POLICY ON THE HANDLING OF CASES OF THEFT, FRAUD, UNAUTHORISED POSSESSION OR UNAUTHORISED REMOVAL OF THE PROPERTY OF THE ORGANISATION

1. SCOPE

This policy applies to all permanent, fixed term and casual employees employed by the South African Heritage Resources Agency and its satellite operations.

2. POLICY

2.1 The Organisation has adopted a policy of zero tolerance with regard to theft, fraud and dishonesty.

2.2 Any employee who is found to be in unauthorised possession of goods belonging to the Organisation will be subject to a disciplinary enquiry which could result in their dismissal.

2.3 Any person found guilty of THEFT or FRAUD where money is involved, will be charged criminally.

2.4 It is recognised however; that labour law differs from criminal law in that the criteria for determining guilt is the balance of probability. Therefore, where theft cannot be clearly proved but an employee is found to be in unauthorised possession of, or attempting to remove goods belonging to the Organisation without authority, the employee may be dismissed without criminal charges being laid.

3. The Organisation reserves its right to protect its interests and where theft or fraud is suspected, management reserves the right to utilize all appropriate lawful means available to gather evidence and apprehend the suspects.

4. CONFIDENTIAL REPORTS (Whistle blowing)

4.1 Any employee who is aware of dishonest activities taking place is expected to report such activities to management and failure to do so can render an employee subject to disciplinary action, including dismissal.

4.2 Where an employee is aware of misconduct taking place but fears intimidation if he or she makes a report, the employee may make a confidential report directly to any member of the Executive, the CEO or a member of Council.

4.3 The Organisation undertakes that the identities of such employees will not be revealed without their permission and that they will be protected from victimisation as a result of making a report.

4.4 Where a confidential report is received, the Exco or Council member, depending on the nature of the report, shall advise the appropriate Executive management of the report without revealing the identity of the informant.

4.5 Executive management shall, depending on the nature of the report, arrange for surveillance and or monitoring to investigate the truth of the report.

5. DISCIPLINARY PROCEDURE
As a guide, the Disciplinary Procedure shall be followed in all cases of misconduct including dishonesty, theft, fraud, unauthorised possession or attempted removal of goods donated to or belonging the Organisation but in addition the following shall be pertinent:-

5.1 Where investigations reveal that there is *prima facie* evidence of employees being involved in misconduct involving dishonesty, such employees shall be suspended from work with pay pending a disciplinary enquiry.

5.2 In such event, care must be taken with the framing of the charges and advice should be taken from an appropriate professional. Charges with a criminal base such as ‘theft’, should be avoided as this could compromise the outcome of the disciplinary enquiry.

5.3 A disciplinary enquiry should be convened as provided for in the Disciplinary Procedure.

5.4 Where there is sufficient evidence to find an employee or employees guilty of unauthorised possession or attempted removal of goods without authority on the balance of probabilities, it does not necessarily follow that this evidence is strong enough to stand up in a criminal court.

5.5 Discretion must be used by the chairperson of the enquiry, but if sufficient evidence exists, the chairperson of the enquiry may determine and recommend that in addition to dismissal, criminal charges are laid against the employee or employees concerned. The underlying principle being that if there is sufficient evidence, criminal charges should be laid, regardless of the value of the goods.

5.6 Criminal charges can be laid against an employee before a disciplinary enquiry has been convened and the decision of the disciplinary enquiry chairperson shall be independent of the findings of a criminal court.