

**PUBLIC SERVICE CO-ORDINATING BARGAINING
COUNCIL**

(PSCBC)

INFORMATION BROCHURE

Positioning
Advancing
Influencing
Changing



PSCBC

PUBLIC SERVICE CO-ORDINATING BARGAINING COUNCIL

Background

Vision

A Bargaining Council positioned to advance and influence change in the labour market environment.

Mission

Promoting sound labour relations through collective bargaining and dispute management, both locally and internationally.

Conceptual History

The PSCBC is an independent organisation established in terms of Section 35 of the Labour Relations Act 66 of 1995 (LRA), read with Sections 36 and 37. The main objective of the organization is to maintain good labour relations in the Public Service.

The PSCBC designated the following Bargaining Councils in terms of Section 37 of the LRA:

- The General Public Service Sectoral Bargaining Council (GPSSBC);
 - The Public Health and Social Development Sector Bargaining Council (PHSDSBC);
 - The Safety and Security Sector Bargaining Council (SSSBC); as well as
 - The Education Labour Relations Council (ELRC).
- * The ELRC was deemed to be a Bargaining Council established in terms of Schedule 1 sub-section 3(2) of the LRA.*

What is the role of the PSCBC?

The powers and functions of the PSCBC are listed in section 28 of the LRA. The main purpose of the PSCBC is to provide a platform, both nationally and provincially, for Public Service parties to:

- Negotiate Resolutions on transverse matters, including terms and conditions of the employment of public servants;
- Prevent and resolve disputes through mediation and arbitration;
- Facilitate hearings to resolve disputes that arise in the Public Service (over which the PSCBC has jurisdiction); and to
- Promote good governance, inclusive of research and strategic partnerships.

Is the PSCBC a structure of Government?

No. The PSCBC as well as the Sector Councils (i.e. ELRC, GPSSBC, PHSDSBC & SSSBC) are independent forums and not Government structures.

The structure of the PSCBC:

The parties to the PSCBC consist of a 50% representation from both the Government and Trade Unions as Parties. This combination ensures that the PSCBC remains impartial, independent and unbiased at all times.

The PSCBC Secretariat is responsible for the administrative functions of the Council. The Secretariat consists of the employees of the Council, headed by the General Secretary to the Council.

Who are the Parties to the Council?

The State (as the Employer)	All spheres of Government at National and Provincial level represented by the Department of Public Service and Administration (DPSA)
DENOSA (with SAMA)	Democratic Nursing Organization of South Africa (DENOSA), South African Medical Association (SAMA)
HOSPERSA (with NUPSAW and NATU)	Health and Other Service Personnel Trade Union of South Africa (HOSPERSA), National Union of Public Service & Allied Workers (NUPSAW), National Teachers Union (NATU)
NAPTOSA (with SAOU)	National Professional Teachers' Association of South Africa (NAPTOSA), Suid Afrikaanse Onderwysersunie (SAOU)
NEHAWU (with PAWUSA)	National Education, Health and Allied Workers' Union (NEHAWU), Public and Allied Workers Union of South Africa (PAWUSA)
POPCRU (with SASAWU)	Police and Prisons Civil Rights Union (POPCRU), South African State and Allied Workers Union (SASAWU)
PSA (with UNIPSAWU and NPSWU)	Public Servants Association (PSA), United National Public Servants Association of South Africa and Allied Workers Union (UNIPSAWU), National Public Service Workers Union (NPSWU)
SADTU (with CTPA)	South African Democratic Teachers Union (SADTU), Cape Teachers' Professional Association (CTPA)
SAPU (with PEU)	South African Police Union (SAPU), Professional Educators Union (PEU)

What are the requirements to become a party to council?

In terms of the PSCBC Constitution, any single Trade Union party may apply for admission to the Council if it meets the threshold requirement of 50,000 members; and is admitted to a Sectoral Council.

Any two or more Trade Unions acting together as a single party (referred to as a combined trade union party), may apply for admission to the Council if their combined membership meets the threshold requirement of 50, 000 members; and each constituent party of the combined Trade Union party, on its own or acting together (as a single party), is admitted to a Sectoral Council.

Does the PSCBC have provincial offices?

No. The PSCBC only functions from its national office. The Office is administered by the PSCBC Secretariat, and located in Centurion, Pretoria. All hearings, however, take place at the employee's workplace.

The PSCBC has Provincial Chambers, whose role is to negotiate various issues of mutual interest that affect that particular province. These Chambers do not have permanent staff, and all administrative duties are managed by the national office.

How is the PSCBC funded?

The LRA empowers Bargaining Councils to establish and administer a Fund to be used for the functioning of the organization. The State as the Employer and Employees who are members of the Bargaining Council are levied an equal contribution on a monthly basis.

What is an agency fee and what is it used for?

Section 25 of the LRA enables an Employer and representative Trade Unions to conclude an Agency Shop Agreement. An Agency Shop Agreement is a collective agreement under which Trade Union

membership remains optional for the employee. However, the employee (as a condition of employment) is under a duty to pay agency fees and regular dues.

The Employer collects the fees on behalf of the PSCBC, who in turn redistributes and apportions according to the vote weights of Trade Unions.

The agency fees are used to advance or protect the socio-economic interest of employees. It may not be paid to Political Parties for affiliation fees or for contribution in cash or kind to a Political Party or a person standing for election to any political office.

Collective Bargaining

What is Collective Bargaining?

Collective Bargaining consists of a process of negotiations between an Employer and a group of employees (often represented by a Trade Union) so as to determine the conditions of employment. The result of collective bargaining procedures is a Collective Agreement/ Resolution.

What is a "Collective Agreement" or "Resolution"?

A Collective Agreement is an agreement or contract between an employer and one or more registered unions. It is reached through the process of Collective Bargaining and sets forth the terms of employment for the employees who are members of represented union/s. A Collective Agreement may include provisions regarding wages, leave/vacation time, working hours, working conditions, health insurance benefits and fringe benefits. The terms 'Collective Agreement/s' and 'Resolution/s' are used interchangeably. Collective Agreements concluded in the PSCBC are referred to as Resolutions, e.g. the first Collective Agreement signed at the PSCBC is referred to as Resolution No. 1 of 1998.

Where can I get more information on Resolutions?

All PSCBC Resolutions since 1998 can be found on the PSCBC **website:** (www.pscbc.org.za).

Sector Council Resolutions can also be found on their respective websites, whose links are available on the PSCBC website.

Dispute Resolution

Dispute Resolution refers to any method of resolving disputes other than litigation, e.g. by arbitration or mediation.

The Scope of Bargaining Councils in the Public Service

The Public Service Co-ordinating Bargaining Council (PSCBC):

The PSCBC covers the entire public service as defined in Section 1 (1) of the Public Service Act, 1994 as Amended, excluding-

- (a) Members of the National Defense Force;
- (b) Members of the National Intelligence Agency;
- (c) Members of the South African Secret Service; and
- (c) Members of the South African National Academy of Intelligence.

The PSCBC deals mainly with disputes that affect two or more sectors, and disputes about the interpretation/application of PSCBC Resolutions. If a Sector Bargaining Council has the authority to deal with an issue in dispute; then the PSCBC may not consider that dispute.

Public Health and Social Development Sector Bargaining Council (PHSDSBC):

The PHSDSBC encompasses the State as Employer, and its employees who are in the Health and Social Development Sector; i.e. Employees who are employed by the Departments of Health and Social Development at national and provincial levels. Schedule 1 of the Constitution of the PHSDSBC also lists health professionals employed in all other national and provincial departments who fall within their scope. This means that if anyone is employed in an occupation that is listed below, the PHSDSBC will have the authority to deal with their dispute.

OCCUPATIONS	
Clinical Photographer	Social Worker
Orthopedic Shoemaker	Probation Officer
Management Echelon (Medical and Dental Specialists)	Medical Officer Medical/ Dental Superintendent
Community Development Officer	Specialist
Clinical Psychologist	Dentist
Psychologist	Pharmacist
Supplementary Diagnostic Radiographer	Forensic Analyst
Biokineticist	Medical Physicist
Chiropodist	Air Pollution Control Officer
Dietician	Medical Natural Scientist
Health Therapist	Medicine Control Officer
Emergency Care Practitioner	Radiation Control Officer
Staff Nurse	Radiation Scientist
Nursing Assistant	Medical Orthotist and Prosthetics
Professional Nurse	Medical Technologist
Nutritionist	Clinical Technologist
Emergency Services Officer (certain categories)	Medical Technical Officer
Social Auxiliary Worker	Industrial Technician
Community Liaison Officer	Environmental Health Officer
Child and Youth (Care) Worker	Dental Technician

Safety and Security Sector Bargaining Council (SSSBC)

The SSSBC encompasses the State as the Employer and its Employees employed in the South African Police Service in terms of the South African Police Act (Police) and the Public Service Act (Admin staff).

Education Labour Relations Council (ELRC)

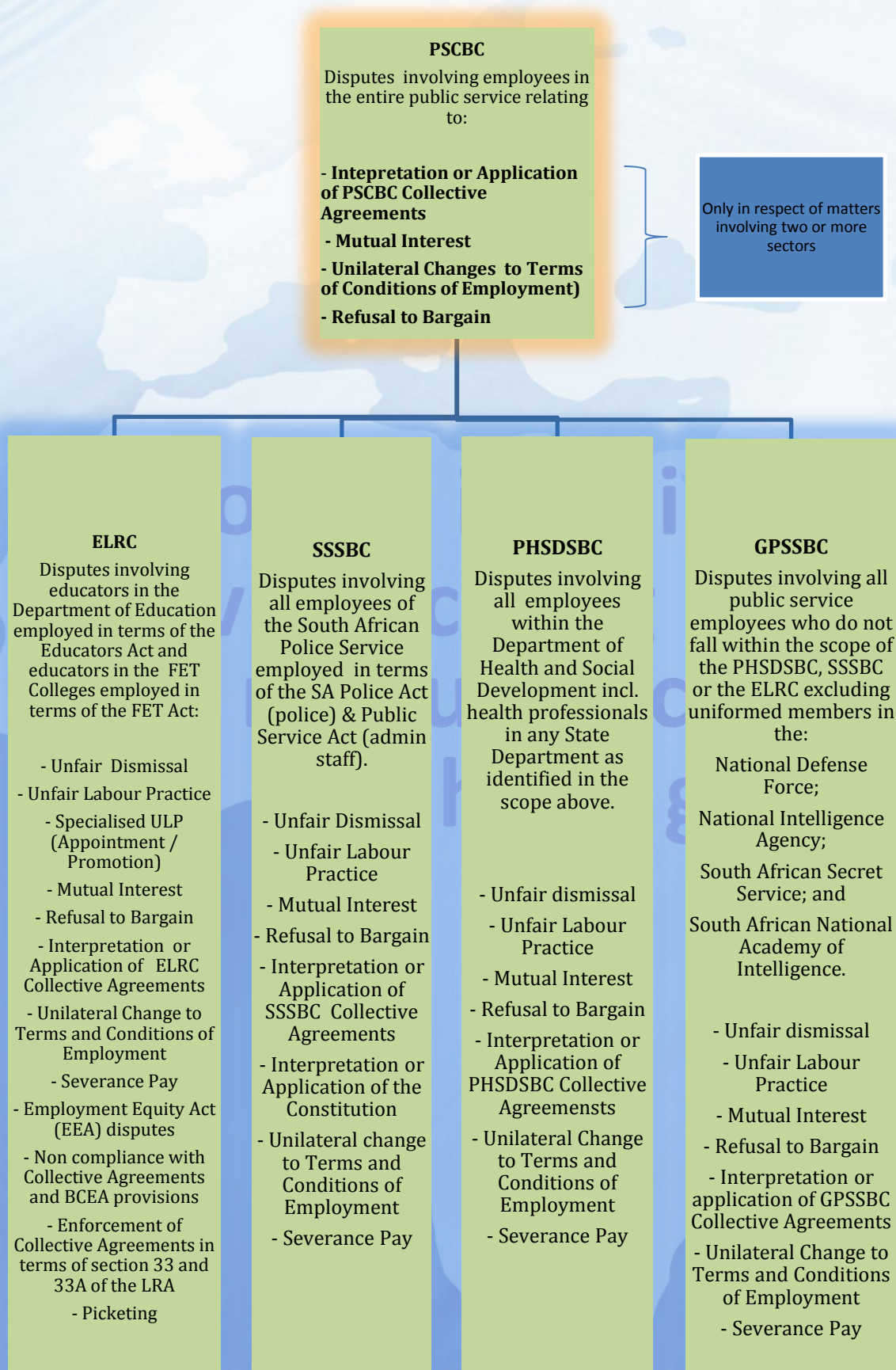
The ELRC covers those employees employed in terms of the Educators Act of 1998. Employees employed by School Governing Bodies are thus not covered by the ELRC.

General Public Service Sectoral Bargaining Council (GPSSBC)

The GPSSBC covers all Public Service employees who do not fall within the scope of the above Sector Councils (PHSDSBC, SSSBC or the ELRC) excluding uniform members in the following institutions:

- a) Members of the National Defense Force;
- b) Members of the National Intelligence Agency
- c) Members of the South African Secret Service; and
- d) Members of the South African National Academy of Intelligence.

REPRESENTATION OF DISPUTES WHICH CAN BE REFERRED TO THE PSCBC AND SECTORAL COUNCILS



What is the difference between a grievance and a dispute?

A grievance pertains to any dissatisfaction regarding matters which are directly related to the employment relationship between an Employer and Employee/s.

A dispute refers to any serious disagreement or opposing views between the Employer and Employee over an existing right in terms of legislation, contract of employment or Resolution between the Employer and the Employee.

Who should I contact if I have a grievance or dispute?

The Trade Union representative or Labour Relations Officer (LRO) within your Department will be able to provide assistance in referring a grievance or dispute. The Public Service Act further provides for the grievance procedure **to be exhausted prior to referring a grievance to the relevant Bargaining Council as a dispute.**

The grievance procedures for the Public Service are contained in PSCBC Resolution 14 of 2002, SSSBC Resolution 03 of 2005, and ELRC Resolution 13 of 1996.

The following rule (**only applicable to grievances referred in terms of Resolution 14 of 2002**) will apply if, after the aggrieved employee is informed of the outcome of the grievance, he/ she remains dissatisfied –

- (a) He/ she must inform the Executing Authority in writing within 10 days;
- (b) The Executing Authority must, in terms of section 35 (1) of the Public Service Act, 1994, forward the grievance and the relevant documentation to the Public Service Commission for a recommendation within five days of being informed by the aggrieved employee.

If the grievance constitutes an alleged unfair labour practice as defined in the LRA, the employee may inform the Executing Authority in writing that he/ she wishes to utilise the dispute resolution mechanisms provided for in the constitution of the PSCBC or the relevant Sectoral Council (whichever is applicable) and that the Public Service Commission should therefore not consider the grievance.

If there is failure on the part of the department to respond to the grievance within the prescribed period, the aggrieved official may lodge his or her grievance with –

- (a) the Commission directly; or
- (b) in the case of an alleged unfair labour practice, with the PSCBC or the relevant Sectoral Council (whichever is applicable) in terms of its dispute resolution procedure.

The Role of Public Service Commission (PSC) regarding grievances:

In terms of section 196(4)(ii) of the Government Gazette no. 20231 of 1999, the role of the PSC is to investigate grievances of employees in the Public Service, concerning official acts or omissions and recommendations of remedies including the monitoring and evaluation of labour relations in the Public Service.

The Public Service grievance procedure will not be applicable to the following disputes:

- Unfair dismissals;
- Interpretation of a Collective Agreement/Resolution; as well as
- Disputes regarding matters of mutual interest.

How do I know which Bargaining Council to refer my dispute to?

The LRA provides a list of the type of the disputes that can be referred to the PSCBC.

These include the following:

- Unfair dismissal disputes;
- Unfair labour practice;
- Severance pay;
- Matters of mutual interest;
- Interpretation or application of resolutions;
- Refusal to bargain; and
- Unilateral change to terms and conditions of employment.

The issue in dispute and place of work will determine which Bargaining Council has jurisdiction over your matter. For instance if you work as a cleaner in the Department of Home Affairs and you wish to refer an unfair labour practice dispute relating to promotion you may refer it to the GPSSBC. If the dispute is about leave, which is regulated by a PSCBC Resolution, you may refer a dispute about interpretation or application thereof to the **PSCBC**.

How do I refer a dispute?

A dispute is referred to a Bargaining Council firstly for Conciliation, and if the dispute remains unresolved, the same may be referred to the Bargaining Council for Arbitration. Note that not all disputes can be arbitrated.

Every Bargaining Council has its own procedures and rules on how to refer a dispute. The following are the basic steps for referring a dispute:

1. Complete the relevant Bargaining Council's referral form (The forms are obtainable from the bargaining council or their website);
2. Serve a copy of the referral form on the other party to the dispute either by fax, registered mail or hand delivery. PSCBC referral forms must also be sent to the chief negotiator of the State at the DPSA offices. The contact details of the DPSA can be obtained from the PSCBC.;
3. Send the form to the relevant Bargaining Council either by fax, registered mail or hand delivery, together with proof that the form was served on the Employer and that the internal departmental grievance procedure has been exhausted.

**It is advisable to first contact the relevant Bargaining Council to clarify their specific rules and procedures before you refer the dispute.*

What is the time limit for referring a dispute to the Bargaining Councils?

The LRA provides specific timeframes for referring the following disputes:

Unfair dismissal disputes must be referred for conciliation within 30 days from the date of dismissal or 30 days from the date of the outcome of the appeal. (The ELRC procedure allows 45 days for the referral of dismissal disputes).

Unfair labour practice disputes must be referred for conciliation within 90 days from the date of the act or omission which resulted in the unfair labour practice, or within 90 days of the date on which the employee became aware of the act or omission.

Discrimination disputes must be referred for conciliation to the CCMA within 6 months of the act or omission that is perceived as unfair discrimination. (Discrimination includes harassment of an employee).

Disputes other than those indicated above may be referred for conciliation at any reasonable time; no timeframe has been prescribed by the LRA.

Referral to arbitration: The time limit to submit an application for arbitration is 90 days from the date of the conciliation certificate.

If there is failure to comply with the timeframes specified above, a condonation application must be made.

What is conciliation?

Conciliation or mediation is a process whereby parties meet in the presence of a neutral third person (the conciliator) and attempt to resolve the dispute between them.

What is arbitration?

Arbitration is a process in which a neutral/ third party (the arbitrator) hears the parties' respective cases and makes a final decision that is binding to both parties.

What happens after I have received the award and I am not satisfied with the decision?

You may apply to the Labour Court for review of the arbitration award in terms Section 145 of the LRA. The reasons for referral are, however, limited and an award cannot be referred to the Labour Court just because the outcome is not favourable to a party.

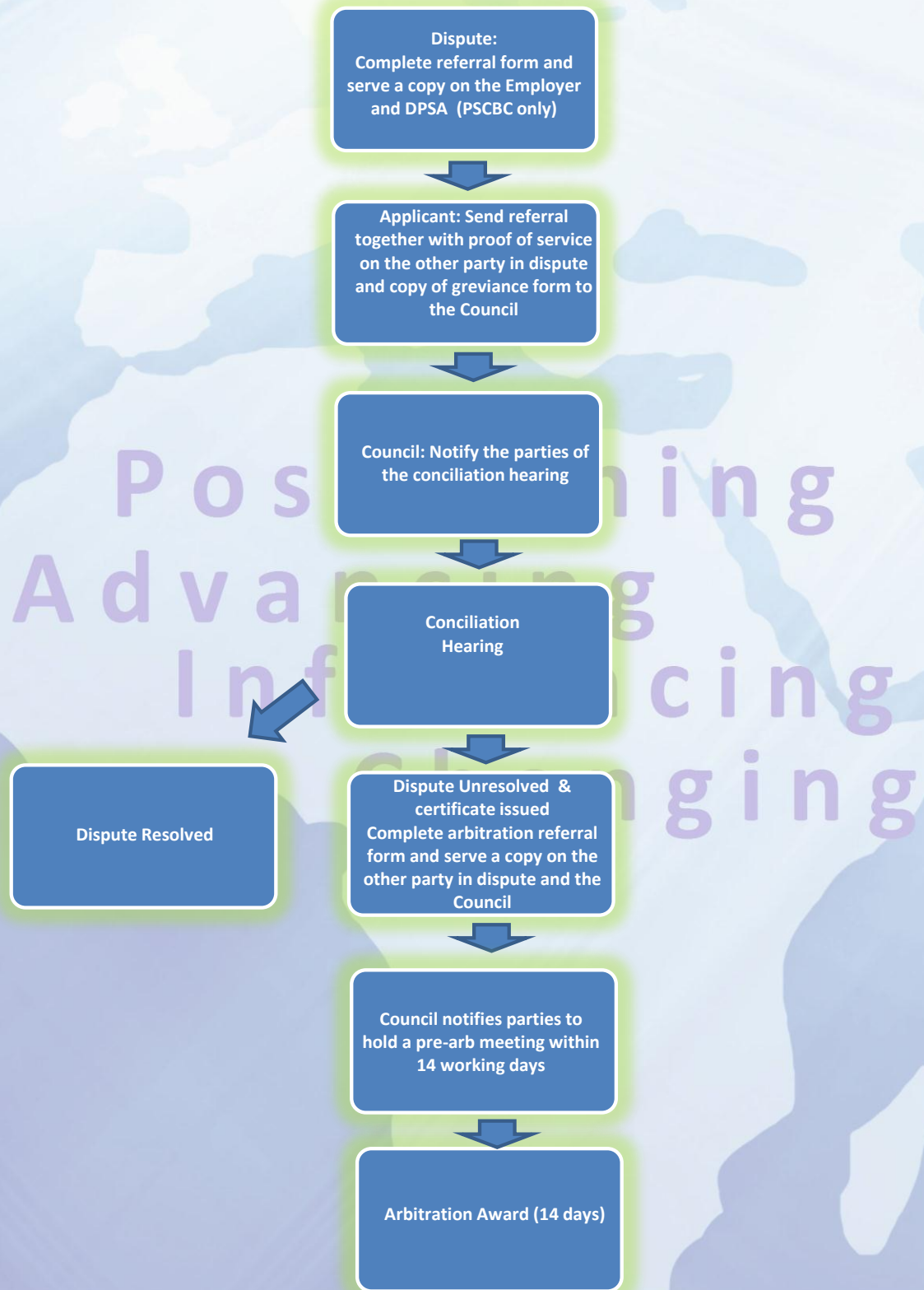
What is the cost of referring a dispute?

The Bargaining Council will process your referral, appoint an independent person to hear your case, and schedule all hearings at no cost to the parties.

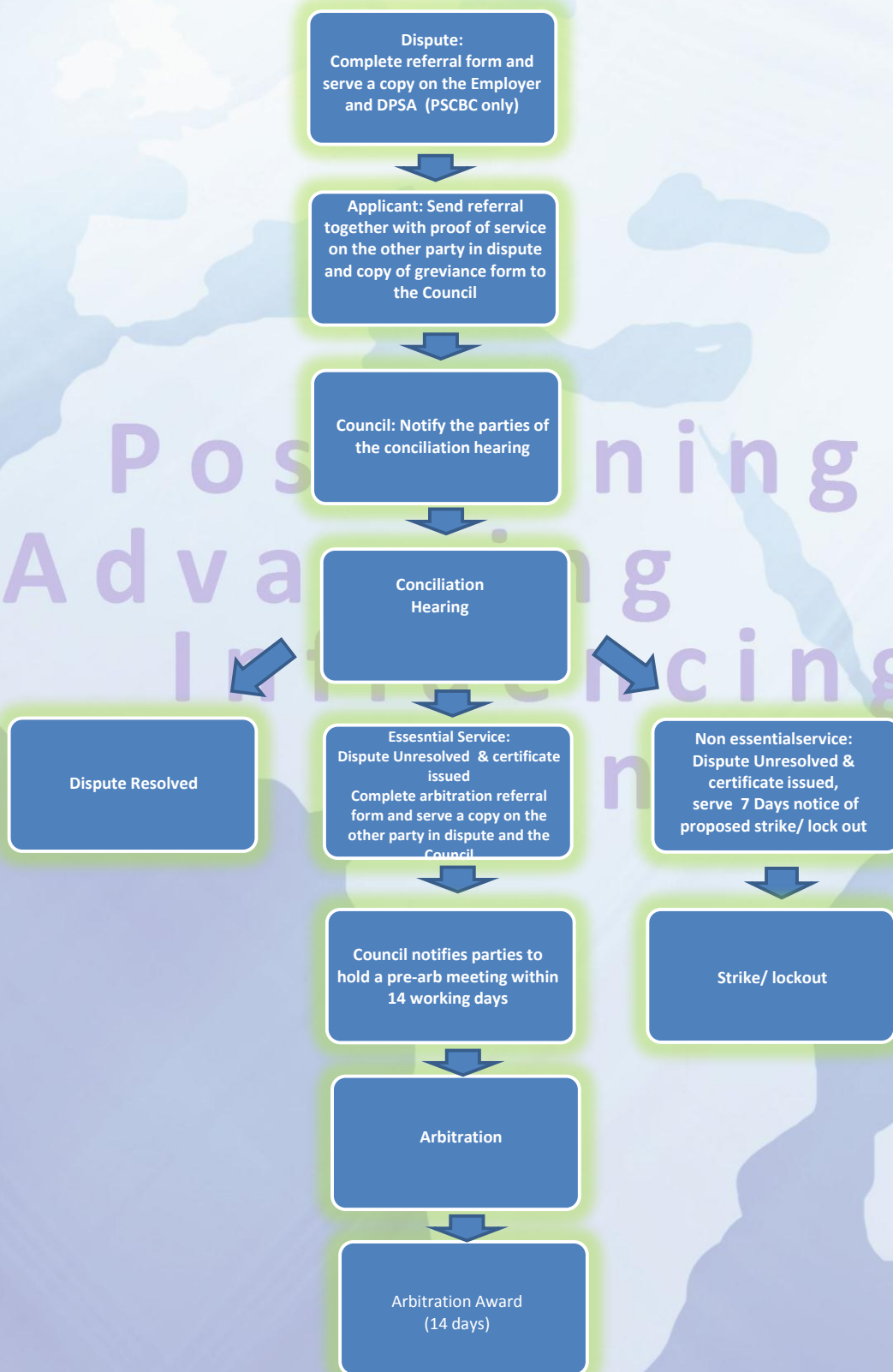
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DISPUTE ROUTE:

**Rights disputes e.g. Interpretation/ Application of a Resolution, Unfair Labour Practice or Unfair Dismissal*



Mutual Interest or Unilateral Change to Terms and Conditions of Service



Public Service Bargaining Councils Contact Details:

<p align="center">PSCBC Physical address: Public Service Bargaining Center 260 Basden Avenue Lyttelton 0176</p> <p align="center">Tel: (012) 644 8100 Fax: 086 619 7884 Website: www.pscbc.org.za Email: info@pscbc.org.za</p> <p align="center"> </p>	<p align="center">PSCBC Postal Address: P O Box 3123 Lyttelton South 0176</p>
<p align="center">SSSBC Physical address: Public Service Bargaining Center 260 Basden Avenue Lyttelton 0176</p> <p align="center">Tel: (012) 644 8115 Fax: 086 235 6298 Website: www.sssbc.org.za Email: info@sssbc.org.za</p>	<p align="center">SSSBC Postal Address: P O Box 4289 Pretoria 0001</p>
<p align="center">PHSDSBC Physical address: Public Service Bargaining Center 260 Basden Avenue Lyttelton 0176</p> <p align="center">Tel: (012) 644 8118 Fax: (012) 664 8045 7248 Website: www.phsdsbc.org.za Email: servicedesk@phsdsbc.org.za</p>	<p align="center">PHSDSBC Postal Address: P O Box 11467 Centurion 0046</p>
<p align="center">GPSSBC Physical address: Public Service Bargaining Center 260 Basden Avenue Lyttelton 0176</p> <p align="center">Tel: (012) 644 8132 Fax: (012) 664 8749 Website: www.gpssbc.org.za Email: general@gpssbc.org.za</p> <p align="center"> </p>	<p align="center">GPSSBC Postal Address: P O Box 16663 Lyttelton 0140</p>
<p align="center">ELRC Physical address: 261 West Street Centurion 0046</p> <p align="center">Tel: (012) 663 0432 Fax: (012) 663 9604 / 0438 Website: www.elrc.org.za Email: gensec@elrc.co.za</p>	<p align="center">ELRC Private Bag X 126 Centurion 0046</p>