



NEHAWU BULLETIN OF PUBLIC SERVICE BARGAINING COUNCILS

MAY 2020

1. PSCBC (Public Service Coordinating Bargaining Council)

1.1 PSCBC DISPUTE: Implementation of PSCBC Resolution 1 of 2018

The national union on the 31st March 2020 referred a dispute on the application of PSCBC Resolution 1 of 2018 in line with Section 10 of the same resolution after consultation with Legal Senior Council by the leadership of the national union. Later, the union wrote to the council to prioritise the dispute by considering convening the conciliation virtually via Zoom or any possible form of interaction under the lockdown restrictions.

After consulting with other parties concerned, the council agreed to our request and set down the 28th to 30th April 2020 for the conciliation via Zoom. Immediately the council appointed two Commissioners (Kaizer Thibedi and Matlhodi Maleke) to co- conciliate the dispute. Parties in the dispute are DPSA, all COSATU public sector unions and SAPU which is the only union outside the fold of COSATU as a signatory to Resolution 1 of 2018.

On the first day of the conciliation, the 28th April 2020 we dealt with employer's request to postpone the matter to the 4th May 2020 because of their scepticism on security fixtures of Zoom and the fact that PSCBC might potentially be declared as essential work on the 30th April 2020 which all parties involved shall be exempted to attend if a form of a physical contact the conciliation as normal at PSCBC offices.

In ruling on the request of the employer, the Commissioner as provided by Section 35 of the Labour Relations Act as amended, made the following proposals to parties:

- That the employer's request must be taken into consideration
- That there is no law prohibiting conciliation to be conducted virtually
- That the council must be allowed to check for another virtual feature suitable other than Zoom
- Parties must reconvene on the next day which was the 29th April 2020 at 10H00 via the virtual feature the council would have preferred.
- In the event that there is no other alternative then Parties will proceed via Zoom

On the 29th April 2020, Parties tried the WebEx which was introduced by the council unfortunately it brought more challenges which resulted to others not being able to connect particularly us as NEHAWU. As a result, we resorted back to Zoom which had similar challenges as well and ultimately agreed on the following:

- The conciliation must be postponed for the 04th, 05th and 06th May 2020 via Zoom
- The Commissioner must rule on SAPU which used a legal representative in a conciliation.



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After the conciliation as scheduled as highlighted above, the national union will continue to provide an update on the outcomes of the conciliation to members. The position of the union remains as communicated to members through internal bulletins and media statements issued about and the union is not shaken - NO Review of Resolution 1 of 2018 - Implement clause 3.3 of Resolution 1 of 2018 as is. Since 2012, the national has observed with great concern reluctance on the side of the employer to implement signed resolutions and indeed, this tendency must be stopped and must come to an end now.

1.2 PSCBC Special Council

On the 17th April 2020, the national union attended the PSCBC Special Council that was convened virtually via Zoom. The special council was convened to deal with two agenda items, namely:

- (a) Circumstantial Allowance for all workers engaged in the frontline management of COVID-19.
- (b) Provision of Personal Protective Equipment (PPE's) to all frontline workers involved in the fight against COVID-19.

Circumstantial Allowance : This matter was tabled because of the outcry by members who requested the employer to consider giving employees R400 allowance or consider showing a token of appreciation for the employees in the frontline who are working hard in assisting the country to fight the pandemic. The employer pleaded poverty but said that they will look into the matter and will revert back to the council once the mandate is sourced.

Personal Protective Equipment: The union raised this matter because it believed after analysing on the data provided by the department of health on what was available and to be procured by the 8th April 2020, significant number of complaints and sporadic strike actions (in particular health) demonstrated by members and workers to confirm our claim on the shortage of these PPEs across the country. The union, once again wanted the employer to table a detail report on the stock of PPE's versus the head counts of officials who are to use this equipment in various categories at each workplace.

The employer through the department of health presented a lame presentation which did not speak to the stock and shortages, as a result the union presented its data analysis document that shows the shortages as a response to their data analysis which paralysed the employer and requested time to look at our analysis. At the end, parties agreed to resuscitate the PSCBC COVID Task Team to specifically look at all challenges confronting Public Service brought about by Coronavirus.



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2. GPSSBC (General Public Service Sectoral Bargaining Council)

The union requested the sitting of a special council meeting to discuss return to work plans for all State Administration Departments following the announcement by the President Ramaphosa on the relaxation of restrictions of the national lockdown through phases as characterised in a form of levels (5 to 1) coming to effect from the 1st May 2020. The interest of the union primarily was to ensure measures to protect the lives of its members and workers as a whole from these departmental plans.

Indeed, the council meeting took place on the 30th April 2020 via Zoom as indicated above that the intention of the union was to ensure the protection of members and workers by ensuring that fumigation and dis-infection of all offices, adequate Personal Protective Equipment (PPEs) and compliance with Occupational Health and Safety are adhered to particularly the establishments of OHS committees in each workplace to oversee compliance and safety of workers.

We raised a point in the meeting that even before the release of the regulations by both Ministries of COGTA and Employment and Labour, majority of government departments had already outlined their plans which indicated in most instances the returning to work on the 4th May 2020. According to regulations no employee must return to work before departments have prepared workplaces and communicated as such.

Labour wanted the employer to outline the plan on how will it address the health and safety related issues as well as compliance with the regulations as presented by the Ministry of employment and labour. The employer indicated that departments are yet to finalise plans as such though they agreed that compliance is a matter of must and the employer confirmed noting the position of labour which is “No employee must return to work if compliance is not met”.

After robust engagements, the council resolved as follows:

- a) The employer will issue a circular to all departments emphasising the legal matter of compliance with regulations on health and safety and wellness of employees which must be prioritised.
- b) No employee must return to work until departments have put plans to comply with regulations and must be communicated on time.
- c) Every workplace must have functional OHS committees as directed by the OHS Act.
- d) The council will write to all departments and direct the DBC’s to have a standing agenda item on OHS.
- e) All departments must ensure that they address the issue of social distancing as per the 30 percent workforce and that employees with chronic conditions and those above 60 years of age are attended to.



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3. PHSDSBC (Public Health and Social Development Sectoral Bargaining Council)

The national union requested a special council meeting for the 24th April 2020 in light of the challenges experienced by members during the national lockdown as an intervention of managing and controlling the spread of COVID-19 in the country. This meeting could not proceed because the employer was not responding to issues tabled. Parties agreed to allow the employer to go back to source mandate on the issues and the meeting was reconvened on the 30th April 2020. The issues tabled are as follows:

- Recent regulations have given the Ministers powers to vary conditions of employment without consultation: The union raised a concern around the regulations and their amendments issued by the Ministers for Health and Social Development from time to time. We further indicated that we do not intend to negotiate the regulations, but rather demand to be consulted on the implementation of these regulations especially when affect the conditions of service of members are concerned. Lastly, we cautioned the employer not to implement these measures before the envisaged consultation process is concluded.

In responding the employer was all over the show and could not talk to our request for the intensive consultation before implementation of these regulations to avoid confrontations. The union advised the employer that any change that is detrimental to our members will be met with resistance.

3.1 Health

- Provision of PPE's for frontline workers during this period: We further submitted that since the President's announcement on the 15th March 2020 declaring a State of National Disaster, and the subsequent enforcement of a lockdown, our members have been largely exposed to the virus without sufficient provision of proper PPE's. The employer have also not made any effort to address concerns nor have they communicated a proper comprehensive plan at the provincial levels on the provision of these PPE's.

We therefore demanded that the employer must detail the breakdown of the provision of PPE's per department per province (including CHW's and Social Development).

We further raised a concern about the lack of training on the use of PPE's by both departments of Health and Social Development and thus, demanded that the employer must train all frontline workers on the use of PPE's, infection controls and hygiene related issues.

The employer submitted a report that indicated the type of PPE's available and those ordered per workplace, however it was clear that the report was hiding the shortages of these protective gears. As a result, we were unable to scientifically quantify and qualify the report as it could not



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be measured against the number of worker per each health facility. It was therefore borne for the union to demand for a consolidated report from employer which parties agreed to be submitted by the 5th May 2020.

- Data on number of health workers who have contracted the virus: Following the numerous reports of workers contracting the virus in high numbers, we raised this as a serious concern and as such, demanded that the employer must provide details of the number of workers who have contracted the virus and any data attached thereto i.e. number of workers in self- isolation, number of quarantined workers, number of mild and/ or critical cases and number of recoveries.

The employer's report indicates that there are 172 workers who have contracted COVID-19. Their breakdown is as follows- MP (no active cases, 6 recovered), KZN (133), WC (20), LP (16) and NW (3). Employers report was incomplete because it does not include GP, FS, NC and MP. Thus they were requested to submit a complete report by Tuesday, 5th May 2020. We have further requested the employer to also report on how they are assisting these workers and their families.

- Provision of transport for health workers during this period: Due to the fact that workers are willing to risk their lives during this period, it is our view that we should minimise any public interaction between our members and the public, more so that a majority of our members make use of public transport. We therefore demanded that the employer assists employees with the use of government cars, buses and kombis until the lockdown is entirely lifted.

In the report tabled by the employer there were number of inconsistencies with regard to the provision of transport for health workers. The report can be summarized as follows- KZN (Transport is provided), WC (transport not provided), MP (Employer seeks evidence on unavailability of transport), EC (transport provided where unavailable and based on the need), FS (transport not provided), NC (transport not provided), LP (transport not provided), NW (transport provided). There was no report from GP and our position is that health workers are in the frontline and they must be treated with care themselves and it is necessary that they be given the transport. The matter will be discussed further on the 08th May 2020.

- Contracts of employment for Community Health Workers: Noting the public displays of praise by the department of Health on the role that CHW's during this difficult period, it is almost sardonic to see government utilizing Community Health Workers as frontline staff during the fight against the CVVID-19, yet they do not enjoy the benefits of being employees of government. We further submitted that CHW's have been given inconsistent contracts of employment throughout the country. It has been our position that these workers must urgently be absorbed into the government, and we believe that there has never been a right time other than now.

The employer's report confirms the different contracts that have been given to CHW's. To



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this end, MP, KZN, EC and NC contracts were extended by 12 months, however, LP (6 months contracts), NW (3 months contracts) and FS (contracts ending 30th June 2020). What is even more shocking is the fact that WC CHW's are not yet on PERSAL which is a direct deviation of PHSDSBC Resolution 1 of 2018. It is still our position that now is the opportune moment to give CHW's permanent contracts so they can enjoy the full benefits of other public servants. We indicated to the employer that we are still demanding standard conditions of employment of these comrades across all provinces and permanent absorption is our priority in this regard.

- Token of appreciation for all frontline employees/workers during this period: We have raised the point in the context of amending Resolution 4 of 2017, to include all essential service workers (including CHW's) who are at the frontline and continuously risking their lives in order to ensure that all those infected and affected by the virus, receive prompt assistance and that healthcare services remain disrupted during this difficult time.

The employer submitted that they are still finalizing their mandate on the Token of Appreciation and we reiterated the urgency that needs to be given to this matter which is a burning issue for our frontline workers.

3.2 Department of Social Development

The employer submitted a report since a large contingent of workers are due to return to work post the declaring of level 4 lockdown. The employer reported that they have not decided on a date for the return to work in as far as it affects Social Service Professionals and thus are awaiting a directive from the Minister.

The union emphasized the importance of compliance to the Occupational Health and Safety Act, 85 of 1993, as amended in regards to the establishment of the OHS Committees throughout the sector. The union further accentuated the need for consultations, where employer should submit a Risk Assessment Plan which amongst others should indicate which category of employees are to be recalled and how the department plans to address the 1/3 principle before workers can return to work amongst other things that need to be addressed.

The employer further denied that it had issued circulars in the respective provinces indicating that workers must return to work, and were thus further requested to withdraw all these circulars where they exist. The union was also tasked to share such circulars with the employer for correction purposes. The union lastly, reiterated that workers cannot be forced to return to work if the consultation referred to above is not complied to and the OHS Committees are not in place as promulgated by the act. The employer (Department of Social Development) is to consult on the return to work plan in the next council meeting.



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4. CONCLUSION

The union is very clear that the PSCBC Resolution 1 of 2018 must be implemented as is. If the outcomes of the conciliation are not in our favour or the employer does not commit to the date of implementation retrospectively then the union shall be filling for arbitration on the 06th May 2020. It is important reiterate the point that NEHAWU has no mandate to review the resolution other than to pursue the implementation of the resolution as agreed so any attempt by the employer to do so will be met with militant resistance.

The National Office Bearers and the entire union leadership are committed in ensuring that the safety and protection of our members is prioritised and never compromised. To this effect, we are not going to allow members to be subjected to work in unsafe working conditions and all departments including health must comply with the regulations as issued by the Department of Employment and Labour. This must start by establishment of the OHS committees in each and every workplace and the provincial OHS committees and these committees must ensure that our members are safe in each and every workplace.

More importantly is to tell government not to take workers of the public sector for granted as they are at the point of service, risking their lives to protect the nation and working hard to improve the living conditions of South African society particularly the working class and the poor. At this point, we want to inform all members of the national union that this union of Bheki Mkhize and Yure Mdyogolo will do everything at its disposal with everything it has to fight for what is due to public service workers without fail - Our government **MUST** implement Resolution 1 of 2018 now or else ...!

END.

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