



Shree Pretoria Hindu Seva Samaj

Established in 1932

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"Satyameva Jayate" - Truth Alone Prevails

Celebrating 81 Years of Selfless Service

STAFF DISCIPLINARY POLICY & PROCEDURE

1. PURPOSE & SCOPE

The Shree Pretoria Hindu Seva Samaj (hereafter referred to as the Samaj) expects satisfactory standards of behaviour and conduct from all its employees. The procedures set out in this document are based on the Samaj Constitution and complies with the Basic Conditions of Employment Act of 2002 (as amended). The procedures aim to:

- Assist in enabling both Samaj officials and employees to be clear on what the expectations and responsibilities of all the parties to this agreement are;
- Provide a framework for dealing with instances where employees are alleged not to have met the required standards of conduct.
- Provide a mechanism for consistent, prompt, and fair treatment for all employees in disciplinary matters
- Provide a mechanism for managing the remuneration of employees who demonstrate continued unsatisfactory conduct. In accordance with accepted practice, automatic increments will be halted if conduct is unsatisfactory (formal stage only). This action will be taken if an individual at the time of the 1st January automatic increment has a live formal disciplinary warning on file.
- Examples of allegations or complaints that will be dealt with under this Disciplinary procedure include, inter alia, Harassment & Bullying; Misconduct; Fraud; breach of the Samaj Constitution, Code of Conduct, and the Financial and Administrative Manual.

Once adopted, this policy and procedure will form part of all employee's contract of employment (as an annexure). It may be amended from time to time with appropriate consultations with affected employees and officials.

2. RELEVANT DEFINITIONS

In the context of this document:

Complainant means the person making the complaint;

Formal complaint means a concern which has not been resolved informally, and which is then set out in writing and forwarded to the Samaj Complaints Manager(s) and/or the President of the Samaj;

Procedural fairness means ensuring that all parties to a complaint know what to expect during the complaint or disciplinary handling process; carrying out the complaint or disciplinary handling process in a transparent manner; providing all parties with equal opportunity to participate in the process; treating all parties in a respectful manner; protecting all parties from retaliation, and victimisation; and providing reasons for decisions made;

Respondent means the person who is the subject of the complaint or disciplinary process;

Samaj Disciplinary Manager means an official of the Samaj who has been mandated to manage and respond to complaints. The Samaj has two Disciplinary Managers, namely the Portfolio Head: Education who will deal with all breaches of discipline or complaints related to the Gujarati School and Balmandir and the Deputy President of the Samaj or his/her nominee, who will deal with all other disciplinary matters.

Disciplinary Officer means a person who is mandated to:

- i. Advise on and assist with the resolution of informal complaints; or
- ii. Receive formal complaints in writing or document the formal complaint; and
- iii. Notify the formal complaint to the Samaj Disciplinary & Complaints Manager(s) and the President of the Samaj.

3. DEFINITION OF CONDUCT

It is expected that every employee should:

- Be honest
- maintain at all times a high standard of integrity and conduct
- not use their position to further private interests or those of relatives and friends
- fulfil the duties specified in their contract of employment/job purpose / role profile

Disciplinary action would normally be considered in cases of misconduct. There are two levels of misconduct: ordinary and gross.

Ordinary Misconduct

This misconduct would not lead to dismissal for a first offence on the part of the employee. However, repeated instances of ordinary misconduct can lead to dismissal. Non-exhaustive examples of ordinary misconduct are shown in Annexure A.

Gross misconduct

Conduct so serious that it effectively breaches the contract of employment and could result in dismissal with notice pay or summary dismissal (with no notice pay). Non-exhaustive examples are given in Annexure B.

4. PRINCIPLES OF THE PROCEDURE

The Executive Committee is responsible for addressing conduct and behaviour issues as early as possible and for taking appropriate action. Where appropriate, steps will be taken to resolve issues on an **informal basis** in the first instance without recourse to the formal procedure.

Before disciplinary action is taken an **investigation** shall be undertaken.

The employee against whom an allegation has been made shall be advised in writing of the **nature of the allegations** made against him/her and will be given the opportunity to respond to the allegations during the investigation.

Dismissal will not be an outcome for a **first breach of discipline** except in the case of gross misconduct.

All respondents who are the subject of this procedure have the **right to be accompanied** at any formal disciplinary hearing held under the procedure by a recognised trade union representative or work colleague. It is the employee's responsibility to make such arrangements.

Employees may be accompanied at meetings by an appropriate person to **provide support in the case of a disability or language issue**. The employee has the responsibility to inform the Samaj of their specific requirements in this respect so that the Samaj can source this support and consider reasonable adjustments.

All parties involved in these procedures must ensure that they maintain, as appropriate, the **confidentiality** of the process within and outside the Samaj. All disciplinary records will be treated as confidential.

An employee will have the **right to appeal** against any sanction imposed under the formal disciplinary procedure. Sanctions or warnings issued will remain in force pending the outcome of any appeal.

Samaj will make every effort to deal with disciplinary allegations as quickly as possible, at the appropriate management level. Whilst every endeavour will be made to comply with **timescales**, due to the complexity and or specific circumstances of cases, timescales may be extended. In such circumstances the employee will be advised of the reasons for any delay.

Nothing in this policy or procedure removes the right of a member of staff to invoke the Samaj Complaints procedure. Should a member of staff believe they have been treated unfairly, or that problems with work outside their control have been inadequately dealt with, he or she has the right to raise a grievance. In the event that any formal complaint or grievance is raised against the Samaj and/or named individuals whilst formal disciplinary proceedings have been instigated under this procedure, the disciplinary process may be held in abeyance pending the conclusion of any connected grievance proceedings.

The Samaj will provide training to officials and staff in the appropriate handling of disciplinary issues under this policy and procedure.

5. INFORMAL PROCEDURE

It is part of the Samaj's normal management responsibility to bring to the attention of the employee the standards required and any failure to meet those standards. Cases of minor misconduct should be dealt with by the immediate supervisor / Portfolio Head informally and without delay. The Supervisor / Portfolio head must speak to the individual in private and should encourage them to conduct themselves in accordance with the required standards.

Examples of such offences may include isolated instances of:

- poor time keeping;
- non - compliance with sickness notification rules;
- repeated errors in work;
- inappropriate comments or behaviour;
- failure to follow a procedure
- poor attendance

The purpose of these discussions is to ensure that the employee understands the nature of the concerns, expectations of improvements in conduct and where appropriate timescales and the nature of any support available. They should be notified that if they do not improve then they may be subject to formal disciplinary action as set out below.

The Samaj Disciplinary Manager should confirm the outcomes of any discussion in writing to the employee, including the agreed objectives, expectations and timescales for review. These notes must clearly state that this is the **Informal Stage** of the Disciplinary Procedure. The portfolio manager should retain any note of these informal discussions or meetings.

If there is a satisfactory improvement in performance following the informal stage of this procedure, the matter will be considered resolved and the individual informed in writing of this. In the event that the improvement is not maintained / or if a similar disciplinary issue reoccurs within 12 months, the formal procedure should be invoked.

6. FORMAL PROCEDURE

In matters that are more serious or in cases of repeated minor breaches the alleged misconduct will be dealt with under the formal disciplinary procedure. The Samaj reserves the right to implement the formal procedure at any stage taking into account the alleged misconduct, its nature and seriousness, and any previous disciplinary action.

5.1 Suspension

Certain alleged offences may require that an employee be suspended pending the outcome of an investigation or a disciplinary hearing. **Where relevant, suspension will be on full pay and is a neutral act and is not a disciplinary sanction.**

The Samaj Disciplinary Manager (or nominated representative) may, after consultation with the President, suspend an employee on full pay. Suspension should be for the minimum period possible, while the alleged offence is investigated and will be reviewed regularly. Suspension may be appropriate in the following circumstances (not an exhaustive list):

- to allow an investigation which might be inhibited by the presence of the employee;
- when there are strong reasons for doubting the ability or willingness of the employee to work normally;
- If the employee is the subject of criminal proceedings which may affect his or her job;
- where the presence of the employee on site is unacceptable to others and may increase the likelihood of further misconduct;
- where it is deemed to be in the employee's or the Samaj's best interest for the respondent to be removed from the workplace.

The individual will be given formal written notification of the suspension and, where possible, an indication of the length of the suspension.

5.2 Investigation

Before a disciplinary hearing is convened there will be an investigation into the circumstances of the alleged misconduct. The purpose of the investigation is to:

- establish the nature of the allegations
- gather evidence to enable a decision to be taken on whether there is a disciplinary case to answer;
- consider if the matter should proceed to a formal hearing

The employee will be informed in writing of any allegation and that an investigation to establish the facts will be undertaken.

The Samaj Disciplinary Manager will normally carry out this investigation; however in complex or potentially serious cases, or where there could be a conflict of interest, it will be appropriate for an independent Investigating Officer(s) to be appointed in consultation with the President.

The role of the Investigating Officer will be:

- to ensure that, where practicable, all relevant facts and witness statements are obtained in relation to the allegation(s);
- to decide the number and which witnesses are necessary to interview and to invite them to an investigation meeting. Interview statements which are signed and dated will be produced;
- to complete the investigation in a confidential manner, within an appropriate timescale;
- to provide a written report outlining the findings of the investigation.
- To present the findings of the investigation at any subsequent formal hearing.

As part of the investigation the employee who is the subject of the allegation will be asked to attend an investigatory interview.

All employees (whether they are the employee who has allegedly committed misconduct or other employees participating in the investigation) must cooperate fully and promptly in any investigation. This may include informing the Investigating Officer of the names of any relevant witnesses, disclosing any relevant documents and attending investigation interviews.

The outcomes of an investigation may be:

- There is no case to answer and therefore no disciplinary action is taken
- The matter is dealt with informally, if appropriate, with support and or training to resolve the matter.
- Recommendation that there is a disciplinary case to answer and a disciplinary hearing should be arranged.

The individual will be informed of the outcome and this will be confirmed in writing by the Samaj Disciplinary Manager, indicating any next steps.

Internal investigations will not be bound by the outcome of any external criminal investigation, unless the Samaj deems it appropriate to do so.

The Samaj will endeavour to complete investigations as quickly as possible and normally will not exceed six weeks.

7. DISCIPLINARY HEARING

Should the outcome of the investigation be referral to a disciplinary hearing, the individual should be notified in writing of the date of the disciplinary hearing, with a minimum of 10

calendar days' notice of the hearing date. The letter will outline the allegations/nature of misconduct, and if the alleged misconduct is considered as potentially a serious/gross misconduct case and dismissal could be an outcome, then they will be informed of this. The individual will also be notified of their right to be accompanied by either a work colleague or a recognised trade union representative at the hearing.

The purpose of the hearing is to provide the opportunity for the employee to respond to allegations made under this procedure.

The panel should normally comprise:

- As Chair, the Samaj Disciplinary Officer or his nominee who is independent from the case;
- Two officials independent from the case
- The Samaj Disciplinary Administrator who should take minutes / notes.

Recording devices will not be permitted, unless specifically requested by the parties 5 days before hearing.

The respondent will be provided with a copy of the Investigating Officer's report and any other evidence including the names of witnesses (unless their identity is to be kept confidential) that will be presented at the disciplinary hearing, at the same time that she/he is invited to attend the hearing.

The respondent will be invited to submit evidence and / or a written statement which should be received by the Samaj Disciplinary Official at least 2 calendar days before the disciplinary hearing.

7.1 *Witnesses*

At least 5 calendar days prior to the hearing, the respondent and Investigating Officer will submit to Samaj Disciplinary Administrator the names of any witnesses they wish to attend, and an explanation of why their evidence is required.

On the basis of the information submitted, the Chair of the panel will determine whether or not such witness evidence is required and will confirm the witnesses to be called. In certain cases the Chair may decide that a witness statement is sufficient. Any witness who will be called to the disciplinary hearing should provide a signed and dated witness statement prior to the Hearing, which will form the basis on which they may be questioned.

Respondents are responsible for making arrangements for their witnesses to attend. Where witnesses are employees of the Samaj, appropriate time off will be facilitated.

Requests for additional witnesses shortly before or at the hearing will be considered and decided by the Chair.

7.2 *Conduct of the Disciplinary Hearing*

The Chair conducting and hearing the case will introduce those present and explain the process that will be undertaken:

- The Investigating Officer will present the findings, call any witnesses and answer questions from the investigation.
- The respondent or his/her representative will be able to ask questions to the Investigating Officer about the findings and to raise points about any information provided by witnesses.
- The Samaj Disciplinary Officer or his/her representative will respond to the allegations, call any witnesses, present his/her case and answer questions.
- The Investigating Officer will be able to ask questions of the respondent about his/her case and raise points about any information provided by witnesses.
- The Investigating officer will sum up.
- The employee or their representative will sum up.
- Reasonable requests for adjournments made by any party will be allowed by the Chair.
- If a witness is to be called s/he will be invited to attend the hearing at an appropriate time.
- The members of the disciplinary panel will be able to question all those involved at any stage in the hearing.

Before a decision is taken an adjournment should occur to allow the panel proper consideration of the available evidence and facts of the case. After hearing the presented evidence, the Chair of the Disciplinary panel may decide to question other witnesses or clarify evidence in order to aid the decision making process. It may be necessary to further adjourn the hearing so that this can take place.

The Disciplinary panel will then consider all representations and decide whether (on the balance of probabilities) there is a genuine belief that the allegation(s) are confirmed, based on reasonable grounds and following a reasonable investigation. If so, they will decide what level of sanction, including and up to dismissal is relevant. In considering this decision, the panel will consider the employee's previous conduct and any mitigating circumstances outlined.

If possible, the outcome of the disciplinary hearing will be given verbally. In all cases it will be confirmed in writing to the employee within 7 working days of it being reached.

The letter will also confirm the respondent's right to appeal against any formal sanction.

8. DISCIPLINARY SANCTIONS

The disciplinary hearing may result in a number of possible outcomes or sanctions.

8.1 *No Further Action*

If there is insufficient evidence to prove the allegation, the case will be dismissed. Additionally, if the offence is of a minor nature it may be decided that no sanction is required. No record of the disciplinary action will be kept on file.

8.2 *First Written Warning*

If the offence is considered sufficiently serious, or if a further offence occurs following the informal stage of the procedure, a first written warning may be issued to the employee. The written warning will give details of the complaint, the findings of the disciplinary hearing, the action(s) required, any relevant timescales and will be notified of the right of appeal. The letter will also warn that further disciplinary action will be considered if there is further misconduct.

A copy of the warning and associated documents will be retained on the individual's personal record and will normally remain in force for 12 months. The warning will remain permanently on the personnel file but will be disregarded after its expiry if the desired improvement has been made and there has been no further action in respect of this matter.

This letter will also advise the employee that due to unsatisfactory conduct, any automatic increment due on 1st January will be halted whilst the warning remains in force.

8.3 *Final Written Warning*

If the offence is sufficiently serious or has taken place before a previous warning has expired, then a final written warning may be issued to the employee. The final written warning will give details of the complaint, the findings of the disciplinary hearing, any action(s) required, and of the right of appeal. The letter will also warn that dismissal will be considered if there is further misconduct.

A copy of the warning and associated documents will be retained on the individual's personal record and will normally remain in force for 12 months. The warning will remain permanently on the personnel file but will be disregarded after its expiry if the desired improvement has been made and there has been no further action in respect of this matter.

This letter will also advise the respondent that due to unsatisfactory conduct, any automatic increment due on 1st January will be halted whilst the warning remains in force.

8.4 *Dismissal or actions short of dismissal*

If the matter is considered sufficiently serious to amount to gross misconduct or further misconduct occurs within the period of the written warning, dismissal may result.

In appropriate cases the Samaj may consider some other sanction short of dismissal, such as demotion, a transfer to another department or job, loss of seniority or a reduction in pay. These sanctions may be used in conjunction with a final written warning.

If the disciplinary panel reaches a decision to dismiss, this can only occur with the authority of the Executive Committee.

The employee will be given written details of the allegations, the findings of the disciplinary hearing, the reason for dismissal, the date on which employment terminates (taking into account appropriate notice periods as per terms and conditions of employment), and will notify the right of appeal.

Dismissal for gross misconduct may be invoked without recourse to any of the stages of disciplinary warnings outlined above. Dismissal for gross misconduct will usually be summary, i.e. without pay in lieu of notice.

9. APPEAL

There is no right of appeal against the outcome of the informal stage of this procedure.

If the employee wishes to appeal any of the decisions made at any other stage of the Disciplinary Procedure, s/he should lodge an appeal with the Samaj Disciplinary Administrator in writing, within 10 working days of receiving the written decision, stating the grounds for appeal.

An Appeal Hearing may or may not be a re-hearing of the case depending on the circumstances of the case. The employee must be specific about the grounds of appeal; these will effectively form the agenda for the hearing. Appeals may only be raised on the grounds of:

- Procedure - a failure to follow procedure had a material effect on the decision;
- Decision - the evidence did not support the conclusion reached or is inconsistent with other decisions within the Samaj.
- New evidence - which has genuinely come to light since the first hearing. Where new evidence is raised, further investigations may need to be carried out which may require the Appeal Hearing to be delayed pending the outcome of these investigations and to give the employee an opportunity to consider any new information obtained.

The Chairman of the Board of Trustees or his/her designated representative will arrange a meeting of the Samaj Appeals Committee at the earliest convenient date. This should normally be within one month after the matter has been formally raised with the Samaj Disciplinary Officer.

The Chairman of the Board of Trustees, or designated representative, will establish the Appeals Committee which should comprise:

Appeals against a first written warning:

- As Chair, the Chairman or another Trustee independent from the case;
- A second Trustee

Appeals against a final written warning or a dismissal:

②

- As Chair, the Chairman or another Trustee independent from the case;
- A second Trustee

The individual raising the appeal will be informed of the composition of the Appeal Committee. Should he/she have any concerns these should be raised with the Chairman of Trustees who will consider the employee's concerns and may reconstitute an agreed panel.

The Appeals Committee will invite the employee in writing to attend an appeal meeting, informing the employee of the entitlement to be accompanied by a colleague or recognised trade union representative.

The decision of the Appeals Committee shall:

- a) confirm the original decision;
- b) revoke the original decision; or
- c) substitute a different decision.

The decision of the Appeal committee shall be final and there shall be no further right of appeal.

10 CONFIDENTIALITY

All information relating to the disciplinary case will be treated confidentially. Information relating to the complaint will be shared with only those who have a legitimate requirement to see the documentation as part of resolution to the disciplinary or any consequent procedure.

It is expected that all parties will be sensitive to the nature of such proceedings, including matters discussed and any evidence provided. Breach of confidence, on either side, may compromise the integrity of the procedure and may be subject to disciplinary action. This does not preclude individuals from seeking appropriate advice, support and information in relation to the case.

Where the Samaj continues to investigate any matter as a duty of care or a legislative requirement then it may be necessary to share the information with appropriate external authorities.

11. RE-ARRANGING HEARINGS

If the respondent or his/her representative cannot attend at the time specified for a hearing, the respondent must inform the Samaj Disciplinary Official and an alternative time will be arranged. The employee must make every effort to attend a hearing and failure to attend without good reason may be treated as misconduct. If the respondent fails to attend without good reason, or persistently is unable to attend, the hearing may be heard in his/her absence on the available evidence.

12. RIGHT TO BE ACCOMPANIED

The respondent must inform the Samaj Disciplinary Officer who he/she has chosen to act as his/her representative in good time before the hearing. The respondent can be required to choose an alternative if, in the Samaj's reasonable opinion, the chosen representative has a conflict of interest (this will be explained to the respondent) or may prejudice the hearing or if the chosen representative is unavailable for the scheduled hearing and will not be available for more than five working days.

The representative may make representations, and sum up the respondent's case but is not allowed to answer questions on the respondent's behalf.

Respondents do not normally have the right to bring a representative to an investigative interview, although such requests will be considered provided that timescales for the meetings are not affected.

There is no requirement on a work colleague to accept a request to accompany an employee.

This policy was adopted at a meeting of the Executive Committee of the SHREE PRETORIA HINDU SEVA SAMAJ held on Monday 24 February 2014.



Ramesh Chhagan
President



Bhaavic Chhana
Secretary-General

Annexure A – Examples of misconduct

Annexure B – Examples of Gross Misconduct

SHREE PRETORIA HINDU SEVA SAMAJ – Staff Disciplinary Policy

Annexure A

EXAMPLES OF MISCONDUCT

Some examples of misconduct are shown below (these are not exclusive):

- a) Condoning serious actions contrary to the interests of the Samaj;
- b) Irresponsible conduct of a type likely to endanger the health and safety of others;
- c) Unsatisfactory performance of the duties of the post;
- d) Refusing to comply with reasonable instructions;
- e) Unsatisfactory timekeeping;
- f) Unauthorised absence from work;
- g) Breach of confidentiality at work;
- h) Breach of Samaj safety regulations;
- i) Failure to conform to any of the Samaj's Rules and Regulations.
- j) Breach of any other condition of employment.

Annexure B

EXAMPLES OF GROSS MISCONDUCT

If an employee acts in a way which is incompatible with the discharge of his/her duty to the Samaj, he/she may be dismissed without notice or salary in lieu of notice. Some examples of gross misconduct are shown below (these are not exclusive):

- a) Wilful disobedience of a lawful order;
- b) Theft or unauthorized possession of money or property belonging to any member of the Samaj community, or to any other person legitimately present within the Samaj precincts;
- c) Using threatening/harassing/discriminatory behaviour or physical violence against any member of the Samaj community or any other person legitimately present within the Samaj precincts;
- d) Wilful damage to Samaj property;
- e) Incapacity to perform the duties of the post in a manner consistent with the Samaj's Constitution & policies because of drunkenness and/or illegal drug taking;
- f) Action liable to cause unacceptable damage to the Samaj's reputation or bringing the Samaj into disrepute
- g) Serious breach of confidentiality of work;
- h) Downloading and/or distributing illegal, offensive or unsavoury material from the internet.