



PHSDSBC

**PUBLIC HEALTH AND SOCIAL DEVELOPMENT
SECTORAL BARGAINING COUNCIL**

**Dispute Management
Panellist Indaba Presentation
05, 07 and 09 October 2015**

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Purpose

- ❖ To explain and develop a common understanding of the Dispute Management administration processes and expected standards.



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Accreditation Process

- ❖ **The Council is accredited by the Governing Body of the CCMA in terms of section 127 of the Labour Relations Act 66 of 1995 as amended, to perform dispute resolution functions;**
- ❖ **The accreditation process is renewable depending on the expiry of the accreditation period;**
- ❖ **The maximum accreditation period that a Council can get is up to four (4) years depending on their performance; and**
- ❖ **Currently the Council is accredited for two years starting from 01 June 2014-31 May 2016 due to some challenges with its performance.**



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CERTIFICATE OF ACCREDITATION OF COUNCIL



CCMA

This is to certify that

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has in terms of section 127 of the Labour Relations Act, 1995, been accredited to perform dispute resolution functions subject to the terms attached. The Bargaining Council has been accredited to conduct conciliation and arbitration (including pre-dismissal arbitration), on condition that all performance efficiencies are being monitored. Council is required to appoint only panellists who have attended the CCMA specialist course on section 198 to conduct section 198-matters to ensure the council meets the standards of the CCMA. This certificate is valid from

01 June 2014..... to**31 May 2016**



(Official stamp of CCMA)

A large, stylized handwritten signature in black ink.

Senior Commissioner-CCMA
Private Bag X94
Marshalltown
2107

Date:.....11/6/14.....

Reference Number: LR2/6/6/144

CCMA Efficiencies

OPERATIONS EFFICIENCIES – 2015/16

EFFICIENCY/MINIMUM REQUIREMENT	Approved	Weighing	Notes
Pre-conciliations heard of jurisdictional cases	10%	3.75%	Hear 10% or more of all jurisdictional referrals using the pre-conciliation process
Pre-conciliations settled of jurisdictional cases	7%	3.75%	Settle 7% or more of all jurisdictional referrals using the pre-conciliation process
Conciliations heard outside 30 days	0%	20%	Statutory requirement
Conciliations heard & closed	90%	3.75%	Close 90% or more of all conciliations heard (includes all 'con' type processes)
Con/arbs finalised of jurisdictional cases	50%	15%	Finalise 50% or more of con/arb cases in a single event. Includes 'settled' and 'award rendered'
Settlement rate	70%	15%	Settle 70% or more cases across all processes



CCMA Efficiencies Cont...

OPERATIONS EFFICIENCIES – 2012/13

Arbitrations finalised of heard	90%	3.75%	Finalise 90% or more arbitration of arbitrations heard
Late Awards	0%	20%	Statutory requirement
Adjournments (of events heard)	1%	3.75%	Allow for the maximum of 1% adjournment of all processes heard
Postponements/adjournments (of events heard)	5%	3.75%	Allow for the maximum of 5% postponement of all processes heard
Turn around times conciliation (days)	30	3.75%	Conciliation process to take place from 'activation' to 'closed' within a maximum of 30 days
Turn around times arbitration (days)	60	3.75%	Arbitration process to take place from arb referral date to 'closed' within a maximum of 60 days



Case Management System (CMS)

- ❖ **The Council relies on the CMS as the main data source for case management and data analysis;**
- ❖ **It is a live database capturing case details for every case referred to the Council and it is administered by the Commission for Conciliation, Mediation and Arbitration (CCMA); and**
- ❖ **The system is used to monitor the Council's performance and the Panellist.**



Conciliation

- ❖ **The following challenges are identified in the conciliation process:**
 - ❖ The late coming of panelists to the proceedings;
 - ❖ Signing of attendance registers;
 - ❖ Issuing of certificates and submitting them to the Council on the same day; and
 - ❖ Effectiveness of the conciliation process.



Arbitrations

❖ The following challenges are experienced in the arbitration process:

❖ 60 days turnaround time

- ❖ The Council and the panelist are expected to meet the CCMA's 60 days turnaround time to finalise the arbitrations.

❖ Postponement:

- ❖ Some panelists postpone matters at the hearing unnecessary, without due regards to the Council rules on postponements; and
- ❖ The resolution of disputes is delayed due to matters being postponed “*sine die*”.

❖ Part-heard:

- ❖ Matters are said to be part-heard but there is no comprehensive report that justifies what happened on the day; and
- ❖ Panelist allow parties to select dates that are way beyond the 60 days turnaround times.



Arbitrations Cont...

❖ Dates on the closing arguments

- ❖ Panelists agree on the date of submission of closing arguments without informing the Council; and
- ❖ In some instances agree to extend the dates without informing all affected parties and the Council.



Submission of rulings and awards

- ❖ Panelists must furnish the Council with awards **within 8 days** upon the last sitting of the case;
- ❖ This will allow the vetting process and the correction thereof, where necessary to take place before the expiry of **fourteen (14)** days within which the award must reach the parties;
- ❖ Should there be unforeseen circumstances that prevent the panelists to submit the award within 8 days, panelists must complete **Section 138(8)** form and submit it to the Council for approval of the extension; and
- ❖ Failure to submit the request for extension will result in your award being recorded as late in the CMS and the panelist will be reported to the CCMA to take into account when reviewing accreditation.



Settlement rate

- ❖ The CCMA expects the Council to settle 70% or more cases across all its processes;
- ❖ To achieve this target, Council relies on the performance and the skills of panelists to facilitate a settlement; and
- ❖ The Council is in the process of reviewing the target with the CCMA to take into account the nature of cases and processes applicable in the Public Service.



Submission of records and invoices

❖ The records:

- ❖ All evidence of the proceedings is not recorded during the proceedings;
- ❖ Wrong case recordings are submitted to the Council;
- ❖ Illegible hand written notes; and
- ❖ Willingness/ attendance of panelists to reconstruct the records.

❖ Submission of invoices

- ❖ In December 2015 invoices must be submitted on **05th** for processing of payment on **15 December 2015**;
- ❖ As of **January 2016**, the monthly closing date to submit invoices would be the **10th of each month** for processing of payments on the **28th monthly**;
- ❖ Failure to submit your monthly invoice on or before the 10th would imply that your invoice will be processed in the following month;
- ❖ Incorrect travel rates used are usually picked up from the invoices;
- ❖ Non-attachment of toll-gate slips; and
- ❖ Duplication of invoice numbers are used.



Rules for the conduct of proceedings before the PHSDSBC

- ❖ The Council has effected amendments to the rules for the conduct of proceedings before the PHSDSBC. Amongst others the following have been inserted in the rules:
 - ❖ Panelists to note the use of emails in the service of documents on other parties;
 - ❖ Clause 15 has been inserted on Determination by Council/ Commissioner; and
 - ❖ Clause 25 (5) has been inserted on Appearance or Representation of Parties.



The appointment of panelist and interpreters

- ❖ **The Council is eligible to appoint CCMA accredited part-time panellist to conduct dispute resolution function;**

- ❖ **In line with the CCMA Accreditation Policy, the Bargaining Council only appoints CCMA accredited panellist to their panel:**
 - ❖ **who have been appointed by the Governing Body of the CCMA as part-time Commissioners in terms of section 117(2) of the LRA;**
 - ❖ **who have been approved/certified by the Accreditation and Subsidy Sub-Committee of the Governing Body (ASSC) to perform dispute resolution functions; and**
 - ❖ **The Council appoints panellists for three years cycle renewable after three years based on the performance; and**
 - ❖ **The current cycle will be lapsing on 30 March 2017.**



The Panellist Code of Conduct

- ❖ **All Panelists of the Public Health and Social Development Sectoral Bargaining Council must comply with the Code of Conduct;**
- ❖ **The Code of Conduct is in place to ensure that the PHSDSBC parties to the dispute receive good quality service as required by law; and**
- ❖ **It regulates the conduct of panelists in the proceedings and in relation to the parties.**



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The Panelist Fee Policy

- ❖ The purpose of the Panelists Fee Policy is to provide rules and guidelines for the payment of panellist fees;
- ❖ All panelist are paid a flat rate of R 2500.00 daily appearance (excluding the award and the ruling fee);
- ❖ The Council is in the process of reviewing the panelist fee policy and
- ❖ Penalties are effected for late submission of awards and invoices as per the panelist fee policy.



Declaration of information by independent contractor (Income Tax Deduction)

- ❖ Panellist are expected to comply with the SARS Interpretation Note No. 17 (Issue 3) of 2010;
- ❖ All Panellists and Interpreters should also comply with SARS requirements for independent contractors;
- ❖ Required to complete the Declaration of income as well as the SARS Interpretation Note; and
- ❖ Failure to submit the declaration of Income may result with 25% of employees' tax deducted from the money due from all the invoices.





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Thank you
&
Questions?

*"All our dreams can
come true—if we have
the courage to
pursue them."*