

POLICY ON GRIEVANCE PROCEDURE

HUMAN RESOURCE MANAGEMENT

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1. PREAMBLE

The intention of this grievance policy is to outline the internal departmental procedures in the handling of grievances and to ensure compliance with principles enshrined in the Rules for handling employee grievances in the Public Service which are -

- To advance sound labour relations and address grievances in the public service by fulfilling the primary objectives of the procedure which are:

- To give effect to section 196(4)(f)(ii) of the Constitution which empowers the Public Service Commission to investigate grievances of employees in the Public Service concerning Official acts or omissions, and recommend appropriate remedies;

- To give effect to section 11 of the Public Service Commission Act, 1997 (Act no 47 of 1997) which empowers the Commission to make rules to deal with grievances;

- To promote-

- Speedy, impartial and equitable handling of grievances;

- Sound labour relations;

- Resolution of individual grievances at the lowest possible level of the department.

2. POLICY STATEMENT

- To ensure that the grievances are dealt with by the Department in a fair, impartial, and unbiased manner, and that the principles of natural justice are observed.

3. SCOPE OF APPLICATION

- This policy is applicable to all the employees of the Department of Local Government and Human Settlements from salary level 1-12 including contract workers and internship

4. LEGISLATIVE FRAMEWORK

- Constitution of the Republic of South Africa, Act no 108 of 1996.

- Public Service Commission Act no 47 of 1997.

- Public Service Co-ordinating Bargaining Council Resolution 14 of 2002 (grievance procedure).

- Labour Relations Act 66 of 1995

DEFINITIONS:

"Commission" means the Public Service Commission established in terms of section 196(1) of the Constitution;

"Constitution" means the Constitution of the Republic of South Africa, 1996 (Act no 108 of 1996);

"Days" refers to working days;

"Executing Authority" means an authority as defined in subsection 1(1) of the Public Service Act, 1994 as amended;

"Grievance" means a dissatisfaction regarding an official act or omission by the employer which adversely affects an employee in the employment relationship, excluding an alleged unfair dismissal;

"Head of Department" means the incumbent of a post mentioned in Scheduled 1,2,3 of Public Service Act, 1994 as amended or the person acting in such post;

"Public Service Act" means the Public Service Act (Proclamation No 103 of 1994 and amended in 2007);

"Recognised trade union" means all trade union admitted to the Public Service Co-ordinating Bargaining Council as well as any other trade union that enjoys the relevant organisational right in particular department;

"Resolve" means to settle a grievance to the satisfaction of the aggrieved employee,

"Representative" means a fellow employee, a representative or official of a recognised trade union.

5. PROCEDURE FOR THE POLICY

- 5.1 A grievance must as far as possible be resolved by an employer and as close to the point of origin as possible.
- 5.2 The employer must ensure that the grievance is dealt with in a fair, impartial, and unbiased manner, and that the principles of natural justice are observed.
- 5.3 The procedure must be such that it enables the employer and the employee to address the dissatisfaction.
- 5.4 No employee must be victimized prejudiced, directly or indirectly, as a result of lodging a grievance.
- 5.5 If disciplinary action is being taken against an employee, utilization of this policy by the employee to address any matter related to the disciplinary action shall not halt the disciplinary action.
- 5.6 A grievance must be lodged in writing and all decisions taken during the process must be in writing.

- 5.7 An employee may be assisted by a representative of registered Trade Union.
- 6 ADHERANCE TO TIME LIMITS**
 - 6.1 In determining adherence to time limits, this should be calculated by excluding the first day and including the last day.
 - 6.2 The parties must adhere to the time limits set out in this policy, unless they mutually agree to extend them.
 - 6.2.1 A grievance must be lodged with the designated employee within 90 days from the date on which the employee becomes aware of the official act or omission, which adversely affect him or her.
 - 6.3 An employee may demand that his or her grievance be referred to the Public Service Commission within 10 days after receiving the Executing Authority's decision.
- 7 PROVISION OF INFORMATION**
 - 7.1 An employer must provide relevant information necessary for an employee to lodge or pursue a grievance, if requested.
 - 7.2 The provision of such information is subject to any limitations imposed by the law.
 - 7.3 The employee must be provided with information about the status of the grievance and the progress made towards the planned finalization date.
 - 7.4 The employer must provide the employee with a copy of the grievance form after each applicable level of authority dealt with the grievance.
- 8 PROCEDURE OF THE POLICY**
 - 8.1 An employee may lodge a grievance with a designated employee (Sub-Directorate Labour Relations) to facilitate the resolution of grievances in the department.
 - 8.2 The prescribed form at Annexure A must be used when a grievance is lodged.
 - 8.3 The designated employee must acknowledge receipt of the grievance in writing, and inform the aggrieved, employee in writing, of the last date on which the grievance is expected to be resolved.
 - 8.4 A grievance file must be opened for each grievance lodged.
 - 8.5 The Department (including the Executing Authority) has 30 working days to deal with the grievance. The period may be extended by mutual agreement in writing.

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- 8.6 The designated employee may arrange and facilitate a meeting between the aggrieved employee and the relevant structures of authority in the department to fast track the resolution of the grievance within 10 working days.
- 8.7 The designated employee must liaise with the relevant structures of authority of the department in an attempt to resolve the grievance.
- 8.8 The relevant structure of authority in the department has 5 working days to deal with the grievance, unless a mutual agreement is reached between the aggrieved employee and relevant structure of authority to extend the period.
- 8.9 If a grievance is not resolved to the satisfaction of the aggrieved employee by the relevant structure of authority lower than the Head of the Department, the aggrieved employee may request that his or her grievance be referred to the Executing Authority for his/her decision on the matter.
- 8.10 If after the aggrieved employee is informed of the outcome of the grievance and he/she remains dissatisfied, he/she must inform the Executing Authority in writing within 10 days;
- 8.11 The Executing Authority must in terms of section 35(1) of the Public Service Act, 1994 as amended, forward the grievance and the relevant documentation to Public Service Commission for recommendation within 5 days of being informed by the aggrieved employee.
- 8.12 The aggrieved employee will be duly informed by the designated employee about the status and progress made towards the resolution of the grievance.
- 8.13 If the grievance is resolved to the satisfaction of the aggrieved employee the confirmation thereof, will be reduced to writing by the designated employee.
- 8.14 If a grievance cannot be resolved, the Executing Authority must inform the aggrieved employee accordingly.
- 8.15 The Executing Authority has 10 working days to deal with the grievance and make his final decision.
- 8.16 The Executing Authority may, if necessary, conduct a hearing to obtain clarity on any matter related to the grievance.
- 8.17 If the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act, the employee may inform the Executing Authority in writing that he/she wishes to utilize the dispute resolution mechanisms provided for in the constitution of the Public Service Co-ordinating Bargaining Council or the relevant Sectoral council, whichever is applicable. The Public Service Commission should therefore not consider the grievance.
- 8.18 If there is failure on the part of the Department to respond to the grievance within the period referred to in clause 5.5, the aggrieved employee may lodge his or her grievance with the Public Service Commission directly or a Bargaining/sectoral council (whichever is applicable) in terms of its dispute resolution procedure.

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9 REFERRAL TO THE PUBLIC SERVICE COMMISSION

- 9.1 Once the Commission has received all information from the Executing Authority, it must within 30 days consider such grievance and inform the Executing Authority of its recommendation and the reason for its decision in writing.
- 9.2 On receipt of the Commission's recommendation, the executing authority must, within 5 days, inform the employee and the Commission of his or her decision in writing.

10 MONITORING

- 11.1 The effectiveness of this policy shall be monitored and evaluated continuously by the Sub-Directorate Labour Relations through the grievances lodged with the same.
- 11.2 Implementation of this policy shall rest upon the Directorate Human Resource Management through Sub-Directorate Labour Relations.

11 REVIEW

- 11.1 This policy will be reviewed after a year and when there are any amendments of grievance rules.

13. ANNEXURES

- 13.1 Grievance forms are attached as the annexure.

14. APPROVAL

Co-ordinated and signed on behalf of Human Resource Management

MS.M LEHOKO

CHIEF DIRECTOR: CORPORATE SERVICE
HUMAN RESOURCE MANAGEMENT

Supported by:

J.K MASHIGO

CHAIRPERSON: DCC

Approved by:

P.E MOTO KO

HEAD OF DEPARTMENT

DATE

2016/04/30

DATE

2016/04/26

DATE

2016/04/22

