



NTEU at NMMU



### The Common Law Contract of Employment : Part 3.

Employees, in terms of the Common Law Contract of Employment, are obliged to maintain good faith in the employment relationship with their employer. What this means is that employees must be respectful, honest, reliable, trustworthy, faithful and loyal to their employer at all times. In other words, there must be a sound understanding and working relationship between employees and their employer. The employer, in turn, must also maintain good faith with employees by respecting their dignity and demonstrating that they are an important asset that is needed and appreciated.

By employer is meant those who occupy positions of authority who are authorised to achieve organisational objectives through the work of those who report to them.

Should either party be in breach of this principle of maintaining good faith, remedies may be followed to resolve any disturbance in the working relationship. If an employee feels aggrieved because (s)he perceives that (s)he is being treated in a manner where their dignity is not being respected or that they are not being treated fairly or that they are being harassed and victimised, the grievance procedure can be utilised or a complaint laid. I will return to this later.

The working relationship is central in the Common Law Contract of Employment, with the result that conduct on the part of an employee that disturbs the working relationship opens the door for the employer to take corrective action that could include discipline. If the employer believes the relationship with an employee has irrevocably broken down, dismissal could be the outcome. The onus is on employees to maintain a good relationship with their employer. Conduct on the part of an employee that could harm the working relationship includes disobedience of any sort, disrespect, insolence, dishonesty, not obeying instructions or not following policies and procedures.

Maintaining good faith by employees includes acting in the best interests of the employer and promoting the employer's business at all times. It means, for example, that employees must not do anything that could be construed as bringing the good name of the institution they work for, into disrepute as that would be contrary to promoting the interests of the employer. It also means that an individual cannot work for another institution or even do private work, during the time they are supposed to be working for their employer, without the knowledge and approval of their employer. That is why the MMU has a "private work" policy requiring employees to declare any private work either as a professional or for another institution.

Another extract from a formal contract of employment illustrates how important some employers regard the duty of employees to promote their business interests.

"You undertake to use your best endeavours to promote and extend the business of the Group and be loyal to the Company's business and interests."

Returning to the point about filing a grievance, it is easier said than done as we find that in most cases employers are incompetent at managing and resolving grievances. Grievances escalate into conflict, which most employers are even less competent to resolve. Herein lies a big challenge in South Africa because labour relations are not what they should be, with dire consequences for the economy. Labour usually gets the blame, but unfortunately employers are equally to blame. Many employers are guilty of not maintaining good faith with their employees and that is why unions exist – to protect the interests of their members against unscrupulous employers.

However, a union cannot be expected to protect members from discipline if they have done anything that does not maintain good faith with their employer. The onus is on everyone to be respectful, loyal, faithful, honest and obedient and in so doing maintaining good faith.

CREDIT: Prof Norman D Kemp, Former NTEU President

### JELLY TOTTING WITH HOUSE OF RESURECTION

Flowing from our Jelly-totting for diversity activities during Diversity month in August this year, a number of contributions were received from members intended for The House of Resurrection.

NTEU visited the haven in Adams Street, Salsoneville Township yesterday afternoon and handed these contributions over to the kids. The kids were obviously very happy with the sweets. In addition, some board games, balls and items of clothing were also handed over.

The haven is a Non-profit Organisation where kids who are infected or affected by HIV/AIDS or abandonment are offered a secure and sustaining home environment. There are a handful of 'foster families' living on the premises. They have a foster cluster system which effectively means that every 'home' has a Mother who cares for 6 or 7 young kids. They create a home-like environment for the kids, cook for them, help them with their home-work after school, etc. The kids are responsible for doing chores just like every other child. The aim is to expose these kids to a normal home environment and to allow for family interactions. The staff strive to look after the kids' development, their health and also their spiritual needs.

It was a humbling experience to interact with the staff and kids alike. We weren't allowed to take pictures of the kids to protect their identity. What was clear in our minds is that we have so much to be grateful for. As a union we should consider reaching out to this haven again...

Our sincere thanks go to Vanessa Heunis for initiating this outreach and also to every member who contributed to the initiative.

