



NTEU at NMMU

### The Common Law Contract of Employment : Part 4.

Employees must obey lawful instructions. Failing to carry out an instruction could be regarded as insubordination which is a serious offence and could result in dismissal. A lawful instruction is any instruction that does not break any law, common law or institutional rules and regulations. There are other aspects to be considered in what makes an instruction lawful. For example, an instruction could be lawful, but at the same time unreasonable. For an instruction to be reasonable, it must:

- Be possible to carry it out. The person receiving the instruction must have the ability, knowledge, competence, experience, equipment and time to perform it.
- Fall within the limits of the employee's job description. It must also not be demeaning. If a secretary is instructed to wash cups, it could be regarded as below her station, thus unreasonable and (s)he could refuse to do so. I will return to this later.

Those in authority within an organisation have the legal right to give instructions to those who report to them and the expectation that the instruction will be adhered to.

A frequently asked question is if employees can refuse to carry out an instruction to do something that does not fall within their job description. As stated earlier, if it is something below the status of the position they occupy, they could, if they regard it as demeaning. Alternatively, if it is beyond their scope and ability, they could refuse to carry out the instruction.

However, as has been stated in a previous What's up, the relationship between employees and those in authority is of paramount importance, which means that the manner in which an instruction is refused must not damage the relationship. Employees must reason with the person in authority and convince him/her that the instruction is unreasonable or beyond their scope. It may be better for the working relationship to do something that the person receiving an instruction is capable of doing, but is outside of the job description, particularly if it is a once-off.

Insolence and disrespect of a figure in authority are also regarded as a form of insubordination and could result in disciplinary action. Being disrespectful harms the working relationship and is not acceptable.

Insubordination must be gross to warrant dismissal. To qualify as gross, it must be serious, ongoing and deliberate.

We as a union are encountering a number of incidents at various universities of our members being charged with insubordination. There is a perception, that working for a university, means that robust debate is part of academic freedom and voicing opinions that those in authority may not like, is acceptable. They also base their argument on the right to freedom of expression. However, neither of these gives anyone the right to be disrespectful, insolent or insulting in their interaction with authority figures or even with colleagues.

We have also noticed that many in positions of authority misinterpret employees speaking up for themselves as "backchat" even when they have a legitimate reason for so doing. This results in resentment and anger which is detrimental to the working relationship and ends up as conflict.

Employers need to respect the right of employees to speak up for themselves when it is legitimate and "hear" them out with empathy. It should never be a case of expecting employees to "shut up and put up" with unreasonable treatment from those in authority. Nevertheless, the onus on employees when speaking up for themselves is to do so in a calm and respectful manner, as difficult as it sometimes may be.

CREDIT: Prof Norman D Kemp, Former NTEU President

### BESTMED SPECIAL APPLICATIONS – PACE 4 OPTION

PACE 4 is a comprehensive, traditional option on Bestmed. The contributions are costly when compared to the rest of the Bestmed options contribution rates. PACE 4 caters for members and/or their dependents with **serious health conditions**. **The deadline for submission of applications and supporting documentation is 12h00, Friday, 23 October 2015.**

**FOR MORE INFORMATION REFER TO NMMU COMMUNIQUE DATED 13 OCT OR CONTACT Mr Wendel Chair at extension 9024, eml: [wendel.chair@nmmu.ac.za](mailto:wendel.chair@nmmu.ac.za)**

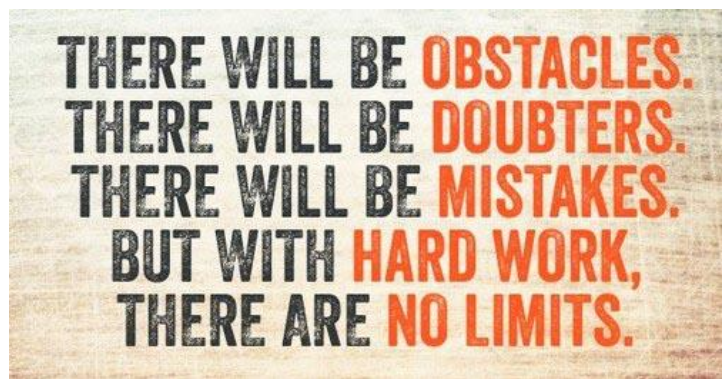
### MEDICAL AID 2016 BENEFIT UPDATE SESSIONS

Members are reminded of the Year end revision session as arranged by 4DHEALTH. During the session staff will be updated on all the benefit changes for 2016 for the BESTMED and BONITAS schemes.

The dates, times and venues for the sessions are as follows:

<b>MISSIONVALE CAMPUS</b>	<b>(CONFERENCE CENTRE)</b>
20 October 2015 (Tuesday)	: 10H00 BESTMED
20 October 2015 (Tuesday)	: 11H30 BONITAS
<b>2<sup>ND</sup> AVENUE CAMPUS</b>	<b>(BUSINESS SCHOOL – MAIN AUDITORIUM)</b>
21 October 2015 (Wednesday)	: 09H00 BESTMED
21 October 2015 (Wednesday)	: 11H00 BONITAS
<b>NORTH CAMPUS</b>	<b>(SENATE HALL)</b>
22 October 2015 (Thursday)	: 09H00 BESTMED
22 October 2015 (Thursday)	: 11H00 BONITAS
<b>SOUTH CAMPUS</b>	<b>(AUDITORIUM)</b>
23 October 2015 (Friday)	: 09H00 BESTMED
23 October 2015 (Friday)	: 11H00 BONITAS
<b>GEORGE</b>	<b>(CONFERENCE CENTRE)</b>
26 October 2015 (Monday)	: 10H00 BESTMED
26 October 2015 (Monday)	: 11h30 BONITAS

**Knowledge is power! Do not miss out on these presentations. Make informed decisions regarding your healthcare for 2016.**



### BOSS' DAY - 16 OCT

