

## **GUIDELINES TO ARBITRATION PROCESS**

1. Please ensure that you arrive timeously. Should you arrive late, you run the risk of your matter being dismissed or an award being made against you in your absence.
2. Please ensure that you arrive at the arbitration hearing with a complete idea of the specific issue(s) which you wish the arbitrator to determine. For example, in the case of non-purchase of contributions the employer or his/her representative should be in a position to prove to the arbitrator that the prescribed contributions were paid to the concerned Council.

Similarly, the employee or Council's Agent should be in a position to prove to the arbitrator that the prescribed contributions were not paid to the Council.

3. At the arbitration the parties should have available all witnesses whom they might intend to call in support of their respective cases in order to prevent any unnecessary postponements. The parties should be aware that the current case load simply does not allow the postponement of arbitration due to absence of other evidential material.
4. The parties should ensure that they are in possession of all the necessary documents which they wish to be canvassed at the hearing. As regards documentation generally, the parties should:
  - (i) meet at a mutually convenient time and place before the arbitration for the purpose of exchanging documentation relevant to the issues;
  - (ii) the parties should attempt to come to an arrangement at this meeting as to an agreed bundle of documents to be used by either party at the hearing; and
  - (iii) such a bundle should be prepared to ensure that there are sufficient copy of all documentation to use by a witness under questioning, the parties themselves and the arbitrator.

At the same meeting, the parties should attempt to come to a written Agreement on issues that are not in dispute or which may be dispensed with, to prevent unnecessary time spent by the arbitrator.

5. The parties attention is drawn to Section 138 of the Labour Relations Act, 1995 (Act 66 of 1995)(hereinafter referred to as the LRA 1995), dealing with the arbitration procedure.
6. Failure of appearance

If a party to the dispute fails to appear in person or to be represented at the arbitration proceedings, and that party

- (a) had referred the dispute for arbitration, the arbitrator may dismiss the matter or
- (b) had not referred the matter for arbitration the arbitrator may:

- (i) continue with the arbitration proceedings in the absence of the respondent, resulting in a possible award or
  - (ii) adjourn the matter to a later date.
- 7. Owing to the heavy caseload with which the Council has to deal, it is the policy of the Council only to agree to postponements in exceptional circumstances. The policy adopted is that the parties must appear before the allocated arbitrator, on the date and at the time specified, and then to apply for a postponement. The allocated arbitrator will then make a decision as to whether the postponement should be granted or not. **NO TELEPHONIC POSTPONEMENTS WILL BE GRANTED.**
- 8. **SHOULD YOU REQUIRE THE SERVICES OF AN INTERPRETER, KINDLY NOTIFY THE WRITER AT LEAST SEVEN (7) DAYS IN ADVANCE, SO AS TO BE ABLE TO MAKE THE NECESSARY ARRANGEMENT.**
- 9. Kindly quote the case number when dealing with any queries. The staff member's whose name is indicated will be glad to assist. Please bring this confirmation letter with you to the hearing.

Yours faithfully

#### **CASE MANAGEMENT**

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