CHAIRPERSON'S HEARING RECORD

UPDATED 2026

Practical record + decision worksheet

Misconduct | Incapacity | Performance | Probation

1. CASE OVERVIEW & PRELIMINARY ISSUES

Before evidence begins

EMPLOYER

CASE / REFERENCE NO.

EMPLOYEE

EMPLOYEE NO.

JOB TITLE

DEPARTMENT / SITE

DATE

START TIME

END TIME

VENUE / PLATFORM

HEARING TYPE - SELECT ONE PRIMARY TYPE

Misconduct | Poor performance | Ill health / injury / other incapacity | Probation

PARTICIPANTS

CHAIRPERSON

EMPLOYER / INITIATOR

EMPLOYEE REPRESENTATIVE

TRADE UNION (IF ANY)

HR / OBSERVER

INTERPRETER

PRELIMINARY FAIRNESS RECORD

Notice / allegations received by employee?	Yes	No
Proper notice given under applicable policy / code / agreement?	Yes	No
Allegations explained in sufficient detail to be understood?	Yes	No
Reasonable opportunity / time to prepare?	Yes	No
Evidence / document bundle supplied timeously for fair preparation?	Yes	No
Employee comfortable with language used / interpretation?	Yes	No
Assistance by fellow employee / trade union representative offered?	Yes	No

NOTICE DATE

BUNDLE / DISCLOSURE DATE

PREPARATION / DISCLOSURE OBJECTION OR REQUEST

SPECIAL PRELIMINARY ISSUES

Employee is trade union representative / office-bearer / official

Union informed / consulted

Employee is / was suspended

External / legal representation requested

RECORDING OF PROCEEDINGS

Recorded | Not recorded

METHOD / BY WHOM

RECORDING REQUEST / OBJECTION / CONSENT / RULING

RULING / REASONS ON EXTERNAL OR LEGAL REPRESENTATION (IF APPLICABLE)

OTHER PRELIMINARY OBJECTION, POSTPONEMENT REQUEST, DISCLOSURE ISSUE OR RULING

2. FAIR PROCEDURE, ALLEGATIONS & RESPONSES

Code paragraph 11

FAIR PROCEDURE CHECKLIST

- [ ] Genuine dialogue and an opportunity for reflection before decision.
- [ ] Allegations notified / explained, preferably in writing.
- [ ] Reasonable period to prepare and make representations.
- [ ] Opportunity to make representations on alleged misconduct and appropriate sanction.
- [ ] Assistance of fellow employee or trade union representative allowed.
- [ ] Where reasonably possible, conversation in a language comfortable to the employee.
- [ ] Any exceptional departure from normal procedure recorded and justified.

ALLEGATIONS / CHARGES AND EMPLOYEE RESPONSE

#	Allegation / charge	Rule / standard relied on	Employee response / plea
1			
2			
3			
4			

ADMISSIONS / COMMON CAUSE ISSUES

EMPLOYEE UNDERSTANDING / CLARIFICATION REQUIRED

PROCEDURAL OBJECTIONS, ADJOURNMENTS, POSTPONEMENTS AND RULINGS

Suggested sequence: employer case -> challenge/questions -> employee case -> challenge/questions -> closing representations -> findings. If adverse findings require sanction, receive mitigation and aggravation before deciding sanction. Strict courtroom formality is not required unless a binding rule requires it.

3. EMPLOYER / INITIATOR CASE

Evidence, witnesses and documents

EMPLOYER CASE THEORY / OPENING STATEMENT

WITNESSES AND MATERIAL EVIDENCE

WITNESS 1	KEY EVIDENCE / CREDIBILITY / CONCESSIONS

WITNESS 2	KEY EVIDENCE / CREDIBILITY / CONCESSIONS

WITNESS 3	KEY EVIDENCE / CREDIBILITY / CONCESSIONS

WITNESS 4	KEY EVIDENCE / CREDIBILITY / CONCESSIONS

EXHIBIT / DOCUMENT 1 - DESCRIPTION AND SIGNIFICANCE

EXHIBIT / DOCUMENT 2 - DESCRIPTION AND SIGNIFICANCE

EXHIBIT / DOCUMENT 3 - DESCRIPTION AND SIGNIFICANCE

EXHIBIT / DOCUMENT 4 - DESCRIPTION AND SIGNIFICANCE

CHALLENGE / QUESTIONS BY EMPLOYEE OR REPRESENTATIVE - IMPORTANT ANSWERS AND CONCESSIONS

CHAIRPERSON QUESTIONS / CLARIFICATIONS AND ANSWERS

EMPLOYER CLOSING REPRESENTATIONS ON FACTS (NOT SANCTION)

4. EMPLOYEE CASE

Explanation, witnesses and documents

EMPLOYEE EXPLANATION / DEFENCE / RESPONSE

WITNESSES AND MATERIAL EVIDENCE

WITNESS	KEY EVIDENCE / CREDIBILITY / CONCESSIONS
WITNESS 1	
WITNESS 2	
WITNESS 3	
WITNESS 4	

EXHIBIT / DOCUMENT 1 - DESCRIPTION AND SIGNIFICANCE

EXHIBIT / DOCUMENT 2 - DESCRIPTION AND SIGNIFICANCE

EXHIBIT / DOCUMENT 3 - DESCRIPTION AND SIGNIFICANCE

EXHIBIT / DOCUMENT 4 - DESCRIPTION AND SIGNIFICANCE

CHALLENGE / QUESTIONS BY EMPLOYER - IMPORTANT ANSWERS AND CONCESSIONS

CHAIRPERSON QUESTIONS / CLARIFICATIONS AND ANSWERS

EMPLOYEE CLOSING REPRESENTATIONS ON FACTS (NOT SANCTION)

5. EVIDENCE ASSESSMENT & FACTUAL FINDINGS

Balance of probabilities

MATERIAL FACTS COMMON CAUSE / ADMITTED

MATERIAL FACTS GENUINELY IN DISPUTE

CREDIBILITY, RELIABILITY AND PROBABILITIES - CONTRADICTIONS, CORROBORATION, CONTEMPORANEOUS DOCUMENTS AND INHERENT PROBABILITIES

EVIDENTIAL WEIGHT - HEARSAY, MISSING WITNESSES/DOCUMENTS, ELECTRONIC EVIDENCE, CHAIN OF CUSTODY, INFERENCES

FINDING ON EACH ALLEGATION

ALLEGATION 1 ☐ Proved ☐ Not proved

ALLEGATION 2 ☐ Proved ☐ Not proved

ALLEGATION 3 ☐ Proved ☐ Not proved

ALLEGATION 4 ☐ Proved ☐ Not proved

6. MISCONDUCT - FAIRNESS & SANCTION MATRIX

Use only for misconduct | Code 6-10

FAIR REASON / RULE ASSESSMENT

Was a workplace rule or standard contravened?	Yes	No
Was the rule / standard valid and reasonable?	Yes	No
Was the employee aware, or reasonably expected to be aware, of it?	Yes	No
Was the importance of the rule / standard considered?	Yes	No
Was actual or potential harm / damage considered?	Yes	No
Has the rule / sanction been applied consistently, subject to legitimate distinctions?	Yes	No
Could progressive discipline reasonably prevent recurrence?	Yes	No
Does the proven misconduct render continued employment intolerable?	Yes	No

REASONS / FACTUAL BASIS FOR THE ABOVE ASSESSMENT

DISMISSAL / SANCTION FACTORS

NATURE AND REQUIREMENTS OF THE JOB

NATURE AND SERIOUSNESS OF MISCONDUCT AND EFFECT ON BUSINESS

ACKNOWLEDGEMENT OF WRONGDOING AND WILLINGNESS TO COMPLY

EMPLOYEE CIRCUMSTANCES: SERVICE, DISCIPLINARY RECORD, EFFECT OF DISMISSAL

FACTS ABOUT CONTINUING RELATIONSHIP / TRUST - DO NOT RELY ON A BARE CONCLUSION

CONSISTENCY CHECK

- [ ] Comparable employees in same incident considered
- [ ] Historical comparable cases considered

ANY DISTINCTION / INCONSISTENCY AND JUSTIFICATION

Code emphasis: dismissal is generally appropriate only when continuation of employment is intolerable. Assess seriousness, corrective prospects, consistency, the employee's response and individual circumstances together.

7. POOR PERFORMANCE & PROBATION

Use relevant block | Code 14-20

A. UNSATISFACTORY PERFORMANCE AFTER PROBATION

Employee failed to meet a required performance standard?	Yes	No
Employee knew / could reasonably be expected to know the standard?	Yes	No
Required standard was reasonably achievable?	Yes	No
Fair opportunity and reasonable time to meet standard?	Yes	No
Appropriate evaluation, instruction, training, guidance or counselling given?	Yes	No
Employee given opportunity to respond before dismissal decision?	Yes	No
Dismissal appropriate after alternatives are considered?	Yes	No

PERFORMANCE STANDARD, INTERVENTIONS, TIME ALLOWED, EMPLOYEE RESPONSE AND ALTERNATIVES

B. PROBATION / SUITABILITY

Probation period determined in advance and reasonable for the job?	Yes	No
Reasonable guidance / instruction / training / counselling provided?	Yes	No
Employee given opportunity to make representations before dismissal or extension?	Yes	No
Decision concerns performance or suitability for continued employment?	Yes	No

PROBATION REASONS, GUIDANCE, REPRESENTATIONS AND FINAL SUITABILITY ASSESSMENT

Probation: the purpose is to evaluate performance and suitability before confirming appointment. Before dismissal or extension, allow representations and consider them. The Code recognises that reasons for a probation-related dismissal may be less compelling than after probation, while fairness remains required.

8. ILL HEALTH, INJURY & OTHER INCAPACITY

Use only for incapacity | Code 21

CORE INVESTIGATION

Extent, cause and likely duration of incapacity investigated?	Yes	No
Relevant medical / expert / factual evidence considered?	Yes	No
Temporary or permanent nature assessed?	Yes	No
All reasonably possible alternatives short of dismissal investigated?	Yes	No
Alternative work / adaptation / reasonable accommodation considered where applicable?	Yes	No
If work-related illness/injury or disability: enhanced accommodation obligations considered?	Yes	No
Employee allowed to state a case and be assisted by union representative / fellow employee?	Yes	No

NATURE, CAUSE, DURATION, MEDICAL / FACTUAL EVIDENCE AND OPERATIONAL EFFECT

ALTERNATIVES, ADAPTATION, ALTERNATIVE EMPLOYMENT, REASONABLE ACCOMMODATION AND WHY EACH IS / IS NOT FEASIBLE

☐ Other incapacity concerns incompatibility / inability to work in harmony

IF INCOMPATIBILITY: CONCRETE CONDUCT / IMPACT, COUNSELLING OR INTERVENTIONS, OPPORTUNITY TO IMPROVE, AND ALTERNATIVES

FINAL INCAPACITY ASSESSMENT AND REASONS - INCLUDE PROPORTIONALITY AND ALTERNATIVES TO DISMISSAL

9. MITIGATION, AGGRAVATION & SANCTION

After adverse finding where sanction is required

EMPLOYEE MITIGATION / PERSONAL CIRCUMSTANCES - SERVICE, RECORD, ROLE, EXPLANATION, ACKNOWLEDGEMENT/REMORSE, IMPACT, CORRECTION PROSPECTS

EMPLOYER AGGRAVATION / OPERATIONAL IMPACT - SERIOUSNESS, HARM, RESPONSIBILITY, SAFETY/SECURITY/REPUTATION, PRIOR DISCIPLINE, CONSISTENCY, REC

ALTERNATIVE MEASURES CONSIDERED

- ☐ No disciplinary action
- ☐ Counselling / corrective instruction
- ☐ Written warning
- ☐ Final written warning
- ☐ Training / coaching
- ☐ Performance / improvement plan
- ☐ Transfer / reassignment*
- ☐ Demotion*
- ☐ Suspension without pay*
- ☐ Dismissal
- ☐ Other

** Use only where permitted by law, contract, collective agreement / disciplinary code, or with appropriate agreement. Do not assume demotion, transfer or unpaid suspension may be imposed unilaterally in every workplace.*

SANCTION / CORRECTIVE MEASURE IMPOSED

REASONS - PROPORTIONALITY, CORRECTIVE PROSPECTS, CONSISTENCY, ALTERNATIVES, INDIVIDUAL CIRCUMSTANCES, AND WHY CONTINUED EMPLOYMENT IS OR I

EFFECTIVE DATE

WARNING VALIDITY / REVIEW PERIOD

OUTCOME COMMUNICATION METHOD

Decision discipline: serious misconduct does not make dismissal automatic. Record the facts that make continued employment intolerable, or the facts supporting a corrective sanction. The decision should be reasoned and case-specific.

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10. OUTCOME, COMMUNICATION & CLOSURE

Final chairperson record

OUTCOME SUMMARY - ALLEGATIONS, FINDINGS AND SANCTION / DECISION

KEY REASONS - EVIDENCE ACCEPTED / REJECTED AND DECISIVE CONSIDERATIONS

CHAIRPERSON DECISION STATUS - SELECT ONE

Final determination / sanction within chairperson mandate

Recommendation only - final decision reserved

IF RECOMMENDATION: FINAL DECISION-MAKER / AUTHORITY

DATE REFERRED

OUTCOME DATE

TIME

METHOD / RECIPIENT

INTERNAL APPEAL / REVIEW - ONLY IF PROVIDED BY POLICY, CONTRACT OR COLLECTIVE AGREEMENT

Not applicable / no internal appeal

Available

DEADLINE / PERIOD

APPEAL TO / PROCEDURE

External dispute rights: dismissal disputes are generally referred within 30 days under LRA s191 to the bargaining council having jurisdiction, or otherwise to the CCMA. Unfair labour practice disputes are generally referred within 90 days. The correct forum and time limit depend on the dispute. This record does not waive or limit statutory rights.

CLOSURE / RECORD

Copy of written outcome / record provided or arranged?	Yes	No
Any correction or procedural concern at closure recorded?	Yes	No

CLOSURE NOTES / REFUSAL TO SIGN / FURTHER ADMINISTRATIVE STEPS

ACKNOWLEDGEMENT AND SIGNATURES

Signatures acknowledge attendance / receipt and the opportunity to participate. They do not mean that a party agrees with the findings, waives rights, or accepts the outcome. If a party declines to sign, record that fact.

CHAIRPERSON - NAME / SIGNATURE / TABLET INK

EMPLOYEE - NAME / SIGNATURE / TABLET INK

REPRESENTATIVE - NAME / SIGNATURE / TABLET INK

EMPLOYER / INITIATOR

INTERPRETER

DATE / TIME

CHAIRPERSON CERTIFICATION

I record that I considered the relevant evidence and representations, applied the applicable workplace rules and the Labour Relations Act / Code, and reached the decision or recommendation recorded above independently and on the facts of this matter.