

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> <b>Version: 1</b>
	<b>Form No.:01</b>	<b>Rev No.:01</b>
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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## 1. PURPOSE AND SCOPE

- 1.1. This Disciplinary code and procedure applies to all employees of BMW SA , its subsidiaries in the Republic of South Africa (including Financial Services operations in South Africa), and any reference to BMW SA must also be considered a reference to such subsidiaries or Financial Services operations in South Africa.
- 1.2. Any reference to BMW SA's Management Board, or Chief Executive Office must also be considered a reference to Financial Services local Executive Committee or Chief Executive Officer.
- 1.3. This document contains the principles and the rules of managing discipline in the workplace including documentation of the Disciplinary Code and Procedure.
- 1.4. The Company reserves the right to alter, withdraw or replace any provision at its discretion.

## 2. TERMS, DEFINITIONS, ABBREVIATIONS

**"Company"** means BMW South Africa (Proprietary) Limited (registration number 1960/000196/07), a company duly incorporated in accordance with the laws of the Republic of South Africa and its Affiliates. Company may also refer to BMW Financial Services Operations in South Africa and the BMW Group.

**"Employee"** means an individual who is employed by BMW SA, either part-time or full-time under a contract of employment.

**"Disciplinary enquiry"** it is a fact finding mechanism for the purpose of adjudicating the on the outcome of a disciplinary action taken by the company.

**"Chairperson"** means a person who presides over a disciplinary enquiry with the purpose of facilitating the proceedings and adjudicating.

## 3. RESPONSIBILITIES AND DUTIES.

All relevant stakeholders are to ensure they are familiar with the provisions of this Disciplinary Code and Procedure and apply where applicable and appropriate to relevant processes.

## 4. CODE AND PROCEDURE

### 4.1. Introduction

- BMW SA (Pty) Ltd and BMW Financial Services SA (Pty) Ltd (both herein referred to as "the Company") is a Company and it is tasked with the key duty of managing behavioural discipline, such as misconduct and performance related issues in the workplace. The principles and the rules of managing discipline in the workplace are documented in the Disciplinary Code and Procedure.
- The Disciplinary Code and Procedure complies with the provisions of the Constitution of the Republic of South Africa; International Labour Organizations Conventions; natural

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justice, Labour Relations Act 66 of 1995 (as amended) and all applicable laws of general application in South Africa.

- The Company can apply its discretion within the law and at all-times act in a fair and just manner in managing discipline in the workplace. Each case is unique and will be judged on its own merits. Deviations from the Disciplinary Code and Procedure in certain circumstances must be justified and are at the discretion of the Company. The Company and the affected party must consult on the circumstances when the Company may deviate from the Disciplinary Code and Procedure within a week. Should party fail to agree, the company will determine and impose (Failure to agree), the Company will then impose fair and just circumstances necessary for the business.
- This Disciplinary Code and Procedure applies to all employees of the Company and supersedes any previous disciplinary procedures or codes.

#### 4.2. **The objective of this Disciplinary Code and Procedure is to:**

- Establish a standard of conduct required of all employees.
- Support constructive labour relations and accelerate social justice in the workplace.
- Regulate discipline in the workplace and promote mutual respect among employees and the Company.
- Ensure that employees and the Company share a common understanding of misconduct and discipline.
- Promote acceptable conduct, correct and remedy unacceptable conduct.
- Establish clear rules and procedures for employees and the Company with a quick and easy reference for the application of disciplinary measures.
- Prevent arbitrary, selective or discriminatory disciplinary actions by the Company towards employees.

#### 4.3. **Principles.**

- Discipline is a corrective and not a punitive measure.
- Discipline must be applied in a prompt, fair, consistent and just manner.
- Discipline is the responsibility of the Company.
- A legal representative is not permitted to represent an employee in an internal disciplinary enquiry.
- The Disciplinary Code and Procedure is necessary for the efficient delivery of service and the fair treatment of employees and ensures that employees:
  - have a fair Enquiry in a formal or informal setting, ○ have the right to representation,
  - are timeously informed of allegations of misconduct made against them, ○ receive written outcome of the Disciplinary Enquiry with reasons for any decision taken and,
  - have the right to appeal against a finding or sanction as per the timeframe set out in This Code.

#### 4.4. **Probable cause**

- Should a grievance arise in the context of an initiated disciplinary action, a grievance process should always be given first preference over a disciplinary process.

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- The disciplinary enquiry should be suspended pending the grievance outcome. The outcome will therefore determine resumption of the disciplinary process.
- The grievance process should be concluded expeditiously, withing 7 working days from the suspension date of the disciplinary process.
- Such request to suspend the disciplinary process in view of the contemplated grievance will be sanctioned by the Employee Relations/Industrial Relations Manager in consultation with the designated Chairperson of the disciplinary enquiry.

#### 4.5. **Misconduct that is also a criminal offence**

- 4.5.1. If an employee commits misconduct that is also a criminal offence, the Criminal Procedure and the Disciplinary Procedure will continue as separate and different proceedings,
- 4.5.2. the Company can proceed with a disciplinary action in a matter even if the employee is acquitted in the criminal case,
- 4.5.3. The employee may not refuse to make a statement in a disciplinary process while the criminal case is not concluded.

#### 4.6. **Types of misconduct**

There are three kinds of misconduct:

- Less serious misconduct
- Moderate misconduct
- Serious misconduct

The Company will categorise the nature of misconducts in the schedule of offences; this can be found in section 4.15.

#### 4.7. **Types of disciplinary actions**

There are two types of disciplinary action:

- Informal disciplinary action (warnings) and
- Formal disciplinary action (disciplinary enquiry).

#### 4.8. **Conducting a disciplinary enquiry**

##### 4.8.1. **Transgressions**

Whenever an employee appears to have transgressed the Company's policies, conditions of service, rules, codes or standards with regard to conduct then such employee shall be disciplined in accordance with the Company's Code as set out herein.

##### 4.8.2. **Sanctions**

The Company may impose one or a combination of the following sanctions depending on the severity of the transgression. In order of severity, the disciplinary measures are:

- Counselling
- Verbal Warning
- Written Warning
- Final Written Warning
- Demotion, with consent, if the allegations are related to performance
- Suspension without pay for maximum of 1 (one) month,

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- Dismissal

The disciplinary action and sanction above is the only remedy at the disposal of the Company.

#### 4.8.3. **Notice of disciplinary enquiry**

The Company must serve the employee with a written Notice of a Disciplinary Enquiry (Annexure 4 or 5) via one or more of the following methods:

- Serve in person,
- Serve by registered post to the last known address of the employee in the Company's records.
- Telegram or fax
- By e-mail
- SMS

It is the responsibility of the employee to ensure that the personal details are updated every time there is a change.

The Company must ensure that the employee receives the Notice of a Disciplinary Enquiry within 48 hours. The Notice must be clear and concise and compliant with content of the Notice, Annexure 4 or 5.

#### 4.8.4. **Notice of disciplinary enquiry in relation to absenteeism.**

- Employee that is absent from work for a period of 2 (two) days without reporting to their line manager, the Company must then communicate with the employee through company communication means to establish his or her whereabouts.
- In the case where the Company could not establish the whereabouts of the employee on the 3<sup>rd</sup> (third) day, then the Company must send a registered mail through courier to reach the employee within 24 (twenty-four) hours, to the last known address of the employee. The letter must instruct the employee to report for work, at a specific office and the person he or she must report to and the time.
- In the case where the Company cannot establish the whereabouts of the employee on the 5<sup>th</sup> (fifth) day, then the Company must serve the employee with a charge sheet for being absent from work without permission of the Company or valid reason and instruct him or her to appear before a disciplinary enquiry to be held at Company premises.
- In the case where the employee fails to follow and comply with the lawful instruction to appear before a disciplinary enquiry, the Company will accept that the employee has repudiated the employment contract by failing to place his labour potential at the disposal of the Company as agreed and signed in the employment contract.

The employee has 2 (two) calendar days after being informed of the disciplinary enquiry dismissal outcome, to submit compelling reasons why the dismissal by operation of law should not be upheld (refer to section 4.14 of this Code).

#### 4.8.5. **Composition of a Disciplinary Enquiry**

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The Disciplinary Enquiry shall consist of the following persons:

- The Chairperson (internal or external),
- The Initiator (who may be the immediate superior of the accused employee or any other designated manager),
- The accused employee,
- The employee's representative, Co-worker or Shop Steward,
- HR Business Partner
- The Interpreter (if deemed necessary),
- Any other person who may be required to attend either as a witness or just an observer, as may be deemed necessary by the Chairperson.

#### **The Functions of the Chairperson**

- To ensure that all persons required at the Disciplinary Enquiry are present before the commencement of the Enquiry and that the employee who is the subject of the Disciplinary Enquiry has been positively identified,
- to ensure that the employee is informed of all his rights during the Disciplinary Enquiry,
- to conduct in a fair and proper manner all the proceedings of the Disciplinary Enquiry,
- to provide the opportunity for all evidence to be led and any relevant questions asked by either party,
- to ask questions only to clarify issues, but not to test evidence presented by either party,
- to make a decision within 5 (five) working days of the closing arguments by both parties,
- to record his decision on the Disciplinary Report Forms (Annexure 7) and obtain the signatures of both parties.

#### **The Functions of the Initiator**

- To ensure that the charge(s) or allegations against the accused employee are well explained and understood by the accused employee,
- to ensure that all relevant facts and written statements are obtained before the commencement of the Disciplinary Enquiry, where it is necessary,
- to make available to the Disciplinary Enquiry all information, statements and results on any investigation(s),
- to lead evidence, examine and cross-examine the alleged offender and his witnesses,
- to sign all Disciplinary Report Forms, as may be necessary, as an acknowledgement of the decision taken by the Chairperson at the conclusion of the Enquiry.

#### **The Functions of the Employee Representative (Co-worker) or Shop Steward**

- on reasonable notice, to request from the HR Business Partner, on behalf of the employee, that the services of an Interpreter be available when the Disciplinary Enquiry commences, if so required,
- to consult and prepare the case with the employee prior to the sitting of the Disciplinary Enquiry,
- to lead evidence, examine, and cross-examine witnesses,
- to sign all Disciplinary Report Forms as acknowledgement of the decision taken by the Chairperson at the Enquiry.

#### **The Functions of the HR Business Partner**

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- To arrange for the services of an Interpreter, upon request by the accused employee and/or his representative,
- To ensure that the proceedings are carried out in the spirit and letter of this Disciplinary Code and Procedure,
- to ensure that the Disciplinary Enquiry is fair in terms of the Code & Procedure,
- to provide audio equipment for the recording of the Enquiry proceedings,
- to ensure that the Disciplinary Enquiry is rapidly and thoroughly concluded,
- to ensure that all Disciplinary Report Forms are filed in the employee's personnel file and or HR system

#### 4.9. **Suspension**

- Where the nature of the offence is such that the safety of other employees and/or property of the Company and/or its operation(s) could be endangered or disrupted by the presence of the accused employee or where suspicion exists that the accused employee may interfere with witness(es), the immediate superior, after consultation with the HR Business Partner, may suspend the accused employee, on full pay of ordinary or normal working hours, pending the investigation of the alleged offence(s). A Disciplinary Report Form (Annexure 5) must be completed in this case.
- Notwithstanding the above, should the accused employee unreasonably delay the commencement of the disciplinary enquiry after the investigation has been completed, the suspension on full pay shall cease and the accused employee shall be put on suspension without pay. Full payment shall be re-instated at the commencement of the disciplinary enquiry.
- When suspension is contemplated, an employer is not required to give an employee an opportunity to make representations before a precautionary suspension.

#### 4.10. **Postponement**

- The party seeking a postponement must serve the postponement application on the other party and the Chairperson of the Disciplinary Enquiry. The postponement application must be brought in 48 hours (except in emergency or exceptional cases) before the matter proceeds to a disciplinary enquiry, to avoid wastage costs. A party is also allowed to bring a verbal postponement application on the day of the Enquiry.
- Any party to a Disciplinary Enquiry can bring a postponement application. It all depends on the reason for the request and the requesting party must attach proof in the case of medical, travelling or double-booking etc.
- The Chairperson should look at the reason for the request and also whether or not the employee will be prejudiced if the request is not granted and also what prejudice the Company will suffer (if any) if the request for postponement is granted. A reason for granting or declining a postponement application will be covered in the outcome report.
- The Company will proceed with the Disciplinary Enquiry in the absence of the employee, after making a submission to the Chairperson of the Enquiry that the employee is buying time (failing to appear at the hearing on given date, having opportunity to prepare etc.) The Chairperson of the Enquiry shall consider the Company's and employee's submission and issue a ruling.

#### 4.11. **Disciplinary Procedure**

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#### 4.11.1. **Initiating Disciplinary Procedure**

The Chairperson shall state the nature of the alleged transgression and explain the purpose of the Enquiry to the employee. The initiator of the complaint shall present the evidence against the employee by giving evidence in person and/or calling other witnesses. As far as possible oral evidence should be given, however, where a witness is not available, an affidavit (attested to before a commissioner of oaths) may be tendered as evidence.

The employee shall be given an opportunity of testing and challenging the evidence of each witness by putting questions to them. The employee shall be afforded an opportunity to challenge the on the facts and/or the disciplinary action to be taken.

Any party shall be entitled to adjourn the proceedings to obtain further information, if the same is relevant and the adjournment is reasonable.

#### 4.11.2. **Amendments of Disciplinary Charges**

An amendment of a charge and or charges shall be done in the first sitting of the enquiry before the Chairperson of the enquiry and shall be raised as a preliminary points before the commencement of the enquiry. The Chairperson of the enquiry shall grant permission to the initiator to amend charges and thereafter adjourn the enquiry and instruct the initiator to provide the accused and his/her representative with relevant evidence pack to prepare for the enquiry.

#### 4.11.3. **Disciplinary Sanctions**

##### 4.11.3.1. **Level one – Verbal Warning**

If the immediate superior is of the opinion that the conduct or performance of an employee is unsatisfactory, but does not warrant a First Warning, Final Warning or Dismissal, then a Verbal Warning will be issued. The Verbal Warning will be noted on a Disciplinary Report Form (Annexure 1) and filed in the employee's personnel file and a copy given to the employee. This Verbal Warning shall remain valid for a period of 3 (three) months from date of issue.

##### 4.11.3.2. **Level two – Written Warning**

If, subsequent to issuing a Verbal Warning, the immediate superior is still not satisfied with the conduct of the employee, or if the employee commits another related or more serious offence which warrants a Written Warning, then he shall discuss the nature of the transgression, the corrective action and the disciplinary steps with the employee.

The immediate superior must then complete a Disciplinary Report Form (Annexure 2) and secure the signature of the employee thereon as an acknowledgement of receipt of the Written Warning, even though the employee may not necessarily agree with the disciplinary action taken. Should the employee refuse to sign the Warning, then the immediate superior shall merely note the fact thereon.

The Written Warning should then be placed in the employee's personnel file and a copy given to the employee. This Written Warning shall remain valid for a period of 6 (six) months from date of issue.

##### 4.11.3.3. **Level three – Final Written Warning**

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If, subsequent to issuing a Written Warning, the immediate superior is still not satisfied with the conduct of the employee, or if the employee commits another related offence within the prescribed period of 6 (six) months, or if the employee commits any offence which warrants a Final Written Warning, then the same procedure as detailed in Level Two shall be followed.

At this Level, the employee shall be entitled to be represented by a fellow employee (coworker) or Shop-Steward. The immediate superior must complete a Disciplinary Report Form (Annexure 3). The Final Written Warning shall remain valid for a period of 12 (twelve) months from date of issue.

The immediate superior shall ensure that the employee and his representative are aware of the fact that, should the employee commit another similar or related offence within the period of 12 (twelve) months following receipt of a Final Written Warning, then that offence shall be subject to a formal Disciplinary Enquiry.

A disciplinary record shall not be expunged after the expiry date of a warning. Where an unsatisfactory behaviour pattern relating to the specific offence has developed, the Company reserves the right to make reference to such record where similar or related offences have been committed repeatedly after each expiry date of a warning.

Dispensing with disciplinary action is the responsibility of the Company and delegated to the immediate superior. However, this responsibility could be handled by any other competent designated person within the Company. Further to this, chairing of disciplinary enquiries will not be limited to departmental managers. Note that the requirement for the employee to sign any document in terms of this procedure only signifies acknowledgment of the disciplinary step or action taken, whether or not the employee agrees with such step or action. Refusal to sign does not invalidate the disciplinary step or action taken.

#### 4.11.3.4. **Level four – Disciplinary enquiry**

If, subsequent to issuing a Final Written Warning, the immediate superior is still not satisfied with the conduct of the employee, or the employee commits another related offence within the prescribed period of 12 (twelve) months, or if the employee commits an offence which could render him liable for dismissal, then the immediate superior shall request a formal Disciplinary Enquiry.

The immediate superior shall compile all relevant documents to support his/her initiation for an Enquiry and discuss the matter with the HR Business Partner. If they deem it necessary to institute a Disciplinary Enquiry, then the immediate superior shall inform the employee in writing by way of completing a Disciplinary Report Form (Annexure 4 or 5). The notice period shall not be less than 2 (two) working days.

The time and venue of the Disciplinary Enquiry shall be determined by the immediate superior, in consultation with the HR Business Partner. The HR Business Partner shall determine who shall act as a Chairperson of the Disciplinary Enquiry.

The Chairperson, so designated, shall within 5 (five) working days from issue of notification, conduct a formal Enquiry in the presence of the employee, the employee's



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representative from within the Company (if the employee requires one), the Initiator, HR Business Partner, Interpreter and any witness(es) as may be required.

If an accused employee is a shop steward, he may be represented by any two shop stewards or fellow employees of his own choice, or a Trade Union Official of a Trade Union recognized by the Company.

If the Company deems it necessary, a collective or mass Disciplinary Enquiry could be conducted where a collective of employees have transgressed collectively. If they so require, this collective of employees may be represented by any 2 (two) Shop Stewards or fellow employees of their own choice from within the Company.

During a Disciplinary Enquiry, the Chairperson shall ensure that a record of the proceedings is kept. The Chairperson shall ensure that the Enquiry is conducted in a fair and proper manner. The Chairperson shall ensure that a witness is only allowed at the Enquiry during his testimony. Permission to attend a Disciplinary Enquiry as an observer shall, on good reason, be at the discretion of the Chairperson.

The Chairperson shall, within 5 (five) working days of the closing arguments by both parties, give a verdict and a sanction on the matter. The decision shall be recorded on a Disciplinary Report Form (Annexure 7) signed by both parties and filed in the employee's personnel file, and a copy made available to the employee and his representative. The Chairperson shall ensure that the employee is informed of his right to appeal against the disciplinary action taken. Minutes are to be recorded, either in writing or mechanically (recorder). Any transcription request is for the account of the requesting party.

#### 4.12. **Disciplinary appeal enquiry**

##### 4.12.1. **Grounds for appeal**

- The Appeal Enquiry shall only focus and deal with the grounds for the appeal, and not to re-hear the whole matter.
- The employee has the right to appeal the decision or outcome of the Disciplinary Enquiry in certain circumstances, and these may include:
  - Procedural fairness
  - Substantive fairness
- The employee shall forfeit his or her right to appeal if 5 (five) working days have lapsed without submitting his or her appeal application. However, if the employee shows good cause, the designated manager shall exercise his discretion on whether or not to condone such late submission. The employee may be represented at the Appeal Enquiry by a shop steward or fellow employee (co-worker) from within the Company.

##### 4.12.2. **Applications for appeal enquiry**

- Any employee disciplined in terms of Level Three of this Code, but not dismissed, may apply for an appeal to the next level of management, within 5 (five) working days.
- Any employee dismissed in terms of this Code, shall have the right to appeal within 5 (five) working days.
- The grounds for appeal shall be submitted in writing, by completing a Disciplinary Report Form (Annexure 8) to the relevant HR Business Partner.

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- The HR Business Partner shall, as soon possible, but within 5 (five) working days of receipt of the appeal application, schedule a formal Appeal Enquiry to be heard by the designated Chairperson.
- The Chairperson of the Appeal Enquiry shall, within 5 (five) working days of conclusion of appeal arguments, give a decision which will be final outcome by completing a Disciplinary Report Form (Annexure 9).

#### 4.13. **Reviewing of Disciplinary Enquiry Decision or Outcome**

##### 4.13.1. **Grounds for reviewing enquiry**

The Company reserves the right to review the decision or outcome of the Disciplinary Enquiry in certain circumstances, and these may include:

- Immediate superior and/or the Chairperson of the Disciplinary Enquiry's failure to adequately apply his or her mind to the matter.
- Making an ill-informed, irrational or illogical and/or inappropriate decision, leading to inconsistency in application of discipline and/or a sanction not aligned with the Company's Disciplinary Code and Procedure.
- Chairperson acted ultra vires (the Chairperson over-stepped his or her powers).
- The Chairperson had prior knowledge of the matter and/or failed to disclose the interest he or she has in the matter.

##### 4.13.2. **Application for a review enquiry**

- The Company may apply for a Review within 5 (five) working days after the disciplinary sanction has been made by completing (Annexure 10).
- Any review of a Disciplinary Enquiry decision or outcome shall be sanctioned by the Employee Relations Manager.
- The Company shall utilise the service of an external and independent Chairperson to conduct a Review Enquiry where necessary.

##### 4.13.3. **Review enquiry submissions**

- The Review Enquiry is based on a written submission by both the Initiator and the employee to the designated Chairperson to make his outcome.
- The Chairperson at his discretion may also request oral submission from the Initiator and employee,
- The Chairperson of the review shall issue the outcome of the Review Enquiry within 5 (five) working days by completing (Annexure 11).

##### 4.14. **Re-opening of a disciplinary enquiry**

- In certain situations, the Company may re-open a Disciplinary Enquiry. These certain situations or circumstances may include, but are not limited to:
  - The circumstances of the misconduct not being fully canvassed at the initial Disciplinary Enquiry and,
  - New information or evidence subsequently being uncovered and exposed.
- Any re-opening of a Disciplinary Enquiry shall be sanctioned by the Employee Relations Manager within 5(five) working days after the sanction of the Disciplinary Enquiry.

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4.15. **Disciplinary Action**

NB: The list of offences below is not necessarily exhaustive and sanctions quoted must be regarded only as a guideline. Each case will be treated on its own merits. The disciplinary action taken may be of lesser or even greater severity depending upon, for example, the degree of seriousness of the offence.

<b>DISCIPLINARY ACTION</b>					
	<b>Code Transgression 1<sup>st</sup> 2<sup>nd</sup> 3<sup>rd</sup> 4<sup>th</sup></b>	<b>Offence Offence</b>	<b>Offence</b>	<b>Offence</b>	
<b>Category A Transgressions</b>					
	Absenteeism: Unauthorised absence, lateness or leaving the workplace early without good reason and/or permission, this includes overstaying tea and lunch breaks.	Verbal Warning	First Warning	Final Warning	Dismissal
	Consuming any food in other than prescribed eating places.	Verbal Warning	First Warning	Final Warning	Dismissal
	Wastage of working materials.	Verbal Warning	First Warning	Final Warning	Dismissal
<b>Category B Transgressions</b>					
	Company documents not handled and stored according to company procedure.	First Written	Final Warning	Dismissal	
	Disposal of litter in an unauthorised fashion.	First Written	Final Warning	Dismissal	
	Except in emergencies, running in the Plant.	First Warning	Final Warning	Dismissal	
	Damage to Company property or materials	First Warning	Final Warning	Dismissal	
	Failure to adhere to traffic signs whilst driving on company property for example exceeding the speed limit and disregarding Stop signs.	First Warning	Final Warning	Dismissal	
	Sleeping on duty.	First Warning	Final Warning	Dismissal	
<b>Category C Transgressions</b>					
	Bringing any car radio receiving set, other than a permanently fixed car radio, into or onto the premises of the Company without written permission from a senior manager.	Final Written Warning	Dismissal		
	Bringing dogs and other pets into or onto the premises of the Company without the Company's permission.	Final Warning	Dismissal		
	Any offence that relates to Company vehicles or machinery, including misuse, negligence, unauthorised driving, failure to report accidents, unlicensed, etc.	Final Warning	Dismissal		

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	Failure or refusal to carry out a reasonable and lawful instruction, including observance of Company regulations, e.g. safety, security, etc.	Final Warning	Dismissal		
	Misuse of Company property, e.g. computer network systems, including e-mail, internet, etc.	Final Warning	Dismissal		
	Negligence or horseplay.	Final Warning	Dismissal		
	Possession and/or under the influence of any intoxicating substance at work.	Final Warning	Dismissal		
	Threatening behaviour.	Final Warning	Dismissal		
	Use of abusive and/or derogatory and or offensive language at work and or signs in social and in formal context	Final Warning	Dismissal		
	Wrongful accusation of a fellow employee of: Racism, Sexual Harassment, Corruption, and or Theft	Final Warning	Dismissal		
<b>Category D Transgressions</b>					
	Accessing pornographic websites or storing pornographic material on a Company laptop or computer during working hours and after work.	Dismissal			
	Assault or fighting.	Dismissal			
	Bringing alcoholic beverages or illegal drugs into or onto the premises of the Company except with special permission from a senior manager or registered medical expert.	Dismissal			
	Breach of employee's duty of good faith, business ethics and conduct, including divulging of confidential information, deliberate supply of incorrect or false information, falsification of documents, etc.	Dismissal			
	Failure to report any of the following: Corruption, Theft, Stock Shrinkage, Bribery, Racism, Sexual Harassment and/or Covering up any Serious Misconduct.	Dismissal			
	Fraudulent time-keeping and access card related offences.	Dismissal			
	Gross insubordination, disrespect, impudence and or insolence.	Dismissal			

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	Intimidation or incitement.	Dismissal			
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	Possession of dangerous weapons at work.	Dismissal			
	Posting offensive messages on social media, such as racial or hate speech.	Dismissal			
	Selling and/or consuming any intoxicating substance within Company premises and/or during working hours.	Dismissal			
	Unauthorized possession of Company property and/or theft and/or fraud.	Dismissal			
	Use of racist remarks, language and signs.	Dismissal			
	Sexual Harassment	Dismissal			
	Wilful damage to Company equipment or Company property.	Dismissal			
	Victimisation	Dismissal			
	Disposing of or concealing defective work either directly or as a part of any deception in this regard.	Dismissal			
	Distribution of company information including information about its products, services, employees in any format or soliciting work, services, money or favours from any person or legal entity employed with the Company, without the Company's permission.	Dismissal			
	Entering or leaving the Company premises other than through recognised gates.	Dismissal			
	Experiments in any work area except with the authority of the senior manager in charge.	Dismissal			
	Gambling or unofficial money lending.	Dismissal			
	Making or publishing of false, vicious or malicious statements concerning an employee, supervisor, the Company or its products.	Dismissal			
	Permitting another person to use your Company identity card to gain entry to the premises.	Dismissal			

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	Fraudulent Qualification	Dismissal			
	Any other reason in law and fairness as being sufficient grounds for dismissal.	Dismissal			

**5. VALID DOCUMENTS AND ATTACHMENTS**

**Annexure 1**

<b>DISCIPLINARY REPORT FORM</b>	
<b>Employee Name:</b>	
<b>COID:</b>	
<b>Job Title:</b>	
<b>Department:</b>	
<b>VERBAL WARNING</b> (To be completed by the immediate superior)	
<b>Date of incident:</b>	
<b>Details of incident:</b>	
<b>Witnesses, if any:</b>	
<b>Consequences of a re-occurrence:</b>	

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> DID-ZA-0053620 <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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<b>Name of Immediate Superior:</b>	
<b>Signature of Immediate Superior:</b>	<b>Date</b>
<b>Signature of Employee:</b>	<b>Date</b>

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the HR Business Partner who must file accordingly.

## Annexure 2

DISCIPLINARY REPORT FORM
<b>Employee Name:</b>
<b>COID:</b>
<b>Job Title:</b>
<b>Department:</b>
<b>FIRST WARNING</b> (To be completed by the immediate superior)
<b>Date of incident:</b>
<b>Details of incident:</b>
<b>Witnesses, if any:</b>
<b>Consequences of a re-occurrence:</b>

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> DID-ZA-0053620 <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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<b>Name of Immediate Superior:</b>	
<b>Signature of Immediate Superior:</b>	<b>Date</b>
<b>Signature of Employee:</b>	<b>Date</b>

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the HR Business Partner who must file accordingly.



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	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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**Annexure 3**

<b>DISCIPLINARY REPORT FORM</b>
<b>Employee Name:</b>
<b>COID:</b>
<b>Job Title:</b>
<b>Department:</b>
<b>FINAL WARNING</b> (To be completed by the immediate superior)
<b>Date of incident:</b>
<b>Details of incident:</b>
<b>Witnesses, if any:</b>
<b>Consequences of a re-occurrence:</b>
<b>Name of Immediate Superior:</b>

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
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**Annexure 4**

<b>Signature of Immediate Superior:</b>	<b>Date</b>
<b>Signature of Employee:</b>	<b>Date</b>

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the HR Business Partner who must file accordingly.

<b>DISCIPLINARY REPORT FORM</b>
<b>Employee Name:</b>
<b>COID:</b>
<b>Job Title:</b>
<b>Department:</b>
<b>NOTICE TO ATTEND A DISCIPLINARY ENQUIRY (WITHOUT SUSPENSION)</b> (To be completed by the immediate superior in consultation with the HR Business Partner)
<b>Date of Enquiry:</b>
<b>Venue of Enquiry:</b>
<b>Time of Enquiry:</b>
<b>Charge (s):</b>
<p><b>You have the following rights at the Enquiry:</b></p> <ul style="list-style-type: none"> <li>• To be represented by a Shop-Steward or fellow employee from within the Company.</li> <li>• To call, examine, and cross-examine witnesses.</li> <li>• To an Interpreter (if so required, the HR Business Partner to make the necessary arrangements). Should you be absent from the Enquiry without reasonable explanation, the Enquiry will proceed in your absence.</li> </ul> <p>Sign a copy hereof to acknowledge receipt of this notification, whether or not you agree with the action. A written verdict will be issued by the Chairperson at the conclusion of the Enquiry if he concludes with a guilty verdict. If the Chairperson decides that a not guilty verdict is appropriate, then no written verdict will be supplied.</p>

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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**Annexure 5**

<b>Name of Immediate Superior:</b>	
<b>Signature of Immediate Superior:</b>	<b>Date:</b>
<b>Signature of Employee:</b>	<b>Date:</b>
<b>Signature of Representative:</b>	<b>Date:</b>

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the HR Business Partner who must file accordingly.

<b>DISCIPLINARY REPORT FORM</b>
<b>Employee Name:</b>
<b>COID:</b>
<b>Job Title:</b>
<b>Department:</b>
<b>NOTICE TO ATTEND A DISCIPLINARY ENQUIRY (WITH SUSPENSION)</b> (To be completed by the immediate superior in consultation with the HR Business Partner)
<b>Date of Enquiry:</b>
<b>Venue of Enquiry:</b>
<b>Time of Enquiry:</b>
<b>Charge(s):</b>

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>Page 16 of 42</b>

**Annexure 6**

<b>You have the following rights at the Enquiry:</b>	
<ul style="list-style-type: none"> <li>• To be represented by a Shop-Steward or fellow employee from within the Company.</li> <li>• To call, examine, and cross-examine witnesses.</li> <li>• To an Interpreter (if so required, the HR Business Partner to make the necessary arrangements). Should you be absent from the Enquiry without reasonable explanation, the Enquiry will proceed in your absence.</li> </ul> <p>Sign a copy hereof to acknowledge receipt of this notification, whether or not you agree with the action. A written verdict will be issued by the Chairperson at the conclusion of the Enquiry if he concludes with a guilty verdict. If the Chairperson decides that a not guilty verdict is appropriate, then no written verdict will be supplied.</p>	
<b>Name of Immediate Superior:</b>	
<b>Signature of Immediate Superior:</b>	<b>Date:</b>
<b>Signature of Employee:</b>	<b>Date:</b>
<b>Signature of Representative:</b>	<b>Date:</b>

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the Employee Relations Representative who must file accordingly.

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
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	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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**Annexure 6**

<b>DISCIPLINARY REPORT FORM</b>	
<b>DISCIPLINARY ENQUIRY ATTENDANCE SHEET</b>	
(To be completed by all in attendance)	
Date of Enquiry:	
<b>Chairperson:</b>	Signature:
<b>Initiator:</b>	Signature:
Initiator's 1st Witness:	Signature:
Initiator's 2nd Witness:	Signature:
Initiator's 3rd Witness:	Signature:
Initiator's 4th Witness:	Signature:
<b>Employee:</b>	Signature:
Employee's 1 <sup>st</sup> Witness:	Signature:
Employee's 2 <sup>nd</sup> Witness:	Signature:
Employee's 3 <sup>rd</sup> Witness:	Signature:
Employee's 4 <sup>th</sup> Witness:	Signature:
<b>Shop-Steward or</b>	
<b>Employee Representative:</b>	Signature:
<b>HR Business Partner :</b>	Signature:
<b>Interpreter:</b>	Signature:
Observer 1:	Signature:

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
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Observer 2: \_\_\_\_\_ Signature: \_\_\_\_\_

The chairperson must obtain signatures of all attendees and give an original copy to the HR Business Partner who must file accordingly.

**Annexure 7**

**THE INTERNAL DISCIPLINARY ENQUIRY HELD AT BMW SA**

In the matter between:

\_\_\_\_\_

**THE EMPLOYEE**

And

**BMW SA (PTY) LTD**

**THE EMPLOYER**

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**OUTCOME REPORT AND SANCTION**

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Date/s of the hearings: \_\_\_\_\_

Outcome : \_\_\_\_\_

\_\_\_\_\_  
Chairperson

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

**DETAILS OF THE HEARING AND REPRESENTATION**

Company Representation brief summary:

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Employee Representation brief summary:

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Recordings:

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**PLEA:**

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**PRELIMINARY ISSUES**

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<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

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**Ruling of the preliminary issues:**

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**BACKGROUND**

Charge(s):

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**DETERMINING THE APPROPRIATE SANCTION (FACTS TO CONSIDER):**

In determination of an appropriate sanction, I need to determine the following:

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<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

## **ANALYSIS OF THE PARTIES SUBMISSIONS**

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## **SANCTION:**

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<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

**Signature: Disciplinary Enquiry Chairperson**

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the HR Business Partner who must file accordingly.

**Annexure 8**

<b>DISCIPLINARY REPORT FORM</b>
<b>Employee Name:</b>
<b>COID:</b>
<b>Job Title:</b>
<b>Department:</b>
<b>APPLICATION FOR AN APPEAL ENQUIRY</b> (To be completed by the Employee within 5 (five) working days of Disciplinary Enquiry and handed to the HR Business Partner)
<b>Date of Application to Appeal:</b>
<b>Grounds for Appeal :</b>

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

<b>Signature of Employee:</b>	
<b>Representative:</b>	<b>Signature:</b>
<b>HR Business Partner:</b>	<b>Signature:</b>
<b>Date Received:</b>	
<b>Immediate Superior:</b>	<b>Signature:</b>

Upon receiving this application for an appeal the HR Business partner must sign this form, give a copy to the employee, and forward the original to the designated manager who shall reply within 5 working days by completing Annexure 9.

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**Annexure 9**

## THE INTERNAL DISCIPLINARY APPEAL ENQUIRY HELD AT BMW SA

In the matter between:

\_\_\_\_\_

**THE EMPLOYEE**

And

**BMW SA (PTY) LTD**

**THE EMPLOYER**

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## OUTCOME REPORT AND SANCTION

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Date/s of the Appeal Enquiry:

\_\_\_\_\_

Appeal Enquiry Outcome :

\_\_\_\_\_

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

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Chairperson of the Appeal Enquiry

**DETAILS OF THE APPEAL ENQUIRY AND REPRESENTATION**

Company Representation brief summary

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Employee Representation brief summary

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Recordings:

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**BACKGROUND**

Matter(s) appealed:

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BMW South Africa	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

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## APPLICANT SUBMISSION

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## COMPANY SUBMISSION



<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
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	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
	<b>Document class / KlaSU:</b> 4.2	<b>35</b>

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**Sanction:**

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**Signature: Disciplinary Appeal Enquiry Chairperson**

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the HR Business Partner who must file accordingly.

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**Annexure 10**

<b>DISCIPLINARY REPORT FORM</b>
<b>Employee Name:</b>
<b>COID:</b>
<b>Job Title:</b>
<b>Department:</b>
<b>APPLICATION FOR A REVIEW ENQUIRY</b> (To be completed by the Initiator or management within 5 (five) working days of Disciplinary Enquiry and handed to the HR Business Partner)
<b>Date of Application to Review:</b>
<b>Grounds for Review :</b>





And  <b>BMW SA (PTY) LTD</b>	<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> TBC <b>Version:</b> 1
		<b>Form No.:</b> 01	<b>Rev No.:</b> 01 <b>THE EMPLOYER</b>
		<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
		<b>Document class / KlaSU:</b> 4.2	<b>35</b>

## OUTCOME REPORT AND SANCTION

Date/s of the Review Enquiry : \_\_\_\_\_

Review Enquiry Outcome : \_\_\_\_\_

\_\_\_\_\_  
Chairperson of the Review Enquiry

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> DID-ZA-0053619 <b>Version:</b> 1
	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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**DETAILS OF THE REVIEW ENQUIRY AND REPRESENTATION**

Company Representation brief summary

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Employee Representation brief summary

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Recordings:

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**BACKGROUND**

Matter(s) in review:

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<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> DID-ZA-0053619 <b>Version:</b> 1
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**Signature: Disciplinary Review Enquiry Chairperson**

The signature of the employee signifies acknowledgement of disciplinary step or action taken, whether or not the employee agrees with the step or action. Refusal to sign does not invalidate disciplinary step or action taken. Forward the original copy to the HR Business Partner file accordingly.

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> DID-ZA-0053619 <b>Version:</b> 1
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**Annexure 12**

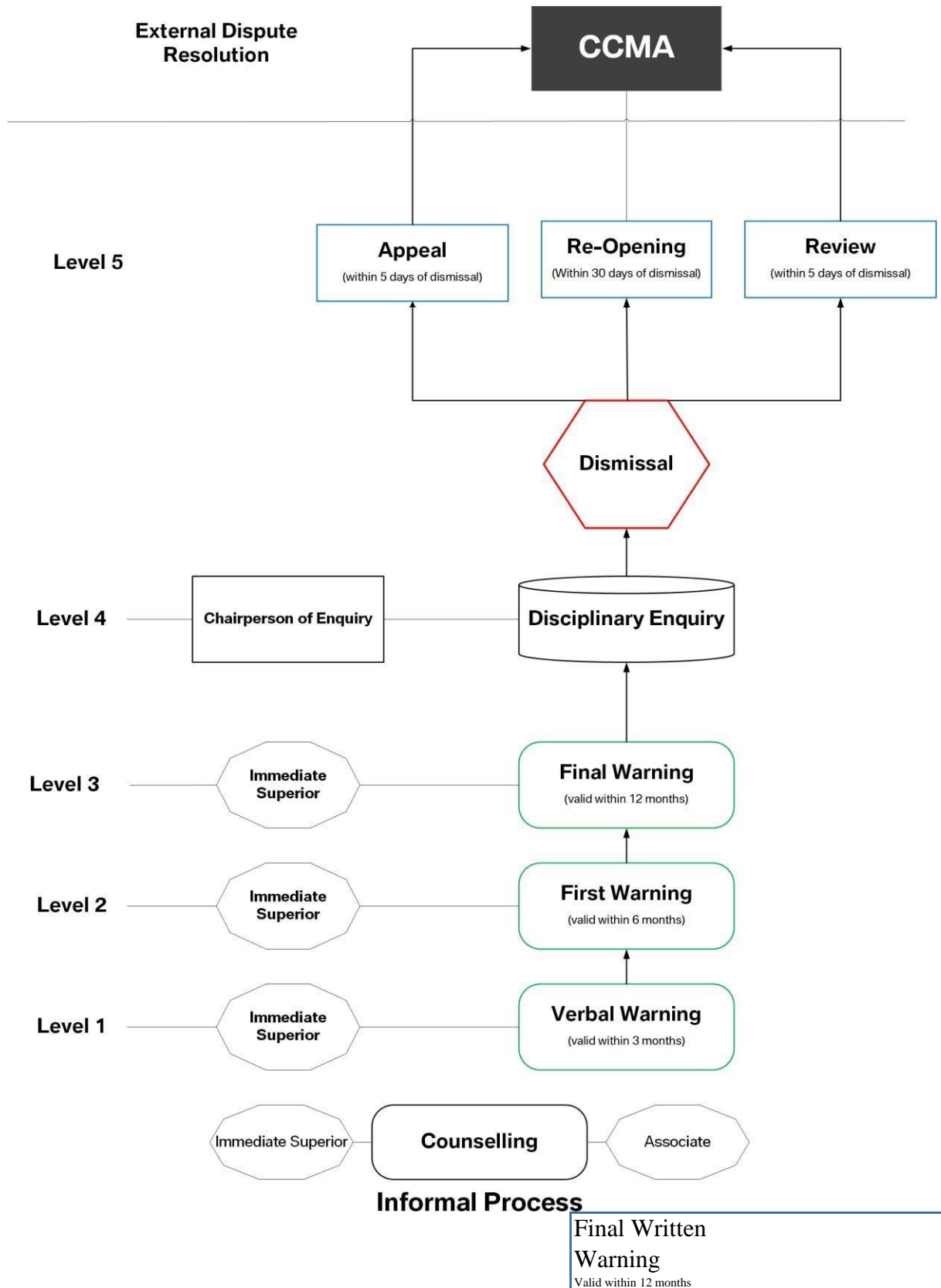
**Appeal**  
Within 5 working days of dismissal

**Reopening**  
Within 5 working days of dismissal

**Review**  
Within 5 working days of dismissal

<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> DID-ZA-0053619 <b>Version:</b> 1
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**FLOW CHART: DISCIPLINARY PROCESS**



<b>BMW South Africa</b>	<b>Company Procedure</b> Disciplinary Code and Procedure	<b>DMS id.:</b> DID-ZA-0053619 <b>Version:</b> 1
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Written Warning

Valid within 6 months

Verbal Warning

Valid within 3 months

### Annexure 13

#### THE DISCIPLINARY ENQUIRY PROCEEDINGS

Thank you very much for your attendance.

My name is \_\_\_\_\_ COID

I will be the Chairperson of this Disciplinary Enquiry against the employee,

Mr/Ms \_\_\_\_\_ COID \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_ held on this

Please be informed that the proceedings of this Enquiry will be recorded.

May I ask you all to please introduce yourselves and confirm your roles in this Enquiry, and also complete the **Attendance Sheet** (Annexure 6). (If no Representative and/or Interpreter present, ask if they are not required. If the answer is "yes, not required", ask the employee to sign for acknowledgement of this)

\_\_\_\_\_  
Signature of employee

a) The Initiator can now read out the charge(s) against the employee, as contained in the **Notice to Attend a Disciplinary Enquiry** (Annexure 4/5).

b) How do you plead? **Guilty**  **Not Guilty**  (if he or she pleads guilty, then ask for mitigation and aggravation).

c) Any preliminary points to be considered?

**Yes**  **NO**

and if Yes, what is the Ruling:



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	<b>Form No.:</b> 01	<b>Rev No.:</b> 01
	<b>Range of validity:</b> BMW SA	<b>Status:</b> Effective Nov. 2020
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- d) The Initiator can now lead evidence and call witnesses, if any.
- e) The employee can cross-examine the Initiator's witnesses.
- f) The employee can now lead evidence and call witnesses, if any.
- g) The initiator can cross-examine the witnesses of the employee.
- h) The Enquiry will adjourn for both parties to prepare closing arguments.
- i) The Initiator can make his or her closing argument first, and then the employee will follow.
- j) The Enquiry will now adjourn to allow me to make my finding.
- k) After considering all evidence led before me, I have found the employee

**Guilty Not Guilty**

and the reasons thereof are as follows:

(Complete the **Outcome of a Disciplinary Enquiry** (Annexure 7), if not guilty, the Enquiry ends).

- l) The Enquiry will now adjourn for the employee to prepare mitigating factors, and the Initiator to prepare aggravating factors.
- m) The employee will first present mitigating factors, and the Initiator will follow with aggravating factors.
- n) The Enquiry will adjourn to allow me to consider the appropriate sanction, taking into account mitigation and aggravation that has been presented.

After taking into account all mitigating and aggravating factors, I have decided that the appropriate sanction is

**Final Warning**  **Dismissal**

(Complete the **Outcome of a Disciplinary Enquiry** (Annexure 7).

- o) You have a right to appeal this decision within 5 (five) working days. (If the outcome of the Enquiry is a Final Warning or Dismissal, then advise the employee of his right to appeal within 5 (five) working days).

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6. **NORMATIVE / INFORMATIVE REFERENCES**  
BMW South Africa Disciplinary Code & Procedure

7. **CHANGE DOCUMENTATION**

<b>Change history</b>				
<b>Version</b>	<b>Content of changes</b>	<b>Written by Dept. Code Date</b>	<b>Reviewed by Dept. Code Date</b>	<b>Released by Dept. Code Date</b>
1	Disciplinary Code and Procedure	P. Neswiswi PZ-AP- ZA-4 02.2020.	Y. Wort PZ-AP-ZA- S 10.2020.	P. Dantjie PZ-AP-ZA-4 11.2020.