



## CODE OF PROFESSIONAL CONDUCT FOR PAYROLL

Professionals practicing in the Payroll industry are required to be members of the South African Payroll Association (SAPA).

This document aims to enhance the holistic behavioural requirements of professionals who have met the national professional recognition requirement.

### BACKGROUND

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Practitioners within Payroll are expected to align all the professional practices to the legislation applicable to and regulating the industry.

This code of conduct is aimed at setting the principles underpinning their professional conduct whilst practising in a professional and skilled manner, using the knowledge and skills gained through their education, training and workplace experience.

### OBJECTIVES OF THE INDUSTRY

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The industry aims to set a minimum standard for practice, for individuals wanting to enter the Payroll sector.

Qualified practitioners and professionals must be trained to always act with the clients' as well as the candidates' and assignees' best interest at heart in compliance with all statutory requirements.

The industry ensures ongoing education of practitioners and professionals through a structured and self-regulated continuing professional development programme.

The industry ensures regular revision of this code of conduct in alignment with national and international good practice and standards.

Organisations representing the industry will strive to create an enabling environment for the professional conduct of practitioners, to ensure promotion of fair practice and protection of workers.

### PRINCIPLES UNDERPINNING THE CODE

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The principles underpinning this code are:

- **Integrity** – practitioners must be ethical, honest and true to their word. They must ensure that their behaviour is consistent with this code of professional conduct.
- **Confidentiality or privacy** – privileged information must be treated appropriately so as not to infringe on any parties' constitutional rights.
- **Collegiality** – this includes co-operation with colleagues, integrity within working relationships and the protection of one another's reputations in the working environment and sector.
- **Engagement and Collaboration** – ensuring consultation and co-operation with stakeholders to improve labour market functioning.
- **Trustworthiness** – this includes honesty, loyalty and transparency in relationships with all stakeholders and reliability in the business environment.

- **Competency** – ensuring lifelong learning in order to maintain currency of knowledge and skill.
- **Reliability** – practitioners need to work consistently and meet critical deadline dates on a weekly and monthly basis. This includes accuracy of information that is collated and uploaded to payroll.
- **Compliance** – the industry is highly regulated and practitioners need to know and apply legislative requirements when working with the payroll.
- **Fairness** – practitioners should at all times act in the best interest of their internal and external stakeholders.
- **Passion** – practitioners need to exhibit behaviour that indicates a passion for what they do.

## DEFINING PROFESSIONAL CONDUCT

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Professional conduct is defined as:

- A practitioner’s obligation to protect and enhance their profession;
- Keeping informed and educated about best practice within Payroll;
- Active pursuit of personal and professional development ; and
- Commitment to professional and ethical practices

## CONDUCT TOWARDS INTERNAL AND EXTERNAL STAKEHOLDERS

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Practitioners will:

- Be polite , honest and objective when interacting with clients;
- Act with integrity at all times;
- Behave in a trustworthy and reliable manner when dealing with each client in order to meet their needs;
- Protect the confidentiality of client information at all times;
- Provide statutory compliant services; and
- Strive to meet contractual obligations.

## CONDUCT TOWARDS CANDIDATES AND ASSIGNEES

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Practitioners will:

- Be polite , honest and objective when interacting with candidates and assignees;
- Act with integrity at all times;
- Behave in a trustworthy and reliable manner when dealing with each employee or employer in order to meet their needs; and
- Ensure that privileged information is treated appropriately so as not to infringe on the employee’s or employer’s constitutional rights.

## CONDUCT TOWARDS COLLEAGUES, EMPLOYERS AND EMPLOYEES

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Practitioners will:

- Act in a manner that upholds the professional reputation and practice of the industry;
- Co-operate with colleagues to ensure that the principles of this code are upheld;

- Act with respect for colleagues, employers, employees and the industry; and
- Report unethical behaviour through the appropriate mechanisms.

## **CONDUCT TOWARDS PROFESSIONAL BODIES**

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Practitioners will:

- Aim to support activities and initiatives introduced by industry associations; and
- Respect the authority of associations recognised by the industry.

## **MONITORING OF PROFESSIONAL CONDUCT**

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The primary responsibility for the monitoring of the subscription of practitioners and professionals to this code of conduct rests with the individual.

Professional bodies are tasked with the enforcement of the subscription of practitioners to the principles and objectives presented in the code of conduct however the industry relies on the integrity of practitioners when engaging with stakeholders.

Where practitioners are considered to be acting in a manner that breaches these principles, appropriate action will be taken.

## **PROFESSIONAL MISCONDUCT**

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Each of the following is regarded as professional misconduct, and any person found guilty of such misconduct shall be subject to the disciplinary process outlined as part of this code.

- Obtaining the professional designation fraudulently;
- Practicing the profession fraudulently or beyond its authorised scope;
- Practicing the profession with negligence on more than one occasion;
- Practicing the profession with gross negligence on a particular occasion;
- Practicing the profession with incompetence on more than one occasion;
- Practicing the profession with gross incompetence;
- Practicing the profession while being impaired by the use of neurological or physical behaviour altering substances except for a practitioner who is maintained on an approved therapeutic regimen which does not impair the ability to practice, or having a psychiatric condition which impairs the practitioner's ability to practice;
- Being convicted of committing an act constituting a crime under SA Criminal Law;
- Having been found guilty of improper professional practice or professional misconduct by a duly authorized Professional Body;
- Refusing to provide professional service to a person because of such person's race, creed, color or national origin;
- Exercising undue influence on the client, including the promotion of the sale of services and goods in such manner as to exploit the client.
- Directly or indirectly offering, giving, soliciting, or receiving or agreeing to receive, any fee or other consideration to or from a third party for the referral of a client or in connection with the performance of professional services;
- Permitting any person to share in the fees for professional services, other than: a partner, employee, associate in a professional firm or corporation, professional subcontractor or consultant who holds the professional qualification;
- Revealing of personally identifiable facts, data, or information obtained in a professional capacity without the prior consent of the person/client, except as required by law;

- Practicing or offering to practice beyond the scope of the profession;
- Delegating professional responsibilities to a person when the practitioner delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience, or by licensure, to perform them.

## **DISCIPLINARY PROCEDURE**

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Any person may complain to the Professional Body that a member has allegedly committed conduct which is not in accordance with the provisions of this code and/or where that conduct appears likely to bring discredit to the Professional Body or the profession. Such conduct will be considered under the terms of the disciplinary procedure.

### **Procedure**

- Complaints may be made against a member by:
  - the Professional Body;
  - another member; or
  - a third party.
- Any complaint made against a member must be made in writing under confidential cover and addressed to the chairperson of the Nominations and Professional Conduct Committee (NPCC) at SAPA at its registered office.
- Complainants shall set out the circumstances forming the basis of the complaint, including the relationship, if any, between the complainant and the member concerned.
- SAPA shall at its discretion consult with the complainant and other parties, in particular, officers and members of the Professional Body, including the member concerned to determine whether a prima facie case has been made. (refer to Appendix A) If SAPA concludes that there is a prima facie case, he/she shall then formally notify in writing the member concerned.
- If the SAPA concludes that a prima facie case has not been made, he/she shall so advise the complainant, and at the SAPA's discretion the member concerned, in writing.
- The complainant may challenge the decision of SAPA in writing to the chairperson of the Nominations and Professional Conduct Committee designated to consider such appeals (designated member).
- i. This 'preliminary appeal' process will consist solely of the consideration of the information already submitted to SAPA, the chairperson's own advice and written representations from the complainant and the member concerned. The designated member's decision shall be final and binding and there shall be no obligation to give written reasons for the decision.
- ii. If SAPA decides in the first instance, or the designated member of Nominations and Professional Conduct Committee on preliminary appeal considers a prima facie case has been made, SAPA shall then notify in writing the member concerned of the nature of the complaint and SAPA shall request the member's written response within 28 days of the date of sending out the notification.
- iii. Upon receipt of the response or at the end of the period, whichever is earlier, SAPA shall refer the complaint and the member's response, if any, to the Chair of the Professional Conduct Committee.
- iv. The Chair shall then instruct SAPA to convene, as soon as reasonably practicable, a disciplinary panel.

### **The disciplinary panel**

- The power of making disciplinary decisions is vested in a disciplinary panel.
- The Disciplinary panel shall be drawn from members of the Nominations and Professional Conduct Committee.
- The Chair of the Nominations and Professional Conduct Committee shall not be a member of the disciplinary panel. The nominated panel members will appoint a member to act as their Chair.
- A disciplinary panel will consist of three or five members including the Chair of the panel, each of whom shall have a primary vote.
- A panel may co-opt additional specialist advisers should it so decide who will not have a vote. There will also be a Secretary for each panel who will normally be the secretary of the Professional Body.

The roles and responsibilities of the members of the disciplinary panel are contained in SAPA's Standard Operating Procedure.

### **The disciplinary hearing**

- Within 14 days of receiving a response, or after the lapse of 28 days from sending notification to the member concerned whichever is the lesser, the secretary shall fix a date and place for the complaint to be heard by the disciplinary panel, giving at least 28 days notice to the member and complainant concerned or such other period as may be determined (unless otherwise agreed between all the parties). The place where the complaint will be heard will ordinarily be the head office of SAPA or an agreed venue.
- At least 14 days before the disciplinary hearing, the panel must present in writing to the member concerned and all other parties involved the document supporting the complaint.
- The member concerned shall also have proper opportunity to bring witnesses and introduce at the hearing any relevant evidence he/she may consider fit.

- The person making the complaint will normally be required to appear before the hearing and given the opportunity of an explanation.
- Either or both parties may be accompanied by a certified member if he/she so wishes. Such a member shall attend as a supporter or adviser but not as a representative.
- The hearing can, with the agreement of the parties, take place in the absence of one of the parties if, in the opinion of the disciplinary panel, there is no alternative to proceeding in this way. With the agreement of the parties, the hearing could be conducted by correspondence.
- Should a reasonable agreement<sup>1</sup> not be reached, then SAPA reserves the right to conduct the hearing via correspondence.
- The disciplinary panel may make such further enquiries by correspondence or call witnesses or otherwise as it may think fit. This may involve an adjournment of the panel hearing for a reasonable period.
- The disciplinary panel, after considering all available submissions, will determine their decision. If the panel decides that the case has not been substantiated, the complaint will be dismissed.
- SAPA will in writing inform the person making the complaint and the member concerned.
- Decisions of the disciplinary panel shall be by simple majority and can be made in the absence of the member concerned, provided they have been previously informed of the date of the hearing and nature of the complaint.

### **Powers of the disciplinary panel**

The disciplinary panel shall have the following powers:

- dismiss the complaint;
- exercise one or more of the following disciplinary decisions, in combination or as alternative warn, admonish or reprimand any member;
- call for a written undertaking from the member as to future conduct and performance, to provide for guidance from a senior colleague and specific training, and/or arrange for regular reporting;
- direct that a statement recording the complaint should be entered on the personal record of the respondent for a defined time;
- re-designate the parties' Professional status;
- withdraw the benefits of membership of the Professional Body and the use of designatory letters and/or chartered title for a defined time;
- call for the resignation of a member;
- expel a member from the Professional Body;
- make recommendations to the Chairman of the Board regarding publication of the decision.

### **Appeals Procedure**

- It is open for a member against whom a complaint has been upheld in full or in part by a disciplinary panel and against whom a disciplinary decision has been made, to lodge an appeal to an appeals panel. Such appeal must be made in writing to the Chairperson of SAPA at the registered office within 28 days of the date of notification of the disciplinary decision. The notice must set out the full grounds on which issue is taken with the disciplinary decision. The action decided upon will, at the discretion of the disciplinary panel, normally be suspended until after the appeal is heard.
- The secretary will notify the Chair of the ***Nominations and Professional Conduct Committee***, as Chair of the appeals panel, of the appeal, and he/she will instruct the secretary to convene an appeals panel.
- SAPA shall fix a date and place for the case to be heard, giving at least 28 days notice to the member concerned or such other period as may be agreed between all the parties.
- The appeals panel will follow the same procedure as the disciplinary panel save that the member concerned may be represented by a third party who need not be a member of SAPA. Relevant documents will be circulated to all parties before the appeal hearing.
- The decision of the appeals panel will be final and by a simple majority; where no such majority is obtained, the appeal fails and the original decision stands.
- The appeals panel may overturn the disciplinary decision, vary or uphold it.
- The member concerned will be informed in writing within 14 days of the decision of the appeals panel.

### **Appeals panel**

- The appeals panel will consist of the Chair of the NPCC, as Chair, and four other members of that committee.
- In the unavoidable absence or indisposition of the Chair, that person or the panel itself may nominate another member of the panel to act as Chair.
- No member may serve on the appeals panel who was previously involved in the disciplinary panel, in relation to the same matter.

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<sup>1</sup> An unreasonable request would usually refer to a situation where additional costs need to be incurred by SAPA that have not been accounted for.

### **Publication of decisions**

- Decisions by SAPA and upon preliminary appeal by the Chair of *Nominations and Professional Conduct Committee* shall be reported to that committee.
- Decisions of the disciplinary panel and of the appeals panel will be notified to the member against whom the complaint has been made and as soon as practicable to the council, and will be effective immediately.
- The extent of publication will be at the discretion of the Chairperson of SAPA, based on a recommendation from the disciplinary or appeals panel.
- Individuals in cases which have been dismissed will not be identified, but details of such cases may nevertheless be published.

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