



DISCIPLINARY POLICY

Policy Owner:	Botle Buhle Brands (Pty) Ltd		
Effective Date:			
Version:	Version 1		
Authorised by:	CEO		<i>31/03/2024</i>
		Signature	Date
Note:	Botle Buhle Brands (Pty) Ltd reserves the right to amend the contents of this policy as and when required. The policy currently in effect will apply to all employees regardless of the policy that applied at the time of employment.		

1. Scope/objective of the policy.

- 1.1 Botle Buhle Brands (Pty) Ltd, hereafter referred to as 'Botle Buhle Brands' considers discipline to be of paramount importance for both the effective running of the business operation and for the fair and consistent treatment of all Employees. The fair implementation of this policy will lead to a productive workplace with labour peace.
- 1.2 The disciplinary policy provides guidelines in terms of desirable and expected behaviour. In addition, it provides guidelines in terms of correcting unacceptable behaviour and/or unsatisfactory performance.
- 1.3 Given the nature of our industry and business requirements, the standard of personal conduct and self-discipline required of our employees is extremely stringent. In particular, customer service and teamwork are particularly valued with Botle Buhle Brands, and all employees are required to have special regard to Botle Buhle Brands' standards in this regard.
- 1.4 The purpose of this policy is to ensure that all staff complies with Botle Buhle Brands' expected behaviour, which is in line with the requirements of the relevant labour legislation.

2. Definitions.

- 2.1 'Day' means a normal working day and shall exclude a Saturday, Sunday and Public Holiday.

3. Legal principles.

The following legislation is applicable to this policy:

- 3.1 Basic Conditions of Employment Act, Act 75 of 1997.
- 3.2 Labour Relations Act, Act 66 of 1995.
- 3.3 Employment Equity Act, Act 55 of 1998.
- 3.4 Department of Labour Code of Good Practice, 2004.

4. Policy.

The following general principles apply to this policy:

- 4.1 The disciplinary policy forms part of the terms and conditions of employment.
- 4.2 Should a disciplinary hearing take place; record of the disciplinary investigation and the outcome will be kept for the duration of employment of the Employee with Botle Buhle Brands. This form might be completed during disciplinary investigations.
- 4.3 External consultants may be requested to provide guidance/assistance during the disciplinary process.
- 4.4 Any Employee charged with an offence shall be afforded the opportunity to state his/her case. Only those charges and evidence put to the Employee concerned shall be taken into consideration.
- 4.5 Except in instances where the consistent sanction is a written warning or final written warning, formal disciplinary procedures do not have to be invoked every time a standard of conduct or performance is breached. Where minor violations of conduct or performance standards are breached, an informal hearing resulting in corrective action may be conducted.
- 4.6 Where the misconduct of the Employee warrants a disciplinary enquiry/hearing to be held, the Employee will be notified of the disciplinary enquiry in writing, clearly outlining the Employee's rights facing disciplinary action.
- 4.7 In the event of a written or final written warning being issued to an Employee following an investigation, such a written warning shall be signed by the Employee receiving the warning as a means of acknowledgement by the Employee that he/she has received the warning (this does not state admission of guilt). Should the Employee refuse to sign the warning, the witness who is present will sign the warning form to indicate that the warning has been issued to the Employee. A copy of warning forms will be issued to the Employee, and a copy placed in the Employee's personnel file.

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- 4.8 If it can be ascertained that the Employee's presence at the workplace may be undesirable for various reasons (i.e. may prejudice the interests of Bottle Buhle Brands, the Employee, other employees or hamper investigation), then a suspension discussion will need to take place prior to suspending an Employee. He/she may be suspended on full pay until the disciplinary enquiry process has been finalised.
- 4.9 Warnings to Employees are cumulative only if the warnings issued are for the same type of offence and will remain operative for the period stipulated, but not for more than twelve (12) months.
- 4.10 If an Employee is not dismissed or warned for a transgression of the disciplinary policy, it will not be regarded as a precedent. Bottle Buhle Brands may at any time warn or dismiss the Employee for a similar offence.
- 4.11 Employees may be required to have their property and/or persons searched on entering or leaving the premises. The search will be conducted in the presence of the Employee and in accordance with accepted standards.
- 4.12 The Chairperson for a disciplinary hearing will be an objective person who has not been involved in any way in the incident under investigation. Bottle Buhle Brands may invite a suitably impartial person (e.g. HR Labour Consultant) to chair a disciplinary hearing if necessary.
- 4.13 Where the services of an interpreter is required and requested by the Employee prior to the hearing, such services will be made available by a suitable person if sufficient notice has been provided.
- 4.14 Minutes of the proceedings shall be kept by way of comprehensive notes. Recordings may also be used in addition to the above.
- 4.15 Counselling might be used when it has been found that the Employee's work conduct or performance is below the acceptable standard and it has occurred for the first time. The purpose of the counselling is to attempt to assist the Employee to rectify his/her behaviour without taking disciplinary action.
- 4.16 Counselling involves a formal meeting with the Employee during which the expected standards of performance are discussed with the Employee in detail, as well as the Employee's performance against the required standards and the areas in which the Employee is not meeting expectations. The Employee will be given an opportunity to state his/her case and/or the opportunity to respond to the points raised. The Employee will be given a reasonable time to rectify his/her performance.

- 4.17 The Employee will be issued with a letter containing the points raised and the outcomes (i.e., expected standards of performance/conduct). A copy of the letter will be kept on the Employee's personnel file.

5. Forms of disciplinary action.

Depending on the circumstances and the seriousness of the offence in question, disciplinary action may take on one/more of the following forms:

5.1 Corrective action.

- 5.1.1 Performance counselling and training is regarded as corrective action and is used where it was established that an Employee had conducted him/herself incorrectly in ignorance.

5.2 Punitive action.

- 5.2.1 Regardless of the type of punitive action applied, the Employee will be given an opportunity to state their case prior to the warning/dismissal being applied.
- 5.2.2 Verbal warnings will be issued in the case of minor transgressions. Details of the verbal warning shall be recorded. The Employee shall sign the verbal warning form indicating that he/she has received the warning.
- 5.2.3 An Employee's direct superior/Head of Department (or the People Manager will issue the warning on Management's behalf) is responsible for issuing written warnings. Written warnings will be issued for more serious offences, or for the repetition of a minor transgression.
- 5.2.4 A written warning shall be given when attempts at corrections in terms of corrective action have failed, or where the offence committed is considered of such magnitude that a verbal warning is inadequate since the offence is of a more serious nature.
- 5.2.5 Final written warnings will be issued if the offence is of a very serious nature (despite no previous warnings) or if a previous written warning has failed to achieve the desired improvement in behaviour or performance.
- 5.2.6 Where the Employee has received a final written warning in the financial year, the Employee will no longer be eligible for a 13th cheque in the December of that year.
- 5.2.7 Dismissals will be considered as a last resort and will only be done after a disciplinary enquiry has been convened.

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5.2.8 Dismissal shall be appropriate when an Employee makes him/herself guilty of a deviation/breach of a rule that either destroys the relationship of trust between the Company and the Employee at first instance, or where the Employee failed to adhere with rules after the Company applied progressive discipline.

5.2.9 The Chairperson has the right to impose other forms of disciplinary action as an alternative to dismissal, for example, suspension without pay, demotion (in salary and status) for poor work performance, or extended final written warnings.

6. The validity period for warnings.

6.1 The validity period for warnings is as follows:

6.1.1 Verbal warnings – three (3) months.

6.1.2 Written warnings – six (6) months.

6.1.3 Final written warnings – nine (9) months. In serious cases, final written warnings may be valid for twelve (12) months.

6.2 Refer to Annexure A for a guideline on appropriate disciplinary actions for offences.

6.3 Expired warnings will not be considered with regard to cumulative discipline, however, they will still be considered as an aggravating factor in determining an appropriate sanction, as it may indicate a pattern of behaviour.

7. Rights of Employers during disciplinary enquiries.

7.1 To take the appropriate action where Management considers that an Employee's behaviour or performance is unacceptable or unsatisfactory.

7.2 To call witnesses to testify on his/her behalf.

7.3 To decide when an Employee's behaviour or performance is unacceptable or unsatisfactory and to argue the standard of performance conduct required.

7.4 To hold a second hearing or appeal against the decision of the Chairperson of a disciplinary hearing or investigation if it is fair to do so.

8. Rights of Employees facing disciplinary action.

8.1 To be given warning of any charge/allegation against him/her.

8.2 To be advised of the charge/allegation.

8.3 To be given time to prepare his/her defence. The notice of enquiry must be handed to the Employee at least two (2) days before the date of the enquiry for preparation purposes.

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- 8.4 To be allowed a formal hearing or enquiry.
- 8.5 To be present at a formal hearing or enquiry. Where an Employee refuses or fails to attend the disciplinary hearing or enquiry, it may be held in his/her absence without further notice to him/her.
- 8.6 To be represented at a formal hearing or enquiry by a colleague of his/her choice or by a Shop Steward (where recognised Unions are present in the workplace).
- 8.7 To cross-examine any person giving evidence and to ask questions of any evidence produced.
- 8.8 To call witnesses to testify on his/her behalf. It is the Employee's responsibility to arrange for the attendance of such witnesses prior to the enquiry taking place.
- 8.9 To an interpreter, if requested prior to the hearing. The Employee needs to notify the People Manager at least two (2) days prior to the scheduled date for a hearing if the services of an interpreter are required.
- 8.10 To be notified of the outcome of a disciplinary hearing or enquiry.
- 8.11 To appeal to a higher level of Management within five (5) working days against any penalty that may be imposed.

9 Industrial action.

- 9.1 In the event of collective industrial action by employees, it shall not be necessary for the employer to conduct individual disciplinary enquiries into disciplinary breaches arising out of such collective industrial action if the employer has notified employees of its intention to discipline participating employees and has permitted representatives of the said employees to state the said employees' case for them.

10 Guidelines for Chairpersons during disciplinary enquiries.

- 10.1 The Chairperson should introduce all parties attending the enquiry, and explain the reason for the enquiry. The Chairperson must ensure that any witnesses remain outside of the enquiry room until called into the enquiry for their time to state their case.
- 10.2 The Chairperson should read the Employee's rights and ensure they are understood.
- 10.3 The Chairperson should state the charge(s) against the Employee, ask whether he/she understands the charge(s) and whether he/she pleads guilty or not guilty.
- 10.4 The complainant/Botle Buhle Brands representative is invited to state his/her case against the Employee, who may then be permitted to ask questions of the complainant/Botle

Buhle Brands representative. The panel may also question the complainant/Botle Buhle Brands representative.

- 10.5 The complainant/Botle Buhle Brands representative may call in any witnesses to give their statements after which the complainant/Botle Buhle Brands representative, Employee and panel may ask questions of those witness' statements.
- 10.6 The Employee is then requested to answer to the charge(s) and may then be questioned by the complainant/Botle Buhle Brands representative and panel.
- 10.7 The Employee should also be permitted to call in any witnesses who, after having given their statements, may be questioned by the Employee, complainant/Botle Buhle Brands representative and panel.
- 10.8 Once the Chairperson is satisfied that all facts have been heard, he/she may close the enquiry to consider all the evidence prior to giving a verdict. The Employee and complainant/Botle Buhle Brands representative must be informed when and where they are to return for the panel's decision.
- 10.9 Should the Employee be found 'not guilty'; the enquiry will be closed and the relevant documentation relating to the case should be destroyed.
- 10.10 Should the Employee be found 'guilty'; then the Chairperson should, prior to deciding on the appropriate penalty, take notice of:
 - a. The Employee's service record and valid disciplinary record.
 - b. The Employee has been invited to state any mitigating factors, which he/she may have, and to make suggestions on the penalty.
 - c. Any similar previous cases and the decisions taken in those cases.
 - d. The interests of Botle Buhle Brands and the particular requirements of the industry and business.
 - e. That the primary purpose of disciplinary action should be corrective and progressive in nature.
- 10.11 The Chairperson may postpone the enquiry to consider an appropriate penalty, or a decision may be made immediately. The Employee and the complainant/Botle Buhle Brands representative must be present when the decision is communicated (if the Employee attended the enquiry), and the Chairperson must ensure that the action taken is understood by both the Employee and the complainant/Botle Buhle Brands representative. The right of appeal within the stipulated time should be explained to the Employee.

- 10.12 Notwithstanding the fact that the Employee may plead 'guilty' to the charge, it is essential that the full enquiry procedure must be followed in its entirety to provide the Employee with a fair opportunity to state his/her case.
- 10.13 The Employee's representative, which includes a trade union representative, should be allowed to participate such as by asking questions of any statements made, conferring with the Employee etc.
- 10.14 A detailed record should be kept of all the proceedings. This can be in the form of written minutes, or a recording of the enquiry. This record should be kept for a minimum period of six months.
- 10.15 The Employee may have a copy of the minutes or recording at his/her own cost.

11 Appeals against the outcome of a disciplinary enquiry.

- 11.1 An Employee has the right to appeal against the findings of any disciplinary hearing/enquiry under the following circumstances:
- 11.1.1 If he/she believes the decision is unfair and the punishment is not commensurate with the offence.
 - 11.1.2 If new evidence or witnesses are available that may materially influence the decision of the hearing/enquiry.
 - 11.1.3 If the disciplinary procedures were not adhered to.
- 11.2 An Employee has the right to lodge an appeal within five (5) working days after he/she was notified of the decision/outcome of the enquiry/disciplinary action. Should an Employee wish to lodge an appeal, he/she should complete the appeal form and submit it to the People Manager.
- 11.3 The appeal hearing must be conducted as per the procedures for other disciplinary hearings/enquiries except that it is not necessary to re-hear all the previous statements, as the information needed can be obtained from the minutes or recording of the original hearing/enquiry.
- 11.4 The appeal will be considered within seven (7) working days of the date of lodging the appeal by the Employee in writing.
- 11.5 The Chairperson of the appeal hearing should not have been involved in or be biased or prejudiced by the original disciplinary case.
- 11.6 An Employer or member of Management has the right to appeal against the decision of the Chairperson of a disciplinary hearing and to hold a second disciplinary hearing/enquiry

if the first enquiry does not comply with the provisions of the disciplinary policy, or if new and substantially different evidence emerges after the first enquiry which casts the Employee's offence in a more serious light.

12 Shop Stewards and disciplinary actions.

- 12.1 Shop stewards have the right to represent and/or assist their unionised colleagues in dealings with Management e.g. disciplinary and grievance meetings.
- 12.2 Shop stewards have the duty to properly investigate the relevant matter and to prepare themselves well to represent the Employee during the hearing. Shop stewards must therefore consult with the Employee he/she is representing prior to the hearing/meeting to prepare successfully for the hearing/meeting.

13 Referral to the CCMA.

- 13.1 If an Employee or Employee Representative regards the dismissal as being unfair, or if the individual concerned disputes the dismissal, the case may be referred to the CCMA/Bargaining Council or an independent recognised arbitrator for appeal.
- 13.2 A referral to the CCMA/Bargaining Council or a recognised arbitrator shall only take place after the internal appeal procedure stated in this policy has been followed and proved to be unsuccessful.

14 Related policies and procedures

- 14.1 Code of Conduct and Code of Good Practice.

15 Related documents

- 15.1 Annexure A: Guidelines on Disciplinary Sanctions.
- 15.2 Complaint form.
- 15.3 Record of Verbal Warning.
- 15.4 Written Warning.
- 15.5 Final Written Warning.
- 15.6 Notice of a Disciplinary Enquiry.
- 15.7 Record of a Disciplinary Enquiry.
- 15.8 Appeal Form.

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- 15.9 Termination of Employment.
- 15.10 Notice of Appeal Hearing.
- 15.11 Outcome of Appeal Hearing.
- 15.12 Notice of Counselling Session.
- 15.13 Record of Counselling Session.
- 15.14 Notice of Suspension Form.