in the 21st century and into the future.

The primary guiding principle to all of MINDS' work is to make the approach to the development challenge contemporary and appropriate to values, cultures and aspirations of African people rather than a carbon copy of other nations' constructs of what Africa needs. This position, however, should be arrived at through rigorous analysis of the challenge at hand rather than through an emotional rebellion against prescriptions which come to fill an ideas void.

3. Governance Structure

MINDS is registered as a charitable trust under South African law. MINDS is run under the auspices of a Board of Trustees, an Advisory Board and eminent African elders as Patrons. The three governance bodies contain within them people with credibility, expertise and experience in a broad range representative of the disciplines considered important in the study of, and research into development work.

4. Values Statement

The central hypothesis in setting up MINDS is that effective and sustainable development can only be achieved if development policies and practices are founded on the cultural heritage, value and knowledge systems and institutions of the people who are the subjects or beneficiaries of the development interventions.

Mission

MINDS mission is to provide a forum for dialogue, information dissemination and networking, underpinned by rigorous research on the different elements of African heritage; in order to shape policy and practice on governance, economic development and the evolution of African institutions.

Vision

MINDS vision is to contribute to having African societies attain democracy, economic prosperity, social inclusiveness as well as their rightful place in the global community on the basis of a keen self-awareness.

Values

The core values of MINDS are:

Openness: MINDS endeavors to execute its mandate in an open and transparent manner, making its work accessible to all those who may be interested.

Inclusiveness: In all its programs, MINDS embraces diversity to stimulate constructive tension.

Collaboration: To meet the demands of the scarcity of resources, MINDS runs on a lean core organisation. MINDS endeavors to minimize replication of work done by other reputable institutions. Rather, a fully collaborative approach is used to encourage networking with those institutions doing work that has a bearing on the MINDS agenda.

Dialogue: The convening of dialogues for interested and relevant stakeholders is central to the MINDS mode of engagement. Through dialogues, MINDS disseminates information and knowledge, creates opportunities for the exchange of ideas to influence policy formulation and development practice and provides a safe space for networking.

Rigor: maintaining a very high standard of delivery. All activities at MINDS are underpinned by a rigorous approach to the work at hand.

5. Recruitment and Selection of Staff

MINDS is committed to working with staff in developing their skills and qualifications and recognizes the need to encourage and to promote qualified employees within MINDS whenever possible.

MINDS is committed to ensuring that recruitment and selection for all vacancies are conducted in a fair and equitable manner, and adheres to the following protocol for all full-time vacancies

- All positions are posted in a consistent format to ensure the essential duties and qualifications are communicated to applicants.
- Selection criteria are based on the position requirements.

5.1 Advertising the Position

Includes the following important information:

- Job title, hours of work, location, and duration of employment opportunity.
- Key job responsibilities and qualifications, referencing the Job Description.
- Process of the application/resume, posting date and deadline for submission of interest.
- Classification and status of the position – i.e. full-time or part-time.
- A statement that MINDS is an equal opportunity employer.

Normally jobs and positions at MINDS will be advertised externally (exceptions may be applied to part-time or temporary positions) to ensure a fair and equitable selection of the most qualified candidates. From time to time MINDS reserves the right to make appointments to individuals, without a wide recruitment strategy, for positions that require highly specialised knowledge, experience and skills. MINDS may also appoint staff internally to take on new roles or expanded tasks.

5.2 Application Review

The Executive Director, or someone mandated by him/her such as a hiring agency or internal selection panel, is responsible for reviewing all applications received in accordance with the key qualifications and responsibilities of the position. A short-list of candidates who appear to meet the essential qualifications of the position is drawn up.

Applicants may be asked to submit a writing sample and/or respond to a questionnaire or test in addition to submitting a resume. An interview schedule of the short-listed candidates and

a set of interview questions are prepared in advance of the interview along with anticipated responses and a corresponding grading system.

5.3 Interview

Interview questions relate specifically to the job requirements. The interview is conducted by a team of a minimum of 2 people, including one manager. For the Executive Director position, a minimum 3-person interview team is required. Notes are taken during the interview to ensure the interview responses can be carefully reviewed, considered, and rated/ranked after the candidate has left the room.

In some cases, the interview may consist of a formal presentation/test for technical skills by the candidates. In these circumstances, the candidates will be advised in advance of the presentation or test.

If there is no clear decision a second interview of the top qualified candidates may be required. This final interview includes the selection panel and/or the Executive Director.

5.4 References

Employment references are an important and integral part of the selection process. It is MINDS's policy to ensure that procedures for the collection and disclosure of reference information are practiced consistently and in keeping with the principles set out in this policy.

Reference checks should be undertaken for all positions advertised. Individuals who check references on behalf of MINDS will follow principles of equal treatment of candidates and the commitment to fulfill relevant legislation of the country where the staff being hired is located.

They should also inform external referees of the relevant requirements when they contact them for references. These requirements include the following principles:

- A minimum of two reference checks should be done after the successful candidate is offered the position contingent on reference checks.
- The only information sought is that which is relevant to the requirements of the job.
- Reference questions should be related to the key competencies and qualifications that are relevant to the job being sought.
- When references are received on the telephone, notes should be made of the conversation and kept in the relevant personnel file. Information that is given in a reference must be recorded and forms part of the documentation considered in the final selection process.

Written consent is always required when providing or conducting an employment reference.

MINDS is committed to fulfill legal requirements on reference checks as established in the legislation of the country where the person is being hired.

5.5 Final Selection Decision

The successful and unsuccessful interview candidates are notified in writing of the selection decision. Upon request, unsuccessful interview candidates may be given feedback as to why they were not selected.

For internal MINDS candidates, feedback is essential to help employees as part of their learning and development in the organisation.

A formal notification is sent to all MINDS employees welcoming the new employee to the MINDS team, once all procedures have been completed (references, acceptance of draft contract).

5.6 Employment of non-South African citizens

It is unlawful to employ non-South African citizens who are not in possession of the necessary work permits and/or official documentation which entitles them to work legally in this country. Not only is this practice illegal, but such actions place the organisation at risk of receiving fines from the Department of Labour and prejudices legitimate applications for work permits for individuals whose services or expertise is needed.

6. Staff orientation

It is important that new employees are integrated into the organisation so that they can effectively fulfil their responsibility as soon as possible. The purpose of the staff orientation programme is to make sure that new members of staff understand the organisation and their job in the organisation, and what is expected of them.

A good orientation programme will help the new staff member gain an understanding of the culture of the organisation – standards of work and behaviour, power and accountability structures, levels of formality and flexibility.

The orientation programme is planned before the new staff member arrives and involves passing on necessary information and skills to the new employee. Usually, the best person to do this is the Manager responsible for the new employee's performance who will be responsible for supervising the employee.

There is certain information that every new employee needs to know about the organisation. This is the core orientation programme. All the written information should be included in an orientation pack. This must be ready and waiting for the employee on his/her first day at work.

An orientation pack should include:

- A list of what will be covered in the orientation programme
- The orientation time-table
- A list of all other employees and their job titles and departments
- A list of committee members or elected officials of the organisation
- The organogram
- The latest annual report, pamphlets about the organisation
- Publications that need to be read
- Conditions of employment
- Policies on safety, health, confidentiality
- Essential procedures such as procedures when taking phone messages etc.
- Minutes of recent meetings relevant to the new employee
- A brief history of the organisation
- Other information as appropriate

In addition to the core induction programme, there is also the individual induction programme, which relates directly to the new employee's job. The employee's job description is an important tool to use when discussing all the tasks the new employee is expected to perform.

The person drawing up the orientation programme needs to brief anyone who will be involved in the process about what his/her role will be and give him/her a copy of the list of what will be

covered in the programme. He/she also needs some idea of when they will be called upon to work with the new employee.

The important thing to remember for anyone who participates in the induction programme is that the process is important for the organisation. It should not be rushed, avoided, ignored or canceled.

There are also informal ways of integrating a new staff member. This usually has more to do with the colleagues than the supervisor and they include things such as labelling the new employee's pigeonhole before he/she arrives on the first day, clearing an office space for the new staff member, and the like.

7. Conditions of Employment

We believe that employees of MINDS have a special responsibility to adhere to the highest standards of ethics and professionalism.

7.1 Contract of Employment

Upon recruitment and before beginning work at MINDS, employees will be given a letter of appointment to be signed by both the staff member and the Director or his/her duly authorized representative and which is binding on both parties. The duration of staff contracts, even when permanently recruited, will be dependent on the availability of funds.

7.2 Probation and Review

All employees are employed on a three-month probationary period. On completion of their probationary period and review of their performance, employees will be advised in writing whether the appointment is terminated, confirmed or whether it is extended for a maximum of a further three-month term. The application of laws will be specified in each employee's employment contract.

7.3 Notice Period

An employee may give notice of his/her resignation or termination of employment, within the following time periods:

- One (1) weeks' notice, if the employee has been employed for six months or less;
- Two (2) weeks' notice if the employee has been employed for more than six months but less than one year;
- Four (4) weeks' notice if an employee has been employed for one year or more.
- Three (3) month notice period in the case of the Executive Director
- Two (2) month notice period in the case of the Programme Director, and any other director level position

The above notice periods will also apply in the event that it is the employer terminating the employment of an employee.

7.4 Relocation

MINDS does not currently pay relocation costs because of financial constraints. However, funds permitting, MINDS will seek to employ local people to occupy positions below the Programme

Management level. If people choose to move from one province or country to another to fill positions below the management level, it will be at their own cost.

There is an underlying assumption that an employee that chooses to move from one country to another to work for MINDS will do so with the full knowledge that there will be certain responsibilities that they should carry in making this choice.

MINDS will pay visa costs (legal and processing costs such as photocopies, postage and courier, police clearance etc.) for employees at Management level and above who relocate from one country to another for purposes of being employed for a period of more than twelve (12) months. If it is less than twelve (12) months this contribution towards visa costs will be negotiated on a case-by-case basis.

The MINDS Executive Director, in consultation with the Board of Trustees, may on a case-by-case basis, budget permitting, negotiate additional contributions to relocation costs of employees at Management level and above.

7.5 *Hours of Work*

7.5.1 *Ordinary Hours*

Normal hours of work are 9h00 to 17h00 Mondays to Fridays including a one-hour lunch break. Any variation of the working hours will be subject to approval by the MINDS Executive Director. The ordinary working hours for full-time employees amount to 40 hours per week.

7.5.2 *Overtime*

The following categories of overtime apply:

Professional and managerial staff, by the nature of their work, are expected to work hours beyond ordinary working hours. They will not be paid overtime, but any overtime worked in excess of 8 hours per week may be compensated by time off determined by the Executive Director and based on organisational requirements. The leave must be taken within two months of the overtime worked, or the leave will be forfeited.

Administrative staff earning less per annum than the amount stipulated in the Basic Conditions of Employment Act (BCEA) (“the threshold amount”) will be granted commensurate time off in respect of overtime worked in accordance with the provisions of the BCEA or relevant legislation specific to the country in which the staff member is located. In South Africa, the current rate is 90 minutes of paid leave for every 60 minutes of overtime worked. Should the law change, or a variation to this basic condition of employment be granted, the applicable overtime payable to employees in this policy will be deemed to have been amended accordingly.

If an employee intends to work any overtime that he/she will claim leave for, then the employee must have the prior approval of the line Manager and the Executive Director. The organisation reserves the right not to allocate leave in respect of overtime if the employee did not obtain authority before the overtime was worked.

7.6 Public Holidays

All official public holidays in the Republic of South Africa are recognized.

7.6.1 Annual Leave

Leave is administered on the basis of an annual leave cycle, which commences on the first day of each calendar year and ends on the last day of each calendar year. The leave entitlement is 21 working days for each completed leave cycle, and a pro-rata number of days for each uncompleted leave cycle. This translates to 1.75 leave days accumulated in each month of employment in a calendar year.

Generally, the offices will be closed in mid-December each year, and re-open during the first or second week of January. The Executive Chairperson or the Executive Director will inform employees of the precise dates when the office will close. In case of emergencies or for urgent matters, staff may be called upon to either shorten their end of year holidays or may be required to work remotely to further critical aspects of the organisation's work.

In the case of annual leave, the decision to grant leave rests with the Manager, provided that the staff member has accrued leave due to them. Leave applications must be presented to Managers at least two (2) weeks in advance. It is at the Manager's discretion to postpone the granting of leave to ensure the efficient running of the organisation's operations, provided that the annual leave is to be taken within the annual leave cycle. Managers are obliged to respond to an employee's request for leave within five (5) working days of the application being submitted to them.

Employees cannot take annual leave during the first three months of their employment with the organisation. However, annual leave entitlements will be retroactive to the first day of employment. Requested leave during an employee's first three months will be considered leave without pay (LWOP) and the employee's pay for that month will be adjusted accordingly.

Annual leave up to a total of ten (10) days leave may be accumulated per annum. However, this leave must be taken within the next leave cycle which means that at any given point only ten days leave may be accumulated.

In the event of staff not being able to take their leave because of work priorities, this should be

discussed between the employee and the Manager / Executive Director. In such circumstances, the Executive Director may grant special permission for leave to be accumulated for a longer period. It should be noted that this will only be considered in exceptional circumstances and that it remains important for all staff to take their leave. A written request must be submitted to the Executive Director who will confirm in writing the granting of such an extension.

Employees shall only be entitled to payment in lieu of leave on termination of employment. In the event that an employee has taken more days than her or his entitlement, the organisation is entitled to make a pro rata reduction to his/her final remuneration.

7.6.2 *Sick Leave*

Employees are entitled to 30 days sick leave in a three-year period. This translates into an average of 10-12 days per annum. An employee must produce a valid medical certificate if he/she has been absent from work for more than two (2) days in a row or more than twice in eight weeks. If the employee does not have a valid medical certificate, MINDS will treat this as unpaid leave.

The medical certificate must be issued and signed by a medical practitioner including an alternative health practitioner (such as a homeopath or naturopath) accredited by a statutory council or professional body.

A medical certificate will be requested if a staff member repeatedly (twice or thrice) takes sick leave on a Friday or on a Monday or the work day immediately prior to or following a Public Holiday.

In the event of an emergency medical situation where the person requires more leave than is stipulated, an arrangement must be negotiated with the employee, for example, they might need to take unpaid leave or use their annual leave.

The employee, if injured on duty, shall be paid a full salary for the period of her incapacity or until the employee receives compensation in terms of the Compensation for Occupational Injuries and Diseases Act, subject to a maximum of three (3) months.

During the first 6 months of employment, workers are only entitled to one (1) day of paid sick leave for every 26 days worked.

The employee must notify the relevant manager before 10h00 of the first day off sick, of their absence from work due to illness, or as soon as may be reasonably possible. In the absence of the line manager, the employee shall report absence due to illness to the Finance and Administration Manager.

Sick leave shall not accumulate and shall automatically fall away at the end of each 36-month cycle.

7.6.3 *Maternity Leave*

The maternity leave policy is without prejudice to married and unmarried staff, to heterosexual, bisexual and homosexual staff, and to staff who have elected to adopt young children.

An employee on maternity leave will be entitled to the same terms and conditions of employment enjoyed by her in the ordinary course of her employment save as set out herein.

The service of an employee on maternity leave shall be regarded as continuous.

Female employees will be entitled to sixteen consecutive weeks (4 months) maternity leave under the following conditions:

- The employee must inform the organisation as soon as she becomes aware of her pregnancy to enable the organisation to plan appropriately for her absence.
- The dates of the maternity leave shall be agreed between the employee and her Manager / Director on the basis that the employee must commence such leave at least four weeks prior to her expected date of confinement or on a date which a medical practitioner or midwife certifies it is necessary to safeguard the employee's health or that of her unborn child.
- An employee who has a miscarriage during the third trimester of pregnancy or bears a stillborn child is entitled to maternity leave for six weeks after the miscarriage or stillbirth whether or not the employee had commenced maternity leave at the time of the miscarriage or stillbirth.
- No employee may work for six weeks after the birth of her child, unless a medical practitioner or midwife certifies that she is fit to do so.
- In South Africa, employees are expected to contribute to the Unemployment Insurance Fund (UIF) and in this way, can claim from the Maternity Benefit Fund.
- The payment of maternity benefits is provided for in terms of the Unemployment Insurance Act, which may be adjusted from time to time. The UIF pays 38%-60% of the basic, gross salary, depending on your income. The lower the salary, the higher the percentage that the employee will receive and vice versa. Benefits are paid to a maximum duration of 17.32 weeks (121 days).
- In the case of miscarriage in the third trimester or a stillborn child, you are entitled to maternity benefit for six weeks (Unemployment Insurance Act, Section 12, 13, 24, 2nd Schedule)
- Women who want to claim from the UIF need to go to the nearest labour centre with these documents: an ID book or passport, banking details, medical certificate.

- Although MINDS is not by law obliged to pay an employee on maternity leave:
 - The organisation is committed to ensuring that employees on maternity leave are on full pay and will pay the difference between what the Department of Labour pays for maternity benefits and the person's full salary. This is on condition that the employee has been in the employ of the organisation for at least one year prior to the date of her confinement, failing which the organisation will pay a pro rata rate as decided by management.
 - Employees with less than one year's service at commencement of maternity leave will not receive the above benefits. They will, however, be entitled to claim their benefits from the Unemployment Insurance Fund as stipulated in the Act.
 - Non-South African staff (who do not pay UIF) are entitled to four (4) months paid maternity leave provided the staff member has served the organisation for one year or more, except in exceptional circumstances as determined by the Executive Director.
- During an employee's pregnancy, and for a period of twelve months after the birth of her child, the organisation shall offer the employee suitable, alternative employment on terms and conditions that are no less favourable than her ordinary terms and conditions of employment, if her work poses a danger to her health or safety, or that of her child; and it is practicable for the organisation to do so.
- Upon her return to work, a staff member returning from maternity leave will occupy the same post that she vacated. Salary on return to full-time work will be the same as that earned before proceeding on maternity leave, plus any general salary revision or notch increase due.
- A staff member who is breast feeding shall be allowed breaks of thirty minutes twice per day for the first three months of returning to work.

By availing herself of the monthly maternity payment, an eligible employee undertakes that she will remain employed with MINDS for a period of one (1) year from the end date of her confinement. In the event that an eligible employee is not prepared to provide such an undertaking, such employee's maternity leave will be unpaid. In the event that an employee who has received monthly maternity payments terminates her employment with MINDS within one (1) year from the end date of her confinement, the employee will be required to repay MINDS a *pro rata* portion of the monthly maternity payments that she received.

7.6.4 Adoption Leave

The same terms and conditions of maternity leave apply to a mother who is adopting a child provided the child to be adopted is younger than 2 years old.

The employee must provide proof of the adoption from a registered adoption agency.

Adoption benefits must be taken within six (6) months of the court placing the child in the care of the employee.

7.6.5 *Paternity/Parental Leave*

The partner, whether married or cohabiting, and secondary caregiver (as determined in the partnership) to a person who has given birth or adopted a child younger than 2 years old, are entitled to three (3) working days parental leave to be taken any time during the pregnancy.

The organisation shall provide two (2) weeks paid paternity/parental leave if the staff member has served the organisation for one year or more, except in exceptional circumstances as determined by the Executive Director.

Paternity / parental leave must be taken within 6 months of the birth or adoption of a child.

7.6.6 *Family Responsibility Leave*

Family responsibility leave may be granted in the case of:

- The death of a staff member's immediate family (spouse, partner, children or grand-children, adopted children, siblings, parents, or parents-in-law);
- Serious illness of the member's immediate family.

The organisation requires reasonable proof of an event in order to make salary payments for the periods in question.

An employee may take three (3) days family responsibility leave within an annual leave cycle.

Family responsibility leave may be taken in respect of the whole or a part of a day.

Family responsibility leave cannot be accumulated.

7.6.7 *Study and Examination Leave*

An employee, whose studies have been approved by the Manager/Executive Director, may be granted two (2) days study leave for each examination: one for preparation ('study day/s') and the other to write the exam ('exam day/s'). Only those courses that are directly related to an employee's work within MINDS or those that will enhance the overall pool of relevant skills within MINDS will qualify an employee for this leave. MINDS will limit study and exam leave to ten (10) days per annum. If an employee chooses to take more leave during this period, this must be negotiated with the Manager/Executive Director and can be taken as part of their

annual leave or unpaid leave. This leave must be approved one month in advance.

If the employee does not write the exam or fails the same exam more than once, all study leave granted for that subject will be taken from the employee's annual leave.

In the case of post-graduate studies that do not require exam leave the employee will be granted up to four (4) days leave over a year for research purposes. MINDS should be provided with proof of registration as a post-graduate student as well as evidence of the research to be undertaken.

7.6.8 *Unpaid Leave*

Although it is the policy of MINDS not to encourage the taking of unpaid leave, it may be granted by the Executive Director in exceptional circumstances and will be based on the following:

- The nature of the request, for example study reasons, overseas trip, personal reasons; and
- The workload and staffing of the organisation during the requested absence.

Unpaid leave cannot exceed two (2) weeks per annum.

7.6.9 *Accumulated Leave*

It is important for employees to take their annual leave. It is therefore desirable that at least ten (10) days, leave be taken in respect of each leave cycle. Ten (10) days leave may be accumulated from each leave cycle but must be taken within the next leave cycle and cannot be carried over beyond that.

MINDS will NOT pay all annual leave due to employees who leave the services of MINDS. Accumulated leave will only be paid out to a maximum of ten (10) days unless there is a prior signed approval by the Executive Director and, in the case of the Executive Director, the Board Chair for leave to be postponed.

7.6.10 *Application for Leave*

All leave applied for should be accompanied by the approved leave application form, which is to be signed by the Manager, or the Executive Director, for consideration, and if approved, for authorisation.

7.7 ***Absenteeism***

The timely attendance at work by employees is crucial for effectiveness. All employees therefore need to do their part in achieving this goal. One way of achieving this is to maintain a

good attendance record. Any absence or tardiness will become a part of the disciplinary record of the employee concerned.

Quality of service is affected by work performance, including attendance of employees. It is important that employees report to work regularly, be punctual in reporting to work and returning from breaks and make every effort to maintain good attendance.

It is recognised that, from time to time employees may be absent from work due to illness or injuries. The organisation is committed to informing employees about the proper use of sick leave, to ensure that employees maintain their work commitments, and to promote a healthy workplace, which does not jeopardise operational effectiveness, by frequent or unnecessary absences.

Employees may be granted sick leave with full pay when a health condition has impaired them to the extent that they are unable to perform their duties, provided that the organisation has been notified of the condition in an appropriate manner and within a reasonable time, and provided that employees have the necessary sick leave due to them. The manager/supervisor may verify reasons given for absences from work, as required.

A failure by the employee to follow reporting procedures may result in the denial of benefits and disciplinary action being taken against the employee, which may result in his/her dismissal.

Guidelines

When an employee, for any reason, is unable to attend to work as scheduled, that employee is required to call and inform his/her immediate manager. Such notification should be provided before 10.00 am on the day that the employee was scheduled to start work. Only in extenuating circumstances, e.g. hospitalisation, is it acceptable that someone other than the employee makes the contact as outlined above.

Should the employee fail to call, the manager shall:

- Make a reasonable effort to contact the employee to discuss the absence and obtain the necessary supporting information and discuss the consequences of continued unscheduled absence; and
- Meet with the employee privately as soon as the employee is available to reinforce the reporting procedures. The employee is obliged to complete and sign a leave form for the period.
- The manager will record any calls from the employee regarding his/her absence, including date and time of call, expected date of return and reason for absence.

- To be eligible to receive leave benefits, an employee must inform his/her immediate manager/supervisor of the following:
 - Type of leave that the employee requires (sickness, family responsibility)
 - Estimated date of return to work; and
 - Whether or not the employee plans to see a doctor and on return from his/her absence produce a valid medical certificate signed by a medical practitioner.

Reasonable efforts will be made to try and trace the employee to determine his/her reason for the absence and his/her intentions about returning to work. These efforts should include calling the employee, leaving messages for the employee on his/her cellular phone or with relatives living with him/her and sending sms'.

If no response is received from the employee, the employee will be notified that a disciplinary enquiry will be held and that the outcome of which may result in appropriate sanction in accordance with the Disciplinary Policy. If the employee does not attend the enquiry, it may be held in the employee's absence.

The employee will be removed from the payroll until such time that he/she returns to work and has attended the enquiry. If it is found that no sufficient motivation could be shown to explain the absence and in particular the reason of the employee for not making contact with the Organisation, the employee's services with the organisation may be terminated.

The employee may be reinstated if he/she establishes, to the satisfaction of the chairperson, that the absence arose from a cause beyond his/her control and it was not possible for the employee to notify the employer of the reason for the absence.

Where the nature and/or frequency of an employee's absence leads a manager to reasonably believe that work is compromised, the manager must conduct a formal interview with an employee and his/her representative and follow-up meetings scheduled as deemed appropriate.

Employees must be given a fair opportunity to explain the circumstances surrounding the attendance issue and reasons for unsatisfactory attendance should be discussed.

The reason for bad attendance must be established and if it is for medical reasons the manager shall advise the employee to consult a medical practitioner to obtain a diagnosis/prognosis of his/her condition. The organisation may also require the employee to avail him/herself for a medical examination with a doctor of the organisation's choice and at the organisation's cost, to obtain this information.

The manager shall also discuss the issue of work output and the achievement of performance deliverables.

Records of all discussions and interviews shall be maintained and filed in the employee's personal file.

Should the employee be unable to achieve and maintain a regular and consistent attendance, the organisation may be obliged to consider the employee's continued employment with the organisation.

Note:

Absence without notice for 3 days may be considered abandonment of employment and may result in the termination of employment with MINDS, after following due process in terms of Labour legislation.

7.8 Remuneration

7.8.1 Payment of Salaries

Members of staff may plan their remuneration packages in the most tax efficient way subject to the approval of the MINDS Finance and Administration Manager and the Executive Director.

Salaries will be paid on the 25th of the calendar month or on the Friday before if the 25th falls on any day of the weekend. Pay slips will be provided to all staff members.

MINDS will deduct taxes as is required by law.

7.8.2 Review of Salaries

Funds permitting, salaries will be adjusted annually by a cost-of-living increase which will be determined by the Board of Trustees.

7.9 Annual bonus

In recognition of the hard work of its employees, MINDS will strive to pay a bonus at the end of every year. The organisation cannot guarantee the bonus or the level of the bonus as it will be entirely dependent on available funding. The Finance and Administration Manager and the Executive Director would need to satisfy the Board that adequate funds are available, and, in circumstances where the Board are not meeting, the Board Chair will sign off the proposal.

7.10 Deductions

No amounts will be deducted from salaries without the written permission of the staff (excluding the statutory deductions for PAYE and UIF). The employee can request in writing for any other deductions to be made from their salary.

7.11 *Life, Disability and Provident Cover*

MINDS does not provide life, disability or provident cover to its staff. The total cost to company package should enable staff to purchase these benefits should they choose to do so.

7.12 *Compensation for Occupational Injuries and Diseases Act (COIDA)*

The Compensation for Occupational Injuries and Disease Act (“COIDA”) came into effect on 1 March 1994. It replaced the old Workers Compensation Act. The Act states that organisations must pay a statutorily determined amount of money into the Compensation Fund, on a monthly basis. If employees are injured at work or contract diseases caused by their work (occupational diseases), they may be entitled to claim compensation from this fund. For full details of how this policy works, please contact the Financial and Administration Manager.

7.13 *Medical Aid*

MINDS does not provide medical aid cover to its staff. The total cost to company package for each staff member is sufficiently generous for staff to purchase these benefits should they choose to do so.

7.14 *Termination of Employment*

While MINDS values all their employees, there will be circumstances in which termination of the employment contract is necessary. Any termination of service from MINDS will always be substantially and procedurally fair in terms of labour practices.

When engaging an employee, MINDS will state in writing the conditions of employment that will be applicable including the notice required to terminate such employment.

Termination of employment can be affected by:

- a) The expiry of the period of contract
- b) The completion of the contract
- c) Notice given by either party in terms of the contract
- d) Summary dismissal due to gross misconduct
- e) The waiving of the notice period by mutual consent

During the three months’ notice period the Executive Director will be expected to:

- Provide a detailed account to the Board about the state of the organisation with regard to all projects, all commitments made and the financial situation of the organisation
- Develop the terms of reference for the new Executive Director
- Assist in recruiting the new Executive Director if requested to do so by the Executive Chair
- Arrange for a proper hand-over to the new Executive Director, or to the Executive Chair

Both MINDS and the employee will be entitled to terminate the employment contract summarily for any cause recognized by law as sufficient. No employee's contract of employment will be terminated by the Organisation save with observance of principles of substantive and fair procedures.

An exit interview will be conducted with all staff leaving in order to gather useful information as to why the employee is leaving the Organisation. It should enable the management to analyze and better understand staff turnover and employee morale, with a view to addressing any causal issues. An exit interview should be held as soon as possible. The Board should receive the information arising out of the exit interviews.

7.15 *Staff Passport Renewal*

MINDS recognises that all staff might be required to travel for work. In such situations, staff will be entitled to compensation for renewing their passports under the following conditions:

- If the passport pages are full due to travelling and visa stickers, or
- If the passport has expired; and
- The employee has advised the Manager / Executive Director before the passport is full (four pages remaining and/or three months before it expires) and has secured their approval for a renewal.

For staff who work outside their country of origin and need their passports renewed, MINDS will contribute to the cost of their passport application on presentation of the needed paperwork.

Where the country requires the applicant to secure the passport in their country of origin, MINDS will compensate as follows:

- Three days additional leave to enable them to travel to their home country and put in their passport application and
- Cost of passport on proof of receipt; and
- 40% of the economy flight or road travel costs as per MINDS's travel policy.

Permission must be sought from the Executive Director prior to incurring these costs.

7.16 *Retrenchment*

The retrenchment of employees is regulated by Section 189 of the Labour Relations Act as well as a Code of Good Practice produced by NEDLAC and case law which was developed by the Labour Courts since the Act was promulgated.

MINDS will comply with the Code of Good Practice for Dismissals for Operational Requirements. Offices outside of South Africa will have to comply with local legislation. MINDS will also ensure that they consult with qualified legal practitioners prior to initiating a retrenchment.

The general process in terms of good practice is as follows:

When contemplating retrenchments for operational reasons, MINDS must issue letters to all employees advising them of the pending retrenchment and the date when consultations will commence.

The letter must specify the following statutory requirements:

- (a) The reasons for the proposed dismissals;
- (b) Alternatives that the employer considered before proposing the dismissals, and the reasons for rejecting each of those alternatives;
- (c) Number of employees likely to be affected and the job categories in which they are employed;
- (d) Proposed method for selecting which employees to dismiss;
- (e) Time when, or the period during which, the dismissals are likely to take effect;
- (f) Severance pay proposed;
- (g) Any assistance that the employer proposes to offer to the employees likely to be dismissed; and
- (h) Possibility of the future re-employment of the employees who are dismissed.

8. Alcohol and drugs in the workplace

The aim of the policy is to indicate restrictions on the problematic use of substances at work and safeguard employees and others from the hazards of substance abuse.

Alcohol abuse is defined as the repeated use of alcohol despite recurrent adverse consequences. Drug abuse is defined as a problematic use of a drug. The problematic use of a drug (either licit or illicit) in sufficient quantity and frequency to interfere with a person's ability to make sound decisions, perform appropriate actions, and fulfill responsibilities, including work-related responsibilities.

Problematic substance use can affect an employee's performance, conduct and relationships at work and at home. Employees who develop substance related problems cause harm to themselves and to others. Employees must take reasonable care of their own health and safety and of any other persons who may be affected by their acts or omissions while at work or at MINDS sponsored events.

An employee may be subject to progressive disciplinary action if:

- The employee is found to have illegal drugs in his/her possession
- The employee is found to be under the influence of substances including drugs or alcohol during working hours.
- The employee is found to behave inappropriately during a work-related social gathering as a result of being under the influence of alcohol or drugs.

Procedures

Employees are encouraged to seek assistance at the earliest opportunity so that any problems can be handled.

If it comes to the attention of MINDS that an employee may be using substances in a problematic way, the manager will initially discuss the matter with the employee involved.

If the employee agrees that she/he has a substance abuse problem, then he/she will come to an agreement for a course of treatment. If this agreement is broken, then an alternative course of action such as discipline will be applied.

9. Smoking in the Workplace

Smoking is not permitted inside the MINDS office or a space designated as a MINDS home base.

10. Appropriate Attire

In keeping with its professional image and important work, MINDS requires appropriate, clean and neat attire to the office workplace, as well as at meetings with MINDS members, its funders, and stakeholders.

11. Private Work

MINDS employees are not allowed to undertake private consulting work that is directly related to the work of MINDS. Only private work that is done outside of MINDS working hours and that does not interfere with the execution of MINDS tasks will be acceptable.

It is important that employees declare their private work to the Executive Director so that it can be determined that there is not conflict of interest.

12. Organisational consulting work

In cases where MINDS is approached to undertake consultancy work, this will be reviewed by the Executive Chair of the Board. If it advances the mission and objectives of the organisation and does not interfere with the contractual obligations of MINDS, the Executive Chair may approve such a request. If agreed, the contract would be between the agency and MINDS (and not the individual). All monies earned from such a consultancy will be income for the organisation. No individual employee will benefit financially from such an assignment.

13. Dispute Resolution

Introduction

MINDS is committed to resolving workplace differences, and to working with staff to create a climate of understanding and mutual respect.

Depending on the circumstances, it is often possible to resolve a situation without an extensive investigation. Investigations conducted by MINDS management and if necessary, a third-party arbitrator will be made promptly, and all discussions will be kept in strict confidence. Only the complainant, the target of the investigation and witnesses, if available, will be contacted.

All persons involved in a complaint are expected to treat the matter as confidential.

All employees are encouraged to attempt to resolve matters themselves before reporting an issue to a manager. If employees feel they have been harassed or discriminated against, they are encouraged to raise the matter and explain their concerns to the co-worker or manager.

When presented with such a concern, all employees are expected to make reasonable adjustments to their behaviour to resolve the matter.

If informal means of resolving a situation are not possible or effective, a formal complaint may be necessary and can be made to MINDS's Executive Director or the MINDS Board of Trustees in the case of the Executive Director.

At the conclusion of the investigation, the investigator presents the findings and conclusions to the complainant and individual respondent(s). These parties are given an opportunity to submit comments before a final decision is made.

Final decisions regarding the disposition of a complaint are made by the Director or the Board of Trustees depending on the complaint and issues. All final decisions are communicated to the parties in writing.

Records of a complaint are placed on an employee's employment file only if the corrective action requires the disciplining of that employee.

The outcome of the investigation may result in MINDS following a progressive disciplinary process as outlined under the Disciplinary Code and Procedure. Breach of confidentiality may also be subject to progressive discipline. Disciplinary action may also be taken if a complaint is found to have been made fraudulently and with malicious intent.

13.1 Grievance Policy and Procedure (“GPP”)

Conflict is inevitable in all relationships, including work relations, and can be useful if addressed and expressed. Not all tensions are ‘worth’ voicing; in other words, don’t ‘sweat the small things’. At the same time, when tensions, disputes and conflicts arise, staff need to address and resolve these proactively.

Conflicts and disputes can arise from:

- Conflicts over personalities: people are different, have different ways of communicating, identifying and solving problems and ways of working
- Conflicts over goals: people can be focused on different outcomes
- Conflicts over values: people have different values, ideas, ideals and practices that really matter to them
- Conflicts over circumstances: individual stressors, or office circumstances can sometimes lead to conflicts
- Conflicts over facts: if people have different facts or understanding of the facts, this can lead to conflict.

If you are uncertain how and whether to address the conflict with the person, you are encouraged to speak with a Manager / the Executive Director to discuss the situation.

Remember, managers have the responsibility to ‘manage’ your work processes, the quantity, quality, and timeliness of your work as well as your overall contribution to the team and to MINDS. Thus, regular performance feedback should not be confused with a ‘conflict’.

13.1.1 Purposes

This Grievance Policy and Procedure (“GPP”) is intended to:

- provide a formal structure through which an employee or group of employees can articulate any dissatisfaction or raise any complaint, with a view to that complaint being resolved internally to the benefit of both employee(s) and MINDS;
- prevent or resolve conflict in the workplace as quickly and fairly as possible, protecting the interests of both MINDS and the employee;
- resolve any conflict or misunderstanding at the lowest level possible within the MINDS hierarchy; and
- provide protection for employees against any form of inequitable treatment or victimisation.

13.1.2 Principles

Staff are expected to manage conflicts directly with other staff including their supervisors and/or managers.

Managers and supervisors are responsible to support staff to address and resolve conflicts.

Managers and supervisors are responsible to ensure an anti-oppression/discrimination workplace and take action to prevent discrimination and harassment.

When every effort has been made to resolve a dispute or conflict or when the complaint or concern is of such seriousness that a more formal process is required, the approved Grievance Form should be completed and sent to your immediate supervisor. The approved forms are available from the Finance Manager

13.1.3 Steps Involved in the Grievance Procedure

An employee who has a grievance must process the grievance in terms of the GPP before the grievance is processed externally.

Step 1: Addressing the conflict directly (informal engagement)

Deal with the conflict or tension as soon as it arises **directly** with the other person. The goal is to clarify and communicate and find a resolution. Some strategies for doing so are:

- Describe to the other person what you think the problem or difficulty is and how it affects you using “I statements”.
- Make sure you have been understood – encourage the other person to paraphrase what you have said or ask them how they have understood/heard your explanation.
- Listen actively to her/his view and responses to what you have said, make sure you understand her/his point of view by repeating it back to her/him
- Suggest what will resolve this dispute for you and what would be an acceptable solution for each of you.
- Come to agreements that work for both of you. If you cannot resolve the dispute, agree that you will go to Step 2.

Strong feelings often accompany tension and conflict and it is important to recognize these and communicate them directly and neutrally. Some people find it helpful to write out their thoughts and points of concern prior to a discussion. Try writing out your concerns and ideas for a resolution before your meeting to help you communicate calmly and with purpose.

Step 2 – Getting Assistance to Resolve Conflicts (managerial intervention)

If you have tried to address and resolve the conflict and feel that it has not been successful, or if it is not possible to settle or resolve the grievance informally, you shall firstly discuss the grievance with your direct supervisor. If the dispute is with your manager/supervisor, then Step 2 will activate the Executive Director. If your grievance is with the Executive Director, then Step 2 should go to the Executive Chairperson of the Board.

The supervisor shall investigate the matter and make every reasonable effort to resolve the grievance within a relatively short period after the grievance being raised. While it is anticipated that this should be done within approximately two weeks of the grievance being raised, this period may be shortened or extended dependent on the particular circumstances of the grievance.

At this stage, you can contact the relevant manager, who will work with you to understand the nature of the conflict and provide coaching support to address it. The primary aim here is to continue to support the staff member to address the conflict directly with the other person involved. Where that is not possible or feasible, the manager may convene a meeting (or series of meetings) with the involved parties, facilitate the discussion, and provide regular follow-up to monitor progress.

The outcome of the managerial intervention and (attempted) resolution shall be recorded in writing and placed in the employee's personnel file.

Step 3 –If step 2 doesn't work (formal grievance meeting)

If the employee is dissatisfied with the outcome of step 2 (managerial intervention), a formal grievance meeting ("**the meeting**") will be convened.

The meeting will be chaired by a member of the Executive Committee of the Board unless the grievance is against the Executive Director, in which case the Board will appoint an independent external person to chair the meeting.

The chairperson of a grievance meeting should:

- listen and encourage the employee to express her grievance freely and openly;
- clarify and investigate the grievance;
- focus on the grievance, not the employee's personality;
- distinguish fact from opinion;
- note the relevant facts;
- establish what settlement is desired;
- verify facts (third parties, knowledge, work performed, MINDS rules, regulations and policies, conditions, line of authority, etc.); and
- make a recommendation on the grievance to the Board.

Step 4 – External resolution of grievances

If the employee has exhausted all the measures for addressing conflict set out in this document, and has not reached a resolution, and/or if the employee is dissatisfied with chairperson’s recommendations or the grievance remains unresolved, he/she may invoke the relevant dispute resolution provisions as envisaged in the Labour Relations Act 66 of 1995. If the employee is based in another country, the appropriate legislation will be drawn upon for dispute resolution.

13.2 Disciplinary Code and Procedure (“DCP”)

MINDS supports a consistent, constructive policy for a progressive discipline process that addresses the inappropriate behaviour or performance-related issues of employees. MINDS strives to ensure that managers are adequately trained to supervise the work of staff and expects managers to: work with their staff on a monthly, quarterly and annual basis to plan the work including outputs and timeframes, meet regularly, provide support and review activities, and provide ongoing feedback. This is done so that employees know what is expected of them and have received feedback on their performance, and support for the needed performance adjustments where this is required.

MINDS supports a set of principles for progressive discipline.

- Progressive discipline is the gradual and explicit process of helping employees to modify their behaviour with respect to unacceptable conduct and/or performance-related issues.
- It is not intended to demean, embarrass or negatively affect the dignity of employees.
- Discipline is any corrective action initiated by an employer in response to unacceptable conduct.
- Discipline will be administered as fairly, objectively and consistently as possible.

The Executive Director is entrusted with the authority to administer and delegate discipline to employees and is responsible for taking corrective action. He/she may delegate certain steps to Managers. The Executive Director is also the final authority with regard to any disciplinary measures being instituted (including termination).

13.2.1 Scope, Purpose and Founding Principles

This DCP applies to all employees of MINDS.

The purpose of the DCP is to ensure that MINDS’s employees adhere to standards and policies governing their employment relationship with MINDS.

Discipline should be corrective in nature and punitive action shall only be taken where it is

warranted with due regard to the seriousness of the misconduct.

Disciplinary action must always be applied in a prompt, fair and consistent manner without any form of favouritism, victimisation or discrimination, and taking into account all relevant circumstances.

Where the conduct of a MINDS employee also constitutes an offence, the organisation’s decision to initiate disciplinary proceedings shall not depend on the outcome of criminal proceedings.

The DCP is guided by the “*Code of Good Practice*” contained in Schedule 8 of the Labour Relations Act No. 66 of 1995, as amended (“the LRA”).

This DCP is intended as a guide. Its provisions may be disregarded if good reasons exist. Any deviation must be justified by the organisation.

Disciplinary action taken against an employee shall be recorded and kept on the personnel file of that employee.

13.2.2. What constitutes misconduct?

The following list of offences is a guideline and not an exhaustive list. It does not preclude MINDS from taking disciplinary action against an employee for any other form of conduct not in keeping with generally accepted standards that are not contained in the list.

<p>Work discipline offences</p>	<ul style="list-style-type: none"> • Late coming; • Poor quality work; • Shirking; • Negligence in the performance of duty; • Dereliction of duty; • Absenteeism from work without permission; • Being under the influence of an intoxicating substance at work, during working hours, or while representing MINDS; • Failure by an employee to report serious misconduct; and • Bringing MINDS into disrepute.
<p>Accountability offences</p>	<ul style="list-style-type: none"> • Refusal to carry out legitimate instructions; • Insubordination; • Dishonesty; • Misrepresentation; and • Failure by an employee to disclose a conflict of interest between the work of MINDS and external activities.
<p>Offences regarding abuse of MINDS’</p>	<ul style="list-style-type: none"> • Fraud;

property and resources	<ul style="list-style-type: none"> • Misappropriation of funds; • Failure to record financial transactions; • Falsification of records; • Failure to report theft, accidents or damage involving MINDS's property • Damage to property belonging to MINDs; and • Misuse of MINDS property.
Offences relating to violence and abuse	<ul style="list-style-type: none"> • Use of abusive language; • Intimidation of other employees; • Sexual harassment of other employees; • Bribery of employees; • Physical assault, or threat to assault an employee; and • Use of insulting behaviour that shows prejudice or discrimination towards fellow employees.

13.2.3 Procedure for misconduct not warranting dismissal

The employee's manager or supervisor shall deal with disciplinary action of this nature. The following levels of action shall be available to the manager or the supervisor concerned:

13.2.3.1 Verbal warning

Where the misconduct is of a minor nature as described in the section on Offences and Sanctions (see below), a verbal warning may be issued after discussion with the employee.

The purpose of a verbal warning is to give notice to the employee concerned that he or she needs to improve or rectify his or her performance or conduct and that failure to do so may result in further disciplinary action.

The verbal warning shall be recorded in the employee's personnel file and that warning shall remain in effect for a period of four months from the date of issue.

13.2.3.2 Written warning

Where a verbal warning fails to achieve the appropriate standard of behaviour, or if incidents occur that appear to require firmer action than a verbal warning but are not of such a nature so as to warrant a formal disciplinary hearing, then a written warning to the employee may be issued. A *pro forma* written warning form is attached in the bundle of disciplinary related forms attached in Appendix E. A written warning shall include:

- A description of the incident, behavior or practice which caused the warning to be issued;

- Information about any verbal warning previously given to the employee, and still current;
- The reason for the warning; and
- A statement to the effect that further disciplinary action shall be taken if no improvement takes place, or if the incident occurs again.

A written warning shall be issued by the employee's immediate supervisor.

The employee shall sign the copy of the form to indicate receipt thereof, and a copy shall be kept in that employee's personnel file. Where the employee refuses to sign the written warning form, that fact will be noted on the form, and the employee's refusal to sign the written warning will be witnessed by a third party.

A written warning shall remain in effect for six months from the date of issue.

In the event that a further warning is necessary within six months of the previous written warning, then the matter must be referred to a designated director who shall take a decision as to whether or not a formal disciplinary hearing should be convened.

13.2.3.3 General provisions pertaining to warnings

Before a verbal or written warning is issued the employee concerned must be given an opportunity to make representations.

Warning(s) will be retained on file and may be taken into consideration by the chairperson of a Disciplinary Enquiry, despite having already expired.

13.2.3.4 Procedure for serious misconduct

The following are examples of offences that will automatically be considered serious and could lead to dismissal:

- Repeated minor misconduct or minor misconduct in respect of which a verbal or written warning is still in force
- Fraud
- Dishonesty
- Gross negligence
- Misappropriation of funds
- Violent or intimidatory behaviour
- Gross insubordination
- Acting against the interests of the organisation
- Sexual harassment.

If a written or verbal warning fails to achieve the required conduct or standard of performance or incidents occur that appear to require firmer action, then a disciplinary hearing may be

convened if a designated senior manager so decides.

The concerned employee must be given reasonable notice of not less than forty-eight (48) hours of the hearing. The notice shall be in writing and:

- set out the date, time and venue of the hearing;
- set out the essential elements of misconduct which the employee is alleged to have committed;
contain sufficient particularity to enable the employee to prepare a defense;
- inform the employee of his or her rights during the hearing, namely:
 - the right to be represented by a co-employee or the presence of such co-employee to provide assistance;
 - the right to present his or her case, to call witnesses and to cross-examine witnesses called against him or her; and
 - The right to have access to documents or records that are relevant to the hearing.

13.2.3.5 Precautionary suspension

In the case of an employee allegedly having committed serious misconduct, a designated senior manager may, subject to the employee's right to be heard, suspend such an employee as a precautionary measure if in her opinion the presence of such employee may jeopardise the investigation of the misconduct, endanger co-employees or any other person's safety or wellbeing or safety, or be prejudicial to MINDS.

The suspension may be subject to various conditions which will be determined by MINDS.

When an employee is suspended, pending an investigation, the suspension must be on full pay.

13.2.3.6 Conducting the disciplinary hearing

A disciplinary hearing must be held as soon as practically possible after the notice referred to in 23.2.3.5 above is delivered to the employee concerned. The purpose of a disciplinary hearing is to:

- determine the charge(s) of misconduct;
- hear and review all the relevant facts and evidence; and
- reach a fair conclusion and impose an appropriate sanction, if applicable.

A designated senior manager must appoint a Chairperson of the disciplinary hearing and a person to present the allegations of misconduct on behalf of MINDS.

The Chairperson of the disciplinary enquiry may be a senior manager of MINDS or an independent third party appointed by a designated senior manager.

At the disciplinary hearing:

- The Chairperson shall confirm that the employee knows his or her rights;
- The Chairperson shall confirm that the employee has been informed of the charges;
- The Chairperson shall grant the employee an opportunity to plead to the charges;
- The Chairperson shall provide the person presenting the allegations of misconduct and the employee sufficient time to motivate their cases, including the calling of witnesses where appropriate and cross-examination of those witnesses by the other party; and
- The Chairperson shall provide both sides with an opportunity to summarise their cases at the end of the hearing and to make representations about the mitigating and aggravating circumstances that relate to the sanction.
- The Chairperson of the disciplinary hearing may put questions to any of the witnesses testifying at the hearing.
- After having heard all the evidence, the Chairperson must make a finding and record this in writing. The written finding must summarise the evidence of the case and the grounds upon which the finding is made.
- The Chairperson may impose a sanction where the employee is found to have committed the misconduct. When doing so, the chairperson shall take into consideration the severity of the misconduct, the concerned employee's previous record and mitigating or aggravating circumstances.
- The hearing will either be minuted or recorded electronically.

13.2.3.7 Possible sanctions that may be imposed by the chairperson of a disciplinary hearing

Written warning

A written warning shall be recorded on the pro-forma form attached in Appendix E. A written warning shall remain in effect for six months from the date of issue.

Final written warning

A final written warning shall remain in effect for six months from date of issue. Such written warning indicates to the employee that should misconduct be committed again within this period, the employee concerned may face dismissal.

Dismissal

Dismissal will be imposed where the misconduct is of such a nature as to have broken down the employment relationship between MINDS and that employee or to have rendered its continuation intolerable.

Dismissal may be with or without notice or payment in lieu thereof.

13.2.3.8 Further Proceedings

If an employee is not satisfied with the disciplinary action taken, he or she may pursue other remedies available under the Labour Relations Act 66 of 1995.

Offences and Sanctions

The penalties listed below are guidelines only, are not exhaustive and should not in any way detract from management's responsibility to use discretion in the handling of discipline.

Key

W Warning

FW Final warning

D Dismissal (Please also note that a disciplinary hearing is a prerequisite for dismissal)

Nature of offence	1 st Offence	2 nd Offence	3 rd Offence	4 th Offence
Absence				
1 Late for work, leaving workplace without permission, or general timekeeping offences	W	W	FW	D
2 Failure to arrive at work without acceptable reason, for one day	W	FW	D	
3 Continued absence from work without acceptable reason, for two days or more	FW	D		
4 Continued absence from work without acceptable reason, for five days or more	D			
Instructions				
5 Failure to carry out lawful and reasonable instructions of a superior	W	FW	D	
6 Refusal to carry out lawful and reasonable instructions of a superior	D			
Work performance				
7 Sleeping on duty	FW	D		
8 Doing unauthorized private work whilst on duty	FW	D		
Company property				
9 Neglect, loss or misuse of company equipment	W	FW	D	

10 Gross negligence, or willful damage to company equipment	D			
11 Driving a company/firm vehicle without a valid driver's license	D			
12 Theft or unauthorised possession of company property	D			
Behaviour towards other employees				
13 Swearing at or being abusive towards another employee	FW	D		
14 Fighting on company property (off-duty)	FW	D		
15 Fighting on-duty, or fighting on company property (off-duty) resulting in serious injury to another person	D			
16 Theft or unauthorised possession of another employee's property, on company property	D			
17 Intimidation	FW/D	D		
18 Threatening violence	FW/D	D		
General offences				
19 Fraud, embezzlement or dishonesty committed against the company	D			
20 Unauthorised possession, consumption or being under the influence of alcohol or drugs on company property, or arriving at work under the influence of alcohol or drugs	FW	D		
21 Giving or receiving, or attempting, any bribe or inducing to, or attempting to induce any person to perform any corrupt act	D			
22 Falsifying or changing any document with fraudulent intent or attempting to do so.	D			
23 Unauthorised possession of dangerous weapons on company property	D			
24 General criminal offences not specified above, committed on company property	D			

25 Bringing MINDS's name into disrepute	FW	D		
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13.2.3.9 Employee's right to appeal

An employee may appeal against any disciplinary action taken against him/her within three (3) working days of being informed of the disciplinary action.

The employee must state the grounds/reasons for the appeal. The appeal hearing is based on what took place during the disciplinary hearing.

The appeal shall be lodged with the Executive Director, who shall appoint a chairperson to hear the appeal. The chairperson shall be an independent third party. The chairperson shall be required to deal with the appeal. He/she may approve, reject, increase, decrease, or in other way vary the disciplinary action already imposed at the disciplinary hearing or give any decision that she or he may consider appropriate in the circumstances.

The appeal hearing will be convened on the same notice requirements as the disciplinary hearing.

The employee shall be notified of the outcome of the appeal hearing in writing within a reasonable time.

14. Incapacity / Poor Performance Procedure (“PPP”)

14.1 Introduction

The PPP is designed to assist MINDS in handling cases where employees are not performing according to the standards required of them.

The purpose of the PPP is to identify the reasons for non-performance and to provide a structured system of assisting the employee to improve her performance to the required standards within a reasonable period of time.

14.2 Reasons for incapacity / non-performance

There are a number of reasons for which an employee may be incapable of doing her job or not performing to the standard required. These include *inter alia*:

- Physical inability due to ill-health or injury;
- Mental incapability arising out of *inter alia* emotional trauma, stress related factors and other psychological symptoms;
- Incompetence due to lack of skills, training, natural ability, or the ability to work with fellow employees.

In these cases, the PPP should be used to address the reasons for the employee’s inability to perform.

Poor performance arising out of incapacity should be distinguished from poor performance arising out of *inter alia* an employee’s laziness, poor time-keeping, negative attitude, and failure to obey reasonable instructions, in which case the poor performance will be dealt with in terms of the DCP.

14.3 The counseling procedure

When it considers that an employee’s performance is not measuring up to the standard required, MINDS shall engage in a process of counseling the employee regarding her physical/mental ability or perceived incompetence.

Step One: Confirmation of standards

The employee’s job content (key performance areas) and standards (key performance indicators) should be reviewed. The reasonableness of the standards should be confirmed and, where possible, agreed with the employee.

Step Two: Counseling

The Executive Director should conduct a counseling session with the employee, and the employee's immediate supervisor.

At the counseling session:

- Reasons why the employee has fallen below the required standards should be discussed and identified.
 - If the reasons for non-performance are related to the employee's mental/physical ill-health or injury, the temporary or permanent nature of the condition should be investigated and discussed with the employee.
 - If permanent, the possibility of accommodating the illness on a long-term basis should be considered and, if temporary, the possibility of short-term accommodation should be considered.
 - If the reasons for the non-performance lie with the employee, the employee's immediate supervisor and the Director should counsel the employee on how to achieve the required standards.
- In order to assist the employee, the Executive Director should, if appropriate, prepare an action plan for the employee in terms of which the employee's performance will be monitored over a stated period of time.
- The employee should be given sufficient time to improve, and the action plan should establish review dates to monitor progress.

The contents of the counseling session and the action plan should be recorded in a written memorandum to the employee in the form of a counseling record. The memorandum should be signed by the Executive Director as a record to which the parties may refer at a later stage, if necessary.

14.4 Assistance and review of performance

MINDS shall provide all reasonable assistance, which may include suitable training, counseling, medical or psychological assistance to enable the employee to achieve the required standard. In the case of physical or mental incapability, the assistance may include reasonable time off for medical treatment or a temporary or permanent transfer to a less onerous position.

14.5 Enquiry

If the counseling procedure has been exhausted and there is no improvement in the employee's performance or the employee's incapacity is incapable or solution, an enquiry will be convened to determine the viability of a continued employment relationship with the employee.

The employee will be provided at least five (5) business days' notice of the enquiry. Notice of the enquiry shall:

- set out the date, time and venue of the enquiry;
- set out the areas in which the employee has failed to meet the required standard;
- set out the steps taken by MINDS to counsel the employee and assist the employee in improving her performance;
- inform the employee of her rights during the hearing, namely:
 - the right to be represented by a co-employee or the presence of such co-employee to provide assistance;
 - the right to present her case, to call witnesses and to cross-examine witnesses called against her; and
 - the right to have access to documents or records that are relevant to the enquiry.

The enquiry shall be chaired by an independent chairperson appointed by the Director who will furnish both MINDS and the employee with a copy of his or her decision within a reasonable time following the enquiry.

14.6 *Other forms of incapacity*

The PPP is not intended to be exhaustive of the forms of incapacity that may render an employee incapable of performing her functions and duties in terms of her employment contract or the manner in which incapacity will be dealt with.

The PPP merely serves as a guideline and MINDS reserves the right to manage all forms of incapacity in the appropriate manner depending on the circumstances of each case.

15. Sexual Harassment Policy

MINDS believes that each individual employed by the organisation has the right to be free from sexual harassment of any kind.

15.1 Principle

Sexual harassment includes all forms of conduct, whether *implicit or explicit*, where there is:

unwelcome physical contact, sexually explicit language or gestures, uninvited or unwanted sexual advances, or an offensive overall environment, including the use of vulgar language, the presence of sexually explicit photographs or other materials, and the telling of sexual stories and jokes or reprisal or threat of reprisal for submitting a complaint, participating in the investigation of complaint, rejection of sexual advance.

MINDS will not tolerate any form of sexual harassment from superiors, subordinates, or fellow employees. Any harassment from an employee against another employee, or by a MINDS employee against an employee of an allied organisation will be similarly dealt with.

Men as well as women can be victims of sexual harassment.

MINDS encourages the reporting of incidents of sexual harassment, and will take action to stop the harassment and prevent its reoccurrence.

All proven sexual harassment offenders will be dealt with through the disciplinary procedures up to and including dismissal.

While this Code applies to sexual harassment within the organisation, MINDS could suspend (on full pay) any person accused of committing a sexual offense such as rape and other forms of sexual assault outside of the organisation, pending the outcome of court proceedings.

15.2 Scope

This procedure applies to all staff, interns, volunteers and consultants hired by MINDS and includes all potential job seekers, members of management, and members of any of the structures of MINDS.

15.3 Forms of Sexual Harassment

There are various forms of sexual harassment that range from subtle attention to the worst form of violence such as rape. Examples of sexual harassment may include the following, but are not limited to the listed examples:

15.3.1 Physical Forms

Physical conduct of a sexual nature means unwanted physical contact ranging from fondling breasts, pinching of buttocks, assault, molestation, sexual patting or touching, attempted rape or rape, strip-search by or in the presence of the opposite sex.

15.3.2 Verbal Forms

Verbal conduct of a sexual nature may include: Unwanted sexual advances, verbal comments with sexual overtones, sex-related jokes or insults, graphic comments about a person's body, enquiring about a person's sex life and whistling.

15.3.3 Non-verbal Forms

Non-verbal conduct of a sexual nature may include indecent body exposure, display of sexually suggestive pictures or objects, leering and winking.

15.3.4 Quid Pro Quo Harassment

Quid pro quo harassment is an abuse of authority by an employer, supervisor or any member of management or fellow employee who has the power or can influence the process of employment, dismissal, promotion or salary increment.

15.4 Procedure for handling Sexual Harassment

15.4.1 Definition

Sexual harassment is any unwanted or unwelcome sexual behaviour that has a negative effect on the recipient. It can range from inappropriate gestures, innuendoes, suggestions, continual proposals or hints to fondling without consent and at worst, rape. Sexual harassment creates an intimidating, hostile or offensive environment.

15.4.2 Preamble

This Code of Good Practice on the Handling of Sexual Harassment Cases is intended to eliminate sexual harassment by enabling prevention in the workplace and improved case handling. This Code seeks to create an environment that will promote the respect and dignity of employees.

15.4.3 General Principles

Parties commit themselves to the elimination of sexual harassment in the workplace.

Parties commit themselves to dealing with sexual harassment cases in a very sensitive, prompt, unbiased and confidential manner.

Parties shall ensure that neither the grievant nor the alleged harasser is victimised in any way by either management or employees.

Parties shall be prohibited from harassing outsiders, including members and their employees who may have an association with MINDS.

It is the responsibility of the employer to provide and maintain an environment that is free of sexual harassment as part of its commitment and responsibility to ensure a healthy and safe working environment.

The employer shall ensure that employees, including job applicants, interns, volunteers and consultants are not subjected to sexual harassment in return for employment, job retention, a consultancy, salary increase or promotion.

Job security and job-related benefits of the grievant shall be guaranteed.

The employer shall ensure that sexual harassment education programmes are in place and all employees are conversant with this Code.

15.4.4 Confidentiality

MINDS shall ensure that sexual harassment complaints are investigated and handled in a manner whereby the identities of the persons involved are kept confidential, if necessary.

In cases of sexual harassment, management and the parties concerned shall ensure confidentiality in the disciplinary enquiry. Only affected persons and their representatives (including an interpreter where necessary) shall be present in the disciplinary enquiry session.

Where possible, management, in consultation with the grievant, shall consider the appropriate venue for the disciplinary enquiry.

15.5 Procedures for Settling Complaints and Grievances Relating to Allegations of Sexual Harassment

The procedure shall be divided into two options including:

15.5.1 The informal procedure

The informal procedures shall be used for subtle forms of sexual harassment. The informal procedure shall not be used for cases that involve sexual assault, rape, strip search by or in the presence of the opposite sex, quid pro quo or persistent forms of sexual harassment, unless the grievant chooses to follow an informal procedure.

Where possible, the grievant may wish to resolve the complaint without reference to formal procedures by approaching the alleged harasser, by writing a letter to the alleged harasser and/or by asking a member of management or a representative of the employee's choice, to mediate.

Should informal mediation as described above be successful in resolving the matter, no disciplinary action shall be taken against the alleged harasser.

The grievant and the alleged harasser shall be referred to relevant trauma crisis centres for counselling should they so wish.

15.5.2 Formal Procedures

Where the informal procedures are not applicable or inappropriate, the existing internal procedures (the DCP) shall be utilized for redress (See section 23 for dispute resolution procedures (grievance (GPP) and disciplinary (DCP))). The DCP shall be used to address the complaint because of the sensitivity and seriousness of sexual harassment.

15.5.2.1 Disciplinary Procedure

All rights as required by law in terms of the disciplinary procedure shall apply to both the grievant and the alleged harasser.

The disciplinary hearing shall, in so far as it is practicable, be held within five (5) working days of the outcome of the investigation having been provided to the grievant and the alleged harasser.

The outcome of the disciplinary hearing shall be communicated to the affected parties within two (2) working days unless otherwise agreed to by the parties.

Upon failure by management to hold a disciplinary enquiry, the grievant shall have the right to seek the intervention of the Commission for Conciliation, Mediation and Arbitration (“**CCMA**”).

Where the alleged harasser is found not guilty, no disciplinary action shall be taken against an employee who has filed a complaint in good faith. If the complaint is found to be capricious, malicious and without foundation, MINDS may, in appropriate circumstances take action against the complainant, which may include disciplinary action.

15.5.2.2 Disciplinary Measures

Disciplinary measures may include the following, but shall not be limited to: counselling and education, verbal warning, written warning, final written warning and dismissal

For any sexual assault such as attempted rape, molestation, rape or strip search, summary dismissal shall be applied.

The grievant of sexual assault shall have the right to press separate criminal and/or civil claims against the alleged harasser, and the legal rights of the grievant shall in no way be limited by this code.

15.5.2.3 Dispute Resolution

Where the grievant or alleged harasser is not satisfied with the outcome of the disciplinary hearing, the grievant or the alleged harasser shall be afforded the opportunity to appeal

The appeal and/or any dispute between an employer and an employee shall be referred to the CCMA.

Should a dispute that has been handled through mediation or conciliation not be resolved, the CCMA shall resolve it by way of arbitration.

15.6 Implementation of this Code

While we continue to fight sexual harassment on a legal level, education and awareness-raising programmes, which encourage gender sensitive practices and behaviour, shall be included in MINDS's education programmes to educate management and employees about rights and appropriate procedures pertaining to cases of sexual harassment.

15.7 General

MINDS will not tolerate intimidation, victimization or unfair discrimination against any employee who makes a complaint of harassment or who assists in an investigation of an alleged harassment. Retaliation against an employee who complains of harassment can be expected to lead to disciplinary action including, in appropriate cases, dismissal.

MINDS will take into consideration the various provisions and guidelines suggested in the Code of Good Practice on the Handling of Sexual Harassment Cases, included as a schedule to the Labour Relations Act 66 of 1995, and other relevant legislation when dealing with cases of harassment of a sexual nature.