

Task team to quantify cost of eThekwini court ruling

By [Bhekisisa Mncube](#)

2 Oct 2013

A technical task team has been set up to quantify the financial implications for the eThekwini Municipality after last month's Supreme Court of Appeal (SCA) judgement.

The SCA in mid-September dismissed an appeal brought by the city against a judgement handed down by the Labour Appeal Court, which means that eThekwini will now have to pay over 20000 employees millions of rand in staff benefits, dating back to 2007.

The Labour Court case was brought by the South African Municipal Workers' Union (Samwu) and the Independent Municipal and Allied Trade Union (Imatu) against the city. It related to a divisional agreement about conditions of service that were the cause of dispute between the unions and the city in 2007.

The agreement was introduced in 2007 when employees, who fell under five pay structures relating to their former operational entities - and all of whom had different conditions of service and wage packages - were unified under the newly created eThekwini Municipality.

This meant they were all placed on the highest of the five pay structures applicable at the time.

It was incumbent upon the eThekwini Municipality to devise ways to equalise salaries and benefits across the spectrum, as the old entities that were now incorporated had their own pay structure, and conditions of service varied from one entity to the other.

The 2007 divisional conditions of service were an attempt to achieve parity across the board.

However, according to the Labour Court judgement (now upheld by the SCA), the fatal flaw with the 2007 divisional conditions of service was that they referenced matters that fell outside the court's scope, which included matters reserved only for the national bargaining council.

At a media briefing on Tuesday, eThekwini Municipality Manager Sibusiso Sithole admitted that the city management erred in implementing the 2007 agreement.

"With the benefit of hindsight, we were wrong," Sithole said.

The task of the technical team - which consists of members of the municipality, Imatu and Samwu - is to analyse the status

quo and to calculate the cost per employee, including those who have retired, the deceased and those who resigned during the period under review.

The team will further recalculate each employee's income tax implications; recalculate pension fund contribution, Unemployment Insurance Fund contributions, overtime paid, long service awards gratuity, group life assurance benefits and any standby allowance.

The team has 30 days to finalise its task. It will work on full-time basis for its duration.

"The total cost of the exercise is unknown, but in theory some 5800 employees may actually owe the city millions in salaries paid in terms of the 2007 divisional conditions of service," Sithole said.

However, he appealed for leadership, calm, and stability. He said he was convinced that the city and the unions had "found each other" and that they had a meeting of minds.

"The city would like to dispel the myth that this ruling will bankrupt the municipality. We await the final quantification of the implications before we can pronounce further on this matter," he said.

Municipality speaker Logie Naidoo said the municipality back then in 2007 had "no case study to follow and no experience" after the unification of entities.

For more, visit: <https://www.bizcommunity.com>