

LEGAL AID BOARD



REPORT TO ILAG

MAY 2007

QUALITY MANAGEMENT PROGRAMME **LEGAL AID BOARD – SOUTH AFRICA**

1. INTRODUCTION

The delivery of legal aid in South Africa has undergone a major transformation during the last decade. From being on the verge of financial bankruptcy, with our contingent liability in excess of R200million and the auditor general unable to express an opinion on our financial records, we can now say with great pride that we have turned the corner and are delivering on our mandate in terms of the constitution. This all against a background of good corporate governance and three successive unqualified audits by the auditor general.

The transformation that took place within the Legal Aid Board involved a shift in operations, from a primarily outsourced method of instructing private practitioners through our judicare system, to delivering legal aid by our salaried in-house lawyers employed at our network of justice centres located throughout the country. This shift in operations resulted in tremendous cost savings to the LAB, with the average cost per case for a matter done by our in-house lawyers nearly half of what it would have cost us if a judicare practitioner was instructed. This therefore enabled us to serve many more clients than we would have been able to do if we continued with the judicare system as our main delivery vehicle of legal services.

However, the challenge that we face is to ensure that the quality of the work done by our in-house lawyers is comparable to that of good lawyers in private practice. This is critical to the sustainability of our in-house model. Our future as an organization depends on our clients having confidence in the quality of the legal service rendered to them by our practitioners.

Thus, the priority for us currently and for the future is to ensure that we are able to consistently provide quality legal services, thus ensuring that our clients, communities and vulnerable groups in our country can have effective access to justice. By the provision of quality legal services, we will also play a major role in ensuring the entire justice centre becomes more effective and efficient.

In ensuring that this key strategic priority of the Legal Aid Board is achieved, we have implemented a number of important quality intervention and monitoring programmes over the last few years. The benefits of these quality programmes have been noted in our improved performance, as reviewed by independent consultants.

2. LAB QUALITY INTERVENTION PROGRAMME

2.1 Increasing supervisory staff at Justice Centres

- A key intervention in our quest to improve the quality of legal services was to increase the supervisory capability and capacity at our justice centres. This included ensuring that all our Justice Centres were staffed with supervisory attorneys and in medium to large Justice Centres,

principal attorneys were also allocated. The primary function of these supervisory positions was to manage the quality assurance programme of legal professional staff.

Table: Ratio of supervisory staff to candidate attorneys @ 31st March 07

| Region | Prov | Nr of JC | Supervi - sory (JCE, Pr Att, SPA) | Superv i- sory HC (HCUM) | Total Supervi - sory (Incl HCU) | No of CA's | Legal HC (HCU PA) | Legal (CA, PA) | Total Legal Staff | Ratio of supervi- sory staff to CA's | Ratio of supervi- sory staff to Legal staff |
|-----------------------------------------------|---------------|-----------|-----------------------------------|---------------------------|---------------------------------|------------|-------------------|----------------|-------------------|--------------------------------------|---------------------------------------------|
| Kopanong | Gauteng | 8 | 35 | 2 | 37 | 114 | 23 | 239 | 262 | 3.3 | 7.1 |
| | Limpopo | 5 | 13 | 1 | 14 | 40 | 5 | 75 | 80 | 3.1 | 5.7 |
| | North West | 2 | 6 | | 6 | 13 | | 29 | 29 | 2.2 | 4.8 |
| Kopanong Total | | 15 | 54 | 3 | 57 | 167 | 28 | 343 | 371 | 3.1 | 6.5 |
| KwaZulu Natal & Mpumalanga | KwaZulu Natal | 10 | 34 | 2 | 36 | 114 | 13 | 203 | 216 | 3.4 | 6.0 |
| | Mpumalanga | 4 | 12 | | 12 | 39 | 3 | 69 | 72 | 3.3 | 6.0 |
| KwaZulu Natal & Mpumalanga Total | | 14 | 46 | 2 | 48 | 153 | 16 | 272 | 288 | 3.3 | 6.0 |
| Eastern Cape & Free State | Eastern Cape | 10 | 30 | 4 | 34 | 67 | 20 | 175 | 195 | 2.2 | 5.7 |
| | Free State | 4 | 13 | 1 | 14 | 29 | 8 | 68 | 76 | 2.2 | 5.4 |
| Eastern Cape & Free State Total | | 14 | 43 | 5 | 48 | 96 | 28 | 243 | 271 | 2.2 | 5.6 |
| Western Cape & Northern Cape | North West | 5 | 13 | 1 | 14 | 35 | 5 | 61 | 66 | 2.7 | 4.7 |
| | Western Cape | 7 | 27 | 1 | 28 | 112 | 13 | 199 | 212 | 4.1 | 7.6 |
| | Northern Cape | 3 | 8 | 1 | 9 | 24 | 5 | 49 | 54 | 3.0 | 6.0 |
| Western Cape & Northern Cape Total | | 15 | 48 | 3 | 51 | 171 | 23 | 309 | 332 | 3.6 | 6.5 |
| Grand Total | | 58 | 191 | 13 | 204 | 587 | 95 | 1167 | 1262 | 3.1 | 6.2 |

Noting that the law society allows an attorney in private practice to have three CAs articulated to him/her, our ratio of supervisory staff to CAs is very favourable, especially noting that our supervisory staff is not required to carry a case load of any significance, which is unlike an attorney in private practice who has to ensure that he/she generates their monthly fees.

2.2 Legal training and development

The development of our professional staff is a key priority of the LAB. All practitioners have targets for the number of days per year that has to be devoted for training. Currently the target is 56 hours per practitioner per annum for training. Training is conducted at three levels:

2.2.1 Justice Centre training interventions – All justice centres are required to conduct a minimum of one legal discussion forum per month on a relevant area of the law. This target is usually exceeded as many justice centres conduct these forums on a weekly basis. Justice centres are also allocated a budget to organize training programmes for their professional staff. This generally involves procuring outside service providers to conduct the training sessions. Our justice centres also ensure that all candidate attorneys participate in the 5 week practical legal

training programme run by the law society. Paid leave is given to CAs to participate in this programme.

- 2.2.2 Regional office training interventions – regions are also required to arrange training interventions on a regional basis. This includes ensuring that all newly recruited candidate attorneys attend beginner candidate attorney courses designed by the Legal Education and Development (LEAD) which is a sub committee of the Law Society. Regions also arrange legal seminars/training programmes for all practitioners in the region on areas of the law that is of particular interest to LAB lawyers.
- 2.2.3 National office training interventions – The Legal Development Department was created in 2005 and their primary function is to support the delivery of legal services. A national training programme is designed that responds to the skills audit that was conducted amongst our legal staff. These training programmes are usually facilitated by external consultants in their respective fields of expertise.

2.3 Mentorship, coaching and support programmes

- 2.3.1 CA Mentorship programme - All candidate attorneys are aligned to a professional assistant at every Justice Centre. They are usually paired in such a way that they work at the same courts, as well as sit in close proximity to each other at the offices. These professional assistants provide immediate and continuous support to the candidate attorneys in all aspects of their work.
- 2.3.2 Case discussion forums – All attorneys, including candidate attorneys, participate in daily/weekly case discussion forums facilitated by a supervisory staff. In these discussion forums, legal strategy of all cases currently being handled by practitioners is discussed in a team.

2.4 Candidate Attorney (CA) checklists

- 2.4.1 Court readiness checklists - All newly appointed candidate attorneys must complete a programme on court readiness before they are allowed to appear in court. A checklist is in place that is monitored on a weekly basis to ensure that each CA gets sufficient practical training on various aspects of court readiness. The programme is intended to be completed within 6 weeks of the recruitment of the candidate attorney. A supervisory professional assistant assigned to the candidate attorney is responsible to ensure that the programme is completed and it is only when the checklist is fully completed is the CA allowed to take on any matters in court.
- 2.4.2 Pre-admittance checklists – All candidate attorneys, on completion of their period of articles, apply to the high court for admittance into the attorney's profession. This checklist, which is monitored monthly, is designed to ensure that our candidate attorneys gain sufficient practical experience in all areas of law that a CA would need to be exposed to in order to qualify for admission into the profession. Hence, we will ensure that the CA is given some practical exposure to areas of the law that we in the Legal Aid Board would not normally give legal aid to. In this way, we ensure that the attorneys are well rounded and developed to practice after their admission into the profession.

2.5 Research support to LAB legal practitioners

- 2.5.1 Access to Internet - all our justice centres have internet cafes where practitioners are allowed to log on to law sites to conduct their legal research. Practitioners also have online access to Jutastat.
- 2.5.2 Legal reference material – all our justice centres are resourced with legal reference materials including law journals and legal textbooks that practitioners can make use of for their research and preparations.

- 2.5.3 Monthly legal newsletters – a full time legal researcher is stationed at our national office whose task includes the electronic publication of a monthly newsletter that contains updates on the most recent case studies and changes in legislation.

3. LAB QUALITY MONITORING PROGRAMMES

3.1 Quality assessment reviews

A quality assessment instrument has been developed to monitor the quality of legal work in respect of both civil and criminal matters. It involves an examination of the case file of a practitioner to determine the attorney's level of preparation, consultation, and court performance. This instrument is then used for the following purposes:

3.1.1 Quality review self assessment

All practitioners are required to review all files that they have closed on various aspects of their legal representation, including the quality of their preparation for the case, their consultation and communications with the client, their performance in court, etc. These self assessments are monitored by the Justice Centre supervisory staff when they sign the file closure certificates and also when they have to conduct the quarterly quality review for each practitioner. This intervention therefore forces practitioners to be sensitive to the quality requirements for all aspects of all cases that they conduct.

- 3.1.2 JCE quality reviews – all Justice Centres are required to conduct a quarterly quality review of all practitioners. JCEs would review a sample of current pending files or files closed during the quarter to conduct this review. This is again based on the quality assessment instrument developed for this purpose. All practitioners have quality targets that they have to meet. If practitioners fall below these targets, then individual intervention plans are agreed between the practitioner and their supervisor. These scores are monitored on a quarterly basis by both regional and national management of the Legal Aid Board.

- 3.1.3 Regional office quarterly reviews – all Justice Centres are under the direct control of a Regional Office, of which there are four in the country. All regional offices are staffed with a small legal component whose primary function is to monitor the delivery and quality of legal services in the region. This includes the conducting of Justice Centre quality audits on a quarterly basis. A sample of practitioner files is reviewed by the regional teams using the quality assessment instrument. The regional teams also rate the practitioners and all significant differences between the Regional Office quality scores and the scores of the Justice Centres are discussed and consensus is reached. These regional office scores are also reviewed by the Board on a quarterly basis.

3.2 Peer review

All practitioners are required to identify a peer who would join another peer selected by the Justice Centre management in order to conduct a peer review on themselves and to provide feedback on his/her performance. Peer reviews include both file management and court observation feedback. These reviews are intended for practitioner development purposes. It is envisaged that this feedback from peers would be seen to be more objective and hence any individual intervention plan developed to cater for weaknesses would be more readily accepted and implemented by the practitioner. Peer review feedback is also checked by management when they conduct their quality reviews, hence ensuring that peer review feedback is objective.

3.3 Stakeholder feedback

- 3.3.1 Justice Centre stakeholder visitation plans – all Justice Centre Executives are required to interact with justice cluster stakeholders, including magistrates and prosecutors. Feedback on the performance of practitioners is received during these visits which assists us in the LAB in

developing individual intervention plans to improve the quality of the representation by practitioners.

3.3.2 Judicial Officer Surveys – the LAB did previously conduct a countrywide survey amongst Judicial Officers that was designed to obtain objective feedback from them on the quality of the representation given by our practitioners. The results of this survey were used by the Legal Aid Board in reviewing our training programmes to cater for some of the weaknesses identified in this survey. We currently have a programme where Justice Centre supervisory staff meet with presiding officers on a quarterly basis to receive feedback on performance.

3.3.3 Client satisfaction surveys - all LAB clients, whether they are visiting our Justice Centre for legal advice, or are receiving representation in a criminal or civil case, are requested to complete a client satisfaction survey. This is analysed by the Justice Centre and these client satisfaction scores are reported to our Board on a quarterly basis. The survey scores indicate to management the areas of the operations at the Justice centre where there could be weaknesses and where clients believe that improvements need to be effected.

3.4 Performance management

3.4.1 Practitioner performance management reviews – all practitioners are required to enter into performance contracts at the beginning of each financial year. The provision of quality legal services is an important programme in the performance contracts of all legal professional staff. Performance reviews of all staff are conducted on a quarterly basis. Amongst other key performance areas, practitioners are rated on their achievements on attaining their quality targets. The performance management system is linked to an incentive scheme and all staff are aware of the implications of not performing which results in reducing their chances of obtaining performance bonuses.

3.4.2 Justice Centre Performance Monitor – This is an instrument developed to monitor the overall performance of Justice Centres on various aspects of their operations including the rendering of quality legal services, governance, finance and human resources. The JC performance monitor results are reported to the Board every quarter. These results also serve as a modifier in the performance management system and hence all Justice Centres place great emphasis on ensuring that they deliver on all the key performance areas in the monitor.

3.5 Complaints monitoring

3.5.1 Stakeholder complaints – all complaints received by a Justice Centre are logged on a complaints register. This is reviewed by the Justice Centre Executive on a regular basis and interventions are put in place to resolve complaints, in particular service delivery complaints.

3.5.1 Ethics hotline complaints – the LAB has an ethics hotline in place that is managed by an independent company. Any person can lodge complaints, including service delivery complaints, to the hotline without need for them to reveal their identity. All complaints, relating to service delivery issues, are investigated by the Justice Centres/Regional Offices.

3.6 Maintaining Professionalism

3.6.1 LAB code of conduct– all employees of the legal aid board are required to comply with our code of conduct. This includes all practitioners conducting their legal work in an ethical manner and consistent with our values. A dedicated programme has been implemented in the past year to build a culture within our organization that is consistent with our values.

3.6.2 Compliance with the law societies ethical requirements – all our practitioners are required to be members of their respective provincial law societies. The law societies have a regulatory function to ensure compliance within the profession. Our legal practitioners are required to comply with the ethical requirements of their association. These law societies have the authority to strike off practitioners from their roll if they do not comply with their ethical requirements. All attorneys

practicing in our courts are required to be members in good standing with their respective law society. Hence, if an attorney of the LAB does not look after the best interest of their client, he/she can be disciplined by the law society.

3.7 Business Intelligence

The Legal Aid Board has implemented our very own computer software system called *Ad Infinitum*. This is an integrated finance and legal administration system which is designed to, amongst other important functionalities, provide key business intelligence information on our operations. All our practitioners are required to complete daily matter activity reports on the cases they have worked on during the day and the type of activity that was performed on this matter.

This system will be able to produce various reports for Justice Centre management that will provide invaluable information on the quality of the work done by the practitioners at the centre. This includes information on the amount of time spent per case on preparation and consultation, the turn around time of cases per court and per practitioner. Managers can also examine the outcomes of matters amongst different practitioners and they will be able to see at a glance the practitioners with good acquittal rates as well as those practitioners with high conviction rates or a high percentage of guilty pleas in their finalized matters.

This business intelligence is going to take our quality monitoring to new heights as we will be able to pick up on areas of concern or weakness amongst practitioners very easily. Interventions can then be implemented immediately to ensure rectification of any weaknesses.

4. CONCLUSION

A concern for us in our continuous quest to improve quality is our inadequate ratio of practitioners to courts. Invariably our professional assistants have to serve the regional courts on a daily basis because of the demand emanating from these courts. This however leaves them with little time for adequate consultation and preparation. We are currently motivating for additional resources to cater for this situation.

A key benefit of our Justice Centre model is that we control the quality of the representation in a very direct way. This is critical in our quest to improve the perception of our clients on the quality of our work. We are confident that we are making significant gains in this area of our work. The delivery of quality legal services will however always be a priority programme for the Legal Aid Board.

LEGAL AID BOARD