

DEPARTMENT OF EDUCATION EASTERN CAPE
(herein represented by the Head of Department)

AND

ORGANISED LABOUR IN THE EASTERN CAPE
(herein represented by representatives from the Unions)

**AGREEMENT FOR STAFF MIGRATION
TO THE NEW ORGANISATIONAL
STRUCTURE**

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PREAMBLE

Whereas the Department of Education and Organised Labour in the Eastern Cape (herein after referred to as the parties) constantly seek to find ways to improve quality education for all the children of the Eastern Cape; and

Whereas the parties agreed that to improve education in the Province, there is a need to establish a new organisational structure for Education in the Eastern Cape; and

Whereas the new organisational structure was approved by the Honourable Member of the Executive on 12 November 2019.

Now therefore the Parties enter into this AGREEMENT FOR STAFF MIGRATION TO THE NEW ORGANISATIONAL STRUCTURE; and

The Parties agree to individually and collectively take all necessary steps to endeavour to have this agreement registered as a Collective Agreement with the PSCBC; and

The terms of this Agreement shall be observed by the Employer (ECDOE) and by all employees who fall within the employ of the ECDOE; and

Notwithstanding the date of signature hereof, this agreement shall come into operation in respect of all parties to this agreement on 3 February 2020 and shall remain in force until a formal Collective Agreement is signed and registered with the PSCBC;

Amendments to this agreement shall only be effective if such amendments are reduced to writing and signed by all the parties to this agreement.

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OFFICIAL SIGN OFF

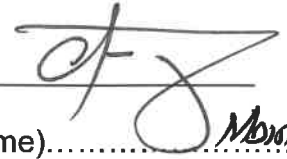
On behalf of Eastern Cape Department of Education



Mr TS Kojana
Superintendent General
Department of Education Eastern Cape

04/02/2020 Date

On behalf of Labour Union(s) represented in the Department

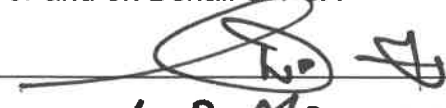


(Name)..... Monday Chris R.
For and on Behalf of SADTU

07/02/2020
Date

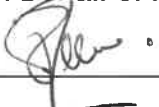
(Name).....
For and on Behalf of PSA

Date




(Name)..... L.P. MBINDA
For and on Behalf of NAPTOSA

07/02/2020
Date




(Name)..... M. JACEMI
For and on Behalf of NEHAWU

19/02/2020
Date



(Name)..... SHERMAN, CW
For and on Behalf of SASAWU

06/02/2020
Date



(Name)..... H.P. Greeff
For and on Behalf of SAOU

6/2/2020
Date



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DEFINITIONS IN TERMS OF THE AGREEMENT FOR STAFF MIGRATION

Migration means the process of placement or “repositioning” employees from one post or position to another under the same employer.

Placement is the process of placement in a post within the new organizational structure on the basis of ‘staff follows function’.

Direct placement is the process of appointing an employee directly in the post or similar post.

Selective placement is the process of selecting an employee to be appointed to the same or similar post where more than one employee could be placed into that post (i.e. the post is competitive)

Deployment is the process in which an employee is appointed to another post, which, reflects contractual changes in respect of location, status or job content.

Redeployment is the process of appointing a displaced employee from the corporate pool to a post according to the operational needs of the organisation.

Retraining is (a) the process of preparing an employee to perform the inherent requirements of the job to which he/she has been/will be migrated, placed, redeployed etc. provided that (b) where an employee cannot be migrated or where the employee has been in the corporate pool without being migrated, placed, redeployed etc. for longer than the allowable period and is deemed by the Placement Committee to be at risk on non-deployment, the employee is appropriately retrained having regard to the purposes of the Skills Development Act (No. 99 of 1998) as set out in s2 (a) thereof.



1. INTRODUCTION

The Department of Education (DoE) has embarked on a restructuring process based on its Transformation Plan and a new Service Delivery Model (SDM). The only vehicle to have these implemented legally is the organisational structure which, amongst others, also serves the purpose of placing staff with the correct skills and competency in appropriate positions. The purpose of these guidelines therefore is to guide the process of populating the new approved post establishment structure and migration of staff into the new positions and offices. This agreement went through a thorough process of consultation and shall not apply to school-based educators.

2. BACKGROUND

In order to implement the transformation plan referred above, the systems and information flows had to be reviewed in order to respond to its requirements, necessitating the review of the Service Delivery Model (SDM), which was approved by the MEC on 15 February 2016. The SDM has guided the Department in consolidating and re-aligning the current 23 Education District Offices to 12 Districts aligned with the Municipal boundaries of the Province. Even though the Province has 8 Municipalities, the Department divided the 4 big Municipalities further based on educational soundness, hence the 12 Education Districts.

The driving principles of the new SDM are cost effective use of resources, efficiency of the Education System as a whole and sound intergovernmental relations. As a result, the new SDM places emphasis on functional reconfiguration, alignment of strategic objectives to the required core business outcomes, devolution of authority to lower levels, creation of capacity at all levels which therefore means functions will shift or be redefined during the alignment process.

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3. SERVICE DELIVERY MODEL OUTLINE

The design of the SDM was based on rational symmetry and a set of principles that is articulated hereunder in order to ensure that it was not inappropriately influenced by extraneous factors that would be subsidiary to the core considerations arising from the service delivery challenges. The principles were as follows:

- Promoting educational quality and financial efficiency.
- Prioritising school effectiveness and learner achievement.
- Design for the reality of the majority of districts and schools.
- Decentralisation of authority and functions to the lowest levels for effective decision-making.
- Encouraging local innovation and responsiveness.
- Promoting transparency, equity and accountability.
- Discouraging silos and facilitating integrated management practices.

4. ESTABLISHED PRINCIPLES TO BE ADHERED TO

It is envisaged that the restructured organisation will promote the delivery of education services in the Eastern Cape in an effective and affordable manner. The Eastern Cape Department of Education (ECDoE) realizes that its success is directly linked to that of every government department in the province and as such intergovernmental relations is a key component of the structure.

In order to ensure a smooth transition and transfer of staff from the old to the newly developed and approved organogram, a fair, transparent, credible as well as an objective process must and will be followed. Trade unions as representatives of employees, shall be engaged in the process and the approach to populate the organogram. Parties may engage in a meaningful joint consensus seeking process. The purpose of this will be to alleviate fears and uncertainties and generally encourage constructive participation in the process.

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While migrating staff from the old to the new organisational structure, it is required that all actions taken by the Department with respect to the migrating of staff in the new structure should adhere to the following principles:

Actions must:

- 4.1 ensure employment security and skills retention;
- 4.2. not give rise to rights by virtue of acting or seconded status; incumbents in acting positions have no superseding right to permanent placement within those positions.
- 4.3 match the right skills and competencies with the right positions to meet strategic objectives;
- 4.4 establish a basis for skills development and employment equity;
- 4.5 build commitment to and acceptance of the transformation process;
- 4.6 facilitate a smooth transition to the new organisational structure and create the least possible disruption for staff and the department;
- 4.7 promote efficiency, effectiveness and an unhindered continuation of services;
- 4.8 be fair, transparent and in accordance with applicable employment and labour legislation;
- 4.9 pay due regard to the personal circumstances and preferences of staff where possible.

5. NORMS AND STANDARDS FOR THE STAFFING OF THE NEW STRUCTURE

In adherence to the above principles, the following measures will be followed as norms and standards in the staffing of the new structure:

- 5.1 Placement will be horizontal and will not be used as a mechanism of promotion;
- 5.2 Placement will take cognisance of the skills and qualifications of the currently serving employees;

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- 5.3 The absorption of serving officials, wherever possible, when the work content of a post has not changed significantly and the incumbent has the requisite competencies, qualifications, skills and experience;
- 5.4 The appointment of persons from outside the public service, in order to attract scarce talent and promote greater representivity, should take place only after all available internal human resources have been considered and with due regard to the objective of an efficient public service;
- 5.5 Contract employees or temporary staff shall be considered on a needs basis and where needs cannot be ascertained and can then apply for vacancies through the normal recruitment process when these positions are advertised;
- 5.6 The right of appeal for those adversely affected by the alignment process shall be respected with efficient and speedy resolution of objections

6. PREPARATORY STEPS AND MEASURES IN POPULATING THE STRUCTURE

- 6.1 Job Descriptions/Profiles will be developed for all posts on the organogram and will thereafter be subjected to a Job Evaluation process except for Occupational Specific Dispensation (OSD) posts.
- 6.2 All the newly created and reconfigured positions will be identified for implementation to address the current pressures related to operational requirements and the strategic goals and objectives of the Department.
- 6.3 The plan and principles will be adhered to when executing the migration process to ensure a smooth, structured, consistent and transparent process.
- 6.4 There will be on-going communication and consultation with employees and their representatives throughout the process.
- 6.5 Employee grievances will be attended to promptly in line with agreed communication from the Head of Department; and employees will have the right to appeal if adversely affected by the process.
- 6.6 Ensure that there is compliance with the provisions of the Public Finance and Management Act; 1999, Treasury Regulations; 2001, Public Service Act; 1994 as amended and Public Service Regulations; 2016, Employment of Educators Act 76

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of 1998, Labour Relations Act; 1995, the Basic Conditions of Employment Act; 1997, the Employment Equity Act; 1998, the Skills Development Act; 1998, and all other relevant legislation and policies such as the Recruitment and Selection Policy and Procedure, Resettlement Policy etcetera.

7. PROCESS OF FILLING OF POSTS IN THE NEW ORGANOGRAM

- 7.1 As a first step, all Departmental employees will be provided with Placement Choice Forms by 14 February 2020. The form is attached as **Annexure 1** of this agreement. All employees are expected to return this form by 21 February 2020.
- 7.2 The second step will be the close matching of all positions on the old and new organograms, i.e. identification of the position on the old organogram which best matches a position on the new organogram and to assess the amount of change which has taken place between the old and new roles. The end results will be a list of all positions, similar or new ones. The Placement Choice Forms will inform this process.
- 7.2 The third step in this exercise will be to identify the current incumbent of the position which is substantively most similar to the position in the new organogram, where that person meets the requirements of the post and if he or she should be placed accordingly. This exercise excludes personnel that are appointed on contract and those appointed within the internship programme.
- 7.3 Person-to-post matching will entail comparing the requirements of each position on the new organogram in terms of technical and behavioural competencies, experience, qualifications and any other person specifications that are regarded as inherently required to successfully perform in the job, as per the Job and Competency Profiles of each position. The aim of this exercise is to determine which employees best fit the various positions on the organogram.
- 7.4 The placement of DDGs, Chief Directors and Directors will be determined by the MEC as recommended by the Head of Department (HOD).
- 7.5 The placement of level 12 and below will be determined by the HOD.



- 7.6 No employee of the DoE will be worse off as a result of the Organisation Alignment process, i.e. all permanent employees will be on the payroll of provincial government with the same salary and benefits as before the alignment.
- 7.7 In cases where a gap has been identified in the competencies required as per the position's job description, the Department may require an employee that has been appointed in a position, to undergo certain training in line with the requirements of the new post, provided the competencies required by the employee can be attained within a period of not more than six months. Any additional training required will be approved by the HOD.
- 7.8 Whilst it is accepted that all permanent employees are guaranteed jobs, no particular posts will be reserved or earmarked for specific individuals. This includes situations where individuals are occupying positions currently in an acting or seconded capacity.
- 7.9 All employees will be horizontally and transversally matched. Where this is not possible, these cases will be dealt in terms of this plan. This means that vacant positions at a similar level across ECDoE will be considered for their placement.

8. PLACEMENT

- 8.1 The Placement Recommending panels will recommend the placement of staff, for staff at levels 12 and below, to the Placement Committee, for the finalisation of the matching and placement of staff at levels 12 and below. The Placement Recommending Panels will also be involved in cases where there is either competition for positions or where there is no clear-cut match.


Composition of the panels

District Placement Recommending Panel

Chairperson – District Director

Secretariat – District Official

Labour Relations Unit Representative

two 

Labour – maximum of ~~one~~ representative from each recognised union

Cluster A Placement Recommending Panel

Chairperson - Cluster Chief

Members - Directors in that Cluster

Secretariat – Cluster Director

Labour Relations Unit Representative

Labour – maximum of two representative from each recognised union

Each district Director will be expected to present the district placement proposals to the panel.

Cluster B Placement Recommending Panel

Chairperson - Cluster Chief

Members - Directors in that Cluster

Secretariat – Cluster Director

Labour Relations Unit Representative

Labour – maximum of two representative from each recognised union

Each district Director will be expected to present the district placement proposals to the panel.

Directorate Placement Recommending Panel (Head Office)

Chairperson – Unit Director

Secretariat – Unit Deputy Director

Labour Relations Unit Representative


Labour – maximum of two representative from each recognised union

Chief Directorate Placement Recommending Panel (Head Office)

Chairperson – Deputy Director-General: Corporate Management

Members – One Chief Director from each branch

Secretariat – Head Office Deputy Director



Labour Relations Unit Representative

Labour – one representative from each recognised union

Each Chief Director will be expected to present the Chief Directorate placement proposals to the panel.

The Trade Unions will participate as observers during the sittings of the Placement Recommending Panel(s).

Placement Committee

The Function of the Placement Committee is to consider and reach agreement regarding the matching and placement of existing employees into posts in the new structure. The Placement Committee has the right to approve or reject submissions. The Placement Committee will ensure and oversee the consistency and fair application of the migration process and placement policy.

Trade Unions will participate as observers during the sittings of the Placement Committees.

Trade Union members who participate in the Placement Committee in their capacities as trade union representatives and other Placement Committee members participating as Departmental nominees, do so without prejudice and their rights are accordingly reserved.

Chairperson – Head of Department or Delegated Official

Members – Branch Heads, Chief Director: District Coordination & Service Delivery Oversight, Chief Director: HRM, Director Labour Relations and Director: Legal Services

Secretariat – Director HRP&PS

Labour – one representative from each recognised union

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The Chairperson of each Placement Recommending Committee shall present its respective placement proposals to the panel. This role may be delegated to the Secretariat of relevant Placement Recommending Committee

- 8.2 The Panel will be informed and guided by the qualification and skills possessed by officials.
- 8.3 If there is competition for a position within the Department, the Placement Recommending Panel is required to interview and place candidates where necessary, albeit that these processes will be shortened during the migration process.
- 8.4 In addition to the interview process, Skills Audit results will be taken into consideration when making placement decisions, in order to ensure the appropriate placement of staff.
- 8.5 Recommendations made by the Placement Panel will be captured in writing, including reasons for the placement/non-placement of staff in positions. A document capturing the outcome of deliberations in the Placement Meetings, the required training and development, where applicable, and any other interventions recommended by the Panel, will be developed and submitted to the HOD.
- 8.6 The recommendations of the Placement Panel are subject to the approval of the HOD
- 8.7 Only once the HOD has given approval will the Appointment/Placement Letters be generated and issued to staff confirming their placement.
- 8.8 Employees whose profiles do not match those of any of the positions on the new structure will be identified and the reasons why they cannot be placed on the new organograms will be indicated and they will be held additional to the establishment. Recommended interventions will also be stated as per the process outlined in clause 7.

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9. PLACEMENT CRITERIA FOR THE DIFFERENT EMPLOYEE LEVELS

9.1 The selection criteria weighting in the table below will apply to determine whether a person is suitable for a particular position. This will apply whether there is a competitive placement situation.

Level	Criteria	Definition	Rating	Weight %	Score
Level 1-8	Relevant Qualifications	Required or alternate from job description	Not meet = 0 Meet = 1 Exceed = 2	30	
	Experience	Relevant experience from job description	Not meet = 0 Meet = 1 Exceed = 2	30	
	Technical Competencies	Skills Audit Report	Not meet = 0 Meet = 1 Exceed = 2	40	
Level 9-12	Relevant Qualifications	Required as per job description	Not meet = 0 Meet = 1 Exceed = 2	30	
	Experience	Relevant experience per job description	Not meet = 0 Meet = 1 Exceed = 2	30	
	Technical Competencies	Skills Audit Report	Not meet = 0 Meet = 1 Exceed = 2	30	
	Behavioural Competencies	Skills Audit Report	Not meet = 0 Meet = 1 Exceed = 2	10	

9.2 Possible Scenarios during the Placement Process And Management thereof:

9.2.1 In cases where the job content and level remain the same, and there is a perfect match in terms of the skills sets required and no competition for positions, i.e. the number of posts available is equal to the number of employees available who

qualify for placement / appointment, employees will be directly placed into those positions.

- 9.2.2 In cases where the job content and level remains the same and there are fewer positions than there are qualifying employees, the decision as to which employees must be placed in defined posts which match their profiles, must be taken after a shortened selection and placement process by the Placement Panel, having considered any other relevant factors including employee potential, the extent to which the employee is likely to further the interests of the department and applying the weighted score.
- 9.2.3 Where a position is new and there is no perfect match, an employee who closely meets the requirements of the new position and who, in the view of management can attain the required competencies within a period of not more than six months of training, may be temporarily held against the post.
- 9.2.4 The person will however not be confirmed in the position until they have attended the relevant training and can prove that they have achieved the set milestones, which must be defined upfront and communicated to the incumbent. The incumbent must also be certified competent by the Programme Manager of the area, in consultation with HR and the HOD, as per clearly specified criteria, before s/he can be confirmed in the position.
- 9.2.5 In cases where the job content and / or job level of the new position changes and the job is upgraded by one or more levels, the post will be advertised and filled internally through the normal recruitment processes. Placement will however be subject to the employee/s having met all the criteria applicable as per the new Job Description.

The above will also be applicable in scenarios where there are fewer posts than there were previously, i.e. competition. The position/s will be advertised internally. The normal recruitment and selection process will be followed but may be shortened in instances where position/s are advertised internally.

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This particular section will only be applicable to positions at level 12 and below.

- 9.2.6 In cases however where a position is downgraded, i.e. goes down by one or more levels, the position may be offered to the person who is currently doing the job, i.e. who occupied the post previously. Such employees will retain their current remuneration packages and conditions of service. When the position becomes vacant, it will be filled at the correct salary level.
- 9.2.7 Employees who unreasonably refuse to be migrated will be deemed to have made themselves redundant and the additional employee management processes will be followed.
- 9.2.8 Voluntary resignations will give rise to vacancies which will be dealt with through the usual recruitment processes.
- 9.2.9 Employees wishing to be transferred or to be considered for placement elsewhere in the department may put their requests in writing to the Chief Director: HRM&D. Their requests will be considered by management, who will assess their skills sets and compare these with those of positions in which they wish to be accommodated. Each case will be treated on its merits.

10. TRANSFER AND RELOCATION OF STAFF

- 10.1 The Policy on Resettlement will be applicable in instances where the employer initiates the transfer of an employee due to operational requirements / business needs.
- 10.2 The Resettlement Policy will not apply in instances where the employee will be travelling a lesser distance than before to his/her workplace.

11. ADDITIONAL EMPLOYEES NOT MIGRATED AND DEEMED TO BE ADDITIONAL TO THE ESTABLISHMENT

- 11.1 Employees who are not placed in defined posts in the new organogram are regarded as additional employees but are not automatically redundant by virtue of being declared 'additional'.

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- 11.2 An additional employee who is not willing to be redeployed may apply for early retirement.
- 11.3 The employer undertakes, as far as practically possible, to deploy all employees in accordance with the matching and placing principles agreed to. Should any employee not be deployed, he/she will be retained additional to the approved establishment of the Department. Accordingly, such employees will be deemed to be in excess and so informed in writing.
- 11.4 Before declaring any employee additional to the staff establishment, the employer will ascertain if an individual's skills and competencies can be utilised in any other post in the DoE to which the person could possibly be matched.
- 11.5 Such employees will be allocated to components where their skills and experience can be optimally utilised and must also explore alternative employment opportunities, including applying for suitable advertised posts elsewhere within the Public Service.
- 11.6 Posts occupied by additional employees who have been allocated to components will be marked denoting that they will be abolished once the current incumbent vacates the post for whatever reason.
- 11.7 All vacant and funded posts will first be made available to qualifying employees who are in excess. If no appointment is possible due to unavailability of skills from amongst those in excess, then the post will be advertised, and an appointment made through the normal process of recruitment and selection.
- 11.8 The department will develop a list of additional employees which will be used to approach other government departments in the Eastern Cape for possible placement. This list will state their particulars and will include, amongst others, the following information:
- (i) name of the employee, age, gender, disability and other relevant personal details;
 - (ii) rank and occupational classification;
 - (iii) qualification and/or experience;
 - (iv) other relevant skills and competencies;
 - (vi) section where employee is presently employed, post and responsibilities;

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- (vii) written preferences with regard to redeployment, e.g. post and location; and training needs.

11.9 All additional employees must be:

- a) treated fairly and in terms of applicable labour legislation and collective agreements;
- b) informed of the process to be followed in attempting to suitably accommodate them in the Department and elsewhere;
- c) the employee may make representations to the employer on his or her own behalf or be assisted by a representative (a union representative or a fellow employee);
- d) the employer must consider the representations made by the employee and/or his or her representative before making a final decision and
- e) engaged fruitfully and gainfully at all times.

12. CONSIDERATION FOR EARLY RETIREMENT

- 12.1 Employees who wish to take early retirement should initiate a request by notifying HR at least three months in advance of the intention to terminate their services. This is provided the employee's age is from 55 to 59 years.
- 12.2 In cases where it is in the interest of the department that an employee takes early retirement or is encouraged to take early retirement, the department shall pay the penalty to Government Employees Pension Fund (GEPF) on behalf of the employee who applies for early retirement from age 55 to 59 with 10 years pensionable service.
- 12.3 This means that the annuity and gratuity of the employee will, in the above case, not be reduced as ECDoE will bridge the gap and pay the amount due to GEPF on behalf of the employee.
- 12.4 In all the other cases, the normal conditions as per the relevant policies will be applicable in that both the annuity and the gratuity will be calculated by GEPF according to the normal retirement formulae. It should however be noted that for the above-mentioned employees, these benefits will be reduced by 0.3333 for each month between the date of retirement and age 60.



- 12.5 It should be understood that ECDoE, as the employer, in both the above circumstances, reserves the right not to approve an application for early retirement.
- 12.6 Each application will be carefully considered, taking into account the responsibilities and skills of the employee and assessing whether or not the early retirement would be in the interest of the ECDoE.
- 12.7 All employees who wish to take advantage of this opportunity as well as those who have previously approached management, expressing interest in taking early retirement are advised to apply in writing to the HOD.
- 12.8 Employees must note that this a voluntary process, no employee will be forced to take early retirement against his/her wish.

13. APPEAL PROCESS

- 13.1 There will be a right of appeal of employees to an Appeals Committee established by the MEC.
- 13.2 The Appeals Committee shall consist of internal employees and employees drawn from other Departments within the Public Service as the MEC may deem necessary. One representative from each recognised trade union shall serve on the Appeals Committee.
- 13.3 An employee may be represented by a representative of his/her choice in the Appeals Committee should a need arise to make verbal representations to the Committee.
- 13.4 No member of the Recommendation Panels or the Placement Committee shall be allowed to serve in the Appeals Committee.
- 13.5 An Employee in Levels 1-12, or Recognised Trade Union duly authorised by an employee who has a dispute, complaint or special request arising from the placement process, may lodge an appeal, together with substantiating evidence and reasons for the appeal, to the Appeals Committee, through the Chief Director: HRM&D. The appeal must be lodged within 7 days after the placement is communicated to the employee. The Chief Director: HRM&D must table the appeal

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to the Appeals Committee within fourteen (14) days of receipt of the appeal. The employee must be advised of the outcome of his/her appeal within thirty (30) days from date of lodging his/her appeal.

- 13.6 If an employee, levels 1-12, is dissatisfied with the decision of the Appeals Committee, the employee, may then:
- 13.6.1 within seven (7) days of receiving the outcome of the Appeals Committee, or
- 13.6.2 where there has been no response from the Appeals Committee, for a period of more than 30 (thirty) consecutive days from the date of lodging the appeal, lodge a formal grievance in terms of the rules of the relevant bargaining council provided that the process as outlined above has been exhausted or a period of 30 (thirty) days has elapsed from the date of the employee lodging his/her initial appeal and he/she has not been advised of the decision of the Appeals Committee.
- 13.7 The Director: Employee Relations shall facilitate grievances arising from the Placement Process. Failure by the Director: Employee Relations to resolve the grievance, the employee or Trade Union may submit a dispute to the relevant Bargaining Council for conciliation and arbitration (if necessary).
- 13.8 The placement of Senior Management Service (SMS) members, levels 13-15, will be determined by the Member of the Executive Council (MEC). Any appeal or review of the decision of the MEC must be in terms of the SMS Handbook.

14. CHANGE MANAGEMENT

The Department acknowledges that the process may result in anxiety and uncertainty among staff. As part of the change management plan, Change Management Workshops will be conducted for all staff. A Change Management Strategy is to be developed as a separate document.

15. CONCLUSION

This agreement is the ONLY document to be used to populate the new organogram and manage staff placement and migration.

