



South African Board for
SHERIFFS
Upholding the Dignity of Those We Serve

DISCIPLINARY CODE

AND

PROCEDURES

SOUTH AFRICAN BOARD FOR SHERIFFS

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DISCIPLINARY CODE AND PROCEDURES FOR SHERIFFS

Section 8 of the Sheriffs Act No. 90 of 1986 (hereinafter referred to as “the Act”), provides that the objects of the South African Board for Sheriffs (hereinafter referred to as “the Board”) shall be the maintenance of the esteem of, the enhancement of the status of, and the improvement of functions performed by, sheriffs.

It is against this background that the Board has drafted the Disciplinary Code and Procedures for Sheriffs with the following objectives –

- To address unacceptable conduct by sheriffs.
- To return a sheriff to an acceptable standard of discipline where appropriate and not to punish the sheriff.
- To protect and promote the interests of the sheriffs’ profession.
- To ensure that, as a result of disciplinary proceedings and in accordance with the principles of natural justice a sheriff has a reasonable opportunity to state his or her case, and all relevant circumstances are fully and objectively considered before a decision is taken.

For the purposes of this Disciplinary Code and Procedures for Sheriffs –

- (i) “*Compliance Committee*” shall mean the committee established by the Board in terms of section 16(a) of the Act to advise it on matters pertaining to disciplinary standards, proceedings and matters incidental thereto; and
- (ii) “*Disciplinary Committee*” shall mean the disciplinary authority established by the Board in terms of section 18 of the Act.

1. PURPOSE AND SCOPE

The purpose of this Code and Procedures is:
to support constructive relations in the Sheriffs’ profession;
to promote mutual respect between the sheriffs and the legal profession and the public in general;
to ensure that the Board of Sheriffs and sheriffs share a common understanding of improper conduct and discipline;
to promote acceptable conduct;
to provide a quick and easy reference for the application of discipline;
to avert and correct unacceptable conduct; and
to prevent arbitrary or discriminatory actions.

2. PRINCIPLES

2. The following principles inform the Code and Procedure and must inform any decision to discipline a sheriff.

Discipline is a corrective measure and not a punitive one.

Discipline must be applied in a prompt, fair, consistent and progressive manner.

Discipline is a management function.

A disciplinary code is necessary for the efficient delivery of service and the fair treatment of sheriffs, and ensures that sheriffs:

- a. are timeously informed of allegations of improper conduct made against them;
- b. have a fair hearing in a formal or informal setting;
- c. receive written reasons for a decision taken; and
- d. have the right to appeal against any decision.

As far as possible, disciplinary procedures shall take place at or near the area of appointment of a sheriff and shall be understandable to all sheriffs.

If a sheriff commits improper conduct that is also a criminal offence, the criminal procedure and the disciplinary procedure will continue as separate and different proceedings.

Disciplinary proceedings do not replace or seek to imitate court proceedings.

The Code and Procedures are guidelines and may be departed from in appropriate circumstances.

3. SCOPE OF APPLICATION

This code and procedure will apply to the South African Board for Sheriffs and all sheriffs appointed in terms of Chapter 1 of the Act.

4. CODES, RULES AND STANDARDS

The Code of Conduct for Sheriffs framed in terms of section 16(k) of the Act, insofar as it relates to discipline, constitutes part of this code and procedure.

Sheriff conduct that may warrant disciplinary action is listed in **Annexure A**. This list is not exhaustive and the Board may discipline a sheriff in respect of other conduct, if the sheriff knew, or ought to have known, that the conduct constituted grounds for disciplinary action.

In applying **Annexure A**, the Board must assess the seriousness of the alleged improper conduct by considering:

- (i) the actual or potential impact of the alleged improper conduct on the work and functions of sheriffs in general, the sheriffs' profession and the public;
- (ii) the nature of the sheriff's work and responsibilities; and

- (iii) the circumstances in which the alleged improper conduct took place.

5. PROCEDURES: DISCIPLINARY ACTIONS

Corrective counselling

In instances where the nature of the improper conduct or category of offence, as the case may be, warrants counselling, the Chief Executive Officer (hereinafter referred to as “the CEO”) of the Board must:

Bring the improper conduct to the sheriff’s attention;

Determine the reasons for the improper conduct and give the sheriff an opportunity to respond to the allegations;

Seek to get agreement on how to remedy the conduct;

and

Take steps to implement the agreed course of action.

Verbal warnings

In cases where the nature of the improper conduct or category of offence, as the case may be, warrants a verbal warning, the CEO may give the sheriff a verbal warning. The CEO must inform the sheriff that further improper conduct may result in more serious disciplinary action, and record the warning.

Written warnings

In cases where the seriousness of the improper conduct warrants a written warning, the CEO may give the sheriff a written warning. The following provisions apply to written warnings:

The written warning may use the form of **Form 1**.

The CEO, by registered post, must provide the sheriff with a copy of the written warning, who must sign receipt of it and return it to the CEO. Should a sheriff refuse to sign a warning letter, this does not make the warning invalid.

The written warning must be filed in the sheriff’s file.

A written warning remains valid for a period of six months. At the expiry of the six months, the written warning must be removed from the sheriff’s file and destroyed.

If during the six-month period, the sheriff is subject to disciplinary action, the written warning may be taken into account in deciding an appropriate action.

Final written warnings

In cases where the nature of the improper conduct or category of offence, as the case may be, warrants a final written warning or where a sheriff has received warnings for the same offence before, the CEO may give the sheriff a final written warning. The following provisions apply to final written warnings:

The final written warning may use the form of **Form 2**.

The CEO, by registered post, must provide the sheriff with a copy of the written warning, who must sign receipt of it and return it to the CEO. Should a sheriff refuse to sign a warning letter, this does not make the warning invalid.

The written warning must be filed in the sheriff's file.

A final written warning remains valid for a period of twelve months. At the expiry of the twelve months, the written warning must be removed from the sheriff's file and destroyed.

If during the twelve-month period, the sheriff is subject to disciplinary action, the written warning may be taken into account in deciding an appropriate action.

For less serious forms of improper conduct, no formal enquiry shall be held.

For the purpose of determining appropriate disciplinary actions, valid warnings for similar offences by the sheriff shall be taken into account.

6. SERIOUS IMPROPER CONDUCT

If the alleged improper conduct justifies a more serious form of disciplinary action than provided in paragraph 5, a Disciplinary Committee established by the Board in terms of section 18(1)(a) of the Act shall be charged with the functions relating to a disciplinary hearing. The Board may also upon recommendation by the Compliance Committee appoint a disciplinary panel in terms of section 18(2)(a) to perform the functions assigned to the Board relating to a charge of improper conduct.

7. RECEIVING A COMPLAINT

Manner of lodging of complaints

7.1.1 In-person complaints at the Offices of the Board

- (i) Designated personnel of the Office shall confer immediately with the complainant and fully explain the process for lodging a complaint.
- (ii) Make available a complaint form, **Form 3**, to the complainant.
- (iii) Provide reasonable assistance to the complainant in completing the form.
- (iv) Assist the complainant in a friendly and courteous manner, but in so doing, remain completely objective and do not in any way prejudge the guilt or innocence of any sheriff mentioned in the complaint.
- (v) Ensure that the form is completed in a complete, legible and intelligible manner

7.1.2 Telephonic complaints

- (i) Upon receipt of a telephonic complaint against a sheriff, the designated personnel shall first enquire whether a Form 3 can be sent to the complainant for proper completion.

7.1.3 Written complaints

- (i) Upon receipt of a written complaint against a sheriff, the designated personnel shall extract as much information as possible and complete a Form 3.
- (ii) If the information is of such a nature that the Form 3 cannot be properly completed, a form must be sent to the complainant with the request to properly complete it and return it to the Offices of the Board.

7.1.4 Generation of a complaint by the Board of its own motion (Section 45 of the Act)

- (i) The Minister of Justice or the Board may, upon receipt of credible information in any form, which would amount to an allegation of improper conduct by a sheriff, initiate a complaint against such sheriff.
- (ii) A complaint shall be initiated through completion of a Form 3 by the designated personnel.
- (iii) The Board shall be listed as the complainant in such cases.

Registration process

- (i) Upon receipt of a properly completed Form 3, an entry shall be made in a Complaint Control Register and allocated a Complaint Registration Number (CRN).
- (ii) In the case of an in-person complaint the complainant will immediately receive a receipt indicating the CRN.
- (iii) In the case of both written and telephonic complaints a receipt reflecting the CRN number will be posted to the complainant concerned within two days after registering the complaint.
- (iv) The following entries shall be made in the Complaint Control Register:
 - (a) Date of complaint;
 - (b) Manner of complaint;
 - (c) Name and address of complainant;
 - (d) Name and address of sheriff against whom a complaint is made;
 - (e) Nature of complaint;
 - (f) Action to be taken; and
 - (g) Outcome of complaint.

Categories of complaints

After registration of the complaint the Form 3 is then forwarded to the Legal Administration Division of the Board for initial perusal and preliminary classification.

Complaints are classified as follows-

- (i) CATEGORY I – complaints that relate to actions that do not constitute improper conduct in terms of the Act.
- (ii) CATEGORY II – complaints that relate to actions or omissions that *prima facie* constitute less serious improper conduct that can be administratively dealt with according to the procedures referred to in paragraph 5.
- (iii) CATEGORY III – complaints that relate to actions or omissions that *prima facie* constitute serious improper conduct that require further investigation.
- (iv) CATEGORY IV - complaints that relate to actions or omissions that *prima facie* constitute serious improper conduct that would require a disciplinary hearing.

8. DEALING WITH COMPLAINTS

8.1 During this stage the complaint is perused by the Legal Administration Division of the Board with the objective to make a recommendation to the Compliance Committee regarding the manner in which the complaint should be dealt with. For this purpose the Legal Administration Division may-

- (i) Request further particulars from the complainant, which further particulars should be provided within 14 days from the date of the request;
- (ii) Call upon the sheriff concerned to furnish the Board with a statement regarding the complaint, which statement should be provided within 14 days from the date of the request: Provided that the sheriff is informed that he is not obliged to make any statement and that any statement so made may be used as evidence against him.
- (iii) Request an inspector appointed in terms of section 56 of the Act to do such investigations as directed by the Legal Administration Division.

8.2 If the Legal Administration Division is of the opinion that the complaint has been adequately dealt with, it shall make recommendations to the Compliance Committee about the manner in which the complaint should be dealt with.

8.3 Upon receipt of these recommendations the Compliance Committee may-

8.3.1 Return the complaint to the Legal Administration Division with directions:

- (i) to obtain further particulars;
 - (ii) to cause such further investigations to be done as the Compliance Committee may deem necessary,
- or

8.3.2 Direct that the complaint be dealt with as follows-

- (i) CLASS I – The CEO to inform the complainant in writing that the complaint does not constitute an improper conduct in terms of the Act.
- (ii) CLASS II – The CEO to deal with the sheriff in terms of paragraph 5 of the Disciplinary Code, and to inform the complainant accordingly in writing.
- (iii) CLASS III & IV – The Legal Administration Division to formally charge the sheriff concerned and to institute a disciplinary hearing.

9. INVESTIGATION OF COMPLAINT

9.1 Only inspectors appointed in terms of section 56 of the Act may investigate a complaint referred to them by the Compliance Committee or the Legal Administration Division of the Board.

9.2 Upon request of the Legal Administration Division or Compliance Committee, as the case may be, an inspector shall-

- (i) investigate the matter;
- (ii) obtain evidence in order to determine whether there are grounds for a charge of misconduct against that sheriff; and
- (iii) report to the Legal Administration Division or Compliance Committee, as the case may be, thereon.

9.3 An inspector shall not question the sheriff concerned unless the inspector informs that sheriff that-

- (i) the sheriff has the right to be assisted or represented by another person;
- (ii) the sheriff is not obliged to make any statement; and
- (iii) that any statement so made may be used in evidence against the sheriff.

9.4 For the purposes of an investigation an inspector may at any reasonable time examine any book, record or other document of the Board or the Fidelity Fund and make copies thereof.

9.5 An inspector may, in terms of section 57 of the Act, for the purposes of an investigation-

- (i) at any reasonable time enter the office of any sheriff;
- (ii) require the production of any fidelity certificate;
- (iii) seize any fidelity fund certificate cancelled;
- (iv) examine any book, record or other document relating or incidental to the functions of a sheriff or make extracts therefrom or copies thereof;
- (v) for the purposes of any prosecution under the Act or any charge of improper conduct, seize and retain such book, record or other document.

9.6 Upon completion of the investigation the inspector will submit a written report to the Legal Administration Division on the investigation as well as a description of all evidence and exhibits obtained or gathered as a result of the investigation.

10. CHARGE SHEET

10.1 The purpose of the charge sheet is to inform the sheriff concerned of the nature of the charge against him/her. It also serves to inform the disciplinary panel accordingly when a disciplinary hearing is to be conducted.

10.2 The essentials of the charge are-

- (i) The date and place at which the improper conduct is alleged to have been committed.
- (ii) The person or institution against which it was allegedly committed.
- (iii) Description of the alleged improper conduct, provided that-
 - a. if it is a statutory offence, it is sufficient to use the wording or similar wording of the legislature creating the statutory offence.
 - b. If it is a common law offence, the name and description of the offence should be stated.

10.3 In addition to the date, place, person or institution against which the improper conduct was committed, the essential elements of the improper conduct have to be set out in the charge sheet, namely-

- (i) the act or omission;
- (ii) the unlawfulness; and
- (iii) the fault.

10.4 A sheriff may be charged with -

- (i) any one of several offences of improper conduct;
- (ii) each one of the offences of improper conduct separately; or
- (iii) all the possible offences in the alternative, for example a main count and one or more alternatives.

10.5 The Legal Administration Division of the Board shall be responsible for the drafting of all charge sheets and depending on the circumstances of the case, seek the assistance of the Compliance Committee: Provided that the Compliance Committee will not preside in any disciplinary hearing where it was instrumental in drafting the charge sheet.

11. SUSPENSION OF SHERIFF

11.1 The Board may at any time before or after charging a sheriff with improper conduct recommend to the Minister of Justice the suspension of the sheriff in terms of section 50 of the Act.

11.2 Before making a recommendation of suspension to the Minister, the CEO shall in a notice in writing addressed to the sheriff-

- (i) inform the sheriff of the Board's intention;
- (ii) furnish the sheriff with the reasons for the intended recommendation; and
- (iii) call upon the sheriff to show cause within the period specified in the notice, which period shall not be less than

7 days from the date of the notice, why the sheriff should not be suspended.

- 11.3 After considering any representations received in accordance with paragraph 11.2, the Board may-
- (i) proceed with the recommendation for suspension; or
 - (ii) refrain from taking any further action in this regard,
- and the CEO shall inform the sheriff concerned in writing of the Board's decision.

12. DISCIPLINARY HEARING

12.1 Composition of Disciplinary Panel

12.1.1 Subject to the provisions of paragraph 10.5 the Compliance Committee of the Board may preside in any disciplinary hearing regarding alleged improper conduct by a sheriff; or

12.1.2 The Board may appoint an independent and impartial suitable and legally qualified person to preside in any disciplinary hearing into alleged improper conduct by a sheriff: Provided that such person may in consultation with the Board employ the assistance of not more than two persons with the appropriate skill and expertise to act as assessors in an advisory capacity.

12.2 Leaders of evidence

12.2.1 Evidence at any disciplinary hearing shall be adduced on behalf of the Board by-

- (i) A designated staff member of the Legal Administration Division;
- (ii) A prosecutor seconded to the Board for that purpose by the Minister of Justice;
- (iii) Any other serving sheriff with at least 5 years' experience as a sheriff; or
- (iv) Any other suitable and legally qualified person appointed by the Board for that purpose.

12.2.2 A leader of evidence shall ensure that all relevant evidence is put before the Disciplinary Panel to allow the panel to properly adjudicate on the matter.

12.2.3 A leader of evidence may also adduce arguments in support of the charge and cross-examine any person who has given evidence in rebuttal of the charge.

12.3 Notice of Hearing

12.3.1 The Legal Administration Division must, by way of registered post, give a sheriff written notice at least 14 working days before the date of the disciplinary hearing.

- 12.3.2 The sheriff must sign receipt of the notice and return it to the Offices of the Board within 5 days after receipt of the notice.
- 12.3.3 The written notice of the disciplinary hearing shall be in the form of **Form 4**, and shall provide the sheriff with –
- (i) a charge sheet describing the allegations of improper conduct and the main evidence on which the Board will rely;
 - (ii) full details of the time, place and venue of the hearing; and
 - (iii) information on the rights of the sheriff to representation by another sheriff or person, and to adduce evidence and call witnesses.

12.4 Conducting the disciplinary hearing (Annexure “B”)

- 12.4.1 The Chairperson must explain the purpose of the hearing and inform the sheriff concerned of his rights to-
- (i) be represented by a person of his choice;
 - (ii) adduce evidence, call witnesses, cross-examine witnesses called by the evidence leader or panel and to submit arguments;
 - (iii) be allowed an interpreter.
- 12.4.2 The leader of evidence will put the charge to the sheriff.
- 12.4.3 The sheriff will have the opportunity to plead guilty or not guilty.
- b. If the sheriff pleads guilty, the panel may continue to determine an appropriate penalty, after hearing submissions regarding mitigating and aggravating circumstances.
 - c. If the sheriff pleads not guilty, evidence will be adduced.
- 12.4.4 The leader of evidence has to present the case of the Board with the aim of proving on a balance of probability (guilt is the most probable deduction in contrast to the only reasonable deduction in criminal cases), that the sheriff is guilty of improper conduct. This can be done by calling witnesses and submitting evidence.
- 12.4.5 The sheriff then has the right to cross-examine witnesses called by the evidence leader whereafter the leader of evidence may re-examine to clarify possible certainties or confusion which may have arisen during cross-examination.
- 12.4.6 The next step is the adducing of evidence by the sheriff to rebut the charge against him. This can be done by testifying and/or calling witnesses and presenting exhibits. The evidence leader is then afforded the opportunity to cross-examine witnesses

called by the sheriff whereafter the latter may re-examine to clarify possible uncertainties or confusion which may have arisen during cross-examination.

- 12.4.7 The Panel, at any stage during the hearing may ask questions to clarify evidence adduced. Participation of the Panel is restricted to rulings about the order of events and questions of clarity.
- 12.4.8 At the end of the hearing the Panel shall decide whether the sheriff is guilty or not guilty. If the verdict is not guilty, it is the end of the matter.
- 12.4.9 Is the verdict that the sheriff is guilty, the sheriff and the leader of evidence shall be given an opportunity to state mitigating and aggravating circumstances.
- 12.4.10 The Panel then has to decide on the appropriate sanction, which sanction will be given in writing.
- 12.4.11 The sheriff is then informed of his right to an appeal to the Board in terms of section 18(3) of the Act.

12.5 General Principles

- 12.5.1 The entire disciplinary hearing shall be recorded, either by means of written minutes or a recording machine.
- 12.5.2 Parties at the hearing will treat each other and the process with respect.
- 12.5.3 Postponements will only be granted when applied for timeously, where good reason exists and only in exceptional circumstances.
- 12.5.4 Should the sheriff and/or his representative without prior notice not attend the hearing, the Panel may direct that the hearing continue in their absence.
- 12.5.5 The Board will upon timeously and reasonable request make available information reasonably required by the sheriff to prepare his case, within a reasonable period of time.
- 12.5.6 The sheriff shall not be confronted at the hearing with charges other than those already contained in the written notice.
- 12.5.7 Save for the circumstances mentioned in 11.5.4, the sheriff will be present during the presentation of all evidence against him during the hearing.
- 12.5.8 If on a charge of improper conduct the Board has determined an admission of guilt fine in terms of section 45(2)(b) of the Act the sheriff may acknowledge guilt and pay the fine at any time before the commencement of the disciplinary hearing.
- 12.5.9 For the purposes of the disciplinary hearing the Disciplinary Panel may-
 - (i) summon any person to give information concerning the charge or to produce any book, document or thing that may have a bearing on that charge.

- (ii) call upon and administer an oath to, or accept an affirmation from any person present at the hearing that was or could have been summoned.
- (iii) interrogate or require any person who was called to produce a book, document or thing referred to.

12.5.10 The prosecution, acquittal or conviction of a sheriff by any court of law on any criminal charge shall not be a bar to proceedings against him on a charge of improper conduct.

12.5.11 If the improper conduct with which a sheriff is charged amounts to an offence of which he has been convicted by a court of law, a certified copy of the trial record and conviction shall be sufficient proof that he committed such offence.

13. SANCTIONS

13.1 When the Disciplinary Panel has found a sheriff guilty of improper conduct at the hearing, the Panel may-

- (i) caution or reprimand the sheriff
- (ii) impose upon the sheriff a fine not exceeding R10,000.00 (ten thousand rand);
- (iii) cancel the sheriff's fidelity fund certificate; or
- (iv) recommend to the Minister that the sheriff be removed from his or her office.

13.2 The Panel may also postpone or suspend the sanction imposed or make any other order it may deem just, reasonable and equitable in the circumstances.

14. APPEAL

14.1 A sheriff may appeal against a finding or sanction of a Disciplinary Panel by completing **Form 5**.

14.2 An appeal must be lodged within 14 days of the final outcome of the disciplinary hearing.

14.3 An appeal must be addressed to the Board who shall consider the appeal lodged: Provided that any member who formed part of the disciplinary panel against whose finding or sanction is appealed, shall recuse him or her from the appeal proceedings.

14.4 The Board may –

- (i) consider the appeal only on the record of the proceedings and arguments submitted to the Board by the respective parties to the disciplinary hearing;
- (ii) call upon the sheriff and leader of evidence to adduce further evidence;

- (iii) summon any person to give information concerning the charge or to produce any book, document or thing that may have a bearing on that charge;
- (iv) call upon and administer an oath to, or accept an affirmation from any person present at the hearing who was or could have been summoned; or
- (v) interrogate or require any person who was called to produce a book, document or thing referred to.

14.5 After considering the appeal the Board may-

- (i) confirm the finding or sanction appealed against;
- (ii) set aside the finding or penalty against; or
- (iii) substitute the finding or sanction with another finding or sanction which the Disciplinary Panel could have made or imposed.

14.6 The finding of the Board shall be final.

ANNEXURE "A"

IMPROPER CONDUCT THAT MAY LEAD TO DISCIPLINARY ACTIONS

No	IMPROPER CONDUCT	CATEGORY	ACTION
1	Insubordination	A	
2	Assault – threatened/verbal	D	
3	Under the influence of alcohol whilst on duty	D	
4	Bribery, corruption, theft, dishonesty	C	
5	Bringing the name of the sheriff's profession into disrepute	C	
6	Behaviour below acceptable standards	A	
7	Refusal to carry out lawful instructions or requests	A	
8	Use of a dangerous weapon	D	
9	Failure to comply with, or contravention of the Sheriffs Act, 1986, a regulation or legal obligation.	A	
10	Prejudices the administration, discipline or efficiency of the sheriff's profession	A	
11	Acts of sexual harassment	D	
12	Discriminates against others on the basis of race, gender, disability, sexuality or other grounds outlawed by the Constitution	D	
13	Without written approval from the Minister of Justice, performs remunerative work outside his office as sheriff.	C	
14	Contravenes the Code of Conduct for Sheriffs	A	
15	Intimidates or victimises members of the public	D	
16	Gives false statements or evidence in the execution of his or her duties	C	
17	Falsifies records or any other documentation	C	
18	Commits a common law or statutory offence whilst on active duty	D	
19	Section 19: Failure to pay annual levies.	A	
20	Section 22(1): Failure to keep a trust account	D	
21	Section 22(4): Failure to pay over interest into Fund	D	
22	Section 23: Failure to keep book and to audit accounts	D	
23	Section 23(3): Failure to submit auditor's report	D	
24	Section 30(1): Performance of functions without a fidelity fund certificate	A	
25	Section 30(1)(b): Failure to obtain professional indemnity insurance	A	
26	Section 30(1)(c)(ii): Failure to pay prescribed contribution	A	
27	Section 43(1)(a): Negligent or dilatory in the service or execution of any process	A	
28	Section 43(1)(b): Making of a false return in respect of the service or execution of any process	B	
29	Section 43(1)(c): Demanding payment of more than the fees or expenses prescribed by law	C	
30	Section 43(1)(e): Failure to prevent his deputy sheriff from committing a deed of improper conduct.	A	
31	Section 43(1)(f): Committing a deed of insolvency	D	
32	Section 43(1)(g): Committing an offence of which violence, dishonesty, extortion or intimidation is a element.	D	
33	Section 43(1)(h): Using fraudulent or misleading representations	C	

34	Section 43(1)(h)(i): Fraudulent simulation of legal procedures	C	
35	Section 43(1)(h)(ii): Fraudulent use of simulated official or legal documents	C	
36	Section 43(1)(h)(iii): Fraudulent representation as a police officer	C	
37	Section 43(1)(h)(iv): Making of unjustified threats to enforce rights	D	
38	Section 43(1)(i): Failure to comply with any regulation pertaining to the service of process.	C	
39	Failure to attend disciplinary hearing	D	
40	Performing services without a legal fidelity fund certificate	D	
41	Performing functions whilst being suspended	D	
42	Obstructing an inspector in the carrying out of his functions	D	
43	Refusal to produce a fidelity fund certificate, book or record	D	
44	Failure to effect the service of documents within the prescribed time frames.	A	
45	Failure to timeously respond to an inquiry and/or instruction by the Board.	A	

Record of a Disciplinary Hearing



CRN _____

VENUE: _____ DATE: _____

PRESENT:

CAPACITY	NAME	DESIGNATION
Chairperson:	_____	_____
Panel Member:	_____	_____
Panel Member:	_____	_____

Leader of Evidence _____ Sheriff: _____

Interpreter _____ Assisted by _____

Witnesses for Board	Witnesses for Sheriff
1. _____	1. _____
2. _____	2. _____
3. _____	3. _____

ACTION BY CHAIRPERSON:

1. Introduce those present and state their functions.
2. Ensure that witnesses are present only while giving their evidence.

1. DEFENDANT'S RIGHTS (To be read by Chairperson)

- a. The right to be present at the hearing.
- b. The right to be notified of the improper conduct.
- c. The right to be given time to prepare your case.
- d. The right to be assisted at the hearing by a person of your choice
- e. The right to ask questions of any statements by witnesses.
- f. The right to call witnesses to testify on your behalf.
- g. The right to an interpreter.
- h. If you are found guilty and a sanction imposed the right to appeal within 14 days against such finding and sanction.

2. DETAILS OF ALLEGED IMPROPER CONDUCT (Charge, date, time, place and brief description of the incident(s))

3. PLEA: The Sheriff admits/denies the charge(s) _____

4. PROCEDURE OF ENQUIRY

- a. Evidence leader adduce evidence
- b. Sheriff is invited to cross-examine any witnesses
- c. Evidence leader to re-examine witnesses
- d. Sheriff is invited to give evidence
- e. Evidence leader to cross-examine sheriff
- f. Sheriff's witnesses are called in separately to give evidence
- g. Evidence leader to cross-examine witnesses
- h. Sheriff to re-examine witnesses
- i. Evidence Leader and Sheriff to give closing statements

If a verdict of guilty is taken, the evidence leader and sheriff can address the panel on aggravating and mitigating circumstances. The evidence leader must disclose the length of service of the sheriff and whether he has any valid warnings/written counseling on record. The evidence leader must also make recommendations on what sanction is appropriate and give a motivation for such recommendation and also advise what the results of previous similar disciplinary hearings, if any, were. The sheriff must submit any mitigating factors and suggestions on what sanction - if any should be imposed.

Action by Chairperson: *Ensure that full minutes of the enquiry are drawn up during the enquiry. A tape recorder may also be used.*

Form 1

SOUTH AFRICAN BOARD FOR SHERIFFS
WRITTEN WARNING

[DATE]

[NAME OF SHERIFF]

[PERSONAL DETAILS OF SHERIFF]

This is a written warning in terms of the disciplinary procedure. Should you engage in further improper conduct, the written warning may be taken into account in determining a more serious sanction.

The written warning will be placed on your personal file and will remain valid for a period of six months from the date of the written warning. After six months the written warning will be removed from your personal file and be destroyed.

If you object to the warning, you may direct an appeal to [NAME] within five working days.

The nature of the improper conduct is:

.....
.....
.....
.....
.....
.....
.....

[SIGNATURE OF SHERIFF]

[DATE]

[SIGNATURE OF CEO]

[DATE]

Form 2

SOUTH AFRICAN BOARD FOR SHERIFFS
FINAL WRITTEN WARNING

[DATE]

[NAME OF SHERIFF]

[PERSONAL DETAILS OF SHERIFF]

This is a final written warning in terms of the disciplinary procedure. Should you engage in further transgressions, it could lead to formal improper conduct proceedings instituted against you.

The written warning will be placed on your personal file and will remain valid for a period of twelve months from the date of the written warning. After six months the written warning will be removed from your personal file and be destroyed.

If you object to the warning, you may direct an appeal to [NAME] within five working days.

The nature of the improper conduct is:

.....
.....
.....
.....
.....
.....
.....

[SIGNATURE OF SHERIFF]

[DATE]

[SIGNATURE OF CEO]

[DATE]

CRN No:.....

SOUTH AFRICAN BOARD FOR SHERIFFS

COMPLAINT REPORTING FORM

NOTE: If additional space is required to provide information, please use a continuation sheet and refer to item number that is supplemented

Please complete all items as fully as possible to enable the Board to locate persons who could be important to the investigation of this complaint.

1. Date of complaint:.....
2. Method of complaint:
 - In person
 - Telephonic
 - Written
 - Mero Motu

A. COMPLAINANT

3. Full name and surname:.....
4. Identity number:.....
5. Address:.....
.....
.....
6. Telephone number.....
7. Occupation.....
8. Work address.....
.....
.....
9. Work telephone number.....

B. SHERIFF

10. Full name and surname:.....
11. Identity number:.....
12. Address:.....
.....
.....
13. Telephone number.....
14. Occupation.....
15. Work address.....
.....
.....

16. Work telephone number.....

C. ALLEGED IMPROPER CONDUCT

17. Date of incident.....

18. Time of incident.....

19. Location of incident.....

20. Full details of incident *(use continuation sheet if necessary)*

.....
.....
.....
.....

D. WITNESSES *(use continuation sheet if necessary)*

21. Full name and surname:.....

22. Identity number:.....

23. Address:.....

.....
.....

24. Telephone number.....

25. Occupation.....

26. Work address.....

.....
.....

27. Work telephone number.....

COMPLAINT AFFIDAVIT

I have been advised that the filing of a false report may constitute a criminal offence for which I may be prosecuted and convicted, and I hereby affirm that all information contained in this form as well as continuation sheets is true and correct to the best of my knowledge and belief

SIGNATURE OF COMPLAINANT

DATE



(For use of Legal Administration Division only)
PRELIMINARY COMPLAINT CLASSIFICATION

- CATEGORY I
- CATEGORY II
- CATEGORY III
- CATEGORY IV

Signature _____
Name: _____
Designation _____
Date _____

ACKNOWLEDGEMENT OF RECEIPT

This is a receipt for the complaint you have filed. It bears a Complaint Registration Number (CRN) in the lower right hand box, which identifies the Complaint. Any future communication concerning this matter should refer to the complaint number. If you have any additional information or questions, you may contact the Board for Sheriffs at the numbers indicated during the hours 8:00 to 16:00. You will be contacted during the processing of this matter and at the time a decision is reached. Thank you for your assistance.

Name: _____

Designation _____

Date _____

South African Board for Sheriffs
P O Box 5454
Cape Town
8000

Tel: 021 461 6622
Fax: 021 461 9619
e-mail: contact@sheriffs.org.za

CRN

IMPORTANT – DO NOT LOSE THIS RECEIPT!

Form 4

SOUTH AFRICAN BOARD FOR SHERIFFS

NOTICE TO ATTEND DISCIPLINARY HEARING

[DATE]
[NAME OF SHERIFF]
[PERSONAL DETAILS OF THE SHERIFF]

You are hereby given notice to attend a disciplinary hearing in terms of section 46 of the Sheriffs Act, No. 90 of 1986, read with the Disciplinary Code and Procedure.

The alleged improper conduct and the available evidence is:

.....
.....
.....
.....
.....
.....

[A DETAILED DESCRIPTION OF THE IMPROPER CONDUCT MAY BE ATTACHED].

The Disciplinary Hearing will be held at _____ [PLACE] on _____ [DATE] at _____ [TIME].

If you do not attend and cannot give reasonable grounds for failing to attend, the meeting will be held in your absence.

During the Disciplinary Hearing you will have the following rights:

- The right to be present at the hearing
- The right to be given prior notice of the charges
- The right to have time to prepare your case
- The right to be assisted by a person of your choice.
- The right to ask questions from any witness called.
- The right to present your case and to call witnesses to testify on your behalf.
- The right to an interpreter.

****Suspension**

You are hereby informed that with effect from[DATE] you have been suspended from your office by the Minister of Justice in terms of section 50 of the Sheriffs Act, 1986.

****Admission of Guilt Fine**

In terms of section 45(2)(b) you are hereby afforded the opportunity to admit your guilt in respect of the abovementioned charge and to pay a fine of[AMOUNT], on or before[DATE] without appearing before a Disciplinary Panel.

**** Delete if not applicable**

SIGNATURE OF SHERIFF

DATE

SIGNATURE OF CHIEF EXECUTIVE OFFICER

DATE

SIGNATURE OF WITNESS (If applicable)

SOUTH AFRICAN BOARD FOR SHERIFFS

NOTICE OF APPEAL

[DATE]

The Chairperson
South African Board for Sheriffs
P O Box 5454
Cape Town
8000

I, _____, [NAME OF SHERIFF] am hereby appealing against a disciplinary finding and/or sanction imposed on _____ [DATE] at _____ [PLACE], by the Disciplinary Panel.

I attach a copy of the notice of the disciplinary enquiry.
[THE APPEAL REQUEST IS NOT VALID UNLESS THE NOTICE IS ATTACHED]

My reasons for appeal are:

.....
.....
.....
.....
.....
.....

The desired outcome of the appeal should be:

.....
.....
.....
.....
.....

I wish/do not wish [CHOOSE ONE] to adduce additional evidence not available at the time of the disciplinary hearing.

SIGNATURE OF SHERIFF

DATE

[PERSONAL DETAILS OF SHERIFF]