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CBE Focus



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Why the CBE endorsed the Orange Mask Campaign

Yusuf Moosajee - executive director

A poem written by Haroon Rashid entitled 'We fell asleep' has one line in particular which encapsulates the current year: "We fell asleep in one world and woke up in another".

No one even in our wildest imagination could have scripted the year 2020. The virus known to us as Covid-19 has reminded us just how fragile our economies and lives are.

Scientists are non-committal about a vaccine timeframe, while Europe and Asia are already starting to experience a second wave. With South Africa having moved to Level 1, we can only hope and pray that we do not experience a second wave.

Three annual events of the CBE also fell victim to the virus this year - our Economist Review; the Women's Month High Tea and our Gala Dinner Recognition Awards.

We remain hopeful that we will resume these events in 2021 to have again the participation to create the kind of everlasting memories as shown in the pictures on the left. We had to re-imagine our activities, and as part of our vision we entered into the advocacy space as well as digitising some of our activities.

The unfortunate face of corruption and looting has reared its ugly head again and the CBE is amongst more than 70 organisations that have joined the Ahmed Kathrada Foundation and endorsed the "Orange Mask Campaign", a statement against Covid- 19 corruption. The key message in the statement urges the public to take a stand against Covid-19 corruption by wearing an orange mask every Friday. The mask symbolises the orange overalls that Covid-19 looters should be wearing.

If you wear an orange mask, you are essentially calling for:

- Transparency around all Covid-19 contracts showing the unit prices of items and services rendered, and details of the companies and directors who received contracts;
- Covid-19 looters to be held accountable by being swiftly investigated and prosecuted;
- Stolen money to be recovered as a matter of urgency.

The CBE strongly identifies with all these objectives of the Orange Mask Campaign as a powerful public statement and encourages all to participate. Masks simply need to be orange in colour and can be self-made or sourced through supporting community sewing cooperatives and seamstresses/ tailors.

To generate public awareness about the campaign, you can share pictures of yourself in an orange mask on social media using the hashtag **#OrangeMaskFridays.**





Can we afford to relax in a democratic society?

Mohamed Salaam

Twenty-Five years after the advent of a democratic dispensation in South Africa, getting into a 'political comfort zone' is not easy as demonstrated by the dramatic events that preceded the ANC- NEC meeting in August.

Similar to the precipice of 2007, which resulted in the ousting of former President Mbeki, we found ourselves in a serious political crisis once more. In the midst of a pandemic that has devastated the South African economy, President Cyril Ramaphosa publicly released a letter referring to the ANC as 'accused number one' for corruption - which led to a serious backlash within the ANC:

- Senior ANC member, Tony Yangeni, publicly called on the President to step down
- Former President, Jacob Zuma, publicly release a scathing letter addressed to the President
- Media rumors were rife about a cabinet reshuffle, particularly around the position of the Minister of Finance in the context of failing State-Owned Enterprises and a sovereign debt downgrade below investment grade; and
- ANC Secretary-General, Ace Magashule, conducted a controversial TV interview arguing that there are no clear policy guidelines, in the ANC, on families of politicians conducting business with government departments. This occurred in the context of a public disclosures on major corruption related to funds allocated for dealing with the COVID-19 pandemic.

The press conference, after the NEC meeting, announced that the President will present himself to the ANC Integrity Committee to clear up any suspicions about his engagement in corruption related to his election campaign. Fortunately, no resignations or cabinet shuffles were announced.

Just two weeks later, another major scandal. This time, the ANC agreed that it was inappropriate for its party officials to have travelled to Zimbabwe on a military plane with the Minister of Defence, who was on official business. Subsequently, the ANC offered to reimburse the state for all costs involved.

At about the same time, Minister Edward Senzo Mchunu, ANC NEC member and Minister for Public Service and Administration, penned an eloquent letter which appeared on the Independent Online. In summary, the Minister's article made the following key points:

- Corruption dominated the last NEC meeting discussions for three days, which is unprecedented in its history.
- After serious debate, the NEC unanimously supported President Ramaphosa's letter [This is significant because doubts have been circulating about the President's reign on the ANC].
- The President's letter helps the ANC to accept responsibility and act to against corrupt members.
- Quoting the President, he argued that business has an interest and role in conducting themselves ethically, improving compliance measures and to engage in whistle-blowing; and
- Placing economic growth on the agenda.

There are three options for South Africans, particularly as businesses, in this situation. The first is to support those accused of corruption and actively engaged in a fight back.

Accepting Minister Mchunu's view that the ANC emerged relatively coherent from its last NEC meeting, the underlying tensions and fractures within the governing party remain. Also, the fight back by those accused of corruption will continue, in the short to medium term.

This is not a feasible option for the majority of South Africans, who are either not involved in corruption or feel strongly that those who are accused of it should be brought to justice. The second option is to support a president who is accused of being indecisive and weak.

This requires getting out of 'the comfort zone' and making difficult choices with accompanying trade-offs. The last option is complacency. The problem with this option is that populist agendas fill any vacuums created. This was aptly demonstrated by the Clicks saga that played out recently.

All in all, we sit at a very difficult crossroads…

MISCONDUCT

Guidelines for employers



Submitted by
Prof. Mohammed Rajah
- a member of the CBE
Panel of Experts

Introduction

An employee's unacceptable conduct or behaviour may give reason for an employer to dismiss the employee.

However, certain conduct such as lawful participation in a strike should not lead to dismissal as this may be an automatically unfair dismissal.

For a dismissal to be fair there must be

a fair reason for dismissal and a fair procedure must be followed. Each case should be judged on its own merits. The Code of Good Practice on Dismissal promotes a progressive approach to discipline.

This means that the employer should first try to correct an employee's behaviour by using disciplinary action as an alternative to dismissal.

This could include counselling, verbal warnings and written warnings. Dismissal should always be the last resort or used for serious offences or repeated acts of misconduct. Employers should set out clear workplace rules and standards that regulate conduct, together with the recommended sanction for breaking the rules so that there is no confusion.

This will also help to address claims of ignorance of the rules and standards

and will maintain consistency at the workplace. Employees should be made aware of the standard of conduct or behaviour that is expected of them. This can be done through induction, notices, employment contracts, copies of collective agreements or meetings.

Certain rules arise out of common sense and do not need to be spelt out formally - for example rules against theft, use of drugs and alcohol at the workplace or physical assault. In some instances, the employee's conduct outside the workplace can also lead to dismissal if it bears a relationship in a significant way to the employer's business.

Substantive Fairness

It is generally not appropriate to dismiss an employee for a first offence except where the misconduct is serious and it makes a continued employment relationship intolerable.

Examples of serious misconduct are:

- gross dishonesty, theft and fraud
- wilful damage to property belonging to the employer
- physical assault on the employer, a fellow employee, client or customer
- gross insubordination
- gross negligence

An employee may also be dismissed for less serious misconduct such as late-coming or absenteeism, if such behaviour is repeated and corrective action (such as warnings) has failed. The person deciding whether to dismiss an employee for misconduct should consider the following questions:

1. Did the employee break a relevant workplace rule or standard?
2. Is the rule or standard valid or reasonable?
3. Was the employee aware of the rule or standard or should he or she have been reasonably aware of the rule or standard?
4. Has the employer consistently applied the rule or standard to all employees?
5. Is dismissal the appropriate or correct sanction?

Before deciding to dismiss an employee, an employer should also consider other factors. These are called mitigating (justifying) or aggravating (worsening) factors, and may include the employee's disciplinary record, length of service and personal circumstances

An example of personal circumstances could be domestic violence that is causing the employee to miss work or to fail to concentrate on his or her work.

Procedural Fairness

In addition to a valid reason, the employer must follow a fair (but simple) procedure before dismissing an employee and obey its own disciplinary code and procedure (if one exists). The following requirements should be met:

The employer needs to investigate the alleged misconduct. The employer needs to inform the employee about the allegations in a simple, but clear manner.

The employee should be given a reasonable chance to respond and be given the opportunity to be assisted by a trade union representative or a co- worker.

After both sides have been provided with a chance to give their versions, the employer should notify the employee, preferably in writing, of the decision.

If the employee is dismissed, the employer needs to tell the employee of his or her right to refer the matter to the relevant Bargaining Council or CCMA within 30 days of receipt of the final decision to dismiss.

Discipline against a trade union representative or an employee who is an office bearer or official of a trade union should not be instituted without first informing and consulting the trade union.

In exceptional circumstances, for example in a crisis situation where there is danger to life and property and where the employer cannot reasonably be expected to follow these guidelines, the employer may dispense with pre-dismissal procedures.

Relevant legislation

- Labour Relations Act 66 of 1995 as amended
- Schedule B of the Labour Relations Act 66 of 1995 - Code of Good Practice: Dismissal

Bringing entrepreneurs experience into policy making



Meet Andile, owner of Market Street Coffees. Andile enjoyed serving coffee and meals to his clientele. Setting up the business required taking out a loan. He was steadily growing the business and reducing his debt. At his projections it would take three years to both pay the loan and meet his profit targets. That was before the Covid-19 pandemic and the ensuing lockdown. Andile watched attentively as Cabinet announced a range of measures. He hoped that the credit guarantee scheme from government would be the lifeline he needed.

Andile calculated that in scenario one if the economy rebounded to pre-lockdown values he would need an additional two years to be profitable. In scenario two the economy did not recover, and he would be struggling month in and month out just to avoid bankruptcy. He knew closing would impact on his workers and their families.

Andile realised his dream would be deferred. He put up the sign on the door and on social media – Market Street Coffee would close. He did the honourable thing and paid his staff a severance package. He would plot his next moves starting with figuring out what to do with the business's existing debt.

Sitting far away from Andile, the bureaucracy was hard at work. Belinda was part of the designers of the guarantee scheme. She had once had a coffee and and croissant at Market Street coffee and admired the entrepreneurial spirit of a black-owned business. She felt the design would work, with little corruption and would reach the right businesses. Economics here are elegant charts that brought a rationality to the foreseeable pain because in the aggregate the economy would be better. The bureaucrats took comfort on the response from their analyst's call – the best brains in finance agreed that this would make a difference.

The pandemic is uncharted territory. However, the gulf between the workings of financial institutions and the reality of entrepreneurs is not. Closing this gulf between financial markets and entrepreneurs is crucial. In the case of Andile he may have been better served with access to a no-interest loan and a salary support package.

At the start of his venture he would have been better served with access to venture capital or even a tax exemption for starting a business. A conversation on how to support small businesses rooted in the experiences of entrepreneurs is needed. The pandemic makes this conversation urgent. Sadly, we will not have that conversation at Market Street Coffee.

Ebrahim-Khalil Hassen is an independent analyst and entrepreneur and a member the CBE Panel of Experts.

INSPIRATION FOR ENTREPRENEURS

'It is difficult, but not impossible, to conduct strictly honest business.'
- *Mahatma Gandhi*

"Lead from the back – and let others believe they are in front."
- *Nelson Mandela*

"If you can't fly then run, if you can't run then walk, if you can't walk then crawl, but whatever you do you have to keep moving forward."
- *Martin Luther King*

