



What the LSSA does for you

OVERVIEW

By representing 30 000 legal practitioners and 6 700 candidate legal practitioners, the Law Society of South Africa (LSSA) has the leverage to represent the profession and speak on its behalf.

The mission of the LSSA is: **To represent the attorneys' profession, safeguard the rule of law via efficient and fair administration of justice.**

The vision of the LSSA is: **To empower attorneys to provide excellent legal services to the community in an ethical, professional, considerate and competent manner.**

Attorneys and advocates in South Africa are registered with the Legal Practice Council in terms of the Legal Practice Act 28 of 2014. From 1998 to October 2018, the Law Society of South Africa (LSSA) has represented the attorneys' profession. The LSSA brings together the Black Lawyers Association, the National Association of Democratic Lawyers and the statutory provincial attorneys' associations in representing the attorneys' profession in South Africa. This included both members' interest and regulatory (the LSSA acted nationally on behalf of the statutory law societies).

From 31 October 2018, the LSSA changed its constitution to be a members' interest organisation with a new mandate, which includes the establishment of provincial associations in all nine provinces, with a focus on a transformed profession that acts in the interest of both the profession and society.

Governance

Legal Practice Council (LPC)

The legal profession is regulated in terms of the **Legal Practice Act 28 of 2014** and governed by one, national regulatory body – the **LPC**

- One of the purposes of the LPA is the creation a **single unified statutory body to regulate the affairs of all legal practitioners** in pursuit of the goal of an **accountable, efficient and independent** legal profession.
- Provincial offices have been opened in all nine provinces under the delegation of authority by the LPC to the Provincial Councils (PCs), which determines the responsibilities of the PCs.

Law Society of South Africa (LSSA)

- The governance will be on the following ratio: BLA 1/3 NADEL 1/3 and the Provincial Attorneys' Association 1/3
- The House of Constituents consists of twenty-seven (27) members, comprising nine (9) members of each constituent.
- The Executive Committee (Exco) consists of nine (9) members (three (3) from each constituent).

- The members of the Provincial Attorneys' Association will comprise BLA members, NADEL members and those members who are non-BLA and non-NADEL (collectively referred to as 'Independents').
- The non-BLA and non-NADEL members will elect a member to nominate to the LSSA House of Constituents.

Composition of the House of Constituents (effective 1 April 2019)

The control of the Law Society of South Africa vests in the House of Constituents. The House of Constituents determines the policy of the LSSA in accordance with its aims and objectives as set out in its [constitution](#).

Key activities and projects

The year to date (1/4/2019 to 30/9/2019)

Engagement with the LPC

The LSSA has been engaging with the LPC on behalf of members and the broader profession on a number of matters that are of common concern, including the following:

- *Pro Bono* and Community service – The LPA does not specifically provide for *pro bono* services, but at the LSSA AGM, the members agreed that *pro bono* should be reinstated to improve access to justice. The LSSA submitted a position paper on *pro bono* and community service to the LPC. The LPC is encouraging legal practitioners to provide *pro bono*, while the position is being regularized.
- Legal Services Sector Charter (LSC) – The LSSA was of the view that the previous Charter, which was handed to the Department of Justice and Constitutional Development (DoJ&CD) to implement, can be used as the blueprint. The LPC has engaged consultants to consider the way forward. The LSSA views the issue of briefing patterns, which was a key element in the LSC, as the cornerstone to ensure access to work for black and female practitioners.
- The LSSA is also keen to address a number of issues with the LPC, including the PCs and the capacity to address disciplinary issues, LPFF election criteria (rules), etc.

Engagement with the Legal Practitioners Fidelity Fund (LPFF)

- The LSSA President's subcommittee has had informal talks with the LPFF and a meeting request is in hand to discuss: (i) Professional indemnity (PI) insurance and contributions (ii) PI insurance via the LPIIF, (iii) LPFF elections and the criteria, (iv) member training in compliance and risk so as to reduce potential disciplinary issues, etc.

Examinations

- The LSSA administers the admission examinations under the authority and on behalf of the LPC.
- The examination leak in 2018 tarnished the reputation and integrity of the entire profession and as result thereof a total revision of the examination process was instituted.
- The forensic investigation did not identify the source of the leaks (at the LSSA or the provincial law societies) and the LSSA is working with the LPC to ensure that the integrity of the examinations is maintained.
- The LSSA has handed over the investigation reports to the SAPS and have opened a criminal case.

Conveyancing

- Following concerns raised at various fora, the HoC established a task team to investigate the reasons for the high failure rate in respect of the conveyancing examinations and make recommendations.
- The task team's recommendations, which were adopted by the HoC, included restructuring the examinations to be more fair and just, without compromising standards. These include retaining the pass for each of the two papers (theory and practice) for three years and writing the papers over two days. The LSSA is thankful that the recommendations were accepted by the LPC. The LSSA views this as part of the transformation of the profession and access to specialised work.
- The LSSA introduced a mentorship programme for prospective conveyancers. The pilot kicked off in Mthatha and Polokwane and will soon be rolled out to other areas.
- Conveyancing training and the training material will be enhanced.

Litigation

The LSSA participated in various professional interest and public interest cases, either as party or as *amicus*, including the following:

- *Proxi Smart Services (Pty) Ltd v LSSA et al* – Proxi Smart applied to Court for declaratory relief regarding the lawfulness of its business model to render certain conveyancing related services. The LSSA successfully opposed the application in the Gauteng Division of the High Court. An application for leave to appeal was denied and the matter went to the Supreme Court of Appeal, where the application was also dismissed. On 7 May 2019 the Constitutional Court dismissed the application for leave to appeal. The documents can be viewed on the LSSA website.
- *Cape Bar v Minister of Justice and Correctional Services and others* – The LSSA is participating as *amicus curiae* in a matter where the Cape Bar is bringing an application in the Western cape Division of the High Court and the Equality Court to have the Legal Practice Act regulations dealing with the election of members of the Western Cape Provincial Council be declared unlawful and invalid. The matter will be heard on 4 and 5 December 2019.
- SADC Tribunal – The LSSA successfully challenged the former President of South Africa in the matter of *Law Society of South Africa & Others v President of the Republic of South Africa & Others* when it applied to the Gauteng High Court to have the President’s participation in the suspension of the operations of the SADC Tribunal and his subsequent signing of the 2014 Protocol be declared unlawful, unconstitutional and irrational. The Constitutional court confirmed the constitutional invalidity on 11 December 2018.
- Muslim Marriages – The LSSA is participating as *amicus* in a matter where the Women’s Legal Centre Trust successfully brought an application in the Western Cape High Court against the President of the Republic of South Africa and Others to, in short, declare that the Executive and Legislature failed to discharge their duty to protect the rights of women and children in Muslim marriages and divorce and to enact legislation to positively remedy the constitutional defects in our law that fails to recognise and regulate Muslim marriages and divorces. The President and Minister are appealing the whole judgment and the matter is now before the Supreme Court of Appeal.
- Foreclosures – Following a Practice Directive by the Judge President of the Gauteng Division of the High Court, the LSSA was admitted as *amicus* in a matter that relates to the interpretation of certain provisions of the National Credit Act and the High Court’s powers as regards declarations of over-indebtedness and related matters. Judgment was delivered on 3 September 2019.
- Timol- stay of prosecution – The LSSA participated as *amicus* in the matter of *Roderigues v National Director of Public Prosecutions*. A full bench of the South Gauteng High Court dismissed J Rodrigues stay of prosecution application for the murder of activist Ahmed Timol.

Legal education

- The LSSA is coordinating the consultations and report at the request of the LPC Education, Standards and Accreditation Committee on uniform PVT training and admission examination for all legal practitioners, with the final report due by 17 October 2019.
- The consultations have highlighted deficiencies in the course content, the structure of the course, the material and nature of training of the existing PVT 5-week course and remedial proposals and action plans will be submitted to both the LSSA and the LPC.

- The LSSA is also coordinating the accreditation standards for all legal education service providers.
- The SASSETA projects include candidate attorney subvention for salaries running up to 2022 (2 tranches for 100 candidate attorneys). Engagements are ongoing for renewal.
- Due to increased demand, some of the Schools for legal Practice have introduced a third School in 2019.
- Irish Rule of Law commercial training for 25 young legal practitioners is taking place. The Law Society of South Africa's Legal Education and Development (LEAD) division, in conjunction with Irish Rule of Law International and Irish Aid, facilitates an intensive commercial law training programme for attorneys from disadvantaged backgrounds. The overall objective of the programme is to use commercial law as a tool in establishing sustainable economic development among historically disadvantaged communities in South Africa. The programme began in 2012 with a six-day preliminary course in commercial law, held at LEAD. The preliminary course is one of three legs of the training. The programme has been designed to ensure that participating attorneys gain a greater understanding of the theory and practice of commercial law.

De Rebus

- Introduced candidate attorney placement and advertising on its website.
- In future, the *De Rebus* website will cater to legal practitioners in terms of their area of specialisation. When logging on the website, practitioners will be presented with articles in their chosen field of specialisation, so as to see those articles first on the site.
- *De Rebus* is ready to ensure the accreditation of points for legal practitioners, once mandatory PPD is approved and criteria established by the LPC.

Professional Affairs

- Arbitrations – The LSSA is regularly requested to nominate / appoint arbitrators, mediators, liquidators, receivers, etc. in terms of contracts entered into between parties. The guideline for appointment ensures access and transformation. Members are invited to make themselves available to serve on the panel via the online application form at <https://www.lssa.org.za/?q=form,82>.
- There is an increased focus on member service and advice, particularly since the demise of the former provincial law societies.
- The LSSA identified that the LPA requires certain amendments in the interest of profession and has established a task team to deal with this issue. The submissions are being finalised and will be submitted shortly.
- The LSSA has made extensive submissions to the SA Law Reform Commission on its issue paper regarding the investigation into legal fees (**Section 35 of the LPA**).
- Submissions- written and/or oral representations are made on legislation to the relevant body and/or Parliament. Recent submissions include on the Code of Conduct for the Legal Profession, the Road Accident Benefit Scheme Bill, the Small Claims Court Manual and the 2019 Draft Tax Administration Laws Amendment Bill.
- Through the LSSA's Parliamentary Liaison Officer, we receive daily updates on activities at Parliament, which enables us to monitor and influence changes.
- The committees draft information brochures and prepare audio-visual material to raise awareness about relevant processes and consumers' rights. These include 'Your Labour Law Rights'; 'How to Access the Small Claims Court'; 'Applying for Temporary or Permanent Residence Visa'; 'Buying or Selling a House'; 'Deceased Estates'; 'The Consumer Protection Act', etc.

You may be asking why we need the LSSA. Below is a list of activities of the LSSA, some of which have been undertaken at varying degrees of success and some which have not started. What is clear is that the LSSA, in terms of its new mandate, must meet a wide range of expectations and the journey is afresh with a renewed impetus and a great amount of work ahead.

At this stage, the future of the LSSA is still to be determined by its constituents. As seen from the list below, it is of utmost importance that the LSSA continues. It would be to the advantage of the legal profession if the constituent members take this opportunity to give the LSSA the approval to carry on so that the LSSA management and the House of Constituents can plan and market properly for the future.

1. **The LSSA interventions on behalf of the profession**

To have influence in legal and other issues

- Lobby Government, including liaison
- To represent the profession in all matters affecting the profession.
- Negotiate fees with the Department of Justice (DoJ): Court tariffs.
- Negotiate with the South African Revenue Service (SARS) and Financial Intelligence Centre (FIC) on practice requirements. Engagements with the Road Accident Fund to protect the public and ensure the right to legal services.
- Negotiate with Registrar of Deeds, Companies etcetera.
- Heads of Courts and National Efficiency Enhancement Committee (NEEC)
- Represents the profession on various Board, such as the Rules Board for Courts of Law and the Board of trustees of the Legal Provident Fund.
- New Group Retirement Annuity scheme for sole practitioners and partnerships (non-incorporated).
- Comment on proposals that effect practitioners.
- Submit proposals with the view to influence legislative and policy decisions to promote, preserve and uphold the rule of law and the administration of justice, as well as preserving and upholding the independence of the profession and enhance and maintain its integrity.

2. **Represents Attorneys**

- To have an influence on legal and other issues
- To speak nationally with a unified voice
- To represent and promote the rights of attorneys
- To protect and grow the professional services of attorneys
- Identifies and serve the common interest of attorneys
- Represents attorneys on the Judicial Service Commission

3. **Reputational management**

- To protect and enhance the image of the profession (interventions)
- Marketing the services and expertise of the profession (members), such as the National Wills Week, which has become an institutionalized annual event and the Access to Justice Week, in conjunction with the Department of Justice and Constitutional Development.
- Media interventions, including press releases, communication and engagement.
- Deal with public perceptions and positively influence where negative.
- Promote the profession at regional and international level.
- Protect the image, reputation and integrity of the profession via various interventions and communication across various media channels.
- Protect the independence of the profession.
- Ensure the profession is at the forefront on the Rule of Law – national interest for our society and international for positive perception of South Africa
- Ensure we defend and protect the independence of the Judiciary as the members of the profession are judicial officers of the Courts.

4. **Provides free key legal information and educational updates**

- *De Rebus* on a monthly basis to all legal practitioners and candidate legal practitioners.
- Legalbrief LSSA Weekly every Friday.
- Advisories, newsletters and guidelines regularly.
- Professional affairs updates on digital platform.

5. **Transformation and empowerment**

- Projects for women legal practitioners.
- Legal Practitioners Development Fund.
- Mentorship.

- Briefing patterns.
- Schools for legal Practice (PVT) to cater for many graduates (over 95% black) who are unable to find articles, increasing significantly their ability to find articles after the School. (refer to item 7, below)

6. Training for practitioners

Through the LSSA's Legal Education and Development (LEAD) division:

- Provides affordable education for over 11 000 legal practitioners and candidate legal practitioners a year.
- Post Professional Development via seminars, workshops and courses.
- Webinars and e-learning.
- Conveyancing and notarial courses.
- Post Graduate certificates in conjunction with Universities (Corporate Law, Deceased Estates and Insolvency Litigation and Administration)

7. Provides practical vocational training (PVT)

- In excess of 1 700 candidate legal practitioners a year at nine attendance centres of the School for Legal Practice providing day and night training classes.
- Distance training School in cooperation with the University of South Africa.
- E-learning.
- Full-time, part-time and evening classes for compulsory courses for 2 500 candidate legal practitioners.

8. Practice Support

- Underpinned by training for qualified legal practitioners, to allow them to practice for their own account, in terms of LPA:
- Guidelines, brochures and general information:
 - Provide advice and practice support resources – Information on digital platform includes, LSSA website
 - Practice management resources – Information on digital platform includes, LSSA website
 - Professional education and development, including Post professional development - PPD (this includes specialisation courses in conjunction with universities)
 - Research and investigation – to provide information and to enable legislation input (item 1, above)
 - Undertaking qualitative research to identify trends, market benchmarks etc.
 - Training for law firm support staff and corporate lawyers in specific identified

9. Leadership (National and International recognition and relevance)

- Provides leadership for policy development.
- Speaks nationally on behalf of the legal practitioners' profession.
- Brings stakeholders together as its constituent members.
- Nominates legal practitioners to approximately 70 committees, boards and forums, such as: Judicial Service Commission, Magistrates' Commission; Rules Board, Deeds Registries and Sectional Titles Regulation Boards, Securities Regulation Panel, Information Regulator, etcetera.
- Cooperates with local and international stakeholders.
- Brings lawyers to South Africa by co-hosting regional and international conferences with stakeholders.
- Represents the profession on various fora on the African continent and at international level.
- Membership: SADC Lawyers Association, Pan African Lawyers Union; IBA; Commonwealth Lawyers Association, BRICS Legal Forum and bilateral agreements (MOU) with many international Bar Associations.
- The forum for unified approach to members' interests with regards the future, based on research, trends, and analysis and members views.
- Promote the expertise of members with national and international bodies to ensure practice rights and standards are benchmarked and enhanced at regional and international level.

10. Advocacy

- Undertakes litigation in the interest of the profession and the public including:
 - ✓ Proxi Smart matter (protect conveyancing in the interest of the public and profession.
 - ✓ SADC Tribunal matter. (protect the citizens of SA to right of access to regional justices.
 - ✓ Muslim marriages matter. (protects the rights of women married under Muslim rites).
 - ✓ Cooperates with key stakeholders on advocacy issues.

11. Specialist committees

- interacts with Parliament, government departments and other stakeholders.
- Comments on policy documents and draft legislation.
- Protect the interests of legal practitioners in many forums and with key stakeholders.
- Ensures proposed regulations and laws are not in conflict with the rights to practice and fair trade.

12. Protects and promotes democracy

- Protects and promotes the Rule of law.
- Protects and promotes the independence of the judiciary and of the legal profession.
- Undertakes advocacy initiatives and comments on legislation in the interests of the profession and public.
- Supports the efficient administration of the justice system.
- Monitors national and local elections.
- Undertakes democratisation initiatives with the: SADC LA (e.g., International Criminal Court and African Court.)
- Ensures draft legislation is compliant with the constitution of the RSA.

13. NEW DEVELOPMENTS

(Under consideration in terms of new mandate of the LSSA)

Member Benefits incentives

- Negotiate special prices for products and services on behalf of the profession (members)
- Review, analyse and test new products and services for the profession
- Develop business practice support function.
- Develop regional attorneys' associations to ensure member interest at local level are promoted.
- Have wellness packages for attorneys such as a 24-hour counselling line, among others.
- Have an interactive login-based website/forum where attorneys can interact and share ideas and access information and other resources.