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GRIEVANCE HANDLING IN THE DEPARTMENT OF CORRECTIONAL SERVICES (DCS): A CRITICAL EVALUATION.

BY

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Submitted in partial fulfilment of the requirement for the degree

MAGISTER PHILOSOPHIAE

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LABOUR LAW AND EMPLOYMENT RELATIONS

in the faculty of law at the

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December 2005

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DECLARATION

I, Tsandzeka Kenneth Mthombeni declare that GRIEVANCE HANDLING PROCEDURE IN THE DEPARTMENT OF CORRECTIONAL SERVICES: A CRITICAL EVALUATION is my own work, that all sources used or quoted have been indicated and acknowledged by means of complete references, and that this dissertation was not previously submitted by me for a degree at another university.

Date: 2005/12/15
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I owe a debt of gratitude to my mother, Nothisa Ndaheni Mthombeni, who cared for me until I understood life better, my brother, Sikheto Emson Mthombeni, who robbed himself of an education, preferring to educate me instead. I am sure that by completing this study I have justified his faith in me.

Eka Sesi Eva Tinyiko Mthombeni, ani nge swi rivali leswi minga ti hluphisa swona mini nghenisa xikolo.

I wish to express my sincere appreciation to my wife, Tsakani Cynthia Mthombeni, for all the support, caring and encouragement throughout the study. I hope this serves as a motivation for my children, Memory, Hlanganani and Kenneth Junior.

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ABSTRACT

The Department of Correctional Services (DCS) is a security-oriented institution and one of its constitutional mandates is to keep offenders in safe and humane conditions until they are lawfully released.

Employment relations are fraught with inevitable conflict because where there is more than one human being it follows that it (conflict) will surface. Hence, conflict leads to grievances.

This study was intended to achieve the following objectives:
- to conduct a literature investigation on grievance handling procedures in the DCS
- to conduct an empirical investigation into employees' perceptions of grievance handling procedures in the DCS
- to formulate recommendations for guidelines for the use of management in improving grievance handling procedures in the DCS

According to the DCS's annual report of 2004/2005, more than half of the grievances lodged (54.98%) during that time were not resolved. This should be cause for concern for any organisation, especially one like the DCS where each and every employee needs to be at his/her best in terms of commitment and the employer should in turn have the leverage of trusting them (employees) all.

Through the research questionnaire, this study gave employees an opportunity to interact with the researcher with a view to providing some guidelines for improving grievance handling in the DCS. Similarly, the study provided the researcher with an opportunity to find out from the respondents what, in their view, needs to be done to improve grievance handling in the DCS.
One of the major findings in this study is that there are no proper systems in the Department for addressing current trends in grievance handling.

Training of managers or supervisors emerged as one of the major concerns raised by most of the respondents. It is however noted that training alone may not be sufficient for improving grievance handling: organisations need to embrace a culture of resolving grievances rather than victimising an employee who raises a grievance. Grievances should thus be regarded as pointers to problem areas that need management attention and, if handled correctly, grievances can be very healthy. In the same vein, if not handled correctly grievances can destroy an organisation.

The researcher gathered information from various sources and the respondents provided valuable information which should assist the DCS to improve its grievance handling process. The recommendations arising from the study include the development of comprehensive systems, such as drawing up a labour relations policy, grievance handling procedures and a manual.
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CHAPTER 1
GENERAL INTRODUCTION

1.1 INTRODUCTION

One of the purposes of the Labour Relations Act, Act 66 of 1995 (LRA), is to advance economic development, social justice, labour peace and the democratisation of the workplace. This is set out in section 1 of the LRA. The employment relationship between an employer and an employee is reciprocal: employers hire employees to provide labour to produce commodities or render services that contribute to the business objectives of the organisation, whose primary aim is efficient and effective service delivery, while employees supply their labour in return for remuneration and the opportunity to exercise and improve their marketable skills.

It is inevitable that this type of relationship bears a heavy load of terms and conditions. Some of these terms are contained in the employment contract whilst others are implied. Labour law jurisprudence has grown significantly in recent years to cover even the area of grievance handling. An employment contract is characterised by different interpretations on the part of both employees and employer, the result of which is often reflected in complaints, grievances and, if unresolved, disputes.

This study attempts to explore the area of grievance handling in the Department of Correctional Services (DCS) with the intention of gathering information from employees at the coalface and also making recommendations aimed at enhancing the handling of grievances in the DCS.

In the Public Service, grievance handling is regulated by a collective agreement. To this end, the Public Service Co-ordinating Bargaining Council (PSCBC) has concluded Resolution No 14 of 2002 to provide guidelines for grievance handling in the public service. The DCS has concluded and signed a collective agreement, known as Resolution 108 of 1996, to regulate the way in which employee grievances should be handled in the DCS. Subsequently, in 1997, the DCS developed a grievance handling manual designed to assist managers in how best to handle employee grievances.
Grievance handling manuals have to be reviewed and updated regularly in order to be relevant to both current trends and employee needs. The researcher intends to evaluate the DCS’s grievance handling process in order to make some recommendations for improving the guidelines.

An aggrieved employee, particularly in a security institution such as the DCS, would in the researcher’s opinion, constitute a weak link and thus efforts should be made to ensure that all grievances are effectively managed. This includes ongoing review and revision of the manner in which grievances are handled.

In an attempt to develop effective guidelines for the use of management in improving the grievance handling procedures in the DCS, the researcher will cover the following areas: the motivation for the choice of subject, problem formulation, aim/goal and objectives of the study, research question for the study, research approach, type of research, research design, research procedures, the pilot study, a description of the research population, delimitation/boundary of the sample and sampling methods, ethical issues and the definition of key concepts. These are detailed as follows.

1.2 MOTIVATION FOR THE CHOICE OF SUBJECT

According to DCS’s Annual Report (2004/2005:146) covering the period 1 April 2004 to 31 March 2005, a total of 1015 grievances were lodged of which only 457 were resolved whilst 558 were unresolved. This represents a total of 54.98 percent of grievances that were not resolved. The DCS is a national security institution and therefore more efforts are needed to ensure that employees are satisfied lest they create a weak link, which may be detrimental to the department.

This study therefore intends to investigate the manner in which grievances are handled in the DCS. The researcher thus intends to collect information related to how DCS employees regard the systems and procedures in their workplace, analyse it and make recommendations that could be useful to the DCS in particular and the Public Service in general.
1.3 PROBLEM FORMULATION

In view of the facts mentioned above, the DCS has a large number of unresolved grievances. The researcher conducted this study in order to investigate the factors that may be contributing to the non-resolution of grievances as well as to look at the impact that the non-resolution of grievances has on employees. Further, the researcher intends to make recommendations aimed at improving grievance handling in the Department.

1.4 GOAL AND OBJECTIVES OF THE STUDY

1.4.1 Goal

The goal of this study is to provide guidelines for management to improve the grievance handling procedures in the Department of Correctional Services.

1.4.2 Objectives

1.4.2.1 To conduct a literature investigation into grievance handling procedures.

1.4.2.2 To conduct an empirical investigation into employee's perceptions of the grievance handling procedures in the Department of Correctional Services.

1.4.2.3 To make recommendations regarding the guidelines for use by management to improve the grievance handling procedures in the Department of Correctional Services.

1.5 RESEARCH QUESTION FOR THE STUDY

This is an exploratory study as it involves an attempt to determine whether or not a phenomenon exists (Dane, 1990:5). Struwig and Stead (2001:7) write that exploratory research can be defined as research into an area that has not been studied and in which a researcher wants to develop initial ideas and a more focused research question.
According to the researcher, the concept of exploratory research is introduced into new areas of study such as, for example, the development of guidelines for use by management to improve the grievance handling procedures in the DCS, which have not been provided for in previous studies by other researchers.

The researcher utilised a research question rather than a hypothesis.

The research question for this study is thus: What are effective guidelines for use by management to improve the grievance handling procedures in the Department of Correctional Services?

1.6 RESEARCH APPROACH

This study utilised both the qualitative and quantitative methods of data collection. The combination of both methods is called triangulation. As Brandt (2002:10) notes, there are situations in which the properties of both qualitative and quantitative research methodologies are used in such a way that the study cannot strictly be called either qualitative or quantitative.

Triangulation can involve the use of multiple data sources, multiple investigators, multiple theoretical perspectives, multiple methods, or all of these (Schwandt, 1997:163). In this study, only multiple research instruments are utilised. This is because the questionnaire contains both quantitative and qualitative instruments.

1.7 TYPE OF RESEARCH

Most social science research utilises applied research rather than basic or pure research.

"The purpose of a research inquiry is to resolve a problem in the sense of accumulating sufficient knowledge which leads to an understanding or explanation; a kind of dialectical process that plays off some propositions that form the problems into some kind of synthesis" (Erlandson, Harris, Skipper & Allen, 1993:43).
Applied research is relevant to this study because its recommendations are aimed at suggesting guidelines for management to use in improving the grievance handling procedures in the DCS. Thus the results of this research study will be made available for the perusal of the department involved. In this study the literature and empirical investigations are meant to develop guidelines to assist DCS management in improving the grievance handling procedures in the Department.

1.8 RESEARCH DESIGN

According to Bauer and Gaskel (2000:4), the research design entails the strategic principles of the research, the data elicitation methods, the data analytic procedures, and the conclusions and recommendations of the research study.

Babbie (2004:112) states that a research design involves a set of decisions regarding what topic is to be studied, among what population, with what research methods, and for what purpose.

Research design is thus a plan that the researcher implements in order to achieve the research project.

1.9 RESEARCH PROCEDURE

Research procedure refers to the manner in which data for the study are collected and analysed.

1.9.1 Data collection

Data for this study were collected by means of a self-administered questionnaire. Babbie (2004:256) states that in a self-administered questionnaire the respondents are asked to complete the answers themselves. Guy, Edgley, Arafat and Allen (1987:243) add that, by definition, a self-administered questionnaire is one given to respondents with the assumption that each respondent can read the questions, has the knowledge and interest to answer them, and has a pencil, a place, and time to complete the instrument. Respondents may complete such questionnaires in a group or individually.
The researcher intended to involve a large number of public officials in the employ of the DCS in the research study and therefore the only data collection method able to reach this number in a short period of time is the self-administered questionnaire. Secondly, the respondents for this study are all employed and work for the DCS, and they are all able to express their responses in a written language.

As was previously stated, the questionnaire schedule (the research instrument) for this study contains both quantitative and qualitative questions.

1.9.2 Data analysis

Data analysis for this study will therefore involve quantitative data analysis methods, which mean the expression of information in the form of numbers (Steyn, Smit, Du Toit & Strasheim, 1994:5; Balnaves & Caputi, 2001:118-119), and a qualitative analysis method, which means the expression of information in its contextual form (Barbour & Kitzinger, 1999:23; Hollway & Jefferson, 2000:108).

Some research instruments require respondents to tick whether certain statements apply to them or not and the analysis of these data is expressed only in number. This is an example of the quantitative data analysis method.

The questionnaire also includes instruments that require the respondents to express their answers in a contextual manner. After the coding process, the data is transformed into numbers and some of the statements are contextualised in words, giving meaning to the qualitative data analysis method.

1.9.3 Pilot study

According to Steyn et al (1994:39), a pilot study is conducted in order to identify weaknesses in data collection methods. Before a questionnaire is finalised, it should be subjected to a pilot study wherever possible. This involves its completion by a few individuals selected arbitrarily from the population.
A pilot study identifies ambiguities in the questionnaire and often helps to determine categories that can be used in the closed questions. This facilitates coding and editing (Steyn at al, 1994:47)

A pilot study is the process for trying out a research instrument using a small number of respondents that would normally not participate in the actual study. The researcher tested the self-administered questionnaire with a few DCS officials, it was then corrected and the final product was the questionnaire that was sent to the respondents.

1.9.4 Literature review

Henning, van Rensberg and Smit (2004:2) maintain that the literature review is used first and foremost in the contextualisation of one’s study to argue a case and identify a niche to be occupied by one’s own research. The literature review is often a separate chapter in a research report in which one synthesises the literature on the topic and engages critically with it. Literature review could mean the reports on research studies and theoretical or philosophical papers characteristic of professional and disciplinary writing that can serve as background material against which one may compare findings from actual data (Strauss & Corbin, 1998:35).

In this study, the researcher will explore the information collected from a number of books, manuals and academic theses. This information is compiled and discussed in the following two chapters.

1.10 DESCRIPTION OF RESEARCH POPULATION AND DELIMITATION OF SAMPLE

1.10.1 Population

Babbie (2004:110) states that the population for a study is that group (usually people) about whom one wants to draw conclusions. By defining a population is meant identifying the boundary from within which the investigators will select people to take part in their enquiry.
Population means all the people who have the characteristics of the respondents needed for the study. The population for this study comprises all DCS employees stationed in the Gauteng Region.

1.10.2 Sampling frame

For May (2001:70), a sampling frame might be a list of employees in a factory or, if we are interested in households, the electoral register and it is from this sampling frame that we draw the samples. For Babbie (2004:199), a sampling frame is the list or quasi list of elements from which a probability sample is selected. If a sample of students is selected from a student roster, the roster is the sampling frame. The sampling frame for this study is a list of all the officers employed by the DCS in the Gauteng Province.

1.10.3 Sample

Sampling is defined as a subset of the population. Sirkin (1999:197) is of the view that from the population one should select a smaller group that will constitute the sample.

Sampling secures efficiency in research by providing a rationale for studying only parts of a population without losing information – be it a population of objects, animals, human individuals, events, actions, situations, groups or organisations (Bauer & Gaskell, 2000:20)

The researcher views a sample as a small number of people who are selected from the total community under investigation with the aim of collecting information for the purpose of study.

The type of sampling method used in this study is called the stratified random sampling method because respondents were drawn from different prisons within the Gauteng Region.

1.10.4 Sampling method

Stratified random sampling is relevant for this population as discussed above because it is mainly used to ensure that the different groups or segments of a population acquire sufficient representation in the sample (Strydom & De Vos, 1998:13).
Stratified random sampling occurs when samples are drawn from different populations so that research is conducted throughout the area. The respondents for this study were therefore drawn from correctional centres in the Gauteng Region.

In this research study, the respondents were drawn from the different correctional centres and then a simple random sampling procedure was applied for selection. Names of the DCS employees were selected from the morning parade (gathering), and those chosen were then given the questionnaire to complete.

1.10.5 Ethical issues

This study considered a number of ethical considerations because, according to Barbour and Kitzinger (1999:31), ethical issues are strategies for addressing the power imbalances between the researcher and the researched. Professional associations publish codes of ethics to ensure that their members, including researchers, treat others in an ethical manner (Mark, 1996:48). As in other scientific research, the researcher will ensure that the ethical considerations are adhered to because failure to do so might result in infringing the rights of others.

In view of the sensitive nature of the ethical considerations involved, the researcher will consider anonymity and confidentiality as the preferred options for respondents.

A research project guarantees anonymity when the researcher – and not just the people who read about the research – cannot identify a given response as coming from a given respondent (Babbie, 2004:65). Anonymity is when the research participants’ responses cannot in any way be identified as coming from them – by the research or by anyone else (Mark, 1996:46).

The concept of anonymity means that the respondents must not be identified by their demographic characteristics, such as names, age, educational level, and so on. The researcher did not collect this type of information during the empirical investigation of the study.

Confidentiality on the other hand exists when only the researchers are aware of the participants’ identities and have promised not to reveal those identities to others (Dane, 1990:51).
Confidentiality is the maintaining of privacy, which refers to agreements between persons that limit others’ access to private information.

Confidentiality means that the information collected from the respondents will be utilised only for the purpose mentioned in the questionnaire and nothing else.

Thus the respondents’ responses will not be revealed to other people unless written consent has been given by the respondents themselves.

1.10.6 Limitations of the study

There were quite a number of limitations that were encountered in this study. The researcher elected to discuss only the two mentioned below:

1.10.6.1 Non-response to research instruments by the respondents. When respondents failed to respond to some of the questions in the questionnaire, it could be that the cause for the non-response was the poor formulation of the research instruments (questions), fear of victimisation from supervisors, or a lack of knowledge (by the respondents) of specific issues.

1.10.6.2 Non-response to the questionnaires by the top management (Deputy Directors, Directors, Deputy Commissioners and Chief Deputy Commissioners). Although these officials form part of the DCS staff and, therefore, part of the population, their work is generally regarded as representing management and they are usually the ones who handle employees’ grievances. Their numbers are also very few in comparison with low ranking officials, as will be illustrated later in this study.
1.11 DEFINITIONS OF KEY CONCEPTS

The following key concepts for the study are defined in this section:

1.11.1 Grievance: A grievance is a written complaint which, according to Burchill and Casey (1996:78), is a complaint that has been formally presented to a management representative or to a union official. Grievances can also be defined as dissatisfaction experienced by the employee as a result of his/her work environment. The Department of Correctional Services: Grievance Procedure Manual defines grievance as any feeling of dissatisfaction of an employee with regard to any aspect in his/her work situation, or any cause for dissatisfaction experienced by an employee or groups of employees arising from the work situation.

1.11.2 Handling: The manner and/or procedure in terms of which the DCS goes about attending to employee’s grievances with the aim of resolving them.

1.11.3 Procedure: Piron (1984:109) maintains that a grievance procedure is available to employees who experience complaint against employer, and that in South Africa grievance procedures involve a greater degree of decision involvement on the part of the employees than is usually the case in disciplinary matters.

1.11.4 Guidelines: The scope and/or framework within which grievances should be handled.

1.11.5 Management: Senior employees within the DCS who represent the interests of the employer. The management for the DCS is situated in the places of work, which include Head Office, the Provincial Commissioner’s offices, area managers’ offices, prisons and sections within prisons (Department of Correctional Services: Grievance Procedure Manual).

1.11.6 Employee: A staff member employed by the DCS. This includes the Director-General (DG), the Deputy Director-General (DDG), the Director (Dir), the
Deputy Director (DD), the Assistant Director (ASD), the Senior Correctional Officer (SCO), Correctional Officer Grade one (CO1), Correctional Officer Grade two (CO11) as well as Correctional Officer Grade three (CO111).

1.11.7 **Employer:** The Department of Correctional Services (DCS), which is a government institution charged with the responsibility for incarcerating and keeping offenders in safe and humane conditions for the purposes of rehabilitation.

1.11.8 **Management Area:** This means a prison.

1.11.9 **Correctional centre:** This means a section in a prison.

1.11.10 **DBC:** The Department of Correctional Service’s Bargaining Council

1.11.11 **PSCBC:** Public Service Coordinating Bargaining Council

1.12 **LAYOUT OF THE RESEARCH WORK**

This study is presented in five chapters as follows:

1.12.1 Chapter 1 outlines the general introduction.
1.12.2 Chapter 2 details the theoretical exposition of grievance handling.
1.12.3 Chapter 3 gives an analysis of the guidelines for management for use in improving the grievance handling procedures in the Department of Correctional Services.
1.12.4 Chapter 4 outlines the investigation of the study.
1.12.5 Chapter 5 provides the conclusions and recommendations of the study.
CHAPTER 2

THE VALUE OF EFFECTIVE GRIEVANCE HANDLING IN THE WORKPLACE

2.1 INTRODUCTION

Nel, Swanepoel, Kirsten, Erasmus and Tsabadi (2005: 237) write that the existence of a clearly defined and freely accessible channel for employees to air their grievances and to have these grievances settled is probably the most important part of a business’s employment relations structure. They contend that, as such, it should be one of management’s most important assets for the following reasons:

- It is a safety valve that will release the tension and dissipate the latent aggression inherent in all business.
- It allows the raising and settlement of grievances for a worker without fear of retribution or victimisation.
- It makes for a more open and honest relationship between an employer and employee.
- It allows management to identify and remove legitimate causes of dissatisfaction or conflict.
- It facilitates the development of positive worker morale and assists in promoting goal achievement by business.

Employees should be given an opportunity to express their grievances rather than be made to suppress them.

The advent of the Labour Relations Act, Act 66 of 1995 (LRA), in the transformed public service of South Africa heralded a new public service founded on the principles of openness, responsiveness and accountability; a public service driven by people’s needs epitomised by Batho Pele (people first) principles. These principles maintain that employers must continuously attempt to promote democracy in the workplace. Prinsloo, Moropodi, Slabbert and Parker (1999) maintain that there is a general acceptance of the need for workplace democratisation, a concept which is a prerequisite for transformation. When these principles are violated by the employer, it
has a negative impact on both the employer and his/her respective employees. Such a situation leads to grievances, which in turn can result in lawsuits against an organisation.

In this chapter, the researcher defines a grievance and further illustrates the difference between a complaint, a grievance and a dispute. It is also important to distinguish between a grievance of right and a grievance of interest. The researcher will also illustrate some consequential implications of unresolved grievances in the form of vicarious liability of the employer.

2.2 DEFINITION OF GRIEVANCE

A grievance is defined as any dissatisfaction or feeling of injustice connected to an employee’s work or conditions of employment that merits the formal attention of management at any level, but excludes both collective wage grievances and appeals against disciplinary action. A grievance is a form of complaint between the employee and his/her immediate supervisor, which is presented in a written form. In their manual, (P.e.o.p.i.e: 30, in collaboration with Backer, L.) the authors distinguish between a complaint, a grievance and a dispute as follows:

Complaint: A complaint is when dissatisfaction is expressed without activating the formal grievance procedure.

Grievance: A grievance is considered as any dissatisfaction or feeling of injustice which has been experienced by a worker or group of workers relating to the work environment and has been formally brought to the attention of the employer via the grievance procedure.

Dispute: A dispute is a formal expression of employee dissatisfaction at the organisation level resulting from either a prior failure to resolve a grievance or a failure to agree on a matter of interest within the negotiating process.

Grievances may manifest themselves in many ways. Employees’ complaints, if not properly managed, may translate into a grievance, which in turn may become a dispute. A dispute may result in litigation against the employer as will be illustrated later in this chapter.
Unresolved grievances lead to disputes and this may lead to huge claims against the employer. This will also be discussed later in this chapter.

2.3 CONCEPTUALISATION OF GRIEVANCE

In this section, the researcher will discuss the principles of equality, justice and rights because they are all closely related to employee satisfaction. A focus on these concepts is as a result of the fact that more often than not their violation will lead to grievances.

2.3.1 Principle of equality

The principle of equality promotes a concept of social inclusion, which advocates that every employee in the work place must be afforded the opportunity to take part in the processes of the organisation.

Equality of opportunity is simply concerned with securing fairness in the procedures used to fill office and positions, to forbid direct discrimination and to disallow the use of irrelevant criteria in processes of selection (Drake, 2001:77). Equality is achieved when employees from different sectors of the community have equal access to the socio-economic, political and cultural resources within their workplaces. Grievances will therefore surface if the principle of equality is violated.

2.3.2 Principle of justice

Justice is a concept that should be borne in mind by human resources practitioners when they conduct the processes of their institutions in that they should be careful not to discriminate against other individuals, groups and/or sectors of communities.

Lombard (1991:75) says that justice strives to provide sufficient identical opportunities for all individuals and groups to become whatever they have the potential to be.

Injustice as an opposite concept of justice prevails when the circumstances include depriving people of things to which they were legally or morally entitled, or depriving them of things they
deserve, breaking faith with people and being partial or treating people unequally when they deserve to be treated equally with their peers. (Drake, 2001:61). When grievances are viewed as a form of injustice, it implies that there are complaints that have been ignored and or dismissed without proper consideration by the supervisor and or management. Management may also have regarded them as trivial.

In order to ensure that the principle of justice is successfully achieved, human resources practitioners themselves should ascertain that there is no individual, group and/or sector of the community that is barred from participating in the institution’s processes.

2.3.3 Principle of rights

The principle of rights is very important within the South African context because if people’s rights are violated by the employer, then the programmes rendered by the institutions will not achieve their intended objectives. This is supported by Drake (2001:85) who says that where human rights are denied, it does tangible harm not only to the individuals concerned, but also to the community in which the denial occurs. This principle forms part of a state’s obligatory mission that ensures that no individual, group or segment of community is denied the right to participate in its institutional programmes. Human resources practitioners are the agents of state and as such they are expected to strongly protect the rights of the employees who are employed in government departments. Employees will raise grievances whenever they feel that their rights have been violated as well as when management fails to abide by the organisational norms. A dispute of right refers to a dispute over the rights of the employee/employer and is experienced as an unfair labour practice.

A dispute of interest is the creation of fresh rights that any of the parties do not have at its disposal. The rights of employees are contained in the Bill of Rights as stated in the Constitution of the Republic of South Africa, Act 108 of 1996.

2.4 RELATIONSHIP WITH DISCIPLINARY PROCEDURE

In their Training Manual on Handling Employee Grievances (P.e.o.p.l.e 30), the authors caution that it is important to consider the relationship of the grievance procedure with the disciplinary
procedure. They continue by asserting that disciplinary matters have been excluded from the definition of a grievance largely because the disciplinary procedure and the grievance procedure fulfil different functions.

Disciplinary procedures are initiated by management for action against the interests of the company, whilst grievance procedures, on the other hand, are initiated by employees for actions against the interests of an employee or group of employees. However, evidence produced during a grievance hearing can be used during disciplinary action (*Vanadium Technology v NUMSA* 18 ILJ 740 (LC) 1997).

### 2.5 OBJECTIVES OF THE GRIEVANCE PROCEDURE

According to Nel et al (2005:238), the following are the cornerstones of a good grievance procedure:

- Both management and employees must view the system as fair and just; if possible both parties must be involved in the formulation of the procedure.

- The procedure must be derived from, and be supportive of, a formal, written, just and rational set of human resource policies.

- It should preferably be formulated and introduced during a period of normality (labour peace, high morale and good climate); a system born in a period of conflict tends to retain the "odour of conflict" and be viewed with mistrust by both management and employees.

- It must have the full support, commitment and involvement of all levels of management, especially top management.

- The procedure must be simple and easy to use by all employees concerned.

- It ought to be company policy that any employee should have the right to submit a grievance via the prescribed channels without any prejudice whatsoever to his/her status, job security or promotional opportunities.

- Employees should be guaranteed protection against victimisation or threat in any form from the employer.
### 2.6 GRIEVANCE HANDLING PROCESS IN THE DCS

As stated earlier, in the DCS the handling of grievances is guided by a departmental bargaining council collective agreement or Resolution 108 of 1996.

Emanuel (1994:94) avers that a grievance handling process must be attained through a series of stages. A process for grievance handling is also supported by Duane (1993:65) who says that it must be attained through four stages. However, the Department of Correctional Services: Grievance Procedure Manual outlines the process through seven stages which are reflected in Table 1 below.

<table>
<thead>
<tr>
<th>Stage</th>
<th>Employee ...</th>
<th>Time frame</th>
<th>Cumulated time</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Employee raises grievance verbally or in writing with first level of authority (supervisor). Thus an employee experiences a grievance or problem which he/she takes to the immediate supervisor. According to Duane (1993:65), during this stage, the complaint is firstly discussed so that if the complainant feels dissatisfied he/she can request for the complaint to be referred to the next level of management. In the context of this design, the matter must then be referred to a higher hierarchical level above that of the supervisor.</td>
<td>2 working days</td>
<td>2 working days</td>
</tr>
</tbody>
</table>

*If not satisfied with decision ...*
<table>
<thead>
<tr>
<th>Stage</th>
<th>Employee …</th>
<th>Time frame</th>
<th>Cumulated time</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Employee approaches the second level of authority. Thus when the problem or grievance mentioned in the previous stage cannot be resolved to his/her satisfaction; the matter is referred to a higher level of management.</td>
<td>3 working days</td>
<td>5 working days</td>
</tr>
<tr>
<td>3</td>
<td>Employee approaches the third level of authority.</td>
<td>3 working days</td>
<td>8 working days</td>
</tr>
<tr>
<td>4</td>
<td>Employee approaches the fourth level of authority.</td>
<td>5 working days</td>
<td>13 working days</td>
</tr>
</tbody>
</table>

If not satisfied with decision ...

19
<table>
<thead>
<tr>
<th>Stage</th>
<th>Employee ...</th>
<th>Time frame</th>
<th>Cumulated time</th>
</tr>
</thead>
<tbody>
<tr>
<td>5</td>
<td>Employee approaches the fifth level of authority.</td>
<td>7 working days</td>
<td>20 working days</td>
</tr>
</tbody>
</table>

*If not satisfied with decision ...*

<table>
<thead>
<tr>
<th>Stage</th>
<th>Employee ...</th>
<th>Time frame</th>
<th>Cumulated time</th>
</tr>
</thead>
<tbody>
<tr>
<td>6</td>
<td>Employee approaches the sixth level of authority only in the event of the decision-making competency being at Head Office and not at the lower levels. In explaining the sixth stage, Emanuel (1994:94) contends that “there should then be a final level of appeal which may well be the Managing Director or other senior member of the management team. During this stage the participants could be top level management, that is, those representing the employer, the employee and his/her representatives.</td>
<td>10 working days</td>
<td>30 working days</td>
</tr>
</tbody>
</table>

*If not satisfied with decision ...*
Stage | Employee … | Time frame | Cumulated time
--- | --- | --- | ---
7 | Employee demands external remedies. At this stage, a grievance has developed into a dispute. Duane (1994:65) contends that this stage can be regarded as an appeal for which the participants meet to discuss the grievance that was not resolved within 30 working days. | | |

Table 1: Stages of the grievance process (Department of Correctional Services, Grievance Procedure Manual: 1996).

The DCS grievance procedure manual further states that if any supervisor is unable to resolve a grievance, he/she should refer it to the next level. An employee is entitled to refer his/her grievance to the relevant Sectoral Council if a grievance remains unresolved after the last stage, stage 7, or on expiry of the stipulated 30 days.

2.7 PREREQUISITES FOR A GOOD GRIEVANCE PROCEDURE

Nel et al (2005:91) state that it needs to be emphasised that South Africa is a constitutional state. The Constitution is the supreme law of the country. Chapter 2 of the Constitution of the Republic of South Africa, Act 108 of 1996, provides for certain fundamental rights to be enjoyed by all South African citizens. Section 23 of the Constitution deals specifically with labour relations and provides that everyone has the right to fair labour practices.
In view of the above, it follows that grievance handling (including in the DCS), in order to give effect to an aggrieved employee, is not only encouraged by the Labour Relations Act, Act 66 of 1995, but is a right afforded to every employee by the Constitution.

The DCS’s grievance handling (DBC Resolution 108 of 1996) is outdated since the PSCBC concluded Resolution 14 in 2002. A notable gap is perhaps the fact that the DCS grievance manual was written in 1997 whilst the PSCBC resolution was concluded in 2002. Nor does the DCS have a labour relations policy that articulates management’s or the DCS’s stance on grievance handling.

The consequent implications of unresolved grievances are discussed in the following paragraphs.

2.8 VICARIOUS LIABILITY

Olivier (2003) in the hand-out notes (contract of service, restraint of trade and vicarious liability. Lecture notes. Rand Afrikaans University: 2002:21) writes that according to the doctrine of vicarious liability an employer can be held liable for the unlawful (delictual) acts performed by his employees in the course and scope of their employment. To hold employers delictually liable, the necessary nexus must exist between the employer and employee. Furthermore, the employee should have acted within the course and scope of his employment. According to Olivier (2003), if the employer and employee are jointly and severally liable to the affected party, the employer has a right of recourse against the employee.

The provision of legislation aimed at assisting employees in terms of outlining their rights at a workplace should serve as motivation for employees to reveal and air their grievances more openly. This legislation, which will be discussed later, provides greater awareness to employees in terms of their rights.

A grievance is usually a complaint against an employer or a manager who represents an employer. Labour law has meanwhile developed to the extent that it provides remedies for the aggrieved taking into consideration various factors including compensation for damages. It is
therefore important and, in fact, in the employer's interest that an employer should always endeavour to attend to employees' grievances.

In a recent arbitration award of *Nouers vs Legend Security Pty Ltd (2005) 4 BALR 487 (CCMA)*, a senior HR manager was dismissed for failing to attend to an employee's complaint that she was being sexually harassed by her supervisor. The HR manager ignored the complainant's grievance repeatedly over a period of nine months whilst fully aware of the seriousness of the offence and, further, believed that his other duties were more important. This led to the complainant concluding that the company viewed her complaints as “trivial” and not worthy of urgent attention.

The arbitrator confirmed the fairness of the HR manager's dismissal; noting that he was grossly negligent and prejudiced good order and discipline within the company. The complainant could have resigned constructively and, in terms of the Employment Equity Act, could have claimed substantial damages against the perpetrator and the company based on the vicarious liability principle.

*In Ntsabo vs Real Security, (2003) 24 ILJ 2341 (LC)*, a female security guard was sexually harassed by her supervisor over a period of seven months. She brought the matter to the attention of management but to no avail. Instead, the victim was advised to resign in return for a good reference. As a result, the victim was traumatised and hospitalised with suicidal tendencies. The matter was referred to the Labour Court, which found that the employer had failed to take the necessary steps. The Court found that the employer was thus vicariously liable and ruled that the employer should pay R20 000 for future medical costs and R50 000 for general damages.

### 2.9 LEGISLATIVE FRAMEWORK.

Grievance handling processes in the South African context are encouraged and supported by different but related legislation, forums, resolutions and programmes, namely the Constitution, the Labour Relations Act, the Basic Conditions of Employment Act, the Skills Development Act, the Employment Equity Act, the Occupational Health and Safety Act, the Compensation for Occupational Injuries and Diseases Act, the Public Service Resolutions and Regulations, the Reconstruction and Development Programme (RDP) White Paper, the Promotion of
Administrative Justice Act, the Protected Disclosure Act, the Promotion of Access to Information Act, the NEDLAC, the PSCBC Resolutions and the referral to a commission.

In this section, the researcher will briefly outline each of the legislation, forums and resolutions or programmes mentioned illustrating their relationship with the grievance handling process in an employment relations context.

2.9.1 The Constitution of the Republic of South Africa (ACT 108 OF 1996)

Section 18 of the Constitution states that everyone has the right to freedom of association, which among other things, means a right to belong to a union, which in turn is seen as a convenient vehicle for pursuing grievances, rather than lodging a grievance alone and risk being victimised.

Section 23 (1) provides that everyone has the right to fair labour practices. This would imply that employers need to recognise an obligation not only to attend to grievances, but also to attempt by all means possible to resolve them. The concepts of rights, freedom and justice are specifically concerned with how people should be treated.

2.9.2 The Labour Relations Act (Act 66 of 1995)

Regarded as one of the most progressive pieces of legislation promoting worker rights, the main objectives of the Act are to advance economic development, social justice, labour peace and democratisation of the workplace. The Labour Relations Act aims to promote orderly collective bargaining at sectoral level, employee participation and decision making in the workplace and the effective resolution of labour disputes. It establishes parameters for employment relationship. It is encouraging to realise that this aim is positive towards the protection of employees against victimisation and interference by the employer. If employees become dissatisfied, then the employer will also feel the pain. As has been explained, grievances can indeed cause labour disputes, especially when they are neglected or left unresolved.
Labour law has developed to the extent that litigation for infringement has gone beyond the aim of rectifying to that of compensating the victims for damages incurred, as well as for anticipated damages.

2.9.3 Basic Conditions of Employment Act (Act 75 of 1997)

The Basic Conditions of Employment Act (BCEA) provides guidelines for the basic conditions of employment that the legislator regards as acceptable. It ensures that working hours do not exceed certain maxima, that employees are granted adequate breaks during a working day, that they are given prescribed annual paid sick leave, that they are paid extra for overtime work done on Sundays and public holidays, and that by and large they are accorded other basic rights.

The BCEA also regulates the minimum notice that must be given on termination of service. The South African Management Development Institute: Labour Relations (2002:111) concludes that any provision in an agreement that infringes a basic condition of employment, established in terms of this Act, is invalid unless the variation is permitted by the Act.

2.9.4 Skills Development Act (Act 97 of 1998)

The aim of this act is to develop and improve the skills of the South African workforce as well as to integrate those strategies within the National Qualifications Framework.

Section 2 of the Skills Development Act maintains that the purposes of the Act are also to increase the levels of investment in education and training in the labour market and to improve the return on that investment; to encourage employers to develop education and training centres within the workplace; to encourage workers to actively participate in programmes which were translated from the Act; to improve the employability conditions of the previously disadvantaged through education and training; and to ensure the quality of education and training in the workforce. An employee who feels short changed by the employer in this regard may lodge a grievance.
2.9.5 Employment Equity Act (Act 55 of 1998)

The Employment Equity Act aims to address main areas of concern such as discrimination, affirmative action, sexual harassment, medical testing (including HIV) and psychological testing. The main purpose of the Act is therefore to promote equality in the workplace by creating equal opportunities and fair treatment of people through the elimination of unfair discrimination and the implementation of affirmative action.

Carroll and Buchholtz (2000:534) define affirmative action as the taking of positive steps to hire and promote people from groups previously discriminated against. Employers, especially in the Public Service, are obligated to promote equity. All levels of government are expected to implement a policy of affirmative action to ensure that the public service is representative of all the people of South Africa, in racial, gender and geographical terms (RDP White Paper: Discussion Document, 1994:42).

Within South African society, blacks, women and the disabled were previously discriminated against and affirmative action has been introduced as a tool to redress the conditions of the past. Equity is the state of fairness, unbiasedness and treatment of people on an equal basis. This Act promotes the grievance procedure process in the workplace.

2.9.6 Occupational Health and Safety Act (Act 85 of 1993)

This Act imposes a duty on employers to provide a working environment that is reasonably safe and healthy; to provide protective equipment where necessary; and give such information to employees. It also requires employers to give training and supervision as is necessary to ensure health and safety and to report any incident in which a person dies or is injured or when dangerous situations arise to an inspector. Stevenson (1999:325) contends that a law on occupational safety and health is aimed at ensuring that employees in all workplaces have healthy and safe working conditions, and to provide specific safety regulations with inspections that must be carried out at random and when complaints of unsafe conditions are received.
2.9.7 Compensation for Occupational Injuries and Diseases Act (Act 130 of 1993)

This Act provides for compensation of employees or their dependents who have been incapacitated as a result of injury arising from the performance of their work from a fund specially created for that purpose. This safeguards the employer against claims made against it for injuries, death or an occupational disease arising from the employment of a person except if the injury, death or disease is the result of deliberate wrongdoing by the employer. Through the stipulations contained in this Act, the beneficiaries are entitled to claim benefits directly from the specially established fund.

2.9.8 Public service resolutions and regulations

It has been mentioned, in terms of Section 41 of the Public Service Act (1994), that the Minister has the power to promulgate regulations in which specific aspects relating to labour relations within the whole of the public service or a part thereof are regulated. Resolutions are collective agreements reached in one of the bargaining councils of the public service. Resolutions signed in these councils, in terms of Section 23 of the LRA, become binding on all the parties to the collective agreement.


The RDP White Paper addresses a number of concerns in that it (the RDP) is a social policy that aims at mobilising different resources within society in the common development of communities by themselves. It also protects the grievance handling process because it advocates sound industrial relations and requires strong trade unions that have the confidence of their members. The discussion paper requires government to encourage the extension of basic trade union rights to all its employees and the procedures to be negotiated to enhance workplace democracy and collective bargaining (RDP White Paper: Discussion Document, 1994:43).
2.9.10 Promotion of Administrative Justice Act (Act 3 of 2000)

This Act gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to written reasons for administrative action as contemplated in Section 33 of the Constitution. This Act endeavours to promote efficient administration and good governance by creating a culture of accountability, openness and transparency in the public administration or in the exercise of a public power or the performance of a public function.

2.9.11 Protected Disclosures Act (Act 26 of 2000)

The Protected Disclosures Act makes provision for procedures in terms of which employees in both the private and the public sector may disclose information regarding unlawful or irregular conduct by their employers or other employees in the employ of their employers. It also provides for the protection of employees who make a disclosure with regard to their dissatisfaction.

2.9.12 Promotion of Access to Information Act (Act 2 of 2000)

This Act gives effect to the constitutional right of access to any information held by the State as well as any information that is held by another person and that is required for the exercise or protection of any rights.

2.9.13 The National Economic Development and Labour Council (NEDLAC)

NEDLAC is a forum where labour, business and society look at socioeconomic issues. It has been specifically established to protect the workers at their workplace. The constituencies in NEDLAC have engaged intensively over and have resolved to act in concert to create jobs, stable and fair industrial relations, respect for worker rights and sustainable growth and development (http://www.nedlac.org.za/about/lmc/html). NEDLAC (1999:3) states that employers should create and maintain a working environment in which the dignity of employees is respected. A climate in the workplace should also be created and maintained in which victims of sexual harassment will not feel that their grievances are ignored or trivialised, or fear reprisals.
NEDLAC is translated from the RDP White Paper (1994) that maintains that it (NEDLAC) is aimed at human resources and capacity building development (for further information refer to http://www.polity.org.za/govdocs/whitepapers/rdpwhite.html).

2.9.14 PSCBC Resolutions

PSCBC Resolution 14 of 2002 (grievance rules in the public service) notes the need to protect employees from arbitrary action by the employer. The resolution maintains that the purposes of code and procedure are to support constructive labour relations in the public service; to promote mutual respect between employees and between employees and employer; to ensure that managers and employees share a common understanding of misconduct and discipline; to promote acceptable conduct; to provide employees and the employer with a quick and easy reference for the application of discipline; to avert and correct unacceptable conduct; and to prevent arbitrary or discriminatory action by managers towards employees (Amendments to Resolution 2 of 1999: Disciplinary Code and Procedures for the Public Service, section 1). The researcher is of the opinion that the Amendments to Resolution 2 of 1999: Disciplinary Code and Procedures for the Public Service is the most recent resolution providing guidelines for both management and employees on grievance handling procedures in the public service.

2.9.15 Referral to the Commission

The PSCBC Resolution 14 of 2002 aims to

- give effect to section 196(4)(f)(ii) of the Constitution which empowers the Commission to investigate grievances of employees in the public service concerning official’s acts or omissions, and recommend appropriate remedies.
- give effect to section 11 of the Public Service Commission Act (Act 46 of 1997) which empowers the Commission to make rules to deal with grievances
- promote speedy, impartial and equitable handling of grievances; sound labour relations; and the resolution of individual grievances at the lowest possible level in a department

Once the Commission has received all information from the executing authority, it must within 30 days consider such grievance and inform the executing authority of its recommendations and the reasons for its decision in writing.
On receipt of the Commission’s recommendation, the executing authority must, within five days, inform the employee and the Commission of his/her decision in writing.

In terms of this resolution, adherence to time limits is very important. A grievance must be lodged with the employer within 90 days of the date on which the employee became aware of the official act or omission that adversely affected him/her. An employee may demand that his/her grievance be referred to the Commission within 10 days of receiving the executing authority’s decision. The department (including the executing authority) has 30 days to deal with the grievance. The period may be extended by mutual agreement in writing.

If after the aggrieved employee is informed of the outcome of the grievance and he/she remains dissatisfied:

- He/she must inform the executing authority in writing within 10 days.

- The executing authority must in terms of section 35(1) of the Public Service Act 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 period referred to in Clause 8, the aggrieved officer may lodge his/her grievance with (a) the Commission directly; and/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.
With all the above prescripts in mind, it is obvious that employee frustrations arising from non-compliance by the employer could be minimised and thereby limit the probability of or the occurrence of further complaints, grievances and/or disputes in the workplace.

The importance of the effective management of grievances in the workplace should be associated with the promotion of sound labour relations, which is necessary for the ultimate realisation of both parties’ interests. Correct and effective grievance procedures in the employment realm should contribute to ensuring that employees contribute effectively and efficiently to the goals of the employer's business.

A key principle of the code of good practice is that employers and employees should treat one another with mutual respect. According to the LRA, a premium is placed on both employment justice and the efficient operation of the business; while employees should be protected from arbitrary action; employers are entitled to satisfactory conduct and work performance from their employees.

2.10 THE EMPLOYMENT RELATIONSHIP

Employers and employees have an unbalanced relationship in the sense that the employee provides labour and the employer compensates him/her in monetary terms. The employer brings only the forces of production to the relationship. The employee, on the other hand, provides the organisation with a number of resources such as, to name but a few, labour, knowledge, skills and attitudes, which all contribute to the profit making and growth of the organisation. Sullivan and Thompson (1994:177) are of the view that the employee’s labour is exploited in that he/she is paid a salary which is far below the value of the products and services he/she develops for the organisation. The employer makes profit out of this transaction. This situation poses a threat to the employer/employee relationship, as it is mostly characterised by disequilibrium. Disequilibrium implies that the smooth running of the organisation may be negatively affected when a conflict between the employer and employee arises.

It is a common occurrence that when means to liberate the employee have failed, the result is a grievance.
A grievance can also be viewed as a form of conflict that arises when two opposing factors interact and differ in their anticipated interests. The frustrations of employees become evident when their needs and rights are violated by the employer.

2.10.1 Needs and expectations of employees

In a conflict environment, the researcher maintains that there are needs and expectations which an employee brings to the workplace namely, a good salary, shared decision making, a healthy and safe work environment, job security and social development, which have to be addressed if the organisation is to recover and maintain its status quo.

2.10.1.1 Good salary

Employees frequently come into conflict with management over an increase in their salary payment. A meagre salary predisposes the employee to poverty and as such his/her demand for an increase in salary must be seen as rational. Mamburu (2004) has identified the fact that domestic workers and the agricultural labourers in South African society should be classified as the “working poor” because even when people in these sectors work, they are paid minimal salaries which are inadequate for their household requirements, education, health care facilities, shelter, transport, and so on. It has been realised that the cause of most industrial conflicts and strikes are as a result of a demand for an increase in salaries and improved working conditions by employees. Employees should therefore be protected from receiving low salary payments from their employers.

2.10.1.2 Shared decision making

Management must consider sharing the decision-making process with employees as advocated by the LRA, because employees are in fact the implementing agents of all programmes and activities within their organisations. This does not imply that the importance of the top-down analogy is undermined. Employees still require a single authoritative figure that has to issue them with directions in the day-to-day running of their tasks.
An example of this is that in any business an employer must still be regarded as the single marshal who gives orders to its employees (Dror, 1986:5). By sharing decision-making process, the researcher implies that the bottom-up approach must be encouraged because through it there is increased interaction between the employees and management so that the latter is accordingly informed of the employees’ frustrations and dissatisfactions (Sabatier, 1997:28).

Frustration is a psychological concept and it develops when the employee feels his/her grievances are not being recognised, attended to or settled by management. Frustrations could develop into serious aggression and sometimes damage to organisational property (Carson, Butcher & Coleman, 1988:272-273). When close interaction between employers and employees is achieved, there is little possibility of the employees’ frustrations and dissatisfactions surfacing.

Management should realise that employees can be extremely powerful, because their frustrations can disrupt business, cause embarrassment and even cause the organisation to close shop if their demands are not met. Management should therefore strive to reach a condition wherein power between it and the employees is balanced. This means that reciprocal interaction between them takes place, during which each learns from the knowledge, skills, attitudes and experience of the other. Balanced power entails co-operation between the two parties being maintained.

2.10.1.3 Healthy and safe work environment

A healthy and safe working environment is that which is free from health hazards, accidents and poor air and water pollution. Humans interact with different environments, which may be classified into the following: the natural environment, the economic environment, the social environment, the psychological environment, the political environment and the cultural environment. The employer must ensure that these environments do not pose health or safety threats to employees.

2.10.1.4 Job security

It is expected that good employment should generate adequate monthly incomes for employees.
These incomes are associated with other benefits such as unemployment insurance, workman's compensation, pension, leave gratuities, maternity leave, housing, car subsidies and other fringe benefits. An employer who fails to provide his/her employees with the most important benefits, which are in this instance called job security, is likely to face internal conflict.

It is therefore important for the employer to make sure that the job security items mentioned in this paragraph are in place. The researcher has already referred to legislation that makes provision for the protection of employees through these requirements.

2.10.1.5 Social development

Social development is a concept that is closely related to capacity building. This entails that the socio-economic status of the employees is enhanced through their exposure to education and training. The RDP White Paper: Discussion Document (1994:48) has mentioned that the programme has been introduced in the South African context in order to ensure that participation in policy making and planning as well as project implementation takes place. The empowerment of institutions of civil society is a fundamental aim of the government’s approach to building national consensus. Thus, when we discuss the employees’ needs within the social development paradigm, we must also mention the notion that employees must be empowered. The concept of empowerment implies that people’s knowledge, skills and attitudes are enhanced with regard to their ability to develop themselves.

Empowered employees have an increased ability to develop their own environments in a manner that is favourable to their circumstances. Employees who are empowered are sufficiently able to do things on their own without relying on management or other outside help.

Although the inherent relationship between employer and employee is unbalanced, South African legislation has by and large improved the position of employees to a respectable state consistent not only with developed countries, but also with international conventions.

The analysis in this chapter is meant to define the employer–employee relationship as an interaction that is always characterised by recurrent conflicts, grievances and possible disputes. The chapter has also suggested an intervention for addressing these conflicts, grievances and
disputes through the development of strategies which supervisors and managers need to implement in order to address employees’ needs and expectations.
CHAPTER 3

GRIEVANCE HANDLING IN THE DEPARTMENT OF CORRECTIONAL SERVICES: A CRITICAL EVALUATION

3.1 INTRODUCTION

Different government departments and related institutions develop their own grievance procedure from the principal legislation and/or regulations meant for the public service. This chapter discusses the DCS's grievance procedure by defining the concept "grievance procedure manual", and describing its objectives.

3.2 DEFINITION OF A GRIEVANCE PROCEDURE

A grievance procedure may be defined as a protocol translated from the primary legislation and that is applicable to the work environment of the employer. In this context therefore, it is the Department of Correctional Service: Grievance Procedure Manual, which was compiled by both management and the recognised unions as a resolution or collective agreement with regard to handling grievances.

There is always an advantage in utilising a collective agreement or resolution for the following reasons:

- Resolutions are usually simplified and therefore are easy to implement, monitor and evaluate.

- Resolutions are relevant to the situation in the specific organisation.

- Resolutions become the product of both the employer and employees.

- Resolutions contain only the signatories belonging to that particular organisation, and therefore it is easy to make reference to persons known to one.
• Resolutions are highly flexible and can therefore be altered at any time by the management of the particular organisation together with stakeholders such as the unions.

• Resolutions are customised.

3.3 GRIEVANCE HANDLING IN THE DCS

The researcher intends to make a distinction between the aim/purpose/goal and the objectives of the manual. Whilst an aim can also be referred to as a goal or purpose, it implies the general achievement of the grievance procedure manual. The aim/purpose/goal can also be viewed as the entire vision of that particular document.

Objectives, on the other hand, are activities that are translated from the general aim of the manual. Objectives must therefore be specifically mentioned, they must be expressed in measurable terms and they must be expressed in the form of the activities that have to be carried out in order to realise a goal.

Having analysed the objectives of the grievance procedure manual of the DCS the researcher intends exploring shortcomings within the system by

• making a detailed exposition of them so that the audience of this research work find them simple to understand

• including the relevant examples with regard to the objectives’ applicability in the DCS

• identifying both the limitations and qualities of the objectives with regard to their effectiveness in addressing the grievance procedures within the DCS

• suggesting recommendations for improving the guidelines for the grievance handling procedures

There are seven objectives for the DCS’s grievance procedure, which are discussed below.
3.3.1 **Employer / Employee relations**

There are always employee grievances even when a state of equilibrium is maintained in an organisation, because every employee naturally has some form of dissatisfaction and discomfort. The employer has the obligation to make sure that a peaceful relationship between the employer and the employee is sustainable. Employers and employees should strive to establish common objectives that will maximise the benefits of all of them and the entire organisation. Thus when they reach a consensus, productivity, quality and sales improve and, as a result, their business grows.

The researcher is of the opinion that management should use all means possible to ensure that this relationship is not retarded. This is supported by South African Management Development Institute: Labour Relations (2002:24), which states that parties to a labour relationship should endeavour to create maximum labour peace through the introduction and maintenance of effective structures and processes for conflict management.

3.3.2 **Timely identification and settlement of grievances**

It is the employer’s responsibility to engage in the processes of identification and settlement of grievances that develop from its interaction with the employees. The concept “identification” is specified in simple terms in this context. It does not therefore entail a mere looking for possible grievances in the organisation. Identification implies the utilisation of different methods of observation, such as for example, attending meetings and forums, interviewing employees, employee performance monitoring and assessment, and others methods, to gather information to be used to detect the existence of grievances in the workplace. The South African Management Development Institute: Labour Relations (2002:24) states that these are the areas in which conflict can arise and employers should try to establish the reasons for and sources of conflict in those areas. This will ensure a proper understanding of the origin and nature of conflict, and lay a foundation for the structuring of an effective conflict management system.

Settlement simply means resolving of a problem, conflict or grievance.
The DCS grievance procedure advises that the identification and settlement of grievances should be conducted on a regular basis. This imposes a requirement that the observation procedure mentioned above should be an ongoing process. The continuity of this process implies that the grievances are immediately identified and settled. Once this stage is achieved, the relationship between the two parties will be maintained.

### 3.3.3 Conflict management

The advent of many industrial strikes is as a result of unresolved conflict, and sometimes it can be very costly and disruptive to the systems of the organisation. It is true that many of these conflicts may have started out as very small problems, but developed because in many instances, management was reluctant to address them. It was stated in the previous chapter that grievances in the workplace usually occur at the level where the employee and the immediate supervisor interact.

If the supervisor is incompetent as far as planning, implementing, monitoring and evaluating the policies on grievances are concerned, this may be a source of grievances. Employees and their immediate supervisors are often engaged in conflict and friction that they are sometimes able to resolve among themselves. Supervisors must be capacitated in matters of proper management practice otherwise they might cause the organisations serious damage with regard to grievances. It should be mentioned here that most grievances that occur during interaction between employees and supervisors are indicative of the inevitable differences in the interpretation of how certain things need to be done in a workplace.

It is therefore the employer's obligation to build the capacity of its supervisory staff so that grievances may be avoided.

Management should always avoid delays in settling grievances because failure to do so results in grievances that were initially supposed to be settled internally developing into costly disputes that have to be settled externally.

The South African Management Development Institute: Labour Relations (2002:62) maintains that the line supervisor or manager is responsible for the investigation and resolution of
grievances. The labour relations department should only act in an advisory and monitoring capacity and should not take decisions regarding grievances.

3.3.4 Identification and eradication of harmful practices

To eradicate means to totally destroy or remove the occurrence or existence of something. Management should always be guided by the principles of proper management. Management principles are embedded in the ethical requirements that protect them from violating the rights of the employees. This protection does not imply that they save themselves from threat and intimidation by employees. Although this is possible, management may lose large amounts of money, which can lead to the closure of their business if they are found guilty of using unethical management principles. This exposition places both the employer and the employees in different positions. Thus, the employee may lose a job and other related benefits if he/she contravenes the regulations of the employer, whilst the employer on the other hand, may lose the entire business and of course its reputation if it contravenes the rights of the employee. People do not want to do business with organisations that society has labelled as infringing the rights of others. It therefore warns management that unless it plays by the rules contained in the book, it might lose the entire business in the process. It is advisable for any organisation to build and sustain a good reputation, especially in this highly competitive era.

To reach consensus, both sides should be mindful of and willing to relinquish authority and control. This win-win condition is advocated by Streshly and DeMitchell (1994:76) who state that it is advisable for employers and employees to be willing to abandon their traditional roles.

3.3.5 Recognition of employee’s rights

The concept of rights has been discussed earlier in this report. The researcher contends that the management of an organisation should be aware of its rights and obligations. This therefore implies that a discussion in this context will only concentrate on the rights of the employees. The other reason is that in the unbalanced relationship between employer and employee, it is the latter that is treated with disrespect by the former.

Chapter 2 of the Constitution of the Republic of South Africa (Act 108 of 1996) provides for the enumeration of the Bill of Rights. The Bill of Rights is a cornerstone of democracy in South
Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom (Section 1 of Constitution of the Republic of South Africa, Act 108 of 1996).

The researcher is of the opinion that knowledge of the rights of employees is required. This can include the following: the right to employment, to work, to receive a salary and other benefits, to withhold his/her labour in times of dissatisfaction, to be capacitated, to freedom of association and becoming a member of the union, to job security, to protection of safety and health, to negotiate and bargain collectively, to protection against unfair labour practice, and to protection against unfair discrimination. These rights have been extracted from the supportive legislation mentioned earlier in this work.

Although the rights of the people are specified in a manner that is easy to comprehend, it becomes difficult in the workplace environment for supervisors and their respective management to consider them. This condition predisposes them to the violation of the rights of others.

3.3.6 Effective Grievance management

It has been mentioned that management is often embroiled in grievance handling situations in which there have been irregular procedural practices. There seems to be an absence of a proper mechanism within organisations that may be entrusted with the task of evaluating situations before decisions are made.

The researcher belongs to the school of thought that maintains that in a fully-fledged organisation, such as the DCS, there is a serious need for a directorate that is solely responsible for identifying grievances in the workplace, without being engaged in settling them. This is the type of routine human resource auditing that does not solve but rather highlights problem areas.

The researcher is of the opinion that the inability to handle grievances properly poses a serious threat to management and unless the knowledge and skills surrounding it are enhanced, the employer will continue to retard the rights of its employees. Management should develop strategic instruments designed specifically for dealing with grievances. These strategic instruments should be composed of elements of the process through
which grievances are made known to management, and accordingly investigated in an in-depth and unbiased manner. The best alternatives should then be identified and selected, and these alternatives used when making judicious decisions. Grievance handling should therefore be treated as a strategic process.

Paying proper attention to dealing with grievances entails consulting a regulatory and procedural manual. These documents have an unobtrusive quality, meaning that they do not change their contents when reference is made to them. This puts management in a position to obtain standing advice as to what action they can take regarding the grievances raised by employees. Workplace problems and grievances may be avoided if management refrains from taking decisions without first consulting and/or negotiating with employees.

The South African Management Development Institute: Labour Relations (2002:62) advises that the person investigating the grievance should remain objective at all times during the grievance investigation, and consider the influence of resolution options for the employer and employee as well as the setting of precedents in the labour relationship.

### 3.3.7 Ensuring a uniform manner of dealing with grievances

Grievance procedure manuals provide management with the unbiased information it needs when dealing with the diverse nature of grievances. Consulting manuals enables management to find information that is relevant for making the decisions on grievances that it needs to make. This also means that when manuals are utilised as measurement instruments, they ensure that similar grievances are settled in a similar fashion. The researcher is of the opinion that management should enhance its ability to analyse the qualitative information through which most grievances are expressed. Qualitative information means data that are expressed in a contextual manner. They are often very difficult to analyse and interpret. This type of information is obtained from records such as official documents, files and interviews with employees.

The PSCBC Resolution No 1 of 2003, Amendments to Resolution 2 of 1999: Disciplinary Code and Procedures for the Public Service (Section 4.3) maintains that management must assess the seriousness of the alleged misconduct by considering:
• the actual or potential impact of the alleged misconduct on the work of the public service, the employee’s component and colleagues, and the public

• the nature of the employee’s work and responsibilities

• the circumstances in which the alleged misconduct took place

This exposition indicates that management is required to conduct a thorough analysis of the information that it has obtained from different sources.
CHAPTER 4

THE INVESTIGATION

4.1 RESEARCH INSTRUMENT

The researcher investigated the effectiveness of grievance handling in the DCS by means of a self-administered questionnaire containing both quantitative and qualitative elements. Section A of the questionnaire reflects information on the respondents' demographic details. Section B presents an environment in which the respondents, especially those on the coalface of delivery or at the grassroots, were able to spontaneously give first-hand information about the nature of the grievance handling processes in the DCS. Please see Annexure 1 for the questionnaire.

4.2 THE POPULATION

The population is sometimes described as an abstract concept. The population for this study consists of all DCS employees in the Gauteng Region. According to the Department of Correctional Services' Persal report as of 31 March 2004, Gauteng had 7051 filled posts. In other words, the filled establishment for the Gauteng Region was 7051. For the purpose of this study, the researcher uses the DCS rank structure which is as follows:

The Chief Deputy Commissioner : (CDC)
The Deputy Commissioner : (DC)
Director :( Dir)
Deputy Director :( DD)
Assistant Director :( ASD)
Senior Correctional Officer :( SCO)
Correctional Officer Grade I :( CO I)
Correctional Officer Grade II :( CO II)
Correctional Officer Grade III :( COIII)
It also needs to be mentioned here that management areas and correctional centres are identical in terms of structure and functions. The population for this study is thus reflected in figure 1 below.

Figure 1: The population for the study (DCS Persal report March 2004)
The population for this study as reflected in figure 1 above is the Gauteng Region of the DCS. Figure 1 indicates the eight management centres as well as the respective personnel strength. According to the DCS Persal report, the filled personnel total for Gauteng Region as of 31 March 2004 is 7501.

4.2.1 The sample

A sample is a subset of the population, which in this regard consisted of employees working at any of the eight management centres. A sample was selected randomly from the population as described in the following paragraph.

4.2.2 Selection of sample

There are eight (8) Management Areas in Gauteng consisting of about 7501 employees. Five hundred questionnaires were handed out to the Heads of Correctional Centres in Gauteng. The instruction was to select every fifth employee on the duty list at every Prison during the morning parade. The number of the sample in relation to the population is reflected in Table 2.

<table>
<thead>
<tr>
<th>RANK</th>
<th>TOTAL</th>
<th>SAMPLE</th>
<th>PERCENTAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>CDC</td>
<td>1</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>DC</td>
<td>3</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Director</td>
<td>18</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Deputy Director</td>
<td>56</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Assistant Director</td>
<td>95</td>
<td>9</td>
<td>9.5</td>
</tr>
<tr>
<td>Senior Correctional Officer</td>
<td>284</td>
<td>20</td>
<td>7</td>
</tr>
<tr>
<td>Correctional Officer I</td>
<td>2235</td>
<td>43</td>
<td>1.9</td>
</tr>
<tr>
<td>Correctional Officer II</td>
<td>2040</td>
<td>26</td>
<td>1.3</td>
</tr>
<tr>
<td>Correctional Officer III</td>
<td>2769</td>
<td>33</td>
<td>1.2</td>
</tr>
<tr>
<td>TOTAL</td>
<td>7501</td>
<td>131</td>
<td>1.7</td>
</tr>
</tbody>
</table>

Table 2: Sample in relation to the population
Table 2 indicates that a high number of Assistant Directors participated in the study. There is a 9.5 percent representation at the Assistant Director's level for this study. Senior Correctional Officers also participated well in that they were represented by 7 percent.

Although the majority of the respondents were Correctional Officers (Grade 1 to Grade III) who constituted a total of 102, these represented an average of 1 percent in relation to the total in rank in the whole region as indicated in this table.

4.2.3 Administration

Subjects had the opportunity to complete the questionnaire in their own time and to return these the next morning to the Head of the Prison. One hundred and thirty one (131) usable questionnaires were received and an additional twenty (20) incomplete ones were received which were rejected.

4.3 SECTION A: THE DEMOGRAPHIC DATA

4.3.1 The ranks of the respondents

The ranks of the participants are presented in Figure 2 below.
According to the information in Figure 2, the highest number of respondents was employees at the level of Correctional Officers Grade I (COI). These officers numbered 43 as they constituted 32.8 percent of the sample. This is followed by Correctional Officers Grade III (COIII), 33 in number who constituted 25.2 percent of the sample. The COII officers were 26 in number and constituted 19.9 percent of the sample. The SCO grouping numbered 20 and constituted 15.3 percent. There was a lower representation of higher-level officials in the research study because there were only nine (6.9%) Assistant Directors, whilst Deputy Directors and higher did not participate at all.

4.3.2 AREAS WHERE THE RESPONDENTS ARE STATIONED

This information is aimed at demonstrating that the research study was representative of various prisons in the Gauteng Region. The areas are presented in Figure 3 below.
The respondents who participated in this study were stationed in various management areas. In fact, of the eight management areas in Gauteng, five participated and the actual number of participants was as follows:

- Boksburg had the most, 44 respondents, representing 33.6 percent of the sample
- Johannesburg was second with a total 42, representing 32.10 percent of the sample
- Modderbee came third with 33 respondents, representing 25.2 percent of the sample
- Leeuwkop and Pretoria had the least with 10 (7.6%) and 2 (1.5%) respectively.
4.3.3 YEARS OF SERVICE OF THE RESPONDENTS

YEARS OF SERVICE OF RESPONDENTS

Figure 4: Years of service of the respondents

It appears from figure 4 that a whopping 126, representing 96.2% percent, have been with the Department for a period exceeding three years. This implies that they provide valuable information because they bring a wealth of experience to the research. Five respondents, representing 3.8 percent, have been in the service of the Department for a period of between one and three years.
4.4 SECTION B: THE FINDINGS

4.4.1 Knowledge of grievance handling

Question B.1: Did part of your orientation or basic training include issues on grievance handling?

The respondents reported as follows:

Table 3: The manner in which respondents were oriented or trained with regard to issues on grievance handling

<table>
<thead>
<tr>
<th>Responses</th>
<th>Number of respondents</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>No. I was not inducted in grievance handling</td>
<td>43</td>
<td>32.8</td>
</tr>
<tr>
<td>I was only given documents to read about issues on grievance handling</td>
<td>29</td>
<td>22.1</td>
</tr>
<tr>
<td>Yes, basic training included issues on grievance handling</td>
<td>28</td>
<td>21.4</td>
</tr>
<tr>
<td>Yes, my orientation included issues on grievance handling</td>
<td>16</td>
<td>12.2</td>
</tr>
<tr>
<td>No, only a brief orientation on issues on grievance handling were included</td>
<td>15</td>
<td>11.5</td>
</tr>
<tr>
<td>TOTAL</td>
<td>131</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 3: Orientation and training of employees on grievance handling

It is DCS policy to expose its officials to issues pertaining to grievance handling during orientation and induction sessions. This is important in order to ensure that employees are, from the outset, aware of their rights and that they know which procedures to follow when aggrieved.

It is therefore disturbing to note that, according to Table 3, a total of 43 (32.8%) respondents reported that they had not been exposed to this type of induction during their working history with the DCS.
Question B.2: During the last 3 years, have you attended a training course or been given information on grievance procedures?

Figure 5: Orientation and training

One of the most important aspects that must be considered in order for grievance procedures to be effective is that these procedures should be known and available to all employees. The researcher intended to find out whether respondents had been exposed to training in or information on grievance handling.

The information in Figure 5 revealed that 78.6 percent of respondents had not received training, whilst 21.4 percent said they did.
This aspect should also be of great concern to the Department because the airing and handling of grievances are fundamental to any business. These employees should at all times know when and how to raise their concerns in the workplace in line with the LRA’s objective of democratising the workplace.

4.4.3 Major causes of grievances in the Department of Correctional Services

Question B.3: In your opinion, what are the major causes of grievances amongst the staff at your workplace?

The responses are summarised in Table 4 below.

<table>
<thead>
<tr>
<th>Responses</th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ill-treatment by supervisors and management.</td>
<td>49</td>
<td>37.4</td>
</tr>
<tr>
<td>Unacceptable working conditions</td>
<td>34</td>
<td>25.9</td>
</tr>
<tr>
<td>Poor supervisor/employee relationship</td>
<td>16</td>
<td>12.2</td>
</tr>
<tr>
<td>No response</td>
<td>15</td>
<td>11.5</td>
</tr>
<tr>
<td>Poor communication</td>
<td>9</td>
<td>6.9</td>
</tr>
<tr>
<td>Lack of fairness in the treatment of employees within the DCS</td>
<td>5</td>
<td>4.0</td>
</tr>
<tr>
<td>Employees badly treated by supervisors</td>
<td>3</td>
<td>2.3</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>131</strong></td>
<td><strong>100</strong></td>
</tr>
</tbody>
</table>

Table 4: Major causes of grievances in the Department of Correctional Services

It would appear from the responses in Table 4 that the majority, 37.4 percent, do not approve of the treatment that they get from the employer and that they attribute most of their grievances to this fact. Another group, 25.9 percent, reported that working conditions needed to be improved if efforts were to be made to avoid grievances.

4.4.4 Effects of unresolved grievances on staff morale and satisfaction

Question B.4: In your opinion, do these causes have any effect on staff satisfaction (morale)?
Nel et al (2005:235) warns that management should realise that it is healthy to channel employees' complaints and grievances by means of some procedure before these grievances accumulate to such an extent that they are expressed in some or other form of industrial conflict, such as high absentee rate, high labour turnover, diminishing team spirit or strikes. This is even more important in an essential service institution like the DCS.

According to the responses, 119 (90.8%) respondents confirmed that factors leading to a grievance have an effect on their job satisfaction and morale.

4.4.5 IMPACT OF FACTORS CAUSING GRIEVANCES

Question B.5: In your opinion, are these influences positive or negative?

The responses are reflected in Figure 5 below.

![Pie Chart](Image)

**Figure 6: Impacts on the DCS**
Various factors can cause employees to feel aggrieved and, as a result, grievance settlement becomes critical. The business may be adversely affected if employees feel that management does not attend to the causes of grievances.

Figure 6 shows that 89.3 percent of the respondents reported that they are negatively affected by unresolved grievances.

4.4.6 Employees’ reaction to management’s way of handling grievances

Question B.6: Did you personally ever need to do the following as a result of how your grievance in the DCS was handled?

- Desired to improve performance
- Consulted employee assistance programme
- Desired to take vacation leave
- Desired to take sick leave
- Needed medical attention

Respondents were asked a multiple-choice question so that they could explain how they responded to management after they had referred their grievances. The responses are reflected in Table 5.

<table>
<thead>
<tr>
<th>Responses</th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Desired to take vacation leave</td>
<td>50</td>
<td>28.3</td>
</tr>
<tr>
<td>Desired to improve performance</td>
<td>46</td>
<td>26.0</td>
</tr>
<tr>
<td>Desired to take sick leave</td>
<td>38</td>
<td>21.5</td>
</tr>
<tr>
<td>Consulted employee assistance programme</td>
<td>24</td>
<td>13.6</td>
</tr>
<tr>
<td>Needed medical attention</td>
<td>19</td>
<td>10.7</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>177</td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

*Note: some respondents chose more than one action.*

Table 5: The effect of grievances on employees
According to table 5, 28 percent of the respondents reported that they have considered taking vacation leave so that they could be away from the workplace. It is however encouraging to note that a section of the respondents, 26 percent, reported that they have sought to improve their performance. 21.5 percent of the respondents reported that when confronted with grievances; they resort to taking sick leave, in other words, feigning sickness.

Of the respondents, 13.6 percent reported that they had consulted the Employee Assistance Practitioner, whilst 10.7 percent reported that they needed medical attention.

4.4.7 Measurement of the DCS’s grievance handling process

Question B.7: How would you rate the DCS’s grievance handling process?

Excellent
Good
Not very good
Poor
Very poor

The respondents were requested to rate the DCS with regard to its grievance handling process according to a scale ranging from very poor to excellent. The results are reflected in Table 6.

<table>
<thead>
<tr>
<th>Rates</th>
<th>Number of respondents</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very poor</td>
<td>43</td>
<td>32.8</td>
</tr>
<tr>
<td>Not very good</td>
<td>40</td>
<td>30.5</td>
</tr>
<tr>
<td>Poor</td>
<td>33</td>
<td>25.2</td>
</tr>
<tr>
<td>Good</td>
<td>15</td>
<td>11.5</td>
</tr>
<tr>
<td>Excellent</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>TOTAL</td>
<td>131</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 6: Measurement of the DCS’s involvement in the grievance handling process
It is very important for employees to believe in the employer’s grievance handling procedure. According to Table 6, a total of 32.8 percent rated the DCS’s grievance handling as very poor and 30.5 percent reported that it is not very good; 25.2 percent rated it as poor.

There is a very small section of the respondents (11.5%) who rated the procedure as good and none of the respondents think that DCS grievance handling is excellent. This result is indeed alarming and should be regarded as cause for concern for the Department.

4.4.8 Reasons why the DCS’s way of handling grievances is considered good/bad

Question B.8: What is the reason for your answer in No.7 above?

The responses are reflected in Table 7.

<table>
<thead>
<tr>
<th>The reasons:</th>
<th>Respondents</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management is poorly trained in grievance handling</td>
<td>51</td>
<td>38.9</td>
</tr>
<tr>
<td>There is a serious delay in the treatment of grievances within the DCS</td>
<td>36</td>
<td>27.5</td>
</tr>
<tr>
<td>There is a poor feedback</td>
<td>18</td>
<td>13.7</td>
</tr>
<tr>
<td>There is favouritism within the DCS</td>
<td>8</td>
<td>6.1</td>
</tr>
<tr>
<td>Some of the grievances are hidden and end up being thrown away by the supervisors</td>
<td>5</td>
<td>3.8</td>
</tr>
<tr>
<td>Supervisors within the DCS are incompetent with regard to grievance handling process</td>
<td>5</td>
<td>3.8</td>
</tr>
<tr>
<td>Grievances are associated with high level of victimisation of the employees by their supervisors</td>
<td>4</td>
<td>3.1</td>
</tr>
<tr>
<td>Employees do not care and as such do not follow up</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>Grievance handling process within the DCS is taking place in a professional manner</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>131</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Table 7: Reasons for the nature of DCS’s grievance handling process
Poor handling of grievances by the DCS was largely attributed to poor training in grievance handling, which is represented by 38.9 percent of the respondents, whilst 27.5 percent attributed poor handling of grievances to serious delays in paying attention to grievances. Poor feedback and favouritism were also reported as reasons for non-effective resolution of grievances. These malpractices need to be eradicated in the Department lest they become a culture.

4.4.9 SHORTCOMINGS OF THE DCS’s GRIEVANCE PROCEDURE

Question B.9: What do you perceive to be the most common shortcoming (if any) in the DCS’s grievance procedure?

The responses are reflected in Table 8 below

<table>
<thead>
<tr>
<th>Responses</th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management not interested in resolving grievances</td>
<td>57</td>
<td>43.5</td>
</tr>
<tr>
<td>There is seriously poor management (incompetence)</td>
<td>38</td>
<td>29</td>
</tr>
<tr>
<td>It usually takes too long to process the grievances in the DCS</td>
<td>14</td>
<td>10.7</td>
</tr>
<tr>
<td>There is unfairness within the DCS</td>
<td>9</td>
<td>6.9</td>
</tr>
<tr>
<td>There is no feedback after employees have referred their grievances to top-management in the DCS</td>
<td>5</td>
<td>3.8</td>
</tr>
<tr>
<td>There is a serious lack of proper communication within the DCS</td>
<td>4</td>
<td>3.1</td>
</tr>
<tr>
<td>There is a fear of victimisation among the employees</td>
<td>4</td>
<td>3.1</td>
</tr>
<tr>
<td>TOTAL</td>
<td>131</td>
<td>100</td>
</tr>
</tbody>
</table>

Table 8: The shortcomings of grievance procedure in the DCS

Most common shortcomings in the DCS’s grievance handling procedure are seen by the respondents to be as a result of the incompetence of management. This was reported by 43.5 percent who said that management is simply not interested in resolving employee’s grievances.
The respondents also reported that the management of grievances is poor with many grievances unaccounted for. This opinion was reported by 29 percent of the respondents.

4.4.10 BARRIERS TO THE EFFECTIVE HANDLING OF GRIEVANCES

Question B.10: In addition to the above, which of the following is also a barrier to the effective handling of grievances?

Grievance procedure manual (policy) as described in the DCS Grievance Procedure Manual
Supervisors
Unions/shop steward
Fellow employees

Responses are reflected in Figure 7
According to Figure 7, the highest number of respondents, 92 (70.2%), revealed that the barriers to grievance handling within the DCS are the supervisors. This is followed by the procedure manuals and union or shop stewards, which were each reported by 13.0 percent of respondents. Only a few, 3.8 percent of respondents, said that fellow employees are a barrier to the grievance handling process within the DCS.

### 4.4.11 Explanations for how barriers to handling grievances are formed

**Question B.11:** In what manner does your answer in No.10 above become a barrier? Please explain

The responses are summarised in Table 9.
According to Table 9, major barriers to grievance handling are found to be incompetent managers. This opinion is represented by 42.7 percent of the respondents. It is also noted that 26.7 percent of the respondents reported that the grievance handling procedure is complicated and thus is also a barrier to effective grievance handling in the Department. Some respondents reported that victimisation (5.3%) and shop stewards (4.6%) also serve as barriers to grievance handling.

Another worrying factor reported is that of managers suppressing grievances, even to the extent of destroying files. This was reported by 4.6 percent of the respondents. Suppressing and destroying employee grievances should be regarded as serious misconduct by the Department as it defeats the departmental objective of effective service delivery.
4.4.12 Victimisation of employees

Question B.12: In your opinion, do supervisors or the department victimise employees for utilising grievances?

Yes
No
Not sure

The respondents’ responses are reflected in Figure 8.

**VICTIMISATION OF RESPONDENTS**

![Pie chart showing the responses]

38.9
18.3
42.8

[Legend: Purple = Yes, Red = No, White = Not sure]

Figure 8: Victimisation of the respondents by the DCS
A total of 42.8 percent of the respondents felt that the department and supervisors are victimising employees for airing grievances, whilst only 18.3 percent said the Department and its supervisors did not victimise employees. 38.9 percent of the respondents said they were not sure.

4.4.13 Grievance settlement levels

Question B.13: In your experience, are grievances resolved at the correct level in DCS?

Yes
No

Please give reasons
The answers are reflected in Figure 9.

Figure 9: Grievance settlement levels in the DCS
According to the respondents, the DCS failed to attend to grievances at the appropriate levels. This was reported by 74.8 percent of respondents. Only 25.2 percent of the respondents said the DCS is able to attend to grievances at the correct level, that is, before they develop into disputes.

4.4.14 Reasons for grievances not being resolved at the correct levels

The respondents were requested to explain in detail what their opinion and attitudes were with regard to the levels at which grievances are resolved within the DCS. Table 10 presents their responses.

<table>
<thead>
<tr>
<th>Responses</th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Management does not take grievances seriously.</td>
<td>50</td>
<td>38.2</td>
</tr>
<tr>
<td>Usually top management is unable to settle a grievance.</td>
<td>26</td>
<td>19.8</td>
</tr>
<tr>
<td>The lowest level has a tendency to suppress grievances, and hide or discourage their report</td>
<td>26</td>
<td>19.9</td>
</tr>
<tr>
<td>There is increased victimisation of employees at the lower level.</td>
<td>10</td>
<td>7.6</td>
</tr>
<tr>
<td>The respondents maintain that the current process within the DCS must be maintained.</td>
<td>9</td>
<td>6.9</td>
</tr>
<tr>
<td>It takes too long to refer a grievance to the relevant office and receive feedback.</td>
<td>8</td>
<td>6.1</td>
</tr>
<tr>
<td>The employees do not have a clear policy on grievances.</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>131</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 10: Levels at which grievances are resolved within the DCS

Table 10 reflects that 38.2 percent reported that management does not regard employees’ grievances as serious. A total of 199 percent of the respondents believed that non-resolution of grievances within the correct, stipulated time frame is as a result of management being unable to settle grievances. Almost the same number of the respondents reported that management suppress or hide their grievance reports. It is very important for employees to not only have confidence in the employer’s grievance procedure, but also to believe that management will always feel obligated to resolve their grievances. Prolonging grievance settling not only keeps
grievants in suspense but it may also lead employees to believe that the employer regards their grievances as trivial and unimportant.

4.4.15 Grievance settlement time frame

Question B.14: In your opinion, are grievances resolved within the prescribed time frame?
Yes
No
Please motivate

The responses are summarised in Figure 10.

Figure 10: Grievance settlement time frame in the DCS
From Figure 10 it is evident that the DCS has failed to resolve grievances within the prescribed time frame, since 86.3 percent of the respondents reported that grievances were not resolved in the prescribed time frame. Only 13.7 percent of the respondents maintained that the DCS does attend to grievances within the prescribed timeframe.

4.4.16 Motivations regarding the manner in which grievances are handled within the prescribed time frame

The respondents’ responses are summarised in Table 11 below.

<table>
<thead>
<tr>
<th>Responses</th>
<th>No.</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Supervisors are not interested in speedy settlement of grievances.</td>
<td>58</td>
<td>44.3</td>
</tr>
<tr>
<td>Grievances take too long to settle.</td>
<td>45</td>
<td>34.4</td>
</tr>
<tr>
<td>Grievances are discouraged and the claimants are ignored.</td>
<td>19</td>
<td>14.5</td>
</tr>
<tr>
<td>The grievance procedures in the DCS are accordingly followed by those who are responsible.</td>
<td>7</td>
<td>5.3</td>
</tr>
<tr>
<td>Employees cannot make a decision and as such everything must be left to management.</td>
<td>1</td>
<td>0.8</td>
</tr>
<tr>
<td>There is the threat of attempted suicide by employees whose grievances are suppressed and are not given an opportunity to voice them.</td>
<td>1</td>
<td>0.8</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>131</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 11: Motivation regarding the manner of non-resolving grievances within the prescribed time frame in the DCS

As indicated earlier, employees become disgruntled if their grievances are not attended to timeously. In Table 11 above, 44.3 percent believe that the DCS is not interested in resolving grievances as stipulated in the grievance manual. 34.4 percent of the respondents also reported that they have lost hope and trust in the timely resolution of grievances. They reported that grievances take too long to be resolved.
### 4.4.17 Suggestions for improving the grievance handling process in the DCS

**Question B.15:** Please give inputs/suggestions that would improve grievance handling in the DCS

Suggestions for improving the grievance handling process in the DCS are summarised in Table 12 below.

<table>
<thead>
<tr>
<th>Suggestions</th>
<th>No. of respondents</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Training of management and supervisors in the grievance handling process is required.</td>
<td>38</td>
<td>28.6</td>
</tr>
<tr>
<td>The practitioners must be able to identify and eliminate bias.</td>
<td>11</td>
<td>8.3</td>
</tr>
<tr>
<td>There must be cooperation between the employer/employee before grievance-handling procedures are commenced.</td>
<td>10</td>
<td>7.6</td>
</tr>
<tr>
<td>Practitioners must be compelled and empowered to regard grievance handling as part of their performance contract.</td>
<td>9</td>
<td>6.7</td>
</tr>
<tr>
<td>Grievance handling process should be outsourced to people who are outside the DCS who must remain neutral all the time</td>
<td>8</td>
<td>6.1</td>
</tr>
<tr>
<td>Employees must be provided with copies of the grievance handling procedures manual so they can read them for themselves.</td>
<td>7</td>
<td>5.3</td>
</tr>
<tr>
<td>Grievance handling process must always be dealt with within a short space of time.</td>
<td>4</td>
<td>3.0</td>
</tr>
<tr>
<td>Grievance handling process must be referred to those who hold higher positions in the organisation.</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>Equality in the workplace must always be maintained.</td>
<td>2</td>
<td>1.5</td>
</tr>
<tr>
<td>People must be exposed to the material drafted by</td>
<td>2</td>
<td>1.5</td>
</tr>
</tbody>
</table>
SAMDI on grievance handling procedures.

<table>
<thead>
<tr>
<th>Suggestion</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>The EAP must be involved in informing the employees about the grievance handling procedures.</td>
<td>1</td>
</tr>
<tr>
<td>The grievance handling procedures manual is not clear and it is also difficult to understand.</td>
<td>1</td>
</tr>
<tr>
<td>The practitioners must be empowered to identify and satisfy the needs of the employees.</td>
<td>1</td>
</tr>
<tr>
<td>Benchmarking, that is, South African organisations must learn from their counterparts as to how they settle grievances.</td>
<td>1</td>
</tr>
<tr>
<td>The current state of the grievance handling process is correct and therefore must be left as it is.</td>
<td>1</td>
</tr>
<tr>
<td>There must be transparency between the employer/employee and as such friction and conflict will be minimised.</td>
<td>1</td>
</tr>
</tbody>
</table>

**TOTAL**

131  
100%

Table12: Suggestions for improving grievance handling in the DCS
CHAPTER 5

CONCLUSIONS AND RECOMMENDATIONS

5.1 CONCLUSION

Employees' grievances should be regarded as one of the most important areas for attention in employment relations. In an employment relationship context in which the employee occupies an inferior bargaining position, his/her status needs to be augmented by means of systems that elevate him/her to a better position. This not only assists in making him/her a stronger bargaining partner, but also affords him/her a platform on which workplace dissatisfaction may be addressed. Grievance handling should therefore be seen as one of the systems aimed at enhancing the status of employees and making them an important partner or contributor to achieving organisational objectives.

Employees' rights to fair labour practice are not only advocated by the LRA, but are enshrined in the supreme law of the Republic, the Constitution. In ensuring speedy and effective resolution of grievances, an employer not only adheres to constitutional obligations, but also advocates industrial peace and a productive workforce.

This research study has revealed that although the majority of employees in the DCS in the sample are inadequately exposed to orientation, training and induction with regard to grievance handling, most of the respondents reported that they lack the required information. It has also been revealed that an unhealthy relationship between employees and management is regarded as a major cause of grievances. In view of these factors, a conclusion can be drawn that subordinate employees do not get the necessary support from supervisors/management. This lack of support may be particularly frustrating to newly appointed employees who do not understand the history and culture of the organisation.

It would appear that supervisors and/or relations between employees and management are regarded as major causes of grievances and this does not augur well in an organisation aspiring to be one of the best in the world.
Many of the respondents regard the delay in grievance handling as problematic and this erodes the little confidence that employees may have in the grievance handling procedure of the organisation. More than 90 percent of the respondents reported that they have not been trained in grievance handling and this may affect employee morale.

The majority of the respondents, 88.5 percent, reported that they do not feel that the grievance handling procedure is good. For a grievance procedure to be effective, buy-in and total confidence in the procedure by employees is of paramount importance. Employees need to believe that the system is fair and that top management supports it. Once more, the significance of employee/manager co-operation cannot be overemphasised.

This state of affairs discourages employees from airing their grievances and in turn robs the organisation of an opportunity to enhance employee relations amongst its workforce. In an organisation like the DCS, an aggrieved employee should be regarded as a potential risk. Thus it is important for management to be supportive and demonstrate a caring attitude towards employees. This would assist in securing loyalty and building trust and confidence. Trust is very important in a security orientated institution and there may be no second chance as inmates are forever strategising with corrupt officials in order to stage escapes. This does not augur well for an organisation aspiring to become world class.

Lastly, it would appear that the DCS has not aligned its procedures with the latest trends in the public service and this is a serious challenge that should receive urgent attention.

5.2 RECOMMENDATIONS

Before making some suggestions in the form of recommendations, it is inconceivable that, firstly, a government department as important as the DCS does not have a labour relations policy. Nel et al (2005:234) states that a labour relations policy usually contains clear and unambiguous management statements to guide decision making and behaviour on aspects such as trade unions and other forms of worker representation and participation.
The absence of a policy in itself presents challenges to systems that are supposed to create a culture of grievance handling, especially giving assurance that no employee shall be victimised for raising a grievance.

Secondly, the DCS is lagging far behind in terms of aligning its grievance procedure since its resolution adopted in 1996 cannot be in tune with the PSCBC Resolution 14 of 2002. It is therefore imperative for the DCS to realise that proper and updated systems, processes, policy and procedures are prerequisites for a good grievance procedure.

The researcher therefore makes the following suggestions aimed at improving the DCS grievance handling process.

• Every prison (correctional centre) should have a **grievance register** in which every grievance lodged can be accounted. This register should be inspected or checked by the Head of Correctional Centre on a monthly basis. This will eliminate concerns raised by some of the respondents that some grievances are simply ignored or thrown away.

• For every unresolved grievance lodged, there should be a **grievance investigator**, who should make recommendations to the Area Commissioner or the next level, depending on the position of the aggrieved. This will increase efforts at resolving grievances with supervisors being compelled to be involved.

• Following the grievance investigation results, and if the aggrieved is not satisfied, there should be a **grievance hearing** sitting where the aggrieved will be represented by a fellow employee or union representative. This will give effect to the LRA’s objectives of improving workplace democracy, as well as the PSCBC Resolution’s principle that there is a need to protect employees from arbitrary action.

• The **grievance handling manual** of the DCS should be revised and it should clearly spell out the employer’s obligations to attend to and resolve employees’ grievances with a time frame affixed thereto.
• A labour relations policy should be developed and it should make it a misconduct for any manager (supervisor) to ignore employee grievances. It has been demonstrated in Chapter 2 that unresolved grievances, especially as a result of a manager's ignorance, could lead to the employer being held vicariously liable.

• The DCS should induct all new employees in grievance handling. This will improve awareness and address concerns raised by some respondents that they are not familiar with the grievance handling procedure.

• Employee/manager cooperation should be fostered at all levels of the organisation so as to improve team spirit (esprit d'corps). This could be done by arranging workshops for managers to highlight their role as mentors, implications for not disseminating information on grievance procedures and the costs that unattended grievances may bring about, making them see the bigger picture of organisational unity and the fact that working in silos is not in the interests of the organisation.

For further recommendations by way of feedback and suggestions by the respondents please see Table 12.

Nel et al (2005:241) advises that the generic steps for a proper grievance procedure should be as illustrated in Figure 11. If these steps are followed, an organisation can concentrate on its core business in the knowledge that its employees will always be attended to through a grievance process geared to be completed in ten working days or 240 hours. This is the ideal situation that every employer should aspire to.

Respondents in this study were very vocal, raising serious concerns to the effect that there is some serious delay and lack of interest in attending to or resolving employees' grievances. An employee whose grievance is regarded as trivial by management and therefore ignored, as was the case in the Nouers case supra, would surely not only be disappointed but his/her faith in the organisation might diminish. For instance, would such an aggrieved employee remain loyal and optimally productive? This could result in undesirable litigation. This area requires further exploration by other researchers.
Grievance procedure ends, and commencement of dispute settlement process (if preferred), e.g. bargaining council, mediation, conciliation, arbitration, judicial settlement or strike.

**Step 1**
- Work
- Immediate supervisor
- Settled record
- After 24 hours

**Step 2**
- First in writing
- Worker and his or her representative
- Head of immediate supervisor
- Settled record
- 48 hours

**Step 3**
- Second in writing (including first one)
- Worker and his or her representative
- Manager from higher level
- Settled
- 96 hrs (4 working days)

**Step 4**
- Formal grievance investigation (committee with higher-level manager)
- Unsettled
- Settled
- 168 hrs (7 working days)

**Step 5**
- Ruling at highest level (top management)
- Unsettled
- Settled
- 240 hrs (10 working days)

Figure 11: Generic steps for grievance handling procedure
Sources: Nel et al (2005)
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2. PSCBC Resolution number 02 of 1999
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HAND-OUTS

ANNEXURE 1: QUESTIONNAIRE TO DCS MEMBERS

SURVEY ON IMPROVING GRIEVANCE HANDLING IN THE DEPARTMENT OF CORRECTIONAL SERVICES (DCS)

The following questionnaire provides you with an opportunity to give your inputs which will impact on the process of transformation in as far as grievance handling in DCS are concerned. Your contribution will treat with confidentiality.

Research study in the Department of Correctional Services

Section A: Demographic Data

Mark with an x

1. What is your rank?

- COIII
- CO II
- CO I
- SCO
- ASD
- DD
- DIR

2. Where are you stationed?

- Baviaanspoort
- Johannesburg
- Krugersdorp
- Modderbee
- Boksburg
- Pretoria
- Zonderwater
- Leeuwkop
3. How many years of service do you have in the Department?

- Less than a year  
- 1 to 3 years  
- Above 3 years

**Section B: Grievance handling information**

1. Did part of your orientation or basic training include issues on grievance handling?

   Tick what applied to your case

   - Yes, my orientation included it  
   - Yes, basic training included it  
   - No, only a brief orientation on it  
   - I was only given documents to read  
   - None of the above

2. During the last 3 years did you attend a training course or get information on grievance handling or grievance procedure?

   - Yes  
   - No

3. In your opinion, what are the major causes of grievances amongst the staff in your prison?

   ...................................................................................................................................................

4. In your opinion, do these causes have any influence on staff satisfaction (morale)?

   - Yes  
   - No
5. In your opinion, are these influences positive or negative?
   Positive [ ]
   Negative [ ]
   Not sure [ ]

6. Did you personally ever need to do the following as a result of how your grievance in DCS was handled?
   Decide which of the following applied to you
   Desired to improve performance [YES] [NO]
   Consulted Employee Assistance Programme [YES] [NO]
   Desired to take a vacation leave [YES] [NO]
   Desired/ took sick leave [YES] [NO]
   I need medical attention [YES] [NO]
   Other ...........................................................................................................................................................................

7. How will you rate DCS's grievance handling process?
   Excellent [ ]
   Good [ ]
   Not so good [ ]
   Poor [ ]
   Very poor [ ]

8. What is the reason for your answer in no 7 above?
   ......................................................................................................................................................................................
   ......................................................................................................................................................................................
   ......................................................................................................................................................................................
   ......................................................................................................................................................................................

9. What do you perceive to be the most common/ short coming (if any) in DCS's grievance procedure?
   ......................................................................................................................................................................................
   ......................................................................................................................................................................................
   ......................................................................................................................................................................................
10. In addition to the above, which of the following is also a barrier in the effective handling of grievances?

- Grievance procedure manual (policy) as described in the DCS Grievance Procedure manual
- Supervisors
- Unions/Shop Steward
- Fellow employees

11. In which manner does your answer in no 10 above become a barrier? Please explain.


12. In your opinion, does Supervisors or the Department victimize employees for utilizing grievances?

- Yes
- No
- Not sure

13. In your experience are grievances resolved at the correct level in DCS?

- Yes
- No

Please give reasons for your answer.


14. In your opinion are grievances resolved within the prescribed timeframe?

- Yes
- No

Please motivate your answer.
15. Please give inputs/suggestions that would improve grievance handling in DCS.

You are free to add additional information separately where space is inadequate.

Thank you for taking your time to complete this questionnaire.

Your effort is appreciated.