

MQA GUIDELINES

SKILLS DEVELOPMENT FACILITATORS AND SKILLS DEVELOPMENT COMMITTEES

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1. INTRODUCTION

Skills Development Facilitators (SDFs) and Skills Development Committees (SDCs), formerly known as Training Committees, have become an established practice in the mining and mineral sector. SDFs and SDCs, as in-house consultation forums, continue to play an important role in relation to skills development.

2. THE PURPOSE OF THE MQA GUIDELINES

The MQA has prepared this document to guide employers and employees within the mining and minerals sector (MMS) regarding Skills Development Facilitators and Skills Development Committees.

3. THE SKILLS DEVELOPMENT FACILTATOR

3.1 What is a Skills Development Facilitator?

An SDF is a person who will ensure that the organisation's Workplace Skills Plan / Implementation Report is developed and implemented and also serves as a liaison person between the organisation/s and the MQA. The SDF can be appointed from within the organisation/s, usually a person within the training division and/or human resources division.

An independent (external) SDF can also be used to assist the organisation with the implementation of skills development at the workplace.

3.2. The role and responsibilities of the Skills Development Facilitator

The role of the SDF is to amongst others:

- Take a holistic view of skills development within the organisation with due consideration of legislative requirements and organisational imperatives;
- Serve as a resource with regard to all aspects of skills development within the organisation;
- Serve as a contact person between the organisation and the MQA;
- Ensure that the organisation's databases can provide the relevant skills development data;
- Assist the organisation in developing a Workplace Skills Plan which complies with legislated and MQA requirements;
- Submit the Workplace Skills Plan to the MQA;
- Advise the organisation on the implementation of the Workplace Skills Plan;
- Assist the organisation with the drafting of an Annual Training Report on the implementation of the previous year's Workplace Skills Plan;
- Advise the organisation on quality assurance requirements as set by the MQA;
- Communicate MQA initiatives, grants and benefits to the organisation; and SDFs that do not perform their duties cannot be used as an excuse to the MQA by organisations in terms of deadlines missed, or information not passed on by the SDF.

Categories of SDFs

The MQA allows for registration of primary and secondary SDFs.

Primary SDFs

The Primary SDF is the main SDF for the SDL number and the liaison person with the MQA. Only one (1) Primary SDF is permitted per levy number.

Secondary SDFs

Relevant people within the organisation, other than the primary SDF may be nominated as secondary SDFs. The role that they play may include, amongst others:

- a support role to the primary SDF;
- where they require access to the organisations information on MQA's management information system;
- where an organisation with multiple operations / divisions / branches may have one primary SDF but each operation / division / branch may have a secondary SDF to facilitate skills development initiatives.

The number of secondary SDFs will depend on the number required by the organisation.

3.3. Nomination of SDFs

The appointment of a suitably qualified SDF who is competent and at the appropriate level in the organisation is the responsibility of the organisation.

In the case of medium and large organisations (with 50 or more employees) the organisation should appoint the SDF in consultation with the Skills Development Committee, except in instances where the appointment process is followed in accordance with the organisation's recruitment policy and procedure.

In the case of small organisations (who employ 49 or less employees), who are unable to nominate an employee or contract an independent SDF to perform the role, may request the assistance from the MQA and MQA will allocate a resource to play the SDF role for the organisation.

3.4 Who can serve as a Skills Development Facilitator?

Based on the criteria for the nomination of an SDF (3.4 above) an SDF can be:

- An employee of the organisation; or
- A person that is formally contracted to the organisation to perform this role.

In addition, MQA makes available the services of MQA-contracted SDFs to organisations, particularly small organisations, within the sector requiring support. Should an organisation choose to use these services, the responsibility for legal compliance remains with the organisation.

3.5 Training of SDFs

It is the organisation's responsibility to ensure that the SDF has the necessary training to perform their role effectively. This includes both primary and secondary SDFs.

3.6 Support of SDFs

The MQA will provide support to registered SDFs in the form of updated skills development information and toolkits and guidelines on key topics in terms of their roles as an SDF such as the Organising Framework for Occupations (OFO) and WSP-ATR.

All registered SDFs have access to the following data of the organisation on the MQA management information system:

- Organisation information page – including details from SARS/Department of Higher Education and Training (DHET);
- Levy-grant history;
- Workplace Skills Plan (WSP) - Annual Training Report (ATR) status history.

3.7 Registration of SDFs with MQA

The SDF is required to register with the MQA by completing the online SDF registration form and ensuring that the form is submitted to MQA with the necessary organisation signatures. Following validation of the application, the SDF will be notified in writing by the MQA if the application has been approved.

4. THE SKILLS DEVELOPMENT COMMITTEE

“The SETAs consist of organised employers and organised labour forming the Boards, the National Skills Authority consists of a wider consultative framework of stakeholders including not only business and labour but also the civic bodies. The qualifications-generating bodies have also had the contribution of organised labour and, critically, the National Skills Development Strategy is developed for the nation in a consultative process engaging all stakeholder organisations.

“Probably most importantly, at the workplace the establishment of trust and good relations between management and employees can be enhanced by collaborative working groups such as Skills Development Committees.”

The role of the union rep in the skills development committee-The Skills Portal

4.1. What is a Skills Development Committee?

Training Committees (now known as Skills Development Committees) were first introduced in the Government Gazette (*Government Gazette 20865*) on 7 February 2000 in the regulations, Annexure A:

“Employers with more than 50 employees must establish an in-company forum for consultation with regard to skills development. Where a workplace is unionised, trade union and management structures shall fulfil this function.”

Whilst these regulations were repealed as a whole, the good practice of consultative forums however was already established and continues today.

A SDC is a forum established by the employer to consult employees (representative trade unions where they exist and/or representatives nominated by employees where they do not) on skills development matters.

The purpose of consultation is that parties should engage in a thorough and meaningful joint consensus-seeking process. Consultation does not mean “negotiate” which implies bargaining in order to reach an agreement.

4.2. When should a Skills Development Committee be established?

It is the employer’s responsibility to establish and convene the SDC.

A SDC should be established when an organisation employs more than 50 people (i.e. is a medium or large organisation).

Smalls organisations are encouraged to still consult employees on skills development issues as a matter of good organisational practice.

An existing forum can be utilised for consultation on skills development.

4.3. What should be the composition of a Skills Development Committee?

The forum should be represented by all stakeholders (equal representation from management and employees/ Labour)

- A primary skills development facilitator (SDF), or, secondary skills development facilitator, who is appointed by the employer (whomever is applicable);
- Other Human Resources Development staff that have a responsibility for skills development within the organisation;
- Union representatives and / or other employee representatives;
- Senior management representing the employer.

4.4. The role of the Skills Development Committee

Broadly the role of the SDC is:

- To co-operate with management in preparing, implementing and monitoring Workplace Skills Plans
- To represent, communicate with and gather feedback from employees and other stakeholders on skills development matters
- To focus on the statutory objectives, particularly those embodied in the Skills Development Act, and not attempt to use the committee as a forum to address the interests of individuals or other parties

Specific functions and responsibilities should include:

- Providing input into a skills development policy in support of the organisation's business plan
- Promoting the alignment of workplace skills planning to the employment equity plan
- Informing fellow employees about training policy and implementation
- Making input into the Workplace Skills Plan
- Signing off that the SDC was consulted on the Workplace Skills Plan
- Monitoring implementation of the Workplace Skills Plan
- Advise of issues related to discretionary grants and monitor progress
- Monitoring the payments of grants and levies
- Providing input into the Annual Training Report
- Develop Terms of Reference for the SDC

ANNEXURE 1:

MQA GUIDELINE ON CONSULTATION REQUIREMENTS FOR WORKPLACE SKILLS PLANS AND ANNUAL TRAINING REPORTS

1. Purpose of guideline

- The MQA has prepared this document to guide employers and employees regarding workplace consultations on workplace skills plans and annual training reports.

2. Who should be consulted?

- Employee representatives or trade union should be consulted in Skills Development matters. Consultation does not only happen in medium and large organisation, With small entity/ies (less than 50 employees), it is recommended that consultation take place with employee representatives in the compilation of the WSP/ATR to ensure buy in from the workforce and good practise of the organisation.

3. When should consultation commence?

- Consultations should commence as early as possible in the process of preparing a workplace skills plan or annual training report.

4. What forum should be used for consultations?

- A consultative forum, such as a Training Committee or Skills Development Committee, should be established or an existing forum utilised.
- The forum should include employee representatives reflecting the interests of employees.
- Representative trade unions, where these exist, or representatives nominated by such trade unions should be included in the consultation process.
- The employer should be represented by one or more members of senior management.

5. What standards should consultation meet?

- The purpose of consultation is that parties should engage in a thorough and meaningful joint consensus-seeking process.
- All parties should in good faith keep an open mind throughout the process and seriously consider proposals put forward.
- It is the responsibility of the employer to establish a Training/ Skills Development Committee to oversee the training committed and training done.
- An SDC is a forum established by the employer to consult employees (representative trade unions where they exist and/or representatives nominated by employees where they do not) on skills development matters.
- It is recommended that the employer should at least conduct the SDC meetings quarterly and consultation should commence as early as possible in the process of preparing for the workplace skills plan or annual training report.

- An employer with 50 or more employees must submit a signed off WSP, PP (Pivotal Plan), ATR and PR (Pivotal Report) by the labour representative appointed by the union/s or an employee representative where labour is absent on or before the submission deadline. Where difficulty is experienced with the upload function, organisations are required to submit the hard copy sign off, to the dedicated e-mail box (submissions@mqa.org.za) on or before the submission deadline.
- In the case where the union does not want to sign, the employer must provide proof of consultation on or before the submission deadline.

What should be part of the proof of consultation pack?

- A signed register (by all parties)
 - Signed minutes of the consultation meeting by the chairperson and union/employee representative/s
 - Proof that Workplace Skills Plan, Annual Training Report, Pivotal Plan, Pivotal Report was discussed on the meeting
- Should the union/employee representative fail to sign the WSP, ATR, PP and PR due to a reason/s not related to the aforementioned reports, it will be at the MQAs discretion to approve the submitted document should it meet the MQA requirements.
 - In terms of Clause 5 (2) (f) of the new Skills Development Regulations, in the case of an employer who has a recognition agreement with a trade union or unions in place, there must be evidence provided that the WSP and ATR have been subject for consultation with the recognised trade unions and the WSP and ATR must be signed off by the labour representative appointed by the recognised union unless an explanation is provided.
 - The purpose of consultation is that parties should engage in a thorough and meaningful joint consensus- seeking process for skills planning purposes.
 - Consultation should commence as early as possible in the process of preparing a workplace skills plan and annual training report and should follow the MQA WSP Submissions Schedule
 - The MQA will not release the funding of WSP and ATR unless it is signed off by organised labour/employee representative in the particular workplace.
 - In the event that the workplace is not unionised, designated worker representative/s must sign the WSP submission for approval by the MQA.
 - The MQA will develop protocols guideline to ensure that the quality of the WSP-ATR process improves the skills plans and ensures expeditious consideration of such plans.
 - Organised labour and employers will provide support to monitor the achievements of the MQA targets as per the Strategic Plan and Annual Performance Plan.

Consultations should include –

- The opportunity to meet and report back to the Skills Development Committee/ Training committee;
- Reasonable opportunity for recognised union/employee representatives to meet with the employer;
- To request, receipt and consideration of relevant information; and
- Determine the current employee skills and/or competencies profile by conducting a skills analysis;
- Identify the gaps between current and required future skills profiles and develop the skills priorities for the entity;
- Align your entity's skills priorities to sector priorities.

6. How often should consultations take place?

To ensure an informed and constructive consultation process, structured regular meetings of the consultative forum or forums should be held at least quarterly to give feedback and discuss any matters.

7. What information should employers disclose?

The disclosure of relevant information by employers is necessary for meaningful consultation to take place. Relevant information is information that is vital for the successful development and implementation of a workplace skills plan and for the preparation of an annual training report.

8. What if employee representatives refuse to participate in consultations?

Where employee representatives refuse to take part in a consultation process, the employer should record the circumstances, in writing, including those steps that the employer has taken to communicate and initiate the consultation process. A copy of this document should be provided to the MQA and to the employee representatives or trade unions concerned.

9. What information must employers provide to the MQA?

In completing the MQA's workplace skills plan/annual training report template, employers must provide sufficient information regarding the process of consultation followed.

Employee representatives should sign confirmation that they were consulted by the employer on the workplace skills plan and annual training report.

10. WSP-ATR Dispute Process

10.1 When can a dispute be lodged?

Where employee representatives/ trade union disputes the WSP-ATR submitted for the below reasons:

- Inadequate consultation process in line with the agreed committee terms of reference within any organisation
- Incorrect reporting by the organisation/s (the applicant to provide evidence of such)
- Incorrect plan reported to the MQA
- Any other matter related to the Workplace Skills Plan and Annual Training Report

10.2 Who can lodge a dispute?

Any member of the skills development committee/ training committee or a representative of the organised labour.

10.3 Dispute resolution process

- The applicant will send a signed dispute letter to the MQA no later than 5 working days after the WSP-ATR submissions deadline.
- The MQA will notify the organisation concerned in writing.

In a case of lack of consultation dispute:

- The MQA will request the organisation to engage the Skills Development Committee/Training committee including the applicant in good faith to resolve the dispute.
- The respondent will be requested to revert back to the MQA with progress made on consultation process within 14 days.
- The respondent and applicant should convene a meeting to address issues raised by the applicant.
- Upon resolving the dispute, a joint letter signed by both employer and applicant must be submitted to the MQA and a sign-off WSP-ATR within 7 days of receipt of the letter.

In a case where the dispute is more than just the consultation process, the applicant will follow the below MQA Mediation Process.

10.4 MQA Mediation Process:

The mediation process will be applicable immediately:

- Where the 14 days given to the respondent lapse without reverting back to the MQA;
- Where the applicant raised issues above the consultation process of the organisation.

- When the above Dispute Process is exhausted
- Where both parties do not reach an agreement to resolve the query. Either party can approach the MQA to mediate the dispute resolution process.
 - Both parties should ensure that they agree on a meeting date, time and place.
 - Both Parties should submit evidence to their case to the MQA 5 days before the mediated meeting date.
 - MQA shall attend the meeting as a mediator and to offer guidance on this process.
 - Based on the evidence delivered at the mediated meeting; the MQA shall make a recommendation on the WSP-ATRs.
 - A report on the meeting resolutions shall be sent to the applicant and organisation for noting, only in cases where consensus is not reached.
 - MQA shall make a decision on Approving or Not Approving of the WSP-ATR based on the evidence provided by both parties in relation to the WSP-ATR. (Only evidence submitted to the MQA before mediated meeting shall be considered).

11. System Disputes

This process is only applicable to system related errors or queries and not applicable for human errors.

- The applicant will send a written dispute to the relevant department within the MQA; the dispute should be resolved within 5 working days. The matter can be escalated to the Manager to resolve should a need arise.
- Should the complainant not receive feedback within 7 working days from the Manager, the matter can be escalated to the MQA Chief Operating Officer for deliberation.