

WHAT HAS CHANGED SINCE FARLAM COMMISSION: MARIKANA?

Frequently asked questions



**MINERALS COUNCIL
SOUTH AFRICA**

Formerly the Chamber of Mines of South Africa

Q WHAT IS THE ROLE OF THE MINERALS COUNCIL SOUTH AFRICA IN ENSURING ITS MEMBERS COMPLY WITH LEGISLATION AND OTHER CONDITIONS OF THEIR LICENCE TO OPERATE?



The Minerals Council South Africa (Minerals Council) has no regulatory role or authority. However, the Minerals Council did introduce, in 2015, a Membership Compact with which members are expected to comply. The compact states, among others, that Minerals Council members commit to compliance with all relevant legislation, and to making every possible effort to comply with meeting or bettering the targets outlined in the Broad-Based Black Socio-Economic Empowerment Charter for the South African Mining and Minerals Industry (Mining Charter).

Q WHAT IS THE MINERALS COUNCIL ADVOCATING IN ORDER TO ENSURE THAT THE INDUSTRY COMPLIES WITH THE COUNTRY'S TRANSFORMATION IMPERATIVES?



The Minerals Council has, since 2004, always advocated compliance with the Mining Charter among its members, in the knowledge that the organisation participated in its development.

Q HOW DOES THE MINERALS COUNCIL REGULATE ITS MEMBERS?



The Minerals Council is an advocacy body and not a regulator. That said, the Minerals Council accepts and advocates, and its Membership Compact requires, that mining is carried out in a socially responsible manner.

That includes ethical business practices, striving for zero harm in respect of health and safety, respect for human rights generally, good environmental practices, and contributing to the social and economic development of mining communities. As part of achieving this, the Minerals Council advocates among its members effective and transparent engagement with stakeholders.

Q DOES THE INDUSTRY PUBLICISE ITS MEMBERS' PERFORMANCE AGAINST THE COMMITMENTS CONTAINED IN THEIR SOCIAL AND LABOUR PLANS (SLPs)?



Some companies have always done so. Others have begun to do so more recently. The Minerals Council has begun an internal discussion among members as to whether or not this should be done more comprehensively and methodically. It is certainly our belief that transparency is a fundamental pillar of building trust.

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WHAT IS THE INDUSTRY'S COMPLIANCE LEVEL IN TERMS OF EMPLOYEE HOUSING OBLIGATIONS?



Following commitments to upgrading hostels in the first 2004 Mining Charter, the 2010 version committed companies to ensuring that all employees living in hostels were accommodated in single accommodation. This target was achieved by Minerals Council member companies. It was done at a cost of billions of rands to the companies involved and, we believe, this marks a significant transformation away from apartheid-style barrack living to something far more dignified. Individual companies have also made commitments in their SLPs to developing other accommodation, including rental and home ownership.

This offers other forms of progress and transformation but it has run into a number of challenges.

The mining industry has suffered a severe downturn since the start of the international financial crisis in 2008. As is well known, some of those that made extensive commitments during the resources boom, prior to 2008, later found themselves unable to meet those commitments.

The other factor relates to employees' housing preferences – within the bounds of what is affordable, of course – and the issue of the living out allowance (LOA).

The LOA was first introduced in response to demands from unions for greater accommodation choices for employees. It is increased annually. Many employees choose to receive a LOA and they choose to apply it as per their individual preferences. Different people make different decisions.

Some employees choose to apply the allowance to maintain higher living standards near their place of work while many employees choose to use a minimal amount for their accommodation in order to save the additional funds to send to their families who live far away, and others use these funds for any other purpose they see fit.

It is now widely acknowledged that the LOA system, while well-intended, has had unintended and undesirable consequences such as the spread of poor quality informal housing for employees. Neither we nor the unions understood what these unintended consequences would be. This is an issue that needs to be addressed jointly by all stakeholders.



ARE YOU SAYING THAT EMPLOYEES WOULD PREFER TO LIVE IN SHACKS OR INFORMAL SETTLEMENTS?



The issue is complex, as are most associated with South Africa's history. Patterns of economic development, social and economic exclusion, migrant labour and the very nature of mining have shaped South Africa's urbanisation patterns. At the same time, lack of formal housing in urban areas is a major national challenge.

The platinum sector in particular faces enormous challenges given the rapid growth of the industry from the mid-1990s until 2008, which resulted in the development of sizeable, impoverished informal settlements close to platinum mines, which were a focus of instability and unrest during the 2014 platinum industry strikes.

The Minerals Council and its members agree that they have a moral obligation to facilitate decent accommodation for employees. However, renting accommodation in informal settlements is also much cheaper than renting formal accommodation. This allows employees to use their money for other purchases they consider to be more important. Many employees are looking after extended families and, in many instances, employees do not want to pay off mortgage bonds in areas where they do not intend to stay in the long term, opting rather to use part of the LOA to build houses in the labour-sending areas from where they originate, such as Lesotho or the Eastern Cape.

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CONSIDERING THE REPUTATIONAL DAMAGE CAUSED BY THE MARIKANA INCIDENT, WHAT IS THE MINERALS COUNCIL'S ROLE IN ENSURING A SIMILAR INCIDENT DOES NOT HAPPEN IN THE FUTURE? PUTTING IT BLUNTLY, WHAT LESSONS HAVE BEEN LEARNED FROM THE MARIKANA INCIDENT?



Reputational damage has been severe but that is, of course, far less important than the deaths and injuries in that terrible week in August 2012. The Farlam report contains a number of recommendations that we believe are extremely valuable – not only to the company on whose property the shootings of August 12 took place but to all mining companies. These include:

- Care with choices made in labour relations
- The dangers of adherence to a strictly majoritarianism approach to union recognition
- The downside of a decentralised system of collective bargaining
- The need to engage with strikers even when a strike might be unprocedural
- The need for better engagement between workers in the workplace, and their supervisors and managers (it had become commonplace for management to delegate their relationship responsibilities to union officials and shaft stewards)
- The need for management to take care during a particularly violent and undisciplined strike in encouraging workers to return to work in defiance of violent strikers without being able to offer adequate protection to them
- Adherence to modern, human rights-sensitive approaches to security issues, during strikes and other situations, by private security, state law enforcement and crowd control entities (a number of Minerals Council members with operations internationally are signatories to the Voluntary Principles on Security and Human Rights, which has proven effective for these companies and would certainly have minimised casualties at Marikana, indicating that perhaps the time has arrived for a dialogue between organised business and government for us all to be looking at adopting these Voluntary Principles)
- The report also raises pertinent points about directors' responsibilities in tense situations such as in the first half of August 2012



WHAT IS THE MINERALS COUNCIL'S ROLE IN FACILITATING CO-OPERATION BETWEEN LOCAL/ PROVINCIAL/NATIONAL AUTHORITIES AND ITS MEMBERS WHERE THERE ARE CHALLENGES IN THE IMPLEMENTATION OF SLP OBLIGATIONS?



The Minerals Council has played an active part in developing and implementing the Presidential Framework Agreement for a Sustainable Mining Industry and the Framework for Peace and Stability in the Mining Industry. The organisation also represents its members in respect of broad policy issues related to SLPs. It does not, however, have a role in the regulation of specific companies' SLP commitments.

We believe there could be more effective provision of resources to mining communities and labour-sending areas by the regulator in regional co-operation between mining companies to facilitate larger projects with greater impacts.



AS A PRO-ACTIVE MEASURE, WHAT HAS THE MINERALS COUNCIL DONE IN MINING REGIONS TO ENSURE LOCAL AUTHORITIES ARE ADEQUATELY RESOURCED (INFRASTRUCTURE AND PUBLIC SAFETY) FOR POSSIBLE MIGRANT LABOUR INFLUX?



The Minerals Council is not directly involved at local level. All companies are required to engage with local authorities to ensure that SLPs meet integrated development plan priorities. However, through the Presidential Working Group, the Minerals Council is able to highlight mining growth patterns so that the state can adequately plan for possible infrastructure needs.

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IN GENERAL TERMS, LOOKING AT THE MINING INDUSTRY’S HISTORIC PRACTICES DURING APARTHEID, HAS THE MINING INDUSTRY ADOPTED A PROGRESSIVE HUMAN RIGHTS APPROACH FOR IMPROVED EMPLOYEE RELATIONS?




The Minerals Council believes that the industry began to adopt a progressive human rights approach to labour and employee relations from 1983 when, for the first time, it recognised a representative union for black mineworkers. The industry was, we believe, a South African leader in sound labour relations.

Employee relations go beyond this. The migrant labour legacy remains deeply entrenched in our country and our industry. Of course it took time to change racist employment patterns and the “command and control” approach to employee relations that were typical of the industry through much of the 20th century.

There has been progress in employment patterns. In 1994, there were close to zero black managers and skilled black workers in the industry. Today, more than 50% of managers are historically disadvantaged South Africans. Of course, we need to go further. And management systems are becoming more modern and co-operative although there is a way to go.

Wage levels for semi-skilled workers are higher in the mining sector than in any other labour-intensive economic sector in South Africa. This is, in part, a consequence of the progressive labour relations system that has been at work for more than three decades. Of course, the events of 2012 have forced us to relook our methods and systems. Some of these issues are addressed earlier in this document.



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