



GPSSBC

General Public Service
Sectoral Bargaining Council



PRESENTATION - OVERVIEW

- ⊙ Application of the Scope
- ⊙ Constitutional Composition
- ⊙ The Parties Admitted
- ⊙ Overview of Dispute Resolution
- ⊙ Critique of Legal Representation in Arbitration Hearings

SCOPE

- ◎ The area and scope of operation of the GPSSBC is national
- ◎ With provincial and national chambers (50 Chambers)
- ◎ 9 Provincial Governments,
- ◎ 93 Provincial Departments,
- ◎ 41 National Departments, comprising of:
- ◎ **305 000 Employees**

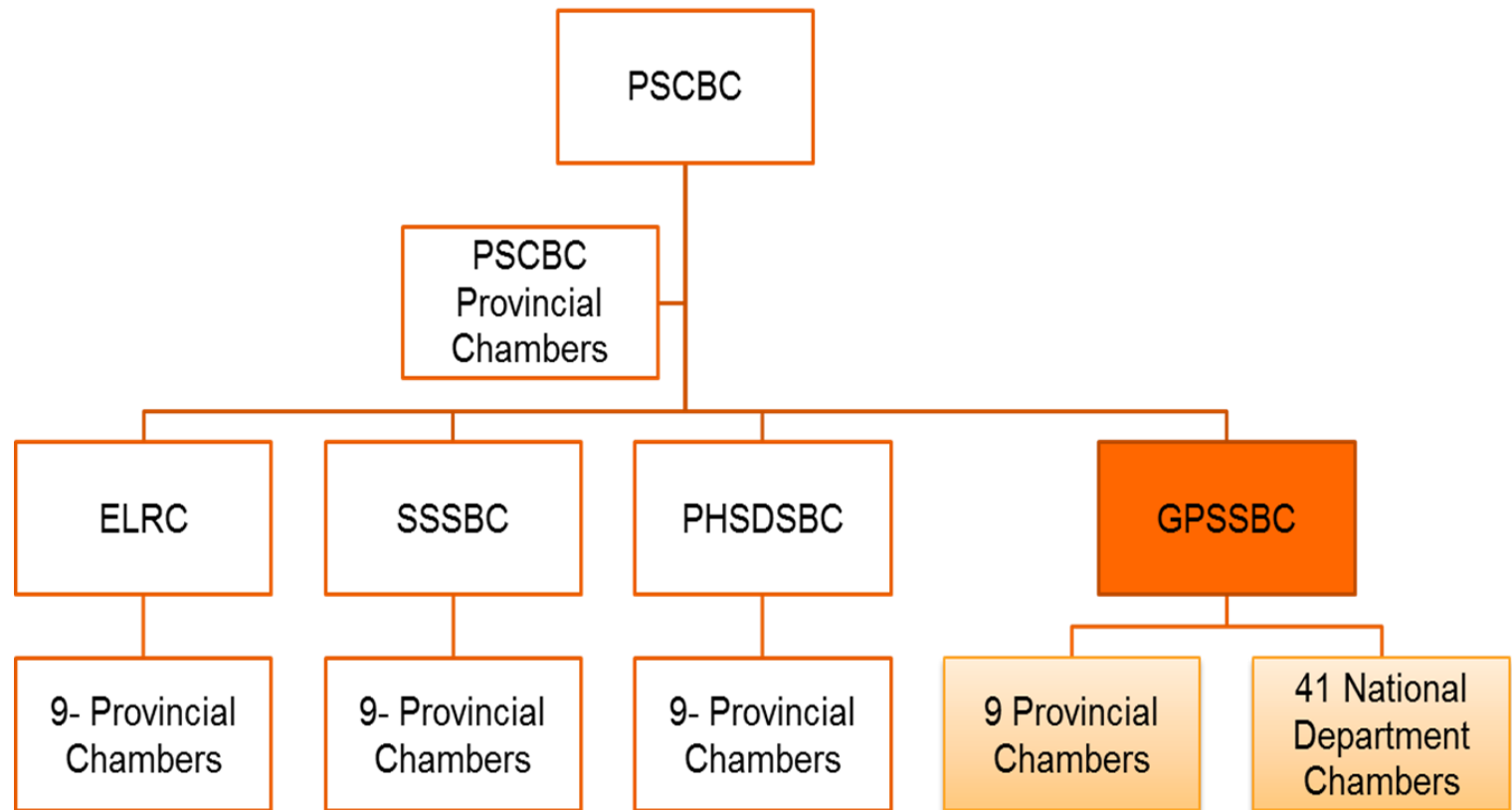
THE PARTIES

GPSSBC PARTIES TO COUNCIL:

	TRADE UNIONS	EMPLOYER	
	PSA (Public Servants Association)	State	
	NEHAWU (National Education, Health and Allied Workers Union)		
	POPCRU (Police and Prisons Civil Rights Union)		



THE COLLECTIVE BARGAINING PROCESS



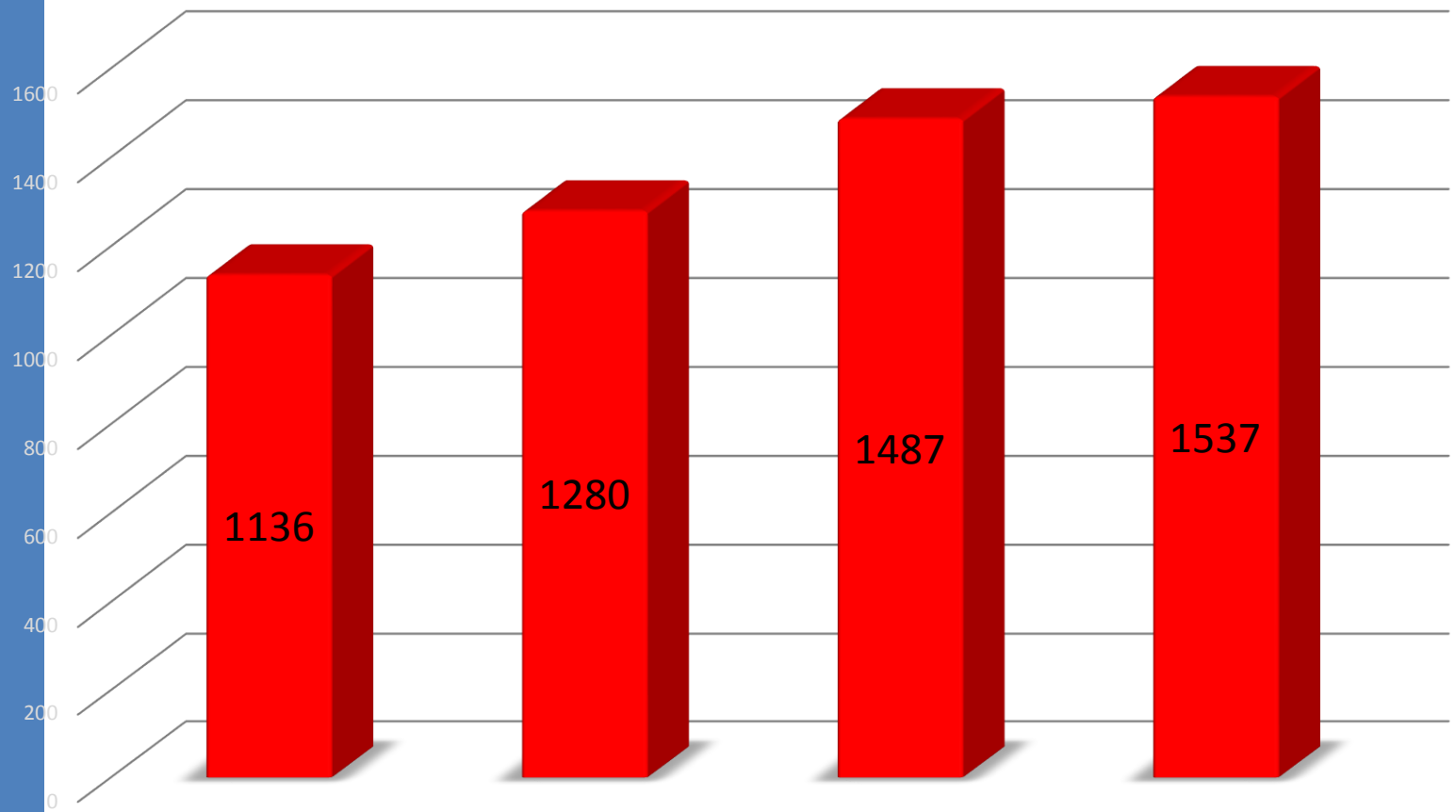
DISPUTE RESOLUTION IN GPSSBC



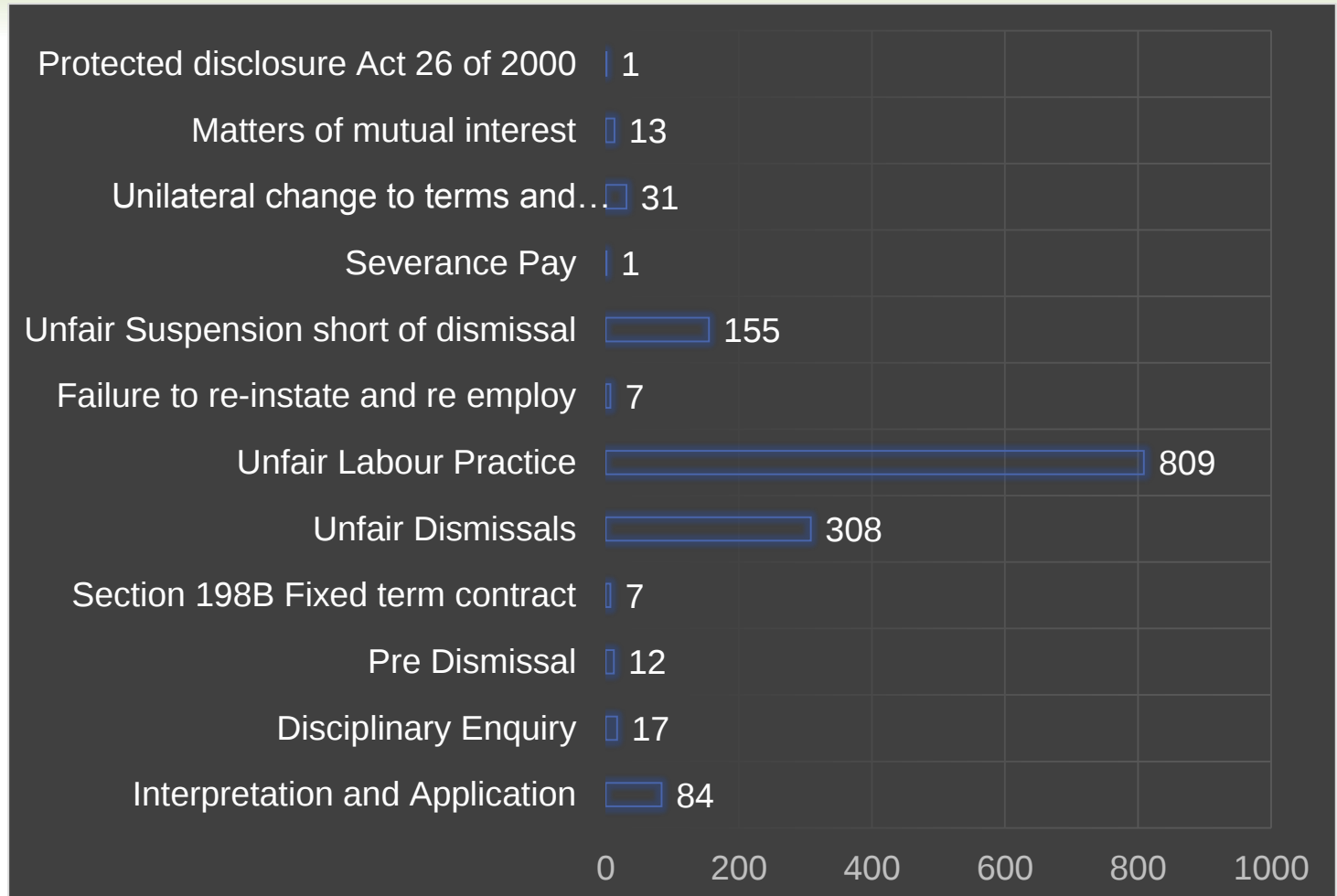


DISPUTE RESOLUTION IN GPSSBC

Disputes Referred



DISPUTE RESOLUTION IN GPSSBC



Awards rendered

- ⊙ 590 Awards
 - 305 ULP Disputes
 - 222 Unfair Dismissal Disputes
 - 63 (Other)
- ⊙ Overall Awards in favour
 - Employer - 273
 - Employee - 317



DISPUTE RESOLUTION IN GPSSBC

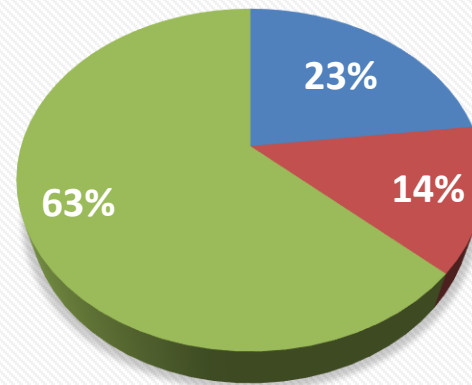
DISMISSAL DISPUTES

GPSSBC rules - automatic right to representation

- ◉ In at least 63% of all Dismissal Disputes the respondent is legally represented as opposed to the applicant only being legally represented in 23% of such matters
- ◉ The applicant mainly relies on the representation of Unions in dismissal disputes
- ◉ In only 14% of dismissal matters is no legal representation on either side

DISPUTE RESOLUTION IN GPSSBC

Legal Rep - Dismissal



■ No Legal Representation ■ Applicant ■ Employer

- ⦿ Respondent - Funded by the State – Unlimited Resources
- ⦿ Applicant self funded – Relies on the Union (Rather than incurring the cost)
- ⦿ Respondent leads the process in the Dismissal
- ⦿ Of 212 dismissal awards - 169 were in favour of the Respondent - the Respondent was legally represented in 154 of these matters



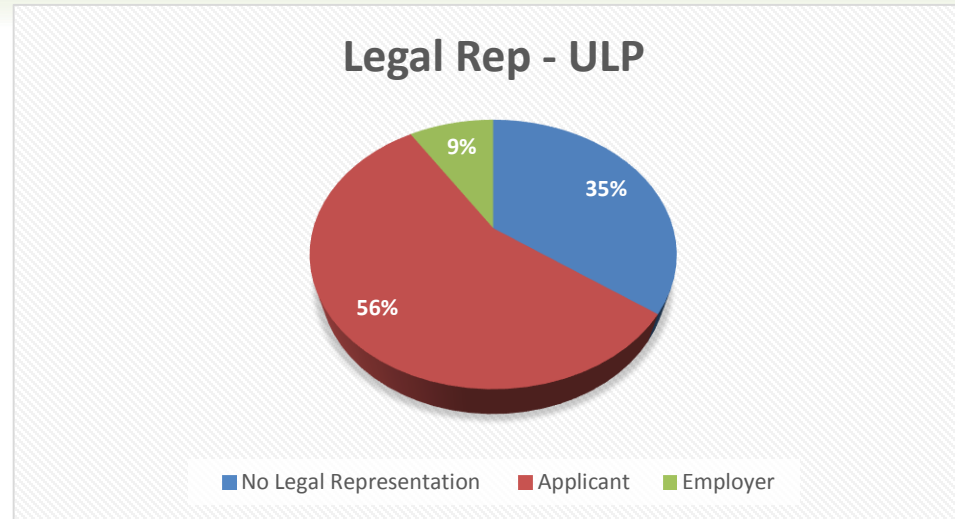
DISPUTE RESOLUTION IN GPSSBC

ULP DISPUTES

GPSSBC rules - automatic right to representation

- ◉ In at least 56% of all ULP Disputes the Applicant is legally represented as opposed to the respondent only being legally represented in 9% of such matters
- ◉ The respondent mainly relies on the representation of Labour Relations / Employee Relations or Legal Services in these disputes.
- ◉ In at least 35% of ULP disputes no legal representation is used by either party

DISPUTE RESOLUTION IN GPSSBC



- ⊙ Applicant generally has a benefit to derive - value of outcome justifies the use of the resources
- ⊙ Respondent – Relies on the Labour Relations/Employee Relations as the burden of proof and argument shifts to the applicant – Respondent usually aware that the ULP is an unresolved grievance
- ⊙ Of 315 ULP awards - 237 were in favour of the Applicant - the Applicant was legally represented in 107 of these matters



DISPUTE RESOLUTION IN GPSSBC

Cost of Legal Representation —

<i>Departments</i>	<i>Financial Year</i>	<i>Arbitration Awards</i>	<i>Labour Court orders</i>	<i>Labour Appeal Court orders</i>	<i>Constitutional Court Orders</i>	<i>Total</i>
National	2013-2014	R28,381,248	R1,103,986	R500,000	R0	R29,985,234
	2014-2015	R41,959,016	R1,599,483	R0	R0	R43,558,449
	2015-2016	R59,872,225	R4,557,709	R166,636	R0	R64,596,570
EC	2013-2014	R404,216	R1,113,501	R0	R0	R1,517,777
	2014-2015	R863,383	R0	R0	R0	R863,383
	2015-2016	R851,902	R635,464	R0	R0	R1,487,366
FS	2013-2014	R526,286	R802,268	R0	R0	R1,328,554
	2014-2015	R200,000	R1,394,024	R0	R0	R1,594,024
	2015-2016	R200,000	R415,753	R0	R0	R615,753
GP	2013-2014	R0	R27,000	R0	R0	R27,000
	2014-2015	R72,565	R749,000	R0	R0	R821,565
	2015-2016	R143,661	R0	R0	R0	R143,661
KZN	2013-2014	R3,473,790	R0	R0	R0	R3,473,790
	2014-2015	R1,725,363	R200,000	R0	R0	R1,925,363
	2015-2016	R2,211,959	R70,010	R0	R0	R2,228,969
LP	2013-2014	R1,013,403	R510,370	R0	R0	R1,523,773
	2014-2015	R636,043	R1,435,277	R0	R0	R2,071,320
	2015-2016	R292,970	R127,788	R0	R0	R420,758
MP	2013-2014	R0	R2,584,077	R0	R0	R2,584,077
	2014-2015	R0	R150,000	R0	R0	R150,000
	2015-2016	R90,760	R862,650	R0	R0	R953,410
NW	2013-2014	R0	R0	R0	R0	R0
	2014-2015	R0	R0	R0	R0	R0
	2015-2016	R424,867	R0	R0	R0	R424,867
NC	2013-2014	R0	R80,000	R0	R0	R80,000
	2014-2015	R0	R555,869	R0	R0	R555,869
	2015-2016	R0	R2,181,569	R0	R0	R2,181,569
WC	2013-2014	R206,967	R648,213	R0	R0	R855,180
	2014-2015	R0	R164,747	R0	R0	R164,747
	2015-2016	R0	R0	R0	R0	R0
Total		R143,550,624	R21,968,758	R666,636.00	R0	R166,186, 018

DISPUTE RESOLUTION IN GPSSBC

Cost of Legal Representation — Unions

	Financial Years		
	2013 – 2014	2014 – 2015	2015 – 2016
TOTAL	R3 152 677	R2 936 493	R4 102 257

Implication of legal representation –

- ⊙ Legalistic approach to the arbitration – mini court room procedures and posturing
- ⊙ Lengthy proceedings (more than 7 sittings before finalisation)
- ⊙ Outcome most likely to be taken on review
- ⊙ Actual costs related to the hearing exponentially increase when legal representation is utilised

Implication of legal representation –

- ⊙ Implicit in the constitutional guarantee enshrined in section 34 [of the Constitution of the Republic of South Africa] is the broader promise of access to justice. And of fundamental importance when we think about access to justice is the issue of access to legal representation.
 - Is this access to justice balanced ?
 - Does it contribute to the democratisation of the Workplace/ Social Justice and Labour Peace



CLOSURE

Thank you !