THE PERCEPTIONS OF EDUCATORS, IN THE QUEENSTOWN EDUCATION DISTRICT, OF THE LABOUR DISPUTE RESOLUTION SYSTEM

T T Rataza

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THE PERCEPTIONS OF EDUCATORS, IN THE QUEENSTOWN EDUCATION DISTRICT, OF THE LABOUR DISPUTE RESOLUTION SYSTEM

By

Themba Theophilus Rataza

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Supervisor: Ms Jennifer Bowler
DECLARATION

I, Themba Theophilus Rataza (210130407), hereby declare that the treatise for MA – Labour Relations and Human Resources is my own work and that it has not previously been submitted for assessment or completion of any postgraduate qualification to another University or for another qualification.

Themba Theophilus Rataza
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ABSTRACT

The objective of this study is to conduct a survey concerning the perceptions of educators in the Queenstown education district of the labour dispute resolution system. The education department is one of the biggest departments in the Eastern Cape’s Provincial Administration system. The likelihood of disputes is high when there are many employees. The focus of the study therefore is on how educators perceive the role of the department in terms of ensuring that labour disputes with the department are resolved efficiently and speedily.

The advent of a democratic dispensation resulted in the ushering in of progressive labour legislation such as Labour Relations Act 55 of 1995. The objective of this Act is to facilitate economic development, social justice, labour peace and democratization of the workplace. In other words this Act gave birth to the manner in which labour disputes should be resolved. The study was carried out not only to explore the perceptions of educators but also with a view to making recommendations on the findings in order to help contribute towards labour peace and productivity in the workplace.

The attitudes of one hundred and forty-one educators were surveyed via questionnaires and six educators who have had labour disputes with the department were interviewed. The key findings of the study revealed that both the educators who were surveyed and those interviewed lack confidence in the effectiveness of the labour dispute procedures in the district; they perceive the system as being inaccessible to them; time taken to resolve disputes is too lengthy; the system lacks necessary independence from the department of education or government and the department is seen as not adhering to its own policies and legislation. Hence there are many disputes and there is a great need for more awareness and for improved training in handling labour dispute resolution systems for district officials and educators.

The study recommends more awareness and training sessions for both district officials responsible for labour relations and educators at large. It also calls for an increasingly proactive role by teacher unions in partnership with the department of education to avoid labour disputes. Although the findings cannot be generalized to
other districts of the province, they do however highlight critical areas in labour dispute resolution where attention can be paid and focus made in order to ensure labour peace in the workplace for improved productivity and effective teaching and learning.
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<tr>
<td>BC</td>
<td>Bargaining Council</td>
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<td>BCEA</td>
<td>Basic Conditions of Employment Act</td>
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<td>CC</td>
<td>Constitutional Court</td>
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<td>CCMA</td>
<td>Commission for Conciliation, Mediation and Arbitration</td>
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<td>EEA</td>
<td>Employment of Educators Act</td>
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<td>EC</td>
<td>Eastern Cape</td>
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<td>ELRC</td>
<td>Education Labour Relations Council</td>
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<td>HC</td>
<td>High Court</td>
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<td>HOD</td>
<td>Head of Department</td>
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<td>ICA</td>
<td>Industrial Conciliation Act</td>
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<td>GPSSBC</td>
<td>General Public Service Sector Bargaining Council</td>
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<td>LAC</td>
<td>Labour Appeal Court</td>
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<td>LC</td>
<td>Labour Court</td>
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<td>LRA</td>
<td>Labour Relations Act</td>
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<td>MC</td>
<td>Magistrate Court</td>
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<td>NAPTOSA</td>
<td>National Professional Teachers Organisation of South Africa</td>
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<td>Acronym</td>
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<tr>
<td>NEDLAC</td>
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<td>PAJA</td>
<td>Promotion of Administrative Just Act</td>
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<td>PSA</td>
<td>Public Service Act</td>
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<td>PSCBC</td>
<td>Public Sector Coordinating Bargaining Council</td>
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<td>SA</td>
<td>South Africa</td>
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<td>SCA</td>
<td>Supreme Court of Appeal</td>
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<tr>
<td>SAMWU</td>
<td>South African Municipal Workers Union</td>
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<tr>
<td>SADTU</td>
<td>South African Democratic Teachers Union</td>
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<tr>
<td>SMT</td>
<td>School Management Team</td>
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<td>ULP</td>
<td>Unfair Labour Practice</td>
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GLOSSARY OF TERMS

Affirmative action – a legislative measure meant to address past imbalances by affirming previously oppressed groups (BCEA 75 of 1997).

Bargaining council – a council established by law to regulate and promote bargaining rights and interests of employers and employees in the public and private sector (Section 27-38 of LRA 66 of 1995).

Collective agreement – binding agreement reached between employer and union on behalf of their members (Section 23-26 of LRA 66 of 1995)

Commissioner – an accredited person by the bargaining council to arbitrate labour disputes (LRA 66 of 1995).

Department – any of the units, each with a specialized function, into which an organisation is divided (Oxford Dictionary 1994).

Disciplinary procedures – systems and procedures used to discipline whoever contravenes work rules (Resolution 1 of 2003).

Disputant – someone who has a dispute


Grievance – a dissatisfaction regarding an official act or omission by the employer which adversely affects an employee in the employment relationship (PSCBC Resolution 14 of 2002).

Interviewee – someone who is interviewed (Longman Dictionary of Contemporary English 1994)

Labour dispute – dispute involving a labour matter (LRA 66 of 1995).

Labour relations – the relationship between employers and workers (Longman Dictionary of Contemporary English 1995)
Respondents – subjects or people who participate in the research by answering questions (Longman Dictionary of Contemporary English 1994)

State – an organised community under one government (Oxford Dictionary 1994)

Strike – means the partial or complete concerted refusal to work, or the retardation or obstruction of work, by persons who are or have been employed by the same employer, for the purpose of remedying a grievance or resolving a dispute of mutual interest between employer and employee (Section 213 of LRA 66 of 1995).

Trade unions – an association of employees whose purpose is to regulate relations between employees and employers. (Section 213 of LRA 66 of 1995)

Unfair labour practice – practice by employer that violates labour rights of an employee (LRA Schedule 7, Part B)

Workplace – means the place or places where employees of an employer work. (Section 213 of LRA 66 of 1995)

Workplace forums – forums provided for by LRA to deal with worker issues (Section 78-94 LRA 66 of 1995).
CHAPTER 1

1. BACKGROUND TO THE STUDY

1.1. Introduction

One of the mechanisms for promoting labour peace in the workplace can be realised through the efficient, effective and expedient resolution of labour disputes. This is in line with the primary objective of the South African Labour Relations Act 55 of 1995 as amended. There is no doubt that the current Labour Relations Act has brought about far reaching and fundamental changes in labour law and reformed the manner in which labour relations are conducted especially within the context of the new constitutional order. Yet, despite the introduction of these progressive statutory changes; disputes in the workplace continue to escalate, even though the presence of a dispute resolution mechanism should be mitigating the deleterious impact of disputes in the workplace. However Thompson (2011, p.13) states that

“The dispute resolution of a country is important because it helps to regulate the labour relations system of that country and promotes labour peace. This promotes economic prosperity and assists in terms of attracting foreign investment.”

This study focuses on the individual disputes regarding rights that arise in the education sector: the objective is to explore educators’ perceptions of their experiences of these disputes with the Department of Education. This Department is one the biggest departments in the Eastern Cape Province. According to statistics released by the Head Office and published in the “Daily Dispatch” of the 5th September 2012, the number of educators in the Province stands at 64 104. With such a high number of employees it is not surprising that many disputes are likely to arise.

Labournet (2008, p. 89) states that various sources of conflict may exist in the employer-employee relationship. The objective of this relationship is to do business or deliver services. Although the continued existence of the
organization is important for both parties, employees almost invariably feel that they are exploited by an employer who wants to generate more profit or reduce expenses. Employers, on the other hand feel that they are not getting value for their money and that employees are unproductive and overpaid. This clearly shows that there are invariably competing interests and priorities between the employer and employees. The education sector, like most organisations is no exception to the above.

The study will focus on and explore the available dispute resolution systems within the public education sector of the Queenstown Education District of the Eastern Cape and the perceptions of educators concerning these systems. The dispute resolution institutions relevant to the education sector will also be discussed. The research seeks to find out whether according to the perceptions of educators the disputes are satisfactorily resolved in terms of the provision of the LRA. According to Landis and Grossett (2003, p. 366), the aims of the LRA dispute resolution system are the following:

- To create a legal framework in which the employer and trade union parties will be able to regulate conflict and resolve their disputes.
- To establish a simple, non-technical and non-jurisdictional approach to dispute resolution.
- To avoid lengthy delays in reaching resolutions, and
- To reduce the level of strike actions.

1.2. Rationale for the Study

Interest in and motivation for the study stem from the researcher’s years of experience in the education sector as an educator and later as a deputy education specialist in charge of management – and also of governance and labour relations respectively. During the researcher’s employment in the education sector, the Department of Education was plagued by a myriad of labour disputes. In addition the Department has had to face a number of serious human resources and financial challenges since the dawn of the new democratic dispensation. Educators have been the most affected category of employees in this regard.
It is the opinion of the researcher that these disputes have had a negative effect on the culture of teaching and learning, which is the core business of the Department of Education. The excessive number of disputes that arose from schools, the specific types of disputes, the kinds of mechanisms that were followed to attempt a resolution of these disputes and the ability or otherwise of the Department or Bargaining Council to handle the disputes; have all been a major source of concern to the researcher. This study therefore is motivated by the desire to enquire into and understand the views of educators in terms of how they perceive the labour dispute resolutions mechanisms that are in existence - and how the current framework can be better utilised in order to serve the needs and interests of Queenstown district educators in particular more effectively.

The researcher was one of the officials in charge of labour relations in the Queenstown district and by implication he also dealt with labour disputes and offered advice on the legal and regulatory procedures that need to be followed in order to resolve labour disputes. The researcher has since left the Department of Education for another government department and is no longer directly involved in labour relations: however he still has great interest in this field.

If disputes in the education sector are not speedily resolved, or are not resolved at all, this can obviously have a devastating effect on the life and future careers of learners, especially those who come from poor socio-economic backgrounds. Education is one of the most significant long-term investments a country can make. To reinforce this view, Swart (2005:6) contends that

‘Education is not only pivotal to economic prosperity but it also plays a critical role in enabling South Africans to improve the quality of their lives and contribute to peaceful, productive and democratic nation.’

These sentiments are also captured in the vision statement of the Department of Education, which provides as follows:
Our vision is a South Africa in which all our people have access to lifelong learning education and opportunities, which will in turn contribute towards improving the quality of life and building a peaceful, prosperous and democratic society.

Furthermore, according to section 27 of the 1996 Constitution of the Republic of South Africa:

‘Everyone has the right to basic education, including adult basic education and further education, which the state, through reasonable measures must make progressively available and accessible.’

In order for the above government and constitutional imperatives to be realised it is important that an atmosphere conducive to negotiation and free of disputes exists so that effective teaching and learning can take place.

One of the key reasons that motivated the researcher to undertake this research is the high rate of conflict in schools, which ultimately results in disputes. A review of the literature reveals that very little research has been done on the subject.

However an empirical investigation into the current situation, perceptions, views and disputes of the educators with particular reference to those in Queenstown education district, was deemed necessary.

1.3. Problem Statement

The research investigation seeks to explore the perceptions of educators in relation to the resolution of labour disputes. The Department of Education in the country – and in the Eastern Cape in particular is plagued with many challenges that affect its core business, which is teaching and learning. Some of these problems relate to the disputes that often arise between the employees (educators) and the employer, i.e. the Department of Education.

The study seeks to explore the perceptions that educators hold about the available labour dispute resolution systems and whether these structures,
systems, processes and institutions satisfactorily serve their needs as educators.

1.4. Research Aims and Objectives

The study seeks to address the following research questions:

1.4.1 Are educators aware of and do they understand the labour dispute resolution system or mechanisms that are available in the education sector in the Queenstown District?

1.4.2 What do educators know about the efforts or attempts that are being made by the Department of Education and teacher labour unions to ensure that educators are aware of the labour dispute resolution systems and structures and how these systems are to be managed?

1.4.3 How do educators perceive these systems? In other words do they regard them as effective or ineffective in terms of the resolution of their disputes?

1.4.4 How far do the educators perceive these systems and structures to be operating independently from the government for instance? Do they perceive them as separate or linked to the government or Department of Education and is this issue of independence important to them?

1.4.5 What factors would increase educators’ use of the dispute resolution mechanisms or systems in the Queenstown education district?

1.4.6a: What do the educators consider the most common disputes in the Queenstown education sector to be?

1.4.6b: What do the educators consider to be the most common causes of disputes in the Queenstown education sector?

1.4.6c: What kind of impact do these educators consider the disputes have on education in the district?
It is hoped that the research questions will shed light and elicit new insights on the perceptions of educators with regard to labour dispute resolution in the education sector.

1.5 Scope of the study

The Eastern Cape Department of Education has 23 education districts and the head office is based in King Williams Town at Zwelitsha Township. This study was restricted to educators in the Queenstown Education District. There are more than two hundred primary and secondary schools in this district. Two hundred educators were targeted for the purpose of the research. These included educators from both primary and secondary schools.

1.6 Assumptions

The following assumptions in the study are made:

1.6.1 Educators are not aware of the labour dispute resolutions systems in the education sector.

1.6.2 Educators perceive the labour dispute resolution systems to be linked to the department of education or to government.

1.6.3 The study assumes that educators have little faith and confidence in the dispute resolution system due to the length of time these institutions take to resolve their disputes.

1.7 Research Design

The research design involves designing an investigation and developing appropriate strategies to guide the researcher during the research process. The designing and conducting of a study varies depending on whether it is primarily qualitative or quantitative. For a quantitative study the researcher needs to plan and define how to measure any variables, select a representative sample, and collect and analyse data.

For this study both qualitative and quantitative approaches were used. For the latter questionnaires were designed to collect data for analysis while for the former interviews were conducted in order to collect relevant data.
1.7.1 General approach

The key objective of the research was to collect and analyse empirical data systematically in order to better understand and explain the phenomena and social life under examination.

1.7.2 Population

A population is the full set of cases from which a sample is taken (Welman et al., 2011). For this study it is considered as follows

- The Queenstown education district has one hundred and sixty eight schools in total. Of these forty-six are high schools and the rest are junior secondary and primary schools.
- For the 2013 academic year there were one thousand five hundred and ninety one educators in the district.

( Education Management Information Systems, 2013)

1.7.3 Sample and sample selection

A questionnaire was administered to the sample of educators in the schools that had agreed to participate. A selected group was interviewed. Educators were surveyed through questionnaires and six educators who have had disputes with the Department of Education were selected for interviews.

1.7.4 Research instruments

Questionnaires and interviews schedules were used in order to capture perceptions of educators in the Queenstown education district with regard to labour dispute resolution systems.

1.7.5 Data collection

Data was collected from the surveyed educators through questionnaires that were distributed to, completed and returned more than three hundred educators. The researcher was assisted with the distribution of the questionnaires by district EDOs and willing colleagues and educators throughout the district. Six educators who have had disputes with the Department of Education were also interviewed.
1.7.6 Data analysis

The completed questionnaires were sent to the statistical unit of the Nelson Mandela Metropolitan University (NMMU) for statistical analysis. The responses of the interviewees were captured by means of note-taking. All the above information was consolidated and grouped according to categories and themes extrapolated from the research questions.

These findings were then categorised into graphs, figures and tables illustrating the responses of the surveyed educators. The information was then analysed so as to determine the views and the perceptions of surveyed and interviewed educators on labour dispute systems in Queenstown district.

1.7.7 Limitations of the study

Certain factors constituted constraints or limitations in conducting the research. For example, distributing of questionnaires to schools in flung or remote areas of the district was hampered due to the terrain and the vastness of the district. In addition, interviews were limited to only those educators who have had disputes with the Department of Education. Moreover the study was confined to educators in the Queenstown district. Another constraint was that there were a number unco-operative and sceptical educators who did not want to participate in the study despite having had the objective of the research explained to them.

1.8 Organization of the Study

The study investigates and explores the educator's perceptions of labour dispute resolution systems in the education sector by providing a contextual background to the study in the first chapter. This chapter sets the scene in that it provides the motivation for the study, including outlines of the problem statement, aims and objectives and also the scope of the research.

The second chapter focuses on the literature review, which provides a theoretical base for analysis the data collected on the perceptions of educators on labour dispute resolution procedures.
Chapter three discusses the methodology employed to conduct research: the focus is on data collection instruments used, and also on the interviews conducted and the administration of the questionnaire survey to them.

In chapter four the data collected via interviews and questionnaires are described, analysed and discussed.

Finally, in Chapter five, conclusions are drawn apropos the findings of the research in the light of the research objectives: some recommendations are made and further research possibilities discussed.
CHAPTER 2

2. THE THEORY OF LABOUR DISPUTE RESOLUTION AND THE SOUTH AFRICAN SYSTEM

2.1 Introduction
Since the advent of the new democratic dispensation in South Africa, a number of progressive laws have been introduced and passed in order to effect transformation in the workplace and in society in general. Dispute resolution forms a critical part of labour relations (Smith, 2008). One of the most progressive Acts passed by the new dispensation is the Labour Relations Act 55 of 1995 as amended. The purpose of this Act is to advance economic development, social justice, labour, peace and democratization of the workplace by fulfilling the primary objectives contained in section 1 of the Act.

This chapter will focus mainly on a discussion of elements of best-practice labour dispute resolution and the application thereof in South Africa. Special emphasis will be placed on the public education sector. The discussion will deal with an overview of labour dispute resolution-history in SA, goals of effective labour dispute resolution, types of dispute resolution institutions or agencies and what their purpose and functions are, with a focus on those currently operating in South Africa. Furthermore, there will be a discussion of various dispute resolution processes and types of disputes.

2.2 Historical Development and Overview of Labour Dispute Resolution in South Africa.

According to Thompson (2011, p. 13), a labour dispute system is part of the labour-relations system practiced in a certain area or a country. He goes on to emphasise the importance of the dispute resolution system in a country, contending such systems help to regulate a country’s labour system of a country. This in turn promotes economic prosperity and attracts foreign investment. It is therefore critical that an efficient labour dispute resolution system is established to ensure sound labour relations in the workplace.
Grogan (2010) states that South Africa has one of the most sophisticated systems in the world for labour dispute resolution. Most systems are created by legislation while others are left to parties to resolve by agreement failing, which the industrial action is used as a mechanism to force the resolution of a dispute. The right to strike is guaranteed in the RSA 1996 Constitution which states in section 23 (2) (a) that “every worker has the right to strike”. Everybody who is a worker is included in this constitutional provision, including educators and other categories of employees.

Section 1 (d) (iv) of the LRA promotes effective resolution of labour disputes and the Act also seeks to promote voluntary and orderly collective bargaining between labour and management in order to reach collective agreements. Notwithstanding the noble intentions and objectives of the LRA, Grogan (2007) argues that no collective-bargaining system can be perfect and that labour disputes are unavoidable. He proposes that industrial legislation must provide methods and procedures to resolve disputes without the parties needing to resort to industrial conflict in every case.

The first legislative provision in South Africa - to provide statutory mechanisms for dealing with labour disputes was the Industrial Conciliation Act 11 (ICA) of 1924. This Act dealt with the private sector and further, did not apply to African pass bearing employees (Smith, 2008). The ICA was primarily concerned with disputes of interest which were referred to the relevant Industrial Councils or a Conciliation Board. This Act aimed at the promotion of collective bargaining and maintenance of industrial peace (Bendix, 2007).

Industrial Councils and Conciliation Boards were first established in 1924 while the Industrial Court was formed in 1957 (Van Eck, 2005). The primary purpose of the ICA of 1924 was to prevent industrial unrest by providing the machinery for collective bargaining and for conciliation in the event of dispute. The Act also provided for mediation and arbitration of disputes especially in essential services. This Act was followed by the ICA of 1956 and the Labour Relations Act (LRA) in 1981. LRA of 1991 though applied only to the private sector. It must be noted that ICA 1924 and 1956 were racially exclusive but the 1981 Act covered all races
and was therefore inclusive. However Only with the coming of the LRA of 1995 did labour legislation cover both the private and public services.

The Industrial Conciliation Act 28 of 1956 kept the framework of the 1924 Act but further entrenched the racial division of workers. In the arena of dispute resolution this Act introduced, in addition to the dispute resolution functions of the Industrial Councils and Conciliation boards, a permanent Industrial Tribunal (Du Toit et al., 2006)

The function of an Industrial Council was to endeavour to prevent or settle disputes which had arisen and to take necessary steps to regulate matters of mutual interest to employees and employer organizations and also to employees or trade unions. The Industrial Conciliation Act was later replaced by the labour Relations Act 28 of 1956. In terms of this Act, interests of dispute were referred to an Industrial Council for Conciliation.

The labour legislation was further developed in 1979 with the recommendations of the Wiehan Commission. These were incorporated as a series of amendments over a four year period, including the change of the name to the Labour Relations Act (LRA). The changes brought all private sector employees under the jurisdiction of the same labour legislation, thus ending the racially divided system in this sector. Furthermore – and significant in terms of dispute resolution the Industrial Tribunal was replaced by the Industrial Court. Both collective and individual disputes fell within the jurisdiction of the Court which distinguished between disputes of rights and of interest: it also developed an extensive jurisprudence based on the concept of unfair labour practice (Du Toit et al., 2006)

The LRA of 1995 allowed employers and employees (except those in essential services) to engage in industrial action over any dispute not covered by the agreement or determination if the dispute is about the employment relationship (Grogan, 2007). This means that industrial action was allowed even when concerning disputes of rights, which is contrary to the current or new LRA 55 of 1995 where in terms of section 65 (1) (c) a strike is prohibited over a rights dispute.
The new LRA 55 of 1995 commenced officially on 11 November 1996. Prior to this period, Grogan (2007) writes that labour litigation in terms of dispute was instituted in the former Industrial Court, Labour Appeal Court and in the Appellate Division of Appeal, which is now the Supreme Court of Appeal serving as the highest court in labour matters. Smith (2008) theorises that before the birth or dawn of the new LRA of 1995 employees could choose which structure to use (i.e. between an Industrial Court and ordinary Court) when there was a dispute, depending on how it was classified (Du Plessis, Fouche, Jordaan & Van Wyk, 1994 cited in Smith, 2008).

Unfair labour disputes were adjudicated by the Industrial Court and breach of contract could be referred to either to a Magistrate’s Court or the Supreme Court depending on the nature of the issue(s) involved and the amount of claims for compensation. The Commission led by Professor Wiehahn - and appointed by the SA Government to investigate the state of labour relations’ unrest in SA that had resulted in many industrial actions in the 1970s made far reaching and profound recommendations in respect of changes in the labour law. Amongst the changes that were introduced was the introduction of unfair labour practice into SA Labour Law.

The introduction of the new LRA by the democratic dispensation heralded a new era for labour relations in South Africa. Although it cannot be claimed that its introduction has brought an end to labour disputes in the workplace, significant progress and periods of labour peace have prevailed over the last few years.

There is no denying that under the previous regime of dispute resolution in SA was mired by serious problems. Its statutory procedures were considered to be ineffective, lengthy, complex and full of technicalities, thus creating more disputes than they were supposed to resolve and this consequently intensified industrial action (Baker & Olivier cited in Smith, 2008). The reasonable and inescapable conclusion that can be drawn is that the system was largely dysfunctional.

A new body, in the form of the Commission for Conciliation, Mediation and Arbitration (CCMA) was established in terms of section 112 of the 1995 LRA. The CCMA replaced the Conciliation Board: it constitutes an independent body that is intended to resolve disputes through conciliation, mediation and arbitration. The
CCMA has also recently played a pivotal role in assisting parties to resolve labour disputes in the Lonmin Mine at Marikana the North-West Province. The Act that established the CCMA prescribes its mandate, jurisdiction and functions. The new LRA has revolutionised the labour relations system in SA and has brought about a decisive and radical break with the past, probably forever.

According to Thompson (2011), the SA dispute resolution system has been benchmarked by its designers in countries where the labour dispute resolution systems effective: the legislators used what they deemed to be important provisions in the drafting of the system. The system was also drafted in accordance with the international Labour Organization (ILO) Conventions. The 2011 ILO report cited in Thompson (2011) reinforces the view that the labour dispute resolution system in any given country seeks to assist parties in an employment relationship to resolve their grievances or disputes in a peaceful and orderly manner through use of agreed machinery with minimum disruptions to work.

Public sector employees were excluded from the labour legislation prior to 1995 and were governed by administrative law: these employees could not use the mechanisms provided by labour legislation for individual or collective disputes. The public sector employees included educators at primary, secondary or tertiary institutions.

It was the lobbying by COSATU and the recommendations of the ILO that ensured that the new LRA of 1995 included both the private and public sector (Brand, Lotter, Steadman & Ngcukaitobi, 2008)

2.3 Conflict: grievances and Disputes

“Conflict can be defined as a process that begins when one party perceives that another party has negatively affected or is about to negatively affect something that the first one cares about”. (Thompson, 2011, p. 17).

Furthermore conflict may be destructive but on the other hand it may be potentially healthy and beneficial. It can be seen at times as a catalyst for
change, growth and development without which the society and the workplace are likely to stagnate: at certain times it can become the force underlying transformation. The challenge only lies in how conflict is approached and managed (Nel, Swanepoel, Kirsten, Erasmus & Tsabadi, 2005 in Thompson, 2011).

Anstey (1999), on the other hand views conflict as a struggle over values and claims to scarce status, power and resources in which the aims of the opponents are to neutralize, injure or eliminate their rivals. It is clear then Nel et al in Thompson 2011 from the above authors that in the workplace conflict is not necessarily a bad thing. Although it looks bad on the surface, if it is handled positively and appropriately it can yield good results for the individuals and organizations. People can learn from it and thus grow and become more mature and wiser in handling issues.

Bosch et al (2004) cited in Thompson, 2011 support the assertion that conflict is a way of life in the labour relations arena. It is the author’s view that the objective of labour legislation should be to create an environment where conflict is managed so that the interests of the parties are advanced and positive relationships are promoted between them. In the same vein, Brand et al (1997) cited in Thompson (2011) state that conflict is a part of our working lives so it cannot be avoided or eliminated no matter how effective dispute processes and techniques are. The conclusion that can be drawn is that conflict can be a necessary and healthy phenomenon in the workplace. The best thing to do is to manage it when it arises for the benefit of the organization involved.

Bendeman (2003) contends that any study of dispute resolution hinges on a proper and thorough understanding of the concept of conflict. As indicated earlier, conflict in the workplace may be a welcomed phenomenon and it should be viewed positively by both employers and employees. It needs to be emphasized to everybody in the workplace that conflict is healthy and necessary for the functioning of the organization and therefore instead of being rejected and feared it can be embraced and regarded as an integral part of the organizational culture. If properly handled it can do wonders for the organization.
If conflict matter is not properly resolved it progresses into disputes. In other words once it intensifies, it escalates into a dispute. The LRA defines conflict within the context of a relationship between the employer and the employee which also involves as their organizations. A dispute it defines as any disagreement involving a labour matter between an employer or employer’s organization on the one hand, and an employee or a trade union on the other hand.

Barker and Holtzhauzen (1996) cited in Bendeman (2003) define a dispute in the context of labour as a situation where one party has set a demand and the other party has allowed an unreasonable time to elapse without dealing with it properly. According to the above view, a dispute refers to the situation where a party that has the authority to resolve the dispute fails to do so and another intervention has to be made - usually by an external party. A dispute therefore is a conflict that has escalated to another level and the initial parties are unable to resolve it.

Brand et al (1997, cited in Bendeman 2003) sees a dispute as a grievance that has reached a more formal stage to the extent that it must be referred outside of the organization for resolution. In other words a grievance when it has not been resolved is promptly transformed or graduates into a dispute. A dispute, in this view is more formal and complex than a grievance. Brand et al (1997) in the same vein define a dispute as a highly formalized manifestation of conflict in relation to workplace related matters, which may include failure to address a grievance.

It is worth noting therefore in the light of the above discussion that a dispute does not just arise and become a dispute. It is preceded by a grievance. So if a grievance can be properly and effectively managed, there can be fewer disputes in the workplace. It is therefore important and necessary for employees and employers to make sure that their members are properly and sufficiently equipped to deal with and manage grievances so that they do not escalate into disputes.

This discussion therefore highlights the importance and the relationship between grievances and disputes. A dispute is a direct result of poor conflict management in the workplace. In order for sound peace to prevail in the workplace managers
and union leaders must be equipped with the necessary skills to manage conflict so that there are fewer disputes.

2.4 The Goals of Labour Dispute Resolution

Thompson (2010) states that the effectiveness of any dispute resolution system flows from its legitimacy which in turn flows from the participation of the interested parties in the creation of the system. He further contends that the system becomes truly and effectively operational once partners own the system because they have participated in its formulation as social partners.

The new LRA in SA is a product of extensive and broad consultation by the social partners, business and organized labour, and government through bodies like the National Economic Development and Labour Council (NEDLAC). This process of social inclusion not only makes the system legitimate, but also makes it transparent and acceptable to all parties. The goal of the labour dispute resolution system, as articulated and contained in the new LRA, is to give effect to the spirit of SA’s negotiated political settlement. Bhorat (2009) aptly describes one of the intended purposes of the new LRA as the promotion of an effective and efficient labour dispute resolution system in order to overcome lengthy delays, save on costs and reduce the incidence of the kinds of industrial action, which characterized the Apartheid dispensation. He describes the new LRA as setting out to realize a new era for South Africa, as the labour relations system ostensibly moved from confrontation to cooperation. However despite this hope there is no doubt that militancy is a still a strong and dominant feature of the labour regulatory environment in South Africa. The 2009 Public Service strike, the violent 2009 Municipal (SAMWU) strike and the recent (August 2012) Lonmin and other mining and agricultural strikes are typical examples of this militancy. Yet the goal of dispute resolution is to put systems in place that will ensure the amicable and effective resolution of labour disputes as and when they arise in the workplace.

Brand, Lottes, Steadman and Ngcuka (2008, cited in Thompson, 2011), have identified the following five goals of a labour dispute resolution system:
2.4.1 Efficiency
The efficiency of a dispute resolution system refers to disputes being resolved as a speedily as possible. A solution to a labour dispute has to be found as quickly as possible because if it takes too long it will negatively affect labour peace in the workplace.

Brand et al (1997) see efficiency as the one of the most important aspects of dispute resolution. They argue that disputes should be resolved as quickly and as informally as possible with little or no procedural technicalities. On the other hand efficiency should not be pursued for its own at the expense of resolving the dispute. It is important to get the bottom of the dispute so that it is resolved once and for all.

Brand et al (1997) point out that efficiency can have a down-side. This happens when speed becomes an ends in itself. If, this happens a dispute resolution system may find that it pronounces on disputes while failing to actually resolve disputes. To rush to solutions sometimes poses problems. It is better to take a while longer so that lasting and genuine solutions to the problems can be found.

2.4.2 Accessibility
The accessibility of the labour dispute resolution system refers to the ability to reach the physical location of conflict for the dispute resolution. Further, the parties should know who is responsible or who to approach and how to involve them in the dispute. The dispute resolution system should be understandable to everybody; that is to the employer and employees: moreover the general public should understand the system. In addition there should be minimum formalities in obtaining the assistance of the dispute resolution mechanisms (Brand et al 1997).

2.4.3 Informality
Informality means that parties to a dispute must be able to come to the labour dispute resolution institution, and be able to do so with no assistance from other people and with no technical processes as impediments. Section 135 (4) the of
LRA prohibits the use of legal representatives at conciliation proceedings and section 138 (4) prohibits legal representatives from arbitration proceedings.

The Labour Relations Act provides that a delicate balance must be struck between efficiency and informality whilst the principles of fairness and justice are maintained. Section 138 of the LRA states that:

The commissioner may conduct the arbitration in a manner that the commissioner considers appropriate in order to determine the dispute fairly and quickly, but must deal with the substantial merits of the dispute, with the minimum of legal formalities.

Although disputes should be resolved in an informal way, the merits of the case must be considered in ensuring that the disputants get fairness and justice at the end of the process. In other words the informal nature of dispute resolution should not compromise the integrity of the process.

2.4.4 Affordability

A dispute resolution system must be affordable to everyone so that it can be accessible to poor people in society. The state must ensure that the costs of dispute resolution remain to as low as possible. In terms of the current South African system the state pays for the dispute resolution and as a result many people have access to and can use the system. Employees refer their disputes to the CCMA or bargaining councils free of charge and the state pays the commissioner who adjudicates the dispute. However, if a dispute should move to the labour court then the parties involved are liable costs and are not subsidized by the state (Thompson, 2011).

2.4.5 Expertise

The effectiveness of dispute resolution system depends on the quality of personnel employed to conduct dispute resolution. The decisions emanating from the system determine the perceptions that many will hold about the system. Brand et al (1997) argue that dispute-resolvers need to be well qualified and highly knowledgeable about the legal framework within which they are functioning. Dispute-resolver should always be sensitive to the nature, extent and consequences of their interventions in a dispute.
2.5 Dispute Resolution Processes

Thompson (2011) theorises that there are three extra-judicial labour dispute settlement procedures, which are usually used in most countries around the world. These are conciliation, mediation and arbitration. According to ILO (2007) cited in Thompson (2011), conciliation and mediation involve intervention from a neutral third party to facilitate communication between the parties: this must be done initially without making proposals for resolving the dispute. However in some cases non-binding proposals are made to the party for the settlement of the dispute: this can be accepted or rejected by the parties involved. Arbitration on the other hand, is a process which also includes the intervention of a neutral third party but who is empowered to make binding decision after hearing arguments and evidence from both parties. The judicial process adjudication refers to a situation where a labour dispute is heard and adjudicated by Judges in a Labour or High Court after all avenues with bargaining councils have been exhausted.

The above dispute resolution processes should be conducted in a logical manner. In other words, conciliation is the first process and if this fails arbitration follows. In some instances conciliation and mediation are used interchangeably as the difference between the two is insignificant. The foregoing discussion will provide a discussion on each of these processes.

2.5.1 Conciliation

Various definitions of conciliation are given by scholars. Generally it is seen as the first step in the dispute resolution process and it involves the use of a neutral or acceptable third party to assist parties to arrive at a mutually acceptable, enforceable and binding solution (Smith, 2008). Conciliation is the most informal of the three types of dispute resolution and is often undertaken unofficially. In the context of the CCMA and the South African Bargaining Councils, conciliation is conducted under the auspices of a commissioner who is appointed by either the CCMA or the bargaining council concerned, depending on the nature of the dispute or the sector in which the dispute arose. In conciliation, the commissioner is not empowered to impose the
solution to parties but can facilitate discussions so that parties can arrive at and amicable mutually acceptable agreement.

According to Du Toit (2006) et al cited in Thompson (2011), conciliation means to reconcile or bring together opposing sides in an industrial dispute. It is private, confidential and without prejudice by its very nature. The primary responsibility or role of a conciliator is to help parties resolve their disputes themselves by devising a process that the conciliator deems appropriate. Conciliation can also be used as a means to address an underlying collective disagreement before it transforms into a fully-fledged dispute (Cyprus, 2007). In other words it is possible for parties to reach an agreement or settlement before the dispute goes to litigation. Bosch et al (2004) see the role of a conciliator as that of bringing parties to the table and facilitating discussion between them. The conciliator further plays a very active role in helping the parties to come up with option, consider alternatives and reach a settlement that will be beneficial to both parties.

Grogan (2012, p.98) defines conciliation “as a process under the direction of a commissioner or bargaining council panelist in which parties endeavour to reach an agreement with a view to settling a dispute”. Section 135 (3) of the LRA provides that the process of conciliation may include mediation, conducting a fact-finding exercise and making recommendation to the parties: this which may include an advisory arbitration award. There are certain matters where conciliation is compulsory before the matter can be referred for arbitration. These include unfair dismissals and unfair labour practices. This is in terms of section 191 (4) of the LRA. Other matters in which conciliation is mandatory in terms of section 4-9 of the LRA include disputes concerning freedom of association; organizational rights; interpretation or application of collective agreements, picketing rules and workplace forums.

According to section 115 (1) (a) of the LRA, the CCMA has been established so as to attempt resolution of disputes referred to it through conciliation, also in terms of section 127 (1) (a) of the Act, any private agency or bargaining council may be granted accreditation to conduct conciliations by the CCMA and this is due mainly to the case overload the CCMA normally experiences.
However educators refer their disputes to ELRC as the CCMA does not have jurisdiction over them.

In terms of section 191(1) of the LRA, a dispute must be referred for conciliation either within 30 days if it relates to alleged unfair dismissal or within 90 days if the dispute relates to an alleged unfair labour practice. If the referral is late, an application for condonation in terms of section 191(2) of the LRA must be made.

At a conciliation meeting, the employer may appear in person or may be represented by a director or another employee or employer’s organization in terms of section 135(4) of the LRA. The employee on the other hand, may be represented by an office bearer or an official of a registered trade union. Legal representation is not allowed in conciliation matters. This is meant to ensure that the process is as fair, simple, uncomplicated as possible and that it is conducted as fast as possible without compromising principles of effective dispute resolution. Dispute resolution by nature is informal and should be accessible to all parties, including the non-lawyers representing the parties concerned.

If the dispute is settled, the commissioner draws up a settlement agreement, which will be final and binding on both parties. On the other hand, if the dispute is not settled, the aggrieved party may have recourse to conciliation – arbitration (Con-arb) in terms of section 191 of the LRA. The other option is to refer the matter for arbitration where the commissioner will issue a certification of non-resolution. Then there are also certain matters that are not referred to an arbitration hearing but go straight to the Labour Court. These include automatic unfair dismissal in terms of section 187(1) of the LRA and unfair discrimination in terms of section 6 of the Employment Equity Act (EEA), interpretation and application of EEA.

In the main, educators are not exempted from the above route of referral of their disputes. The only difference is that the council that deals with their cases of disputes, ELRC in the case of educators.
2.5.2 Mediation

Mediation is the most widely used dispute resolution system or method for resolving labour disputes in the European countries (Cyprus, 2007). It is also used in South Africa as recently witnessed in the Lonmin mines strike where the CCMA mediated between the worker representative, the unions, civic society and the mines management. According to Bendix (2007), mediation involves the active intervention of a third party, or third parties for the purpose of inducing settlement. The mediator plays an active part in the process by trying to bring all parties to a settlement. He advises both parties and acts as intermediary and also suggests possible solutions to the dispute. It must be stressed that a mediator only acts in an advisory capacity and his/her suggestions are not binding on parties as he/she has no decision-making powers to force parties to settle.

Bendix (2007) also outlines different purposes of mediation for dispute settlement. Mediation is intended to facilitate negotiation. A mediator might also be able to get representatives from both parties to make more from and this might allow parties to agree on trade-offs thus promoting a settlement. As a neutral person who is an outsider and uninvolved in the conflict, a mediator may use his knowledge and influence to make parties to see the need to reach a settlement.

Mediation is a dispute resolution system that was used in the pre-democratic dispensation in South Africa to mediate conflicts between and among warring political parties. Mediation efforts culminated in the signing of the National Peace Accord that was brokered by the National Peace Accord Committee. Experienced mediators are also used when salary negotiations in the public service have become deadlocked. In the Education sector ELRC has experienced mediators who can assist parties to resolve and settle disputes in an amicable manner. In order for mediation to succeed, a mediator has to possess certain qualities. According to Bendix (2007), an effective mediator should have a proven record of success in negotiations, and able elicit trust, acceptance and co-operation of parties in conflict. Other essential qualities
include intelligence, discernment and practicality. He/she must be able to identify problems and offer workable solutions.

Furthermore he/she needs to be knowledgeable in all matters related to the negotiations. He/she should be acquainted with the organizational structures, strategies and attitudes of both parties and have current knowledge of labours legislation and collective agreements. A mediator should be conversant with the latest developments in the economic, socio-political and technological spheres and be able to exercise tact and diplomacy. With the above skills and expertise mediators could play a pivotal role to ensure that disputes are resolved as speedily and effectively as possible in the workplace – and so help to facilitate the smooth running of organizations.

2.5.3 Arbitration

In terms of section 136 of the LRA, the CCMA must appoint a commissioner to arbitrate in a dispute where a certificate has been issued confirming that the dispute remains unresolved. Furthermore within 90 days after the issuing of the certificate, any party to the dispute must have requested that the dispute be resolved through arbitration. Bosch et al cited in Smith (2008), defines arbitration as a process whereby a dispute is referred by one or all the disputing parties to a neutral or acceptable third party, i.e. the arbitrator, who fairly hears their respective cases by receiving and considering the parties and on the basis thereof make a final binding decision.

According to Bendix (2007), arbitration entails the appointment of a third party to act as adjudicator in a dispute and to decide on the terms of settlement. This third party has full decision-making powers in the dispute. After listening to the submissions and proposals from parties, the arbitrator makes a final and binding settlement on both parties.

The question of jurisdiction in arbitration is important. The CCMA or a bargaining council has jurisdiction to arbitrate a matter if the dispute between the parties falls within its jurisdiction and if the matter is timeously referred for arbitration (Grogan 2010). In terms of section 136 of the LRA, the commission,
on good cause shown, may condone a party’s non-observance of the 90-days’ time-frame and allow a request for arbitration filed by the party.

The matters that councils or the CCMA must arbitrate on are contained in the LRA and related legislation. Some matters may not be referred to councils but are the exclusive reserve of the CCMA. These relate to matters in section 24 of the LRA among other matters. Educators for instance may have their disputes arbitrated through the ELRC and if their unions have a dispute regarding the interpretation or application of collective agreements these must be referred to the CCMA. In terms of the LRA, a dispute may be arbitrated by the CCMA or bargaining council only if it has been conciliated, or if 30 days have lapsed without a date being set for conciliation. A certificate of non-resolution is a legal requirement for arbitration by the CCMA or bargaining councils. This is applicable to all sectors in the public service including educators.

A commissioner may conduct the arbitration hearing in any manner he/she considers appropriate, but he/she is required to deal with the substantial merits of the dispute with the minimum legal formalities (Du Plessis & Fouche, 2007). In terms of the CCMA rules, a party may be represented by a legal practitioner or a member; by an office bearer or official of his/her trade union or employer’s organization or by a director or employee if the party is a juristic person. In terms of CCMA rule 25(1)(c), legal representation is not automatically allowed in misconduct and incapacity dismissal disputes and a party will have to apply to the commissioner to allow such representation.

In terms of section 138(7) of the LRA, a commissioner must issue an award within 14 days of the conclusion of arbitration proceedings. Although arbitration commissioners have the power to make final and binding rulings or awards, which can be made orders of court, they are also empowered to make advisory awards. Advisory awards occur when the arbitrator communicates his decisions, but where the parties are not bound by them, it is still hoped however, that the decision will encourage a change in the positions of the parties (Bendix, 2007).

In terms of section 144 of the LRA, any award may be rescinded by the issuing commissioner by any commissioner appointed by the director for CCMA.
However the current LRA does not provide for appeal against awards of the CCMA and the bargaining council’s commissioners. The only remedy for dissatisfied parties is a review by the Labour Court (Grogan, 2010).

It can thus be inferred on the basis of the above discussion that arbitration is the stage where a dispute is decided in favour of one of the parties. The party against whom the dispute has been decided must either accept the decision or refer it to the Labour Court for a review in order to investigate if there were irregularities in the arbitration proceedings in terms of section 145 of IRA. The matter can go all the way up to the highest court in the land depending on the merits of the case.

2.6 Dispute Resolution Types

It is important to categorize the different types of labour disputes that normally arise in the workplace. Once these are distinguished it is worth noting the mechanisms that are used to resolve these disputes. The following section will discuss the different types of disputes.

2.6.1 Collective and individual disputes

Thompson (2011) distinguishes between individual and collective disputes. However it is not always easy to distinguish between collective and individual disputes because individual disputes can develop into a collective dispute, e.g. when a trade union takes over the dispute of its members. This happens, for instance when a teacher union takes up an issue on behalf different individual or acts collectively on behalf of all its members.

2.6.2 Disputes of interest and disputes of right

According to Basson et al cited in Thompson (2011), a “dispute of right” is about the interpretation or application of a right that already exists. This is when the employer and the employee do not seek to create a new right, but rather seek to enforce an already existing right that it is felt the other party in the employment contract has breached.
Bosch et al defines a dispute of right as emanating from an infringement of an existing right, which has been obtained by virtue of an employment contract, legal provision and/or collective agreement.

In Bendix (2007), a dispute of right is defined as a right to which a party is entitled by law, contract, agreement or established practice. In the labour relations field, rights are ensured by contract of employment, or by legally enforceable agreements and customary practices at the place of work. In other words disputes of rights are derived from legal sources and statutes, e.g. in South Africa these include EEA, LRA, BCEA, PAJA and the Constitution amongst others. If the right of an employee has been violated or infringed that employee has recourse to the above legislation to enforce his/her rights. An employee must choose and rely on the right that is relevant to the right that has been infringed. In matters concerning the contract of employment, section 77(3) of the BCEA gives the High Court together with the Labour Court concurrent jurisdiction in all matters arising from a contract of employment.

Bendix (2007) provides the following examples of dispute of rights:

- The failure of one party to abide by the contract of employment;
- Failure to implement legally determined conditions and procedures, such as minimum working hours and prescribed notice periods;
- Failure to implement the terms of a legally enforceable agreement;
- The non-implementation of an arbitration award or wage determination;
- The transgression of any other legal determination;
- The transgression of common law;
- A unilateral change in accepted or customary practices and
- Codified unfair dismissal and unfair labour practices.

A dispute of interest is usually defined as a dispute, which is about the creation of new rights. The dispute arises where employees (or trade unions acting on behalf of employees) seek to further their interests where there are currently no existing rights which they can enforce, for example when employees seek higher salaries or when they seek new improved conditions
of employment such as more leave or shorter working hours for the same pay (Basson et al., 2009).

Bendix (2007) defines a dispute of interest as an interest to which a party is not yet entitled but to which he/she would like to become entitled. Whether the disputant’s objectives are achieved or not in this regard will depend on whether he/she can persuade the other party to grant him/her what is being demanded. Once an agreement has been reached, the interest is translated into a right.

It can thus be argued that a dispute of interest is an interest which is not guaranteed or achieved in any statute or legislation but can be negotiated and agreed to between employer and employee to be incorporated into the law or legislation governing employees in the labour sector or workplace.

According to Du Toit et al (2009), the main distinction between a dispute of right lies in the fact that such disputes involve claims of rights that can be determined by the application of mutually binding standards and are usually described as more amenable to third party decision-making than those disputes of interest, that are usually open-ended and rooted in the exercise of power rather than rights.

It must also be mentioned that it is not always easy and clear to distinguish between these types of disputes.

2.7. South African Dispute Resolution Institutions and Agencies

The LRA’s primary objective is the effective resolution of disputes. According to Grogan (2007), the Act seeks to promote this aim indirectly by encouraging voluntary and orderly collective bargaining between labour and management with a view to reaching collective agreements: this involves both democratizing the workplace to infuse policy decisions with greater legitimacy, and by conferring rights which ensure individual and collective justice.

The key to understanding the dispute settlement mechanisms of LRA lies in identifying which institution has jurisdiction over which categories of dispute.
The following section will discuss agencies / institutions that have powers or jurisdiction to adjudicate labour disputes in South Africa.

2.7.1 The Council for Conciliation, Mediation and Arbitration (CCMA)

The CCMA plays a central role in statutory dispute resolution processes. All disputes that are not handled by private procedures or accredited bargaining councils are normally referred to the CCMA for conciliation before they can be referred to arbitration or adjudication. In terms of section 114 of LRA, the CCMA is a state-funded independent body, with jurisdiction throughout the Republic. The CCMA may also accredit private agencies or bargaining councils to perform any or all of its functions.

The CCMA may resolve any dispute that falls within its jurisdiction through conciliation, mediation or arbitration. According to Bendix (2007), legislation provides that the CCMA be independent of the state, any political party, union, employer, employee’s association or federation of unions.

In terms of the mandate of the CCMA, Bendix (2007), also states that the Commission may also be requested to:

- Provided advice regarding procedures in terms of the Act;
- assist any party to a dispute in obtaining legal advice, assistance or representation;
- offer to conciliate in a dispute not referred to it;
- accredit bargaining councils and private agencies;
- conduct, supervise or scrutinize elections for a union of employers’ association;
- publish guidelines regarding any matter regulated by the Act, and
- conduct and publish research concerning any matter related to its work and regarding matters such as sexual harassment.

The commission may also provide advice and training to any party regarding the conclusion of collective agreements, workplace forums, the prevention of disputes and grievances, disciplinary procedures, procedures relating to
dismissal, restructuring of the workplace and/or programmes for affirmative action.

2.7.2 Bargaining Councils

Section 179 of the LRA provides for the accreditation of bargaining councils by the CCMA. Unless otherwise agreed to in a collective agreement, sections 142 to 146 are applicable to any arbitration conducted under the auspices of a bargaining council. This means that a settlement agreement may become an arbitration award, and that bargaining council awards assume the status of an order of the Labour Court once certified by the CCMA director.

2.7.3 Labour Court

The labour court consists of a Judge President, a deputy Judge President and judges. The Labour Court has exclusive jurisdiction in respect of all matters reserved for it by the LRA and its judgments are subject to appeal only to the Labour Appeals Court. In terms of the LRA, the labour court may issue any appropriate order including the following:

- The granting of urgent interim relief.
- An interdict.
- An order providing for an action to be carried out, which will help remedy an injustice or give effect to the objectives of the Act.
- A declaration order.
- An order for compensation.
- An order for damages.
- An order for costs.

The court may further order implementation of any provision of the Act, declare any accord or arbitration award to be an order of court, request the CCMA to conduct an investigation or report to the court, settle a dispute between a member and a union or employers’ association regarding the implementation of the Act, review any actions of the state as an employer and perform any activities necessitated by LRA or any other Act.
The adjudication of LC is set out in section 157 of the LRA. The above powers of the LC are set out on section 158(1) of the LRA.

2.7.4 The Labour Appeal Court (LAC)

According to Grogan (2007), the LAC was established as a court of law and equity and is the final court of appeal in respect of all judgments and orders of LC. The Constitutional Court has however, ruled that appeals from the LAC to Supreme Court of Appeal are allowed in matters involving constitutional matters. Section 182 of the LRA directs that LAC judgments are binding on the LC, commissioners of CCMA and bargaining council arbitrators.

2.7.5 Supreme Court of Appeal

This court is equivalent in status to the LAC. It has the right to entertain matters of appeal from the LAC in disputes that emanate from LC. This has been confirmed in a number of court cases (Grogan, 2007). Any special leave to appeal must be granted by the SCA.

2.7.6 The labour Inspectors

Labour inspectors have a significant role to play in the resolution of disputes under the LRA. One of their functions is to ensure compliance with an employment law. In terms of section 64(1) of the BCEA, labour inspectors have power to issue compliance orders and are given powers to enter premises of employers.

2.7.7 The Constitutional Court

In terms of the SA Constitution of 1996, the Constitutional Court is the highest court in constitutional matters. Although the LAC is the highest labour tribunal, a litigant is permitted to refer the matter directly to the CC on certain special grounds. Rule 18(2) of the Rules of the CC provides grounds for direct application to the CC by the litigant. The key criteria that the CC considers involve the interest of justice and the reasonable prospect of success. Once the matter is referred to the CC and adjudicated, this is the last tribunal that hears and
pronounces on the matter and there is no other recourse in SA for an aggrieved party.

It must be mentioned that although parties have a right to take their cases to court, this route is very expensive. The CCMA and bargaining councils by comparison are simple and inexpensive.

2.7.8. Private Dispute Resolution

The LRA makes provision for the private resolution of disputes by disputants themselves. These private dispute resolution systems provide for mediation and if the dispute is not resolved then the matter is refereed for arbitration. Like arbitration awards from the CCMA and bargaining councils, private arbitration awards are also subject to review by labour court (Grogan, 2007).

It seems as if this type of dispute resolution is not popular in the public service especially with educators. There do not appear to be of cases that have been referred to this type of dispute resolution system in the public service. Perhaps the private sector does utilise this system through registered and accredited dispute resolution bodies such as TOKISO.

The use of the dispute settlement mechanisms provided for in the LRA give parties options on where they should take their disputes. It has been made clear to employees who belong to sectors where there are bargaining councils that they need to take their disputes for resolution to those councils: however where employees do not belong to councils the CCMA has jurisdiction to adjudicate their cases.

2.8 Dispute Resolution in the South African Public Education Sector

Section 213 of the LRA defines the public service in terms of the national departments, provincial administration, provincial departments and the organizational components included in section 7(2) of the Public Service Act 1994 as amended. According to research studies, the public service is the largest employer in South Africa. For example, according to figures released by Statistics South Africa the government agency responsible for the country’s statistics the public sector employs about 1.2 million employees nation-wide.
Employees in the public sector are employed under different Acts depending on the sector to which they belong. For instance the Police are employed under the Police Act and Correctional Services employees under the Correctional Services Act. Teachers fall under the Employment of Educators Act 76 of 1998 (EEA) and general public servants under the Public Service Act of 1994 (PSA). The education sector is the only department with employees employed under two separate Acts: educators are employed under the EEA and administration staff under the PSA.

Provision is made for South Africa public sector employees to refer their disputes to the relevant bargaining council for dispute resolution. Educators refer theirs to the Education Labour Relations Council (ELRC). This bargaining council was established in terms of section 37(2) of the LRA of 1995 as amended. Dispute resolution matters for educators are discussed and dealt with in Part 2, section 8 and 9 of the Collective Agreement of 2006. The manner in which the EEA operates is different from other pieces of legislation in other sectors. Educators may be discharged in terms of section 17(5) (a) (i) of the PSA after 30 working days. The different dispensations for employees in the Department creates a perception that there is subtle discrimination by the same Department. For instance, educators are appointed in terms of the EEA and belong to the ELRC and they refer their disputes to this council while administrative staff are appointed under the PSA and refer their disputes to the GPSSBC.

The General Public Service Sectoral Bargaining Council is responsible for the hearing and arbitration disputes for employees like nurses and educators who do not belong to a specific bargaining sector. It deals with employees in the public service generally.

The Public Service Co-ordinating Bargaining Council is the co-ordinating council which plays an overarching role to all bargaining councils for employees in the public service. Educators fall under the Educators Act and other employees under the Public Service Act. The LRA provides for the main employment legislation and bargaining councils are established under it. The ELRC has a Collective Agreement No.1 of 2006 dealing with the constitution, negotiations,
consultation and dispute resolution are dealt with in Annexure B. This annexure deals with matters that go to the Bargaining Council: Part 4 deals with rights disputes while part 4 deals with disciplinary hearings in terms of arbitration.

There is a grievance procedure section which spells out the route or procedures that need to be followed by educators before a dispute can be declared with the ELRC. For example, the internal remedies must be exhausted before a dispute is declared with the ELRC by educators. In declaring a dispute the relevant forms must be correctly completed by educators so that the matter can be set down for conciliation first and for arbitration if conciliation fails.

The grievance procedure provides that a grievance must as far as possible be resolved by an employer and as close to the point of origin as possible. If all the relevant officials with authority fail to resolve the grievance an educator can declare a dispute with the ELRC by completing the prescribed forms.

The settlement of disputes in the public sectors is characterized by the red tape of bureaucratic systems and by delegation of authority. Before any settlement with financial implications, mandate or permission must be obtained from the executive authority, the head of department in the provincial government and the Director General in the national government (Smith 2008). The seeking of a mandate from the authorities sometimes causes delays in the settlement of disputes: this is contrary to the objective and spirit of dispute resolution, which supposedly promotes the speedy and efficient resolution of disputes. Hence it would be helpful to have disputes resolved at a conciliation level so that parties can have healthy relations even after settlement. At arbitration it is a win and lose situation and that is not good for relationship building between employers and employees.

According to Bosch (2005) with regards to the types of disputes referred in bargaining councils, the highest disputes pertain to unfair labour practice (especially promotions) followed by unfair dismissal and other disputes. In the CCMA unfair dismissals tops the list. Smith (2008) claims that the GPSSBC has the highest rate of disputes referred to it within the public service.
2.9 Conclusion

In order to ensure that there are few disputes in the workplace, dispute prevention strategies or policies must be devised and implemented. Cyprus (2007) contends that sound workplace policies and procedures can serve as the basis for successful businesses and can also foster good workplace relations. Open lines of communication between workers and management, worker participation in decision-making that affects the workplace and effective social dialogue can contribute to better labour relations and understanding between workers and employers.

Maintaining and enforcing the existing legislative framework that promotes collective bargaining and genuine negotiations is fundamental to harmonious labour relations. Training and capacity building on matters such as discipline handling of grievances and effective communication in the workplace are important so as to minimize disputes.
CHAPTER 3

3. RESEARCH DESIGN and METHODS

3.1 Introduction

According to Welman, Kruger and Mitchell (2011), the main aim in research design is to explain the nature and process of research. This chapter deals firstly with the purpose of the research and provides a restatement of the research questions, followed by a detailed description of the process of the research study.

The purpose of the research was to explore educator’s perceptions of the labour dispute resolution system in the Queenstown education district. The research sought to establish the extent of their experiences and knowledge of the dispute resolution system and their rating of the system in terms of effectiveness. The level of awareness of the system amongst the educators in the district was also explored. This was done in view of the widely publicized reports on the alleged high rate of disputes between educators and the Department of Education in the Eastern Cape.

The research questions formulated to achieve this purpose were as follows:

1. Are educators aware of and do they understand the labour dispute resolution system or mechanisms that are available in the education sector in the Queenstown District?

2. What do educators know about the efforts or attempts that are being made by the Department of Education and teacher labour unions to ensure that educators are aware of the labour dispute resolution systems and structures and how these systems are to be managed?

3. How do the educators perceive these systems? In other words do they regard them as effective or ineffective in terms of the resolution of their disputes?
4. How do the educators perceive the independence of these systems and structures from the government for instance? Do they perceive them as separate or linked to the government or Department of Education and is the concept of independence important for them?

5. What factors would increase educators’ utilization of the dispute resolution mechanism or systems in the Queenstown education district?

6a: What do the educators consider the most common disputes in the Queenstown education sector?

6b: What do educators consider the most common causes of disputes in the Queenstown education sector?

6c: What do the educators consider are the impact of disputes in the Queenstown education sector on in the district?

3.2 General Approach

This study employs a descriptive approach: both qualitative and quantitative research instruments were used to collect data in order to establish the educators’ perceptions of the labour dispute resolution system in the Queenstown district

Qualitative information was collected through face-to-face interviews using interview guidelines. Quantitative information was collected through self-administered questionnaires that were distributed to schools within the Queenstown education districts.

Various writers have offered a number of different definitions of qualitative research. According to Creswell (1994, cited in Schoeman, 2007, p.5), qualitative research involves fieldwork where the researcher physically goes to the people, and to their settings, sites or institutions to observe or record behaviour in its natural setting. Welmer et al (2011, p.188) describes a qualitative research as
“an umbrella phrase covering an array of interpretive techniques, which seeks to describe, decode, translate, and otherwise come to terms with the meaning of naturally occurring phenomena in the social world”.

According to Strauss & Corbin (1990 cited in Schoeman 2007), qualitative methods can be used to understand what is behind the unknown phenomena: in this case it would apply to the perceptions of educators concerning the labour dispute resolution systems in the Queenstown education district. Educators who have had direct personal experience of disputes with the Department of Education shared their responses of the phenomenon of dispute resolution.

The researcher has used interview techniques and questionnaires to conduct the study. Face-to-face or personal interviews were conducted with educators who had experienced disputes with the department in addition questionnaires were administered to those who did and did not have first-hand experience of disputes with the department. The key objective therefore was to investigate perceptions and experiences of educators with regard to disputes with the Department of Education.

3.3 Research design and methods

A combination of data collection techniques was used in this study. These included interviews and questionnaires. The use of the former technique ensured that the research had a qualitative component. The population or target group was chosen from primary and secondary educators within the Queenstown educations district.

3.3.1 Interviews as research instrument

Personal structured interviews were conducted with educators who had had a personal first-hand experience of disputes with the Department of Education.
A semi-structured interview schedule was prepared (attached as Annexure B). This was divided into two sections which were as follows: firstly, brief biographical details and secondly knowledge and discussion regarding the labour dispute resolution system in Queenstown.

### 3.3.2 Survey questionnaire

The research was also conducted through the means of a survey questionnaire of educators to solicit the views of educators on the topic. A questionnaire was designed in English (attached as Appendix A) with both open and closed questions. It should be noted however that English is the participants' second language. The questionnaire addressed the following information areas:

The questionnaire addressed the following information areas:

Section A dealt with the biographical questions. The characteristics of interest were gender, age, educational qualifications, current post and years of teaching experience.

Section B dealt with questions regarding disputes. The issues of interest related to whether the respondents had had disputes and their perceptions to where responsibility lay for the various aspects of the dispute resolution process.

Section C dealt in more detail with perceptions regarding different aspects of the dispute resolution process. Questions were posed and answered on a five-point Likert scale with 1 representing ‘strongly disagree’ and 5 representing ‘strongly agree’.

### 3.4 Population

According to Welman et al (2011), a population is the full set of cases from which a sample is taken. For the purpose of the study, the population comprised all schools in the Queenstown education district. At the time when the research was conducted, there were one hundred and sixty-eight
schools in the district. Of these forty-six high were schools and the rest were junior and primary schools. There were one thousand nine hundred and fifty one educators in the district.

3.5 Interviews: sample selection

The target population for the interviews were the educators, - both in primary and secondary schools, who had had first-hand experience of disputes with the department. The researcher selected six educators who had had disputes with the Department from a long list obtained from Head Office.

3.6 Survey sample selection

A purposive sample was selected of primary and secondary schools whose principals were prepared to cooperate with the researcher. The researcher was also assisted by EDOs in the district who knew the principals who were prepared to cooperate with the study. Sixty schools were selected based on their willingness to participate in the study and thereafter three hundred and fifty questionnaires were distributed to educators, heads of department, deputy principals and principals of the participating schools.

3.7 Permission for Data Collection

A letter requesting permission to conduct the study in the affected schools was written to the Queenstown Education District and approval for the research was obtained from the District Director.

3.7.1 Interviews

An interview schedule with questions was compiled and used to collect data: six educators who had had disputes with the Department of Education were then interviewed. Educators’ responses were written down by the researcher. A record of these responses is attached as Appendix C.
3.7.2 Survey

Three hundred and fifty questionnaires were distributed to educators, heads of department, deputy principals and principals by the researcher who was assisted by Education development officers and willing educators. The educators surveyed were chosen on the basis of their consent and their principals’ cooperation. It was explained to each potential respondent that the questionnaire was entirely voluntary and that no-where on the questionnaire were details of their name, employee number or school required. This was also clearly stated at the beginning of each questionnaire. Two hundred and fifty questionnaires were eventually collected.

3.8 Data cleaning and analysis

The following section indicates the methods that were used to analyse the data that was collected.

3.8.1 Survey questionnaires

Two hundred and fifty survey questionnaires were checked for completeness and accuracy of completion: Incomplete questionnaires and questionnaires where respondents had answered section C by marking the same number for each of the fourteen questions were discarded. The remaining one hundred and forty-one questionnaires were captured in MS Excel and statistically analyse for frequencies, percentages, and means and standard deviations. Group characteristics that were analysed included gender, age and length of service.

For inferential statistics, t-tests, ANOVA and Scheffe tests were used to determine the inter-relationships of each sub-group. The level of statistical significance was set at alpha =0.05 and the level of practical significance was determined using Cohens’s d where intervals of 0.0<d<0.5; 0.5; 0.8; are small, moderate and large respectively.

Chi² tests were used to determine the statistical significance of the relationship between selected sub-groups and the likelihood of having had a dispute with the Department of Education. The level of statistical significance was set at alpha =0.05 and the level of practical significance was determined using Cramer’s V.
The reliability of the summated scores was determined using Cronbach’s coefficient alpha. A coefficient alpha of 0.7 was considered reliable.

### 3.8.2 Interviews

The researcher captured the responses to questions and these are recorded for each of the six respondents in Appendix.

### 3.9 Ethical Considerations

It is critical for the researcher to behave ethically in any research that involves human beings. Welman et al (2011) theorise that the principles underlying research ethics are universal and concern issues such as honesty and respect for the rights of individuals. Whitefield and Strauss (1998) contend that confidentiality violation is unethical. The participants’ right to dignity and privacy as guaranteed in the Constitution should never be violated.

Hence the aims and objectives of the research were fully explained to the participants; initially to the principals who agreed to co-operate and secondly to the potential respondents when the questionnaires were distributed. Informed consent from participants was obtained and anonymity of educators was guaranteed.

On completion of the research the district office will receive a copy of the treatise.

Strewing & Stead (2001, cited in Mahabeer (2008) contend that research ethics provides researchers with generally accepted guidelines on how to conduct research in an ethical manner. The following guidelines were adhered to during this research:

<table>
<thead>
<tr>
<th>Cramér’s V</th>
<th>Small</th>
<th>Medium</th>
<th>Large</th>
</tr>
</thead>
<tbody>
<tr>
<td>df* = 1</td>
<td>.10 &lt; V &lt; .30</td>
<td>.30 &lt; V &lt; .50</td>
<td>V &gt; .50</td>
</tr>
<tr>
<td>df* = 2</td>
<td>.07 &lt; V &lt; .35</td>
<td>.21 &lt; V &lt; .35</td>
<td>V &gt; .35</td>
</tr>
</tbody>
</table>

The following guidelines were adhered to during this research:
- Neutrality and integrity.
- No fabrication of information.
- The research to be conducted in a transparent manner.

### 3.10 Conclusion

It has been mentioned that the study used a combination of research approaches namely qualitative and quantitative methods. The objective was to do a study on educator’s perceptions of labour dispute systems in the Queenstown education district. Survey questionnaires were designed and distributed to sixty schools and three hundred and fifty educators at and six educators who have had disputes with the department were interviewed.

The participating schools were purposively selected and questionnaires distributed to all willing respondents. Purposive sample selection was also used to select the educators who were interviewed. Open and closed questions were used in the survey questionnaire and semi-structured questions were used in the interviews where educators were invited to respond to predetermined questions.

Permission was obtained from the education district and consent from the participants in accordance with ethical principles underpinning research. The principles of confidentiality, honesty and voluntary participation were observed.
CHAPTER 4

4 RESULTS AND DISCUSSION

4.1 Introduction

This chapter discusses the results of the information that was collected from the survey questionnaires distributed to educators in the Queenstown Education District as well as from the interviews done with educators who have had disputes with the Education Department. During the interviews a range of questions were asked soliciting educators' views regarding their perceptions and understandings of labour dispute resolution mechanisms used by the Department of Education. Three hundred and fifty questionnaires were distributed across schools to educators, HODs, deputy principals and principals in the Queenstown district, of these two hundred and fifty were returned finally after checking one hundred and forty one were accepted and captured for statistical analysis. Education development officers and willing educators in the Queenstown district assisted the researcher with the distribution and collection of the questionnaires.

4.2 Results from the survey

The results from the research survey are presented below according to the format of the questionnaire, starting with section A (the sample profile for the respondents), followed by sections B and section C.

4.2.1 Demographic information

The questionnaires sought to solicit biographical information from the respondents. The results are contained in Table 1 below:
Table 1 Sample Profile of respondents (n= 141)

<table>
<thead>
<tr>
<th>Category</th>
<th>Frequency (f)</th>
<th>Percentage (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Males</td>
<td>66</td>
<td>47</td>
</tr>
<tr>
<td>Females</td>
<td>74</td>
<td>53</td>
</tr>
<tr>
<td>Current Position</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Educator</td>
<td>99</td>
<td>70</td>
</tr>
<tr>
<td>Senior Educator</td>
<td>12</td>
<td>9</td>
</tr>
<tr>
<td>HOD</td>
<td>18</td>
<td>13</td>
</tr>
<tr>
<td>Deputy Principal</td>
<td>3</td>
<td>2</td>
</tr>
<tr>
<td>Principal</td>
<td>9</td>
<td>6</td>
</tr>
<tr>
<td>Education level</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Diploma</td>
<td>39</td>
<td>28</td>
</tr>
<tr>
<td>Degree</td>
<td>48</td>
<td>34</td>
</tr>
<tr>
<td>Post-graduate degree</td>
<td>49</td>
<td>35</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Age</td>
<td></td>
<td></td>
</tr>
<tr>
<td>45 and younger</td>
<td>70</td>
<td>50</td>
</tr>
<tr>
<td>46-55 years</td>
<td>51</td>
<td>36</td>
</tr>
<tr>
<td>Over 55 years</td>
<td>20</td>
<td>14</td>
</tr>
<tr>
<td>Years of teaching experience</td>
<td></td>
<td></td>
</tr>
<tr>
<td>0-10 years</td>
<td>28</td>
<td>20</td>
</tr>
<tr>
<td>10-20 years</td>
<td>55</td>
<td>39</td>
</tr>
<tr>
<td>Over 20 years</td>
<td>58</td>
<td>41</td>
</tr>
</tbody>
</table>

Of the 141 respondents, 47% were male and 53% were female educators. This shows that there was a fairly satisfactory gender balance in the number of educators who responded to the questionnaire even though the EDOs did indicate that there were more female educators than male educators. Thus, the sample did not accurately reflect the population demographics: however, it is significant in terms of reflecting the balanced voices of gender for the educators in the district in terms of their perceptions of labour dispute resolution mechanisms.

It is also worth mentioning that 70% of the total number of respondents who answered the questionnaires were educators who did not hold management positions in schools. This is consistent with the fact that educators outnumber management at school level. The distribution of questionnaires and the responses by educators reflected the even balance of the schools' populations in the district and this augurs well in terms of getting representative views from respondents. Other categories of educators such as senior educators, HODs, deputy principals and principals constitute a small number or percentage in the schools. The responses to questions would therefore provide an accurate reflection of the views of educators in the district.
A relatively substantial number of educators (28%) who were surveyed have a teaching diploma as their highest qualification: the rest possess a degree and post graduate qualification.

The majority of educators (50%) who responded to questionnaires were 45 years and younger. According to recent media reports, educators above age 50 have been leaving the system through natural attrition causes such as retirement, resignation and death. It is therefore probable that the majority of educators in the system are in the 45 and younger age category.

The majority of educators (80%) who were surveyed have been in the teaching profession for more than 10 years. This suggests therefore that most have gone through a number of experiences in their educational careers. They are likely to be more mature and probably are more aware of how to handle difficult situations in the profession, including disputes with the Department of Education.

4.2.2 The reliability of the factors

Section C of the questionnaire consisted of 14 questions. Questions C1, C2, C5, C6, C7 and C10 measured perceptions relating to the effectiveness of the dispute resolution system while questions C8, C11 measured the respondents’ perceptions of the need for awareness and training. In table 2 below the Cronbach’s alpha coefficients are given for the summated scores.

<table>
<thead>
<tr>
<th>No</th>
<th>Description</th>
<th>Cronbach’s alpha</th>
<th>Mean</th>
<th>Standard Deviation</th>
</tr>
</thead>
<tbody>
<tr>
<td>F1</td>
<td>Perception of the effectiveness of the resolution system</td>
<td>0.82</td>
<td>2.66</td>
<td>0.78</td>
</tr>
<tr>
<td>F2</td>
<td>Perception of the need for awareness and training</td>
<td>0.62</td>
<td>4.16</td>
<td>0.74</td>
</tr>
</tbody>
</table>
As indicated in table 2 above, the Cronbach’s alpha for the perceptions concerning the effectiveness of the dispute resolution system was above 0.7: therefore this factor can be considered reliable and thus the summated score can be used for analysis. The alpha for the perception of the need for awareness and training is 0.62 which is considered a little low. For the purposes of this study the two items will be considered as a summated score, however, the results for F2 should be treated with caution.

4.2.3 Descriptive statistics

The tables 3 through to 11 in the following section deal with the questions that were asked in Section B of the questionnaire.

The first three tables (3, 4 and 5) deal with whether or not the respondent had had a dispute with the Department, the nature of the dispute and whether or not it was resolved to the respondent’s satisfaction.

Table 3: Frequency distribution indicating whether a respondent had ever had a dispute with the Department of Education (n=141)

<table>
<thead>
<tr>
<th></th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>40</td>
<td>28%</td>
</tr>
<tr>
<td>No</td>
<td>101</td>
<td>72%</td>
</tr>
<tr>
<td>Total</td>
<td>141</td>
<td>100%</td>
</tr>
</tbody>
</table>

According to information in the above table, relatively few educators (28%) out of those surveyed had had disputes with the department. It would be interesting to find out and explore the above state of affairs further to establish as to why there is a low dispute rate when the opposite scenario is generally expected.

Table 4: Frequency distribution indicating the most common types of disputes found in the education sector in Queenstown district (n=40)

<table>
<thead>
<tr>
<th></th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remuneration &amp;/or Benefits</td>
<td>19</td>
<td>48%</td>
</tr>
<tr>
<td>Unfair labour practice</td>
<td>15</td>
<td>38%</td>
</tr>
<tr>
<td>Discipline and dismissals</td>
<td>3</td>
<td>8%</td>
</tr>
<tr>
<td>Other(please specify)</td>
<td>3</td>
<td>8%</td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>100%</td>
</tr>
</tbody>
</table>

The majority of educators who had had disputes with the department had disputes in relation to salary and or benefits and unfair labour practice (86%).
Table 5: Frequency distribution indicating the views of the respondents as to whether the dispute was resolved to their satisfaction? (n=40)

<table>
<thead>
<tr>
<th></th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>19</td>
<td>48%</td>
</tr>
<tr>
<td>No</td>
<td>21</td>
<td>53%</td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>100%</td>
</tr>
</tbody>
</table>

Fewer than half of the respondents who had disputes with the department feel that their disputes were resolved to their satisfaction.

The following three tables seek to establish whether the respondents know what to do when there is a dispute and who is responsible to ensure that they do know.

Table 6: Frequency distribution indicating whether a respondent knows what to do when there is a dispute with the Department of Education (n=131)

<table>
<thead>
<tr>
<th></th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>68</td>
<td>52%</td>
</tr>
<tr>
<td>No</td>
<td>63</td>
<td>48%</td>
</tr>
<tr>
<td>Total</td>
<td>131</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 7: Frequency distribution indicating why the respondent does not know what to do when there is a dispute with the Department of Education (n=63)

<table>
<thead>
<tr>
<th></th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Union has not informed me</td>
<td>7</td>
<td>11%</td>
</tr>
<tr>
<td>The Department of Education has not informed me</td>
<td>39</td>
<td>62%</td>
</tr>
<tr>
<td>Lack of research that I should have done</td>
<td>16</td>
<td>25%</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td>2%</td>
</tr>
<tr>
<td>Total</td>
<td>63</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 8: Frequency distribution indicating respondents’ views as to who is responsible for informing educators about the labour dispute resolution system (n=141)

<table>
<thead>
<tr>
<th></th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Department of Education</td>
<td>70</td>
<td>50%</td>
</tr>
<tr>
<td>The Union</td>
<td>61</td>
<td>43%</td>
</tr>
<tr>
<td>The Principal</td>
<td>9</td>
<td>6%</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>Total</td>
<td>141</td>
<td>100%</td>
</tr>
</tbody>
</table>

The fact that about half of the number of educators (48%, Table 6) surveyed did not know what to do when they have a dispute is a cause for concern.
Of the 63 educators who did not know what to do, 62% were of the view that it was because the Department of Education had not advised them what to do when they have a dispute (Table 7).

In Table 8 almost an equal number of educators surveyed feel that the Department (50%) and the unions (43%) have a duty to advise them in labour dispute resolution matters. This indicates that educators expect to be serviced by their unions over and above the Department of Education. Therefore, one can conclude that both the Department and the unions have a crucial and critical role to play in educating educators about labour dispute resolution matters.

The following two tables deal with the perceptions of respondents with regard to the role the union and the department should play in a labour dispute.

Table 9: Frequency distribution indicating the role the union should play in a labour dispute (n=139)

<table>
<thead>
<tr>
<th>Role</th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Support during the process</td>
<td>88</td>
<td>63%</td>
</tr>
<tr>
<td>Legal advice</td>
<td>22</td>
<td>16%</td>
</tr>
<tr>
<td>Conciliation</td>
<td>25</td>
<td>18%</td>
</tr>
<tr>
<td>Neutral</td>
<td>3</td>
<td>2%</td>
</tr>
<tr>
<td>No Role</td>
<td>0</td>
<td>0%</td>
</tr>
<tr>
<td>Other</td>
<td>1</td>
<td>1%</td>
</tr>
<tr>
<td>Total</td>
<td>139</td>
<td>100%</td>
</tr>
</tbody>
</table>

Table 10: Frequency distribution indicating the role the department should play in a labour dispute. (n=137)

<table>
<thead>
<tr>
<th>Role</th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>No role</td>
<td>5</td>
<td>4%</td>
</tr>
<tr>
<td>Conciliation</td>
<td>127</td>
<td>93%</td>
</tr>
<tr>
<td>Other</td>
<td>5</td>
<td>4%</td>
</tr>
<tr>
<td>Total</td>
<td>137</td>
<td>100%</td>
</tr>
</tbody>
</table>

In Table 9, the overwhelming majority of educators surveyed (63%) felt that the unions should support them when there is a dispute. The form or nature of support that unions provide under normal circumstances includes representing members during disputes.
Teacher unions have trained officials called shop stewards who represent educators when they have disputes with the Department. Educators are aware of this and pin their hopes on these trained union educators to represent them. Educators also expect the union to provide support in the form of legal advice. A small percentage (16%) expressed this view.

In table 10, almost all educators surveyed expect the department to play a conciliatory role when there is a dispute. Of the 137 educators surveyed, 93% want the department to conciliate disputes between educators and the department.

The following table deals with the views of educators with regard to the common most types of disputes in the Queenstown education district.

**Table 11: Frequency distribution: Indicating the most common types of disputes in the Queenstown education district.**

<table>
<thead>
<tr>
<th>Type of Dispute</th>
<th>f</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remuneration &amp;/or Benefits</td>
<td>59</td>
<td>43%</td>
</tr>
<tr>
<td>Unfair labour practice</td>
<td>53</td>
<td>38%</td>
</tr>
<tr>
<td>Discipline and dismissals</td>
<td>23</td>
<td>17%</td>
</tr>
<tr>
<td>Other</td>
<td>3</td>
<td>2%</td>
</tr>
<tr>
<td>Total</td>
<td>138</td>
<td>100%</td>
</tr>
</tbody>
</table>

A significant number of respondents (43%) in table 11 surveyed maintained that the most common types of disputes were salary and/or benefits related. This compares favourably with the 40 respondents who had disputes with the department: in Table 4, 48% reported that their disputes had to do with remuneration and/or benefits. This reinforces the view that the department was not doing well in terms of addressing the needs of educators when it came to remuneration and other benefits.

There was an agreement and consensus among the respondents about the common types of disputes in the district and this indicates the extent of the Department’s challenge in needing to address these.

The respondents’ answers in terms of unfair labour practice disputes were also very consistent. Those respondents who had had disputes related to unfair labour practice matters accounted for 38% in Table 4 and the same percentage of the 138 respondents felt that these were most common types of disputes in the Queenstown education district. Dismissals have account for a slightly higher percentage than
reflected by the views expressed by respondents in table 4. Again this underlines the fact that this category is not a common occurrence in terms of disputes in the district.

The following table focuses on Section C questions dealing with educators’ perceptions regarding the effectiveness and independence of the system, their attitude towards independence, their perception of the likely impact of education and training (and also of improved management), the possible need for educators to be more involved with the union, and their perception of the effectiveness of the unions and the department of education in dispute resolution. The reliability scores for F1 and F2 summated scores were given in table 2.
Various questions that were aimed at establishing the effectiveness of labour dispute resolution systems were posed. Many of the educators (40%) indicated that the labour dispute resolution systems were not accessible to them while only 28% were positive and felt that they were accessible.

The respondents’ level of confidence in the system according to respondents surveyed was also very low (46%). This is cause for serious concern. Those who have confidence in the system account for 23% only.
Thirty-eight percent of the respondents were positive that the effective management of the labour dispute system can have a positive effect on the district.

An area where respondents were negative was about the time or period that is taken to resolve disputes in the district. Of the respondents surveyed 55% felt it took an unreasonably long time to resolve disputes in the district while a very small percentage of 13% think disputes are resolved in a reasonable time. The percentage of neutral responses was also high at 32%.

There was a high percentage (42%) of respondents who did not think disputes were resolved in a just and fair manner.

According to respondents surveyed, only 13% agreed that the district had more resolved labour disputes than do other districts in the province. This very low percentage gives cause for concern.

Overall the respondents were negative about the effectiveness of the dispute resolution system (M=2.66, SD 0.78) with only 16% positive regarding the system.

Respondents who think the system is independent of government control constituted a mere 23%. In order to address or correct this perceived anomaly, the overwhelming majority, (76%), of respondents endorse the notion that the labour dispute resolution should be independent of government. According to dispute resolution theory, the more independent the system is from government, the more legitimate and credible the system will be in the eyes of the educators, especially those involved in disputes with the department.

The respondents spoke with one voice regarding the need for awareness and the lack of training on labour dispute resolution systems in the district: 87% of respondents felt that improved awareness of the workings of labour dispute systems would lead to better use of these mechanisms. The conclusion that can be drawn from their responses is that there is little or no awareness training on labour disputes provided by the district to educators. It may also well be that if educators were awareness of how better to utilise labour disputes mechanisms, there would probably be an increase in the number of disputes. Awareness goes hand in hand with training on labour disputes as 86% of respondents also felt that if there were better training they would utilise the systems. It is interesting to observe the
consistency and the emphasis that the respondents place on awareness and training as factors that would enable them to utilise the systems. The Department of Education clearly has an important role to play in this regard.

A big percentage of respondents think that disputes that educators have with the Department of Education arise as a result of the fact that the department flouts its own policies, rules and regulations. For example, 89% of respondents surveyed maintain that if the Department of Education could ensure the effective implementation of its policies, there would be fewer disputes. According to respondents, there is a positive connection between the observance of its policies by the Department and the elimination of disputes. In other words it is not enough for policies to exist: they must be also be implemented effectively by the Department.

Seventy-nine percent of the respondents felt that if educators were more involved in union activities, they would have greater knowledge of labour dispute matters. Moreover the fact that 71% of respondents felt the unions were doing a good job to represent members in labour disputes indicates a vote of confidence in the unions.

A high percentage of respondents think that disputes have a negative impact on the functioning of the education system in the district. Stability of the education system is associated with absence of or few labour disputes by 62% of respondents.

The next three tables (13, 14 and 15) explored the relationship between gender, age and length of service to so as identify if any of these sub-groups showed a greater propensity to be involved in labour disputes.

**Table 13: The relationship between gender and the likelihood of having had a labour dispute with the department**

<table>
<thead>
<tr>
<th>Gender</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Male</td>
<td>21</td>
<td>45</td>
<td>66</td>
</tr>
<tr>
<td>Female</td>
<td>18</td>
<td>56</td>
<td>74</td>
</tr>
<tr>
<td>Total</td>
<td>39</td>
<td>101</td>
<td>140</td>
</tr>
</tbody>
</table>

\[ \text{Chi}^2 (d.f. = 1, n=140) = 0.97; \ p = .3230. \]

As can be seen from the table 13 above there was no relationship between gender and the likelihood of having had a dispute with the department. (p=.320)
Table 14: The relationship between age and the likelihood of having had a dispute with the Department

<table>
<thead>
<tr>
<th>Age</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>45 and younger</td>
<td>15</td>
<td>55</td>
<td>70 100%</td>
</tr>
<tr>
<td>46-55</td>
<td>18</td>
<td>33</td>
<td>51 100%</td>
</tr>
<tr>
<td>Over 55</td>
<td>7</td>
<td>13</td>
<td>20 100%</td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>101</td>
<td>141 100%</td>
</tr>
</tbody>
</table>

$\chi^2$ (d.f. = 2, n = 141) = 3.30; $p = .192$

As can be seen in table 14 above there was no relationship between age and the likelihood of having had a dispute with the department. ($p=.192$)

Table 15: The relationship between years of experience and the likelihood of having had a dispute with the department

<table>
<thead>
<tr>
<th>Years of experience</th>
<th>Yes</th>
<th>No</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10</td>
<td>4</td>
<td>24</td>
<td>28 100%</td>
</tr>
<tr>
<td>10-20</td>
<td>17</td>
<td>38</td>
<td>55 100%</td>
</tr>
<tr>
<td>Over 20</td>
<td>19</td>
<td>39</td>
<td>58 100%</td>
</tr>
<tr>
<td>Total</td>
<td>40</td>
<td>101</td>
<td>141 100%</td>
</tr>
</tbody>
</table>

$(\chi^2$ (d.f. = 2, n = 141) = 3.46; $p = .178$).

As can be seen in table 15 above there was no relationship between years of experience and likelihood of having had a dispute with the department ($p=.178$).

It has thus been indicated in Tables 13, 14 and 15 above that there is no relationship between gender, age or the years of experience and the likelihood of having had a dispute with the Department.

The next section (see Tables 16, 17, 18, 19 and 20) deals with the relationships of various sub-groups and their perceptions of the degree of effectiveness of the dispute resolution system. The sub- groups explored were those who had or had not a dispute, gender, age and length of service.
Table 16: The relationship between having had a dispute with the department and the perception of the effectiveness of the dispute resolution system

<table>
<thead>
<tr>
<th>Have you ever had a dispute with the Department</th>
<th>Perception of the effectiveness of the dispute resolution system</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>Negative</td>
</tr>
<tr>
<td>Yes</td>
<td>25</td>
</tr>
<tr>
<td>No</td>
<td>29</td>
</tr>
<tr>
<td>Total</td>
<td>54</td>
</tr>
</tbody>
</table>

(Chi² (d.f. = 2, n = 141) = 13.84; p = .001; V = 0.31 Medium).

From Table 16 above it can be seen that those who had had a dispute with the department were significantly more negative regarding the dispute system than those who had not been involved in such disputes (Chi² (d.f. = 2, n = 141) = 13.84; p = .001; V = 0.31 Medium).

Table 17: the relationship between gender and perceptions of the effectiveness of the dispute resolution system

<table>
<thead>
<tr>
<th>Variable</th>
<th>Gender</th>
<th>n</th>
<th>Mean</th>
<th>S.D</th>
</tr>
</thead>
<tbody>
<tr>
<td>The effectiveness of the dispute resolution system.</td>
<td>Male</td>
<td>66</td>
<td>2.59</td>
<td>0.75</td>
</tr>
<tr>
<td></td>
<td>Female</td>
<td>74</td>
<td>2.73</td>
<td>0.80</td>
</tr>
</tbody>
</table>

(t = -1.13, d.f. = 138, p = .261).

From Table 17 above it can be seen that there is no relationship between gender and the perception of the effectiveness of the dispute resolution system (p=.261).

Table 18: The relationship between age and the perception of the effectiveness of the dispute resolution

<table>
<thead>
<tr>
<th></th>
<th>Younger than 45</th>
<th>46-55</th>
<th>56 and older</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>n=70</td>
<td>n=51</td>
<td>n=20</td>
</tr>
<tr>
<td>Mean</td>
<td>2.73</td>
<td>2.60</td>
<td>2.56</td>
</tr>
<tr>
<td>SD</td>
<td>0.79</td>
<td>0.78</td>
<td>0.75</td>
</tr>
<tr>
<td>ANOVA</td>
<td></td>
<td></td>
<td>F 0.637</td>
</tr>
<tr>
<td>p</td>
<td></td>
<td></td>
<td>.530</td>
</tr>
</tbody>
</table>

From table 18 above it can be seen that no relationship is evident between age and perception of the effectiveness of the dispute resolution systems (p=.530).
Table 19: Descriptive statistics for the relationship between years of experience and the perception of the effectiveness of the dispute resolution systems

<table>
<thead>
<tr>
<th></th>
<th>0-10 n=28</th>
<th>10-20 n=55</th>
<th>Over 20 n=58</th>
<th>ANOVA</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Mean</td>
<td>SD</td>
<td>Mean</td>
<td>SD</td>
</tr>
<tr>
<td>Perception of the effectiveness of the dispute resolution systems</td>
<td>3.02</td>
<td>0.73</td>
<td>2.56</td>
<td>0.83</td>
</tr>
</tbody>
</table>

Table 19 indicates a significant difference between the length of experience and the perceptions of effectiveness (p=.021). To determine further the relationship Table 20 shows the results of the Scheffe test.

Table 20: Scheffe test to determine the relationship between years of experience and the perceptions of the effectiveness of the dispute resolution system

<table>
<thead>
<tr>
<th>Years exp2 1</th>
<th>Years exp2 2</th>
<th>Diff. M1-M2</th>
<th>Scheffé p</th>
<th>Cohen's d</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-10</td>
<td>10-20</td>
<td>0.46</td>
<td>.037</td>
<td>0.57</td>
</tr>
<tr>
<td>0-10</td>
<td>Over 20</td>
<td>0.45</td>
<td>.043</td>
<td>0.62</td>
</tr>
<tr>
<td>10-20</td>
<td>Over 20</td>
<td>-0.01</td>
<td>.995</td>
<td>n.a.</td>
</tr>
</tbody>
</table>

The above table 20 indicates a relationship between years of experience and perceptions of the effectiveness of the dispute resolution system. Those who had had between 0-10 years of experience in the department were practically significantly more positive (M=3.02, SD 0.73) than those with 10-20 years’ experience (M=2.56, SD 0.83) or those with over 20 years (M=2.52, SD 0.70) with p=0.037 d=0.57 and p=0.043 d=0.62 respectively.

4.3 Interviews

Educators who have had disputes with the department of education were interviewed to determine their perceptions of labour disputes.

The following table gives an indication of the demographic profile of those who were interviewed.
Educators who were interviewed (n=6)

<table>
<thead>
<tr>
<th></th>
<th>Frequency (f)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gender</td>
<td></td>
</tr>
<tr>
<td>Males</td>
<td>4</td>
</tr>
<tr>
<td>Females</td>
<td>2</td>
</tr>
<tr>
<td>Current Position</td>
<td></td>
</tr>
<tr>
<td>Educator</td>
<td>1</td>
</tr>
<tr>
<td>HOD</td>
<td>1</td>
</tr>
<tr>
<td>Deputy Principal</td>
<td>1</td>
</tr>
<tr>
<td>Principal</td>
<td>3</td>
</tr>
<tr>
<td>Education level</td>
<td></td>
</tr>
<tr>
<td>Diploma</td>
<td>1</td>
</tr>
<tr>
<td>Degree</td>
<td>2</td>
</tr>
<tr>
<td>Post-graduate degree</td>
<td>3</td>
</tr>
<tr>
<td>Age</td>
<td></td>
</tr>
<tr>
<td>46-55</td>
<td>3</td>
</tr>
<tr>
<td>Over 55</td>
<td>3</td>
</tr>
<tr>
<td>Years of teaching experience</td>
<td></td>
</tr>
<tr>
<td>0-10</td>
<td>0</td>
</tr>
<tr>
<td>10-20</td>
<td>0</td>
</tr>
<tr>
<td>Over 20</td>
<td>6</td>
</tr>
</tbody>
</table>

4.3.1 Demographic profile

Six educators (two females and four males) who have had disputes (and who were purposively selected), were interviewed. Circumstances did not allow the researcher to obtain a more appropriate gender balance. The positions of the interviewees in the Department were as follows: one educator, one head of department, one deputy principal, two principals and one Education development officer who was the principal at the time of a dispute with the department.

All the interviewees were over forty five years of age and had between twenty years and thirty six years teaching experience. Three educators were affiliated to NAPTOSA and the other three to SADTU. Their qualifications ranged from B Tech and BA degrees up to a Master’s degree in education.

4.4 Discussion

The following discussion focuses on the responses by the respondents to the survey questionnaires and the interviews. The information gathered from the respondents in the survey questionnaires and interviews is integrated, in terms of research questions to reflect the extent to which the views of respondents address or do not address the research questions.
Research Question 1: Are educators aware of and do they understand the labour dispute resolution system or mechanisms that are available in the education sector in the Queenstown District?

Four of the six educators interviewed indicated in their responses that they were not aware of and did not understand the labour resolution system mechanisms that are available in the district. One respondent blamed district officials as the root causes of the problem. The responses of the interviewees who have had disputes with the department are consistent with those of the responses of the questionnaire survey respondents. Sixty-three of the educators surveyed, said they did not know of or were not aware of the existence of labour dispute mechanisms in their district. (Table 6)

In terms of accessibility of the labour disputes systems, again four interviewees indicated that they had no access to the system. One of the interviewees remarked as follows:

‘No, because nobody takes the trouble to brief us about these systems’.

The interviewed respondents apportioned the blame squarely at the door of district officials who were seen as part of the problem rather than providing a solution. Respondent 1 remarked;

‘Departmental officials are not clear themselves of the systems.’

Respondent 2 had this to say;

‘The departmental officials are unhelpful in making educators understand the dispute resolution process.’

It is clear from both the responses of the interviewees and those of the respondents surveyed through the questionnaire that the majority of educators were not aware of the labour dispute systems. The district officials were perceived to be doing little or nothing to ensure that educators know about the workings of these systems. This is of great concern because if educators do not know about them systems, it also follows that they are not able to utilise these systems. This lack of knowledge could serve as an obstacle and therefore deny educators the opportunity to exercise their right to utilise the systems.

Research question 2: What do educators know about the efforts or attempts that are being made by the Department of Education and teacher labour unions to ensure that educators are aware of the labour dispute resolution systems and structures and to how manage the system?

All educators interviewed emphasised that the Department of Education has the responsibility to ensure that disputes are resolved as efficiently and as quickly as possible. They felt that the various structures within the school and the department have to ensure jointly that disputes are resolved.
Respondent 4 commented

‘The leadership at school level and district and head office and other social partners such as teacher unions should do the job’.

Other interviewees felt that saying the district director, labour relations of the Department and the management of the schools should resolve disputes quickly and efficiently. The respondents surveyed through questionnaires are also of the view that the Department of Education should advise educators about labour dispute systems available in the sector. Fifty percent responded positively that the department has to perform this function, (Table 8) 43% of the respondents also felt that unions have a significant role to play while 62% (Table 7) blamed the Department of Education for educators’ lack of knowledge of the systems.

In other words both the interviewees and respondents surveyed through questionnaires feel equally strongly that the department and unions have a critical role to play in training and creating awareness with regard to on labour dispute resolution systems. However seventy-one percent indicated that the union does represent them well in labour disputes (Table 12). This underscores the critical role the respondents expect the unions to play in assisting their members who are involved in labour disputes.

Furthermore, four interviewees indicated that the union is playing a positive and helpful role to resolve disputes. The following statements from some respondents are worth quoting;

Respondent 1 - ‘The union mediates disputes and advance the interests of its members’.

Respondent 2 - ‘Plays a more positive and critical role to ensure the speedy resolution of disputes than the department.’

Respondent 3 - ‘The union engages the department to try and resolve disputes so that teaching and learning is not disrupted.’

Only one interviewee respondent claimed that the union not playing its role as expected. This is captured in the following statement from the interviewee:

Respondent 5 - ‘There is a lack of proactive action and engagement with the department. Unions are reactive only when disputes arise.’

To conclude the overall impression of educators interviewed and surveyed is that the department and the unions have a critical and joint responsibility to create advocacy and awareness among educators to ensure they understand labour dispute resolution systems.
Research question 3: How do educators perceive these systems? In other words do they regard them as effective or ineffective in terms of resolution of their disputes?

Of the 40 educators who had had disputes, 48% reported that these were resolved to their satisfaction. This is a positive outcome and can be credited to the Department of Education’s quest to resolve labour disputes amicably. However, it does mean that for 52% (a slender majority) their disputes were not resolved to their satisfaction. On the other hand the majority (four of the six) of the interviewees had had their disputes resolved to their satisfaction. This leaves a good deal of room for improvement with regard to the satisfactory settlement of disputes.

The majority of the respondents (both those interviewed and those surveyed) expressed lack of confidence in the labour dispute systems. In addition four of the six interviewees said the systems are not accessible and 40% of the surveyed respondents expressed the same view. This is disempowering for educators as the ability to utilise them depends on knowledge of and access to these systems.

The majority of respondents interviewed and surveyed have no confidence in the labour dispute resolution system in their district. As few as 23% of the questionnaire respondents claimed to have confidence in the system whereas 46% were negative while four of the six interviewees had no confidence in the system (Table 12). Interviewed respondents blamed district officials whom they perceive to be ineffective in their jobs.

The following remarks from interviewees merit quoting:

Respondent 1 - ‘Communication is poor’
Respondent 2 - ‘Problems are still there’
Respondent 5 - ‘There is a delay in the system’

Surveyed educators felt that more effective management of the labour dispute system would have a positive effect in the entire sector Queenstown district sector 38% indicated that they saw a positive relationship between the effective management of labour disputes and a positive effect on the entire system.

The ongoing problem of inordinate and unreasonable delays taken to resolve disputes was well articulated by both respondents and interviewees. Not surprisingly only 13% of the questionnaire respondents agreed that disputes are resolved in a reasonable period in the district. Interviewed respondents also confirm this view:

Respondent 1 - ‘Disputes are resolved slowly’
Respondent 2 - ‘Disputes take too long to resolve’

Respondent 3 - ‘Disputes take years to resolve’

Interviewees attributed this state of affairs to lack of capacity or inability of district officials to deal with disputes. This is something the Department needs to look at seriously and carefully in the interests of sound labour relations and stability.

Moreover, according to the surveyed respondents and interviewees, disputes were not generally resolved in a just and fair manner. Four of the six interviewees who have had disputes with the department feel the process was handled unjustly and unfairly and 42% of the surveyed respondents felt the same way (Table 12). It might well be that respondents suspect that the Department might be unduly interfering with the independence of the Council to resolve disputes objectively and impartially, hence their negative perceptions in this regard.

Thirty-three percent of surveyed respondents think that the Queenstown education district has more unresolved labour disputes than other districts and fifty-five percent were unsure. If the majority of respondents hold these perceptions about more non resolved disputes this means that the district is sitting with unhappy and disgruntled employees. This being the case, it seems that, unhappy employees are unlikely to be productive and efficient.

Therefore, it is clear that the majority of interviewees perceive the labour dispute systems to be ineffective and very slow. Interviewee respondents had this to say:

Respondent 1 - ‘They leave much to be desired as the department loses many cases at a high cost’.

Respondent 2 - ‘They are slow, demoralising, dehumanising and frustrating’.

Respondent 5 - ‘There is big room for improvement’

Respondent 6 - ‘A high degree of independence and professionalism is needed’

The pronouncements of the respondents give a clear indication that the respondents lack confidence in the processes and are calling for an improvement in the systems.

**Research Question 4: How do the educators perceive the supposed independence of these systems and structures from the government for instance? Do they perceive them as separate or linked to the government or Department of Education and is the concept of independence important for them?**

The majority of surveyed educators do not think labour dispute resolution systems are separate or independent from government and the Department of Education. Only 23% of the respondents perceive them to be independent whereas 40% do not think so. All
interviewees also perceive them to be linked to government and are of the view that they should be separate or independent from government. Interviewee respondents remarked:

Respondent 1 - “They should be separate from government in order to promote efficiency in the system and impartiality”

Respondent 5 - “It is linked to government and should be separate or independent.”

It would seem that interviewees were of the view that the integrity and credibility of the system depends to a large degree on its independence. The credibility of decisions emanating from the process, as also its acceptance by educators relies on the actual independence of the system.

To conclude: surveyed educators and interviewees expressed an unequivocal and an overwhelming view that the labour dispute system should be independent. Surveyed educators believe that it is important that the labour dispute resolution system should be independent: Of the 141 educators surveyed, 76% believe the system should be independent from both government and the department of education. This is a very high percentage of respondents: it highlights the significance of respondents’ need to believe in the independence of the systems. In the same vein all interviewees also held the same view: this further underscores the importance of real independence. The following remarks from interviewees validate this conclusion:

Respondent 1 - ‘Yes the system must stand alone and should have officials with the necessary skills.’

Respondent 2 - ‘Yes for the sake of fairness and justice’

Respondent 5 - ‘Yes the government cannot be a referee and a player as it is the case now’.

The importance of the independence of the system cannot be over-emphasised: this goes to the heart of the credibility of the system. It is important for all concerned to ensure not only the independence of the system but that also this autonomy defended and maintained.

**Research Question 5: What factors would increase educators’ utilisation of the dispute resolution mechanisms or systems in the Queenstown education district?**

The vast majority of the surveyed respondents believed that if there was better awareness and training on labour dispute resolution systems, more educators would utilise these mechanisms. Of the 141 respondents surveyed 87% and 86% advocated a need for awareness and training respectively in order to enhance better utilisation of the systems by
educators. It is, therefore, critical for the Department and the unions to provide awareness and training to educators so that they know how to make proper use of the systems. Without awareness and training it would be difficult for educators to utilise the systems. The involvement of respondents in union activities would enhance their knowledge of labour dispute systems. Of the 141 educators surveyed in this regard, 79% believed their involvement would enhance their knowledge in terms of labour disputes. (Table 12)

Five of the six interviewed educators believed that educators were not optimally utilising the dispute resolution systems that are available. The reason given by some of them was that no information is made available to them. The following are some of the responses of the interviewees:

Respondent 1 -  “No, educators do not know them.”

Respondent 2 -  “No, because they are not trained in the labour disputes.”

Respondent 5 -  “No. There is no information freely available. You get to know about these systems when you are involved in a dispute.”

Respondent 6 -  “No, they are not aware of all the systems as a result they are caught unaware when there is a dispute.”

The above responses by interviewees point to the common theme of a need for awareness and training which has been confirmed by the surveyed educators. This means that the common thread running through to all respondents was the need for awareness and training which was needed to improve or enhance the knowledge of educators for better utilisation of the systems.

The interviewees and surveyed educators thought that the union and government have a critical role to play in ensuring that educators utilise the labour dispute systems. This is evident in the following responses given by interviewees:

Respondent 1 -  “The government must organise workshops to equip educators with knowledge to enable educators to utilise the labour dispute systems.”

Respondent 4 -  “The government must equip educators on these systems.”

Respondent 5 -  “Unions should educate their members and the employer should do the same.”

Respondent 6 -  “Workshops and training by the department should be done in order to improve awareness in educators.”

Respondents believed that the unions have the capacity and the necessary financial resources from member’s subscription fees to conduct awareness and training workshop for
their members. Unions have a responsibility to ensure that their members are properly informed and enlightened on the operation of these systems. It is also in the interests of unions to ensure that there is stability in the education system. The government was enjoined by the constitution and legislation passed to provide training to educators: this includes enlightenment on labour-related matters.

Research Question 6a: What do the educators consider the most common disputes in the Queenstown education sector?

The majority of surveyed respondents consider the most common disputes in the district to be connected with remuneration or salary-related or benefit matters. This view is confirmed by 48% of the educators who have had dispute with the department. Another cause of disputes unfair labour practices such as promotion: this was confirmed by 38% of the educators who have had disputes with the department (Table 4).

Even those surveyed respondents who had never had a dispute with the department considered remuneration and benefits and unfair labour practice as the most common types of disputes. This is reflected by 43% and 38% respectively of respondents surveyed in this regard (Table 11).

The interviewees also confirmed the above and shared the same perceptions as those of the surveyed educators. This is reflected in the following responses:

Respondent 1 -  "The most common types of disputes are educator salary related benefits and promotions."

Respondent 2 -  "Educator rights such as benefits"

Respondent 6 -  "Unfair labour practice by the department"

Interviewees and surveyed respondents have pointed out that their union was doing well when representing educators with regard to labour disputes. The unions have a responsibility to represent their members, as well as to work in partnership with the Department to ensure that disputes are prevented or resolved. The preponderance of issues involving salary-related benefits can be attributed to the fact that educators hold these dearly due to the socio-economic realities and challenges faced in contemporary society.
Research Question 6b: What do the educators consider are the causes of disputes in the Queenstown education sector?

The correct implementation of- and adherence to its own policies by the Department was a crucial issue according to surveyed respondents. Of the educators surveyed, 89% believe that if the Department of Education could ensure the effective implementation of its policies, there would be fewer labour disputes. The perceptions shared by surveyed respondents are that the Department is flouting its own policies and laws hence the many disputes with its employees. Interviewed educators also attributed the Department’s failing to observe its own policies as the causes of disputes in the district. Some attributed this to the Department’s delays when supposedly resolving disputes and also to the incapability of departmental officials. Interviewees have this to say:

Respondent 2  -  “Failure by the department to observe or adhere to its own policies and legislation.”

Respondent 3  -  “Lack of understanding of legislation such as Labour Relations Act by the departmental officials”

Respondent 4  -  “Failure by the department to observe policies and lack of transparency in the operations of the department of education.”

Respondent 6  -  “Lack of knowledge and understanding of labour issues and procedures by departmental officials.”

The respondents thought that the capacity of district officials needed to be improved in order to ensure that the labour disputes are reduced and possibly even eliminated. The flouting of policies and other legislation by the departmental officials also need to be addressed.

Research Question 6c: What do the educators consider are the impact of disputes in the Queenstown education sector on education in the district?

There was consensus among the surveyed respondents and the interviewed educators that labour disputes have a negative impact on education in the district. Of the educators surveyed, 62% of respondents believe that having many labour
disputes unresolved is not good for the education responsibilities and image of their district. All interviewed educators also agree with this assertion:

Respondent 1 - “The quality of teaching and learning is compromised and many learners are negatively affected.”

Respondent 3 - “Affected parties and disputants get demoralised in doing their jobs.”

Respondent 4 - “Affects service delivery negatively and industrial action takes place unnecessarily.”

Respondent 6 - “The district becomes unstable.”

Respondents believe that the proper and effective functioning of the education system requires an environment free from labour disputes. The main objectives of the core business of teaching and learning cannot be delivered and achieved if there are so many labour disputes. Educators thought that there was a positive connection between absence of labour disputes and efficiency in the education sector. The Department and the unions in particular have a critical role to play to ensure that labour disputes are addressed so as to ensure improved delivery of teaching and learning.
4.4.1 Concluding interpretations and additional comments

The surveyed and interviewed educators have revealed interesting ideas and insights with respect to labour dispute resolution systems in the Queenstown district. The main themes that came through from educators were that educators were not properly aware of the workings of labour dispute resolution systems. There was an acute need for awareness and training of educators by the department and unions in this regard. There was unanimity of opinions in this regard: moreover the feeling was that if disputes remained unresolved this negatively affected the business of the Department of Education. Unions and the Department of Education are seen as having a pivotal role to play in ensuring awareness and training of educators in the labour systems. The most common types of disputes in the district stemmed from remuneration and benefits-related issues for educators, together with matters related to unfair labour practice involving promotion etc. The lack of capacity of district officials was blamed for the lack of knowledge of dispute systems. Many educators felt that they did not have access to the dispute systems and lacked confidence in them. The majority of educators advocated for a more independent dispute system as they perceive the present one to be linked to government. As indicated by the research findings, the above views represent the common views of the surveyed and interviewed educators.
CHAPTER 5

5. CONCLUSIONS AND RECOMMENDATIONS

5.1. Introduction

The objective of this chapter is to discuss the main findings of the research. The results obtained in the previous chapter where educators were surveyed through questionnaires and interviews will be drawn together. This chapter will summarize and discuss salient points emerging from the data analysed. An attempt will be made to interpret the results and conclusions in terms of literature or theory outlined in chapter two so as to determine whether there is connection between the research findings and the literature review.

This chapter will also discuss any anomalies and surprising results or findings emanating from the research. The broader relevance and value of the study and its significance to the education sector will be discussed. The chapter will conclude by making clear recommendations for further research based on the findings and will outline some possible policy implications for the education sector.

5.2 The main research findings

The following point to the main research results or findings of the study:

5.2.1 The most common type of disputes

It has emerged from the results of the research that the most common types of labour disputes concerned remuneration and other educator benefits (48%, table 4). The second most common type of labour dispute relate to unfair labour practices (ULP) such as challenges involving promotion and appointments (38%, table 4). According to the ELRC 2010/11 annual report, unfair labour disputes relating to promotions and appointments constituted 44% of disputes. Other ULP disputes constituted 18%, unfair dismissal 30%, interpretation and application of collective agreement 5%, mutual interests and BCEA compliance disputes made up the remaining 3%. (ELRC 2010/11 Annual report).
At the national level the most common type of disputes declared by educators relate to unfair labour practice such as promotion and appointments: these constitute 45% of disputes, as opposed to the more dominant remuneration and benefits’ types of disputes found in the Queenstown education district. This seems to reflect trends in the Eastern Cape where 44 disputes were submitted to ELCR: of these 60% constitutes ULP.

5.2.2. The ineffectiveness of labour dispute systems and the degree of confidence educators have in these systems.

The majority of surveyed and interviewed educators believed that the labour dispute resolution rate is not effective and they do not have confidence in the system. Of the 141 respondents surveyed, only 23% have confidence in the labour dispute system in the district. These educators believe that labour disputes in the district are not resolved in a reasonable period. This view was expressed by 55% of the respondents whereas only 13% thought the disputes were resolved in a reasonable period. Of the six interviewees who have had disputes with the department, four believed it took a long time for the Department to resolve disputes. According to the ELRC rules, an educator has to lodge a dispute with the council within 30 – 90, days depending on the nature of the dispute. The council must then set down the matter for conciliation and arbitration as soon as possible. (ELRC Constitution)

The majority of the respondents expressed a vote of no confidence in the system. Of the surveyed educators, only 23% had confidence in the system. The majority of the respondents also felt that disputes were not resolved in a fair and just manner and that the system was not accessible to most educators. The sentiments were in line with the hypothesis and assumptions (see Chapter 1, paragraph 1.6) which were based on the researcher’s personal knowledge, observations and experience as an educator and district official in the Queenstown education district.

The Labour Relations Act 55 of 1995 and ELRC advocate the speedy and efficient resolution of disputes. In addition Thompson (2011) states that dispute resolutions services should be accessible. The fact that dispute resolution took a long time and there were unreasonable delays in the resolution of disputes is therefore contrary to policy and legislation.
5.2.3 The levels of awareness and training of educators in labour disputes

Brand et al (1997) point out that dispute resolvers need to be well qualified and highly knowledgeable about the appropriate legal frameworks. The common thread that has been running through those surveyed and those interviewed regarding the alleged lack of knowledge of labour disputes by educators, pointed to lack of awareness and training on labour dispute systems. Of the surveyed respondents 87% cited lack of awareness and 86% adequate training as necessary requirements in order for educators to properly utilise the labour dispute systems.

The Department of Education and the district personnel concerned were also blamed or criticised by the interviewed respondents for lack of knowledge and for being part of the problem rather than the solution. The unions were also expected to provide awareness raising and training for their members.

The labour relations section of the Department is responsible for providing awareness and training on labour dispute systems to educators. The fact that the perceptions of the surveyed educators with regard to lack of awareness and training constitute 91% of the response recorded highlights the great need for more training. Respondents indicated that they believed through awareness and training educators could gain a better understanding of the system and thus be enabled to utilise it more effectively. The Skills Development Act of 1998 enjoins the Department to provide relevant and needed training to its employees. The Department seemed not to have fulfilled this responsibility as expected according to respondents. In addition the unions are obliged to service their fee-paying members and they too seemed to not have assisted sufficiently with training according a majority of respondents. Adherence to departmental policies and to relevant legislation and to capacity building of officials to enable them to discharge their duties efficiently is crucial.

5.2.4 The impact of more unresolved disputes on education in the district

Educators agree on the negative impact that unresolved disputes can have on provision of education in the Queenstown district. For example, of the surveyed respondents 62% believed that labour disputes had a negative impact on education in the district. Of the interviewed educators, all of them believed that labour disputes affected the district’s education service delivery negatively.
Cleary then the core business of the education district which is teaching and learning is adversely affected by labour disputes. The respondents maintained that these disputes led to instability district because the quality of teaching and learning was compromised. Interviewed educators stated that industrial action also takes place unnecessarily and the quality of teaching suffers while resources are wasted.

5.2.5 Gender, age, and experience and the likelihood of having had a dispute with the department

The research findings indicated that there found no relationship between gender, age or years of experience and the likelihood of having had a dispute. In other words the likelihood of an educator having a dispute with the department on the basis of gender did not exist. The responses from the respondent’s showed that gender was not a factor in lodging a dispute.

5.2.6 The relationship between having had a dispute and gender, age and length of service- and perceptions of the effectiveness of the dispute resolution system

Those educators who have had a dispute unsurprisingly have a more negative attitude towards the dispute resolution system than those who never had a dispute. Educators who have had a dispute with the department were divided in terms of whether these were resolved to their satisfaction. The fact that disputes were in fact resolved to the satisfaction a large number of educators was a surprising finding.

No relationship was indicated between gender, age and respondents’ attitudes towards effectiveness of the dispute resolution system. However, there was a relationship between years of experience and respondents’ attitudes: for example those who had been in the employ of the Education Department for shorter length of time (0-10 years) were more positive than those that had in service there for a longer period.
5.3 Recommendations

With regard to the above conclusions and findings, the following recommendations are suggested:

5.3.1 Professional development of district officials on labour dispute systems

The Department of Education needs to develop and devise concrete plans and programmes to capacitate district officials’ especially labour relations personnel on providing training and awareness of labour dispute systems. This will enable them to appreciate the complexities associated with labour disputes and assist the department to deal with labour disputes expeditiously and efficiently as and when they arise.

An improved provision of professional development should include awareness-raising re current policies and legislation: this should include collective agreements signed in ELRC in particular and also Public Service Circulars and memoranda for regulating labour matters.

5.3.2 Awareness and training of educators

The Department of Education needs to ensure that educators, SMTs and principals are empowered with the requisite knowledge on labour disputes. The training programmes should be on-going and focus on policies and the relevant legislation affecting educators involved in and labour disputes. The respondents have made it clear that there is an acute need for in this area. If it can be properly and adequately addressed it could go a long way towards reducing the incidence of labour disputes.

5.3.3 Partnership between labour unions and the Department of Education

The respondents expressed a strong need for the unions to play an increasingly important role in creating awareness and training for educators. In the past, the Department has partnered unions, especially SADTU, in rolling out training on its programmes such as outcomes based education and national curriculum statements, among others. There is therefore a great need to revive and strengthen that partnership in the creation and training of as many educators as possible on workings of the labour dispute resolution systems. Unions are regarded as social
partners of the Department of Educational and they are expected to play a vital role in assisting the department to deliver on its mandate of ensuring quality teaching and learning.

5.3.4 Focus on the most common types of labour disputes.

The most common types in the district have been identified by respondents. These are unfair labour practice such as promotion and appointments and educator salary and related benefits. The Queenstown district department needs to pay special attention and focus on these in terms of creating more awareness and training of district officials and educators around these areas.

This would ensure that all parties concerned are aware and clear about the areas that pose problems so that these can be tackled and addressed in a proactive and effective manner. The district can also solicit the support of Head Office and National labour relations experts or specialists and ELRC in this regard.

5.3.5. Speedy resolution of labour disputes

Most educators surveyed and interviewed indicated that it was taking a long time to have disputes resolved in the district. The criteria of efficiency in dispute resolution identified by Brand, Lottes, Steadman and Ngcuka (2008) cited in Thompson (2011). Provides that a solution to a labour dispute has to be found as quickly as possible otherwise if it takes too long it will negatively affect labour peace in the workplace.

The speedy resolution of labour dispute is in the interest of the education sector and the Queenstown district in particular for labour peace and the enhancement of teaching and learning. The more time it takes to resolve disputes the more negative effect this has on the education sector. The quicker it takes the better for all concerned in the education system. There needs to be compliance with and observance of time limits stipulated in the ELRC and other bargaining councils in the resolution of disputes.
5.4. Further research

This study dealt with labour disputes in Queenstown district. Notwithstanding this reality, there are other important issues that have not been explored. The researcher would like to recommend further research to be carried out and taken forward by other researchers. The following issues are recommended for further research:

5.4.1. The effect of labour disputes on educators’ performance and intention to quit

There exists a need to establish the impact that labour disputes may have on individual educators who have a dispute with the Department. This relates to their productivity level, morale, effectiveness and intention to stay in this service. Whether a dispute has an effect in terms of educators remaining or leaving the service is an issue of national importance.

5.4.2. The impact of labour disputes on teaching and learning

Do labour disputes affect academic performance or achievement of learners as a result of educators having disputes with the department? In other words, is there a relationship between educators affected by labour disputes and the educational achievement of learners? Future research needs to establish whether there is a likelihood of poor performance of learners where their teachers have a dispute with the department.

5.4.3. The relationship between labour disputes and educational qualifications of educators

Does the level of education of educators, play a role in the labour disputes? Furthermore, does the level of education of an educator play a role in the resolution of labour disputes in the education sector? These are questions that require investigation.
5.4.4 The geographical location of the educator and the possibility of a labour dispute

Is there a relationship between the likelihood of a dispute and the place or school where the educator is teaching or located? In other words does the place where the educator is located play a vital role in labour dispute? This also requires an investigation as it could constitute a significant factor affecting the likelihood of disputes occurring.

5.5 Limitations

There were certain limitations that the researcher was faced with or experienced during the conducting of the research. For example, the size of the sample was not as large as it might have been. This had to do with many programmes that the department had introduced so educators were very busy and simply did not have time to answer the questionnaires.

The second limitation related to the fact that educators were sceptical about the objectives of the research despite the explanation and assurances that were provided. This scepticism especially involved those who have had disputes in the past and who had to be reassured- some more than once- before the researcher gained their confidence. Some withdrew and others refused to participate as they thought that the information would be used against them.

The last limitation has to with the size and the terrain of the district. Because the researcher had to rely on some EDO’s and colleagues in the distribution of the questionnaires, schools in the remotest parts of the district could not be researchers. Therefore, the results cannot be generalised across the district.
5.6 Conclusion

This chapter has dealt with the conclusions and findings related to labour resolution systems in the Queenstown education district. The main findings revealed the perceptions of the surveyed and interviewed educators on various aspects of labour disputes. Educators highlighted the need for a quick and efficient resolution of disputes to ensure the maintenance of justice and stability in the education sector. This is in line with the insights gained from other research studies and from relevant literature. If there are more disputes there is a perception that the well-being or smooth functioning and operation of the Education Department can be negatively affected.

The responsibility of the Department is to ensure that awareness-raising and training of district officials and educators is provided for so that officials are able to discharge their functions meaningfully and so that educators can utilise the systems properly. Another point that emerged strongly from the views of the respondents was the urgent need to maintain the independence of the labour dispute systems. Perceptions exist that the system is not separate from the Department or Government. The respondents believe it must be independent in order for it to enjoy legitimacy and to function appropriately. This notion confirms the assumption made in chapter 1 paragraph 1.6.2.

It is hoped that the study has illuminated interesting and important issues that have implications for policy and legislation in respect of labour dispute systems. The research has highlighted critical labour dispute system issues within the context of the Queenstown district these issues need special and focused attention for improved service delivery. Although the results of the study cannot be generalised as such they provide sufficient validity and reliability to assist the Queenstown education district to address labour dispute systems moving into the future.
REFERENCES


Education Management Information Systems, 2013


ACTS / LEGISLATION

Basic Conditions of Employment Act 75 of 1997

Constitution of the Republic of South Africa 1996

Constitutional Court Rule 18(2)

Education Labour Relations Council Constitution

Employment Equity Act 55 of 1998

Employment of Educators Act 78 of 1998

Industrial conciliation Act 1924

Labour Relations Act of 1995 as amended

Public Service Act of 1994

PSCBC Resolution 14 of 2002

PSBC Resolution 1 of 2003

NEWSPAPER ARTICLE

Daily Dispatch, 5th September 2012

REPORTS


ELRC 2010/11 Annual Report.
APPENDIX A

EDUCATORS’ QUESTIONNAIRE

Dispute Resolution

2013

This research project is an exploration of how you feel about the individual labour dispute resolution system operating in the QUEENSTOWN EDUCATION DISTRICT. That is the labour disputes that you educators as INDIVIDUALS have with the Department of Education.

The completion of this questionnaire is ENTIRELY VOLUNTARY. This means that you do not have to complete the questionnaire if you do not wish to.

Also the questionnaire is CONFIDENTIAL. This means that you must please not write your name or any employee number anywhere on the questionnaire.

Section A: This sections deals with some questions about you.

Please answer the following questions by circling the number corresponding to the most appropriate options.

<table>
<thead>
<tr>
<th>Gender</th>
<th>Male</th>
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<td></td>
<td>Female</td>
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</tr>
<tr>
<td>Age (years)</td>
<td>25 and younger</td>
<td>1</td>
</tr>
<tr>
<td></td>
<td>26-35</td>
<td>2</td>
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<td>36-45</td>
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<td>Over 55</td>
<td>5</td>
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<tr>
<td>Highest educational level obtained</td>
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<td></td>
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<td></td>
<td>Post-graduate degree</td>
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<td></td>
<td>Other (please specify)</td>
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<tr>
<td>Current Position</td>
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<td></td>
<td>Senior Educator</td>
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<td>Deputy Principal</td>
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<td>Other (please specify)</td>
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<td>Teaching Experience (years)</td>
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<td>Over 20</td>
<td>5</td>
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</tbody>
</table>
Section B: This sections deals with some questions about disputes. Please answer the following questions by circling the number corresponding to the most correct options.

| B1   | Have you ever had a dispute with the Department of Education? | Yes      | 1 |
|      |                                                               | No       | 2 |
| B2   | If yes, what was it about?                                    | Remuneration &/or Benefits | 1 |
|      |                                                               | Unfair labour practice | 2 |
|      |                                                               | Discipline and dismissals | 3 |
|      |                                                               | Other (please specify) | 4 |
| B3   | Was it resolved to your satisfaction?                         | Yes      | 1 |
|      |                                                               | No       | 2 |
| B4   | Do you know what to do when there is a labour dispute?        | Yes      | 1 |
|      |                                                               | No       | 2 |
| B5   | If you do not know, what do you think is the reason for you not knowing? | The Union has not informed me | 1 |
|      |                                                               | The Department of Education | 2 |
|      |                                                               | Lack of research that I should have done | 3 |
|      |                                                               | Other (Specify) | 4 |
| B6   | Whose role is it to inform educators about the labour dispute resolution system? | The Department of Education | 1 |
|      |                                                               | The Union | 2 |
|      |                                                               | The Principal | 3 |
|      |                                                               | Other (Specify) | 4 |
| B7   | What role, if any, do you think needs to be played by the union in labour dispute resolution? | Support during the process | 1 |
|      |                                                               | Legal advice | 2 |
|      |                                                               | Conciliation | 3 |
|      |                                                               | Neutral | 4 |
|      |                                                               | No Role | 5 |
|      |                                                               | Other (Specify) | 6 |
| B8   | What role must be played by the Department of Education in a labour dispute? | No role | 1 |
|      |                                                               | Conciliation | 2 |
|      |                                                               | Other (specify) | 3 |
| B9   | As far as you know, what are the most common types of disputes that are found in the education sector in the Queenstown district? (Only circle one number) | Remuneration &/or Benefits | 1 |
|      |                                                               | Unfair labour practice | 2 |
|      |                                                               | Discipline and dismissals | 3 |
|      |                                                               | Other (please specify) | 4 |
Section C: This section deals with some more questions about labour disputes.

For each statement please circle the number that best corresponds to **HOW YOU FEEL** using the following keys:

Please circle **ONLY ONE NUMBER FOR EACH STATEMENT**

1. Strongly disagree
2. Disagree
3. Uncertain
4. Agree
5. Strongly Agree

<table>
<thead>
<tr>
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<th>S</th>
<th>D</th>
<th>N</th>
<th>A</th>
<th>S</th>
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</tr>
</thead>
<tbody>
<tr>
<td>C1</td>
<td>The labour dispute resolution systems are accessible to educators in the Queenstown district</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
<td></td>
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<tr>
<td>C2</td>
<td>Educators have confidence in the labour dispute resolution system in the Queenstown district</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
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<tr>
<td>C3</td>
<td>The dispute resolution systems are independent from Government and the Department of Education</td>
<td>1</td>
<td>2</td>
<td>3</td>
<td>4</td>
<td>5</td>
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<tr>
<td>C4</td>
<td>It is important that the labour dispute resolution system should be independent</td>
<td>1</td>
<td>2</td>
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<tr>
<td>C5</td>
<td>The effective management of the labour dispute resolution system has a positive effective on the entire sector in the Queenstown district.</td>
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<td>2</td>
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<tr>
<td>C6</td>
<td>Disputes are resolved in a reasonable time period in the Queenstown district</td>
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<tr>
<td>C7</td>
<td>Disputes are resolved in a fair and just manner in the Queenstown district</td>
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<tr>
<td>C8</td>
<td>If there was better awareness of the labour dispute system, then more educators would utilize these mechanisms.</td>
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<tr>
<td>C9</td>
<td>If the department of education could ensure the effective implementation of its policies, there would be fewer labour disputes.</td>
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<td>C10</td>
<td>The Queenstown district has more resolved labour disputes than other districts in the province</td>
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<tr>
<td>C11</td>
<td>If there was training on labour dispute resolution systems, then more educators would utilize these mechanisms.</td>
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<tr>
<td>C12</td>
<td>If educators were more involved in the union activities, there would be greater knowledge of labour dispute mechanisms.</td>
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<tr>
<td>C13</td>
<td>The union is generally doing well to represent members in labour disputes.</td>
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<td>2</td>
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<tr>
<td>C14</td>
<td>Labour disputes have a negative impact on education in the Queenstown district</td>
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<td>2</td>
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</tbody>
</table>
Section D
D1 If you would you like to make any more comments regarding labour dispute resolution in the education section and particularly in the Queenstown district, please add in below
# APPENDIX B
## INTERVIEW QUESTIONS FOR EDUCATORS
### 2013

**BIOGRAPHICAL DETAILS**

<table>
<thead>
<tr>
<th><strong>Gender:</strong></th>
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<tbody>
<tr>
<td><strong>Age:</strong></td>
<td></td>
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<tr>
<td><strong>Highest Educational Qualification Obtained:</strong></td>
<td></td>
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<tr>
<td><strong>Teaching Experience:</strong></td>
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<tr>
<td><strong>How long have you been in the teaching profession?</strong></td>
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<tr>
<td><strong>What is your position and what responsibilities does it entail?</strong></td>
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<tr>
<td><strong>What union, [if any] do you belong to?</strong></td>
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</tbody>
</table>

1. What do you know about the term "dispute resolution?"

2. What do you think are the most common disputes prevalent in the education sector in the Queenstown district?
3. What do you think are the main causes for these disputes?

__________________________________________________________

__________________________________________________________

__________________________________________________________

4. What effect do you think disputes in the Queenstown district are having on education?

__________________________________________________________

__________________________________________________________

__________________________________________________________

5. Who do you think is responsible for ensuring that disputes are resolved as effectively as possible?

__________________________________________________________

__________________________________________________________

__________________________________________________________

6. What do you think the Department of Education is doing to resolve disputes?

__________________________________________________________

__________________________________________________________

__________________________________________________________

7. What is the union doing to resolve disputes?

__________________________________________________________

__________________________________________________________

__________________________________________________________

8. Any other stakeholders that you can think of who have a role to play in the resolution of disputes? Who are they and what role do they play?

__________________________________________________________

__________________________________________________________

__________________________________________________________

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9. What do you know about the labour dispute resolution mechanisms that are available in the education sector in the Queenstown district? Can you mention them?

10. Are dispute resolution systems easily accessible to you and other educators? Please elaborate.

Possible probes
- How quickly are disputes resolved?
- How just and fair are the decisions?
- Is every step of the process handled professionally?
- Are departmental officials helpful in making you understand the dispute resolution process?
- How are the decisions communicated to you?
11. Do you think these systems are effective? Why do you think this way?

12. A) Do you perceive the dispute resolution systems to be separate or linked to government? Why and if so to what extent?

12. B) Do you think that the system should be separate from government? Why do you think this way?

13. Do you think educators are optimally utilizing dispute resolution systems available to them? Please expand.
14. What can be done and by whom to ensure that more educators utilize these systems?

15. Did you ever have a dispute with the department whereby you utilized one of the dispute resolutions available? How did this pan out?

16. What is your personal overall assessment of labour dispute resolution systems in the education sector?

17. Any other comment that you would like to make about dispute resolution systems in the Queenstown education district?
APPENDIX C

INTERVIEW RESPONSES FROM EDUCATORS

1. What do you know about the term dispute resolution?

R1 – an official decision or determination to solve an argument or disagreement.

R2 – Solving the conflict in the work place.

R3 – It means to resolve disputes between two or more parties involved in a dispute.

R4 – Dispute means when two or more people are in conflict or in disagreement with something or so caused by misunderstanding of certain issues and can be resolved by listening to both parties after identifying the cause and the policy must used to resolve it.

R5 – It is mediating or arbitrating between two conflicting parties to find acceptable to both parties.

R6 – It is as system of addressing employee’s needs which are being transgressed by the employer by flouting the rights of employees.

2. What do you think are the most common disputes prevalent in the education sector?

R1 – Educator salary related benefits and promotions.

R2 – Educator rights such as benefits.

R3 – Unfair Labour practice.

R4 – The procedure the department uses to employee educators and teacher benefits.

R5 – Post provisioning.

R6 – Unfair labour practice by the department.

3. What do you think are the main causes of these disputes?

R1 – The delay by the department to resolve disputes.

R2 – Failure by the department to observe or adhere to policies.

R3 – Lack of understanding of legislation such as Labour Relations Act by the departmental officials.

R4 – Failure by the department to observe policies and lack of transparency in its operations.

R5 – Lack of planning by the provincial head office and the district and in efficiency of school principals.
R6 – Lack of knowledge and understanding of labour issues and procedures by departmental officials.

4. What effect do you think disputes in the Queenstown district are having on education?

R1 – Quality teaching and learning is compromised and many parties are negatively affected.

R2 – Teaching and learning culture.

R3 – Affected parties and disputants get demoralized.

R4 – Affects service delivery negatively and individual action takes place unnecessarily.

R5 – Disputes hamper education and resources are wasted.

R6 – The district becomes unstable.

5. Who do you think is responsible for ensuring that disputes are resolved as effective as possible?

R1 – Labour relations of the department.

R2 – Management of the school

R3 – The department of education through workshopping of employees on relevant legislation and Acts in the education sector.

R4 – The leadership at school level, district and head office and other social partners such as teacher unions.

R5 – The department.

R6 – The district director and labour relations.

6. What do you think the Department of Education is doing to resolve labour disputes?

R1 - Working together with teacher unions.

R2 - Delay in resolving disputes.

R3 – Department lacks vigour and takes a long time to resolve disputes and is the root cause of disputes.

R4 – The department is doing some advocacy sessions on key polices and circular on contentious issue.

R5 – Cases drag on due to ineffectiveness of department.

R6 – Very little is done as a result the situation is chaotic in the district.
7. **What is the union doing to resolve disputes?**

R1 - The union mediates disputes and advances the interests of its members.

R2 - Play a positive and critical role to ensure speedy resolution of disputes than the department.

R3 - They engage the department to and resolve disputes so that teaching and learning is disrupted.

R4 - Embarking on industrial action, negotiations, picketing and engagement with the department.

R5 - Lack of proactive action and engagement with the department. Union are reactive only when disputes arise.

R6 - NAPTOSA follows the law when resolving disputes.

8. **Any other stakeholders that you think of who have a role to play in the resolution of disputes? Who are they and what role do they play?**

R1 - ELRC, employer and employees

R2 - SGB’s, parents and churches.

R3 - The SGB, unions, political parties and faith based organizations.

R4 - SMT’s, educators, SGB, parents and the affected community.

R5 - Internal dispute resolution forums are weak as they are constituted and dominated by departmental officials. So independent bodies like CCMA are needed.

R6 - CCMA, Labour Court.

9. **What do you know about labour dispute resolution mechanisms that are available in the Queenstown district? Can you mention them?**

R1 - Labour Relations in the district

R2 - None

R3 - Labour Relations section of the department.

R4 - None

R5 - Nothing- instead district officials are the root cause of the problem.

R6 - No proper mechanisms.
10. Are dispute resolution systems easily accessible to you and other educators? Please elaborate.

R1: No - the department is losing cases at a high rate.
- Disputes are resolved slowly.
- Decisions are not just and fair.
- Every step is handled unprofessionally.
- Department officials are not clear.
- Decisions are communicated in documents.

R2: Not accessible
- Disputes take long to resolve.
- Decisions are not fair.
- The process is handled unprofessionally.
- The department officials are unhelpful in making educators understand the dispute resolution process.
- Decisions are communicated verbally.

R3: No
- Disputes take years to resolve.
- In some cases decisions are unfair and just.
- In some case the process is handled unprofessionally.
- Department officials are unhelpful and some are the cause of disputes.
- Decisions are communicated through the union.

R4: Yes
- Disputes are resolved immediately.
- If the situation so determines decisions is just and fair.
- Departmental officials do conduct workshops to empower educators.
- Decisions are communicated in writing.

R5: No because nobody take the trouble to brief us.
- It takes long to resolve disputes.
- Decisions are not just and fair.
- Every step is handled well.
- Departmental officials do not understand labour dispute resolution process.
- The union is made aware of decisions to communicate to its members.

R6: At times
- Disputes takes long time to resolve.
- Decisions are unjust sometimes.
- Every step is not handle well.
- Departmental officials are sometimes not helpful.
- Decisions are communicated through the union and employees concerned.
11. Do you think these systems are effective? Why do you think so?
R1 No, communication is poor
R2 No – problems are still there.
R3 Yes, because the union is there to present you in a dispute.
R4 Yes
R5 No because of the delay in the system.
R6 Yes because I am represented by my union.

12. (a) Do you perceive the dispute resolution system to be separate or linked to government? Why and if so to what extent?
R 1- They should be separated in order to promote efficiency and impartiality in the system.
R 2 - They should be separated and independent.
R 3 - They should be independent
R 4 - Separated from government
R 5 - It is linked to government and should be separated or independent.
R 6 - They are linked to government.

12.(b) Do you think that the system should be separated from government? Why do you say so?
R1 Yes the system must stand alone and should have officials with the skills.
R2 Yes for the sake of fairness and justice.
R3 No
R4 No at All
R5 Yes, the government cannot be a referee and a player as it is the case now.
R6 They should be separated for the sake of fairness of decisions to be taken.

13. Do you think educators are optimally utilizing dispute resolution systems available to them? Please expand.
R1 No, they do not know them.
R2 No, because they are not trained.
R3 No- some leave the system out of frustration.
R4 Sometimes and sometimes not.
R5 No. There is no information freely available. You get to know about these systems when you are involved in a dispute.

R6 No. they are not aware of all the systems and as a result they are caught off guard.

14. What can be done and by whom to ensure that more educators utilize these systems?

R1 Government must organize workshops to equip educators with knowledge to enable them to utilize the labour dispute systems

R2 Regular workshops

R3 Educators should be made aware of these systems

R4 The government must equip educators

R5 Unions should educate their members and the employer should do the same

R6 Workshops and training by the department in order to improve awareness.

15. Did you ever have a dispute with the department whereby you utilized one of the dispute resolutions available? How did this pan out?

R1 Yes, I used my union, NAPTOSA, and I won the dispute

R2 Yes, the dispute remains unresolved.

R3 Yes, it was very costly and frustrating; it drained me financially and emotionally.

R4 Yes; it was a salary adjustment which should follow a promotion. My dispute was upheld.

R5 Yes, I lost because the department knew what I did not know. I kept quiet about irregularities in the interviews until it was too late.

R6 Yes, I won my case against the department because the departmental officials are full of nepotism and flout government rules and regulations.

16. What is your personal overall assessment of labour dispute resolution systems in the education sector?

R1 They leave much to be desired as the department loses many cases at a high cost

R2 Poor

R3 They are slow, demoralizing, dehumanizing and frustrating.

R4 generally poor

R5 There is big room for improvement.

R6 A high degree of independence and professionalism is needed
17. **Any other comment that you would like to make about dispute resolution systems in the Queenstown education district?**

R1 Lack of knowledge of labour disputes by education officials in Queenstown district.

R2 District management must put more effort in dispute resolution.

R3 The labour relations section of the district should be led by properly qualified personnel. The principle of fairness should apply. Disputes should be resolved promptly and decisions taken should be legally sound. Independence and impartiality should prevail free of prejudice.

R4 The system must be independent, fair and lawful and free from manipulation.

R5 Labour Relations staff charged with the responsibility to deal with disputes must be sufficiently capacitated and people with the necessary labour law knowledge should deal with disputes.

R6 People who do not have the relevant knowledge in labour issues in the districts are not assisting the districts and the district director must take note of this and stop using these people to resolve labour issues.
APPENDIX D

REQUEST TO DO RESEARCH LETTER
05 August 2013

To whom it may concern

Themba Theophilus Rataaza student number 210130404 is a Masters student in the Labour Relations and Human Resources Unit which is part of the Department of Industrial & Organizational Psychology and is registered for the year 2013.

As part of the requirements to complete the degree he is required to complete a research treatise. Themba Rataaza has chosen to research the labour dispute resolution system in the Queenstown educational district with a treatise entitled “An exploration of educator’s perceptions of the labour dispute resolution system in the Queenstown Education District”.

If you require any further information that may assist you in your decision-making please do not hesitate to contact us.

Yours faithfully

Jennifer Bowler

Jennifer Bowler MSc MA
Lecturer/Coordinator Honours & Masters LR and HR
Labour Relations & Human Resources Unit
Department of Industrial & Organisational Psychology
School of Industrial Psychology & Human Resources
South Campus
Tel: +27 (0)41 5042362
Cell 0834635285
Jennifer.Bowler@nmmu.ac.za