



Province of the
EASTERN CAPE
COOPERATIVE GOVERNANCE
& TRADITIONAL AFFAIRS

STRIKE MANAGEMENT POLICY

2021


SIGN OFF

I. Head of Department

This Strike Management policy has been recommended by A.A. Fani in my capacity as Head of the Department for Cooperative Governance and Traditional Affairs.

I am satisfied and concur with the contents of this Policy.

The development of the Strike Management Policy will ensure the department is able exercise its powers in compliance with the law and guide decision- making in the Department.

Signed	
Designation	Head of Department
Date	31 March 2021

II. Executive Authority

The department of Cooperative Governance and Traditional Affairs has unprecedented opportunity to improve the lives of people by effectively rendering many services that it is expected to provide. We have envisaged a Department that has the required capacity to respond adequately to challenges of its people.

I therefore trust that guidance from this Strike Management Policy will contribute to the effective guiding the allocation of financial assistance to staff of the Department who wants to further their studies.

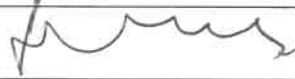
Signed	
Designation	MGC
Date	31 March 2021

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1. PREAMBLE

The Department of Cooperative Governance and Traditional Affairs commits itself in promoting sound labour relations at the workplace. This policy will contribute by assisting the department in implementing the strike management measures effectively and with fairness.

2. PURPOSE OF POLICY

- 2.1.To provide guidance on the best practices for the management of strike at the workplace.
- 2.2.Promote compliance with the provisions of section 64 of the Labour Relations Act 66 of 1995 as amended.
- 2.3.To discourage and prohibit unlawful industrial action at the workplace.
- 2.4.To ensure that a “No work No pay Principle” is applied for any lawful strike action.
- 2.5.To provide guidance on the application of a disciplinary enquiry for any misconduct that arose during the period of a lawful strike.
- 2.6.To further provide guidance on the application of a disciplinary enquiry for any illegal and unlawful strike action.

3. DEFINITIONS

Terms and definitions that will be used throughout the policy that need clarification for the reader, this can also include any keywords including technical terms, abbreviations that may be used in this document.

Word/Term	Definition (with examples if required)
Strike	Strike is the partial or complete concerted refusal to work, or the retardation or obstruction of work, by persons who are or have been employed by the same employer or by different employers, for the purpose of remedying a grievance or resolving a dispute in respect of any matter of mutual interest between employer and employee, and every reference to work in this definition includes overtime work, whether it is voluntary or compulsory.

Protected Strike	<p>A strike will only be regarded as protected if it is not prohibited absolutely and if the various procedural requirements have been complied with/</p> <p>When a strike complies with the provisions of the LRA, it will be protected and workers will then be exercising a legitimate right in terms of the Act</p>
Unprotected strike	<p>It is a strike that does not comply with the provisions of the strikes or conduct in contemplation or in furtherance of that strike, may constitute a fair reason for dismissal.</p>
Collective Bargaining	<p>Is a voluntary process for reconciling the conflicting interests and aspirations of management and labour through the joint regulation of terms and conditions of employment/ Collective bargaining is a process of decision making between parties representing employer and employee interests.</p>
Lock-out	<p>Is the exclusion of employees from the employer's workplace, for the purpose of compelling the employees to accept a demand in respect of any matter of mutual interest between employer and employee.</p>
Secondary/Sympathy Strike	<p>It is a strike or conduct to exert pressure upon the employer in contemplation or furtherance of a strike that is in support of a strike by other employees.</p>
Picketing	<p>It is a demonstration designed to convey to the general public the reason for the strike, and to mobilise support for the strikers' cause.</p>
Go-slow	<p>A form of protest by workers in which they deliberately slow down in order to cause problem for their employers</p>

Stay-away	A stay away is a form of protest where people are told to "stay away" from work, similar to a general strike.
Interdict / Restraining interdict.	A court order prohibiting a party from doing a certain activity or a legal document, only granted by the Court of Law, in restriction of any person participating in a strike, that doesn't comply with the provisions of the Act, or any conduct in contemplation or in furtherance of such a strike.
Mutual Interest	Interests common to both parties that relate to the accomplishment of their respective missions
Protest Action	Protest action can either be instituted by a trade union, or a group of unsatisfied workers/community, over an issue/issues of common interest. Generally, protest actions are feature responses to violation of rights by the powers that be.

4. APPLICATION & SCOPE

The Policy will be applicable to all the employees of the Department of Cooperative and Governance and Traditional Affairs.

5. LEGISLATIVE FRAMEWORK

- Constitution of the Republic of South Africa, 1996
- Labour Relations Act, 66 of 1995 (as amended)
- Collective Agreements
- Public Service Code of Good Conduct
- Basic Condition of Employment Act 75, 1997
- Public Service Act, 1994 (as amended)
- Promotion of Administrative Justice Act
- Batho Pele Principles

6. CONSULTATION PROCESS WITH STAKEHOLDERS

Several different stakeholders have been consulted for inputs during the development process of the Strike Management Policy. Line Managers from different components, organized labour, Human Resource Management, Labour Relations and other employees at all levels were represented in the drafting of this policy document and their inputs have been thoroughly discussed and incorporated into this policy.

7. POLICY PRINCIPLES

This policy is guided by the following main principles:

- **Communication**

The department undertakes to consult the stakeholders during and after the developmental stage to ensure that they all understand what the policy is all about

- **Consistency**

The application and implementation of this policy will be done in a consistent manner irrespective of the employees' level and in line with the provisions of the basic conditions of employment and other applicable legislation

- **Fairness**

The policy will be applied in a fair and unbiased manner and in line with the applicable legislations and other DPSA leave determination and public service leave regulations

- **Transparency**

The processing and implementation of strike policy will be done in a transparent manner and the process should be above board also taking into account the Principles of Batho Pele.

- **Consultation**

Employees must be consulted about what the policy entails and how it is going to be implemented

8. POLICY STATEMENT

The Department of Cooperative Governance and Traditional Affairs is committed to take steps to promote fair labour practices at the workplace.

9. TYPES OF STRIKES

- Legal strike
- Illegal and lawful strike
- Secondary/Sympathy Strike
- Solidarity Strike
- Wildcat Strike
- Sit-in strike
- Picketing

10. ROLES AND RESPONSIBILITIES

10.1 Strike Management Team

The team and the line managers are responsible for making sure that strikes are managed in terms of the register, strike diary and other contingency plan.

11. REPORTING

- Line Managers should always submit the names of the striking employees to the Directorate: Labour Relations for record purposes and for the implementation of no work no pay principle. Procedures should be followed prior to a proposed strike action.
- The Strike Management Team should be open and honest when advising the Head of Department on the developments of the strike.

12. MONITORING AND EVALUATION OF THE IMPLEMENTATION OF THE POLICY

The Labour Relations Directorate will monitor the implementation of this policy and will submit daily report to the General Manager: Corporate Services for submission to the Head of Department.

13. COMMUNICATION / EDUCATION OF THE POLICY

The Strike Management Policy will be communicated to the department's employees using workshops as well as circulars.

14. APPROVAL OF THE POLICY

The policy will be approved by the Head of Division(GM: Corporate Services), the Superintendent General (SG) and Member of Executive Council (MEC) as per the updated Departmental Delegations and the policy will become official on the date it is signed by the Executing Authority (i.e. the MEC for Local Government and Traditional Affairs).

15. DISPUTE RESOLUTION MECHANISM

Any person, who has a dispute concerning automatically unfair dismissal, shall have normal recourse to the applicable Collective Agreements as well as any other right they have by law.

A dispute must be referred to the appropriate body with jurisdiction or Commission for Conciliation, Mediation and Arbitration (CCMA) or Labour Court.

Any party to a dispute concerning automatically unfair dismissal may refer the dispute in writing to the Bargaining Council or CCMA or Labour Court for adjudication within 30 days of the date of dismissal.

The party that reflects a dispute must satisfy the Bargaining Council or CCMA that: a copy of the referral has been served on another party to the dispute.

The referring party has made a reasonable attempt to resolve the dispute.

The bargaining Council or CCMA must attempt to resolve the dispute.

16. REVIEW OF THE POLICY

The policy will be reviewed and amended in line with future legislative promulgations and collective agreements. The development of this Policy is a dynamic process and that it may require revision from time to time.

17. PROCEDURE FOR IMPLEMENTING THE POLICY

17.1 Strike Management Policy:

- Unions must notify the Head of Department of the intended strike in writing giving the ultimatum of seven working days before embarking in a strike
- Management must manage the strike in a professional way.

- Management should not jump to the conclusions or make impulsive decisions.
- Under no circumstances should strikers be given the impression that management is panicking.
- Management should act calmly, but decisively always.
- A spokesperson for the strike management must be appointed to speak on behalf of the department

17.2. The following guidelines should always be considered in managing a strike:

- Ascertain the extent and nature of the action.
- Assemble the strike management team.
- Issue an instruction to return to work by a determined time.
- If the deadline is not met, advise employees that they have embarked on unprotected industrial action and advice of the consequences e.g progressive collective disciplinary action.
- Issue a further deadline after which the workday will be cancelled.
- Put into effect those plans that are of immediate importance, for example:
 - The manning of key operations
 - Security
 - Internal communication; and
 - Issuing of strike rules
 - Recording of events
 - Communication with strikers
 - Utilising existing negotiating or consulting forums
 - Establishing the facts
 - Evaluating the possibility of implementing the total strike management plan
 - Negotiating

17.3. Post-Strike Action

- Review and assess the effect of strike
- Measure fulfilment of undertakings
- Restore work relations

- Re-establishment of regular communication channels
- Activate external communication advising the public of the status
- Adherence to legal requirements

17.4. Strike Management Team

Objective: To lead the operational, negotiating and consulting/support teams by planning, organizing and controlling their activities, and liaising with the traditional leadership structures of the organisation.

Table 1

Operational Team	Negotiating Team	Consulting/Support Team
<p>Objective:</p> <p>To ensure that the business continues to operate by maintaining the highest possible levels of service delivery to the public.</p> <p>Members:</p> <p>Senior Manager: Labour Relations</p>	<p>Objective:</p> <p>To negotiate a mutually acceptable settlement between the organisation and the union/employee representative body.</p> <p>Members:</p>	<p>Objective:</p> <p>To provide a consulting and supportive service for the operational and negotiating teams.</p> <p>Members:</p> <p>Superintendent-General</p> <p>Legal Advisor</p> <p>Senior Manager: Labour Relations</p> <p>Financial Manager/Chief Financial Officer</p>

General Managers (Security Management)	Senior Manager: Labour Relations General Managers	
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The function and accountability of each incumbent within the strike –management team

Table 2

STRIKE MANAGEMENT CHAIRPERSON

Functions	Accountabilities
Team leading	Plans, organises and controls activities of operational, negotiating and consulting support teams. Takes final decisions within mandate. Implements negotiated agreements, undertakings and/or decisions that were made during strike.

Function	Incumbent	Accountability
Security co-ordination	Security manager	Manages and co-ordinates the security function to ensure protection of the employees.
Recording	Line Manager	Records, in strike diary, chronological events leading up to the strike as well as events during the strike. Integrates events recorded by all other sources, ensures that all members of the strike-management team abreast of events, and completes, in co-ordination with the HR manager, the forms to be sent to the Office of the Premier.
Negotiating	Labour Relations	Clarifies the opponent's position in co-operation with the analyst: Structures the expectations of the opponent in co-operation with the analyst. Determines the strategy for bargaining in co-operation with the

		analyst. Obtains movement during negotiations, closes negotiations.
Financial control	Financial manager	Calculates the cost of the strikes. Advises the chairperson, operational team and negotiating team on the financial implications of the strike and proposed concessions to the employees

18. VERSION CONTROL AND CHANGE HISTORY

Version Control	Date Effective	Approved By	Amendment
Start from	YYMMDD (the date the policy takes effect)	Contact person – full name & title.	Include any superseded procedures and what the amendment is to the document.