

TMPL Malawi Disciplinary Procedure

The Mlambe Project





The Mlambe Project Limited (TMPL)

Malawi Disciplinary Procedure

Last reviewed: June 2020

Next Review: July 2023

This policy applies to all staff, volunteers, trustees, and any other person recruiting on behalf of TMP Ltd. (UK reg charity no: 1160518)

This policy complies with the Malawi Employment Act of 2000.

For unsatisfactory conduct and misconduct including:

- Persistent absenteeism and / or lateness
- Unsatisfactory standards or output of work
- Rudeness towards supporters, volunteers, members of the public or other employees, objectionable or insulting behaviour, harassment, bullying or bad language
- Failure to devote time, attention and abilities to The Mlambe Project Ltd. during normal working hours
- Failure to carry out all reasonable instructions
- Unauthorised use or negligent damage or loss of our property
- Use of child labour or minors to conduct any Mlambe business

Disciplinary Process will be

- Formal Verbal Warning
- Written Warning
- Final Written Warning (optional)
- Hearing
- Dismissal

For gross misconduct including:

- Substantiated allegations pertaining to an employee on any grounds relating to safeguarding the children and adults within the communities that we serve, for example, where an allegation has been launched against an employee for any type of violence, abuse or threats towards children or vulnerable adults.
- Any form of corruption



- Bringing the charity into ill repute through the personal actions of an individual whilst outside of the charity, for example criminal investigations, poor standards of conduct outside of the project (such as fraudulent conduct, criminal conduct and any behaviours that bring into disrepute your honesty, integrity and ability to represent the charity).
- Theft or fraud
- Physical violence or bullying
- Deliberate damage to property
- Possession, or being under the influence, of illegal drugs at work
- Breach of health and safety rules that endangers the lives of, or may cause serious injury to, employees or any other person
- Habitual or substantial neglect of duties
- Wilful disobedience to lawful orders given by The Mlambe Project Ltd.
- Absence from work without permission and without reasonable excuse

Disciplinary Process will be

- Immediate dismissal without notice

Dismissal

The Mlambe Project Ltd. will not dismiss an employee unless there is a valid reason for doing so connected with the capacity or conduct of the employee or based on the operational requirements of the job. The employee will be given an opportunity to defend themselves against the allegations made at a formal hearing.

The following reasons do not constitute valid reasons for dismissal or for the imposition of disciplinary action:

- An employee's race, colour, sex, language, religion, political or other opinion, nationality, ethnic or social origin, disability, property, birth, marital or other status or family responsibilities.
- An employee's temporary absence from work because of sickness or injury;
- An employee's exercise or proposed exercise of the right to remove himself from a work situation which they reasonably believes presents an imminent or serious danger to life or health;



In any claim or complaint arising out of the dismissal of an employee, The Mlambe Project Ltd. will provide the reason for dismissal and if unable to do so, the dismissal will be presumed unfair. In addition to proving that an employee was dismissed for valid reasons, The Mlambe Project Ltd. will be required to show that they acted with justice and equity in dismissing the employee.

Constructive Dismissal

An employee is entitled to terminate their contract of employment without notice where The Mlambe Project Ltd.'s conduct has made it unreasonable to expect the employee to continue the employment relationship. The employee must provide the reason which made the continuation of the employment relationship unreasonable.

Right of Appeal

- Within three months of the date of dismissal, an employee shall have the right to complain to the District Labour Officer that he/she has been unfairly dismissed, irrespective of whether notice has been given or not.
- The right of an employee to make a complaint under this section shall be without prejudice to any right that he may enjoy under a collective agreement.
- Where the District Labour Officer fails to settle the matter within one month, the matter may be referred to the Court

Remedies for Unfair Dismissal

If the Court finds that an employee's complaint of unfair dismissal is well founded, it shall award the employee one or more of the following remedies:

- An order for reinstatement whereby the employee is to be treated in all respects as if he had not been dismissed;
- An order for re-engagement whereby the employee is to be engaged in work comparable to that in which he was engaged prior to his dismissal or other reasonably suitable work from such date and on such terms of employment as may be specified in the order or agreed by the parties;
- An award of compensation.