

Portfolio Committee on Justice and Constitutional Development
12 October 2010
Legal Aid South Africa on their Annual and Quarterly Reports

Acting Chairperson: Mr J Jeffery (ANC)

Documents Handed Out:

[Legal Aid South Africa \(LASA\) presentation on Annual Report 2009/2010](#)
[LASA First Quarter Report: April to June 2010](#)

Relevant Document:

[Legal Aid South Africa \(LASA\) Annual Report 2009/2010](#)

Summary

The Committee on Justice and Constitutional development welcomed Legal Aid South Africa as they presented their annual report for the financial year 2009/2010 as well as the 1st quarterly report for April to June 2010/2011. In a nutshell **Legal Aid South Africa had managed to achieve its targets** and would now focus on finding new ways of increasing access to justice. On the support services front, the objective was to increase financial maturity. Six new justice centres had been built around the country as well as 27 satellite offices. The client call centre would be opened in two weeks time and Legal Aid South Africa was the first legal aid entity in the world to instill quality assurance structures to ensure that the quality of the services provided by its lawyers was monitored. **Risk management and financial control were closely guarded and there was a strong corporate governance ethos.** Only 29 000 new civil matters had been handled, this reflected that **LASA was still struggling with the load where civil matters were concerned.** Of all the matters undertaken by justice centres, in-house practitioners handled 93%, 6% were by Judicare lawyers and 1% were through co-operation with other partners. The general advice provided by paralegals figure for this financial year was 211 874. The number of automatic reviews had decreased to 8 770. A challenge that remained for Legal Aid South Africa was that there was a gap in terms of African females in senior management positions.

The non-current assets, which were less than 12 months old, amounted to R102 559 414. The current assets were R236 366 598. Revenue was R917 408 000; the main source of revenue was the government grant. The main source of expenditure was salaries, which consumed 70% of the budget. 99.5 % of the budget had been spent for the 2009/10 financial year and once again Legal Aid South Africa had received an unqualified audit report.

For the first quarter of the 2010/2011 (April to June) financial year Legal Aid South Africa was on track where New Legal Delivery Matters was concerned. **Practitioners were performing well within target range and challenges were being resolved.** The government

grant had increased by 21% and had been used to cover the various areas of operations, which included the reduction of case backlogs.

The Committee wanted more insight into the relationship between Legal Aid South Africa and private practitioners. There were also queries regarding the area of operation of the justice centres. The Committee wanted to know about the experience levels of Legal Aid South Africa practitioners as well as their ability to compete with lawyers from the private practice, this tied in with the query on the salary levels of practitioners. There were issues regarding the financial statement that the Committee raised. It was a concern that there was no mention of what the targets set were; especially where the challenges had been set out in the presentation for the annual report. The Committee requested feedback on the *Porrit* and *Boeremag* cases. The Committee suggested that media services available in Parliament such as Parliament Live should be used by Legal Aid South Africa. The entire Committee commended Legal Aid South Africa for its excellent work and congratulated them on an excellent Auditor General Report.

Minutes

Opening Remarks

Judge Dunstan Mlambo, Chairperson of Legal Aid South Africa (LASA) referred to slide 3 of the annual report presentation and said that overall, LASA had managed to achieve its strategic shift for the period leading up to 2012. The next strategic phase would be to try and find new ways of increasing access to justice. On the support services front, the objective was to increase the financial maturity of LASA. The risk-based management of the performance of lawyers at LASA would be perfected further. The Information Technology platform would be enhanced as well as the availability of the business intelligence facet. Six new justice centres had been built around the country as well as 27 satellite offices. The client call centre would be opened in two weeks time by the Minister of Justice and Constitutional Development. LASA was also the first legal aid entity in the world to instill quality assurance structures and thus ensuring that the quality of the services provided by its lawyers was monitored. LASA would like to embrace a more value centred approach.

Ms Noni Mgadza, Chairperson of the Audit Committee for the board of LASA elaborated on the audit focus of LASA. Risk management and financial control were closely guarded at LASA and there was a strong corporate governance ethos. The result of this was that in the past nine years LASA had received an unqualified report, in five of those there were no matters of emphasis. The various sub-committees of the board worked together to ensure that LASA functioned competently. The established corporate governance structures all worked towards servicing the various communities of South Africa.

Presentation: Annual Report 2009/2010

Ms Vidhu Vedelankar, Chief Executive Officer (CEO) of LASA addressed the Committee and saying that management had strived to turn the organisation around in order to

increase access to justice. The justice centres operated in all the criminal courts within the Republic. For the 2009/10 period there was a slight decrease in the number of new matters handled. 29 000 New civil matters had been handled, this reflected that LASA was still struggling with the load where civil matters were concerned. This was listed under the challenges that would be undertaken by the organisation. The call centre would assist in this regard as first level advice would be provided especially to those communities where LASA was not present. LASA's justice centres undertook 93% of all new matters, 6% were by Judicare lawyers and 1% were done through co-operation with other partners. There were 59 266 new matters that involved children. General advice was provided by paralegals and the figure for this financial year was 211 874. The number of automatic reviews had decreased to 8 770 as LASA had been working hard on reducing this. The quality of practitioners was tracked at justice centre levels. In order to increase awareness on its services, LASA had done branding in prison and police cells. Branding was also done in courts as well as at public lectures. Concerning the Business Processes Performance, LASA was aiming to improve the Matrix management and Risk Based Management, which were both successfully implemented.

The Business Intelligence model allowed management to have oversight over what was going on in the organisation at any time. It also allowed practitioners to know what their caseload was. Recruitment stood at 94% and the staff turnover rate – excluding Candidate Attorney's (CA) - was 9.6%. Lawyers constituted 69% of staff. There was a gap in terms of African females in senior management positions.

Presentation: Annual Financial Statements & Auditor General's Report

Ms Rebecca Hlabatau, Chief Financial Officer (CFO) of LASA informed the Committee that the non-current assets, which were less than 12 months old, amounted to R102 559 414. The current assets were R236 366 598. Revenue was R917 408 000, it should be noted that the main source of revenue was the government grant. The main source of expenditure was salaries, which consumed 70% of the budget. 99.5 % of the budget had been spent for the 2009/10 financial year. This had been the trend for the past six years as there was efficient management of all fixed assets and vehicle management. There were also functional and efficient supply chain management committees. 99.6% of trade creditors were paid within 30 days of the invoice date and 99% of judicare accounts were paid within 30 days of receipt of invoice. The 2009/10 financial year was the 9th year in succession that LASA had received an unqualified audit report and this was the 5th year in succession that there were no matters of emphasis.

The Chairperson commented that there was a lot of data in the quarterly report, in future the focus should only be a highlight of the trends and issues.

Presentation: Quarter 1 Report April to June 2010

Mr Brian Nair, National Operations Executive presented to the Committee that LASA was on track where New Legal Delivery Matters was concerned. Finalised matters were slightly lower but still within target range. Civil matters were extremely lower than criminal matters

as a result of the resource constraints. There was a good trend for quality monitoring and the practitioners were performing well within target range. There was still some work to be done concerning the branding for community outreach purposes. LASA was on track with addressing most of the challenges it faced.

Mr Jerry Makokoane, Chief Operations Officer for LASA continued with the presentation. The funding for case backlogs from the government assisted in the reduction of cases. The government grant had increased by 21% and had been used to cover the various areas of operations. 19% of the funding went to salaries. Direct expenditure increased by 70% due to the 2010 FIFA World Cup funding as well as funding for new legislation. 25 % of the budget had already been spent; this was in line with the trend of LASA's spending. Business continuity was being monitored in order to ensure that operations in LASA were being monitored.

Discussion

Mr J Sibanyoni (ANC) asked what kind of relationship existed between LASA and private practitioners. Did the private legal sector consider LASA as a rival competitor and was it easy for LASA to be able to obtain private practitioners for judicare? Taking into consideration the fact that LASA was freely available to the public, would a newly admitted attorney be able to successfully set up his or her own practice? The civil work that LASA was now undertaking was commendable. Were there LASA centres that provided services across two provinces or were they provincially bound?

Judge Mlambo replied that LASA did not have any problems with judicare. LASA had an accreditation system for private practitioners; from there instructions were issued to the various lawyers on the accreditation list. LASA was now accepted in the legal fraternity however there were still many lawyers in private practice that bad mouthed LASA. These lawyers did this for the simple reason that they did not have access to the work done by LASA. The justice centres were court based in terms of their coverage and they were not provincially bound.

Mr Nair replied that the relationship between LASA and private practitioners was not adversarial. More and more clients were asking for assistance from LASA. LASA provided assistance for clients who could not afford legal services; these were not the type of clients that comprised the market for private lawyers

Ms D Schaefer (DA) commented that she was concerned that the annual report was not made available to members on Friday. Were the salaries of LASA practitioners competitive when compared to the private sector? What were the experience levels of LASA practitioners and were they able to compete with private lawyers? Was LASA concerned about not providing services to persons other than indigenes that also could not afford legal services? On page 123 of the annual report LASA had an excess of R21 million rand access in the past financial year yet this year there was a deficit of R1.8 million, is there an explanation for this? On page 146 there were bad debts written off in 2009/10 to the tune

of R563 000 as opposed to R42 000 during the financial year before that, why was this the case?

Judge Mlambo replied that the best way to ascertain the quality of the work done by LASA practitioners rested with the judicial officers in front of whom LASA practitioners stood. One would find judicial officers in very remote areas traveling to LASA launches to commend me on the work done by LASA. There were many judges who would say that they did not want judicare in their courts because they were not committed and preferred LASA practitioners. LASA practitioners were monitored and if they had a higher number of guilty pleas they would be reined in. The group referred to that did not qualify for legal aid but also could not afford legal services would benefit a lot from the private legal profession increasing their *pro bono work*. Those who failed the means test could also appeal.

Mr Nair replied that LASA had no problems with regards to recruiting lawyers and the salary levels were an indication of this. LASA practitioners served in different types of courts, therefore there were different types of experience levels required. LASA would definitely expand from where it was right now.

Ms Hlabatau referred to the questions relating to finance and said that the reason for the deficit figure was because the income statement took into consideration depreciation. The deficit was not a reflection that LASA overspent on its budget during the past financial year. The bad debts written off related to old debts stretching back to 2000. The bad debts were written off after a considerable amount of time had been spent trying to recover the debts in terms of Treasury regulations. It came to a point where the costs of recovering these debts were now exceeding the benefits that would be derived in recovering them.

Mr M Gungubele (ANC) echoed the praise from Mr Sibanyoni on the excellent work done by LASA. Where the presentation focused on the challenges, it was a concern that there was no mention of what the targets set were. It would be useful if the challenges were articulated in a manner where the set targets were included so one could judge according to figures provided.

The Chairperson commented that there should be more information on the Co-operation agreements that LASA was entering in with other organisations. Could there be commentary on the *Porrit* case that just concluded and its impact on LASA. What was LASA trying to do in order to improve the figures for civil matters?

Judge Mlambo replied that the impact of the *Porrit* case would not affect the judicare instructions. The decision in the case would mean that courts would no longer force LASA to provide legal aid for non-qualifying persons. Cases like the *Porrit* one were going to be a threat and would have consumed a huge part of the budget.

Mr Nair said that last year the board had decided to review the civil matters strategy, which included looking at access and the quality of services for civil matters. Civil matters were

expected to grow, as there was now added capacity.

Advocate Peter Du Randt Chief Director for Court Services in the Department of Justice and Constitutional Development (DOJ & CD) also replied that some of the Co-operation agreements included an agreement with the National Prosecuting Authority (NPA). The agreements were to enhance coordination in how cases were dealt with and also for the reduction of cases on the court register. LASA practitioners were now also available as adjudicators in small claims court cases. This was also contributory towards the work being done where civil matters were concerned.

Ms C Silkstone, Content Advisor for the Committee asked why new matters had decreased.

Mr Nair said that the figures have generally decreased because the cases that should not be on the court roll were not. The Child Justice Act also meant that more and more cases involving children were being diverted

Mr Gungubele asked what mechanisms were in place for quality control purposes and how were the standards measured to determine consistency in the performance of practitioners.

Ms Vedelanker added that quality would remain on the agenda as a challenge because of the professional work done by LASA. The standard of LASA was improving; the target for Candidate Attorneys (CA's) was lower because they were fresh from university. The quality assessment now consisted of both file and court monitoring. This was not so successful in judicare because it was much harder to track matters.

Judge Mlambo added that the budget for judicare had been reduced. It should be noted by the Committee that whenever they read about LASA lawyers behaving inappropriately it was usually Judicare lawyers. This was why Judicial Officers always preferred LASA lawyers to Judicare.

Mr Sibanyoni asked for feedback on the *Boeremag* case.

The Chairperson suggested that LASA should make use of the media services available in Parliament such as Parliament Live especially when they come to present the quarterly reports. Were there amendments to the Legal Aid Guide that had to come before Parliament? LASA should report on the progress of the Child Justice Act in the next quarter. Were there any cases where LASA was suing the state especially Home Affairs? Had there been any forms of engagement with the Minister of Home Affairs so that court proceedings against the state can be avoided where Home Affairs was concerned. Another issue of concern was pensions, had LASA looked at engaging with the pensions ombudsmen to ensure that any queries from its clients were looked at? The work by LASA was once again commendable. It was important that Members also assisted in the quality

maintenance of LASA by conducting surprise visits to their offices.

Judge Mlambo replied that just under R27 million had been spent on the trial. The courts forced LASA to fund the *Boeremag* case the way it was being funded now despite the best efforts of LASA. The accused were 23 and all were represented by the state. It was difficult to handle more civil matters because the funding constraints. It was not clear if there were dedicated LASA units that dealt with pensions but they definitely dealt with estate matters.

Ms Vedelanker added that the Legal Aid guide was tabled before the Minister of Justice who would in turn table it before Parliament. There were not too many amendments.

Mr Nair replied that there were no statistics available for where LASA was suing the state on behalf of clients but one could not rule out the possibility that there would be such cases. The bulk of the matters involving Home Affairs and pensions would be handled at the advice stage where a paralegal would refer the client to the relevant person or body. The problems had not reached the stage where practitioners were involved.

The Chairperson asked if both Houses had to approve them.

Ms Vedelanker replied in the affirmative.

The Chairperson thanked LASA and once again congratulated them on their excellent work.

The meeting was adjourned.