



Office of the Principal and Vice Chancellor

03 February 2020

Dear Unisans

THE STATE OF THE UNIVERSITY

1. THE CORE BUSINESS OF THE UNIVERSITY

- 1.1 The University is primarily established to serve the students. Whatever happens at given stage, the interests of students must always come first.
- 1.2 The current strike takes place at a critical time for students who must register and receive their study material.
- 1.3 Whilst the university respects the rights of staff to embark on a strike when they deem fit, the timing of the strike appears to be more targeted at students than management. The fact that staff cannot even avail themselves to provide at the least a minimum service to students tells a story of its own. The University staff cannot be so uncaring about their students to a point of not even allowing students to register and collect their study material, which is effectively jeopardizing the success of their academic programmes.

2. LAWFULNESS OF STRIKE

- 2.1 The University obtained a court order by agreement with NEHAWU in terms whereof NEHAWU undertook not to embark on a strike unless picketing rules are in place.
- 2.2 This court order was not complied with during the strike in June 2019. As a result of the non-compliance with the court order, the University suffered damages and a number of members of staff complained of the violation of their rights including acts of intimidation and abuse.
- 2.3 The recent court order obtained on the 24th of January 2020 was sought, once more, because of acts of intimidation, damage to University and private property. This was also because of the non-compliance with the order of the Court.
- 2.4 The current strike is being conducted in contravention of the court order of the 27th of September 2019 and in non-compliance with provisions of the Labour Relations Act. This, therefore, means that the strike is not in compliance with the law.

- 2.5 Consequently, the University has no option but to take such action as permitted in law to give effect to the consequences of a strike conducted outside the parameters of the law.

3. BREACHES OF THE RECOGNITION AGREEMENTS, UNIVERSITY POLICY AND COURT ORDERS

- 3.1 The University concluded Recognition Agreements which regulate the relationship between unions and the University. These agreements were concluded for the sole purpose of ensuring an orderly system for the exercise of organisational rights by unions.
- 3.2 The University has been on the receiving end of persistent breaches of these Recognition Agreements. The patience and flexibility of the University has been taken advantage of. The fact that the University adopted a non-confrontational approach appears to have been misconstrued as representing weakness on the part of management.
- 3.3 The University is repeatedly forced to obtain court orders to protect life and property at huge cost to the University. The University does not take issue with staff and unions exercising their rights. However, these rights must be exercised within the framework of the law and with due regard to the rights of others. There are numerous complaints of abuse of the rights of staff members and even visitors during protest and strike action. The University is placed in a position where it appears that it is sanctioning these violations. Numerous appeals to avoid these violations have clearly fallen on deaf ears. This cannot be permitted to continue without a reciprocal response from the University. The University is obliged in law to protect and respect the human rights of others as enjoined by the Constitution of the Republic of South Africa and all our laws.

4. UNLAWFUL ACTS AND MISCONDUCT DURING THE STRIKE

- 4.1 Other than the fact that the strike is conducted outside the parameters of the law and the Labour Relations Act, there are numerous reported incidents of unlawful conduct and misconduct. These unlawful acts include alleged acts of intimidation, assault, violation of laws regulating public gatherings and damage to university and private property. These acts which are justiciable in courts of law also constitute misconduct in terms of university policy. The University respects the rights of staff and trade unions as provided for in law. These rights must however be exercised in accordance with and within the confines of the law.
- 4.2 As a result of the above, the University will exercise its rights as provided for in law and policy and will take such corrective measures as provided for in law.

5. THE CONTEXT OF THE UNIVERSITY

- 5.1 The University is a publicly funded institution. The sources of revenue of the University are student fees, government subsidy and donor funding. The University like other public institutions works within a clearly defined and approved budget regime. It is for this reason that the expenditure of the University must be carefully controlled and managed within its budget. This includes carefully managing the wage bill to ensure sustainability.
- 5.2 The University has not increased student fees in the past three years owing to the current economic climate and to avoid burdening students, particularly those from disadvantaged

backgrounds. The current fee increase was within a weighted average fee increase of 6.09% for the 2020 academic year. The fee increase was approved in terms of the Higher Education Act (101 of 97) and Section 5(2)m of the Higher Education Regulations.

- 5.3 It is unrealistic for staff to expect that one of the main sources of funding, which is from students, must be increased to accommodate a higher salary increase. It is for this reason that a decision was taken not to grant a salary increase that is higher than the increase in student fees.

6. UNISA SALARY OFFERING.

- 6.1 The UNISA salaries and benefits are higher than many comparable universities.
- 6.2 In the past three years, the University offered salary increases of more than 7% which was well above the consumer price index.
- 6.3 The current economic climate affects all citizens including the Unisa community. Therefore, the demand for consistently higher salaries that are above the average is not sustainable. The University cannot afford to give salary increases which will adversely affect the financial stability and sustainability of the University.
- 6.4 In the current economic climate, the University must be forward looking and avoid taking decisions and/or actions which will put pressure on the finances of the University and the potential risk of rightsizing in future.
- 6.5 The offer made by the University is realistic considering all these factors and it is intended to avoid a future catastrophic situation. It is within this context that the University adopted this approach in the current salary negotiations.
- 6.6 It is important to record that organised labour is represented in Council and were part of the decision of Council. It is significant that the very unions who were part of the decision are now the ones protesting their own decision.

7. ORGANISATIONAL PERFORMANCE

- 7.1 It is important for staff to appreciate the value and importance of a disciplined and performance-driven staff. The University currently faces many service delivery challenges particularly to our core clients, the students. Both staff and management have an obligation to perform at high levels as a basic standard to ensure quality service to our core clientele.
- 7.2 The current levels of service and discipline of staff is a matter of grave concern. This becomes even more serious when salary demands do not meet high levels of performance and discipline. The sustainability of the University is dependent amongst others on its ability to provide quality services. This is what will attract more students, retain those that we have and increase funding for the University.

- 7.3 It is ironic that when there is a strike, staff are prepared to start blocking the University entrances as early as 05h00 and are prepared to endure harsh conditions for this purpose. Unfortunately, a similar discipline is not applied in respect of work.

8. THE CONSEQUENCES OF THE STRIKE

- 8.1 It is understandable that a strike is one of the legal methods to induce agreement between an employee and employer. However, it is equally important to appreciate that a strike has its own legal consequences. These include the application of the No Work No Pay principle. Therefore, the longer the strike the more adverse such a consequence shall be.
- 8.2 It appears that the fact that the University has not in the past implemented the No Work No Pay principle has become a source of encouragement for repeated work stoppages that are both lawful and unlawful. The University will henceforth, with due observance to the applicable laws, implement the No Work No Pay rule. The trade unions will in due course have to reach agreement with the University on the application of the No Work No Pay rule or face the risk of the University obtaining an appropriate arbitration award or court order to give effect to the application of this rule.
- 8.3 The application of the No Work No Pay rule will apply equally to Executives who neglected their duties during the strike and did not report for work.
- 8.4 There is no excuse for violent or bullying behaviour during the strike. The University will not be prepared to entertain any excuses and/or justification from any staff member involved in unlawful and violent behaviour during the strike. The University intends to take appropriate corrective action permitted in law against any staff member identified to have been involved in such conduct.
- 8.5 The attention of staff is drawn to the fact that non-compliance with the two court orders referred to above also attracts a charge of contempt of court. This is in addition to any criminal or civil proceedings which will be instituted or disciplinary action which will be taken in terms of the Disciplinary Code.

9. THE SALARY NEGOTIATION PROCESS

- 9.1 It is understandable that salary negotiations are intended by the trade unions to gain an advantage for their members. This is perfectly lawful and understandable. However, it is important that staff equally understand that the University cannot simply agree to any demand without due consideration of all other related and relevant factors and responsibilities. This alone will undermine the purpose of negotiations. It is in this context that staff must understand that negotiations are about give and take. We cannot have a situation where the trade unions only want to take without giving anything in return.
- 9.2 Staff is referred to the context set out above which informed a decision on the basket available for the current salary negotiations.
- 9.3 The University has, despite the deadlock, revived the negotiations and appointed an independent mediator to facilitate negotiations. It is as a result of this approach that there

has been movement to increase the offer from the employer. This process must continue until an acceptable settlement is reached. The University remains committed to this process and to looking at the various options available.

- 9.4 It is important that negotiations are conducted in a manner which shows good faith. Attempts to create distortions and spread false information as has happened during the current negotiations is not and will never be helpful to the process. Unions have a responsibility to communicate the true and correct facts to their members and not to instigate members through false information.
- 9.5 The decision of trade unions to leave the mediation process they agreed to and initiate another mediation process of their own points to the lack of good faith and a culture of entitlement which cannot be tolerated.

10. THE CURRENT WAGE OFFER

- 10.1 Following the mediation process the employer has revised its offer to 6.3%. This is the best the employer can offer in the current circumstances. Any increase of the University's offer beyond this percentage will far exceed its budget.
- 10.2 At no stage did the University withdraw any offer that they made previously. The allegations that are currently being peddled are part of a misinformation campaign which confirms the lack of good faith on the part of those spreading this misinformation.
- 10.3 The University fully reserves its rights to implement its final offer. In law, salary increases are negotiated and are not a right. Negotiating in bad faith does not contribute to a proper working environment.

11. RETURN TO WORK

All staff members who are on strike should return to work immediately. Those who fail to return to work must state their reasons in writing to their line managers who must then send these individual records to the Executive Director of Human Resources and the Vice Principal: Institutional Development.

Thank you



Professor Mandla S Makhanya
Principal and Vice Chancellor