

13/10 PC BASIC



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ANALYTICAL OVERVIEW OF THE EDUCATION LABOUR RELATIONS COUNCIL ANNUAL REPORT 2012/13

1. INTRODUCTION

The Education Labour Relations Council (ELRC) was established to serve as a platform for negotiations between the admitted teacher unions and the employer, the Department of Basic Education (DBE).¹ The ELRC derives its authority from the Labour Relations Act (LRA) 66 of 1995² as amended and its constitution, and is a registered public entity that complies with the Public Finance Management Act (PFMA) of 1999 as amended³, and with Treasury Regulations. The overriding aim of the ELRC is to provide labour relations services to its key stakeholders in their pursuit of providing quality services in public education.

The strategic outcome goals of the ELRC are:⁴

- Research and monitoring and evaluation activities provide an evidence base for improved policies and policy implementation in basic education;
- Equal importance is attached to proactive dispute prevention and dispute resolution;
- Collective bargaining processes maximise the scope of the parties' shared interest;
- Provide appropriate support and training for all involved in dispute resolution and collective bargaining; and
- Sound communication strategies, special initiatives and campaigns support and complement the core activities of the Council.

The purpose of this paper is to provide an analytical overview of the ELRC Annual Report 2012/13⁵ in line with the mandate of the ELRC as its constitution. The paper also seeks to glean out issues for consideration for Parliament's oversight role.

2. MANDATE OF ELRC

The mandate of the ELRC is two-fold, namely:

¹ Education Labour Relations Council (2013).
² Labour Relations Act (1995).
³ Public Finance Management Act (1999).
⁴ Education Labour Relations Council (2013).
⁵ Ibid



- to promote the maintenance of labour peace in the public education sector through the provisioning of dispute resolution and prevention services.
- to promote the maintenance of labour peace in the public education sector through the provisioning of consultation and negotiation between trade unions and the state as represented by the Department of Basic Education (DBE).

However, the activities and programmes of the ELRC indirectly contribute to the achievement of Priority Outcome 1: *Improved quality of Basic education*.⁶

The ELRC discharges of its mandate through the following key priority strategic areas:⁷

- **Programme 1: Dispute Management Services:** The purpose of this programme is to manage disputes proactively. This includes prevention of disputes by defusing conflicts that has a potential of disrupting teaching and learning. Professional development and training is included in Programme 1 to ensure that dispute resolution practitioners and panellists are able to operate effectively and efficiently. Special emphasis is placed on training that assists to protect the rights of children involved in disputes.
- **Programme 1.2: Professional Development and Training:** The purpose of this programme is to improve the quality of panellists and dispute practitioners.⁸ This is to ensure that panellists and dispute practitioners are professionally trained and developed to keep abreast of new developments in the field of labour law and to improve the quality of arbitration awards.⁹
- **Programme 2: Collective Bargaining Services:** The purpose of Programme 2 is to: contribute to the Council's vision of a strengthened social contract between government, teacher unions and civil society with a view create a conducive environment for improved quality in teaching and learning; maximise the scope of the parties' shared interest, promoting the best possible fit between good educational outcomes and a fair deal for the teaching profession; promote collective bargaining at national and provincial levels to ensure the development of effective policies for quality public education in a non-disruptive environment for teaching and learning; promote respect for international conventions, constitutional rights and values and labour legislation in the management of collective bargaining; support and facilitate special initiatives and campaigns.¹⁰

⁶ Education Labour Relations Council (2013).

⁷ Ibid

⁸ Ibid

⁹ Ibid

¹⁰ Ibid



- **Programme 2.2: Collective Bargaining – Provincial:** The purpose of the provincial chambers is to promote collective bargaining at provincial level to ensure the development of effective policies for quality public education in a non-disruptive environment for teaching and learning.¹¹
- **Programme 3: Executive Services:** The purpose of Programme 3 is to: manage all the service divisions of the Council to ensure that stakeholders derive maximum value from all the activities of the Council and to intervene in order to circumvent labour unrest, nationally and provincially; ensure the sound financial and risk management of the Council; ensure good governance of the Council; support continuous quantifiable productivity of knowledge efforts internally; build the corporate image of the ELRC.¹²
- **Programme 4: Corporate Services:** The purpose of this programme is to provide financial, human resource and administrative support to the core operational functions to deliver an efficient and effective service on its mandates.
- **Programme 5: Capital Expenditure:** The purpose of the programme is to provide necessary capital resources to ensure effective and efficient delivery of operations to Council to deliver on their mandate.

3. TECHNICAL CONSIDERATIONS

- **Organisational structure:** The Annual Report Guide published by the National Treasury provides that “each position on the organisational structure must include the post, the name of the official and posts that are vacant”.¹³ However, photographs of the respective individuals may be included on the organogram.¹⁴
- **Use of percentages:** in terms of the *Framework for Managing Programme Performance Information*, the performance information reported in accountability documents must enable Parliament and the public to track government performance, and to hold it accountable.¹⁵ For instance, the use of percentages conceals the actual number of cases and/or the backlog the ELRC has to deal within a particular financial year.
- **Performance indicators and targets:** In terms of the *Framework for Management of Programme Performance Information*, quantity indicators relate to the number of inputs,

¹¹ Education Labour Relations Council (2013).

¹² Ibid

¹³ National Treasury (2013).

¹⁴ Ibid

¹⁵ National Treasury (2007).



- Three quotations were not obtained for some procurements.
- Supporting documents were insufficient.
- **Collective Bargaining:**
 - Lack of review of the Committee Work Procedures.
- **PFMA Compliance:**
 - Bank reconciliations were not conducted on a weekly basis as required by the Act.
 - The Risk Management strategy had not been communicated to staff members.
- **Financial Management systems:**
 - Improvement was identified in the carrying out and management of financial processes.
- **Strategic Objectives Payments:**
 - There was lack of achievement of strategic objectives.

8. MATTERS RAISED BY THE AUDITOR-GENERAL

The following issues were raised by the Auditor-General for the 2012/13 financial year:²⁹

- **Achievement of planned targets:** 59 of the 200 targets planned for the financial year were not achieved during the year under review. This represents 30 per cent of the total planned targets that were not achieved during the year under review. This was primarily due to the fact that appropriate indicators and targets were not developed during the strategic planning process and the Council did not consider relevant systems and evidential requirements during the annual strategic planning process.
- **Compliance with laws and regulations:**
 - Procurement and Contract Management: Goods and services of a transaction value above R500 000 were procured without inviting competitive bids as per the requirements of Treasury Regulation 16A.6.4 and PN 8 of 2007/08, resulting in irregular expenditure.
 - Procurement process – Quotations: Goods and services with a transaction value below R500 000 were procured without

²⁹ Education Labour Relations Council (2013).



obtaining the required price quotations, as required by Treasury Regulation 16A6.1.

- Revenue management: The levy income not collected from the Further Education and Training (FET) colleges constitutes non-compliance in terms of the founding agreement, dated 9 June 2009, section 4(11) to (18) and PFMA sections 51(1)(b) [i.e. an accounting authority for a public entity must take effective and appropriate steps to (i) collect all revenue due to the public entity concerned; and (ii) prevent irregular expenditure, fruitless and wasteful expenditure, losses resulting from criminal conduct, and expenditure not complying with the operational policies of the public entity; and (iii) manage available working capital efficiently and economically]³⁰ and 51(2) [(2) If an accounting authority is unable to comply with any of the responsibilities determined for an accounting authority in this Part, the accounting authority must promptly report the inability, together with reasons, to the relevant executive authority and treasury].³¹

- **Internal control:**

- Leadership:

- The entity has not established a separate SCM unit under the office of the CFO, with the relevant skills and experience. As a result, numerous instances of irregular expenditure and non-compliance with SCM legislation have occurred.
- Action plans have not been implemented by management to address the deficiencies in SCM and this resulted in recurring irregular expenditure.

- Governance: The accounting officer did not adequately monitor compliance with laws and regulations, as a result, the risks relating to procurement were not regularly evaluated and numerous instances of irregular expenditure and non-compliance with other SCM requirements have consequently occurred. Internal and external audit were not adequately monitored, which has led to recurring findings.

9. Concluding comments

³⁰ Public Finance Management Act (1999).

³¹ Ibid



It is important to consider the engagements that the Portfolio Committee on Basic Education has had with the ELRC in the current financial year. That is, it is important to view the analysis in this paper in the light of the matters raised by the ELRC in the overview and organisational environment of the ELRC as these revelations potentially point to how the ELRC intends to address concerning issues during the 2013/14 financial year.

10. References

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