

FOR PSA MEMBERS: NORTHERN CAPE DEPARTMENT OF EDUCATION

15-10-2024

Northern Cape Department of Education: Concerns regarding irregular use of private law firms

PSA's Provincial Office in the Northern Cape addressed a letter, dated 26 August 2024, to the Northern Cape MEC of Education, requesting an investigation into serious allegations involving two senior managers and their brazen use of private law firms. The letter was bluntly ignored. Given that the gravity of the matter, the PSA again sent an email on 9 October 2024 directly to the MEC, copying the HOD and alerting the MEC on his non-response but also assertively indicating that a further blunt ignorance of the PSA's communication would result in an escalation to the Premier and involving the Public Protector. The issues raised pertain to the following:

Utilisation of private law firms

The PSA is of the informed view that the current practice of utilising private law firms for all labour-related matters is irregular and unsubstantiated given that section 3(1)(2) of *Attorney Act 13 of 2014* provides:

- *"The functions of the (office of the State Attorney and of its branches) offices of State Attorney shall be the performance in any court or in any part of the Republic of such work on behalf of the Government of the Republic as is by law, practice or custom performed by attorneys, notaries and conveyancers for by parliamentary agents: Provided that the functions in regard to his duties as parliamentary agent shall be subject to the Standing Rules of the respective Houses of Parliament.*
- *"Labour matters taken to the Labour Court may also be performed by the State Attorney's office or at any of its branches/offices of State Attorney like functions for or on behalf of the administration of any province, subject to such terms and conditions as may be arranged between the Minister of Justice and Constitutional Development and the administration concerned."*

This Department has been engaging external service providers, presumably owing to insufficient capacity to represent the Department in court. In accordance with the *Act*, the PSA requires an explanation of why the Department did not utilise the services of the State Attorney. This raises concerns regarding payment procedures of service providers. It is imperative that a memorandum of understanding be established between these service providers and the Northern Cape Department of Education. Clarification on whether tender processes were followed must be provided. Furthermore, the PSA requested a financial report on litigations during this fiscal year but will extend the timeframe going back five years.

Members will be kept informed.

Reuben Maleka
GENERAL MANAGER