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MOTIVATION TO MOVE THE SENIOR LITIGATOR POSITION AT THE KIMBERLEY JUSTICE CENTRE TO ANOTHER REGION

Background

Kimberley Justice Centre has a High Court Unit and has a Senior Litigator position allocated in it as well. Since the allocation of the Senior Litigator position to the Kimberley Justice Centre, the position was never filled up. The primary objective to base the Senior Litigator position at the Kimberley Justice Centre was to service all the Justice Centres that are located in the Northern Cape i.e Colesberg, Kimberley and Upington Justice Centres. In all the time since the allocation of this position, there has never been a demand for the services of the Senior Litigator from all the Justice Centres in the area of the Northern Cape, except with two cases which have very recently arisen and which are currently being investigated to establish if there are merits in them.

The Senior Litigator position has never been filled. The position had been advertised 3 times already, both internally and externally and the adverts could not attract candidates who meet the minimum criteria to fill up the position.

It has become necessary to relook at the possibility of transferring the position to a region where it is mostly needed or where there are prospects of the high demand for the position as well as where, there are prospects of attracting candidates who will meet the minimum criteria.

Current situation

All the 3 Northern Cape Justice Centres fall under the Western Cape/Northern Cape Region. Currently the Region has an appointed Senior Litigator (Advocate Mornay Calitz) based at the Cape Town Justice Centre. Currently,

the two (2) possible cases where the services of a Senior Litigator are required have been referred to the Senior Litigator at Cape Town Justice Centre (in the absence of a Senior Litigator in Kimberley).

Dealing with the demand

As mentioned above all the three Northern Cape Justice Centres rely on the Senior Litigator based in Cape Town for assistance in any matters that have the prospect of the need for services of a Senior Litigator.

For any of the cases that may arise from the Northern Cape Justice Centres, the jurisdiction to hear their cases will be the Northern Cape Division and be held at the Kimberley High Court. Kimberley High Court is 156km away from Bloemfontein. Further, to deal with the demand that may arise in the Northern Cape Justice Centres, assistance can be sought as well from the Bloemfontein Justice Centre as this justice centre has an appointed Senior Litigator as well.

To deal with the issues of the Right of Appearance in the Northern Cape Division of both Senior Litigators, from the Free State and the Western Cape, it would be ideal if they were both Advocates as they can appear anywhere in country's courts. However, if one of them is an Attorney (as is the case of Pieter Nel), he will have to enroll himself in the Northern Cape Division to enable him to appear there.

The reallocation of this post has been canvassed with all the Northern Cape Justice Centres concerned and they have no objections to the reallocation of this post to another region.

Financial implication

There will be no financial implications that will result from the movement of the position as there will only be a transfer of the budget to be done.

Recommendation

It is recommended that the Senior Litigator post allocated to Kimberley Justice Centre be reallocated as per the National Operations Executive's discretion to the any other region that might be require same.

WC/NC Region

17 November 2009

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