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### GENERAL PUBLIC SERVICE SECTORAL BARGAINING COUNCIL RESOLUTION NO. 8 OF 2000 ADOPTION OF CODE OF CONDUCT OF PANELISTS

- The parties to the General Public Services Sectoral Bargaining Council (GPSSBC) hereby resolve to adopt the Panelists Code of Conduct.
- Date of Implementation

This agreement comes into effect on the day of signing

THIS DONE AND SIGNED AT RETURJA ON THIS THE 7th DAY OF AUGUST 2000.

ON BEHALF OF THE EMPLOYER

STATE AS THE EMPLOYER	K HUNBUL-G	DPSSA
	NDPSA	NDPSA

ON BEHALF OF TRADE UNION PARTIES

TRADE UNION	NAME	SIGNATURE
HOSPERSA	M. S. S. S.	[Signature]
PSA	A. Mookabodi	[Signature]
POPCRC	CV NIKANI	[Signature]
NUPSAW	[Signature]	[Signature]
NPSWU	R. S. S. S.	[Signature]
NEHAWU	M. S. S. S.	[Signature]
PAWUSA	[Signature]	[Signature]

**GENERAL PUBLIC SERVICE SECTORAL BARGAINING  
COUNCIL  
GPSSBC**

**CODE OF CONDUCT FOR CONCILIATORS AND  
ARBITRATORS**

**1. PURPOSE**

The purpose of this code is to:

- 1.1 assist in maintaining the good repute of the conciliation, mediation and arbitration processes
- 1.2 provide guidance to all *conciliators and arbitrators* on matters of professional conduct and practice generally.

**2. GENERAL ATTRIBUTES OF CONCILIATORS AND ARBITRATORS**

In order for conciliation, mediation and arbitration processes to be seen to be fair and just, *conciliators and arbitrators* shall:

- 2.1 act with honesty, impartiality, due diligence and independent of any outside pressure in the discharge of their functions;
- 2.2 conduct themselves in a manner that is fair to all parties and shall not be swayed by fear of criticism or by self-interest;
- 2.3 not solicit appointment for themselves. This shall not however preclude *conciliators and arbitrators* from indicating a willingness to serve in any capacity;
- 2.4 accept appointments only if they believe that they are available to conduct the process promptly and are competent to undertake the assignment;
- 2.5 avoid entering into any financial, business or social relationship which is likely to affect their impartiality or which might reasonably create a perception of partiality or bias;
- 2.6 not influence any of the parties in disputes by improper means, including gifts or other inducements;
- 2.7 support sound labour relations in the public service.

**3. CONFLICT OF INTEREST AND DISCLOSURE**

- 3.1 *Conciliators and arbitrators* should disclose any interest or relationship that is likely to affect their impartiality or which might create a perception of partiality. The duty to disclose rests on the *conciliators and arbitrators*.

- 3.2 *Conciliators and arbitrators* appointed to intervene in any matter should, before accepting, disclose this to the Secretary of the Council:
- 3.2.1 any direct or indirect financial or personal interest in the matter;
- 3.2.2 any existing or past financial, business, professional, family or social relationship which is likely to affect impartiality or may lead to a reasonable perception of partiality or bias;
- 3.2.3 if the circumstances requiring disclosure are unknown to *conciliators and arbitrators* prior to accepting appointments, disclosure must be made when such circumstances become known to the *conciliators and arbitrators*. The disclosure in this regard could in arbitration proceedings, include witnesses who may have a relationship with the *conciliators and arbitrators*;
- 3.2.4 after appropriate disclosure *conciliators and arbitrators* may serve if both parties so desire but should withdraw if they believe that a conflict of interest exists irrespective of the view expressed by the parties;
- 3.2.5 in the event where there is no consensus on whether *conciliators and arbitrators* should withdraw or not, *conciliators and arbitrators* should not withdraw if the following circumstances exist:
- if the terms of reference provide for a procedure to be followed for determining challenges to the *conciliators and arbitrators* then those procedures should be followed;
  - if *conciliators and arbitrators*, after carefully considering the matter, determine that the reason for the challenge is not substantial and that they can nevertheless act impartially and fairly, and that the withdrawal would cause unfair delay or would be contrary to the ends of justice.

#### 4. HEARING CONDUCT

- 4.1 *Conciliators and arbitrators* should conduct proceedings fairly, diligently and in an even-handed manner.
- 4.2 *Conciliators and arbitrators* should have no casual contact with any of the parties or their representatives while handling a matter without the presence or consent of the other.
- 4.3 *Conciliators and arbitrators* should be patient and courteous to the parties and their representatives or witnesses and should encourage similar behaviour by all participants in the proceedings.

- 4.4 Agreements by the parties for the use of mechanical recording should be respected by *arbitrators*.
- 4.5 In determining whether to conduct an *ex parte* hearing, an *arbitrator* must consider the relevant legal, contractual and other pertinent circumstances.
- 4.6 A *conciliator or arbitrator* must be satisfied before proceeding *ex parte* that a party refusing or failing to attend the hearing has been given adequate notice of the time, place and purpose of the hearing.
- 4.7 In an event of more than one *conciliator or arbitrator* acting as either a conciliator, mediator or arbitrator, the *conciliator or arbitrator* should afford each other a full opportunity to participate in the proceedings.
- 4.8 *Conciliators and arbitrators* should not delegate their duty to intervene in any matter to any other person without prior notice to and the consent of the Secretary of the Council.

## 5. POST-HEARING

- 5.1 *Arbitrators* should not disclose a prospective award to either party prior to its simultaneous issuance to both parties.
- 5.2 *Arbitrators'* awards should be definite, certain and as concise as possible.
- 5.3 No clarification or interpretation of an award is permissible without the consent of both parties.
- 5.4 Under agreements which permit or require clarification or interpretation of an award, *arbitrators* shall afford each party an opportunity to be heard.

## 6. CONFIDENTIALITY

Information disclosed to *conciliators* in confidence by a party during the course of conciliation, should be kept by *conciliators* in the strictest confidence and should not be disclosed to the other party or to third parties unless authority is obtained for such disclosure.

## 7. JURISDICTION

- 7.1 *Conciliators and arbitrators* must observe faithfully both the limitation and inclusions of the jurisdiction conferred by an agreement or by statute under which they serve.
- 7.2 A direct settlement by the parties of some or all issues in a case, at any stage of the proceedings, must be accepted by *conciliators and arbitrators* as relieving him or her of further jurisdiction in respect of such issues.

## 8. RELIANCE ON OTHER ARBITRATORS' AWARDS AND INDEPENDENT RESEARCH

*Conciliators and arbitrators* issuing advisory or binding awards may have regard to other arbitrators' awards, decided cases or independent research but must assume full and unimpaired responsibility in each matter for the decision reached.

## 9. AVOIDANCE OF DELAYS

9.1 *Conciliators and arbitrators* have the duty to plan their work schedules in a manner that ensures that commitments to the Council are fulfilled timeously.

9.2 *Conciliators and arbitrators* should co-operate with the parties and the Council to avoid delays.

9.3 On completion of a hearing, *arbitrators* must adhere to the time limits for issuing an award.

9.4 Non-compliance with the Code will constitute a serious misconduct which would entitle the employer to terminate the panelist's contract of employment.

## 10. FEES AND EXPENSES

10.1 *Conciliators and arbitrators* should be governed by the fee structure of the Council and should not enter into any arrangement with the parties regarding fees.

10.2 *Conciliators and arbitrators* must maintain adequate records to support charges for services and expenses and must account timeously to the Council.

## 11. COMPETENCY

*Conciliators and arbitrators* should decline appointment, withdraw or request technical assistance when they decide that a matter is beyond their competence.