



**AN ASSESSMENT OF GRIEVANCE INVESTIGATIONS BY THE PUBLIC SERVICE
COMMISSION IN SOUTH AFRICA**

by

Lulama Viwe Sizani

**Dissertation submitted in fulfilment/partial fulfilment of the requirements for the
degree**

Master of Technology: (Public Management)

in the Faculty of Business and Management Studies

**at the Cape Peninsula University of
Technology**

Supervisor: Dr NS Matsiliza

Cape Town

November 2016

ABSTRACT

This study assessed the role of the Public Service Commission (PSC) in the public service grievance investigations in South Africa, with the intention of finding a feasible approach for constructing and attending to fair and just grievance procedure. This study also sought to investigate the effectiveness of the methods used by the PSC employee grievances with the intention of recommending an appropriate approach in dealing with grievances. The PSC, as a Constitutional oversight body, may be charged with responsibilities to assess if the public service deals with grievances of employees, but fail to assess itself. It is studies like this that mirror how the PSC assesses employee grievances in the public service and whether it succeeds in advancing effectively and effective on that.

This study employed a mixed methods to collect and analysed data, using both qualitative and quantitative research instruments. The purpose for using a mixed methods approach was to make sure that the researcher is able to assign numericals and also produce a descriptive qualitative data at the same time. Maree (2007:261) supports this view by alluding to the fact that in a mixed method research, a researcher is able to collect both numerical information such as scores on the survey instrument or ratings as well as text information such as open- ended interviews and observations to answer the study research questions. However, PSC was used as a unit of analysis. A representative a purposive sample of .25...participants was drawn from a population of Commissioners of the PSC, staff that investigate grievances as well as the sample of aggrieved employees. It was necessary for the sample to include all three categories of representatives in the grievance process as the exclusion of one of them would not present a complete study. Brynard, Hanekom and Brynard , (2014:56) provide that a sample of a population is used to simplify the research, save time and cut costs while it would be easy to determine specific properties of the whole population group.

The findings of the study revealed that the grievance procedure in the public service is not efficient and its inefficiency is compounded by the lack of compliance by some parties. The grievance trends also highlight issues that lead to dissatisfaction of employees in the public service. There are also no consequences for non-compliance. In conclusion, the study also

revealed that the PSC is in the process of developing its own grievance procedure in recognition of the fact that it operates outside of the public service and cannot use the same rules as the government departments. The study also revealed that there is no provision for condemnation for late lodging, and this gap creates a challenge for deserving cases. In areas where the PSC is empowered to issue directions, it should do so to remain relevant. The PSC must take into consideration that it operates in the same space as other dispute resolution mechanism such as the bargaining councils and the courts and the rulings of these institutions are legally binding.

ACKNOWLEDGEMENTS

I would like to thank the following:

- My Heavenly Father for giving me life and ability to pursue my studies.
- Dr NS Matsiliza, my Supervisor and mentor for her guidance and good comments that she made on my work. She has been inspirational and patient in guiding me and I appreciate the constant support and assistance I received from her while I remain her student. Although in many occasions I did not meet the high standard she expected of me as well as her tight deadlines, but she never gave up on me. I thank her from the bottom of my heart.
- Commissioner Phumelele Nzimande for taking over as a mother to my children while I pursue my studies. Without her support, I would not have completed my studies.
- Amanda Kelengeshe, Pumeza Tsana, Annette Pool and Khanyi Mgwenyana in making sure that I am provided with all the necessary documents from the PSC to assist me with my research. I am indebted to these lovely ladies.
- My children for their continued support and encouragement which led to the completion of my studies under difficult and challenging times in our family.
- My spiritual mother, Nanzi Mateta for her prayers, love and care.
- The Public Service Commission (the PSC) for the generous sponsorship I received to undertake a study that they also have an interest in. I am indebted to the PSC for making it possible for me to realise my dream. However, opinions expressed in this thesis and the conclusions arrived at, are my own and not necessarily to be attributed to the Public Service Commission.

DEDICATION

I dedicate this work to my siblings Xoli, Sipiwo and Andy to remind them of the dreams and teachings of our late parents about the importance of education.

ABBREVIATIONS**EXPLANATIONS**

ANC	African National Congress
BCEA	Basic Conditions of Employment Act
CCMA	Commission for Conciliation, Mediation and Arbitration
COIDA	Compensation of Occupational Injuries and Diseases Act
COSATU	Congress of South African Trade Unions
DCS	Department of Correctional Services
DG	Director-General
DPSA	Department of Public Service and Administration
EA	Executing Authority
EEA	Employment Equity Act
ELRA	Education Labour Relations Act
ELRC	Education Labour Relations Council
Council FY	Financial year
GPSSBC	General Public Service Sectoral Bargaining Council
HOD	Head of Department
ICA	Industrial Conciliation Act
ILO	International Labour Organisation
LAC	Labour Appeals Court
LRA	Labour Relations Act
MPSA	Minister of Public Service and Administration
NDP	National Development Plan
NP	National Party
OHSA	Occupational Health and Safety Act
OPSC	Office of the Public Service Commission
PAIA	Promotion of Access to Information Act
PAJA	Promotion of Administrative Justice Act
PAM	Personnel Administration Measures
PDA	Protected Disclosures Act
PHSDSBC	Public Health and Social Development Sectoral Council Bargaining
PSCBC	Public Service Coordinating Bargaining Council

PSA	Public Service Act
PSC	Public Service Commission
PSCA	Public Service Commission Act
PSLRA	Public Service Labour Relations Act
SA	South Africa
SDA	Skills Development Act
SMS	Senior Management Service
SSSBC	Safety and Security Sectoral Bargaining Council
TBVC	Transkei, Bophuthatswana, Venda and Ciskei

Table of Contents

ABSTRACT	ii
ACKNOWLEDGEMENTS	iv
DEDICATION	v
CHAPTER ONE: INTRODUCTION AND BACKGROUND OF THE STUDY	1
1.1. Introduction	1
1.2. The purpose of the research.....	2
1.3. Background to the research problem.....	5
1.4. Problem Statement	6
1.5. Research Objectives.....	7
1.5.1. Main objective	7
1.5.2. Secondary objectives	7
1.5.3. Research questions.....	8
1.5.4. Sub-questions	8
1.6. The Context of the Grievance Procedure.....	8
1.7. Management of Grievances in the Public Service	11
1.8. The Process of Grievance Procedure in the Public Service.....	16
1.9. Research Design and Methodology.....	19
1.9.1. Population and Sample	20
1.9.2. Data Analysis.....	21
1.10. Delineation of the Research.....	21
1.11. Ethical Considerations.....	22
1.12. Conclusion	23
1.13. Chapter Outline.....	23
CHAPTER TWO: LITERATURE REVIEW	25
2.1. Introduction	25
2.2. Public Service transformation in the post-apartheid SA.....	25
2.3. Constitutional and Legal Framework	27
2.3.1. The Constitution of the Republic of South Africa, 1996	27
2.4. Legislative Framework.....	29
2.4.1. Public Service Commission Act, 1997	29
2.4.2. Public Service Act, 1994	30
2.4.3. Basic Conditions of Employment Act, 1997	31

2.4.4.	Skills Development Act, 1998	32
2.4.5.	Employment Equity Act, 1998	32
2.4.6.	Occupational Health and Safety Act, 1993	32
2.4.7.	Compensation of Occupational Injuries and Diseases Act, 1993	33
2.4.8.	Promotion of Administrative Justice Act, 2000	33
2.4.9.	Protected Disclosures Act, 2000	33
2.4.10.	Promotion of Access to Information Act, 2000	34
2.4.11.	The Unemployment Insurance Act, 2001	34
2.4.12.	The Public Service Resolutions	34
2.4.13.	White Paper on Human Resource Management in the Public Service.....	35
2.4.14.	White Paper on the Transformation of the Public Service, 1995	36
2.5.	Policy Mandates	36
2.5.1.	Rules for Dealing with Grievances of Employees in the Public Service.....	36
2.5.2.	Rules for Dealing with grievances of members of Senior Management Service	38
2.5.3.	Protocol for Dealing with Grievances of Heads of Department.....	39
2.5.4.	PSC Grievance Protocols for handling of Grievances.....	40
2.5.5.	Protocol on the Issuing of Directions	42
2.5.6.	Rules for the Summoning of Witnesses	43
2.5.7.	Handling of Grievances of Employees not employed in terms of the PSA.....	43
2.5.8.	Dealing with grievances of former employees.....	45
2.6.	Sources of Mandate for Dispute Resolution Mechanism.....	45
2.6.1.	Industrial Conciliation Act, 1924.....	45
2.6.2.	Labour Relations Act, 1956.....	46
2.6.3.	Public Service Labour Relations Act, 1993 and 1994.....	46
2.6.4.	Labour Relations Act 66 of 1995	48
2.6.5.	Education Labour Relations Act, 1993	49
2.6.6.	South African Police Labour Relations Act, 1958.....	49
2.7.	Dispute Resolution Institutions in the Public Service.....	49
2.7.1.	Commission for Conciliation, Mediation and Arbitration (CCMA).....	49
2.7.2.	Bargaining Councils for the Public Service	50
2.7.3.	The Labour Court.....	50
2.7.4.	The Labour Appeal Court.....	51
2.8.	The Grievance Trends in the Public Service	51
2.8.1.	Grievances considered by the PSC.....	55

2.9. Conclusion	58
CHAPTER 3: RESEARCH METHODOLOGY.....	60
3.1. Introduction	60
3.2. A Qualitative Research Methodology.....	61
3.3. A Quantitative Research Method	62
3.4. A Mixed Research Methodology	62
3.5. Data Collection Instruments.....	64
3.5.1. Interviews.....	65
3.5.2. Focus groups	66
3.5.3. Questionnaires.....	67
3.5.4. Literature review	67
3.5.5. Population and Sampling.....	68
3.5.6. Data compilation and analysis	70
3.5.7. Ethical Considerations.....	71
3.5.8. Limitations of the study	72
3.6. Conclusion.....	73
CHAPTER FOUR: PRESENTATION AND ANALYSIS OF FINDINGS	74
4.1. Introduction	74
4.2. An Overview of the PSC.....	75
4.2.1. A Historical overview.....	75
4.3. Environmental Factors	83
4.3.1. External Environment.....	83
4.3.2. Internal Environment.....	84
4.3.3. Performance Environment.....	85
4.4. Overview of the Questionnaire.....	86
4.4. Interpretation of Questionnaires.....	92
CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS.....	126
5.1 Introduction	126
5.2 Summary of Chapters.....	126
5.3 Recommendations	128
5.4 Contribution to the Academic Field and Future Research	129
5.5 Future Research.....	129
5.6 Conclusion.....	129
REFERENCES.....	132

ATTACHMENT/ APPENDIX 1	141
ATTACHMENT I APPENDIX 2	142
ATTACHMENT / APPENDIX 3	147

CHAPTER ONE: INTRODUCTION AND BACKGROUND OF THE STUDY

1.1. Introduction

The purpose of this study is to assess the role of the Public Service Commission (PSC) on the grievance investigations in the public service in South Africa. This is a research study that is driven by the quest for knowledge on whether the PSC can be regarded as an institution for dispute resolution mechanism or not. While the Constitution, 1996 in section 196 (4) (f) (ii) refers to the PSC as the institution that investigate grievances of employees in the public service concerning official acts or omissions and recommend appropriate remedies, it is also clear that the PSC is not part of government departments. Its role is that of an oversight and should not be involved in the initial stages of resolving a grievance between the employer and the employee. Instead, it would be better referred to as a dispute resolution institution. This notion is supported by Gerber, Nel & van Dyk (1998:349) by maintaining that dispute procedure is distinct from a grievance procedure as the grievance procedure provides employees with a channel for expressing dissatisfaction or feeling of injustice in connection with the employment situation and acts as an in-house means in an organisation in an attempt to resolve a dispute.

There is paucity on literature regarding discussions on the role and function of the PSC in dispute resolution due to the fact that it is not established in the provisions of the Labour Relations Act, 1995 (Act 66 of 1995) which establishes other dispute resolution institutions. The paucity in literature on how the PSC investigates grievances of employees creates a void, as it remains unknown in the public service and whether its involvement can be interpreted as dispute resolution. Section 28 (1) (c) of the LRA assign the powers and functions to prevent and resolve labour disputes in the public service to the bargaining councils and the role and functions of dispute resolution institutions in the Public Service in South Africa are well documented.

There are no conflicting views regarding the interpretation of a dispute of right which starts at the level of a grievance. Van der Waldt & Du Toit (2008:247) maintain that a dispute occurs as a result of a grievance that cannot be resolved according to the prescribed methods. These studies justify the need for a dispute resolution mechanism as they all acknowledge that there

are situations where a grievance will remain unresolved. The grievances that are referred to the PSC fall into the category of disputes, as they are referred after the departments failed to resolve them. The PSC is not an entity within government departments, but an independent and Constitutional body established in terms of the SA Constitution to be impartial and operate independently of the executive.

The assessment of the grievance investigations by the PSC will contribute to the body of knowledge on how the PSC conducts its business regarding the investigation of grievances in the public service. This study will use selected cases handled/administered by the PSC, to qualitatively and quantitatively collect data in order to achieve the main purpose of the study. The Public Service Commission is administratively centred in Pretoria, operating with offices in all nine provinces. This proposal will provide a protocol on how the study on the assessment of grievance procedure at PSC will be unfolding. This study does not intend to generalise the findings, but to contribute to the existing knowledge in the field of public human capital.

1.2. The purpose of the research

The research will assess the methods used by the PSC in order to find a deeper understanding of grievance procedures and application as outlined in South Africa, 1997 (Department of Public Service and Administration, 1997) and other prescripts. These principles are articulated by Erasmus, Swanepoel, Schenk, Westhuizen & Wessels (2005:502). They include amongst others, fairness and objectivity in deciding on grievance cases as well as a time-specified and progressive procedural steps. South Africa, (2003:6) provides a clear demarcation on cases to be referred to the Commission, and that alleged unfair labour practice cases may not be referred to the PSC.

The analysis of cases referred to the PSC will also address the gap in the understanding of compliance from the side of the PSC and the clients in order to minimize duplication existing between the PSC and other dispute resolution institutions. Smit (2008:32) recognises the forum shopping as challenging the dispute resolution system as it is created due to overlapping jurisdiction in some pieces of legislation. Even though reference is made to a specific case of an alleged unfair dismissal dispute which was referred to the Commission

for Conciliation, Mediation and Arbitration (CCMA) as well as the High Court, this situation may apply to the PSC as well. The study provides some lessons on how the PSC handle grievance cases and linked it with the establishment of awareness of the aggrieved employees about the methods of investigation of the PSC. This study will contribute to the knowledge area of dispute resolution and assist the employees to be able to determine which cases to refer to the PSC.

This study will also reveal if there are duplications or there is a clear demarcation or justification for these different institutions to operate in the same public service space. The research will also provide insight and broaden the scope and role played by various institutions in dispute resolution. This is in line with Brynard, Hanekom & Brynard (2014:13) that the results of the research should contribute towards better insight and to broadening of a specific area of knowledge. The study will reveal whether it will not be necessary to make constitutional and legislative amendments in the regulation of functions of the PSC. These problems are as a result of the changes in statutory development in the area of labour relations in the public service in South Africa. Brynard et al., (2014:2) provide that the knowledge obtained by means of research can be used to improve decision-making which in the public sector is based on verified data and not on intuition, tradition or mere sentiment.

The argument presented by Cheminais, Van der Waldt & Bayat (1998:106) that there was an attempt to regulate labour relations in the public service in terms of the Public Service Labour Relations Act, 1994 (PSLRA) but the promulgation of the LRA of 1995 with a dualistic statutory system covering the public service and the private sector employees abrogated an inclusive labour relations framework for all employees. It can be argued that there was no need for another arrangement for the handling of disputes of employees in the public service other than the institutions established in terms of the LRA. It can further be argued that the provisions of Section 196 (4) (f) (ii) of the Constitution, 1996 created this duplication as it established the role of the PSC after the promulgation of the LRA of 1995.

However, an independent assessment of how the PSC conduct its business will surface while assessing the grievance of employees in the public service which remain a gap in literature at the moment. The rationale for conducting this study is also driven by the quest

for knowledge and the intention to understand the phenomena being studied better. Brynard et al., (2014:1) maintain that the importance of research is closely related to the search for knowledge and the understanding of phenomena and one of the reasons for conducting research is to determine which areas, in the field of operation of the organisation, tend to be problematic. The findings of this study will benefit the PSC a great deal in making sure that it improves its services. The interest of the researcher in this study is that the PSC is a public institution, and it is funded by the tax payer. It is therefore critical for the PSC as a public institution to deliver effective and efficient services. In the introductory remarks in Brynard et al., (2014:vii), it is stated that the quality of service delivery in the public sector and the continued growth and market penetration of any business organisation depend on the quality, dependability and appropriateness of data pertaining to the field of operation of that particular organisation.

While the Constitution empowers the PSC to investigate grievances of employees in the public service, findings from this study will benefit the PSC to re-determine its role as an independent institution. In cases where there is a need for the development of frameworks as this study has revealed, the PSC will be able to make such pronouncements and propose measures. This study revealed that PSC cannot be involved in the initial investigation of grievances such as the investigation of grievances of Heads of Departments or any other employee, as it operates outside of government departments. Grievances must be resolved as close to the point of origin as possible and must only be referred to an independent institution at a stage they are declared as a dispute. This study also revealed that the grievance rules of the public service have no provision on how the grievances of the Heads of Departments should be handled, step by step before they are referred to the PSC and this study will assist the PSC to propose measures. This study revealed some of the reasons for forum shopping which are as a result of the benefit the aggrieved employees gain in each of the institutions dealing with grievances and disputes of employees. The aggrieved employees benefit if their grievances are referred to the PSC in that the PSC is able to access all documents from the departments that would assist in the investigation of a grievance, while other dispute resolution mechanism would require the aggrieved employee to present his/her case and provide documents to support his/her case. When the aggrieved employee refers the same case to the institutions of dispute resolution after the

PSC has investigated, the aggrieved employee's case is strengthened because of the availability of documents that the department would under normal circumstances not release if asked by the aggrieved employee.

1.3. Background to the research problem

While it is widely acknowledged that the first step in grievance resolution begins where the grievance originates, the parties may fail to resolve a grievance. In such cases, the grievance may be escalated. Venter, Levy, Conradie & Holtzhausen (2009:417) maintain that if a conflict remains unresolved and has been formalized to a level where a neutral party is involved for resolution it is referred to as a dispute. Bendix, (2010:273) echoes this view by adding that not all conflicts and grievances are amicably resolved at the workplace hence a dispute can be declared by the aggrieved party. The mandate of the PSC as articulated in section 196 of the Constitution, 1996 suggests that it is a neutral party and it also deals with grievances that the employer in the public service failed to resolve.

There are also contestations about the role and functioning of the PSC before 1996. Smith, (2008:3) maintains that the PSC was highly politicized at the time to push the agenda of the apartheid legacy. Borat, Pauw & Mncube (2007:2) provide that the first legislation established for dispute resolution was the Industrial Conciliation Act, 1924 (ICA) but the problem with this piece of legislation was that it excluded the African employees and was established to resolve dispute of interest and did not include the disputes of right. The adoption of LRA Act of 1956 (Act 28 of 1956) did not help much either, as it had its limitations. The birth of the LRA of 1995 (Act 66 of 1995) in South Africa introduced institutions that deal with labour disputes. These institutions also operate in the public service space as the PSC. Smith (2008:3) further provides that the inclusion of the public service within the scope of the LRA did not address the challenges of fragmentation in terms of approach regarding dispute resolution due to many pieces of legislation dealing with dispute resolution. This is an acknowledgement that there is no uniform approach in dealing with grievances of employees in the public service. However, this study will shed light on the understanding of grievance procedures and the challenges that are facing the PSC in expanding its mandate and bringing resolutions that will enhance public sector performance.

According to Van der Waldt et al., (2008:239-240) before the establishment of employee associations or trade unions, the state had unlimited authority to make one-sided decisions on how executive institutions should be run, irrespective of the effect of these decisions on the well-being of the employees. While the studies mentioned were conducted during the new dispensation, they still refer to old and outdated legislations. In the event where the PSC is acknowledged to have played a role in grievance handling, there is no information on how it was done. If the role of the PSC is regarded as that of a dispute resolution institution, then this situation may create a dilemma for the aggrieved employees in the public service. They may not be able to exercise an informed choice in referring their disputes or unresolved grievances due to the fact that the methods of grievance investigations by the PSC are not well documented.

However, there are challenges on how the PSC conducts these grievance investigations of employees in the public service. As an independent institution, the PSC should limit itself to grievances that were not resolved and be able to issue legally binding directions. However, there are instances where it investigates grievances that departments did not make an attempt to investigate. There are also cases where the public service does not have established frameworks for the handling of grievances of certain categories in the public service such as the grievances of Heads of Departments which are often referred to the PSC without any attempt to resolve them at their point of origin. There is also a challenge of having parallel structures such as the PSC and the institutions of dispute resolution which are performing the same functions in the resolution of grievances of employees in the public service as they operate in the same space. As a result of not knowing where to refer their grievances, the aggrieved employees may end up referring their grievances to wrong forums. Du Plessis, Fouche' & van Wyk (2004:330) provide that referral of a dispute to the wrong forum causes unnecessary delays and costs. As the study has revealed, one of the limitations of the PSC is lack of compliance in meeting the prescribed time frames in resolving a grievance, which can lead to aggrieved employees utilising other dispute resolution mechanisms.

1.4. Problem Statement

This research aims to highlight the plight of the aggrieved employees in the public service

which is created by the establishment of independent institutions operating in the same space of the public service, doing the same thing. The PSC is established by the Constitution of the Republic of South Africa, 1996 as an independent institution amongst others to attend to grievances of employees in the public service. However, it is not clear if the status of its independence allows it to acquire the status of being a dispute resolution mechanism or not. It is also not clear whether the PSC is efficient and effective in its grievance role, considering that the CCMA also deals with these matters and disputes. . However, the accredited bargaining councils and the courts operating in the same space as the PSC also play a role in the resolution of grievances of employees in the public service. The processes of the PSC in the investigation of grievances are not clear as compared to those of the institutions established in terms of the LRA, 1995 (Act 66 of 1995). The aggrieved employees are left in the dark as to how the PSC conduct its business in the investigation of grievances of employees in the public service to enable the aggrieved employees to make an informed decision as to where to refer their grievances. The grievance procedure is the guiding document with respect to the management of grievances in the public service. However, it is not clear whether the grievance procedures used by the PSC is efficient or not in making that grievances of employees are resolved speedily.

1.5. Research Objectives

The research objectives will now be spelt out.

1.5.1. Main objective

The main objective of this study is to assess the effectiveness of the methods used by the Public Service Commission in the investigation of grievances of employees in the public service.

1.5.2. Secondary objectives

- a) To address the gap in the knowledge and understanding of the grievance processes at the PSC, when compared with the knowledge presented on dispute resolution by institutions established in terms of the Labour Relations Act, 1995.

- b) To determine the existing structures and strategies adopted by PSC in conducting the grievance procedure.
- c) To assess challenges experienced by the PSC as a dispute resolution mechanism with the intention to recommend a workable approach in the arbitration process.
- d) To recommend a workable solution towards a more effective grievance procedure in the public service.

1.5.3. Research questions

The main research question is:

- a) To what extent is the PSC able to manage the grievance investigations effectively in the public service of South Africa?

1.5.4. Sub-questions

- a) Are the aggrieved employees in the public service aware of the methods of investigation of grievances by the PSC?
- b) What is the understanding of the existing strategies and mechanism applied by the PSC during arbitration?
- c) What are the challenges facing the PSC in grievance investigations and how they are addressing these challenges?
- d) How can we recommend a workable grievance resolution for the public service?

1.6. The Context of the Grievance Procedure

The overview of the grievance procedure cannot be clearly articulated without first outlining

the context in which it was developed. There is a need for departments as well as institutions dealing with grievances and disputes of employees to develop a procedure on how grievances and disputes will be dealt with when they arise. According to Klerck, (2009:183) a grievance procedure is the opposite of a disciplinary action. While the employer is the one taking disciplinary action against an erring employee, the employee takes action against the employer by expressing his or her dissatisfaction by lodging a grievance. It is also acknowledged that dissatisfactions among employees can be prevented by addressing the dissatisfactions at an early age before they graduate into grievances. According to Cheminais et al., (1998:144) complaints and dissatisfaction among employees, if ignored may assume the status of grievances.

Stone (2002:546) supports this view by alluding to the fact that grievances are a product of employee dissatisfaction and feelings of injustice and when they are not dealt with, they can quickly escalate. Cheminais et al., (1998:148) further state that grievances are usually the result of poor labour relations within a public institution and it is the responsibility of management to ensure fair labour practices. It is also a fact that if there is bad blood between the employer and the employee the possibility is that it may not be possible to resolve a grievance. According to Stone, (2002:546) the successful handling of grievances is related to the attitude of the parties involved. There is a bigger role that can be played by the employer to prevent dissatisfaction that lead to lodging of grievances by employees. Stone, (2002:346) provides that if management can know their subordinates as individuals and promote trust and mutual understanding, the handling of grievances can happen without the need for union or tribunal involvement. If the employer does not create a conducive environment, grievances are inevitable. According to Stone, (2002:546) the nature of industrial climate is critical, and bad or ineffective human resource management policies and practices may have a negative impact on employees in an organisation and due to lack of understanding and exercise of sound labour relations, grievances may arise. The lack of fair and equitable way of handling conflict in the workplace can manifest itself in large-scale, serious conflict, such as industrial action and therefore it is desirable to approach workplace conflict in a proactive way (Meyer & Kirsten, 2005:185). Cheminais et al., (1998:148) provide that grievances are the result of poor labour relations and lack of understanding of the role of managers to maintain sound labour relations and ensure fair labour practice.

The development of a grievance procedure moves from a premise that an employee has a right to fair labour practice and for the purposes of asserting that right, an employee may lodge a grievance. The opposite of fair labour practice is unfair labour practice and Klerck, (2009:138) defines it as any unfair act or omission that arises between an employer and employee including amongst others the unfair conduct of the employer relating to conditions of employment. The extensive protection of employees to unfair labour practices poses a question of what this unfair labour practice is all about in terms of legislation. Van Jaarsveld et al., (2004:176) assert that fair labour practices were even elevated to the level of being a constitutional right which guarantees every person a fundamental right to fair labour practice. This view is supported by Benjamin, (2013:4) by alluding to the fact that the new Constitution entrenches fundamental rights such as the right to strike, the right to fair labour practice and freedom of association. According to Bendix, (2010:101) no law may contain provisions which deprive individuals of the fundamental rights enshrined in the Constitution, including the right not to be unfairly treated. The dissatisfaction of the employee by the manner in which his or her grievance has been dealt with by his or her employer may include the failure of the department to investigate the grievance. Brand et al., (2011:60) articulate the historical recognition of labour rights of state employees in the public service, by outlining that the apartheid government was opposed to extending labour rights to state employees. The Labour Relations Act of 1956 (Act 28 of 1956) excluded persons employed by the state in South Africa. This situation continued until an official complaint was lodged by the Congress of South African Trade Union (COSATU) to the International Labour Organisation (ILO). The political changes in South Africa brought about changes in the Constitution by extending labour rights to everyone. The Constitutional provisions as articulated in section 23 (1) of the Constitution of the Republic of South Africa, 1996 provide that everyone has the right to fair labour practice. The repeal of the old oppressive labour legislation which excluded the employees in the public service led to the promulgation of new legislation which was responsive to the needs of all employees including those that are employed in the public service.

Van Niekerk et al., (2012:100) confirm this view by maintaining that some one million public sector employees fall under the scope of application of the Labour Relations Act, 1995 (Act

66 of 1995) and there is no separate labour legal regime as there used to be for the public sector. It is also acknowledged that there was an attempt to address the exclusion of public service employees from labour rights before the promulgation of the Labour Relations Act, 1995 (Act 66 of 1995), through the introduction of the Public Service Labour Relations Act, 1994 (Act 105 of 1994) which was repealed immediately after the promulgation of the 1995 labour legislation. The repeal of the exclusive legislation for the public service employees led to a uniform application of labour laws to all employees in the public service.

Cheminais et al., (1998:177) provide that the aggrieved employees has the option of appealing to the Public Service Commission where it is not possible to resolve the grievance within their departments. This view suggests that the PSC is regarded as an appeal process rather than a dispute resolution mechanism. This view raises a serious research question. If the PSC is regarded as an internal appeal process, then it means it forms part of the department. The appeal can be upheld or dismissed. However, in practice this is not the case. Section 196 (2) of the Constitution, 1996 provides a clear distinction of the independence of the PSC which must be impartial and exercise its powers without fear, favour or prejudice. This provision of the Constitution confirms that the PSC cannot be an appeal body within a government department as it is a separate and deals with grievance cases without any conferment from the government departments.

1.7. Management of Grievances in the Public Service

There is a need for formal procedures to be put in place in grievance handling to minimize the risk of inconsistency in the management and handling of grievances. According to Gerber et al., (1995:409) a grievance procedure provides employees with a channel for expressing dissatisfaction or feelings of injustice by the employer, while on the other hand it helps management to be aware of an alleged omission by the employer. Bennett (1988:203) maintains that the grievance rules will restrain the parties from behaving irresponsibly. If the grievance procedure is properly constructed, it enables the organisation to resolve complaints quickly, fairly and without industrial action. According to Swanepoel et al., (1998:192) effective grievance procedures is an internal mechanism that enables the organisation to reduce the necessity to resolve disputes through external agencies such as the CCMA and courts and will further the interests of sound employer-employee relations.

Even though the grievance procedures are not regulated by law, it is necessary for an organisation to develop and implement them so that the grievance platform can be properly regulated. Gerber et al., (1995:413) support the view that the grievance procedures are not prescribe in the LRA of 1995 but have been introduced in practice and they are assuming increasing importance in South Africa. The grievance procedures have the potential to spark off conflict within an organisation by making sure that grievances are resolved speedily and impartially.

The grievances referred to the PSC for investigation can be regarded as disputes in two ways. In support of this view, Gerber et al., (1995:415) maintain that it should be noted that if no solution to a grievance can be found after following all the steps prescribed, external intervention follows. In this case, the employer may have failed to investigate the grievance within the prescribed period and failure by the department to resolve a grievance may lead to an employee escalating the grievance to the PSC. The second instance is when the grievance of an employee is investigated by the employer, but the aggrieved employee becomes dissatisfied with the decision of the employer or the outcome of the investigation and decides to refer his/her grievance to the PSC. The grievances that are referred to the PSC in many respects can be regarded as disputes if one takes into consideration the definition of a dispute.

In some instances, the aggrieved employee may ask the employer to refer the grievance to the PSC for investigation. According to Cheminais et al., (1998:147) a dispute follows on from a grievance that could not be resolved. This suggests that a grievance can no longer be classified as a grievance if all efforts to resolve it fails but a dispute. Cheminais et al., (1998:148) maintain that unresolved grievances take the route of grievance arbitration, a process where the parties voluntarily agree to settle a dispute through the use of an independent third party. Formalised as the grievance process may be, there are instances where parties fail to resolve a grievance resulting in a grievance being declared as a dispute. If a grievance procedure runs its course without any agreement being reached between the parties affected a dispute arises, which is then resolved by means of the dispute resolution procedure (Meyer & Kirsten (2005:185). Nel et al., (2004:145) support this view, by alluding to the fact that if no solution to a grievance can be found, external

intervention follows and reference is made to the CCMA including various external sources up to the level of the Labour Court may be solicited to solve disputes.

There is no mention of the PSC. Some of the grievances that are unresolved at the level of the employer and the employee in the public service find their way to the PSC. This process is informed by the Grievance Rules of the public service. This route, as opposed to litigation, is followed due to its simple nature. There are other formal ways of resolving disputes such as court proceedings. However, this is not a preferred route for most of the employees in the public service. According to Brand et al., (2011:15) court proceedings have a tarnished reputation as it is financially out of reach for most employees. Over and above its cost implications, legal proceedings often take a long time from inception to resolution.

It is a fact that grieving and disgruntled employees that have lodged disputes with their departments cannot effectively deliver while waiting for the resolution of their grievances. It is therefore, critical for labour disputes to be resolved as speedily as possible, to mitigate risks in the achievement of labour peace and promotion of service delivery. Brand et al., (2011:10) maintain that the nature of a grievance and the fact that it is handled at a lower level of formalisation, the in-house procedures do not always guarantee a successful resolution. Hays et al., (2003:205) concur with this view and suggest that if all steps fail to produce a resolution, many grievance procedures will include a final step for arbitration, involving a neutral third party.

Mello et al., (2014:231) also provide that a grievance may not be resolved, and in such situations the aggrieved employee must inform his or her department of the intention to forward the grievance to the Public Service Commission for recommendation. The escalation of grievances suggests that in one way or another, a third party may be required to intervene in the resolution of a grievance. Erasmus et al., (2005:502) emphasise the right of public sector employees to pursue channels of dispute resolution beyond the institution where the grievance originates if the grievances cannot be solved through the grievance procedures. This view suggests that the referral of grievances that are not resolved to the PSC serves as a channel of dispute resolution due to the fact that the PSC operates outside of government departments.

Cheminais et al., (1998:148) provide that there is a process of grievance arbitration whereby the parties agree to settle a dispute through the use of an independent third party who serves as an arbitrator. However, this description may not completely fit the description on how the PSC operates. According to Cheminais et al., (1998:148) the arbitrator that presides over a grievance arbitration has no legal power to subpoena witnesses or records and are not required to conform to legal rules of hearing procedures other than allowing parties the opportunity to present evidence. Although this concept seems to be close to the manner in which the PSC operates, it also does not satisfy all the requirements of how the PSC operates. Section 10 (2) (b) of the Public Service Commission Act, 1997 (Act 46 of 1997) empowers the PSC to call witnesses or anyone in possession of any document that can assist in its investigation.

The manner in which the PSC operates creates a challenge for the aggrieved employees. After the PSC has dealt with the grievance and make its recommendations, the case is referred back to the department for the executing authority to implement the recommendations and if not implementing, state the reasons why the recommendations cannot be implemented. In extreme cases, the executing authority may ignore the recommendations of the PSC and not even state the reasons for none implementation due to lack of an enforceable award by the PSC. If the final decision still lies with the executing authority whose decision the aggrieved was not satisfied with in the first place, the referral to the PSC becomes a fruitless exercise and if not reviewed it is a waste of time for the aggrieved employees. If there is no mechanism to enforce the recommendations of the PSC, then the LRA dispute mechanism may be a better option for the aggrieved employees due to their enforceable awards. The reports presented to parliament by the PSC do not deal with individual cases of aggrieved employees to make sure that parliament calls departments to account for failure to implement the decisions of the PSC regarding grievances of employees in the public service. This means that the aggrieved employees are left with no recourse if their departments refuse to implement the recommendations of the PSC.

It is a fact that most of the grievances that are unresolved at the level of the employer and the employee in the public service find their way to the Public Service Commission and if that

route is not efficient, then it means the aggrieved employees remain dissatisfied even after the referral of their grievances to the PSC. According to Venter et al., (2009:417) if a conflict remains unresolved and has been formalised to a level where a neutral or independent party is involved for resolution, it is referred to as a dispute. Klerck, (2009:185) provides that if in the final stage of resolving a grievance, there are wider concerns which prevents the grievance to be resolved, the employee can declare a dispute. Bendix, (2010:273) echoes this view by alluding to the fact that not all conflicts and grievances are amicably resolved at the level of the employer and aggrieved employee hence a dispute can be declared by the aggrieved party. It goes without saying therefore, that the unresolved grievances referred to the PSC fall into the category of disputes since the employer would have failed to investigate the grievance at the prescribed period or the aggrieved employee may not have been satisfied with the decision of the employer. Klerck, (2009:168) supports the view of a third party to resolve a dispute or a grievance that is unresolved by alluding to the fact that all dispute resolution mechanisms have a common feature as they require the services of an independent third party in order to resolve or attempt to resolve a dispute. It also appears that not all grievances that are not resolved should be referred to the PSC.

According to Mello et al., (2014:231) if the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act 1995 (Act 66 of 1995) the dissatisfied employee may inform the executing authority in writing that he or she wishes to utilise the dispute resolution mechanisms provided for in the constitution of the Public Service Coordinating Bargaining Council (PSCBC) or the relevant sectoral bargaining council that has jurisdiction over the case. This suggests that the PSC should not consider an alleged unfair labour practice grievance or does not have jurisdiction over it. However section 196 (4) (f) (ii) of the Constitution, 1996 on the other hand, provides powers and functions of the PSC to investigate grievances of employees in the public service concerning official acts and omissions, and recommend appropriate remedies. This provision does not preclude the PSC from investigating cases of alleged unfair labour practice. This is another area that may be viewed as creating duplications in the management of grievances in the public service. If there is no demarcation on which cases should be dealt with by the PSC, and which ones to be dealt with by other dispute resolution institutions, clearly this creates duplications and encouraging forum shopping.

1.8. The Process of Grievance Procedure in the Public Service

There are various stages to resolve a grievance of an employee in the public service in South Africa. Gerber et al., (1995:415) provide the view that certain steps should be followed in addressing a grievance and the procedure can consist of various stages which will depend on the size and complexity of the organisation. According to Swanepoel, Erasmus, Van Wyk & Schenk (1998:675) the grievance procedure manifests itself in a document which spells out the stages or steps to be followed when employees have grievances. The first stage seems to be the same as provided for by different grievance procedures of different organisations as it starts with the aggrieved employee raising his or her grievance with the first level of authority or supervisor within the organisation. Klerck, (2009:185) concurs with the notion of steps that parties agree to as a procedure to resolve a grievance or a dispute and further provides that a small number of stages is more effective in resolving grievances since many stages mean long delays. The various stages followed in the grievance resolution process in the public service in South Africa is also supported by Emanuel, (1994:94) by alluding to the fact that a grievance handling process must be attained through a series of stages.

South Africa, Public Service Commission, (2003:4) provides eleven departmental steps in the grievance resolution process which start with the aggrieved employee lodging his or her grievance with the designated employee within his or her department as the first step. The rationale behind this step is to facilitate the resolution of the grievance as close to the point of origin as possible. The many steps followed in the resolution of a grievance in the public service is justified because the public service is very large considering all the government departments at the national and provincial level. It is on that point that Meyer & Kirsten (2005:185) support the various stages if the organization is big and complex. Erasmus et al., (2005:502) maintain that the grievance procedure of the public service is made available in the form of a document which spells out the stages or steps to be followed when employees lodge grievances. These various stages are regulated in the Rules for Dealing with Grievances of Employees in the Public Service.

South Africa, Public Service Commission, (2003:5) within the eleven stages which amongst others include the properly lodging of a grievance in a prescribed manner and in a prescribed

form covers stages one and two. The third and fourth stage include the facilitation of the resolution of the grievance by the designated employee through liaison with the relevant structures of the department in an attempt to resolve the grievance. The fifth and the sixth stage involve regular feedback to the aggrieved employee on progress made towards the resolution of the grievance as well as written confirmation by the designated employee if the grievance is resolved to the satisfaction of the aggrieved employee. The seventh and the eighth stage is the notification of the aggrieved employee by the Executing Authority (EA) as well as the emphasis on compliance with the prescribed timeframes and extension of period by mutual agreement in writing. The ninth and the tenth stage include the prescribed time period in which the aggrieved employee shall inform the EA about his/her dissatisfaction about the decision of the employer as well as the role that should be played by the EA in the referral of the grievance to the PSC in terms of section 35 (1) of the Public Service Act, 1994 (Proclamation 103 of 1994) as well as the referral to PSCBC if the grievance constitutes an alleged unfair labour practice. The eleventh and the last stage involves the referral of the grievance to the PSC by the aggrieved employee upon failure of the department to respond to the grievance within the prescribed period. This stage include the referral of the grievance to the PSCBC by the aggrieved employee if the grievance is an alleged unfair labour practice. Cheminais et al., (1998:147) provide five basic steps as a procedure to resolve employee grievances which include the following:

1) Raise the grievance verbally

The aggrieved employee will start by verbally informing the management of the institution about the complaint and the supervisor would investigate and make recommendations to the employee. This first step is informal and may not be deduced in writing. Swanepoel et al., (2003:676) provide that in the first step, the aggrieved employee verbally informs the immediate supervisor about the complaint and it may not be necessary for a third party to be involved at this stage. This step is supported by Gerber et al., (1998:355) by providing that the interaction of the aggrieved employee and his or her supervisor should be just and fair. If the grievance is not resolved within a reasonable time step two will follow.

2) Lodge a written complaint

The second step kicks in if the employee does not accept the recommendations of the supervisor and proceeds by lodging a formal grievance in writing. The second step according to Setsetse, (2008:6) is the step review system which is predominantly used and its role is to process grievances through progressive steps from lower to higher levels of management. Swanepoel et al., (2003:676) argue that during the second step, usually a third party like a shop steward if the aggrieved employee so wishes be involved and the grievance will be presented to the higher level of management. The higher level of management will be the supervisor of the immediate supervisor of the aggrieved employee. The grievance will be addressed by the next level of management and after the investigation a formal investigation report with recommendations will be presented to the aggrieved employee. If the grievance is resolved to the satisfaction of the aggrieved employee, the grievance shall be closed in writing. If the grievance is not resolved, step three will follow.

3) Investigate the grievance

The third step involves the investigation of the grievance at a higher level. According to Swanepoel et al., (3003:676) a grievance investigation shall be considered by a grievance committee which shall consist of a labour relations expert, employer representatives, a senior manager and any other experts who may add value to the process. This stage will allow for more time because the matter will be regarded as serious and difficult to solve at this stage. The outcome of the grievance committee shall be announced in writing to all the aggrieved parties. If at this stage the grievance is not resolved, the process of external dispute resolution shall be followed.

4) Hold a grievance hearing

The fourth step follows if the grievance remains unresolved. At this stage the grievance will be referred to the next level of management for investigation and reporting.

5) Further lodging with senior management

In the fifth and final stage, the grievance is addressed by the top management with the involvement of all interested groups including unions. According to Gerber et al., (1998:355) the stages can progress to the point where the grievance is lodged with the managing director, which would be the final stage in the attempt to solve the grievance. If a solution cannot be found, the matter is declared as a dispute. This view is supported by Meyer & Kirsten (2005:187) by maintaining that grievances not resolved must be dealt with in terms of the agreed upon dispute resolution process and the involvement of an external third party such as the bargaining council must be pursued. This suggests that channels of dispute resolution beyond the organisation must be pursued if the organisation fails resolve a grievance and this is the right of an aggrieved employee that must be recognised. While it is common cause that the grievance procedure might fail to resolve a grievance, it is critical for the parties to agree on the external third party to refer to.

Upon the referral of an unresolved grievance to the PSC, the PSC follows its own processes. In terms of the Rules for Dealing with Grievances of Employees in the public service, South Africa in (Public Service Commission, 2003:6) provides that the PSC shall upon receipt of all the information from the EA consider such grievance within 30 days and inform the EA of its recommendations and the reasons for its decision in writing.

1.9. Research Design and Methodology

This study employed a mixed method for data collection and analysis, using both qualitative and quantitative research instruments. The primary data will be collected from questionnaires, interviews and observations. The secondary data included document analysis of legislative frameworks, prescripts and protocols that are relevant to grievance investigations, various policy reports and case reports of the Public Service Commission that are accessible for public use, books and articles from accredited journals. Mouton, (2008:55) understands a research design as a plan or blueprint of how the research is going to be undertaken. It included the type of study that will best answer the questions that the researcher will have formulated.

According to Maree, (2011:262) a mixed method would enable the researcher to first establish attitudes of participants towards a topic and then interview them to establish their perspective on the topic. This will assist to discover people's experiences about how their grievance cases were investigated or being investigated, and whether they were aware of how they would be investigated. This research collected quantitative survey from the population group selected, as well as conducting qualitative interviews using the same questionnaire.

A quantitative research, amongst other things, focuses on how individuals and groups construct meaning out of their experiences Maree, 2011:50).. Qualitative research on the other hand helps the researcher to have a personal contact with the participants. Maree, (2011:39) views this personal contact as essential as it enables the researcher to explain in simple terms the procedures that will be undertaken to investigate the research questions. Semi-structured research questions will be developed to understand the perspective of participants and to explore the meaning they give to the problem identified. According to Brynard et al., (1997:25) questions should be constructed first, then the data should be analysed. The researcher is also a participant observer that will transcribe notes based on the observation and experience on dispute resolution cases at the PSC.

1.9.1. Population and Sample

This population group was critical as it interacts with the aggrieved employees during the process of investigation of the grievances. A purposive sample was be comprised of the aggrieved employees whose grievance cases have been investigated by the PSC. Investigation Officers of the PSC and Commissioners of the PSC who form part of the grievance panels that decide on the grievance cases after the Investigation Officers have presented the cases to them. The justification for the selection of these groups of participants is to make sure that the participants are relevant to the research questions and are able to add value in addressing the research questions. The observation of the grievance panels will achieve this purpose. Maree, (2011:84) maintains that observation is essential as it has the possibility of providing insider perspective of the group dynamics and behaviours in different settings.

Maree, (2011:79) agrees with this approach of sampling and refers to it as a stratified purposive sampling which points to the pre-selection of relevant participants that will assist the study. The combination of different instruments for collecting data included the administration of questionnaires, interviews, observation of grievance panels and review of literature, source documents and PSC reports on grievance investigations assisted the researcher in making sure that the main and sub-questions of the research questions are answered adequately. Maree, (2011:158) provides the advantages of interviewing the respondents and that this method has the highest response rate. Clarity can be given to respondents on issues that are not clear. This method would be useful to respondents that are not familiar with the subject but have lodged grievances with the PSC. The different approaches in investigation of grievances by the PSC and other dispute resolution institutions can be explained if the respondents are not familiar with the processes of these different institutions. As a participant observer, the researcher added value in understanding the environment and the work of PSC.

1.9.2. Data Analysis

Data captured from the questionnaires was administered and analysed quantitatively using the SPSS software. Also, data from the interviews and observations was recoded and analysed qualitatively by the researcher. After completion, the researcher prepared and wrote a report on the findings and results based on the summary chapter, the literature review, research methodology, summary and interpretation of findings, conclusion and recommendations will be produced as a dissertation, according to the university guidelines.

1.10. Delineation of the Research

The study focused on the stage where the grievance has been lodged as a dispute with the PSC in terms of Section 35 (1) of the Public Service Act, 1994. The referral to the PSC is as a result of a department being unable to resolve a grievance at the satisfaction of the aggrieved employee. This is the stage that comes after the aggrieved employee has expressed his or her dissatisfaction about the decision of the employer regarding his or her grievance. Cheminais, et al., (1998:148) introduce a term “grievance arbitration” which refers to a process whereby the parties voluntarily agree to settle a dispute through the use

of an independent third party. Van der Waldt et al., (2008:245) provide that if a solution cannot be found during the resolution of a grievance, the matter is declared a dispute and referred to the statutory mechanisms. This view is supported by Erasmus et al., (2005:502) that public sector employees have the right to pursue channels of dispute resolution beyond the institution in situations where grievances cannot be resolved at the level of the employer of the aggrieved employee.

There are also situations where the employer fails to investigate the grievance of an employee within a prescribed period, and extension of time is not granted by the aggrieved employee. These are the cases where the grievance can be referred to the PSC. South Africa, Public Service Commission, (2003) provides that if there is failure on the part of the department to respond to the grievance within the prescribed period, the aggrieved employee may lodge his or her grievance with the PSC.

This study covered a sample of a small percentage of cases that were concluded in the previous financial year. This means that the research was limited to cases that were concluded in a financial year and those that were being investigated within a financial year (2014/15). This approach suggests that this research had specific boundaries. In line with Brynard et al., (1997: 17), this study's topic was demarcated within the context of Public Management in order to determine specific or geographical boundaries for the particular study.

1.11. Ethical Considerations

The Public Service Commission granted the author a written approval to have access to their office and documents and permission to conduct the study. This includes access to its official documents, procedures and protocols as well as observing its grievance resolution panels. The publication of the methods and the processes the PSC uses in the investigation of employees in the public service was also granted. The author will also seek ethical clearance to the university ethics committee at CPUT to conduct the study. The author considered protecting the identities of the aggrieved employees whose grievances are being investigated or have been investigated will not be published without the consent of the aggrieved employees. The protection of identities of participants is supported by Maree, (2011:41).

In cases where the aggrieved employees have been requested to complete a questionnaire, the ethical considerations and the right of participants to protect their identities has been declared in the questionnaire. The study will be based on the truth and integrity.

1.12. Conclusion

Grievance management in the Public Service is a process that needs to be managed speedily as it has a potential to spread in the organization and affect service delivery. The speedy resolution can only happen if the grievance is resolved by a forum or institution that has jurisdiction and competence. There should be no ambiguity as to where the grievance should be referred in the event that it cannot be resolved where it originated. Duplications in functions of institutions responsible for dispute resolution or escalated grievances should be addressed as it has a potential to confuse the beneficiaries of the services. There should be no confusion or parallel structures where grievances should be referred. The aggrieved employees must be familiar with the process to be undertaken to resolve their grievances. If there is more than one institution that deals with grievances of employees, the employees must know which institution deals with which cases so to prevent a situation where cases fall outside the prescribed period for referral. The processes of the institutions that deal with dispute resolution or resolution of grievances should comply with grievance management principles.

1.13. Chapter Outline

Chapters in this study are as follows:

CHAPTER ONE: INTRODUCTION AND BACKGROUND TO THE STUDY

This chapter provides a background to the study, a general overview, the rationale, research problem, methodology and the research design. According to Mouton, (2004:114) the introduction and background chapter presents the reasons for the selection of the particular problem, the rationale for the study as well as a statement of the research problem.

CHAPTER TWO: LITERATURE REVIEW AND MANAGEMENT OF GRIEVANCES IN PUBLIC SERVICE

This chapter deals with the literature review relevant to the study from various sources and include a theoretical framework, the constitutional and legislative frameworks and well as grievance trends in the public service. According to Mouton, (2004:114) the review of literature presents the authoritative scholarship on the research problem and presents what other researchers have written on the subject.

CHAPTER THREE: RESEARCH METHODOLOGY

This chapter articulates the research design trajectory, particularly the research journey towards discovery, which includes the design and methodology that will be followed during research. It will also discuss the instruments used in the research and also explain the sampling techniques employed, data capturing and describe the procedure in capturing and editing of data. The rationale behind the selection of data and the procedure followed will be explained in this chapter.

CHAPTER FOUR: PRESENTATION AND DATA ANALYSIS

This chapter presents an evidence or results of the fieldwork as articulated by the respondents through various interactions. The data and amount collected is analysed, results presented in the form of findings as well as a discussion on the information collected and analysed.

CHAPTER FIVE: CONCLUSION AND RECOMMENDATIONS

This is the final and concluding chapter of this study. In this chapter, the findings are presented and the gaps for further research will be articulated with clear recommendations on how the findings will be taken forward in terms of dealing with policy implications that the

study reveals. The recommendations will also highlight areas of further research and constitutional and legislative amendments. Limitations to this study forms part of this chapter.

CHAPTER TWO: LITERATURE REVIEW

2.1. Introduction

This section focuses on literature review on the policy, legal framework and the management of grievances in the public service. It also touches on the transformation of the public service post 1994. According to Henning, van Rensburg & Smit (2004:2) literature is reviewed to contextualise the problem using different lenses, one's study, to argue a case and identify a niche to be occupied in the research and to. According to South Africa, 1997 (Department of Public Service and Administration, 1997) the grievance procedures should follow certain principles which include fairness and objectivity, transparency, independence, timeliness, participation and representation as well as statutory rights. In this study, the theoretical framework, through literature review will expand on the subject of the grievance procedure in the South African public service. The Constitutional and the legislative provisions regarding grievance procedure as well as labour policy frameworks will be analysed. The section will also deal with grievance trends in the public service to assess whether the grievance procedures are effective and efficient. The assessment will also determine whether the mechanisms that are in place are able to effectively and efficiently deal with grievances of employees in the public service in an effective and efficient manner.

2.2. Public Service transformation in the post-apartheid SA

The transitional period in South Africa brought about changes in the public service which also affected the PSC and its functioning. The objective of the transformation agenda was to change the structure, organisational culture and demographic composition of the public service. According to South Africa, Public Service Commission, (2001) important milestones in the transformation process included the rationalisation of the public service, the early policy formulation phase characterised by the production and dissemination of Green and White Papers which formed the basis for legislation and regulations were developed.

There was also an undertaking of Provincial Audits as well as the establishment of the work of the Presidential Review Commission which reported its work for the first time in 2007. The public service regulations were formulated in 1999 to empower managers and to create a framework based on the principles of the new Constitution. The increased broad representativeness in the public service was also an important milestone which when implemented changed the public service into becoming representative of the nation's racial composition as well as to be inclusive and responsive to the needs of all citizens irrespective of their racial, ethnic, gender and sexual persuasion and orientation. More importantly, the public service had to deliver on the agenda of being developmental South Africa, Department of Monitoring and Evaluation, (2014).

According to the White Paper on Human Resource Management in the Public Service, (1995) the public service was structured and developed by the previous regime to promote and defend the social and economic system of apartheid South Africa, Department of Public Service and Administration, (1995). During the dawn of democracy in 1994, it was necessary for the new Government to change the status quo and to provide a policy framework that will support an effective and efficient public service that is geared towards economic and social transformation. The main shortcomings in the public service were the lack of representativeness, lack of legitimacy, low capacity for service delivery and development, centralized control and top-down management. There was also lack of accountability and transparency as well as the absence of effective management information and financial control systems amongst others as well as inappropriate use of human resources. Staff were poorly paid and demotivated and labour relations were volatile. These problems resulted to lack of professional ethos and work ethic in the public service.

The transformation agenda yielded positive results for the public service in South Africa. South Africa, Public Service and Administration, (2007) and the PSC Report on Rationalisation of Public Administration (1994-1996) recorded positive lessons of the transformation process which include the following:

- The public services of the former TBVC states, self-governing territories and former RSA were amalgamated and the conditions of service of its employees also rationalised;

- Major policies such as the White Paper on the Transformation of the Public Service was published in 1995 identifying eight pillars of public service transformation such as restructuring and rationalising the public service, institution building and management, representativeness and affirmative action, transforming service delivery, enhancing accountability, human resource development and training, employment conditions and labour relations as well as the promotion of professional service ethos.

While a lot has been done to transform the public service, there are still many challenges to be addressed. Miller (2005:65) identifies a string of problems such as red-tape and over-regulation, compounded by problems of corruption, the interference from security personnel and poor service delivery to the broader population. While the public service inherited some of its problems such as lack of legitimacy, lack of professionalism and lack of capacity to deliver, not all challenges of the public service can be attributed to the old order. The public service is faced with new challenges such as the bloated public service. South Africa, 2013 (South Africa, Department of Public Service and Administration, 2013:32) the workforce at the end of the 2011/12 financial year shows an increase which impacts negatively on the wage bill.

2.3. Constitutional and Legal Framework

The constitutional and legal framework will now be spelt out.

2.3.1. The Constitution of the Republic of South Africa, 1996

The investigation of grievances of employees in the public service of South Africa by the PSC is regulated in section 196 (4) (f) (ii) of the Constitution wherein it provides powers and functions for PSC to investigate grievances on omissions and errors in employee relations in the public service with intentions to recommend appropriate remedial mechanisms. Section 196 (4) (d) further give PSC powers to provide and guidance on directions for ensuring proper procedures on promotions, recruitment, transfers and dismissals comply to enhance sound principles of public administration.

These Constitutional provisions suggest that the directions issued by the PSC in the specified areas of human resource such as recruitment, transfers, promotions and dismissals are

legally binding and can only be reviewed by a court of law. The departments are therefore obliged to implement them. Any legislation regulating the management of grievances in the public service should also be consistent with the Constitution. According to Nel, Werner, Poisat, Sono, Du Plessis & Ngalo (2011:39) the supremacy of the Constitution means that any action that is in contravention thereof can be challenged and even if it is an Act of parliament it can be declared null and void. Section 23 of the Constitution, 1996 is an empowering provision with respect to all matters of labour relations. In section 23 (1) it provides that everyone has a right to fair labour practices. While interpreting section 23 (1) of the Constitution, 1996, Mthombeni, (2005:24) provides that the section implies that employers need to recognise an obligation not only to attend to grievances, but also to attempt to resolve them. The articulation of unfair labour practice as provided in section 186 (2) of the LRA of 1995 is supported by Rycroft et al., (1992:159) by providing that it include unfair dismissal, unfair unilateral suspension as well as unfair discrimination.

According to Nel et al., (2011:45) workers have six internationally recognised categories of rights such as the right to work, the right to freedom of association, the right to collective bargaining, the right to strike, the right to protection and the right to training. While workers have these six internationally recognised categories of rights, not all of them are legally binding to the state. Nel et al., (2011:45) maintain that the right to work in South Africa is not legally binding. However, it is a democratic right of a worker to find employment, and perform the job willingly hence an employee is allowed to resign from a job. The freedom of association is regulated in the LRA of 1995 (Act 66 of 1995). Nel et al., (2011:45) provide that anybody in South Africa is given the opportunity to join an association that will protect him or her and negotiate on his or her behalf with the employer for fair and acceptable remuneration and conditions of employment.

In section 23 (3) (a) and (b) the Constitution guarantees the right of every employer to form and join an employers' organisation and participate in its activities and programmes. In section 23 (4) (a), (b) and (c), every trade union and every employers' organisation has the right to determine its own administration, programmes and activities, organise and form and join a federation. Section 23 (5) every trade union, employers' organisation and employer has the right to engage in collective bargaining. According to Nel et al., (2011:39) the Constitution and government policy sets the scene for the practice of employment relations in South Africa and it emphasizes that employment law should facilitate worker

participation and decision making in the workplace. In articulating the right of employees, Brand et al., (2015:63) provide that in the past public servants were excluded from the provisions of the LRA but the Constitution has extended labour rights to everyone. This notion is supported by Erasmus et al., (2005:502) by providing that management must accept the responsibility for addressing and settling all legitimate employee grievances in a fair manner. If the employee is left dissatisfied after the investigation of a grievance, the employer must know that the grievance remains unresolved.

While the PSC operates in all three spheres of government, it conducts its work as a single institution as provided for in section 196 (1) of the Constitution, 1996 (Act 108 of 1996). Section 196 (2) further provides that the PSC is independent and must be impartial and must exercise its powers and perform its functions without fear, favour or prejudice in the interest of the maintenance of effective and efficient public administration and a high standard of professional ethics in the public service. This provision is a confirmation that the PSC is not a government department but a constitutional body that exercise its functions independently of government departments.

An argument can be advanced that if the PSC was a government department or forms part thereof, the Commissioners of the PSC would be appointed by the Executive, but that is not the case. Section 196 (8) provides that nationally-based Commissioners of the PSC are appointed by the President in recognition of national and provincial legislation and National Assembly. This provision is supported by section 196 (6) (a) and (b) which provides for the reporting lines and that at least once a year the PSC shall report to the National Assembly. With respect to activities in a province, the PSC shall report to the provincial legislatures.

2.4. Legislative Framework

The legislative framework can be explained as follows:

2.4.1. Public Service Commission Act, 1997

In section 196 (2) of the Constitution, 1996 it is provided that the PSC must be regulated by national legislation. This constitutional directive led to the promulgation of the Public Service Commission Act, 1997 (Act 46 of 1997). In terms of section 11 of the Public Service

Commission Act, 1997 (Act 46 of 1997) the PSC is promulgated to manage employee grievances in the public service. In compliance with the act, the PSC developed two sets of rules for dealing with grievances of employees as well as members of the senior management service in the public service. Rules for dealing with the Grievances of Employees in the Public Service and were gazetted in July 2003 and are referred to as Rules for Dealing with Grievances of Employees in the Public Service. The second set of rules dealing with the grievance members of the senior management service were also gazetted in September 2010 and are referred to as the Rules for Dealing with Grievances of Members of the Senior Management Service.

In the investigation of grievances of employees by the PSC, the PSC may invoke the provisions of section 10 (2) (c) and summons to examine or require any person to produce any book, document or object in his or her possession or custody or under his or her control which may have a bearing on the subject of inquiry. Section 12 of the Public Service Commission Act, 1997 (Act 46 of 1997) provides that any person who hinders or obstruct the PSC in the performance of its functions under the Constitution or any other act shall be guilty of an offence and shall be liable to conviction to a fine or to imprisonment for a period not exceeding 12 months or both such fine and such imprisonment. This provision enables the PSC to access any document that it may require from departments or from anyone, for the purposes of its investigations including the investigation of grievances in the public service.

2.4.2. Public Service Act, 1994

In terms of section 35 (1) of the Public Service Act, 1994 (Proclamation 103 of 1994) an officer or employee may, for the purposes of asserting his or her right, lodge a grievance concerning official act or omission with relevant executing authority. This provision makes it clear that the grievance is first lodged within the organisation through the relevant executing authority in terms of section 35 (1) (a) of the Public Service Act 1994 (as amended). Section 35 (1) (b) further provides for the escalation of the grievance to the PSC if it is not addressed to the satisfaction of the aggrieved employee. According to Gerber et al., (1998:355) if all the various stages to resolve a grievance are exhausted internally, but fail to resolve a grievance, it is forwarded to external sources. South Africa, Public Service Commission, (2011:2) further explains that in the event that the aggrieved employee is not satisfied with the decision of the employer, PSC representative will submit the grievance 30

to in a manner and time or within the period prescribed by the PSC.

Section 16A of the Public Service Act, 1994 (as amended) provides that the executing authority shall immediately take disciplinary steps against a head of department who does not comply with the provisions of this Act or a regulations, determination or directive. This implies that the directions of the PSC shall be implemented as they are enforceable by law.

2.4.3. Basic Conditions of Employment Act, 1997

The Basic Conditions of Employment Act, 1997 (Act 75 of 1997) provides guidelines for the basic conditions of employment that the legislator regards as lawful and acceptable. According to Nel, et al., (2011:46) the BCEA of 1997 replaced the Wage Act of 1957 (Act of 1957) and from 1998 the BCEA of 1997 became operational both in the private and public sector. It should be noted that the BCEA of 1997 was amended in 2002 in the form of the Basic Conditions of Employment Amendment Act, 2002 (Act 11 of 2002). Klerck, (2009:7) notes that the main purpose of the BCEA of 1997 is to apply a legislative model of regulated within flexibility context of the labour market, and ensure balance and protection of minimum standards and requirements. Amongst others, it ensures that working hours are not exceeded by the employer and guarantees adequate breaks during a working day, prescribe annual paid sick leave and that work conducted for overtime, Sundays and public holidays are rewarded accordingly.

The BCEA also regulates the minimum notice that the employer should give an employee as a notice for termination of service. According to Grogan, (2015:64) the BCEA covers all employees and employers of the National Intelligence Agency and the South African Secret Services, charity workers with no payment/ salary and senior managers, while excluding Defence force employees. The importance of this legislation for the PSC is that it is used as a basis for rulings in cases where the aggrieved employee lodges a grievance concerning the official act or omission regarding the provisions of this act.

If the employer fails to comply in terms of the provisions of the BCEA, an employee can lodge a grievance, as that may be regarded as an omission from the side of the employer. While the employer will have broken the law, if not raised by the employee who is affected, the basic conditions not complied with will not be enforced.

According to Klerck, (2009:9), the BCEA provides a floor of rights of employees which is enforceable by law.

2.4.4. Skills Development Act, 1998

This act provides for the development and improvement of the work-force skills in South Africa and ensure appropriate training strategies that are integrated in the National Qualifications Framework. The employee may feel that the employer has failed to comply in terms of this act and in making sure that the employee is allowed to participate in development programmes to improve his or her employability. If the employer fails to comply in terms of the SDA, the aggrieved employee may lodge a grievance which if not satisfied by the decision of the employer may be referred to the PSC for investigation.

2.4.5. Employment Equity Act, 1998

The Employment Equity Act, 1998 (Act 55 of 1998) aims to address concerns such as discrimination, affirmative action, sexual harassment, medical testing and psychological testing and its main aim is 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 in the workplace. The employee may feel short-changed by the employer in these area and may be aggrieved by the action of the employer and lodge a grievance. If the case is referred to the PSC, the grievance will be resolved in terms of the provisions of the EEA.

2.4.6. Occupational Health and Safety Act, 1993

The Occupational Health and Safety Act, 1993 (Act 85 of 1993) imposes a duty on employers to ensure safe and healthy working environment and the provision of protective equipment where necessary. The OHSA also talks to the obligations to employers in making sure that employees are provided with information regarding safety and health at work as well as the provision of training and supervision to ensure health and safety in the workplace. The act enforces the employer to report any incident of death or injuries or when dangerous situations arise. Employees may be aggrieved if the employer does not comply in terms of the provisions of this act and the PSC may investigate such grievances.

2.4.7. Compensation of Occupational Injuries and Diseases Act, 1993

The COIDA 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. If there is an omission from the side of the employer in making sure that the act is complied with, the employees may lodge a grievance which the PSC may investigate if it is referred to it.

2.4.8. Promotion of Administrative Justice Act, 2000

The Promotion of Administrative Justice Act, 2000 (Act 3 of 200) gives effect to the right to administrative action that is lawful, reasonable and procedurally fair and to the right to be given written reasons for an administrative action as contemplated in section 33 of the Constitution, 1996 (Act 108 of 1996). The PAJA enforces accountability for the actions of public functionaries in that it promotes efficient administration and good governance by creating a culture that is not only accountable, but also open, transparent in the exercise of public power or performance of a public function. This act directly prevents abuse of power in cases where an administrative decision that affect an employee negatively is taken without being explained and the employee given reasons for such an action.

Brand, Lotter, Steadman & Ngcukaitobi (2015:249) provide that any person whose rights have been materially and adversely affected by the administrative action and who has not been given reasons for the action, may within 90 days after the date on which become aware of the action, request that the administrator concerned furnish written reasons for the action. The omission in exercising the provisions of this act manifest itself in many occasions on grievances where an employee is transferred without consultation and the reasons for that transfer are not given before such administrative action is taken. This act is relevant in such circumstances.

2.4.9. Protected Disclosures Act, 2000

The Protected Disclosures Act, 2000 (Act 26 of 2000) makes provision for procedures to be followed in terms of which employees may disclose information regarding unlawful or irregular

conduct by their employers or other employees in the employ of their employers. The PDA also provides protection of employees who make such disclosures in terms of the act with regard to their dissatisfaction. It may happen that such employees suffer occupational detriment due such lawful disclosures and are allowed to lodge a grievance for such prosecution by the employer. According to Klerck, (2009:138) an occupational detriment suffered by the employee who made a protected disclosure falls into the category of unfair labour practice. If such employee is punished by the employer as a result of a protected disclosure, such occupational detriment would fall under the category of unfair labour practice.

2.4.10. Promotion of Access to Information Act, 2000

The Promotion of Access to Information Act, 200 (Act 2 of 2000) 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 right. In cases of grievance investigation, the aggrieved employee may require information held by the department to support his or her case. In the event that the employer refused to provide such information, the provisions of PAIA can be invoked.

2.4.11. The Unemployment Insurance Act, 2001

According to Nel et al., (2001:45) the Unemployment Insurance Act, 2001 (Act 63 of 2001) is a piece of legislation that makes provision for unemployment pay for a specified period that is at most an indication of the state's interest in the continued existence of employment relations between the employer and employees. However, a grievance lodged by the former employer cannot be referred to the PSC.

2.4.12. The Public Service Resolutions

In terms of section 41 (1) of the Public Service Act, 1994 (Proclamation 103 of 1994) subject to any collective agreement, the Minister is empowered to promulgate regulations in which specific aspects that relates to labour relations are regulated. Resolutions are collective agreements reached in any of the bargaining councils of the public service and signed in terms of section 23 of the Labour Relations Act, 1995 (Act 66 of 1995). These resolutions

become binding on all parties to a collective agreement. If the employee believes that the employer is in breach of a collective agreement, he or she can lodge a grievance. Resolution 14 of 2002 of the collective agreements seeks to protect employees from arbitrary action by the employer hence it is signed between the parties at the Bargaining Council. It promotes mutual respect between the employer and the employees and to ensure that managers and employees share a common understanding on issues that affect employees, specifically when they are dissatisfied by the actions of the employer. In terms of Resolution 14 of 2002, adherence to time limits is critical.

The time limits are imposed to all parties including the aggrieved employee who must lodge his or her grievance within the prescribed period of 90 days on which he or she became aware of the official act or omission from the side of the employer. The Resolution captures all aspects of the Grievance Rules, 2003 and further provides that the PSC may not consider grievances of alleged unfair labour practice. Mthombeni (2005:30) posits that 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 or she wishes to utilise the dispute resolution mechanisms provided for in the constitution of the PSCBC or the relevant sectoral council. The grievance therefore, should not be considered by the PSC.

2.4.13. White Paper on Human Resource Management in the Public Service

The White Paper on Human Resource Management in the Public Service, 1997 (Department of Public Service and Administration, 1997) provides that there should be an independent avenue through which the grievance can be lodged, outside the aggrieved employee's direct line management. This is applicable only in cases where the aggrieved parties fail to resolve the grievance. This view is supported by Bendix, (2010:273) by alluding to the fact that not all conflicts and grievances can be resolved at the workplace, hence a dispute resolution can be declared by the aggrieved party. This suggests that a dispute, which is an unresolved grievance must be referred to an external body.

Cheminais, Van der Waldt & Bayat (1998:148) introduce an unfamiliar term "grievance arbitration" which refers to a process whereby the parties agree to settle a dispute through the use of an independent third party.

Van der Waldt et al., (2008:245) provide that if an amicable solution cannot be found during the resolution of a grievance, the matter is declared a dispute and referred to the statutory mechanism. This view is supported by Erasmus et al., (2005:502) that public sector employees have the right to pursue channels of dispute resolution beyond the institution in situations where grievances cannot be resolved at the level of the employer of the aggrieved employee. The referral of grievances to the PSC fall within this category.

2.4.14. White Paper on the Transformation of the Public Service, 1995

The White Paper on Transformation of the public service, 1995 (Department of Public Service and Administration, 1995) recognises that the relation between the public service as the employer and public service employees is characterised by divergent views and interests. It highlights that the environment should be managed and negotiated effectively as the labour conflict may have a disruptive effect on service delivery. While the White Paper on the Transformation of the public service recognises the importance of promoting effective labour relations, there was a need to repeal one of the short lived pieces of legislation, the Public Service Labour Relations Act, 1994 (Act 105 of 1994), to enable a uniform legislation that will cover the employees in the public service as well as the private sector. The Labour Relations Act, 1995 (Act 66 of 1995) kicked in. According to Brand et al., (2015:59) the purpose of the LRA was to give effect to the constitutional right to fair labour practices as enshrined in the section 27 of the Interim Constitution which was in force at the time.

2.5. Policy Mandates

The policy mandates will now be explained.

2.5.1. Rules for Dealing with Grievances of Employees in the Public Service

The Grievance Rules for dealing with grievances of employees in the public service published in the Government Gazette No.25209 dated 25 July 2003 (herein referred to as the Grievance Rules, 2003) is a set of rules that regulate the management of grievances in the public service. According to the Annual Report of the PSC for the period 2014/15, South Africa Public Service Commission (2015:12), the Grievance Rules, 2003 is a set of prescripts that gives effect to the mandate of the PSC as provided in the Constitution of the Republic of

South Africa, 1996. Section 196 (4) (f) (ii) as well as section 35 of the Public Service Act, 1994 (Proclamation 103 of 1994) provide the PSC with powers and functions to investigate grievances of employees in the public service and make recommendations on appropriate remedies.

These rules apply to employees at salary levels 1 to 12 and maps out the grievance investigation process that should be followed by the departments and the stage at which the grievance should be referred to the PSC. The same rules provide the process to be followed by the PSC to a stage where the Executing Authority (EA) is informed of the ruling of the PSC. The EA on the other hand is required to inform the aggrieved employee about the ruling of the PSC and how the recommendations of the PSC would be implemented.

South Africa, Public Service Commission, (2014:2) provides that the intention of the Grievance Rules is to assist departments in fostering a productive and harmonious workplace, and it is on that reason that the rules will always provide specific timeframes for the resolution of grievances. It is therefore imperative for the parties to adhere to time limits set out in the rules. Klerck, (2009:185) maintains that short time limits between the various stages can lead to the effective resolution of a grievance. If there are no time limits, the parties may unnecessarily delay the resolution of the grievance. South Africa (Public Service Commission, 2003:4) provides that a grievance must be lodged with the employer within 90 days of becoming aware of the omission from the side of the employer and the employee must demand that his or her grievance be referred to the PSC within 10 days after receiving the outcome of his or her grievance if he or she is not satisfied with the decision of the employer.

In terms of the Rules, Public Service Commission, (2003) the department has 30 days to investigate a grievance of an employee unless the period is extended by mutual agreement. If the grievance constitutes an alleged unfair labour practice as defined in the Labour Relations Act, 1995 (Act 66 of 1995), and the department fails to resolve the grievance, it must be lodged as a dispute with the relevant sectoral bargaining council as prescribed in the Constitution of the Public Service Coordinating Bargaining Council (PSCBC). In cases where the grievance does not fall within the mandate of the PSCBC, the unresolved grievance must be referred to the PSC.

If the department fails to respond to a grievance of an employee and by so doing not investigate the grievance at all, the aggrieved employee is allowed to personally refer his or her grievance to the PSC. South Africa, Public Service Commission, (2003:6) provides that the PSC, after receiving all relevant information that will assist the investigation of a grievance, shall within 30 days consider the grievance and inform the executing authority of its recommendations and reasons thereof. The executing authority shall within five days of receipt of the PSC recommendations inform the aggrieved employee of his or her decision.

In line with the provisions of section 196 (6) of the Constitution, 1996 the PSC shall provide a report in respect to its activities and the performance of its functions to the National Assembly in compliance to section 196 (4) (e) of the Constitution, 1996. With respect to provinces, the reports shall be submitted to the provincial legislatures. This report will include the grievances investigated by the Public Service Commission. It is also acknowledged that some grievances may be resolved within the department and it is on that reason that in terms of the Grievance Rules, the head of department must submit a report on grievance resolutions to the PSC once in six months.

The grievance rules, Public Service Commission, (2003) provide measures to prevent forum shopping where an employee lodges to all disputes resolution institutions at the same time. South Africa, Public Service Commission, (2003:7) provides that an aggrieved employee is required to disclose whether he or she is utilising any other procedure. However, this may not always be guaranteed that aggrieved employees may not simultaneously refer their grievances to other institutions of dispute resolution. There is no shared database by the dispute resolution institutions.

2.5.2. Rules for Dealing with grievances of members of Senior Management Service

Rules for dealing with the grievances of members of the Senior Management Service (SMS) including Heads of Departments published in Government Gazette No 33540 of 17 September 2010 were developed in compliance with the constitutional mandate to deal with grievances of employees in the public service as well as the provisions of section 35 of the Public Service Act, 1994 (Proclamation 103 of 1994). The Grievance Rules for the SMS as well as the Heads of Department are included in Chapter 10 of the SMS Handbook, 2003.

The Rules for dealing with grievances of Members of the Senior Management Service, Public Service Commission, (2010) are in many respects similar to the ones dealing with other employees in the public service generally with minor differences. The prescribed timeframes are the same with the exception of the time period given to a department to resolve a grievance of a Member of the Senior Management Service which in this case is 45 days instead of 30 days for lower level staff and may be extended by mutual agreement between the employer and the member. There is also a provision that Heads of Departments can lodge their grievances directly to the PSC for investigation.

2.5.3. Protocol for Dealing with Grievances of Heads of Department

While some of the provisions of the Rules for Dealing with grievances of Members of the Senior Management Service are applicable to heads of department, there are a few exceptions. South Africa, Public Service Commission, (2012:2) in the Protocol for Dealing with Grievances of Heads of Department lodged with the PSC provides that the head of department must produce proof that his or her Grievance Form has been copied to the relevant executing authority. The reason for this is that unlike other employees in the public service, they are allowed to lodge their grievances directly to the PSC. Another difference is that grievances of heads of department relating to performance evaluation must be dealt with in terms of the dispute resolution mechanism provided for in their Performance Agreements.

The grievance of a head of department is conducted in the form of a hearing and reasonable postponements are allowed. However, practice has shown that conducting these hearings is impossible because of the unavailability of the executing authorities. The procedure that seems to be working in this regard is the desktop investigation where documents relating to the case will be requested from the department concerned and analysed. A preliminary report with findings will then be forwarded to the parties to comment within five days of receipt of the preliminary report. When the comments from all parties are received, the PSC will then finalise the report and include recommendations. Withdrawals of a grievance is also allowed at any stage after having lodged the grievance with the PSC. According to South Africa, Public Service Commission, (2012:6) the Commissioner of the PSC assigned to

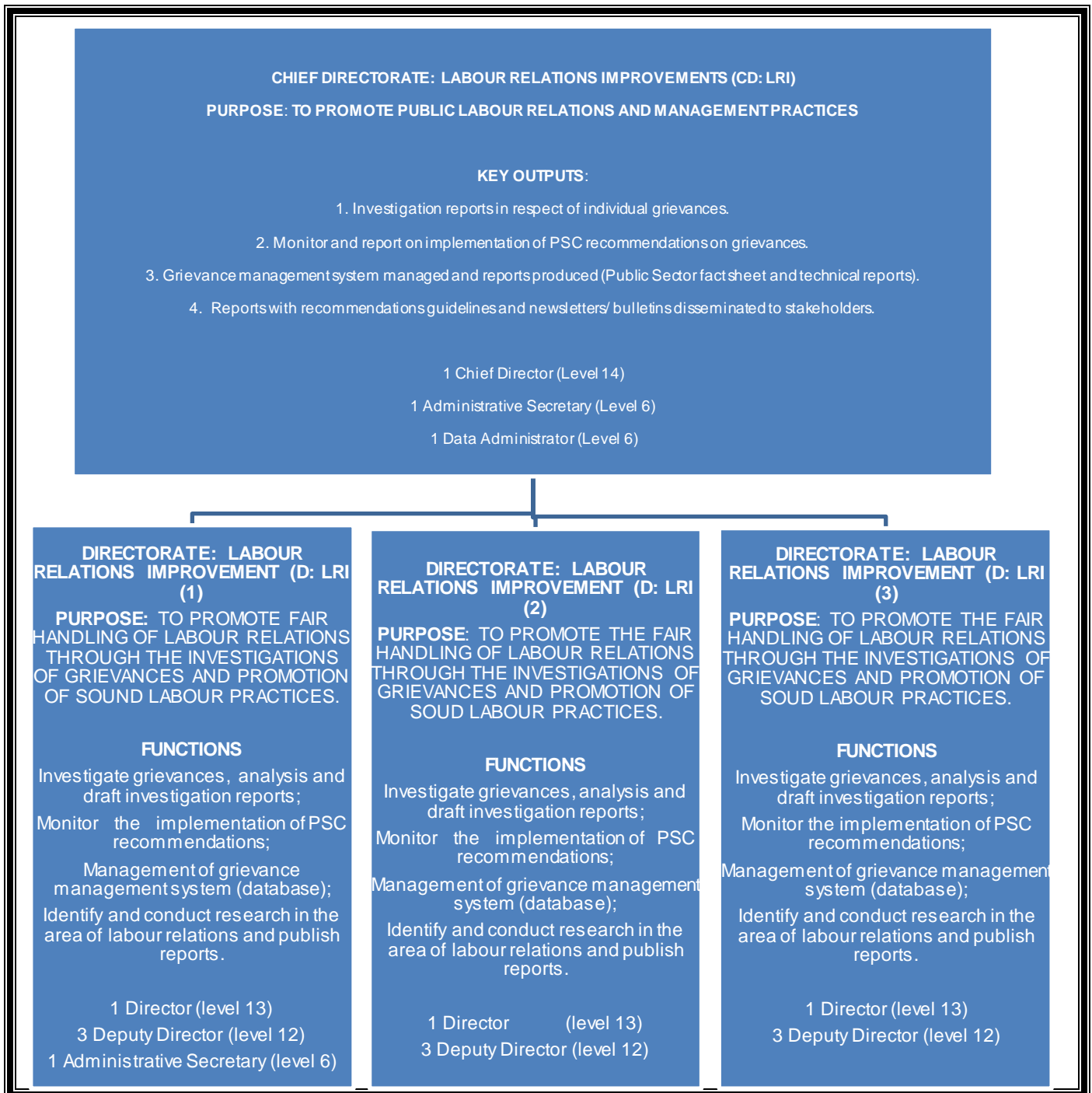
investigate the grievance of a head of department must produce a report with findings and recommendations within nine days after the hearing.

2.5.4. PSC Grievance Protocols for handling of Grievances

➤ The structure that handles grievances referred to the PSC

The Constitutional mandate to investigate grievances of employees in the public service is vested in the PSC and the function is performed by 14 Commissioners appointed in terms of section 196 (7) (a) and (b) of the Constitution, 1996. While the PSC functions as a single Commission in terms of section 196 (1) of the Constitution, its members are appointed by the President of the Republic of South Africa. Section 196 (7) (a) and (b) provides that five of the nationally-based Commissioners are approved by the National Assembly and one Commissioner for each province nominated by the Premier of each province. In the investigation of grievances referred to the PSC, the 14 Commissioners are provided administrative and investigation support from the Office of the Public Service Commission under the leadership of the Director-General as reflected by the functional structure hereunder:

➤ **Functional Structure of the officials supporting the PSC in the investigation of grievances.**



Public Service Commission organisational structure, 2016

While the statutory provisions provide a clear mandate for the PSC to deal with grievances of employees in the public service, the Constitution does not provide a step by step process on how the PSC should go about in the investigation of grievances. South Africa, Public Service Commission, (2015:5) provides that there is no comprehensive regulatory

framework or mechanisms and conditions through which the PSC should handle grievances lodged by the public service employees (Public Service Commission, 2015:7) in the PSC Grievance Protocol in the investigation of Grievances of employees in the public service below the level of the head of department provides that grievances are considered by the PSC if referred by the executing authority in terms of Rule F.9 of the Grievance Rules, 2003 (Public Service Commission, 2003). The process of referring grievances to the PSC may be viewed as a process of raising a dispute. Klerck (2009:108) supports this view by providing that a dispute is only declared once negotiations have broken down or when there is a failure to resolve a grievance.

2.5.5. Protocol on the Issuing of Directions

According to South Africa, Public Service Commission, (2015:5) the Protocol Document on the issuing of Directions by the Public Service Commission provides that there is a need to draw a clear distinction between issuing of directions, the making of recommendations and the advice given to departments. This suggests that the PSC can instruct through its directions, for the department to act in a particular way, but the directions are limited to areas as mentioned in section 196 (4) (d) of the Constitution, 1996. As part of monitoring and implementation of directions issued by the PSC, the executing authority or head of department shall provide feedback to the PSC on the implementation of directions at the expiry of 60 days.

The PSC may also invoke the provisions of the Rules for the Summoning of Witnesses in connection with inquiries of the PSC and summons whoever does not implement the directions to appear before the PSC. South Africa (Public Service Commission, 2015:23) provides that a gap exists with regard to steps that may be taken against the executing authority who does not implement the directions issued by the PSC. In this regard, the PSC is accountable to parliament and such non-compliance may be reported to parliament in terms of section 196 (5) and (6) of the Constitution, 1996. South Africa, Public Service Commission, (2015:17) also provides that regarding the grievances of employees in the public service, provision is made for the PSC to make recommendations regarding its remedies. This is in line with the provisions of section 196 (4) (f) (ii) of the Constitution, 1996 which provides powers and functions of the PSC to investigate grievances of employees in

the public service concerning official acts or omissions, and recommend appropriate remedies. It is also provided that the PSC may also want to proffer advice regarding personnel practices in the public service regarding personnel practices without necessarily addressing a lodged complaint.

Section 196 (4) (d) of the Constitution, 1996 implies that the PSC may issue directions broadly for ensuring compliance with acts other than the Public Service Act, 1994 (Proclamation 103 of 1994). According to South Africa, Public Service Commission, (2015:4) these may include acts such as the National Education Policy Act, 1996 (Act of 1996), the Correctional Services Act, 2007 (Act 111 of 2007), the South African Police Act, 1995 (Act 68 of 1995) and the New Defence Act, 2002 (Act 42 of 2002).

2.5.6. Rules for the Summoning of Witnesses

Rules for the summoning of witnesses in connection with inquiries and investigations of the PSC published in the Government Gazette No 2367 dated 28 March 2002 are regulated in section 10 read with section 11 of the Public Service Commission Act, 1997 (Act 46 of 1997) as well as section 196 (3) of the Constitution, 1996. The rules for summoning of witnesses provide a due process to be followed when a person is summonsed, as indicated by legislation, to appear before the inquiry of the PSC. In terms of the rules, any person who have been summoned to appear before the PSC may be called upon to produce any document and book for objections, and PSC may propose further investigation based on that. These measures are put in place to assist the PSC to investigate the grievances of employees in the public service or any other matter without delay and to make sure that all the required documentation is presented before the PSC to inform its ruling.

2.5.7. Handling of Grievances of Employees not employed in terms of the PSA

According to South Africa, Public Service Commission, (2015:20) there are sectors within the public service such as the Departments of Correctional Services, Defence and Military Veterans, South African Police Service, Education and State Security Agency, which have their own grievance procedures that are distinct from the Grievance Rules. This view is supported by Brand et al., (2015:63) by providing that the International Labour Organization's

Conventions and Recommendations does not prescribe that labour rights for public servants must be contained in uniform legislation. The emphasis is that public service employees must have certain rights which must be protected in national legislation as expressed in Article 1 of Convention 142 of 1981. However, in terms of the provisions of section 196 (4) (f) (ii) of the Constitution, 1996, the PSC has the mandate to consider grievances of all employees in the Public Service, unless their legislations expressly precludes. When grievances of employees from these institutions, with the exclusion of the State Security Agency are referred to the PSC, they are considered in terms of the grievance procedures which are applicable to their sectors.

There are also unique departments such as the South African Police Service which have employees in the Civilian Secretariat that are employed in terms of the Public Service Act, 1994 (Proclamation 103 of 1994). These employees fall within the grievance procedure of the public service and the Grievance Rules, 2003 (Public Service Commission, 2003). The Department of Defence Grievance Procedure is regulated in terms of the Individual Grievances Regulations, 2010 and the Military Ombud Act, 2012 (Act 4 of 2012). The Department of Defence and Military Veterans has established four phases in its grievance procedure and is managed by a Grievance Board. Time limits are applicable to each phase and the final decision rests with the Grievance Board. The condonation for late lodging is also allowed. The external mechanisms are allowed after the internal procedures have been exhausted. The grievances of the service members is dealt with in terms of the Military Ombud Act, 2012 (Act 4 of 2012). There is no provision for referral of grievances of service members to the PSC.

In terms of South Africa, Public Service Commission, (2015:21) the grievance procedure for the Department of Correctional Services is dealt with in terms of the Grievance Procedure Manual which was agreed to in their Departmental Bargaining Council through the signing of Resolution 108 of 1996. The grievance procedure allows for seven stages with time limits for each stage. The final decision lies with the Deputy Commissioner. If the member is still dissatisfied after the final decision, external remedies may be pursued.

South Africa, Public Service Commission, (2015:21) provides that the South African Police Service Labour Relations Manual agreed upon in the Safety and Security Sectoral Bargaining Council on 20 May 2005 provides for four steps in their grievance procedure. 44

The last step provides for internal mediation proceedings which culminates for the issuing of a mediation certificate by the mediator. Time limits are also applicable for each phase and aggrieved member, if not satisfied with the final decision may lodge a dispute to the relevant Council in terms of the dispute resolution procedure of that Council within 30 days of the issuing of a mediation certificate.

The Educators also have their own grievance procedure which in terms of South Africa, Public Service Commission, (2015:21) is contained in Chapter H of the Personnel Administration Measures (PAM). The grievance procedure provides for 90 days to lodge a grievance and time limits are set for each phase. A dispute may be lodged with the Executive Officer of Education Labour Relations Council.

2.5.8. Dealing with grievances of former employees

Section 3 (8) (a) of the Public Service Act, 1994 (Proclamation 103 of 1994) regulates the lodging of grievances of former employees in the public service. The executing authority of the department of the former employee is empowered to deal with the grievance. However, the PSC is empowered to deal with the grievance of the employee whose grievance was lodged prior to termination of the services of the former employee.

2.6. Sources of Mandate for Dispute Resolution Mechanism

Sources of mandate for dispute resolution mechanism will now be spelt out.

2.6.1. Industrial Conciliation Act, 1924

According to Smith, 2008 (2008:7) the first statute to deal comprehensively with the resolution of labour disputes in South Africa was through the enactment of the Industrial Conciliation Act, 1924 (Act 11 of 1924). However, this piece of legislation did not apply to African employees. Benjamin, 2013 (2013:2) provides that the Industrial Conciliation Act 1924 (Act 11 of 1924) is the first labour relations statute of national application by the Union of South Africa which was established in 1910 and the exclusion of African employees was justified by the fact that they were regarded as “pass-bearing Africans” by the apartheid regime. The Industrial Conciliation Act was primarily suited to resolve interest disputes. Disputes of right

were not included and when arise would be referred to ordinary courts to be decided on the basis of the law of contract. The public sector employees were also not included.

2.6.2. Labour Relations Act, 1956

This piece of legislation strengthened the policy of exclusion in that the public service was excluded from collective bargaining and dispute resolution. According to Rycroft et al., (1992:247) the LRA of 1956 in its preamble includes as one of the aims of the Act, the prevention and settlement of disputes between employers and the employees. In support of this view, Brand et al., (2015:60) maintain that the policy of apartheid government was opposed to extending labour rights to state employees. This exclusion was entrenched in section 2 (2) of the Labour Relations Act, 1956 (Act 28 of 1956). The exclusion extended to educators at universities, universities of technology, formally known as technikons, colleges, schools and any other educational institution maintained wholly or partly from public funds. There was no logical explanation for the exclusion except that the granting of labour rights to public sector employees would undermine the foundation of the exercise of power of the apartheid government. In essence, state employees were not allowed to complain as they were excluded from the dispute resolution mechanisms that were in place at the time.

According to Brand et al., (2015:60) an official complaint was lodged by the Congress of South African Trade Unions (COSATU) to the International Labour Organisation (ILO) in 1988. COSATU complained about the exclusion of public service employees from the application of the Labour Relations Act of 1956. The finding by the ILO was in favour of COSATU and it was recommended that legislation should be passed to introduce changes that would allow the employees in the public service included in the labour legislation.

2.6.3. Public Service Labour Relations Act, 1993 and 1994

There were bitter struggles by trade unions to force the apartheid regime to implement the recommendations of the ILO to change legislation to allow the employees in the public service to be included in the labour legislation. The thinking behind this exclusion was that the majority of civil servants were white and loyal to the ruling party of that time. Erasmus et al., (2005:439) maintain that the apartheid government treated the public service as a vast pool of patronage for white party loyalists. This resulted in a range of discriminatory practices such as the denial of citizenship rights, exclusion from labour relations legislation, repressed

by security forces and employer hostility. Labour relations were mediated by force rather than negotiation hence there was no legal framework for the public service.

Erasmus et al., (2005:439) provide that the National Party government was also resistant to change and even ignored the recommendations of the Wiehahn Commission established in 1979 which recommended the extension of union recognition and collective bargaining in the public service. According to Brand et al., (2015:60) the political changes of 1980s and 1990s and the militancy of the trade unions that were organising within the public service grew stronger and stronger and led to the development of the extension of labour rights to public service employees. This view of the changes in political landscape in South Africa is supported by Van der Westhuizen et al., (2011:438) and provide that political power changed hands in April 1994, and the ANC-dominated Government of National Unity took over and the country was moving towards a constitutional democracy which brought changes in the field of labour relations.

However, there was a need for the labour relations legislation to be enacted to regulate the public service. This led to the promulgation of the Public Service Labour Relations Act of 1993 (PSLRA) which was repealed and replaced by the PSLRA of 1994. According to Erasmus et al., (2005:440) the PSLRA of 1993 was short-lived. It was repealed and replaced with minor changes by the PSLRA of 1994 whose objectives were to provide for registration and recognition of staff associations and unions, as well as their admission to negotiation forum. The establishment of bargaining councils at central and departmental as well as the prevention and settlement of disputes also form part of the PSLRA of 1994. The PSLRA of 1994 was also repealed. The reason behind the repeal of the Public Service Labour Relations Act of 1994 was that the Labour Relations Act of 1995 would cover both private and public sector workers. In essence, there is no record of the implementation of the Public Service Labour Relations Act of 1993 and that of 1994 as they existed for a very short time.

South Africa, Public Service Commission, (2003:1) provides that the provisions of Section 18 of the Public Service Labour Relations Act, 1994 were retained as an individual dispute resolution system for employees employed in terms of the Public Service Act, 1994 through item 15 of Schedule 7 of the Labour Relations Act, 1995. This arrangement was operationalized through the signing of Resolution 5 of 2000 in the Public Service Coordinating Bargaining Council (PSCBC).

According to Swanepoel et al., (1998:642) the new Act provides for the creation of a single overarching structure, the Public Service Coordinating Bargaining Council (PSCBC) which should regulate and coordinate collective bargaining across the public service as a whole. This was to make sure that as from 1 June 2000, the Sectoral Councils such as the General Public Service Sectoral Bargaining Council (GPSSBC), the Public Health and Social Development Sectoral Bargaining Council (PHSDSC), the Safety and Security Sectoral Bargaining Council (SSSBC) and the Education Labour Relations Council (ELRC) would be responsible for resolving disputes with regard to matters concerning the interests and rights of employees employed in terms of the Public Service Act, 1994 in those sectors.

Brand et al., (2011) provide that the LRA excluded members of the South African Defence Force, members of the South African Secret Service and National Intelligence Agency from its application. According to Smith, (2008:40) this meant that the employees in the public service could go to the Commission for Conciliation, Mediation and Arbitration (CCMA) for the resolution of their disputes. Bhorat et al., (2007:3) explain that the CCMA has power to licence Private Agencies and Bargaining Councils to perform any or all of its functions in terms of Section 35 of the Labour Relations Act, 1995.

2.6.4. Labour Relations Act 66 of 1995

Section 1 of the LRA describes its purpose which is to advance economic development, social justice, labour peace, and the democratization of the workplace by fulfilling its primary objectives. It is to give effect to obligations incurred by the Republic as a member state of the International Labour Organization. It is also to provide a framework within which employees and their trade unions, employers and employers' organizations can collectively bargain and determine wages and conditions of employment as well as other matters of mutual interest including the formulation of industrial policy (Grobler et al., 2011:493). According to Brand et al., (2011:59) the purpose of the LRA is to give effect to the constitutional right to fair labour practices as enshrined in section 27 of the Interim Constitution replaced by section 23 of the Constitution of 1996.

The LRA makes provision for an employee to lodge his/her dispute by utilizing the dispute resolution mechanism indicated in the Labour Relations Act of 1995.

This legislation was created in recognition that parties in an employment relationship may not always agree on all aspects of their relationship. Smith, (2008:4) maintains that a dispute is said to exist when a party indicate his/her views that is different than the other one. Section 2 of the LRA provides for exclusions from its application and provide that the Act does not apply to members of the National Defence Force and the State Security Agency. According to Grobler, Warnich, Carrell, Elbert & Hatfield (2011:493) all workers are covered by the LRA with the exception of the members of the National Defence Force, the National Intelligence Agency and the South African Secret Services.

2.6.5. Education Labour Relations Act, 1993

The extension of labour rights to public service employees led to significant changes and various pieces of legislation were introduced to cater for different categories of employees in the public service. The Education Labour Relations Act, 1993 (Act 146 of 1993) was introduced to regulate the labour rights of teachers in the public service. According to Brand et al., (2015:60) these changes can be attributed to the militancy of the unions at the time which were becoming more visible in organising in the public service than before.

2.6.6. South African Police Labour Relations Act, 1958

The South African Police Labour Relations Regulations promulgated on 29 November 1993 in terms of the South African Police Act, 1958 (Act 7 of 1958) was one the pieces of legislation enacted to regulate the labour rights of police officers in the public service. According to Brand et al., (2015:61) this legislation was an achievement for the trade unions within the police service because it extended the labour rights to members of the police service. The South African Police Labour Relations Act of 1958 was repealed and replaced by the South African Police Act, 1995 (Act 68 of 1995).

2.7. Dispute Resolution Institutions in the Public Service

Dispute resolution institutions in the public service are the following:

2.7.1. Commission for Conciliation, Mediation and Arbitration (CCMA)

The Commission for Conciliation, Mediation and Arbitration (CCMA) is one of the institutions for dispute resolution established in terms of the Labour Relations Act, 1995 (Act 66 of 1995). It is established as an independent body to seek to resolve disputes through conciliation, mediation and arbitration. Its scope covers the private and the public sector. Smith, (2008:11) alludes to the fact that CCMA is the centrepiece of the LRA intended to play a key role in the overall dispute resolution system as it brought the public service within the ambit of the LRA, enabling it for the first time for the public service employees to go to the CCMA for the resolution of their disputes.

Bhorat, Pauw & Mncube (2007:5) provide that the Labour Relations Act, 1995 establishes the CCMA as a statutory body funded by the state. Its primary function is to conciliate and arbitrate disputes referred to it in terms of the Labour Relations Act and other labour statutes such as the Basic Conditions of Employment Act of 1997, the Employment Equity Act of 1998, the Skills Development Act of 1998 and the Unemployment Act of 2001. According to Nel, (2014:1) most common disputes referred to the CCMA are concerned with dismissals on the basis of misconduct or incapacity, but may include final written warnings, suspensions, unfair dismissals, unfair retrenchments, failure to renew a contract and constructive dismissals.

2.7.2. Bargaining Councils for the Public Service

The Public Service Coordinating Bargaining Council (the PSCBC) is one of the Coordinating bargaining councils accredited by the CCMA and has the same powers as the CCMA. Its accredited bargaining councils have power to deal with both disputes about issues of mutual interest as well as disputes of rights. In terms of labour disputes, the aggrieved employees have a right to lodge their disputes with the relevant bargaining councils. According to Brand et al., (2015:67) once it is properly established, it has power in designated through the Constitution to establish a bargaining council like the General Public Service Sectoral Bargaining Council (the GPSSBC), the Public Health and Social Development Sectoral Bargaining Council (the PHSDSC), the Safety and Security Sectoral Bargaining Council (the SSSBC), as well as the Education Labour Relations Council (the ELRC).

2.7.3. The Labour Court

Some of the labour disputes are taken to the labour court for resolution and the Labour

Court is regarded as a dispute resolution institution on labour dispute matters. According to Brand et al., (2015:54), the Labour Court is a superior court that has the same authority as the High Court of a Provincial Division and consists of a Judge President, a deputy Judge President as well as Judges that the President may consider necessary. In the Labour Court, parties are allowed to appear in person or be represented by a legal practitioner and cases are heard by one Judge. In cases where an Award issued by the CCMA or relevant Bargaining Council needs enforcement, or the arbitration process reviewed on procedural grounds, this can be done through the courts. According to Brand et al., (2015:174) awards can only be enforced through the High Court.

2.7.4. The Labour Appeal Court

This is a superior court above the Labour Court. According to Brand et al., (2015:56) the Labour Appeal Court (LAC) is a final court of appeal in respect to all judgements and orders made by the Labour Court on all labour matters. Its status is equal to that of the Supreme Court of Appeal (SCA). In the LAC, parties may appear in person or through a legal representative.

2.8. The Grievance Trends in the Public Service

Grievance trends in South Africa show a growing concern on how unsatisfactory manner in which grievances are managed in South Africa. While it is acknowledged that there are many factors that can lead to delays in resolving disputes of employees, there was an attempt to even change legislation to address these delays. Klerck, (2009:106) mentions that one of the reasons for moving away from the provisions of the LRA, 1956 (Act 28 of 1956) was that the dispute resolution procedures did not function effectively. There was a very small percentage of disputes settled at the time. While the new LRA, 1995 (Act 66 of 1995) did manage to address the anomaly of the exclusion of the public service in dispute resolution, the speedy resolution of grievances and disputes is still a challenge. Smith, (2008:31) mentions that the new statutory dispute resolution mechanisms brought about a benefit of accessibility to dispute resolution institutions for ordinary workers. However, easy access to these institutions compounded the problems because very huge workloads were created. Dispute resolution institutions like the CCMA and its accredited bargaining councils as well as the PSC are free of charge, and the majority of ordinary workers prefer to go to

these institutions than going to the courts and this contributes towards case overload.

According to Smith, (2008:46) the public service has been marred by delays in terms of dealing with grievances. These delays go against which is required, as disputes in the workplace need to be resolved speedily. According to Brand et al., (2015:15) efficiency is the benchmark of dispute resolution and that disputes should ideally be resolved as quickly and informally as possible, with few or no procedural technicalities. Brand et al., (2015:15) further provides that the court proceedings have a tarnished reputation for number of reasons which include high costs and that they are out of reach for ordinary employees.

The Department of Correctional Services alone, as early as 2004/05 financial year provides in its Annual Report of 2004/05 that it was unable to resolve grievances of its employees within the prescribed period. Its Annual Report of 2004/05 further provides that there was a total of 1015 grievances lodged, of which only 457 were resolved whilst 558 remained unresolved. The grievances that were unresolved were more than 50% for that financial year.

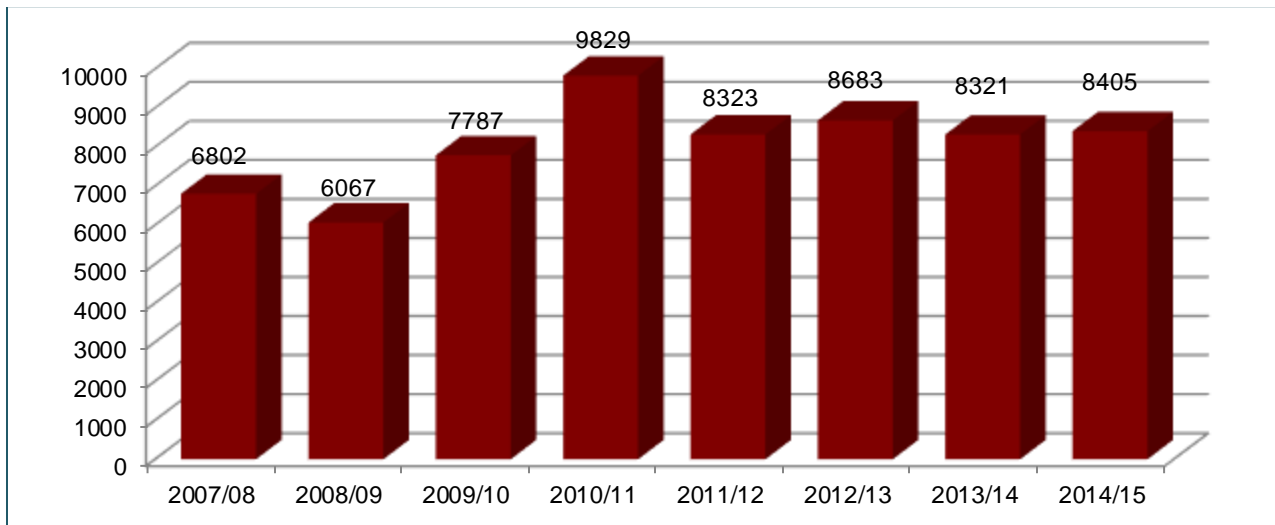
The acknowledgement by the Department of Correctional Services, of its inability to deal with grievances of its employees points to a weak system of grievance management or to lack of compliance by government departments. Mthombeni, (2005:41) asserts that there seems to be an absence of a proper mechanism within the Department of Correctional Services that may be entrusted with the task of evaluating situations before decisions regarding grievances of employees are made. This is as a result of deficiencies and irregular procedural practices which management of Correctional Services is often involved in. According to Mthombeni, (2005:58), the most common shortcomings with the DCS grievance handling as pointed out by respondents was the lack of interest by management to resolve the grievances of employees.

Bhorat et al., (2007:25) provide that even the CCMA has also not been successful at reaching their efficiency targets and highlighted that the outcomes of all efficiency parameters show that they achieved only 43% during 2003/04. The declining trend continued in 2004/05 where the success rate was 3 out of 15. In 2005/06 the success rate was 5 out of 13 targets which translates to 38%. Some of the reasons for none achievement can be attributed to postponements. According to Bhorat et al., (2007:24) a trend has emerged at the CCMA where there is a growing tendency for part-time Commissioners to postpone cases

without a valid reason. These postponements contribute to delays in finalizing dispute cases. It should also be mentioned that the grievance trends in the public service cannot be accurately compared with those of the CCMA due to the simple reason that the CCMA does not only deal with grievances of employees in the public service. The CCMA is established in terms of the Labour Relations Act, 1995 (Act 66 of 1995) and according to Benjamin, (2013:4) the LRA created a single legal framework for labour relations applicable to all sectors of the economy including the public service. However, section 27 of the LRA provides a framework for the establishment of the bargaining councils whose powers and functions amongst others is to prevent and resolve labour disputes. Section 35 of the LRA further regulates the establishment of the bargaining councils for the public service which is known as the Public Service Coordinating Bargaining Council (PSCBC), with the exclusion of the members of the National Defence Force and the State Security Agency. The PSCBC also establishes sectors as regulated in section 37 of the LRA. These bargaining councils are accredited by the CCMA in terms of section 127 of the LRA. The bargaining councils operate in the same manner as the CCMA. According to Smith, (2008:43) they operate in the same manner as the CCMA in that they also issue Arbitration Awards which are also final and binding and cannot be subjected to an appeal. They can only be taken on review at the Labour Court.

The PSC in its fact sheet on grievance resolution issued in October 2015, presents a statistical overview in respect of grievances lodged in the public service as well as the grievances referred to the PSC and whether it completed its investigations within the prescribed period. South Africa, Public Service Commission, (2015:4) as published in the fact sheet on grievance resolution presents an interesting comparison of the total number of grievances lodged in the public service as articulated in figure 1 below as reported in South Africa, Public Service Commission, (2015:5).

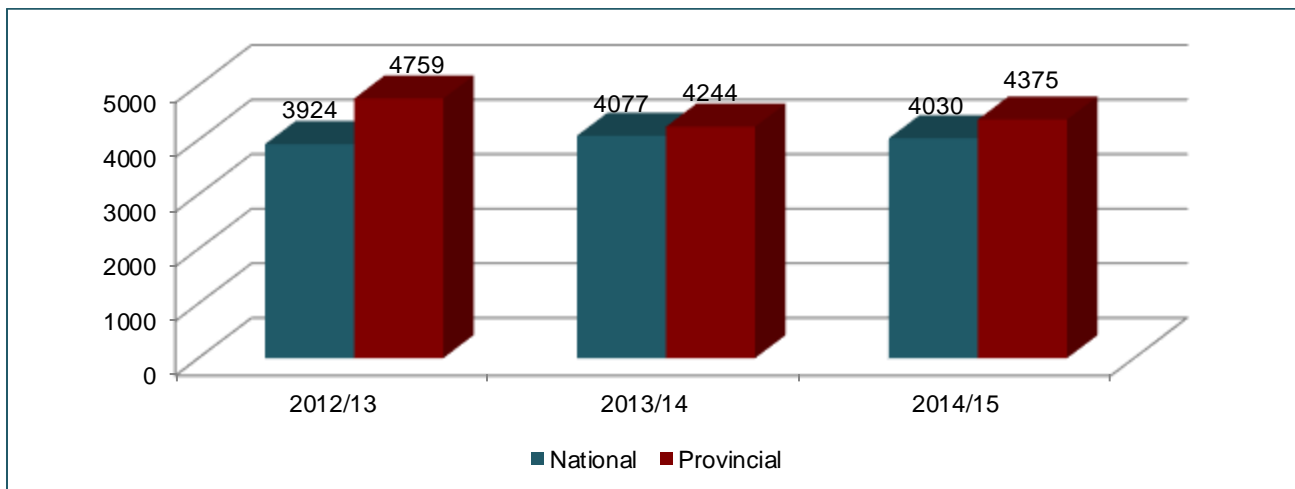
Figure 2.1: Total number of grievances lodged in the Public Service



Source: Public Service Commission, 2015 (Fact Sheet on Grievance Resolution 2014/15)

In comparison with the 2013/14 and 2014/15 financial years, the number of grievances lodged by national and provincial departments as provided in figure 2.1 above increased by 1% from 8321 in 2013/14 to 8405 in 2014/15. The highest number of grievances reported was for the FY 2010/11 with a high number of 9829 followed by 8683 in the financial year 2012/13.

Figure 2.2: Number of grievances lodged by national and provincial departments

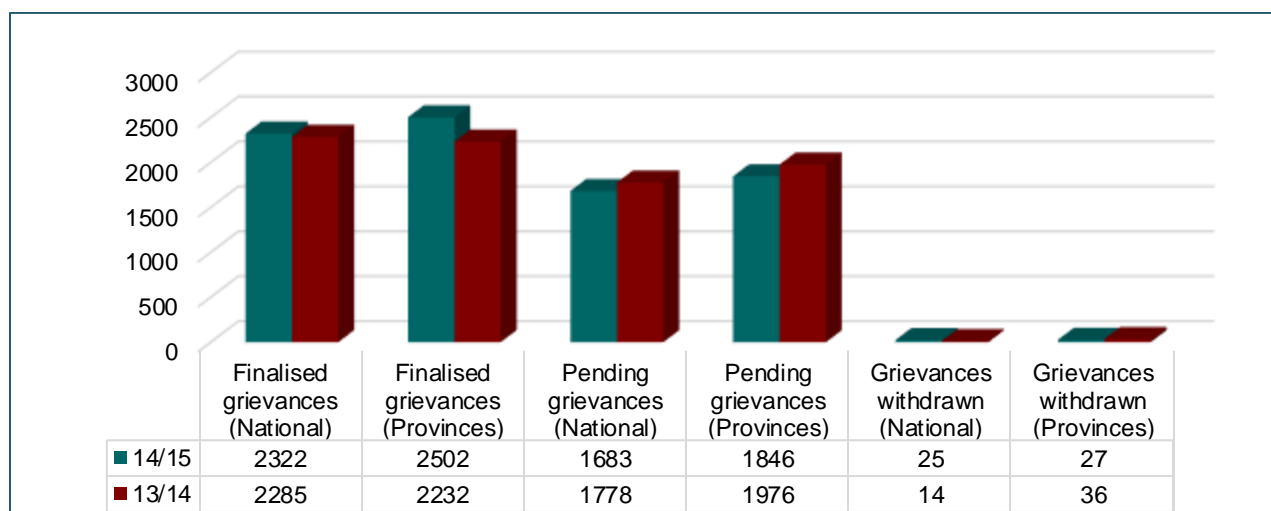


Source: Public Service Commission, 2015 (Fact Sheet on Grievance Resolution 2014/15)

According to South Africa, Public Service Commission, (2015:5) as provided in figure 2.2 above provides a breakdown in respect to the number of grievances lodged by

national and provincial departments for three the period 2012/13, 2013/14 and 2014/15. The number of grievances lodged in national departments for the period 2014/15 decreased to 4030 as compared to 4077 recorded in the FY 2013/14. However, the number of grievances lodged in national departments for the period 2012/13 was lower than the number recorded in the FY 2013/14 and 2014/15. Provinces recorded a high number of grievances for all the three financial years as compared to national departments

Figure 2.3: Number of grievances finalized, pending and withdrawn



Source: Public Service Commission, 2015 (Fact Sheet on Grievance Resolutions 2014/15)

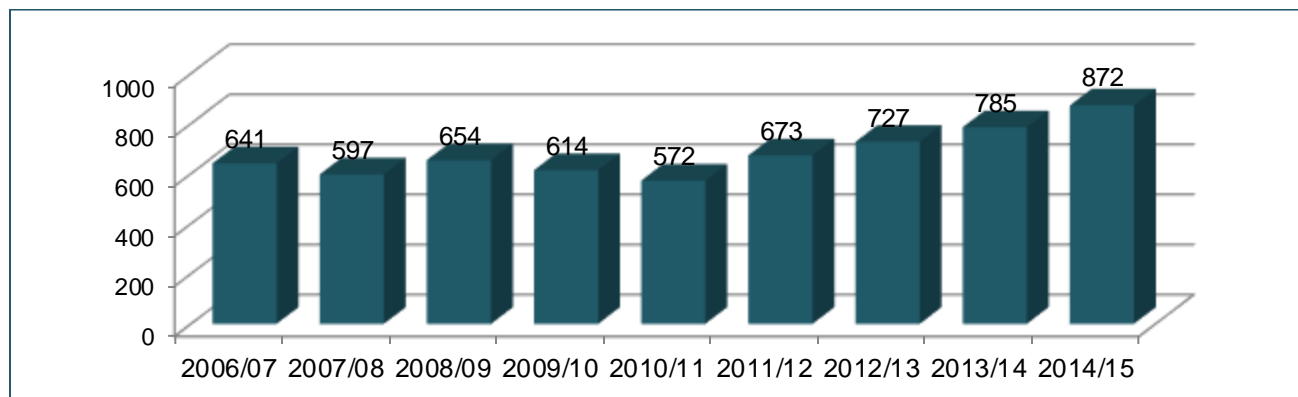
Figure 2.3 above provides a breakdown of the number of grievances that were finalized, pending and withdrawn for the period 2013/14 and 2014/15 financial years. It was clear that the departments were unable to finalize the investigation of grievances of employees within the prescribed period. According to South Africa (Public Service Commission, 2015:16) the departments advised the PSC that the delays were attributed to the lengthy administrative processes within departments, such as the line of authority that must be followed before an investigation report is approved.

2.8.1. Grievances considered by the PSC

As early as 2007 in its Report on Grievance Trends in the Public Service one of the findings of the PSC in the South Africa public service was that there was low finalization of grievance cases (Public Service Commission, 2007: xvi). While the PSC was able to identify the challenges that led to non-compliance in meeting the prescribed timeframes in finalizing

grievances of employees by departments, the PSC also faced its own challenges of non-compliance as well. The figure hereunder projects the reporting of the PSC on grievances lodged to them for the period 2006/07 to 2014/15 as reported in South Africa, Public Service Commission, (2015:18).

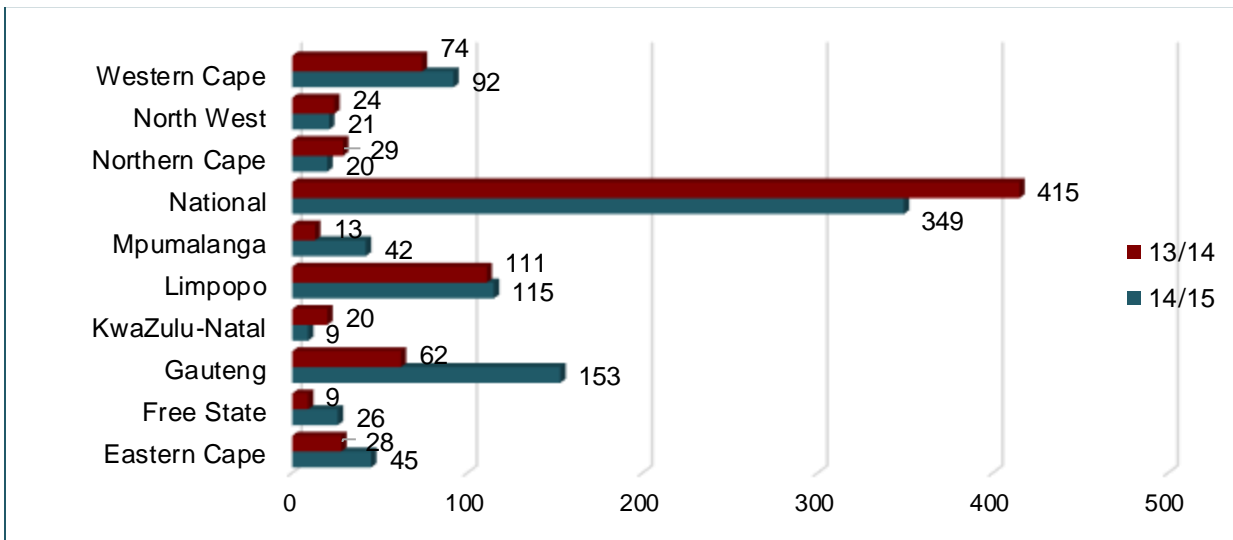
Figure 2.4: Grievances referred to the PSC



Source: Public Service Commission, 2015 (Fact Sheet on Grievance Resolution 2014/15)

As it can be seen in the graph above as depicted in the Fact Sheet on Grievance Resolution for the 2014/15 financial year as reported in South Africa, Public Service Commission, (2015:18), there was a growing trend if one takes into consideration the grievances lodged in 2006/07 (641) as compared to 872 in 2014/15. According to South Africa (Public Service Commission, 2015:18) a steady increase of grievances referred to the PSC was observed. As it can be observed from the figure, the number of grievances referred to the PSC for the 2013/14 has increased from 785 to 872 for the 2014/15 financial year.

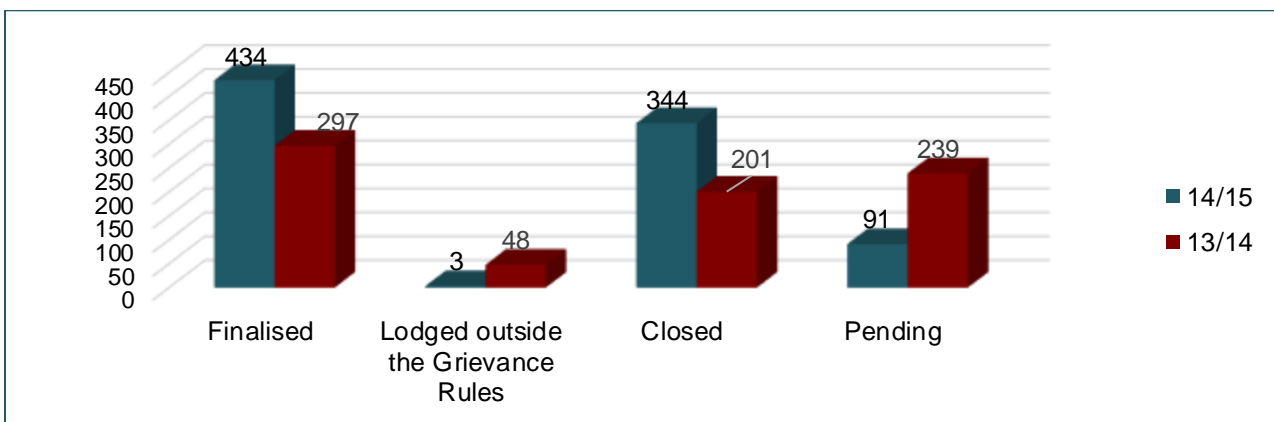
Figure 2.5: Number of grievances referred to the PSC in respect of national and provincial departments for the period 2013/14 and 2014/15



Source: Public Service Commission, 2015 (Fact Sheet on Grievance Resolution 2014/15)

South Africa, Public Service Commission, (2015:19) provides an overview in respect of grievances referred to the PSC by national and provincial departments. There is a recognisable decrease from 415 in the 2013/14 financial year to 349 for the 2014/15 financial year in the number of grievances lodged by national departments.

Figure 2.6: Status of grievances lodged with the PSC



Source: Public Service Commission (Fact Sheet on Grievance Resolution 2014/15)

According to South Africa, Public Service Commission, (2015:20) as depicted by figure 2.6 above, there was a huge improvement in the finalisation of cases by the PSC in 2014/15 as compared to 2013/14. However, there was still a recognisable number of grievances pending at the end of the financial year which confirms that the PSC was unable to finalise the investigation of grievances within the prescribed period.

The inability of the PSC to finalise the cases referred show a lack of efficiency from its part. This development, may also point to the fact that the PSC does not follow its own procedures as none of the departments that failed to provide the required information were summonsed to appear before the PSC to explain the reasons of their failure to provide the required information. The failure by the PSC to follow through and acquire the necessary information from departments may also be viewed as a demonstration of lack of effectiveness and efficiency.

2.9. Conclusion

In this chapter, a transformation process from grievance to dispute and the reasons for such transformation has been highlighted. The inability of the internal grievance procedure in some instances to resolve grievances resulted to a need to create some form of a dispute resolution mechanism and the need to create institutions such as the PSC to adjudicate over unresolved grievances. It was also highlighted that the litigious route of resolving disputes through the court proceedings has not proved to be a popular route due to its prolonged processes and high costs, even though other dispute resolution mechanisms may also end in courts for the enforcement of an award. The establishment of the PSC and its role in grievance management as mandated by the Constitution and other legislative frameworks were articulated.

The stage on which the PSC should get involved in grievance management is left open by the Constitution and has to be regulated in other legislative frameworks. However, it is common cause that the PSC can only get involved when the internal processes have failed to resolve a grievance. Another critical discussion is the fact that the PSC does not decide on grievance cases and make awards that can be accepted as binding upon the parties, which leaves a question on whether it can be regarded as a dispute resolution mechanism. It

should also be acknowledged that the PSC can issue directions that are enforceable if the grievance is in the areas that are stipulated in the Constitution. This chapter also highlighted six critical considerations for dispute resolution and those considerations serve as a benchmark for a perfect system of dispute resolution which the PSC should be matched with to assess whether it passes or fails the test of being a perfect system of dispute resolution. In this chapter, another dispute resolution system established in terms of the Labour Relations Act (LRA) such as the CCMA and bargaining councils to which unresolved grievances of employees in the public service may be referred to were discussed. While the CCMA is established in terms of the Labour Relations Act as a dispute resolution institution whose scope includes the public service, the Constitution on the other hand establishes the Public Service Commission to operate in the same public service space as far as grievances of employees are concerned.

CHAPTER 3: RESEARCH METHODOLOGY

3.1. Introduction

Chapter 3 deals with the research methodology. The research methodology in simple terms maps out a step by step process of how the research is going to be conducted. According to Anderson, (2009:151) methodology means the philosophical framework or orientation within which the research is based as it provides the foundation for the particular method or methods of data-gathering that will be used. This means that in this study, the justification of the sampling strategy is based on the fact that the respondents chosen were those that are directly involved in the investigation of grievances of employees in the public service as well as the recipients of the service, the aggrieved employees. The aggrieved employees that will participate in this study are those, whose grievance cases were referred to the PSC due to failure by their departments to investigate the cases within the prescribed period or were referred by the aggrieved employees themselves as they were not satisfied with the decision of the employer.

This study adopted a mixed research method by combining both a qualitative and quantitative strategies. Information was gathered from secondary data sources such as the PSC's reports, published articles, dissertations and books. Maree et al., (2016:311) provide that quantitative and qualitative research approaches differ in their research questions and data collection, but can both be applied, to study the same research problem. The benefit of this method is that the study can produce better results. According to Maree, Creswell, Ebersohn, Eloff, Ferreira, Ivanova, Jansen, Nieuwenhuis, Pietersen, Plano Clark & van der Westhuizen (2007:290) the mixed approach might lead to confirmed and validated findings. Maree et al., (2007:261) define the mixed methods research as a procedure for collecting, analysing mixing both quantitative and qualitative data during the process of research within a single study. This method would allow the researcher to collect both numerical information as well as interviews and observations to answer the research questions. It is further stated in Maree et al., (2007:261) that the mixed methods approach, quantitative and qualitative methods complement each other and allow for a complete analysis of the research situation.

In this study, the population sampled were the decision-makers who are in this case the

Commissioners of the PSC whose role is to adjudicate and make rulings on investigated grievance cases. The second group was a sample of officials from departments and from the PSC, whose role is to investigate grievances of employees in the public service. The third group was a sample of aggrieved employees, whose grievances were referred to the PSC by the employer or by themselves.

3.2. A Qualitative Research Methodology

A qualitative research is a method that assist the researcher in sourcing data from more than one source. According to Corbin & Strauss (2008:27) one of the virtues of qualitative research is that it allow the researcher to access data from many alternative sources of data such as interviews, observations, videos, documents and autobiographies. Brynard, Hanekom & Brynard (2014:39) maintain that a qualitative methodology refers to research that produces descriptive data which is generally the participant's own written or spoken words pertaining to their experience or perception. This may also mean that this method allows the researcher to know the people personally and experience their action in real life situations. In this regard, the questionnaires that the respondents completed in this study, satisfy the qualitative research methodology, as the respondents were able to express their own views in responding to the questionnaires. There was also a personal interaction between the respondents and the researcher during the administering of the questionnaire which were sampled for further interaction through interviews.

Another view is the one expressed by Mason, (2005:1) which provides that the qualitative approach enables the researcher to observe experience of participants and understanding how they behave and perceive events in an organisation. Anderson, (2009:181) supports this view and maintains that observation and participation is an obvious way of finding out information but cautions that the practice should be used in an objective way as part of a systematic undertaking a research enquiry. Corbin et al., (2008:12) on the other hand provide that qualitative research allows researchers to get at the inner experience of participants and to determine how meanings are formed rather than determination through test variables. This suggests that the researcher gets information directly from the participants.

Brynard et al., (2014:48) also cautions against bias or distorted answers by the participants when questionnaires are used and that the distortion may be caused by the fact that the researcher in certain circumstances is not at hand to explain uncertainties. While it is common for questionnaires to be administered in person, in certain cases they can either be sent by email or posted to the respondents. During this research, the observation of grievance panels will assist in understanding how findings and recommendations are reached on a grievance case and which instruments are used.

3.3. A Quantitative Research Method

The quantitative approach on the other hand is a structured process that requires the participants to provide responses. Maree et al., (2007:145) define the quantitative research as a systematic and objective process of using numerical data from only a selected subgroup of a bigger population group and generalise the findings to the whole population group. According to Brynard et al., (2014:39) the quantitative methodology is underpinned by a distinctive theory and data is analysed using techniques such as numericals, experiments, observation and surveys. Bless et al., (2013:220) support this view and provides that quantitative research seeks to give an explanation and identify a relationship between variables, whereas qualitative research assist in understanding a phenomenon in its natural context. This method was used in this research as the sampled participants represented the whole population group of Commissioners, officials investigating grievances in the public service as well as aggrieved employees.

3.4. A Mixed Research Methodology

Maree, Creswell, Ebersohn, Eloff, Ferreira Ivankova, Jansen, Nieuwenhuis, Pietersen, Plano Clark & van der Westhuizen (2016:313) define mixed methods research as a procedure employed for data collection, analysing and integrating (or “mixing”) quantitative and qualitative research instruments concurrently in a single study or a series of studies to understand a research problem more completely. The mixed method of qualitative and quantitative research methods were employed in this study. Carey & Asbury (2012:21) provide that qualitative approaches in combination with quantitative approaches can be used to reinforce, explain or expand the data. Maree et al., (2007:290) on the other hand maintain

that when a combination of qualitative and quantitative methods are employed, it enables the researcher to observe something from several angles in a research process referred to as the triangulation. Maree et al., (2007:260) further provide that the researcher places more emphasis on finding answers to research questions than on the methods used. In this study, the respondents will be required to express their views by answering the research questions and the respondents will not be asked to elaborate on the methods used to address the research questions. According to Somekh & Lewin (2007:274) provide that the roots of mixed-method as emanating from the use of triangulation of multiple methods and each representing its own philosophical perspective or lens to investigate a given phenomenon in order to enhance confidence in the validity of findings. A study that employs a mixed methods research would, amongst others be to establish attitudes towards a topic and then follow up with in-depth interviews to learn the individual perspectives on the topic.

The instruments used for primary data collection included self-administered questions, structured interviews which only served as a follow up on the self-administered questions, focus group sessions as well as observations and participation in grievance panels. According to Anderson, (2009:135) these different approaches will present different types of data. Quantitative data normally presents data that can be quantified and counted and allows for the quantification of features of organisational situations. There are cases where it is necessary to use both qualitative and quantitative research methodologies and in such cases the study cannot be restricted to either qualitative or quantitative. In assessing the PSC investigation of grievances of employees in the public service, the study may require a quantitative approach where statistics must be presented to determine the number of grievances lodged as well as the number of those that were finalised within the prescribed period. In this study, not only statistical numbers will be required. It would also be necessary to follow a qualitative approach in the form of interviews and structured questionnaires as well as the analysis of primary data from source documents. According to Maree, Creswell, Ebersohn, Eloff, Ferreira, Ivankova, Jansen, Nieuwenhuis, Pietersen, Plano Clark & van der Westhuizen (2016:313) in the mixed methods research approach, the researcher is able to collect both numerical information such as scores on the survey instrument or ratings as well as text information through open-ended interviews or observations to answer the study's research questions.

3.5. Data Collection Instruments

The data collection techniques were in the form of observation and participation, interviews, structured questionnaires and use of primary and secondary data from the available documentation of the PSC as well as published and unpublished sources. George, (2011:43) supports the approach of using various instruments due to the fact that no particular method of data collection is flawless and advises the diverse use of methods in data collection. In support of this view, Maree et al., (2007:156) maintain that a number of different methods can be used to collect data from the sample of respondents. According to Anderson, (2009:95) it is critical to review literature in all research projects as another method of collecting data. The reason for this approach is to review what is already known so that it can add value to the research. The value of the review of the secondary data is to avoid to reinvent the wheel. Anderson, (2002:159) provides that there is a range of information that already exists in an organisation to answer a research question which other researchers may not have access to. In this case, the PSC has generated a lot of knowledge in the form of research reports, rules and procedures, and these will be used as primary data. Most of this information is unpublished and is kept in the form of in-house documents.

The mixed approach is supported by Mouton, (2005:196) by mentioning that data collection include the observation and gaining of first and experience of the phenomena. According to Anderson, (2009:95) it is critical to review literature in all research projects. The reason for this approach is to review what is already known so that it can add value to the business of PSC and the academic value to academics specialising on grievance procedures and application thereof. The notion of avoiding to review the secondary data alone is to avoid to reinvent the wheel. Anderson, (2002:159) provides that there is a range of information that already exists in an organisation to answer a research question which other researchers may not have access to. In this case, the PSC has generated a lot of knowledge in the form of research reports, rules and procedures, and these will be used as primary data. Most of this information is unpublished and is kept in the form of in-house documents. This approach is supported by Mouton, (2005:196) by mentioning that data collection include the observation and gaining of first and experience of the phenomena.

Instruments for data collection included the followings:

3.5.1. Interviews

While the bulk of questionnaires were sent and returned by email, a sample was selected for follow up interview. The questionnaires sampled for further interaction through personal interviews were scheduled with the respondents who demonstrated confidence and vast knowledge on the subject as articulated in their responses on their questionnaires. According to Creswell, (2013:163) the researcher is the one that decides on the research questions that will be answered by interviews and the questions should be open-ended, general, and focus on understanding the central phenomenon in the study. Interviews therefore, may not necessarily answer different set of questions than those that are articulated in the questionnaires, but they must be open-ended. Drew, Raymond & Weinberg (2006:29) maintain that questions in interview can follow the same questionnaire to ensure continuity across all the interviews with all the respondents.

Interviews with sampled participants were scheduled telephonically, and were conducted face to face. It is also up to the researcher to determine the type of interviews to be conducted. According to Lapan & Quartaroli (2009:93) face-to-face interviews are an effective method for gathering high quality information as the interviewer has the opportunity to clarify confusing questions and encourage the respondent to elaborate to clarify answers. However, Creswell, (2013:164) makes provision for telephone interviews by providing that a telephone interview provides the best source of information when the researcher does not have direct access to individuals. In emphasizing the importance of interview research, Flick (2007:5) maintains that conversations are an old way of obtaining systematic knowledge. The scheduling of appointments is critical to make sure that the respondent is ready and prepared for the interview. Brynard et al., (2014:43) support this view by alluding to the fact that it is always better to make an appointment for interviews in advance, either telephonically or by letter.

While some of the meetings were confirmed immediately, some were confirmed at a later stage. According to Rubin & Rubin (2005:64) interviews gain credibility if the respondents are experienced and have first-hand knowledge about the research problem. The interviews were based on the questionnaire, and the respondents were asked to expand and provide more

information and clarity on the answers that they had already given. According to Rubin et al., (2005:129) interviews should be structured conversations with a combination of the main questions, follow-up questions and probes. In cases where the respondents would provide a straight answer such as yes or no, the researcher would probe to establish the reason for the response of the respondent.

3.5.2. Focus groups

According to Maree et al., (2007:92) one of the distinguished characteristics of focus groups is that oral data is combined with observation as a data gathering technique. This method took time as the researcher must take notes, as well as observe the behaviour of the group. According to Maree et al., (2007:92) data gathering techniques in a focus group include recording of the proceedings and capturing of non-verbal cues. The focus group in this study was not necessarily used to answer the questionnaire per se but was used for the observation and participation in the national grievance panel to establish how grievance cases are determined by the PSC. Maree et al., (2016:95) support this method by providing that focus group interview is different to a group interview and further maintain that the distinguished features of a focus group are that the discussion is focused on a particular topic. The topic in this case would be the resolution of a grievance, and not necessarily answering research questions. However, the discussion would assist the researcher to answer some of the broad research questions.

According to George, (2011:55) this method is divided into two categories such as participant and non-participant. In the participant method, the researcher is involved in the activity being observed and accepted as a member of the group. Leedy & Ormrod (2010:147) support this view by maintaining that observations can be made either as an outsider or as a participant observer and the advantage is that the researcher can have access to unforeseen data sources as they surface. However, Maree et al., (2007:85) note four types of observation that can be employed in a mixed study as a complete observer and a participant observer. A complete observer does not participate at all and only observe as an outsider. An observer as participant on the other hand becomes part of the discussion but does not influence the decisions.

In this study, the researcher was a participant observer of the national grievance panel that adjudicates grievance cases. The Investigator presents the case focusing on four areas. The first area is the applicable laws concerning the grievance, the provisions of the Constitution, 1996 and any other applicable legislation. The second area is the findings of the investigation followed by the recommendations. Lastly is the decision of the panel based on the applicable laws and findings of the investigation.

3.5.3. Questionnaires

One of the research instruments used in this study was the questionnaires. A total of 100 questionnaires were distributed to the sampled respondents by email. The return of service for the questionnaire fixed to within two weeks or before and open for negotiation for further extension. The reason for this flexibility was to make sure that the respondents are not put under pressure and decide to pull out of the process. One critical reason for using this research instrument was to make sure that the questions asked from the respondents are standardized. Rubin et al., (2005:21) support this view by maintaining that a questionnaire should include open and closed ended questions that will make uniform sense to participants.

It is further provided that the researcher also become the data-gathering instrument as the listening, observing and understanding skills of the researcher are critical. Anderson, (2009:136) maintains that structured questionnaire may be advantageous as it is easy to replicate and compare the results. In emphasizing the importance of using questionnaires as a research instrument, George, (2011:49) maintains that questionnaire is not just an important tool of research, but it is a fact-finding instrument which benefits such as cost saving as it can be distributed cheaply by hand or post to the intended destination. However, there may also be respondents that are not familiar with the subject of investigation but if the researcher is directly involved and has direct contact with the respondents in the form of interviews, it would be possible to probe for meaning and interpretations. A total of 100 questionnaires were distributed to the participants of which 71 were returned.

3.5.4. Literature review

The importance of literature review is to search from the available body of knowledge what

other scholars have documented on the topic of the study. According to Terre Blanche, Durrhei & Painter (2006:19) a literature review allows the researcher to put context of the phenomenon and align it with a particular academic field. Maree et al., (2007:99) support this view by maintaining that literature on qualitative data enhance better lenses understand or interpret qualitative data collected from various scholarly materials. According to Mouton, (2001:86) the review of the available body of knowledge is to see how other scholars have investigated the research problem and how they theorised and conceptualised on issues, what they have found empirically, what instruments have been used and to what extent they have been used. These will be in the form of books and other forms of primary and secondary data.

Brynard et al., (2014:33) support this view by maintaining that the review of literature is to look for publications from articles of accredited journals, books and other credible policy documents relating to the topic being researched. According to Mouton, (2001:88) the main sources of information can include conference proceedings, books, reference materials, monographs, journal articles, chronicles of bulletins, magazines, newspapers, theses and dissertations. There is a need for the researcher to collect primary data over and above the secondary data, especially in topics such as the investigation of grievances of employees in the public service by the PSC since there is not much written about it by other scholars. Brynard et al., (2014:38) posit that primary data is the one that is collected by the researcher and the secondary data is already existing and is collected by other researchers. The primary data for this data was critical, as it assisted the researcher in answering the research question which points to lack of knowledge on how the PSC investigate grievances of employees in the public service.

3.5.5. Population and Sampling

Brynard et al., (2014:56) define sampling as a method used to select an aggregate group of elements representing the larger population .The population group is a group to be studied and according to Brynard et al., (2014:57), the population does not refer to the population of a country but refers to objects, subjects, events, phenomena, activities or cases which the researcher wishes to research in order to establish new knowledge. It is impossible to study the whole population group due to time constraints and cost, hence sampling from a specific

population group is used to simplify the research. This view is confirmed by Maree et al., (2016:192) by maintaining that it is impossible to include the entire population in a study due to the two main restrictions being time and cost. Maree et al., (2007:178) also maintain that larger samples represent the population better than smaller samples and their findings will be more accurate.

The larger population of this study would include all 14 Commissioners of the PSC and decision-makers in the grievance management in the public service, all the officials responsible for grievance investigations in the public service as well as all the aggrieved employees in the public service. However, it would be impossible to study the whole population group hence the sampling of a small number. Maree et al., (2007:79) support the sampling of a small number by alluding to the fact that qualitative research usually involves smaller sample sizes than pure quantitative research studies. The sample was categorically selected into three types of participants in this study. A total 100 questionnaires were distributed amongst three categories of participants. Out of 14 Commissioners of the PSC 10 were sampled and 7 participated in the study. The second group of 45 participants was randomly selected from the officials responsible for the investigation of grievances in the national departments including officials of the PSC performing the same function of which 33 returned the questionnaire. The last group of 45 participants was sampled from the aggrieved employees and 33 returned the questionnaire.

The type of selection of respondents is the one that Maree et al., (2007:79) refer to as stratified purposive sampling due to its nature of selecting participants according to pre-selected criteria relevant to a particular role. According to Lapan & Quartaroli (2009:89) the group chosen for the sample should be made up of individuals who have similar characteristics to those in the larger population. The example of this would be a sample of aggrieved employees. This group can represent the whole population group of aggrieved employees. The participants in this study are not bringing in the same experience. The officials responsible for the investigation of a grievances bring a different experience to the study as compared to the aggrieved employees. The aggrieved employees on the other hand are the recipients of the service and are able to assess the service objectively as compared to the officials. Furthermore, the Commissioners are decision-makers, and were sampled as experts who are able to assess the quality of the investigation by the officials to inform their

decision.

According to Stone, (2002:250) there are no clear answers with regard to how large a sample should be. However, the smaller the populations, it is advisable that there should be a ratio of about 30% for a population group of under 1000. This view is supported by Brynard et al., (2014:58) by maintaining that there are no fixed rules for determining sample sizes. The sampling method used in this study is the one Maree et al., (2007:79) refer to as the purposive sampling rather than probability or random sampling approaches. Purposive sampling is regarded as a sample selected from a group of people interested in the study and can have knowledge of the problem being studied.

3.5.6. Data compilation and analysis

After the data has been collected it was analysed qualitatively and quantitatively. According to Brynard et al., (2014:62) once data collection has been completed, an in-depth analysis of data is made by means of data filtering and mind-mapping to make sure that irrelevant data is eliminated. Data collected through questionnaire was combined for all respondents and analysed per question, to determine common and convergent responses, and it was analysed using SPSS software. Additional information received from the focus group was included in the analysis. However, there is caution raised by Mouton, (2005:106) on the errors of data collection. Most errors are identified as interview bias which is associated with affiliations, race and gender. In the area of observation, the research may be a biased observer and be selective about the data to observe and by so doing ignore some of the information. Interviews can also be used by administering structured questions.

Anderson, (2002:63) supports this view by alluding to the fact that many people undertake their project in the organisation of which they are already part of on a full-time or part-time basis. In such cases they find physical access easier, and the project may be supported and accepted. They may also be aware of internal politics and may be able to know who to approach to gain access to the information they require for research purposes. This exercise may not be easy if the researcher is not familiar with the environment in which research is conducted and the study may take longer than anticipated. In this study, the researcher is familiar with the environment, and was able to access the secondary data without delay.

3.5.7. Ethical Considerations

This study received ethical clearance from the university Ethics Committee. According to Maree et al., (2007:298) it is imperative to obtain clearance from an ethics committee when human subjects are involved in any kind of research. In addition, permission was duly sought and granted by the PSC for the researcher to conduct the study in its premises in Pretoria with a condition that the identities of the aggrieved employees be kept confidential. This condition was reasonable from an organisational perspective to protect its reputation and was complied with in line with the research ethics. Confidentiality in research is critical. Lapan & Quartaroli (2009:96) provide that while confidentiality is regarded as an ethical issue in research, its confidentiality insures validity in that respondents will have confidence and provide accurate responses with the assurance that their answers will not be made public. Anderson, (2009:72) supports this view with a premise that ethics are about adherence to a code of behaviour in relation to the rights of the participants and the integrity of the research.

Maree et al., (2007:298) further provide that research cannot simply be conducted by anyone and anywhere. According to Lapan & Quartaroli (2009:97) key to ethical research is the process of informing respondents and gaining consent for their participation in the study. This is done by asking for their agreement to participate and that their voluntary participation means that they have the ability to discontinue their participation. In support of the ethical considerations, Flick, (2007:27) maintains that confidentiality in research implies that private data identifying the subjects will not be reported and in cases where the study does publish information that is recognizable to others, the subjects need to agree on the release of identifiable information. The principle of anonymity and confidentiality was considered during the collection of data and report writing. None of the identities of respondents were reported in the study.

According to Mouton, (2005:243), informants have a right to remain anonymous and this right should be respected by the researcher and apply it to the collection of data. The participants were informed in a covering letter accompanying the questionnaire that the researcher has been granted ethical clearance for conducting this study by the PSC and the university. They were also informed that data collected for the study would be used for academic purposes

and that their identities would be protected. The participation in the study voluntarily. Privacy, confidentiality and anonymity is supported by Maree et al., (2007:299) and that the participant must have a clear understanding regarding confidentiality of the results and findings of the study and all the information of the participants be kept private and in an anonymous manner. This is done to protect the identities of the participants.

In compliance with the research requirement of objectivity and integrity, this requirement was fulfilled. Opinions of the researcher in this study were not taken into consideration and data was presented as raw as possible. Mouton, (2005:240) maintains that objectivity and integrity is critical in that a research is obliged to report their findings and not to misrepresent their results in any manner. The sources that were consulted on this study were acknowledged accordingly. In articulating this point, Mouton, (2005:241) provides that it is a key ethical principle to acknowledge one's sources due to the fact that the sources contribute to the researcher's work.

3.5.8. Limitations of the study

There were limitations in some respects during this study. Most importantly, there was limited literature available on grievance trends in the public service. The only source that provided a comprehensive data on grievance trends came from the reports of the PSC. The reports of other dispute resolution institutions could not make a good comparison as their reports do not separate cases of the public service and those of the private sector. According to George, (2011:23) limitations are normally expected when research is conducted and may be as a result of matters beyond human control. In the course of data collection there were a number of challenges experienced. Some challenges were related to the unresponsiveness of respondents. Numerous extensions were given to the respondents to return the completed questionnaires. Another challenge related to the questionnaires was that some of the questionnaires were returned incomplete and the respondents have to be followed up and that contributed to delays.

3.6. Conclusion

This study combined both the quantitative and qualitative methods in collecting and analysing data. The research instruments used were structured questionnaires, interviews, focus groups, observation and participation. There were three groups of participants. These include the Commissioners of the PSC, the officials employed by the PSC to investigate grievances referred to the PSC combined with the officials of various departments who investigate grievances lodged with their departments as well as the sample of aggrieved employees. There was a need to follow up the questionnaires with interviews, to get a deeper understanding of the responses of the respondents. The interviews were only conducted with a sample of respondents that have a deeper understanding of the grievance resolution process and were selected from the three sampled groups of respondents. The observation of the resolution of grievances during the grievance panels was necessary to determine the process of resolution of grievances by the PSC. The grievance panels also make it possible for the researcher to have a deeper understanding of the different roles played by the Commissioners and the investigators in the grievance process, and what informs their decisions.

CHAPTER FOUR: PRESENTATION AND ANALYSIS OF FINDINGS

4.1. Introduction

This chapter presents and discusses the data as raw as it was collected for the purposes of the study. The data was interpreted, analysed and findings were presented. According to Creswell, (2013:187) the interpretation of data involves making sense of the data and to articulate lessons learnt. The aim of the study was to assess the grievance investigations of grievances of employees in the public service by the Public Service Commission (the PSC). The main objective of the study was to assess the effectiveness of the methods used by the PSC in the investigation of employee grievances. The secondary objectives were as follows:

- To address the gap in the knowledge and understanding of the grievance processes at the PSC, when compared with the knowledge presented on dispute resolution by institutions established in terms of the Labour Relations Act, 1966;
- To determine challenges experienced by the PSC in grievance investigations with the intention to recommend a workable approach in the arbitration process;
- To recommend a workable solution towards a more effective grievance procedure in the public service;

The main and the secondary research questions were explored by the respondents, hence this chapter will present their responses as empirical investigation. The researcher was also a participant observer due to her work experience and exposure on the grievance processes of the PSC. However, this chapter will triangulate the collected data as part of reporting on all the sampled categories of respondents. The lessons gleaned from the literature analysis, the PSC reports and all other secondary data materials were analysed extensively. There was a need to provide an overview of the study area, which in this case is the PSC. The aim of this overview was to provide a historical development of the PSC as well as to explore its organizational behaviour, the way it is constituted and organised and whether it achieves its organisational objectives. According to Hunter, (2012:25) organisations exist for a purpose and that is to achieve specific goals. In the case of non-profit organisations such as the PSC, they exist to provide quality service to their customers. Nel et al., (2011:433) maintains that an organisation is an organ where people operate and consider their desired

values and objectives, and strive to achieve them together with the organisation's goals. These goals must be strategically set up, defined for all the units of the organisation as well as individual employees.

The overview will provide a better insight on the objectives of the study which on the main is to assess the effectiveness of the methods used by the PSC in the investigation of grievances of employees. The manner in which the PSC is structured and resourced, may have a huge impact on its performance, hence it is critical to provide an overview of the PSC as an organization. It will also assist the study to identify the challenges experienced by the PSC in grievance investigations and the data collected will contribute towards addressing those challenges and recommend solutions towards a more effective grievance procedure in the public service. It is also critical to always have targets set with date on which the organisation seeks to achieve, and they can be short-term, medium or long-term (Hunter, 2012:25). The assessment of the effectiveness of the PSC as an organisation will also determine the extent to which set objectives are achieved and to the reasons for non-achievement.

4.2. An Overview of the PSC

An overview of the PSC will now be made.

4.2.1. A Historical overview

The Public Service Commission in South Africa is one of the oldest institutions operating within the public service space. It evolved and its name was changed on numerous occasions. According to Marais (1985:42) it was known as the Civil Service Commission at its inception, and its name changed to Commission for Administration in 1980 in terms of the Public Service Amendment Act 1980 (Act 71 of 1980). According to Geldenhuys (1988:83) the administrative system of the Union of South Africa established on 31 May 1910 a number of state departments under the control of Treasury as far as finances were concerned and the Public Service Commission as far as personnel matters were concerned. Bain & Nealer (2012:106) maintain that the PSC existed long before the Union of South Africa in 1910 and was known as central personnel institution operating in the Cape Colony, Transvaal and Natal. Marais (1985:43) supports the view that the PSC was established long before the

Union of 1910 and as early as 1872, it was established as the Civil Service Commission in the Cape Colony under the Colonial Secretary as its responsible officer who later became the Minister of Internal Affairs.

The responsibility shifted to the Prime Minister in terms of the Civil Service Amendment Act of 1976 (Act 64 of 1976). It became a central PSC covering the Orange River colony as well, when the Public Service Pension Act, 1912 (Act 29 of 1912) was enacted. This arrangement was done according to the Constitution of the Union of South Africa, 1909 and in terms of Article 142 of the South Africa Act, 1909 a permanent Public Service Commission was appointed by the Governor-General-in-Council with powers and duties including the appointment, discipline, retirement and superannuation of public officers as Parliament shall decide. According to Marais (1985:42) the PSC was a central, coordinating personal advisory body to the Governor-General who was the head of the executive government at the time. It is clear that the PSC was not a Constitutional body during this time since it was appointed by the Executive. In terms of section 2 (3) of the Public Service Pensions Act, 1912, the powers and functions of the PSC amongst others were to make recommendations on appointments and matters incidental thereto, as well as reorganisation of the public service.

Section 2 (1) of the Public Service and Pensions Act, 1912 (Act 29 of 1912), further made provision for the PSC to consist of not more than three members and one of them being the chairperson, and all members serving a term of five years renewable. According to Marais (1985:42) the number of Commissioners was increased to five in terms of the Civil Service Act, 1957 (Act 54 of 1957) to be reduced again to three in terms of the Civil Service Amendment Act, 1976 (Act 64 of 1976). The very first Public Service Commission, consisting of Sir Andries Stockenström, Chairman and two members, Mr V.G.M. Robinson and Mr A.B. Hofmeyr assumed duty on 1 August 1912 (Geldenhuis, 1988:50). It was not a smooth sailing for this newly established PSC as the institution was facing many challenges from the start. Some of the challenges were the establishment and maintaining of relationships and gaining the confidence of both government and the public servants. According to Marais (1985:42) the Chairman of the PSC resigned in 1915 due to a dispute with government as the early life of the PSC was fraught with problems as the departments and Treasury regarded it with suspicion. A third member was only appointed again in 1921. According to Marais (1985:43)

the PSC was established again as a viable institution after several recommendations from various Commissions first the Graham Commission in 1918 and the Centlivres Commission in 1944.

Besides, the environment in which they operated was not properly regulated. There were stumbling blocks on the way as they seek to establish sound principles of public administration such as the absence of Public Service Regulations, the interference of government in the administrative activities of the PSC (Geldenhuys, 1988:50). The stormy relations between the PSC, government as well as public servants which created the discord resulting in an investigation by the Select Committee of the House of Assembly which came up with the recommendation to amend legislation and promulgate the Public Service and Pensions Amendment Act, 1914 (Act 39 of 1914). The legislative amendments stripped the PSC of its most important powers and were allocated to Treasury as government was of the view that the system of public service control by the PSC was no longer efficient.

These developments led to a controversy which resulted in Sir Andries Stockenström resigning from the PSC on 10 September 1915 before the end of his contract and Sir Thomas Lyndoch Graham, a distinguished attorney, politician and judge was appointed to chair a Commission of Enquiry to investigate the public service matters (Geldenhuys, 1988:50). According to Geldenhuys (1988:51) one of the findings of the Graham Commission of Inquiry were that the PSC had no real powers. It then made important recommendations which were laid down in the Public Service Act, 1923 (Act 27 of 1923) and the PSC was established as an independent body empowered to decide on salaries and re-organisation of state departments.

According to Bain & Nealer (2012:106), the PSC started as a very small institution and was only staffed with fifteen officials as its role was that of an agency to advise the Governor-General as the head of the executive government at the time. Erasmus et al., (2005:438) provide that the role of the PSC in 1912 was amongst others responsible for the formal management and co-ordination of public sector labour relations as well as the management of all aspects of the employer/employee relationship including the determination of wages and conditions of service, disciplinary measures and grievances procedures. In essence, the PSC played the role of the employer in the public service and had powers to hire and fire.

Van der Westhuizen et al, (2011:437) maintain that under the guardianship of the PSC from 1912 to 1980, there were no progressive developments in labour relations due to the fact that the PSC was the implementer of all the discriminatory practices of the National Party (NP) government. Some of the executive functions exercised by the PSC before 1996 included personnel matters such as recruitment and management of grievances. The involvement of the PSC in grievance management before the new Constitution of 1996 was widely criticised because of its executive functions. The criticism of the PSC emanates from the fact that it was involved in grievance management from the beginning to the end including appeals, which would make it a referee and a player at the same time hence it was criticized.

Smith, 2008:37 also provides a view that the reason for its criticism was that it was highly politicized by the National Party government to push the agenda of apartheid. Adler, 2000:53 emphasised the criticism of the PSC by alluding to the fact that it was viewed as partial and unfair, and always pushing the agenda of the employer against the employees. Van der Westhuizen et al., (2011:437) list a wide range of discriminatory practices which were implemented by the PSC amongst which include the exclusion of black civil servants from the industrial relations legislation as well as its hostility as the employer towards workers. In addition, the NP government treated the public service as a vast pool of patronage for white loyalists to the extent that blacks were largely excluded from the racialised patronage networks within the public service. The PSC was directly involved in the exercise of this patronage as it was the employment agency for the public service.

The transitional period in South Africa brought about changes in the public service which also affected the PSC. Erasmus et al., (2005:440) provide that in 1984, the PSC was renamed as the Commission for Administration (CFA), and was allocated wider human resource responsibilities including the co-ordination of employment in the public service, policy-making, all aspects of human resources as well as the management of the employer/employee relationship. As for the status of the PSC, South Africa, Department of Public Service and Administration, (1995) makes a clear determination that statutory agencies such as the PSC which were established by the Interim Constitution of 1993 or other legislation were to be reviewed to become independent from the executive with important regulatory and monitoring functions with respect to the public service. The executive functions previously performed by the PSC would be taken over by the newly

established Department of Public Service and Administration as prescribed in the White Paper in Human Resource Management in the Public Service of 1997.

The PSC, in its Strategic Plan for the Fiscal year 2015/16 to 2019/20 (Public Service Commission, 2015:16) provides that the PSC is not a policy-making institution, its role is to conduct investigations, undertakes monitoring and evaluation and provide advice and guidance in respect of policy development in the public service. Erasmus et al., (2005:440) also provide that in 1993 the Commission for Administration was renamed as the Public Service Commission (returning back to its original name) and from 1994 to 1995 the allocation for human resource functions were reviewed. A decision was taken to remove the policy-making functions and management functions and were transferred to the newly established Department of Public Service and Administration. Since the enactment of the Constitution, 1996 the PSC became a Constitutional body established in terms of chapter 10 of the Constitution of the Republic.

Political power changed from the hands of the National Party government in 1994, when the African National Congress (ANC) took over as the ruling majority party. This was the era of transformation in the public service and further changes affected the PSC. According to Van der Westhuizen et al., (2011:439) the management authority of the PSC including policy-making was taken away and transferred to the newly established Department of Public Service and Administration (“the DPSA”). The DPSA took over all the regulatory functions and management of human resource functions and were decentralised to departments, thus giving the powers to recruit to the Executing Authorities (EA’s) of government departments in terms of section 3 of the Public Service Act, 1994 (Proclamation 103 of 1994).

The birth of the Constitution of 1996 (Act 108 of 1996) led to the establishment of the PSC as a Constitutional body with effect from 1999. It is the only Constitutional body established in terms of Chapter 10 of the Constitution, 1996 (Act 108 of 1996) while many other Constitutional bodies are established in Chapter 9 of the Constitution. It derives its mandate from sections 195 and 196 of the Constitution which sets out the values and principles governing public administration. While the values and principles governing public administration apply to the administration in all spheres of government, the mandate of the PSC in promoting the values and principles confines it to the public service which includes

only the national and provincial sphere of government.

Section 196 (1) of the Constitution, 1996 provides that the PSC is a single institution even though it operates from national and all nine provinces of South Africa. Five nationally-based Commissioners are appointed by the President after approval by the National Assembly on the recommendation of a proportionally composed committee of members of all parties represented in the National Assembly. These five nationally-based Commissioners are appointed in terms of section 196 (7) (a) of the Constitution. Commissioners for provinces are appointed in terms of section 196 (7) (b) of the Constitution, 1996. Each one of them is nominated by the Premier of each of the provinces on the recommendation of a committee to political parties members represented in the legislature.

However, there are some challenges which open a huge debate and ambiguity in the minds of ordinary South Africans around the issue of the Constitutional independence of the PSC such as the following:

- a) The Public Service Commission Act, 1997 (Act 46 of 1997) provides for the President to designate one of the Commissioners as Chairperson and another a Deputy Chairperson. The involvement of the Executive, in this case the President in the designation of Commissioners may be viewed as interference in the Constitutional independence of the PSC.
- b) The Conditions of Service of Commissioners are also determined by the President in consultation with the Minister of the Public Service and Administration (DPSA). Once again, the executive plays a role in some of the activities of the PSC which include some appointments and determination of conditions of service and this poses a dilemma as to the independence of the PSC from the executive. This arrangement may suggest that the PSC is not fully independent.
- c) The office that supports the PSC, commonly known as the Office of the Public Service Commission is established as a national government department in terms of Schedule 1 of the Public Service Act, 1994 (Proclamation 103 of 1994) and is headed by a Director-General (DG) whose appointment is approved by Cabinet

(the Executive). In terms of section 14 of the Public Service Commission Act, 1997 (Act 46 of 1997), the Director-General of the Office of the Public Service Commission shall subject to the control and directions of the PSC. According to the Strategic Plan of the PSC for the Fiscal years 2015/16 to 2019/20 (Public Service Commission, 2015:24) the principal responsibility of the Director-General of the OPSC is to provide support and render advice to the PSC and further provides that the National Development Plan (NDP) specifies that there is potential for the OPSC's status as a public service department to compromise the PSC's independence.

- d) The challenge of two institutions in one (the PSC and its members and the government department commonly known as the Office of the Public Service Commission ("the OPSC) that supports the PSC has a potential to cast doubt and ambiguity to ordinary citizens about the independence of the PSC. This challenge has played itself out in this study, as articulated by some of the respondents. In many instances the PSC is regarded as a government department as it is difficult to divorce the PSC from the OPSC. If this situation were to be changed, there will be a need for legislative amendments of the PSA and removal of the OPSA from Schedule 1 of the Public Service Act, 1994 (Proclamation 103 of 1994).
- e) The budget of the PSC is located within the budget appropriation of the Department of Public Service and Administration (DPSA) and is accounted for in parliament by the Minister of Public Service and Administration. According to South Africa, Public Service Commission, (2015:25) as well as section 3 of the Public Service Act, 1994 (Proclamation 103 of 1994) the PSC has an Executing Authority in the form of the Chairperson of the Public Service Commission. However, it does not enjoy financial independence to defend its budgetary requirements before parliament and is dependent on the Minister of the Department of Public Service and Administration (MPSA) to lobby for its needs. It is also stated that DPSA does not have authority to adjust the allocation of the PSC, but merely acts as a conduit for the transfer of monies to the PSC. This arrangement can also contribute to the confusion that the PSC is not independent as it may be viewed as an entity of the DPSA.

- f) While the PSC is recognised as an independent body it is not listed in Schedule 1 of the Public Finance Management Act, 1999 (Act 29 of 1999) which list other Constitutional bodies such as the Public Protector, the Human Rights Commission and others. It should also be noted that section 2 of the Constitution, 1996 provides that the Constitution is the supreme law of the Republic, and any law or conduct inconsistent with it is invalid. This then poses a question as to whether the omission of the PSC in Schedule 1 of the Public Finance Management Act, 1999 would render the PFMA invalid.
- g) A view was expressed during this study, and that the Constitution is consistent in all the chapters regarding the capturing of the name of the institutions provided for in that chapter. The heading of Chapter 10 of the Constitution refers to Public Administration and not the PSC, but the PSC is mentioned in section 196. However, this view does not carry much weight and the exclusion of the PSC in the PFMA cannot be justified based on this reason. Other Constitutional institutions such as the Remuneration of persons holding public office provided for in section 219 and the Financial and Fiscal Commission in section 220 of the Constitution, 1996 (Act 108 of 1996) do not appear as a heading in Chapter 13 of the Constitution, but they are listed in Schedule 1 of the PFMA as institutions supporting constitutional democracy. If one reads the PFMA and does not find the PSC on the list of constitutional bodies (state institutions supporting constitutional democracy) one may believe that the PSC is not a constitutional body.
- h) Section 3 of the Public Service Act, 1994 (Proclamation 103 of 1994) and the Public Service Regulations, 2001 places the Chairperson of the PSC as the Executive Authority of the OPSC and as such has all the powers vested with the executive authorities of other government departments. This arrangement may further strengthen the notion that the PSC is a department even though its EA is not a member of Cabinet. However, the powers of the Chairperson of the Public Service Commission are not recognised in the process of the appointment of Deputy Directors-Generals and Directors-General of the PSC. There is no framework that allows the Chairperson

to chair the interviewing panel for these positions, and the approval for appointment is done by the Cabinet even though they are appointed to serve the PSC.

- i) Chapter 9 of the Constitution (sections 181-194) provides all state institutions supporting constitutional democracy and the PSC is not part of those. Instead, the PSC is mentioned in Chapter 10 of the Constitution. Section 196 (1) provides that there is a single Public Service Commission for the Republic.

- j) The mention of the Public Service Commission in section 196 (1) of the Constitution supports the view that it is a Constitutional body. However, it should be acknowledged that in this study, some respondents argued that the main heading of Chapter 10 of the Constitution refers to Public Administration (section 195-197) and not to the Public Service Commission. Section 197 (1) for example, refers to the Public Service and that there is within public administration a public service for the Republic which must function, and be structured, in terms of national legislation, and which must loyally execute the lawful policies of the government of the day. The inclusion of the PSC in a chapter that talks to public administration and the public service may strengthen the notion that the PSC is part of the public service. What cannot be disputed is that the PSC functions within the public service space.

4.3. Environmental Factors

The environmental factors will now be explained.

4.3.1. External Environment

Organizations operate within the wider environment such as local, national and global and changes and trends in this environment will influence the activities of the organization (Smith et al., 2016:7). Nel et al., (2011:6) also provide that every organisation exists inside an external environment that consists of four primary sub-environments such as economic environment, the social environment, the political environment and technological environment (Nel et al., (2011:6). The stated environmental factors impacts on global and national economy, and the stakes are high where budgets votes are considered by government departments. The PSC saw a need that due to its limited financial resources it

should prioritise its focus areas in order to ensure that it still makes an impact. Nel et al., (2011:6) describe the meaning of an economic environment by providing that the external influences such as the availability of capital, the current interest rates, the rate of inflation and the level of employment have an effect on the organization. It is therefore critical for organizations such as the PSC to take into consideration all the external factors in recognition that their operations will be affected by them. It is in this regard that the PSC has taken note of the impact of global and local economy and its impact in the delivery of its mandate.

4.3.2. Internal Environment

South Africa (Public Service Commission, 2015:23) provides for the organisational environment of the PSC which include its governance structures, resources, financial matters and stakeholders. Section 11 of the Public Service Commission Act, 1997 (Act 46 of 1997) provides that the PSC shall develop Governance Rules amongst which the role and functions of the Chairperson, the Deputy Chairperson and Commissioners are defined. The governance structures include plenary, which serves as the highest decision and policy making body of the PSC constituted by all 14 Commissioners. The lower structure is the Executive Committee whose role is to monitor the implementation of the decisions of plenary. There are three work Committees known as the Specialist Teams whose role is to provide oversight of the key performance areas of the PSC. The organizational structure has 311 posts including 14 Commissioners. In terms of its programmes, the PSC has four programmes as articulated in its Strategic Plan for the Fiscal years 2015/16 to 2019/20. These programmes serve as a service delivery arm of the PSC.

South Africa, Public Service Commission, (2015:32-45) provides the purpose of the programmes as follows:

a) Programme 1: Administration

The purpose of this programme is to provide overall management of the PSC and centralised support services.

b) Programme 2: Leadership and Management Practices

Its purpose is to promote sound public service leadership, human resource management and labour relations and labour practices.

c) Programme 3: Monitoring and Evaluation

It establishes a high standard of service delivery, monitoring and good governance in the public service.

d) Programme 4: Integrity and Anti-Corruption

The purpose of this programme is to undertake public administration investigations, promoting a high standard of professional ethical conduct amongst public servants and contributing to the prevention and combating of corruption.

4.3.3. Performance Environment

Fox, (2006:91) asserts that organisational performance as a routine work conducted and product of work carried relating to knowledge, skills, organisational structure, human resources, and non-human resources utilities. When performance does not achieve goals and objectives established in the process of strategic planning the performance gaps must be established. As reported in the PSC's annual report for the period 2014/15, the PSC's performance has been annually improved (Public Service Commission 2015:6). However, in setting its performance indicator in the area of leadership and management practices, a programme that deals with grievances of employees 80% of grievances referred to the PSC should be completed within a period of three months (Public Service Commission, 2015:46). This predetermined indicator is not in line with the grievance rules, which prescribe that grievances will be finalised within 30 days of receiving all relevant documents from the departments. The PSC in its annual report for the period 2014/15 reported that of 323 grievances carried over from the previous financial year, 313 were concluded (97%) while 549 grievances lodged during 2014/15 financial year, 468 (85%) were concluded Public Service Commission, (2015:46).

4.4. Overview of the Questionnaire

A total of hundred (100) participants were sampled for the purposes of this study as articulated in the previous chapter and a total of 71 participants responded. The participants sampled for this study were ten (10) Commissioners of the PSC of which seven (7) returned the questionnaire. Out of forty-five (45) questionnaires distributed to officials responsible for the investigation of grievances both in the PSC and in the national departments, thirty-three (33) returned the questionnaire. Out of the thirty-three (33) questionnaires received, eight (8) were spoilt and twenty-five (25) were analysed. The last category of sampled participants were forty-five (45) aggrieved employees of which thirty-one (31) returned the questionnaire. Out of the 31 questionnaires returned, 7 were spoilt and 24 were analysed. A total of 56 out of 71 questionnaires returned were analysed. The view of the researcher was that the total number of participants that returned the questionnaire was sufficient to make credible findings for this study.

The gender profile, race, age, designation or occupational status, salary level as well as the working experience for the participants were presented to assist with the understanding of the level of competence of the different categories of participants. According to Maree et al., (2016:184) biographical questions help the researcher to determine the profile of the sample. The determination of the profile of the respondents should be able to assist the research in the determination whether there are differences in responses from a certain category than the other. However, the focus of the study was not on the profile of the participants per se, but on the different categories of participants such as the Commissioners, the grievance investigators as well as the aggrieved employees. These categories would be able to provide a complete picture in terms of assessing the grievance investigations by the PSC because the sampled respondents cover the aggrieved employees that experience the service as well as the Commissioners and staff that provide the service. The perspective of the aggrieved employees is critical for this study as they are the sole recipients, while the Commissioners and staff would be able to make known how the grievance investigations are conducted in the PSC, the challenges experienced as well as how they seek to improve the service.

Following the biographical information, there were 27 questions to be answered by the respondents. The questions were a combination of open (unstructured) and closed

(structured) questions. According to Maree et al., (2016:180) research questions can be divided into two main categories such as open and closed questions and in the case of an open question, a question is asked and space is provided for a word, phrase or even a comment, whereas in the case of a closed question, a set of responses from which the respondent has to choose one is provided. Open questions need a comprehensive response and it helps the researcher to get more useful information. On the other hand, it becomes difficult to analyse data due to a lot of different information that may be given by different respondents on the same question. According to Maree et al., (2016:180) there are advantages and disadvantages of open questions and further provide that the main advantages are that the respondents are able to provide honest answers in detail, reveal his or her thinking process, adequately respond to complex questions and provide valuable information. The disadvantages of open questions are that the amount of detail given may differ among respondents and it may be difficult for illiterate or semi-literate people to answer open questions. The statistical analysis may also be difficult.

Maree et al., (2016:181) maintain that data obtained from the administration of closed questions are easier to analyse than data obtained from open questions. The reason for it to be easier to analyse data from open questions is that it is not complex. The example for closed questions is a question where the participant is required to choose one applicable answer from two possible answers. According to Maree et al., (2016:181) a question with two possible answers is called a dichotomous question and may include a question where the participant is asked to indicate his or her gender (male or female). Scales were also used in the questionnaire to measure how the respondents feel.

According to Maree et al., (2016:186) using scales is a very common and useful way in survey research of measuring how respondents feel or think about something. In this study, the likert scale was used to measure the attitude of respondents towards some of the questions. Maree et al., (2016:187) maintain that the likert scale is a convenient instrument to measure a construct and is achieved by asking a series of likert scale questions and then calculate a total score for each respondent. The likert scale questions may include examples where the respondent is required to strongly agree, agree, disagree, strongly disagree or neither agree nor disagree.

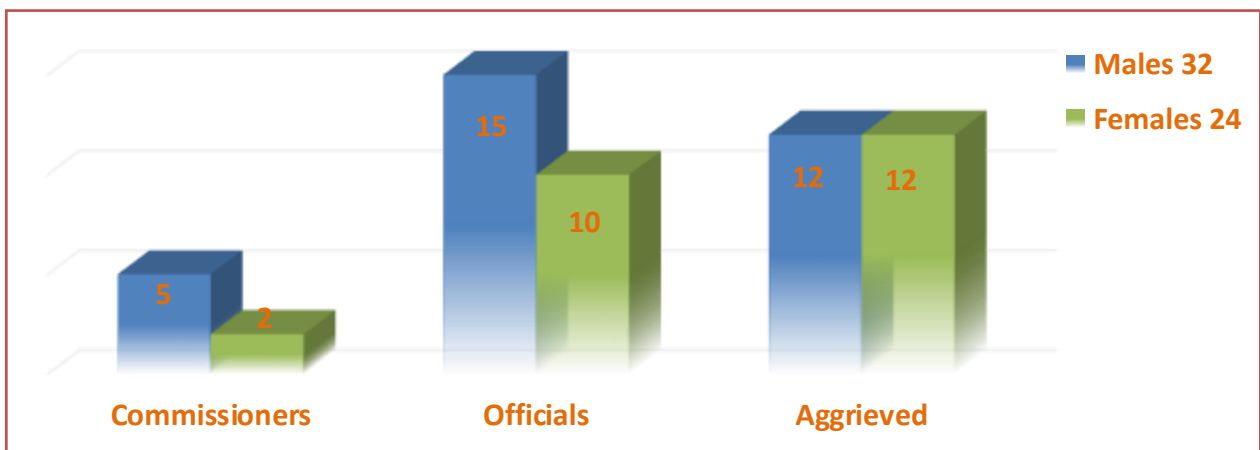
Table 4. 1: Overview of completed questionnaire

Classifications	Distributed	Returned	Spoilt	Analysed
Commissioners	10	7	0	7
Officials	45	33	8	25
Aggrieved	45	31	7	24
Total	100	71	15	56

The above table projects a total number of 100 distributed questionnaires divided among the three classifications. Ten (10) questionnaire were distributed to Commissioners of the PSC and seven (7) were returned. The seven (7) questionnaires returned were analysed. Forty- five (45) questionnaires were distributed to a sample of staff responsible for grievance investigations and thirty-three (33) were returned. Another forty-five (45) were distributed to a sample of aggrieved employees and thirty-one (31) were returned. A total of 71 were returned back for analysis and 56 were analysed. Out of forty-five (45) questionnaires distributed to staff eight (8) were spoilt and twenty-five (25) were analysed. With regards to forty-five (45) distributed to aggrieved employees, thirty-one (31) were returned, seven (7) were spoilt and 24 were analysed. A total of 15 questionnaire were spoilt and thus not usable for the study.

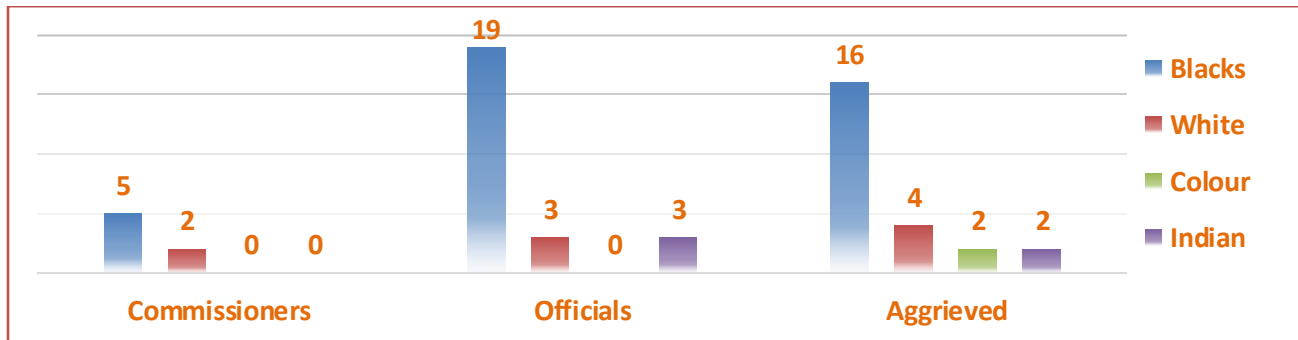
Biographical information of participants

Figure 1: Gender profile



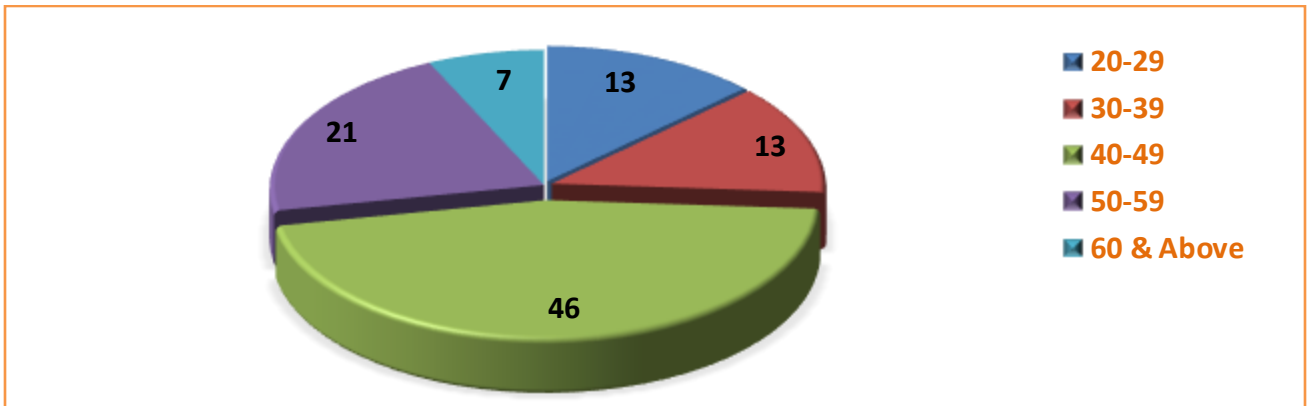
The graph in figure 1 above shows that the majority of respondents for this study were males (57%), and females were only 43%. However, it was of interest to note that the respondents from the category of aggrieved employees both males and females scored 21%. In the category of officials males scored 27% while females scored 18%. In the category of Commissioners, scored 5% while females scored 2%.

Figure 2: Race



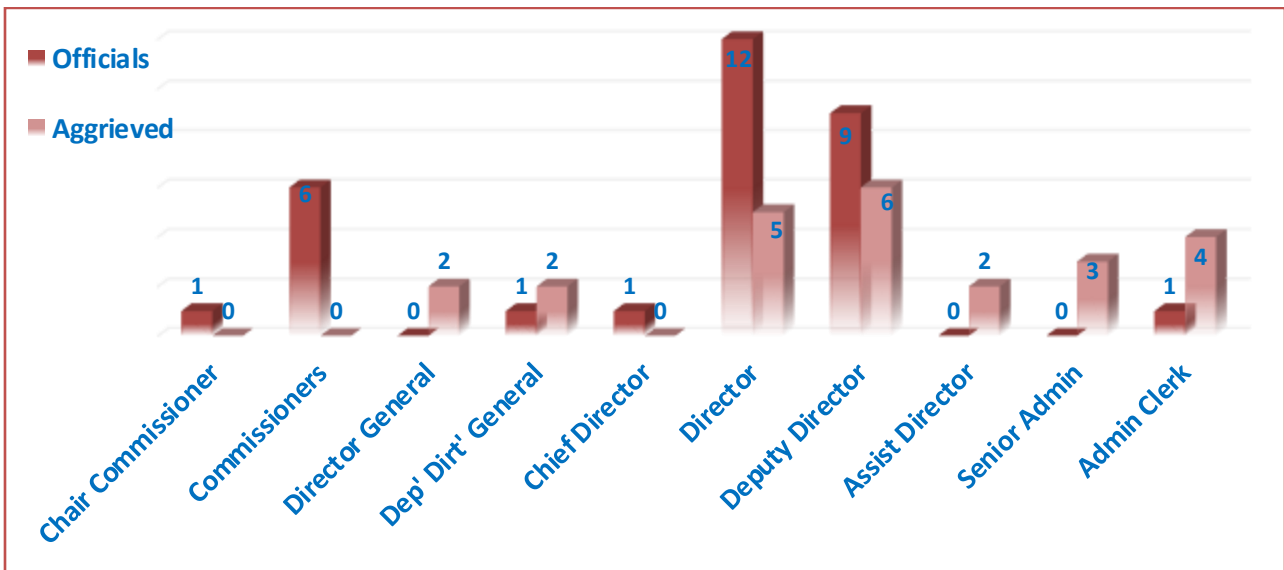
The figure 2 above indicates 29% of the responses were blacks who were aggrieved, followed by black officials (16%) dealing with grievances cases and 5% were black from the Commissioners. There was 2% whites from the Commissioners, 5% from the officials and 7% from the aggrieved employees. Both Coloureds and Indians made up the 4% of the respondents for this study. The majority of participants who were aggrieved are blacks, indicate that they are aware of the existing structures to access assistance while they are exposed to the process of grievance resolution. The high number of responses from black respondents is also a reflection of the extent to which the public service has transformed. According to Du Plessis and Fouche (2015:332), the Labour Relations Act amended in 2002 added more dispute resolution processes aimed at primarily a more efficient way of conducting dispute resolution. Therefore, the number of institutions for handling disputes increased, hence public servant are aware of most of their existence.

Figure 3: Age



Most of the respondents of this study in the figure above were between the ages of 40-49 (46%), followed by those who were between the ages of 50-59 (21%), then 20-29 (13%), lastly were those who were between the ages of 60 and above at 7%. The majority of participants were between the ages of 40-49. However, the advantage of a mature age group of employees is that they provide informative participating that they have been exposed to most of labour practices and have grasped the essence of a grievance and dispute resolution, and that can add value to the study.

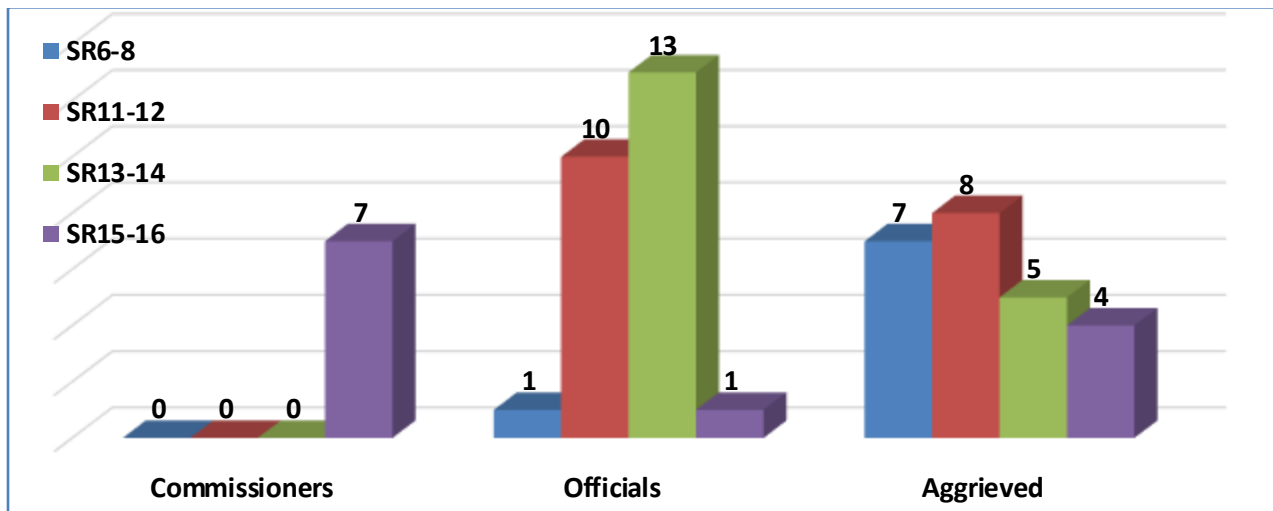
Figure 4: Designation



The figure indicate that the participants included all levels within the public service from highest to the lowest. The aggrieved employees were also well represented in almost all

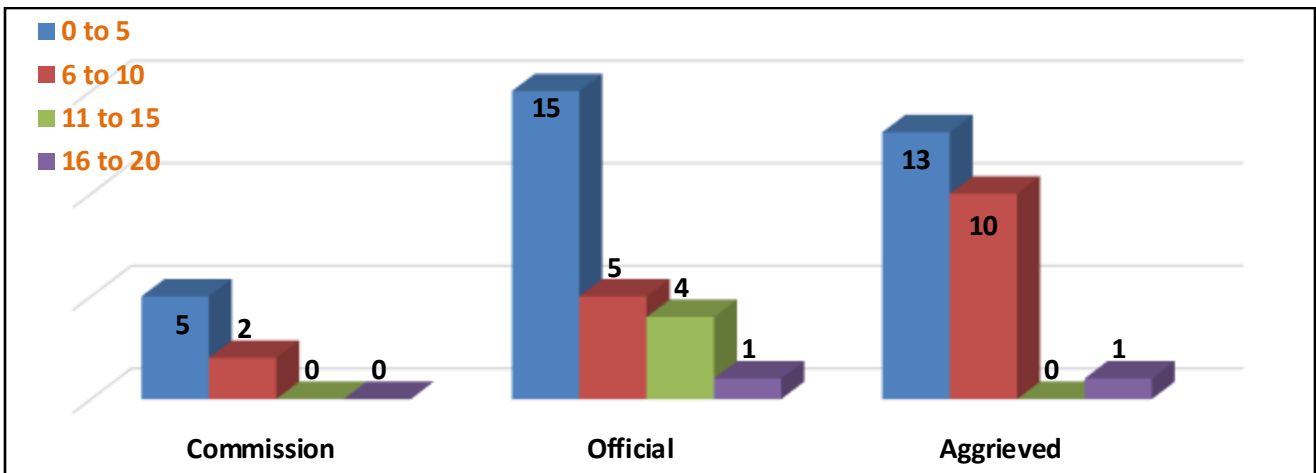
levels, which suggests that employees at all levels in the public service are one way or another dissatisfied with the actions of the employer and regardless of rank, they do loge grievances against the employer. Most of the participants were officials at the director's level. This response suggests that the officials that are involved in the investigation of grievances at the PSC and at the level of departments are at a director level generally to ensure the quality of the work produced.

Figure 5: Salary level



The figure 5 above indicates that the high respondents were from salary level 13-14 of the officials, followed by those at salary level 11-13, then the aggrieved who are at salary level 11-12. The lowest responses were official for both salary level 6-8 & 15-16. The implication of the high rate of respondents by officials at salary level 13-14 ensures a high quality of responses as the respondents are at a managerial level in the public service.

Figure 6: Years in position



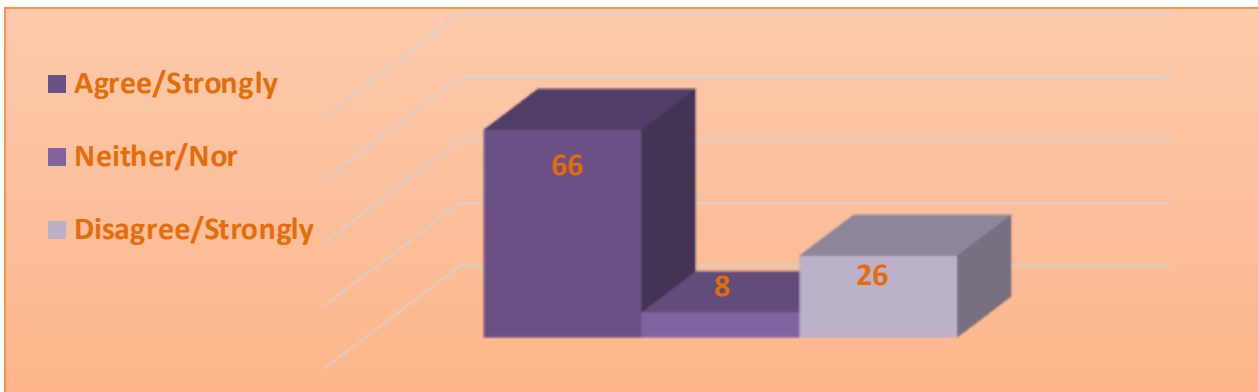
The majority of participants were employed in their positions for a period between 0-5 years for all participants in the public service, followed by 6-10 years and 11-15 years. Less respondents were between 16-20 years of service in the public service. The high incidence of cases were reported in the early years of participants' careers in the public service.

This suggests that the majority of employees at lower levels in the public service are the most aggrieved.

4.4. Interpretation of Questionnaires

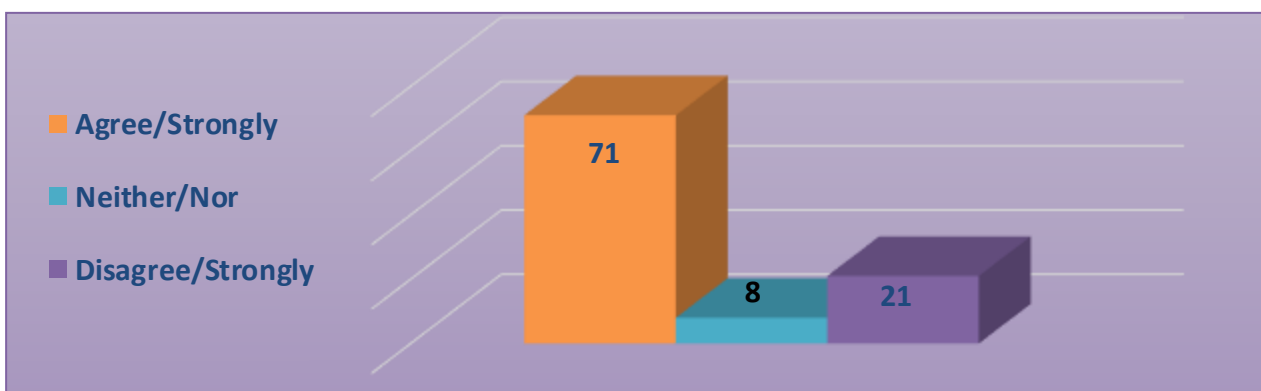
Questions one to ten required the respondents to indicate whether they **Strongly Agree, Agree, Neither Agree nor Disagree, Disagree or Strongly Disagree** with the statements.

Question 1: The PSC should be included as one of the dispute resolution institutions provided for in the Labour Relations Act, 66 of 1995 (Act 66 of 1995).



Participants were requested to indicate whether the PSC can be used as a dispute resolution institution. The 66% of the respondents agree that the PSC should be included as a dispute resolution institutions provided for in the Labour Relations Act, 66 of 1995 (Act 66 of 1995). While a noticeable 26% disagreed with the statement and 8% of them were undecided. The majority of the participants who agrees with the statement may imply that they are aware that the PSC operates outside of the public service and may be regarded as a dispute resolution mechanism. However, while the PSC can be regarded as some form of a dispute resolution mechanism, there is no benefit for it to be included in the LRA as it is a Constitutional independent institution and its powers are regulated in the Constitution and the Public Service Commission Act, 1997 (Act 46 of 1997). The high rate of responses also support the notion that the PSC is not a fully- fledged dispute resolution mechanism.

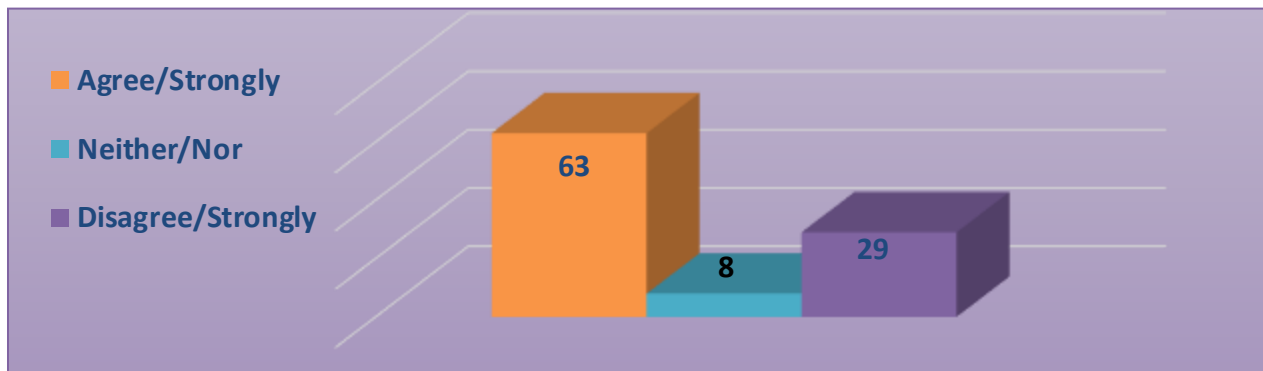
Question 2: The PSC qualifies to be a fair and reasonable dispute resolution mechanism.



Participants were requested to indicate whether they agree with the statement that PSC qualifies to be a fair and reasonable dispute resolution. However, 71% of the respondents

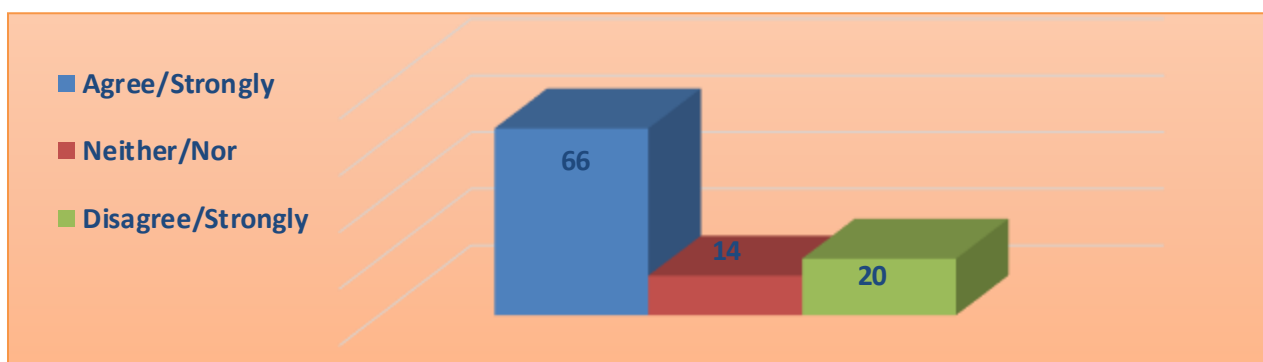
agree that the PSC is qualified to be a fair and reasonable dispute resolution mechanism within the public service, while 21% are in disagreement. The high rate of responses agreeing that the PC qualifies to be a fair and reasonable dispute resolution show that the majority of respondents understand the role of the PSC as an independent, fair and reasonable dispute resolution mechanism.

Question 3: The amendment of the Labour Relations Act 66 of 1995 to include the PSC as a dispute resolution institution can be supported.



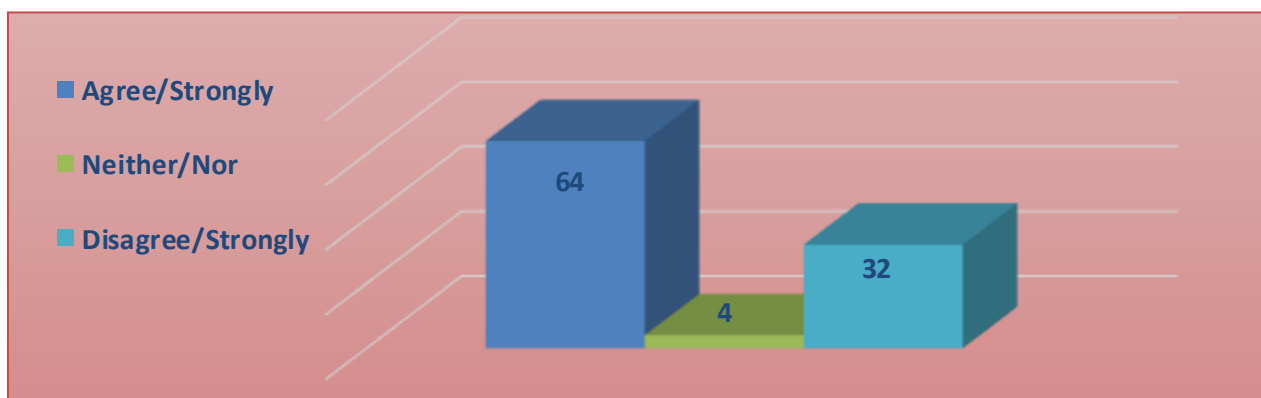
63% of the respondents agree in supporting that the PSC be included in the amendment of the Labour Relations Act 66 of 1995. On the other hand, 29% disagreed that PSC be included as a with dispute resolution institution. This response show that the respondents are not satisfied with the fact that the PSC only makes recommendations in some grievances and does not issue legally binding rulings.

Question 4: Proper procedures and legislation are followed at the PSC during the dispute resolution process.



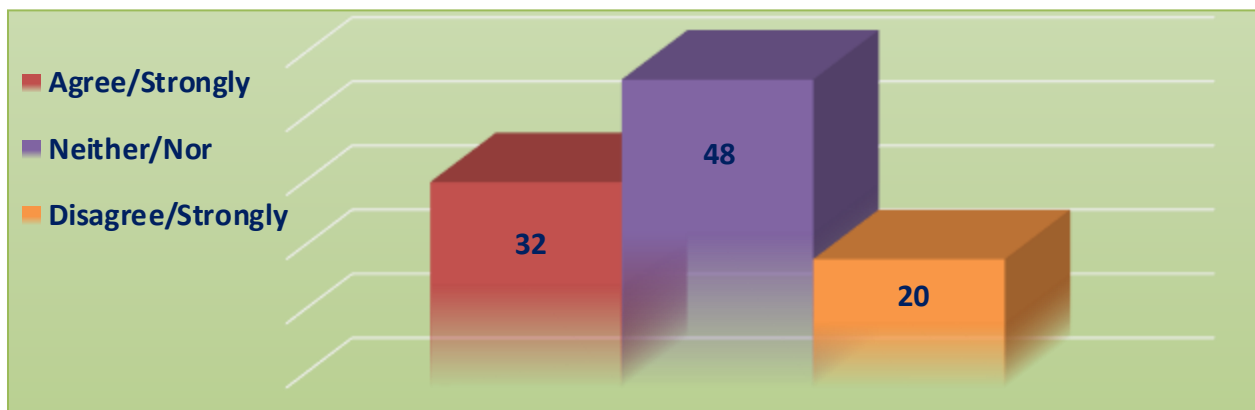
The figure above indicates that 66% of the respondents agree that at the PSC there are proper procedures and legislation are followed for the dispute resolution process, while 20% are in disagreement and a noticeable 14% neither agreed nor disagreed. While a high number of respondents agree that proper procedures and legislation are followed in the dispute resolution process in the PSC, a total of 20% of the respondents are in disagreement and 14% neither agree nor disagree which shows that the procedures followed by the PSC are not fully understood. It was confirmed by the respondents in response to open questions that the procedures followed by the PSC are not understood because the PSC does not have its own gazetted rules that spell out their own processes.

Question 5: The PSC conducts the investigation of grievances of employees in the public service in a transparent manner.



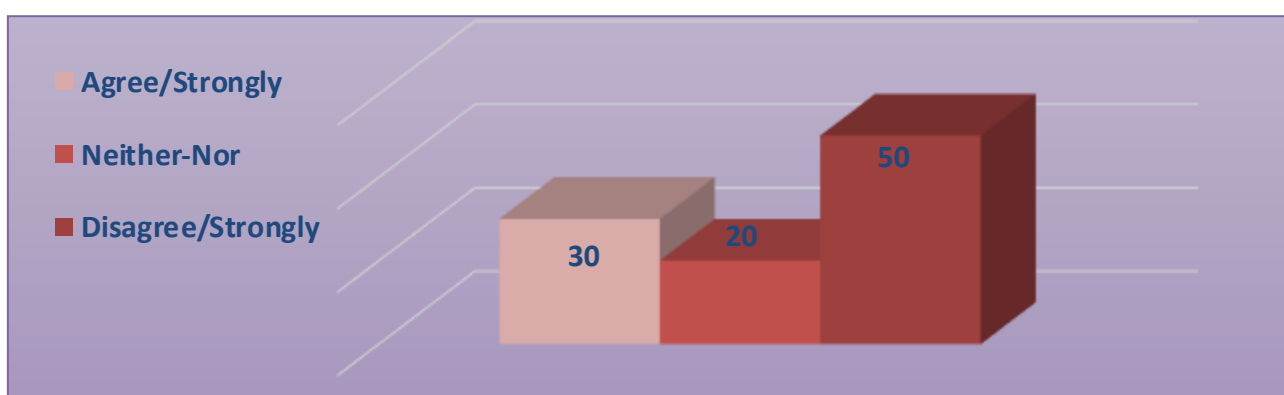
The figure above indicates that 64% of the respondents agree that the PSC does conduct the grievance investigation of employees in the public service in a transparent manner. Contrary, a 32% disagree with the statement. During the administering of open questions it was clear that the high percentage of responses that agree that the PSC conducts the grievance investigation of employees in the public service in a transparent manner came from the Commissioners and the officials responsible for grievance investigations. The aggrieved employees disagreed. This implication of this response is that the actual client of the PSC, which in this case is the aggrieved employees believe that the manner in which grievances are investigated by the PSC is not transparent.

Question 6: The PSC has enough staff capable to handle all the cases received by their offices in different provinces.



The figure above indicates that the respondents (48%) are not sure if whether the PSC has enough capable staff to handle all grievance cases received to them by their offices in different provinces. 32% of the respondents are in agreement, while 20% disagrees. The high percentage of respondents who are not sure whether the PSC has enough capable staff to handle all grievance cases can mean many things, like the lack of access to information, transparency regarding how cases are allocated to investigators within the PSC or ignorance.

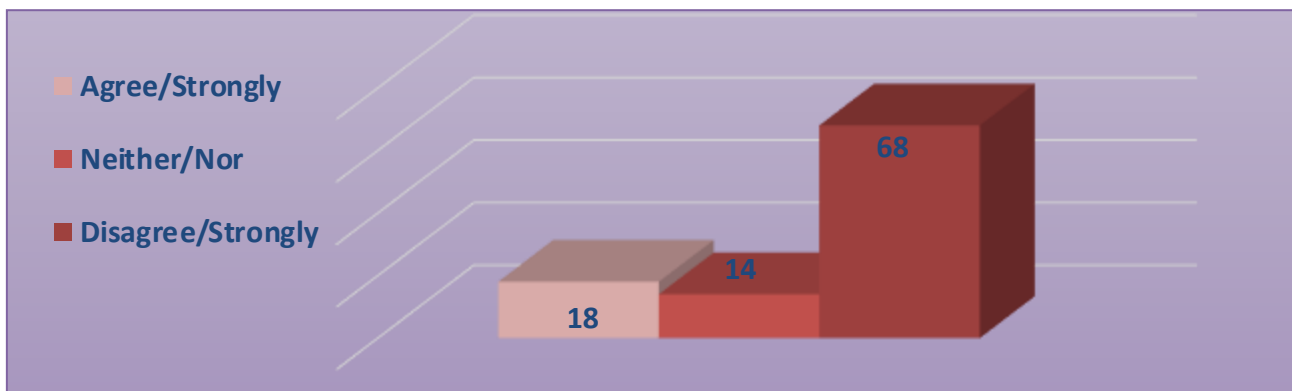
Question 7: The PSC always inform the aggrieved employees about the progress of his/her case and handles the cases well.



50% of the respondents disagrees that the PSC always inform the aggrieved employees about the progress of his/her case and handles the cases well. While 30% are in agreement that the PSC does inform employees of the cases and the cases are handled. The high rate of respondents that disagreed that the PSC always inform the

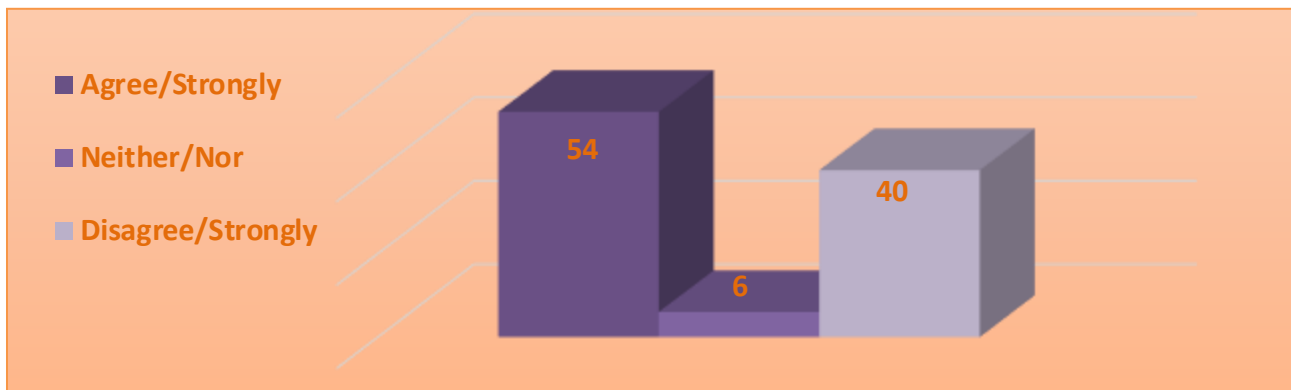
aggrieved employees about the progress of his/her case and handles the cases well points to the fact that the PSC is not effective in handling grievances of employees and would need to find out about this and make some improvements. The aggrieved must always be informed about the progress of their cases at all times.

Question 8: The PSC always comply with the prescribed time frames on which the grievances should be investigated and finalized.



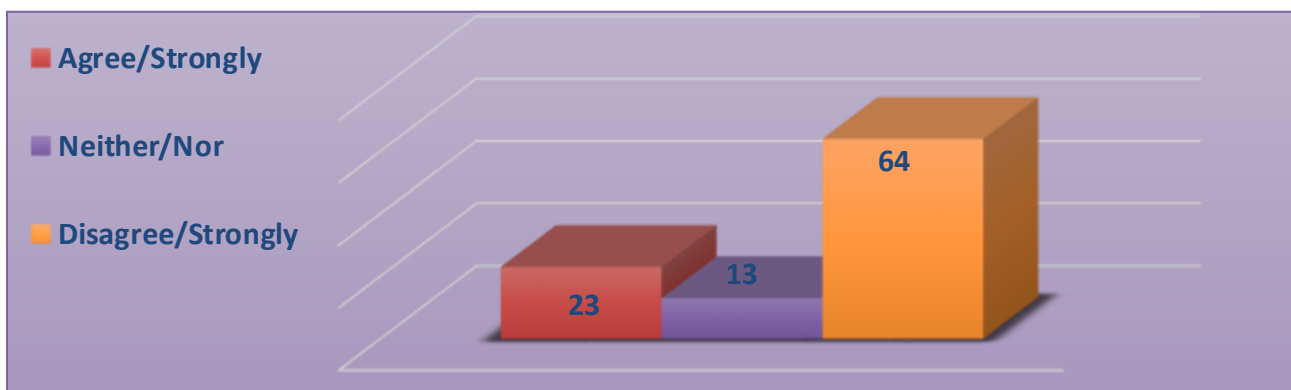
68% of the respondents of this study disagree that the PSC always comply with the prescribed time frames for the grievance to be investigated and finalized. While 18% agree and 14% had no view on where the PSC complies with the set time frames for grievance investigations or not. The high response that the PSC does not always comply with the prescribed time frames points to non-compliance with the grievances rules. The implication is that the PSC will not be able to force compliance by departments and the aggrieved employees will continue to be dissatisfied. The response also points to the fact that the PSC does not follow its own protocols in making sure that the departments that are not co- operating are summonsed to appear before the PSC and produce the required documents for the finalisation of a grievance within the prescribed period.

Question 9: All parties are afforded the opportunity to present their cases (the employee and the employer).



54% are in agreement with the statement that when dealing with the grievance cases all parties (the employee and the employer) are afforded the opportunity to present their cases. While a noticeable 40% is disagreeing with the statement. During the administering of open questions it came out clearly that the majority of respondents would prefer that all parties be called to appear before the PSC to present their cases as opposed to the collection of documents from the aggrieved parties.

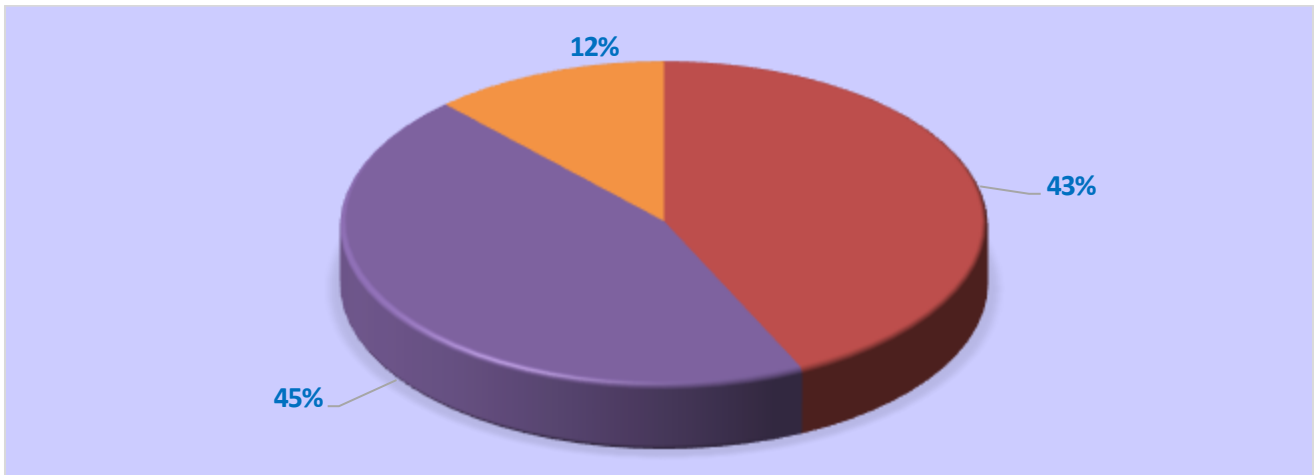
Question 10: The current grievance resolution in the public service can be regarded as efficient.



64% of the respondents indicated that the current grievance resolution in the public service can be regarded as inefficient; 23% agreed that the grievance resolution processes is effective, and only 13% presented themselves as not sure. The responses show that the majority of respondents believe that the current grievance resolution is

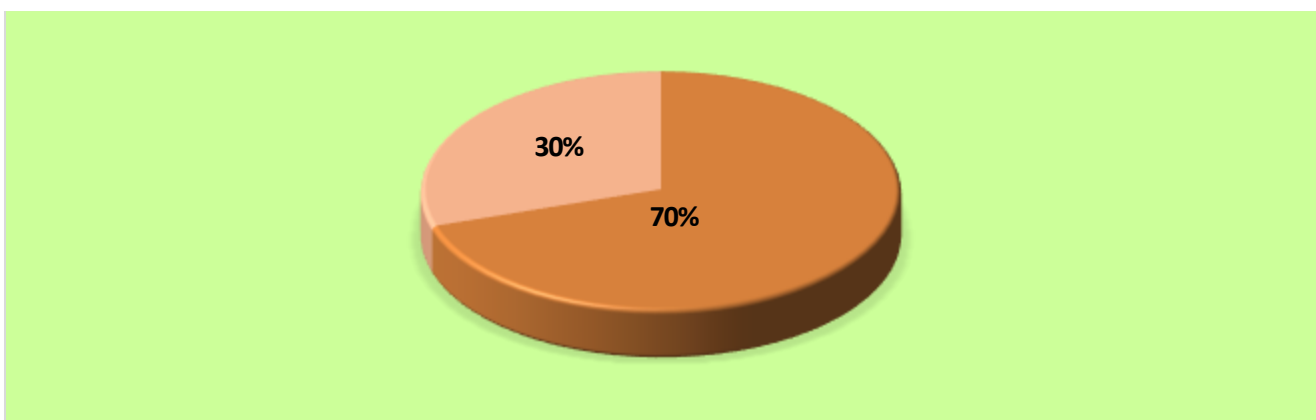
inefficient and would need to be reviewed. During the administering of open questions it was clear that the lack of consequences for non-compliance with prescribed time frames as well as the long process it takes to finalise a grievance renders the process inefficient.

Question 11: Have you ever been involved in a grievance resolution process? If yes, what was your role in the process?



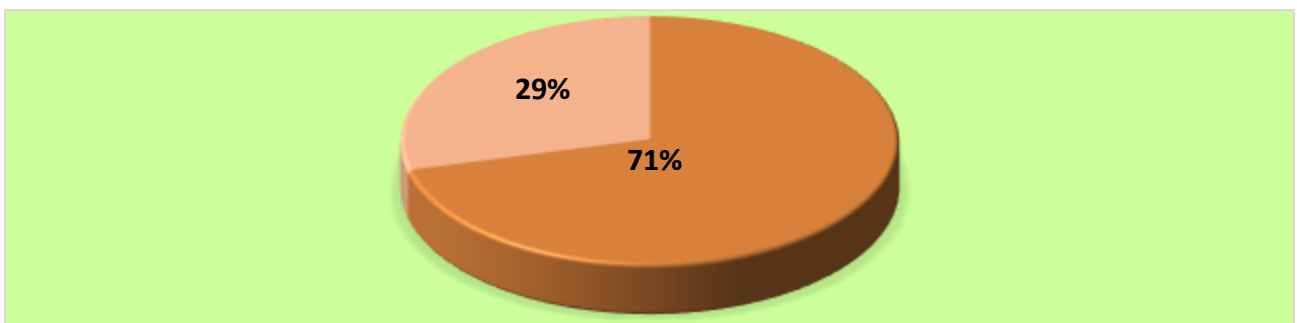
The figure above indicates that the majority of the respondents of this study was made up of the Investigator (45%); Adjudicators made up 43%, then the Aggrieved made only 12%. This response shows that the aggrieved employees do not view themselves as participants in the grievance resolution process. They see their role as very minimum. The implication of this is that the recipients of the service are not fully involved in the process.

Question 12. Can you regard the process as fair and reasonable?



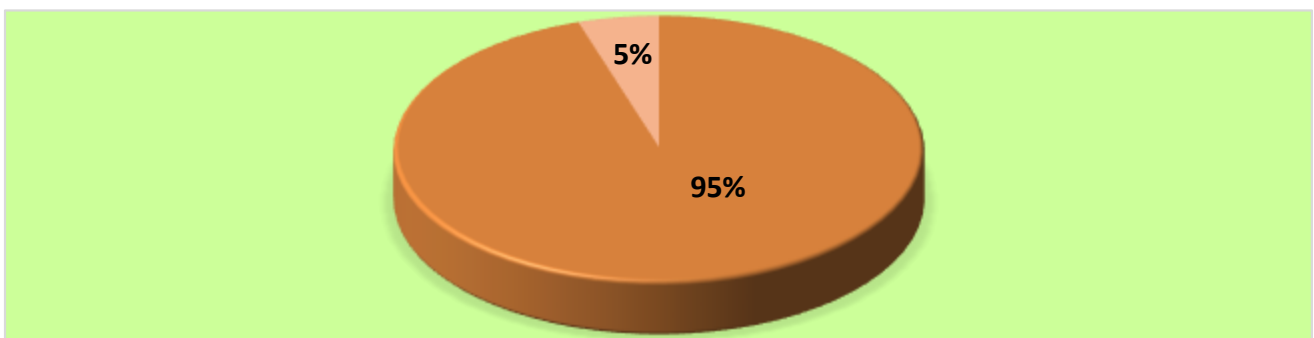
The figure above indicates that the majority (70%) of the respondent are of the view that the grievance process is fair and reasonable, while only 30% said no. While the high number of respondents are of the view that the grievance process is fair and reasonable, it came out clearly during the administering of the open questions that the aggrieved employees believe that the process is not fair and reasonable and proposed that the process should be transparent and all parties must be called to appear in person before the PSC to present their cases.

Question 13: Were proper processes follows?



The figure above indicates that 71% of the respondent said the processes were properly followed, and only 29% were in disagreement. The implications of a process that is not transparent will always lead to different responses as the aggrieved employees will always be suspicious of the process.

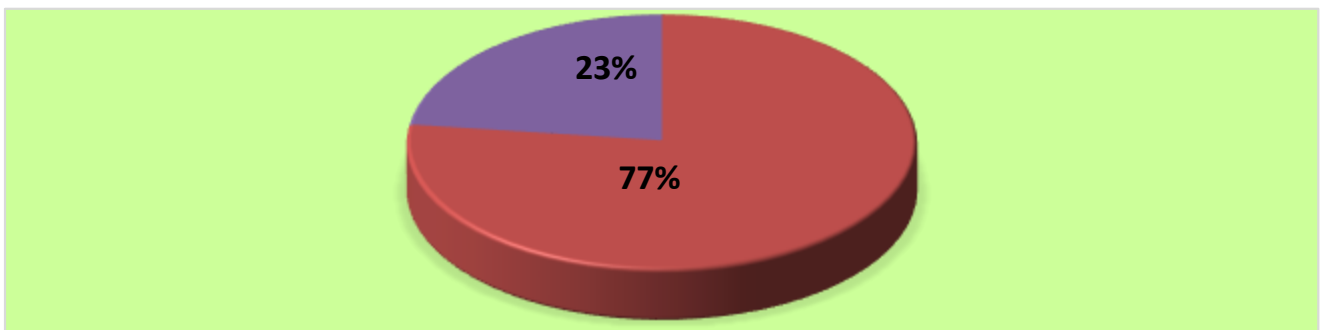
Question 15: Are you aware of the role of the PSC in the grievance resolution in the Public Service?



The figure indicates that 95% of the respondents are aware of the role of the PSC plays in

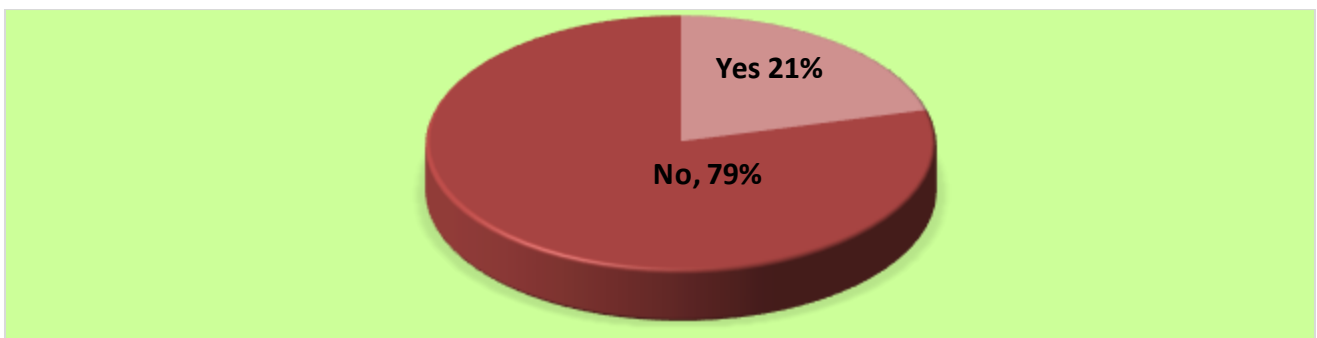
the grievance resolution processes in the Public Service. The responses show that there is a small percentage of aggrieved employees who do not fully understand the role of the PSC and during the administering of the open questions, the aggrieved respondents indicated that they are just informed by the designated employees to refer to the PSC without knowing what the implications are and what benefit.

Question 16: Would you refer your unresolved grievance to the PSC for arbitration?



77% of the respondents said yes, they would refer their unresolved grievance to the PSC for arbitration, and only 23% said no. The response show that the majority of respondents which in this study are the officials and the Commissioners of the PSC put together are satisfied with the work they are doing. However, it came out clearly from the majority of aggrieved employees as well as some officials that the recommendations of the PSC that are not being implemented by the departments and lack of enforcement coupled with the reluctance of the PSC to issue directions in areas where it has powers is a result of not wanting to refer their grievances to the PSC.

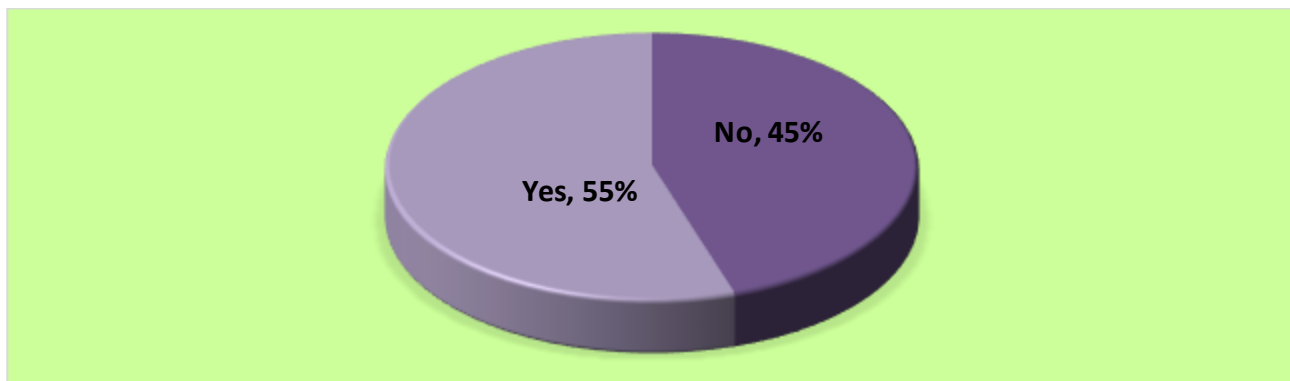
Question 17: Would you refer all types of grievances to the PSC for arbitration?



The figure above indicates that 79% of the respondents said they wouldn't refer all types of

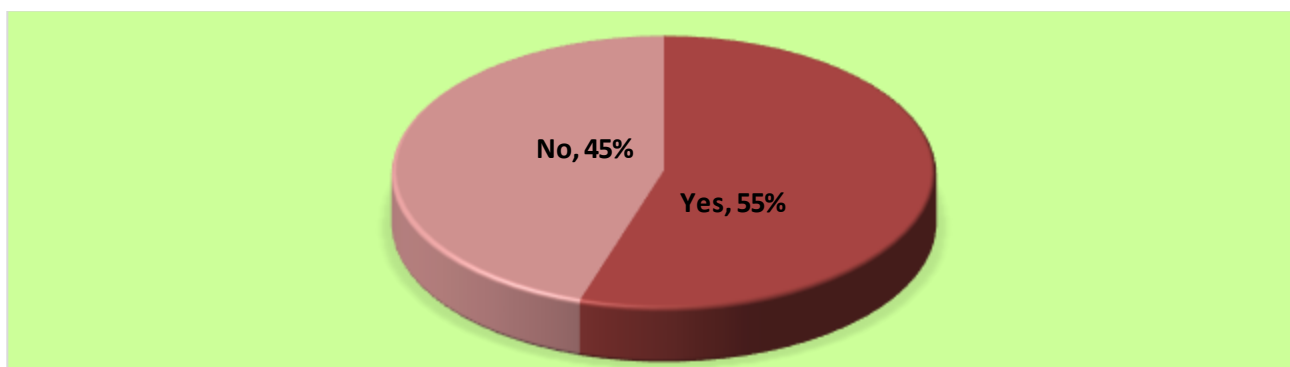
grievances to the PSC for arbitration, but 21% said they would. During the administering of open questions it came out clearly that in cases where the aggrieved would require a legally binding ruling, they would not refer their grievance cases to the PSC.

Question 18: Would you refer all types of grievance cases to other dispute resolution institutions for arbitration?



The figure above indicates that 55% of the respondents said they would refer all types of grievance cases to other dispute resolution institutions for arbitration. While 45% said no. There was not a huge difference between the respondents that would refer or not refer all types of grievances to the PSC. This response show that the respondents would refer their grievances to all the institutions of dispute resolution including the PSC.

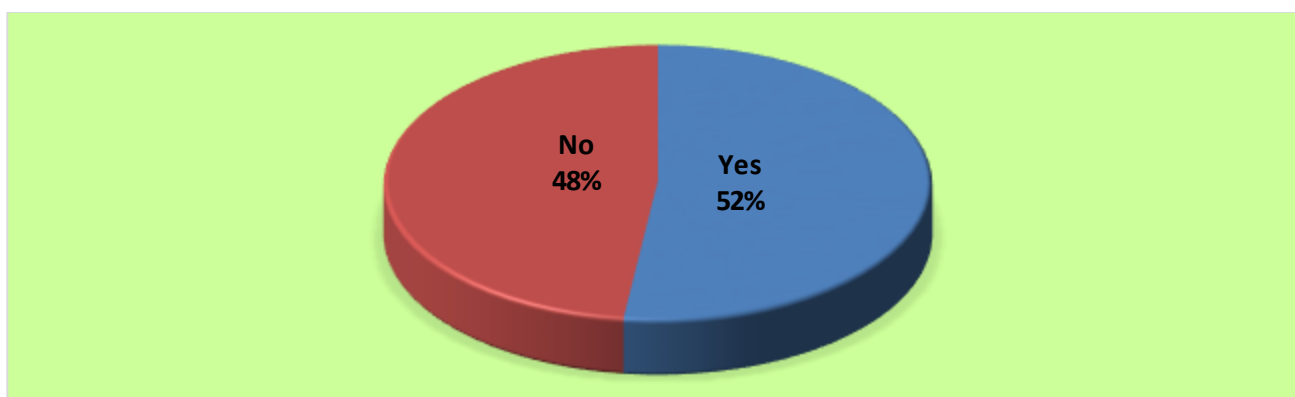
Question 19: Do you regard the PSC as a government department?



The figure above indicates that 55% of the respondents for this study said they regard PSC as a government department, and only 45% said they do not. There was a high percentage

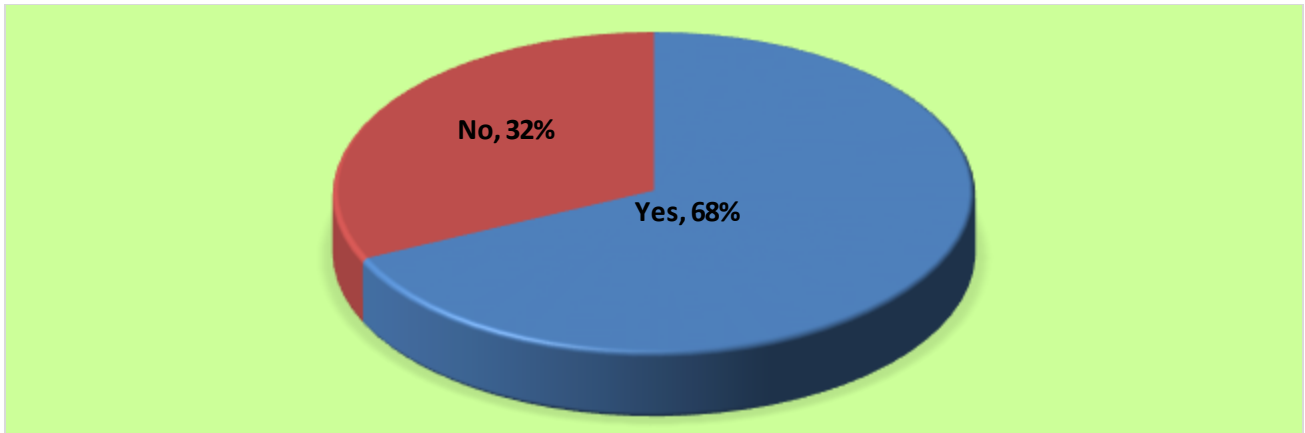
of respondents that believe that the PSC is a government department. During the administering of open questions, the independence of the PSC was questioned as it is seen as an entity of the Department of Public Service and Administration where it receives its budget. The PSC also acknowledged that there are issues that compromise the independence of the PSC as it is supported by a government department while its Commissioners are appointed by parliament.

Question 20: Can the Public Service Commission be regarded as a dispute resolution mechanism?



52% of the respondents as indicated in the figure above agreed that PSC can be regarded as a dispute resolution mechanism. Only 48% said no. The respondents that provided a high percentage to indicate that the PSC can be regarded as a dispute resolution mechanisms supported their response by providing that if the department fails to resolve a grievances it is referred to the PSC as a dispute. However, some respondents disputed this view by alluding to the fact that some grievances are referred to the PSC without being investigated by the departments including the grievances lodged by the HoD's which supports a view that the PSC is not a fully- fledged dispute resolution mechanism.

Question 21: Can the PSC be regarded as an independent avenue through which a grievance can be escalated?



68% of the respondents of this study said PSC can be regarded as an independent avenue through which grievances can be escalated. But 32% said no it can't be. Since some of the grievances are investigated by the PSC from scratch, the PSC is regarded as a government department and its independence is questioned. However, the PSC is an independent Constitutional body but is supported by a government department and compromise its independence.

Question 22: Explain in your own words how you understand the grievance procedure in the South African PSC.

When the respondents were asked to explain in their own words how they understand the grievance procedure in the South African PSC, there was a common understanding among the Commissioners and staff responsible for grievance investigations that the grievance procedure in the South African PSC is a dispute resolution mechanism whereby the aggrieved employees refer their unresolved grievances to the PSC due to failure by their departments to resolve them. One of the respondent further explained the process as follows:

'When a grievance of an employee is referred to the PSC by the Executing Authority in terms of section 35 (1) (a) of the Public Service Act, 1994, it must be addressed to the Chairperson of the Public Service Commission or the Resident Commissioner if the grievance emanates from a province. The referral must be accompanied by the EA's decision and reasons for the decision, a copy of the investigation report and all relevant documentation pertaining to the grievance investigation. The documents must also include

a copy of the letter of the outcome addressed by the EA to the aggrieved employee as well as copies of policies and other relevant prescripts and information used in dealing with the grievance.'

In responding to the same question, there were different views among the aggrieved employees regarding their understanding of the grievance procedure in the South African PSC. It is clear that there was no common understanding among the aggrieved employees which in their view is a result of lack of transparency and documented procedures within the PSC about their internal processes. While some of the responses were similar, some of the aggrieved employees expressed views that were totally different from others.

One aggrieved employee responded as follows:

“The PSC investigates and either agree or disagree with the ruling of the department and then make recommendations which are never implemented or follow up by the PSC itself.”

A second aggrieved employee who was the Head of Department during the time of lodging a grievance with the PSC responded as follows:

“The procedure of the PSC is not clear but when you lodge a grievance they engage you in a very professional manner and your case is assigned to a Commissioner who keeps on briefing you about the process and ask you to submit all the required information.”

The third aggrieved employee stated as follows:

“The aggrieved has to lodge a grievance within 90 days from the date he/she becomes aware of the official act or omission which adversely affects him/her. He can lodge the grievance directly with the commission if the department fails to respond to the grievance within 30 days. The PSC has 30 days to deal with the grievance upon receipt of all documents requested. The PSC investigates he grievance and make recommendations which are not binding but the implementing department has to provide reasons of not

implementing the recommendations. The investigator has to inform the aggrieved of the progress.”

Another aggrieved employee responded as follows:

“It is a step by step process to be followed in resolving a grievance.”

Another aggrieved employee said:

“It is a way of raising dissatisfaction with the employer.”

Another participant responded and said: “A process to lodge a grievance and how it should be resolved.”

The responses of eight aggrieved employees which seemed to be similar can be summarised as follows:

“The PSC is guided by the grievance procedure of the public service to adjudicate over grievances of employees in the public service whose grievances were either not investigated by departments or the aggrieved employees were not satisfied with the decision of the employer. In simple terms, once all internal grievance procedure in the public service has been exhausted and the employee is still dissatisfied, the employee may refer the grievance to the PSC. In essence, if the department fails to finalise the grievance, the aggrieved employee can refer it to the PSC. The PSC investigates grievances escalated to it by the aggrieved employees or the department after the grievance procedure from the department failed. The PSC is supposed to investigate the grievances of employees whose grievances were either not investigated by their departments or if they were not satisfied with the decision taken by their departments. The PSC is supposed to comply with the prescribed time-frames”.

One aggrieved employee also responded as follows:

“As soon as your grievance reaches the PSC you will never know what happens and how

they go about investigating your grievance. They hardly contact you as the aggrieved. You are not even informed of the outcome until the employer tells you at its own time, sometimes long after the outcome by the PSC. The question is – Why is the aggrieved not informed immediately when the outcome is reached by the PSC? One does not know and do not understand what the secrecy is all about.”

One aggrieved employee also responded as follows:

“An aggrieved employee lodges a grievance in his/her department and escalate either to the PSC or sectoral bargaining council if not happy with the decision of the employer. In most cases there is not even an effort from the department to resolve the grievance. They just ignore the aggrieved if referred to the PSC, the grievance remain unresolved for a long time because the PSC does not comply with the time frames and is always in breach of the grievance rules.”

One aggrieved employee responded as follows:

“The PSC works like an appeal body but its decision is not final. The EA must still make the final decision on the grievance.”

The responses of three aggrieved employees can be summarised as follows:

“The PSC handles grievances of Heads of Departments directly as there is no mechanism for it. In the case of staff, the PSC is correctly placed to handle disputes as the grievances will have been dealt with by the departments and fail. The PSC is supposed to be issuing final and binding rulings. The PSC is a dispute resolution mechanism wherein all grievances that are not resolved by the departments are referred to the PSC for a ruling. The only problem is that it does not issue binding decisions, rather it makes recommendations which more often are not implemented by the departments. The PSC also does not follow up on those recommendations and question departments about none implementation of their recommendations.”

One aggrieved employee responded as follows:

“The grievance procedures in the PSC are the same as those of the public service in general. The difference is that the PSC is independent and has integrity in the manner it conducts its business. The aggrieved employee is given priority and is listen to with dignity.”

One of the aggrieved employees responded as follows:

“If you are not happy about something, you are just told by the designated employee to lodge a grievance and the process is not explained to you. The departments are not even telling the employees how it works. The unions try but only when you are dissatisfied with something.”

The responses of two aggrieved employee were as follows:

“The only understanding I have is that I can lodge a grievance if not satisfied, but there are no workshops where people are informed properly about the grievance procedures. The departments are not doing it, and the PSC is not doing it either. How can the employees know? The second employee said, “Not clear since no one cares to explain it.”

Another aggrieved employee said:

“The role of the PSC is clearly articulated in the grievance rules, but their internal processes are not known.”

Question 23: Based on your experience, indicate some of the challenges associated with the grievance procedure.

In the question above, the respondents were asked to indicate some of the challenges associated with the grievance procedure based on their experience. The summary of responses by the Commissioners and investigators were as follows:

- Failure by departments to provide the necessary documents to assist the investigation;
- Unavailability of departmental officials that are key to the investigation;
- Mediation not being part of the grievance procedure;
- Rigidity of the grievance procedures and lack of provision for condonation in the case of a valid reason for late lodging;
- Delays in submission of grievances that are not resolved by the departments;

- Non-compliance with the prescribed time frames by one or more parties;
- Lack of commitment by managers as well as accusatorial approach in resolving grievances;
- Hands-off approach by Managers thus making the role of resolving grievances be the role of the Labour Relations Officer;
- Time frames prescribed to investigate and resolve the grievance too short considering factors such as the unavailability of parties as well as the involvement of EA's given their busy schedules;
- Lack of understanding or compliance with the grievance rules by the departments which can be attributed to lack of trained officials to handle the grievance processes;
- Subjectivity of investigating officers;
- Over reliance of the PSC on documentation without interviewing key stakeholders;
- Poor record keeping by departments (for example if the grievance is about appointments, the documents relating to the recruitment processes would not be found on file);
- Employees not conversant with the procedures and lack of training;
- Insufficient mechanism in the Grievance Rules to safeguard aggrieved employees from being victimized by the employer after lodging a grievance;
- Prescription period in the Grievance Rules, 2003 which is not linked with the Prescription laws which result in inflexibility of the Grievance Rules;
- Grievances implicating HoD's brought by junior staff not covered in the Grievance Rules;
- Lack of capacity to investigate grievances in departments;
- Lack of enforcement to comply with the rules;
- Premature referrals to the PSC before exhausting the internal departmental processes;

- Delays in the communication of decisions by the EA's resulting in not meeting the prescribed time-frames;

When asked to indicate some of the challenges associated with the grievance procedure, the respondents representing the aggrieved employees responded as follow:

- The grievance procedure is not taken seriously by the departments and the aggrieved employee would be ignored at first and the PSC itself would struggle to receive documentation from the department, thus dragging the process even further. The PSC often fails to utilise its powers to force public functionaries to cooperate with it;
- The grievance of an employee would be referred to the PSC for failure to investigate by the department, but the PSC would not enforce accountability from the side of the department;
- Aggrieved employees are victimised and disciplined by their departments if the employees goes to the PSC and are told that the PSC does not have a mandate to interfere with disciplinary processes in departments and the PSC even if is made aware of the victimisation would not intervene;
- The grievance procedure does not have mechanisms to deal with abuse of power by the EA's and to deal with anyone who does not comply in terms of providing it with the necessary documents to conclude its investigation;
- Summoning the departments is a waste of time as the department will appear before the PSC without bringing the necessary documents thus delaying the process of finalising the investigation even further;
- The prescription of time-frames that are never met by the departments and the PSC renders the whole process ineffective;
- There is no mechanism to deal with non-compliance in terms of meeting the prescribed time-frames by both the department and the PSC;
- The prescribed period for lodging is manipulated by departments as they promise to resolve the dissatisfaction and fail to do so and the employee is informed after the expiry of the period for lodging;
- The aggrieved employee is not considered at all during the investigation of a grievance by the PSC and the rulings are biased towards the departments as the PSC focuses more on what the departments are telling them;

- When the PSC completes the investigation, the outcome is given to the department even in cases where the grievance was referred by the aggrieved employee. The aggrieved employee would not be informed by the department of the outcomes of the investigation by the PSC;
- The PSC is not transparent about how it investigates and what approach it follows and what informs its decisions;
- The grievance procedure is a long process and the aggrieved employee breaks down before the grievance can be resolved due to long processes from departments as well as the PSC;
- The departments do not implement the recommendations of the PSC and the PSC does not follow through to make sure that its recommendations are implemented. There is no mechanism in the grievance procedure that allows for the aggrieved employee to enforce compliance by the department;
- The PSC grievance resolution process is ineffective in that the final decision must still be taken by the very employer the aggrieved employee was grieving about which points to a bigger challenge that the PSC is not a dispute resolution mechanism;

Question 24: Can you advise of strategies that can assist in improving the manner in which the process of the grievance procedure and process are handled at the PSC?

The Commissioners and investigators advised the researcher that the grievance management in the PSC was reviewed in February 2013 following an organization-wide reengineering process. The process introduced new strategies that resulted in great improvements in the handling of the process of the grievance procedure and processes at the PSC. The strategies are contained in South Africa (Public Service Commission, 2014) and they include the clearing of backlogs by making sure that the submission process of deciding on cases is abolished and replaced by panels of Commissioners that sit every month to adjudicate over grievance cases.

In response to the question to advise on strategies that can assist improve on the handling of the process of the grievance procedure and process at the PSC the respondents representing the aggrieved employees provided the following response:

- It is difficult to propose improvements regarding the processes of the PSC in grievance investigations as their processes are not transparent. No one knows what is happening within the PSC;
- The PSC must be forced to explain the reasons for not meeting the prescribed time-frames to be able to propose improvements;
- The PSC must workshop the officials in the public service about its processes in grievance management;
- A complete overhaul of the grievance procedure and provision of a shorter route and shorter time-frame of 10 days for the department to investigate and 10 days for the PSC;
- The grievance procedure must make a provision that allows the PSC to finalise the grievance based on the available information provided for by the aggrieved employee without having to pursue the department if it does not cooperate with the investigation;
- The PSC must meet the prescribed time-frames and make its rulings within the prescribed time-frames;
- All the parties to a grievance must appear before the PSC in person at the same time;
- The PSC should be the last point of call in a grievance resolution process and the grievance case must not be referred back to the department to implement recommendations but must be instructed to implement the ruling of the PSC;
- All grievances of employees in the public service must be dealt with by the Sectoral Bargaining Councils and not the PSC to avoid duplications and to address the challenge of lack of enforcement by the PSC;
- Grievances must be lodged directly to the PSC with its decisions binding to the department because engaging the department is a waste of time as it already knows about the dissatisfaction before the grievance is lodged. The grievance procedure can just develop a mechanism of alerting management about the dissatisfaction;
- The civil servants employed by the PSC must stop investigating the grievances of other employees because they taint the work of the institution that is supposed to be independent of a government department;
- The Constitution must be amended where it refers to recommendations by the PSC be replaced by enforceable directions or awards and the PSC must follow up on the implementation of the directions by the departments;

Question 25: How can the management and resolution of grievances by the Public Service

Commission be improved?

When the representatives of the aggrieved employees were asked how the management of grievances by the PSC can be improved, the majority of respondents referred to responses provided in question 21 above. However some of the respondents responded as follows:

- The PSC must develop mechanisms to stop the victimisation of employees that lodged grievances;
- The departments that do not cooperate with the PSC must face the rule of law;
- The grievance rules must be changed;
- The Presidency at National level and the Premier at provincial level must develop a framework for the management of grievances of Heads of Departments which allows for lodging as disputes to the PSC if they cannot be resolved;
- Employ competent Commissioners that can do the work not politicians that did not make the list;
- The PSC must hand over the function to the Sectoral Bargaining Councils to avoid duplications. Moreover, the PSC is not even efficient and effective. It is also partial and always take the side of the department;

Question 26: Indicate whether the PSC can be regarded as a dispute resolution mechanism that is independent of government departments, or not. Please specify the reasons for your answer.

In responding to the question whether the PSC can be regarded as a dispute resolution mechanism that is independent of government departments or not, the Commissioners all confirmed that the PSC can be regarded as a dispute resolution mechanism that is independent from government departments. They also added that it is a dispute resolution mechanism of its kind in that it is established in terms of the Constitution and not in terms of the LRA. However, majority of officials felt that the independence of the PSC does not qualify it to be a dispute resolution mechanism as it is not designed as such and is not list in the institutions established by the LRA. Some officials came up with different responses in that some of them responded as follows:

- The PSC is a Constitutional body as provided for in the Constitution. Therefore it needs

to play its oversight role independently and should not be confused with institutions like the CCMA etc.;

- No. It is the agency of government. I will always be biased towards the employer;
- No. The PSC cannot be a dispute resolution as it is by law not established as such.

The independence is questioned since the PSC is part of government;

- It can a dispute resolution mechanism provided that it is given teeth to bit;
- No. It cannot be a dispute resolution mechanism as it would be taking the role of Bargaining Councils and it does not have the capacity to do that. The independence is will also be questioned since it is part of government;
- The PSC can be regarded as a dispute resolution mechanism and in terms of the Constitution it is supposed to be independent of government departments;
- The PSC is not recognised as a dispute resolution mechanism by the LRA;

When the aggrieved employees were asked to indicate whether the PSC can be regarded as a dispute resolution mechanism that is independent of government departments or not, the respondents did not have a common understanding both on the issue whether the PSC is a government department or not and whether it can be regarded as a dispute resolution mechanism. The respondents responded as follows:

- The PSC is a dispute resolution mechanism but the problem is that the investigations are conducted by the officials which are also part of a government department and the independence of the PSC is questionable;
- The PSC is a dispute resolution mechanism because it is a constitutional body operating outside of government departments but it is a weak institution;
- The PSC is not a dispute resolution mechanism because the officials of the PSC are working for a government department;
- The PSC cannot be regarded as a dispute resolution mechanism as it falls short of binding awards;
- The PSC cannot be a dispute resolution mechanism because its decisions are in the form of recommendations and the EA's have the final decision which makes the PSC another toothless institution that duplicates the work of the Sectoral Bargaining

Councils;

- The PSC is not a fully- fledged dispute resolution mechanism as it handles the grievance cases of Heads of Departments directly due to lack of a framework. It is a dispute resolution mechanism only with respect to other staff in the public service. The independence of the PSC is guaranteed in the Constitution. However, there is a huge gap because it does not issue binding awards which would make it a fully-fledged dispute resolution mechanism;
- The PSC can never be a dispute resolution mechanism as long as it does not issue legally binding awards;
- The PSC is a dispute resolution mechanism as it deals with grievances that the departments failed to resolve. In the case of Heads of Departments, it is not.
- No doubt, the PSC is a dispute resolution mechanism as it operates independently and impartially. The Constitution established it as such. However, it is not taken seriously by the departments and it is not enforcing compliance through parliamentary processes;
- The PSC is a super department that monitors others like the Department of Public Service and Administration (the DPSA);
- The PSC is not independent as it works under DPSA. It is told what to do by the Minister of DPSA after it is given a budget to do its work;
- Surely, it is a dispute resolution mechanism because it handles the cases at a stage where they are taken out of the department because there was no agreement. However, the problem is that the decisions of the PSC are supposed to be binding if it is a dispute resolution institution and they are not;
- The PSC cannot be a dispute resolution mechanism as it is not included in the Labour Relations Act that establish such institutions. Moreover, its investigations are conducted by officials of the department, the Office of the Public Service Commission;
- The PSC is not a dispute resolution institution. It is a waste of time to refer a grievance to the PSC as they do not issue awards. The only thing they do is to issue recommendations that are never implemented left, right and centre. On the other hand, the aggrieved employees are subjected to humiliation as the very same department that the aggrieved is not happy with must still decide whether to implement the decisions of the PSC or not. Besides, the PSC is a government

department;

- The PSC is not a dispute resolution mechanism and allowing it is a structure that duplicates the work of the institutions established by the LRA;
- The PSC cannot be a dispute resolution mechanism because of its lack of binding awards. While the Constitution guarantees the independence of the PSC, it is not fully independent because of the government wing within itself. The Office of the Public Service Commission is a government department and that is where the work of the PSC is processed;
- The PSC is a dispute resolution mechanism that is independent of government departments, but the challenge is that it is not assertive enough to stand up and enforce and make its independence felt;
- The work of the PSC is done by the government department, the OPSC and therefore it cannot be a dispute resolution mechanism. Its independence is weak in that the PSC does not do its work independently, the office within itself is the one that is doing the work. The Commissioners cannot rock the boat as they are employees themselves appointed by the President (the Executive);
- The PSC is not a dispute resolution mechanism as it does not have the powers to force departments to implement its decisions;

Question 27: Provide any other improvement that you would like to recommend or any other comments that you would like to make.

When asked to provide any other improvement, recommendations and any other comments, one Commissioner commented as follows:

“Currently it appears the PSC is struggling to deal with grievances of Heads of Departments effectively, mainly because of EA’s reluctance to accept that the PSC is the correct avenue to investigate grievances of Heads of Departments. There is a need to engage the Presidency and parliament to resolve this impulse.”

Another Commissioner commented as follows:

“There must be consequences for non-compliance with Grievance Rules. The PSC must

develop its own dispute resolution rules which are separate from the Rules of government departments. This confusion of having the same rules is one of the basis that some think the PSC is a government department, when it is not. The PSC must monitor its recommendations and begin to issue directions in areas where the Constitution allows. PSC must develop a mechanism to screen the cases referred and not register cases that are not properly lodged and discover later that it should not have registered the cases. Investigators must be trained to prevent delays caused by poor investigation and poor reports. The PSC must comply with its own protocols and begin to summons departments that are not compliant in terms of providing the required documentation timeously.”

Another Commissioner responded as follows:

The PSC must rule on a grievance case even if the department fails to submit the requested documentation. If the available information, facts and prescripts point to the substantiation of the case, the ruling should be delayed due to failure of the department to provide the required documents. The interests of the aggrieved employee should be considered and justice should not be delayed due to failure of the department to respond.”

When the respondents representing staff that investigate grievances were asked to provide any other improvements that they would like to recommend or any other comments that they would like to make, the majority felt that the improvements and recommendations have been covered in their responses in question 21 and 22. Some responded as follows:

- The PSC needs use its teeth and bit;
- The PSC should have allowed the departments to design the grievance procedure themselves and should not have taken the approach of being ‘the big brother.’
- PSC should form part of the Auditor-General team in order to evaluate the compliance of departments regarding their performance in grievance investigations. They adopt a don’t care attitude because departments know that they will not receive a qualified audit report if they fail to investigate grievances in their departments;
- The PSC must workshop departments and explain their needs and expectations;
- The PSC must not deal with departments on paper, they must be called to a grievance panel and present their case and must bring documents that will support their case. If

their loose cases against the aggrieved employees, they will pull up their socks and prepare their cases properly and bring the documentation without being any one begging the to do so;

- The Office of the Public Service Commission (OPSC) is primarily rendering support to the PSC, an independent structure. It is critical that the OPSC be removed from the list of government departments in order to enhance the autonomy, the independence and objectivity of the PSC;
- The PSC must ensure continuous training of investigators that assist Commissioners in the investigation of grievances and the Commissioners themselves must be trained as they are the ones taking decisions;
- The Commissioners must lead the investigation of grievances and not outsource their work to officials and come in at a later stage leading to delays in finalising grievances cases;
- The PSC must conduct a study on the impact on the impact of grievances on overall performance of the departments;
- The PSC must change its procedure in dealing with grievances and call all parties when it adjudicates to ensure transparency of the process and to eliminate delays;
- The PSC must initiate legislative changes around the issue of who to be advised of its rulings. At the moment all outcomes are given to the EA as the law prescribes regardless of who referred the grievance to the PSC. It is logical to communicate the outcome to the one that refers the grievance;
- The PSC must conduct an awareness of its mandate;
- Increase 30 days to resolve a grievance to 60 days;

When the respondents representing the aggrieved employees were asked to provide improvements, recommend or make any other comments, they commented as follows:

- The PSC must investigate and complete the grievance investigations within the prescribed time-frames and failure to do so makes its job difficult because it will be unable to monitor departments and make sure that they comply;
- The PSC must address the challenge of being supported by a government department as that compromises its independence;

- The function of grievance investigations must be taken away from the PSC as it is unable to do it effectively and efficiently;
- The independence of the PSC is compromised, its recommendations not implemented and is not doing anything about it;
- The PSC must develop its own grievance rules which allow it to issue binding rulings and stop wasting time of aggrieved employees;
- The PSC must hand over the function to the Sectoral Bargaining Councils;
- The Commissioners whose Constitutional mandate is to investigate grievances of employees in the public service must be visible during the investigations of grievances and do their work and stop hiding behind officials who have their own agendas;
- The PSC must inform the aggrieved employees of the outcome of its investigation;
- The PSC must report case by case in parliament in the presence of the departments that are affected;
- The PSC must name and shame the departments that did not implement their recommendations and report to parliament;
- The grievance investigations by the PSC must be conducted in a transparent manner and all parties must appear before PSC;
- The grievance investigation function must be given to the CCMA and must be taken away from the PSC;
- The PSC must talk to the aggrieved employee and not make its rulings based on the information it receives from the department only;
- The Constitution must be change and the PSC must issue binding awards;
- Non-cooperation with the PSC by the departments during grievance investigations must be viewed as an act of misconduct and abuse of power and the President must initiate disciplinary measures against the Members of the Executive whose departments are found to have not cooperated with the PSC;
- Stop duplications, the function must be taken away from the PSC;
- The aggrieved employee must be given regular feedback about his/her grievance case;
- Since the PSC is not doing this work effectively and efficiently, the CCMA must be given space to do it;

4.6. Key Findings

a) Whether the PSC can be regarded as a dispute resolution institution

The findings of this study from the responses of the respondents on the questionnaires enriched by the interviews conducted, primary as well as secondary data justified the purpose of this study. Firstly, the study revealed that the PSC cannot be regarded as a fully-fledged dispute resolution institution due to its lack of powers to issue binding awards in all areas that the employees in the public service would grieve about. While it does not meet the critical requirement of being the final arbiter, the study revealed that it has some elements of being a dispute resolution institution due to the nature of cases that it deals with. The cases that the PSC handles are cases that the aggrieved parties failed to resolve and as such have been escalated and lodged as disputes.

During the interviews with some of the respondents, it was also revealed that the investigation of grievances of employee in the public service by the PSC creates another dilemma in that the investigation of grievances is an internal process and is managed in terms of the grievance procedure. It was revealed that in some cases the PSC does play the role of a department in grievance investigations and that would disqualified it in being a dispute resolution institution. The example of investigations of grievances of Heads of Department was provided. There is no established framework for the investigation of grievances of Heads of Departments in the public service, and HoD's are allowed to lodge directly to the PSC. The language of the Constitution in its reference to the term "investigation of grievances" creates a problem in that the PSC cannot be drawn into internal processes of grievance investigations as that would compromise its Constitutional independence.

The secondary data revealed that if a grievance procedure runs its course without an agreement being reached between the aggrieved parties, and the employee remains dissatisfied with the decision of the employer, a dispute arises. This suggests that if no solution can be found, external intervention follows to resolve a grievance which has graduated into being a dispute and the institution of referral must be independent, impartial and must conduct its work without fear or favour. However, it was also revealed in this study that the PSC fails to fully exercise its powers even in areas where it can be effective and

issue legally binding directions.

The majority of respondents that were interviewed were of the view that the PSC does not qualify to be a dispute resolution institution due to the following:

- The LRA established the dispute resolution institutions to address two areas such as the dispute of right and the dispute of interest. The PSC mandate in the Constitution is clear and not include that it should be part of those institutions as they also deal with issues of collective bargaining as well as labour disputes of the private sector. The mandate of the PSC confines it in the public service.
- Any institution that wants to be in the dispute resolution space must be able to perform all the functions that are regulated in the LRA. With respect to the PSC, its mandate is distinct and is clearly regulated by the Constitution.

It was clear from the findings of the study that the manner in which the PSC conducts its business internally was not fully known by its clients (in this case the aggrieved employees). There is lack of transparency even though there are established protocols and clear procedures internally which serve as a guide on the procedures it follows in the investigation of grievances of employees in the public service. The information provided for in the grievance procedure about the role of the PSC in grievance management is very limited and more information can only be accessed internally.

b) The effectiveness of the methods used by the PSC in the investigation of grievances

The study revealed that the methods used by the PSC were not effective prior April 2013 which led to the PSC reviewing its processes. According to South Africa (Public Service Commission, 2014:10) in the PSC review of the Reengineering Process of the Grievance Procedure, a document the PSC adopted in November 2014 the shortcomings which led to the PSC being ineffective were identified as follows:

- The approval process was very lengthy as each submission went through several quality checks, starting from the office supporting the PSC up to each individual Commissioner making comments on the submission;

- The Comments of all 14 Commissioners, would be compiled and responded to by the office through another submission until a final approval is sought;
- The approval of one submission would take up to six months before a final approval and by the time the grievance case is concluded, the PSC is way out of time as prescribed in the grievance rules;
- There were also challenges of the quality of submissions and that would also contribute to the delays in finalising cases and that contributed to an increase in the number of backlogs in grievance cases;

The lack of effectiveness of the PSC can also be attributed to its failure to implement the protocols that it has established. In this regard, it was revealed that it fails to meet the prescribed time-frames in the investigation of grievances and the reasons thereof can be attributed to lack of cooperation by departments in providing the necessary documentation for the completion of grievance investigations. The PSC would be reluctant to implement its established protocols and summons the departments to produce the required documents. The study also revealed that the PSC can be viewed as ineffective in that it makes recommendations but often fails to follow through and make sure that its recommendations are implemented by the departments.

The lack of monitoring its decisions renders the whole process of grievance resolution ineffective that the aggrieved employee remains dissatisfied as the recommendations of the PSC would not be implemented. It was also revealed in the study that the PSC fails to enforce compliance by the departments as it does not report individual the cases of non-compliance to parliament where it is accountable. The PSC also revealed in this study that it is not doing its work of grievance investigations effectively. This was revealed through its reports on

grievance trends which show that there were a lot of carry over cases from one financial year to the other.

c) The awareness of aggrieved employees about the methods used by the PSC in the investigation of grievances

The study revealed that the aggrieved employees are not aware of the methods that are used

by the PSC in the investigation of grievances due to lack of transparency within the PSC. Even though the PSC do have established protocols and procedures, the study revealed that it has failed to educate its clients about the existence of those protocols and procedures and it conducts its business in grievance investigations internally. Even though the PSC has introduced the new reengineering processes, its clients were not aware of those processes and were still complaining about the delays in finalising grievance cases. The respondents that are the recipients of the PSC's services criticised it for lack of transparency and for not meeting the prescribed time-frames. The challenge of not meeting the time-frames by the PSC came out very strongly in the study and that some of the respondents recommended that the function should be taken away from the PSC due to inefficiency.

d) The scope of the work of the PSC in grievance management.

The study revealed that the PSC developed rules which do not allow it to deal with grievances of alleged unfair labour practice and the limitation is inconsistent with the Constitution. The mandate of the PSC as outlined in the Constitution does not specify which grievance cases should be referred to other institutions. On the other hand, it is clear that the institutions established in terms of the LRA are empowered to deal with labour disputes both in the private and public sector. The study also revealed that there is a mandate creep between the PSC and the institutions established in terms of the LRA with respect to disputes of rights. Some of the respondents felt that the duplications were not necessary and the function should be taken away from the PSC.

e) The effectiveness of the grievance procedure in the public service.

It was revealed by the study that the grievance procedure in the public service is inefficient. There were a number of challenges identified by the study such as the following:

- Failure by the PSC to enforce compliance of the departments as they often fail to resolve grievances of employees within the public service;
- The grievance steps are too long and the time period allowed for the department to investigate the grievance is also too long resulting to the aggrieved employee breaking down before the procedure is completed;

- The grievance procedure does not provide a mechanism to protect the aggrieved employees from victimisation after they have lodged grievances against their departments;
- No sanctions for lack of compliance with prescribed time-frames by the departments and the PSC;
- Failure of the PSC to enforce cooperation by the departments for failure to submit the necessary documentation resulting in not meeting the prescribed time-frames as prescribed in the rules;
- Non-implementation of the recommendations of the PSC by the departments and lack of monitoring by the PSC;
- No provision for condonation for late lodging even for deserving cases;

f) How is the PSC addressing the challenges in grievance investigations?

The study revealed that the PSC is at an advance stage in addressing its challenges in grievance investigations. The PSC provided a draft document where it seeks to gazette its own Rules on Referral and Investigation of Grievances of Employees in the Public Service. Upon the publishing of the gazetted rules, the clients of the PSC will be aware of the internal processes and methods employed in grievance investigations. The rules will contain information such as the referral and lodging of grievances by heads of departments, timeframes applicable to referral or lodging of grievances with the PSC which include the application of condonation as well as the processing of grievances within the PSC.

The PSC also adopted the review processes of the reengineering grievance procedure with respect to grievances referred to it. According to South Africa (Public Service Commission, 2014:13) a panel of Commissioners to consider grievances was introduced as opposed to the submission system. The panel would comprise of 50% of Commissioners plus 1 (50% +1) to ensure the singleness of the PSC in considering cases. As opposed to the circulation of a submission, the Commissioners would sit together and consider the grievance cases. The process was further improved by putting together provincial clusters of Commissioners to consider provincial grievance cases in addition to the national cluster. This process proved to be working well for the PSC and the backlogs were cleared.

g) The independence of the PSC

Section 196 (3) of the Constitution, 196 (Act 108 of 1996) provides that other organs of state through legislative and other measures, must assist and protect the Commission to ensure the independence, impartiality, dignity and effectiveness of the Commission. No person or organ of state may interfere with the functioning of the Commission. There is no contradiction as to the independence of the PSC and it cannot be regarded as a government department.

4.7. Conclusion

This chapter presented the analysis of the data gathered through questionnaires, interviews and through primary and secondary data. Convergent views were projected in this study due to the fact that the participants were selected from three different categories of respondents. It was of interest to note that within the same category of respondents there was no common understanding in some instances. The study achieved to fill the gap in terms of the knowledge on how the PSC conducts the investigation of grievances of employees referred to it.

The information extracted from internal protocols and procedures as well as improvements that are being implemented by the PSC were revealed in this study. The assessment of grievance investigations by the Public Service Commission and the effectiveness of its methods proved to be dynamic and that the PSC itself has been able to identify its shortcomings and initiate remedial measures. However, some of the remedial measures such as the separate Grievance Rules applicable to the PSC excluding government departments, the review of the Grievance Procedures in the public service to allow condonations for deserving cases were not operational during the time of conducting this study. There was also a need for the amendment of legislation that allows the PSC to communicate its rulings to the aggrieved employees if they were the ones referred the grievance to the PSC. Over and above, there were a number of recommendations presented in this study including the possibility of allowing the aggrieved parties to present themselves in person before the PSC. These proposals open a gap or an opportunity for future research to see if the implementation of those measures contributed to the effectiveness of the PSC in the investigation of grievances of employees in the public service.

CHAPTER FIVE: CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

In the previous chapter of this study, the analysis and findings based on the data collected were presented. This chapter presents the conclusions, recommendations as well as how the study will contribute to future research in the field of public management. The recommendations of this study will also contribute towards the improvements in the investigation of grievances of employees in the public service by the Public Service Commission.

5.2 Summary of Chapters

The study focused on the role of PSC as one of independent institutions responsible for the investigation of grievances of employees in the public service.

CHAPTER 1: This chapter presented an introduction and background to the study. In this chapter the purpose of the research was outlined, the background to the research problem, the problem statement, research objectives, the context of the grievance procedure as well as an in-depth discussion on the management of grievances in the public service. The process of grievance procedure in the public service was also outlined including the various stages of grievance resolution. This chapter also mapped out the research design and methodology the study followed which include the population and sampling, data analysis as well as the delineation of the research. Ethical considerations which include the approval by the PSC to have access to their offices and documents as well as permission to conduct the study was discussed. In this chapter, it was reported that ethical clearance to the university ethics committee at CPUT would be sought. In addressing the ethical protection of the aggrieved employees, in this chapter it was reported that the identities of aggrieved employees would be protected. The basic concepts used in the study were clarified and the chapters which the study covered were outlined.

CHAPTER 2: In this chapter, literature review on the policy, legal framework and management of grievances in the public service was discussed extensively. Sources of mandate for dispute resolution mechanism which include the CCMA, the Bargaining Councils

and the courts were also discussed covering the legislative frameworks. This chapter also covered extensively, the grievance trends in the public service covering grievances that were referred to the PSC for the financial years 2013/14 and 2014/15. The study revealed that the grievances that were referred to the PSC were not resolved within the prescribed period and the manner in which grievances were handled by the PSC was not efficient.

CHAPTER 3: Chapter 3 of this study covered the research methodology mapping out a step by step process of how the research was conducted using a mixed research methodology. Data collection instruments such as interviews, focus groups, questionnaires, literature review, population and sampling, data compilation and analysis as well ethical considerations were articulated. This chapter also covered the limitation of the study which on the main was the limited literature available on grievance trends in the public service. However, the PSC came out to be the only source that provided extensive literature on grievance trends, specifically for grievances that were referred to it. Another limitation was that it was impossible to make a comparison on trends between the PSC and the dispute resolution institutions. The reason for lack of comparison was that the reporting of the institutions of dispute resolution does not specify whether the case is from the public or private sector. The PSC reporting on the other hand is easy to understand as they deal with the public sector only.

CHAPTER 4: This chapter presented the data collected for the study. The data was interpreted, analysed and extensive findings were presented based on the research questions. This chapter also provided an overview of the PSC to provide its historical development as well as to explore its organisational behaviour. In this chapter, environmental factors such as the external and internal environment in the PSC were presented focusing on its four main programmes such as administration and its three line function programmes such as leadership and management practices, monitoring and evaluation as well as integrity and anti-corruption.

CHAPTER 5: In this chapter, a brief summary of discussions for the study in each chapter was presented including extensive recommendations that address the findings. This chapter also presented a brief discussion on how this study will contribute to the academic field of public management as well as areas for future research.

5.3 Recommendations

In order for the PSC to be effective in its function of investigating grievances of employees in the public service it is recommended that:

- a) The PSC protects its independence by making sure that the Department of Public Service and Administration (DPSA) develops a framework for the investigation of grievances of Heads of Departments (HoD's) so that the grievances can only be referred to the PSC only if the aggrieved parties failed to resolve a grievance rather than being the first point of call.
- b) The PSC strengthens itself by making sure that it achieves administrative and financial independence from the executive to help address the confusion that it is a government department. This includes moving away from the support from a government department (the OPSC) and appropriation of its budget from DPSA;
- c) Separate Grievance Rules applicable to the PSC must be gazetted to make sure that its own methods and procedures of investigating grievances of employees in the public service are known to enhance transparency;
- d) Propose the review of Grievance Rules in the public service to accommodate condonations where justified;
- e) Comply with its own Rules and enforce compliance by government departments to make sure that they receive all necessary documentation required for the finalisation of a grievance as the Constitution requires;
- f) That all aggrieved parties are consulted during the investigation and documentation in the form of grievance bundled are shared between the parties to enhance transparency in the investigations;
- g) That parties are kept updated about the progress of the investigation on a regular basis and also make sure that prescribed time-frames are complied with;
- h) Explore the possibility to call the parties when their cases are adjudicated so that they can understand how their cases were decided and the outcome of the case be communicated to all parties at the same time;
- i) The PSC advise the DPSA to facilitate that the Grievance Rules in the public service be reviewed to provide for condonation for late lodging for deserving cases, reduce the time-frame of investigating a grievance from 30 days for officials below level 14 to 20 and 30 days for levels above Chief Director respectively;

- j) The PSC must develop a mechanism to cooperate with dispute resolution institutions and make it possible for the referral of cases such as alleged dismissals where they can be better handled by other institutions;

5.4 Contribution to the Academic Field and Future Research

This study has revealed that while the Labour Relations Act, 1995 (Act 66 of 1995) establishes institutions of dispute resolution, there is another institution, the Public Service Commission which has some elements of dispute resolution. However, due to lack of regulatory frameworks and mechanisms in the public service to deal with grievances of Heads of Departments, the PSC finds itself in the space of the employer where it has to investigate the grievances of Heads of Departments from the beginning to the end. Another important revelation of this study is that the PSC falls short of being a full-fledged dispute resolution mechanism because it does not issue awards in all the areas the employees often grieve about, but often make recommendations and propose remedial measures. While the recommendations of the PSC cannot be simply ignored by the departments, the study revealed that in some instances the recommendations of the PSC are not always implemented by the departments.

5.5 Future Research

During this study, the PSC was in the process of developing its own grievance rules to address the shortcomings of the grievance procedure in the public service including the development of its own separate grievance rules. Future research would be necessary to determine whether the grievance procedure of the PSC improved when the new grievance rules were implemented. There were a number of recommendations during this study, which would assist the PSC improve its service if implemented. Future research would reveal if the implementation of those recommendations would assist improve and make the grievance procedure in the public service more efficient and effective.

5.6 Conclusion

The overall conclusion from this study is that the institutions of dispute resolution created by the LRA are more than one, and the overlapping functions with the PSC in one area of

investigation of grievances of employees in the public service cannot be viewed as an isolated case. It came out clearly in this study that the PSC cannot form part of the dispute resolution institutions as its mandate does not extend to the private sector and it is not established to deal with collective bargaining as the institutions for dispute resolution do. The PSC does not have some of the powers that the dispute resolution institutions have such as the powers to issue legally binding awards.

However, the PSC derives its powers from the Constitution to also issue legally binding directions in designated areas of human resource management such as recruitment, transfers, promotions and dismissals. As the study has shown, the manner in which the PSC conduct its grievance investigations is different from the one followed by the dispute resolution institutions and its function cannot be viewed as duplication as such but rather as complimentary. The workload in grievance investigations of cases of employees in the public service justifies the need to have all these institutions. It would therefore, not be necessary to include the PSC as a dispute resolution institution and amend the LRA to accommodate it due to the fact that it does not fulfil all the requirements of a dispute resolution institution such as binding awards. The dispute resolution institutions follow a process where each party presents its own case and rule according to the evidence and documentation presented by the parties. On the other hand, the PSC investigates and collect all the necessary information from the aggrieved parties.

This approach would better assist the aggrieved employees as there may be instances where the aggrieved employee would not be able to prepare his/her own case as is the case with the dispute resolution institutions. The PSC offers a free service to the aggrieved employees as opposed to other dispute resolution mechanisms such as the courts. It would be difficult for the aggrieved employee to access some of the important documents from the employer to support his/her case, and the advantage with the PSC is that it is able to demand any document or information from any of the parties. While the study revealed that the PSC is facing many challenges in the grievance investigation, it was also evident that workable solutions are being implemented.

The development of separate Grievance Rules for the PSC will not only enhance transparency about its internal processes in grievance management, but it will strengthen its independence from government departments.

However, the PSC can exercise its powers in such a manner that it is not viewed as a weak institution. It can monitor its recommendations as a Constitutional body and make sure that they are not ignored by the departments, issue directions in areas where the Constitution allows and report to parliament where there is non-compliance. There will be a need for further study after the implementation of the PSC separate Grievance Rules, to establish whether the new rules contributed to effective and efficient resolution of grievances of employees in the public service. If the PSC is able to implement the recommendation to call all parties during grievance arbitrations, there will also be a need for another study, to evaluate the effectiveness of that approach and whether it will enable the PSC to complete the investigation of grievances within the prescribed period. It will also be critical to see if the DPSA will develop a framework for the investigation of grievances of Heads of Departments by the departments themselves, instead of depending on the PSC for such investigations.

REFERENCES

- Adler, G. 2000. Public Service Labour Relations in a Democratic South Africa. Johannesburg: Witwatersrand University Press.
- Anderson, V. 2009. Research Methods in Human Resource Management. 2nd Ed. London: Chartered Institute of Personnel and Development.
- Bain, E., & Nealer, E.J. 2012. Historical Evaluation of the Role of the Public Service Commission in South Africa. 1912-2008. Vol.20 No.4 October 30, 2012.
- Bendix, P. 2010. Industrial Relations in South Africa. Cape Town: Juta & Co. Ltd.
- Bendix, S. 2010. Labour Relations in Practice: An outcomes-based approach. Cape Town: Juta & Co.
- Benjamin, P. 2013. Assessing South Africa's Commission for Conciliation, Mediation and Arbitration (CCMA), International Labour Office: Geneva.
- Bhorat, H., Pauw, K. & Mncube, L. 2007. Understanding the Efficiency and Effectiveness of the Dispute Resolution System in South Africa: An analysis of CCMA Data. Cape Town.
- Brand, J., Lotter, C., Ngcukaitobi, T. & Steadman, F. 2011. Labour Dispute Resolution. 2nd Ed. Claremont: Juta & Co. Ltd.
- Brand, J., Lotter, C., Steadman, F. & Ngcukaitobi, T. 2015. Labour Dispute Resolution. 2nd Ed. Claremont: Juta & Co.Ltd.
- Brand, J., Lotter, C., Mischke, C. & Steadman, F. 1997. *Labour Dispute Resolution*. Kenwyn: Juta & Co Ltd.
- Brynard, D.J., Hanekom, S.X. & Brynard, P.A. 2014. *Introduction to research*. 3rd Ed. Pretoria: J.L. van Schaik Publishers.

Carey, M.A., & Asbury, J. 2012. Focus Group Research. California: Left Coast Press Inc.
Cheminais, J., Bayat, S., Van der Waldt, G. & Fox, W. 1998. The Fundamentals of Public Personnel Management. Kenwyn: Juta & Co. Ltd.

Cheminais, J., Van der Waldt, G. & Bayat, S. 1998. The Provision and Maintenance of Public Personnel. Kenwyn: Juta & Co Ltd.

Corbin, J., & Strauss, A. 2008. Basics of Qualitative Research Techniques and Procedures for Developing Grounded Theory. United Kingdom: Sage Publications Inc.

Creswell, J.W. 2013. Qualitative Inquiry & Research Design: Choosing Among Five Approaches. Washing DC: Sage.

Drew, P., Raymond, G. & Weinberg, D. 2006. Talk and Interaction in Social Research Methods. New Delhi: Sage.

Du Plessis, J.V., Fouche', M.A. & van Wyk, M.W. 2004. *A practical Guide to Labour Law*. 5th Ed. Durban: LexisNexis Butterworth.

Emanuel, I. 1994. The manager's guide to solving personnel issues. Institute of Management Foundation. Great Britain: Pitman.

Erasmus, B., Swanepoel, B., Schenk, H., van der Westhuizen, E. & Wessels, J.S. 2005. South African Human Resource Management for the Public Sector. Cape Town: Juta & Co. Ltd.

Fox, W. 2006. Managing Organisational Behaviour. Cape Town: Juta & Co.

George, A.E. 2011. A Guide to Research for students in the Humanities and Social Sciences. Nigeria: Dips Publishers.

Gerber, P.D., Nel, P.S. & Van Dyk, P.S. 1995. Human Resources Management. 3rd Ed. Halfway House: Southern Book Publishers.

Grobler, P.A., Warnich, S., Carrell, M.R., Elbert, N.F., & Hatfield, R.D. Human Resource Management in South Africa. 2011. 4th Ed. United Kingdom: Cengage Learning EMEA.

Grogan, J., 2012. Collective Labour Law. Cape Town: Juta & Co. Ltd. Grogan, J. 2015. Workplace Law. 11th Ed. Claremont: Juta & Co Ltd.

Henning, E., van Rensburg, W. & Smit, B. 2004. Finding your way in qualitative research. Pretoria: Van Schaik.

Hofstee, E. 2006. Recognising a good dissertation: A practical guide to finishing a Masters, MBA or PHD on schedule. Johannesburg: EPE.

Hunter, C. 2012. Managing People in South Africa: Human Resource Management as Competitive Advantage. 2nd Ed. Durban: Sherwood Book South Africa.

Klerck, G. 2009. Labour Relations: Law and Conflict in the Workplace. Hartfield: Van Schaik Publishers.

Lapan, S.D., & Quartaroli, M.T. 2009. Research Essentials: An Introduction to Design and Practices. San Francisco: Jossey-Bass.

Leedy, P.D. & Ormrod, J.E. 2010. Practical Research Planning and Design. 9th ed. New Jersey: Pearson Education Inc.

Lotter, C. & Mosime, K., 1993. Arbitration at Work: Practice & Procedure Individual Dismissal Disputes. Cape Town: Juta & Co. Ltd.

Marais, D. 1985. Constitutional Development of South Africa. 2nd Ed. Johannesburg: MacMillan South Africa (Publishers) (Pty) Ltd.

Maree, K. 2011. *First Steps in Research*. Pretoria: Van Schaik Publishers.

Maree, K., Creswell, J.W., Ebersohn, L., Eloff, I., Ferreira, R., Ivankova, N.V., Jansen, J.D.,

Nieuwenhuis, J., Pietersen, J., Plano Clark, V.L. & van der Westhuizen, C. 2007. First Step in Research. 1st ed. Pretoria: Van Schaik Publishers.

Maree, K., Creswell, J.W., Ebersohn, L., Eloff, I., Ferreira, R., Ivankova, N.V., Jansen, J.D., Nieuwenhuis, J., Pietersen, J., Plano Clark, V.L. & van der Westhuizen, C. 2016. First Steps in Research, 2nd ed. Pretoria: Van Schaik Publishers.

Meyer, M. & Kirsten, M. 2005. Introduction to Human Resource Management. Claremont: New Africa Books (Pty) Ltd.

Miller, K. 2005. Public Sector Reform Governance in South Africa. Aldershot: Ashgate.

Mouton, J., 2004. How to succeed in you Master's & Doctoral Studies: A South African Guide and Resource Book. Pretoria: Van Schaik Publishers.

Mouton, J. 2008. *How to succeed in your Master's & Doctoral Studies: A South African Guide and Resource Book*. Pretoria: Van Schaik Publishers.

Mthombeni, T.K. 2005. Grievance handling in the Department of Correctional Services (DCS): A critical evaluation. Published Magister Philosophies, University of Johannesburg, Auckland Park.

Nel, J.K. 2014. Win at the CCMA: A practical and information toolkit with forms, policies and procedures. Randburg: Knowres Publishing (Pty) Ltd.

Nel, P.S., Werner, A., Poisat, P., Sono, T., Du Plessis, A & Ngalo, O. 2011. Human Resource Management. Cape Town: Oxford University Press.

Nel, P.S., Van Dyk, P.S., Haasbroek, G.D., Schultz, H.B., Sono, T.J. & Werner, A. Human Resource Management. 2011. 6th ed. Cape Town: Oxford University Press Southern Africa.

Rubin, H.J. & Rubin, I.S. 2005. Qualitive Interviewing: The Art of Hearing Data. 2nd ed.

Thousand Oaks: Sage Publications.

Rycroft, A. & Jordaan, B. 1992. *A Guide to South African Labour Law*. 2nd Ed. Cape Town: Juta & Co, Ltd.

Sarantakos, S. 2000. *Social Research* 2nd Ed. Australia: Macmillan Education Australia Pty Ltd.

Setsetse, D.D. 2008. *Strengthening Human Resource Management: The grievance Management Challenge*. Paper presented at the 30th AAPAM Annual Roundtable Conference. Accra, Ghana.

Smith, B.S. 2008. *A critique of Dispute Resolution in the Public Service*. Unpublished Magister Legum thesis, Nelson Mandela Metropolitan University, Port Elizabeth.

Smith, P., Farmer, M., & Yellowley, W. 2012. *Organizational Behaviour*. Oxon: Bookpoint Ltd.
Somekh, B. & Lewin, C. 2007. *Research Methods in the Social Sciences*. Singapore: Sage Publications Ltd.

South Africa (Republic). 2007. *Correctional Services Act 111 of 2007*. Pretoria: Government Printer.

South Africa. 2003. *Rules for Dealing with the Grievances of Employees in the Public Service*. Notice 1012 of 2003. Government Gazette, 25209, July 28.

South Africa. Public Service Commission. 2003. *Rules for Dealing with the Grievances of Employees in the Public Service*. Notice 1012 of 2003. Government Gazette, 25209, July 28.

South Africa. 2003. Public Service Commission. *Report on the Dispute Resolution Mechanisms in the Public Service*.

South Africa. Public Service Commission. 2002. Rules for the Summoning of witnesses in connection with enquiries of the Public Service Commission. Notice 23267. Government Gazette, No. 7314:2002, March 28.

South Africa (Republic). 2002. New Defence Act 42 of 2002. Pretoria: Government Printer.
South Africa (Republic). 2000. Promotion of Information Act 2 of 2000. Pretoria: Government Printer.

South Africa (Republic). 2000. Promotion of Administrative Justice Act 3 of 2000. Pretoria: Government Printer.

South Africa (Republic). 2000. Protected Disclosures Act 26 of 2000. Pretoria: Government Printer.

South Africa (Republic). 1998. Employment Equity Act 55 of 1998. Pretoria: Government Printer.

South Africa (Republic). 1998. Skills Development Act 97 of 1998. Pretoria: Government Printer.

South Africa (Republic). 1997. Public Service Commission Act 46 of 1997. Pretoria: Government Printer.

South Africa (Republic). 1997. Public Service Laws Amendment Act 47 of 1997. Pretoria: Government Printer.

South Africa (Republic). 1999. Public Finance Management Act 29 of 1999. Pretoria: Government Printer.

South Africa (Republic). 1997. Basic Conditions of Employment Act 75 of 1997. Pretoria: Government Printer.

South Africa. 1997. White Paper on Human Resource Management in the Public Service. Department of Public Service and Administration. Notice 135943. Government Gazette, 16594: 1997, December 31.

South Africa (Republic). 1996. Constitution of the Republic of South Africa Act 1996. Pretoria: Government Printer.

South Africa (Republic). 1996. National Education Policy Act, 1996. Pretoria: Government Printer.

South Africa (Republic). 1995. South African Police Act 68 of 1995. Pretoria: Government Printer.

South Africa (Republic). 1995. South African Police Service Act 68 of 1995. Pretoria: Government Printer.

South Africa (Republic). 1995. *Labour Relations Act 66 of 1995*. Pretoria: Government Printer.

South Africa (Republic). 1995. South African Police Service Act 68 of 1995. Pretoria: Government Printer.

South Africa. 1995. White Paper on the Transformation of the Public Service. Department of the Public Service and Administration. Notice 16838.

South Africa (Republic). 1994. Public Service Labour Relations Act 105 of 1994. Pretoria: Government Printer.

South Africa (Republic). 1994. Public Service Act, Proclamation 103 of 1994. Pretoria: Government Printer.

South Africa (Republic). 1993. Constitution of the Republic of South Africa Act 200 of 1993. Pretoria: Government Printer.

South Africa (Republic). 1993. Compensation for Occupational Injuries and Diseases Act 130 of 1993. Pretoria: Government Printer.

South Africa (Republic). 1993. Occupational Health and Safety Act 85 of 1993. Pretoria: Government Printer.

South Africa (Republic). 1993. Education Labour Relations Act 146 of 1993. Pretoria: Government Printer.

South Africa. 1958. South African Police Labour Relations Act 7 of 1956. Pretoria: Government Printer.

South Africa. 1956. *The Labour Relations Act 28 of 1956*. Pretoria: Government Printer.

South Africa. 1924. Industrial Conciliation Act 11 1924. Pretoria: Government Printer.

South Africa (Union). 1909. South Africa Act, 1909. Pretoria: Government Printer.

South Africa (Union). 1912. Public Service and Pensions Act 29 of 1912. Pretoria: Government Printer.

South Africa (Union). 1914. South Africa Act 39 of 1914. Pretoria: Government Printer.

South Africa (Union). 1923. South Africa Act 27 of 1923. Pretoria: Government Printer.

South Africa. 1957. Civil Service Act 54 of 1957. Pretoria: Government Printer.

South Africa. 1976. Civil Service Amendment Act 64 of 1976. Pretoria: Government Printer.

South Africa. 1980. Public Service Amendment Act 71 of 1980. Pretoria: Government Printer.

Stone, R.J. 2002. Human Resource Management. 4th Ed. Singapore: Kyodo Printing C. Ltd.

Swanepoel, B.J., Erasmus, B.J., Van Wyk, M.W., & Schenk, H.W. 1998. South African Human Resource Management Theory and Practice. Juta & Co. Ltd. Kenwyn, Cape Town.

Terre Blanche, M., Durrheim K., & Painter D. 2006. Research in Practice: Applied Methods for the Social Sciences. 2nd ed. Cape Town: University of Cape Town Press.

Van der Waldt, G. & Du Toit, D.F.P. 2008. Managing for excellence in the public sector. 2nd Ed. Lansdowne: Juta & Co. Ltd.

Van der Westhuizen, E., Wessels, J., Swanepoel, B., Erasmus, B., van Wyk, M. & Schenk, H. 2011. South African Human Resource Management for the Public Sector. 2nd Ed. Cape Town: Juta & Co. Ltd.

Van Jaarsveld, F., & van Eck, S., 2004. Principles of Labour Law. Durban: LexisNexis Butterworths.

Van Niekerk, A., Christianson, M.A., McGregor, M., Smit, N. & van Eck, B.P.S. 2012. *Law@Work*. 2nd Ed. South Africa: LexisNexis.

Venter, R., Levy, A., Conradie, M. & Holtzhausen, M. 2009. *Labour Relations in South Africa*. 3rd Ed. Southern Africa: Oxford University Press.

Werner, A., Bagraim, J., Cunningham, P., Pieterse-Landman, E., Potgieter, T. & Viedge, C.

2014. Organisational Behaviour: A contemporary South African perspective. 3rd Ed. Pretoria: Van Schaik Publishers.

ATTACHMENT/ APPENDIX 1: THE LETTER APPROVING ACCESS TO CONDUCT RESEARCH



PUBLIC SERVICE COMMISSION REPUBLIC OF SOUTH AFRICA

National Office: Private Bag X121, Pretoria, 0001, Tel: (012) 352 1000, Fax: (012) 325 8382
ABSA Towers Building, Cnr Lillian Ngoyi & Pretorius Streets, Pretoria, 0002

Ms LV Sizani
Public Service Commission
Private Bag X121
Pretoria 0001

29 August 2016

Dear Ms Sizani

REQUEST FOR ETHICAL APPROVAL TO CONDUCT RESEARCH IN THE PUBLIC SERVICE COMMISSION

I acknowledge receipt of your letter requesting ethical approval to conduct research in the Public Service Commission.

Approval is granted with the conditions that the information from the aggrieved employees/participants and other parties which reside with the Public Service Commission be treated with confidentiality, and if published, it be packaged in such a manner that it does not reveal the identities of the aggrieved employees, participants and other parties.

In cases where the questionnaires and /or surveys are handled by the third parties themselves, ethical consideration will be decided by them.

I wish you well in your studies, and I hope that they will add value to the Public Service Commission.

Regards

ADVOCATE RK SIZANI

CHAIRPERSON



PROVINCIAL OFFICES:

Free State T: (051) 448 8696 F: (051) 448 4135 Eastern Cape T: (043) 643 4704 F: (043) 642 1371 KwaZulu-Natal T: (033) 345 9998 F: (033) 345 8505
Gauteng T: (011) 833 5721 F: (011) 834 1200 Northern Cape T: (053) 832 6222 F: (053) 832 6225 Mpumalanga T: (013) 755 4070 F: (013) 752 5814
North West T: (018) 384 1000 F: (018) 384 1012 Western Cape T: (021) 421 3980 F: (021) 421 4060 Limpopo T: (015) 291 4783 F: (015) 291 4683
PARLIAMENTARY OFFICE T: (021) 418 4940 F: (021) 418 1362

ATTACHMENT I APPENDIX 2: THE RESEARCH QUESTIONNAIRE

Dear Participant

The purpose of this questionnaire is to obtain information for the study on the Assessment of the Grievance Investigations by the Public Service Commission in South Africa. Please tick [x] to indicate the most relevant answer that shows the amount of agreement/disagreement with the questions. Kindly note that data collected from this questionnaire will only be used for academic purposes. The researcher has been granted ethical clearance for conducting this study by the Public Service Commission and the university. Your identity will be protected and ethics will be considered during data collection and analysis. In addition, your honest opinion and observation in responding to questions will be highly appreciated.

Kind Regards

Ms LV Sizani

SECTION A: Biographical information

1. Gender *(please tick appropriate box)*

Male	<input type="checkbox"/>	Female	<input type="checkbox"/>
------	--------------------------	--------	--------------------------

2. Race *(please tick appropriate box)*

Black	<input type="checkbox"/>	Coloured	<input type="checkbox"/>	Indian	<input type="checkbox"/>	White	<input type="checkbox"/>
-------	--------------------------	----------	--------------------------	--------	--------------------------	-------	--------------------------

3. Age *(please tick appropriate box)*

20 – 29	<input type="checkbox"/>	30 - 39	<input checked="" type="checkbox"/>
40 – 49	<input type="checkbox"/>	50 - 59	<input type="checkbox"/>
60 and above	<input type="checkbox"/>		

Designation	State your job title (e.g. Senior Admin Officer)									
	<hr/>									
	<i>(Please tick the appropriate box that specifies your rank)</i>									
	SR4	SR5	SR6	SR7	SR8	SR9	SR10	SR11	SR12	SR13
	SR14	SR15	SR16							
Date of completion of questionnaire										

QUESTIONS	Strongly Agree	Agree	Neither agree nor	Disagree	Strongly disagree
1. The PSC should be included as one of the dispute resolution institutions provided for in the Labour Relations Act 66 of 1995.					
2. The PSC qualifies to be a fair and reasonable dispute resolution mechanism.					
3. The amendment of the Labour Relations Act 66 of 1995 to include the PSC as a dispute resolution institution can be supported.					
4. Proper procedures and legislation are followed at the PSC during the dispute resolution process.					
5. The PSC conduct the investigation of grievances of employees in the public service in a transparent manner.					
6. The PSC has enough staff who capable to handle all the cases handled by their offices in different provinces.					
7. The PSC always inform the aggrieved employee about the progress of his/ her case and handled the cases well.					

8. The PSC always comply with the prescribed time-frames on which the grievance should be investigated and finalized.					
11. All parties are afforded the opportunity to present their cases (the employee and the employer).					
12. The current grievance resolution in the public service can be regarded as efficient.					

QUESTIONS	YES	NO
13. Have you ever been involved in a grievance resolution process? 14. If yes, what was your role in the process? 15. Can you regard the process as fair and reasonable? 16. Were proper processes followed?		
17. Are you aware of the role of the Public Service Commission in the grievance resolution in the Public Service?		
18. Would you refer your unresolved grievance to the PSC for arbitration?		
19. Would you refer all types of grievance cases to the PSC for arbitration?		
20. Would you refer all types of grievance cases to other dispute resolution institutions for arbitration?		
19. Do you regard the PSC as a government department?		
20. Can the Public Service Commission be regarded as a dispute resolution mechanism? 21. Can the PSC be regarded as an independent avenue through which a grievance can be escalated?		

22. Explain in your own words how you understand the grievance procedures in the South African PSC.
23. Based on your experience, indicate some of the challenges associated with the grievance procedures.
24. Can you advise of any strategies that can assist improve on the handling of the process of the grievance procedure and process at the PSC?
25. How can the management and resolution of grievances by the Public Service Commission be improved?
26. Indicate whether the PSC can be regarded as a dispute resolution mechanism that is independent of government departments, or not. Please specify the reasons for your answer.
27. Provide any other improvements that would like to recommend or any other comments that you would like to make.

Thank you for your participation

ATTACHMENT / APPENDIX 3: THE INTERVIEW QUESTIONS

QUESTION 1

You strongly disagreed that the PSC should be included as one of the dispute resolution institutions provided for in the LRA. Can you state your reasons for your answer?

QUESTION 2

You agreed that the PSC qualifies to be a fair and reasonable dispute resolution mechanism, while you do not agree that it be included in the institutions established in terms of the LRA. Can you provide reasons for your answer?

QUESTION 3

Your response to question 3 suggests that an amendment to the LRA to include the PSC is not necessary and you strongly disagreed that the LRA should be amended. Please provide reasons for such a view.

QUESTION 4

Can you explain how transparency is ensured by the PSC during the investigation of grievances of the employees in the public service?

QUESTION 5

You confirmed that the PSC always inform the aggrieved employees about the progress of their cases. How is this done? Do you write letters to them? Do you call or email the aggrieved employees?

QUESTION 6

You agreed that the PSC does not always comply with the prescribed time frames. What are the reasons for this?

QUESTION 7

You neither agreed nor disagreed that parties are afforded the opportunity to present their cases (employer/employee). Can you provide more information to support your answer?

QUESTION 8

You disagreed that the grievance resolution in the public service is efficient. What needs to be improved?

QUESTION 9

You indicated that you would not refer all types of grievances to the PSC. What are the reasons for your answer?

QUESTION 10

You strongly agreed that the PSC should be included as one of the dispute resolution institutions provided for in the LRA. What are the reasons for your answer?

FOLLOW UP QUESTION

Since the PSC is a Constitutional body, don't you think that there will be no need for it to be part of the LRA as its role in labour relations is already regulated in the Constitution?

QUESTION 11

You strongly agree that the PSC is a fair and reasonable dispute resolution mechanism. Please give reasons for your answer.

QUESTION 12

Why do you believe that the PSC is a government department?

FOLLOW UP QUESTION

Schedule 1 of the Public Service Act, 1994 list the OPSC and not the PSC. Is there no difference between the OPSC and the PSC?

QUESTION 13

You do not agree that the PSC complies with the prescribed time-frames. What may be the reasons for their non-compliance?

FOLLOW UP QUESTION

If the PSC is non-compliant, do you think that it is efficient and effective in the investigation of grievances? If not, what can be done?

QUESTION 14

You indicated that the current grievance resolution process is not efficient. What needs to be done improve it?

Laurel Holmes

P O Box 370 Sloane Park 2152 | laurelholmes4@gmail.com | 082 480 4210

12 October 2016

To whom it may concern

PROOF OF EDITING

This serves to confirm I have edited Lulama Viwe Sizani's mini-dissertation for her degree in Master of Technology: Public Management at the Cape Peninsula University of Technology.

Sincerely

Laurel Holmes

Laurel Holmes