



LAW SOCIETY
OF SOUTH AFRICA

2019/2020 Annual Report

**Committed to Building a
BETTER Legal Profession for ALL**

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BETTER Legal Profession for ALL***





LAW SOCIETY
OF SOUTH AFRICA

2019/2020 Annual Report

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LAW SOCIETY
OF SOUTH AFRICA

Mission, aims and objectives

The Law Society of South Africa

We, the representatives of legal practitioners in South Africa, the Black Lawyers Association, the National Association of Democratic Lawyers, the Independent Lawyers Associations from the nine provinces of South Africa as the constituent members of the Law Society of South Africa (LSSA), in recognising the changes brought about by the Legal Practice Act 28 of 2014 –

- commit ourselves to building a transformed organised legal profession, which is non-racial, non-sexist, democratic, representative, transparent and accountable to all whom it serves and the public at large; and to that end we shall strive to advance the interests of women, the youth and people living with disabilities;
- commit ourselves to protecting and advancing the rights and interests of our members in relation to the regulatory activities of the Legal Practice Council and other authorities;
- commit ourselves to influence the transformation of the economic structure in South Africa in order to advance the interest of our members, particularly the previously disadvantaged.

(From the second amendment to the constitution of the LSSA, 2019)

Aims and objectives

The LSSA has the following fundamental, enduring and long-term aims and objectives, namely to:

- promote on a national basis the common interests of members of the profession and the welfare of the profession, having regard at all times to the broader interests of the public whom the profession serves, and to endeavour to reconcile, where they may conflict, the interests of the profession and the public;
- safeguard and maintain the independence and integrity of the profession;
- maintain and enhance the professional standards, objectivity and standing of the profession and of its members both nationally and internationally, which standards shall be reviewed from time to time;
- uphold and encourage the practice of law, and to promote and facilitate access to the profession;
- provide, where it deems it appropriate so to do, voluntary services in the interest of the profession or the public;
- promote legal aid and the accessibility of all to the law, the courts and any board, tribunal or similar institution;
- promote legal education and continuing legal education, practical legal training, research in the science of law and in legal practice and in any related science or practice, research in technology as it relates to legal practice, procedure and the administration of justice, and the practical application of technology in those fields;
- encourage the study and development of customary legal systems and their application in practice, and to seek harmonisation, and where appropriate integration, of those systems with the common and statutory law of the Republic of South Africa;
- uphold, safeguard and advance the rule of law, the administration of justice, the Constitution and the laws of the Republic of South Africa;
- initiate, consider, promote, support, oppose or endeavour to improve and strengthen legislation, whether existing or proposed;
- initiate, consider, promote, support, oppose or endeavour to modify proposed reforms or changes in law, practice, procedure and the administration of justice;
- secure throughout the Republic of South Africa, in so far as it is practicable, uniformity, simplicity and efficiency in the practice of law, in legal procedure and in the administration of justice;
- strive towards the achievement of a system of law that is fair, just, equitable, certain and free from unfair discrimination;
- endeavour to serve as the unified and representative voice of the legal profession of South Africa;
- nominate, elect, appoint or delegate persons to represent the profession or any part or division thereof at any conference or meeting or on any commission, advisory body, committee, commission of inquiry or similar body or proceeding established, convened or instituted by any government or other authority, institution or organisation, whether of a public or private character, for the purpose of considering any matter relating to law, practice, procedure or the administration of justice or any other matter of whatever nature, falling within the aims and objectives of the Law Society;
- co-operate or liaise with any fund or other body established for the purpose of guaranteeing the fidelity of practitioners of the profession;
- deal with any matters referred to it by the House of Constituents, any of its structures or the governing body of any constituent member; and
- take up membership of or otherwise co-operate with any other organisation or body, whether within or outside the Republic of South Africa, including organisations or bodies of an international character and, without derogating from the generality of the foregoing, combine, affiliate or merge with any other organisation or body of similar nature to its own and having objects similar to and reconcilable with its own, whether or not its field of operations extends beyond the borders of the Republic of South Africa as they may from time to time be established.

(From the second amendment to the constitution of the LSSA, 2019)

This is the LSSA

Since 1998 the Law Society of South Africa (LSSA) –

- represents the attorneys' profession in South Africa (SA) through its constituent members, the
 - Black Lawyers Association
 - National Association of Democratic Lawyers
 - Provincial Attorneys' Association;
- speaks nationally on behalf of the attorneys' profession;
- provides leadership and support to the profession through policy development and stakeholder relations;
- publishes *De Rebus*, the SA attorneys journal in print and online format, as well as an App;
- interrogates and makes input on policy and draft legislation in the public interest;
- provides vocational training to over 1 400 candidate legal practitioners a year; attendance fees are subverted by the Legal Practitioners' Fidelity Fund;
- is accredited as the premier provider of other practical legal training courses (PLT) for candidate legal practitioners;
- is accredited as the premier provider of subsidised Practice Management Training (PMT) for mandatory practice management in terms of the Judicial Matters Second Amendment Act 55 of 2003;
- maintains standards by setting examination papers for the Attorneys Admission, Conveyancing and Notarial professional examinations for legal practitioners; and
- maintains a national database on statistics and trends in the profession.

The LSSA also:

- Set up the Attorneys Development Fund together with its constituent members and the Legal Practitioners' Fidelity Fund to assist previously disadvantaged individual practitioners.
- Undertakes advocacy initiatives and comments on legislation in the interests of the profession and the public.
- Is the premier provider of relevant and affordable continuing professional development for legal practitioners and candidate legal practitioners.
- Assists in the placement of candidate legal practitioners through its Legal Education and Development division and free adverts in *De Rebus*.

Protects and promotes democracy by

- protecting and promoting the independence of the judiciary and of the legal profession;
- supporting the efficient administration of the justice system;
- monitoring national and local elections in cooperation with the electoral commission (IEC), as well as regional elections through the Southern African Development Community (SADC) Lawyers Association; and
- cooperating with colleagues in the SADC region, the continent via Pan African Lawyers Union (PALU) and internationally in democratisation initiatives.

Empowers the public by

- commenting on legislation in the public interest;
- providing public information;
- providing the independent Trustline facility to report perceived corruption and fraud by legal practitioners via the Legal Practitioners Fidelity Fund (LPFF);
- presenting National Wills Week when legal practitioners draft free wills for members of the public;
- cooperating with local and international stakeholders; and
- enhance, promote and protect the rule of law.

Empowers legal practitioners through

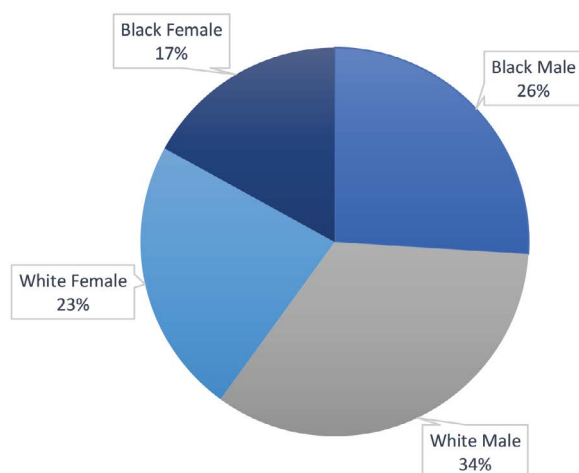
- synergy link enterprise development and mentorship initiatives;
- e-learning and subsidised seminars and courses to more than 11 000 practitioners;
- providing *De Rebus*, newsletters and material free of charge to legal practitioners and candidate legal practitioners;
- leadership training for women lawyers; and
- forum for young lawyers.

AN OVERVIEW OF THE ATTORNEYS' PROFESSION

Total firms

12 373

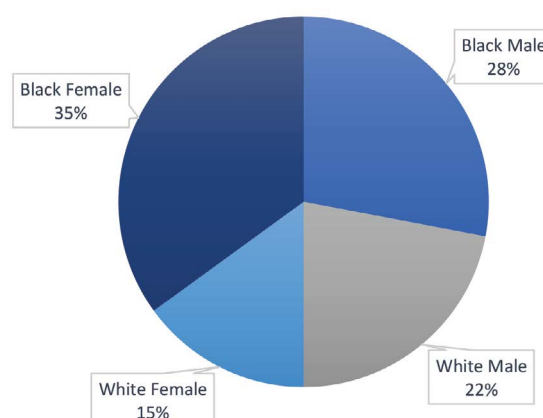
ATTORNEYS 26 700



Black	43%
White	57%

Female	43%
Male	57%

CANDIDATE ATTORNEYS 6 669



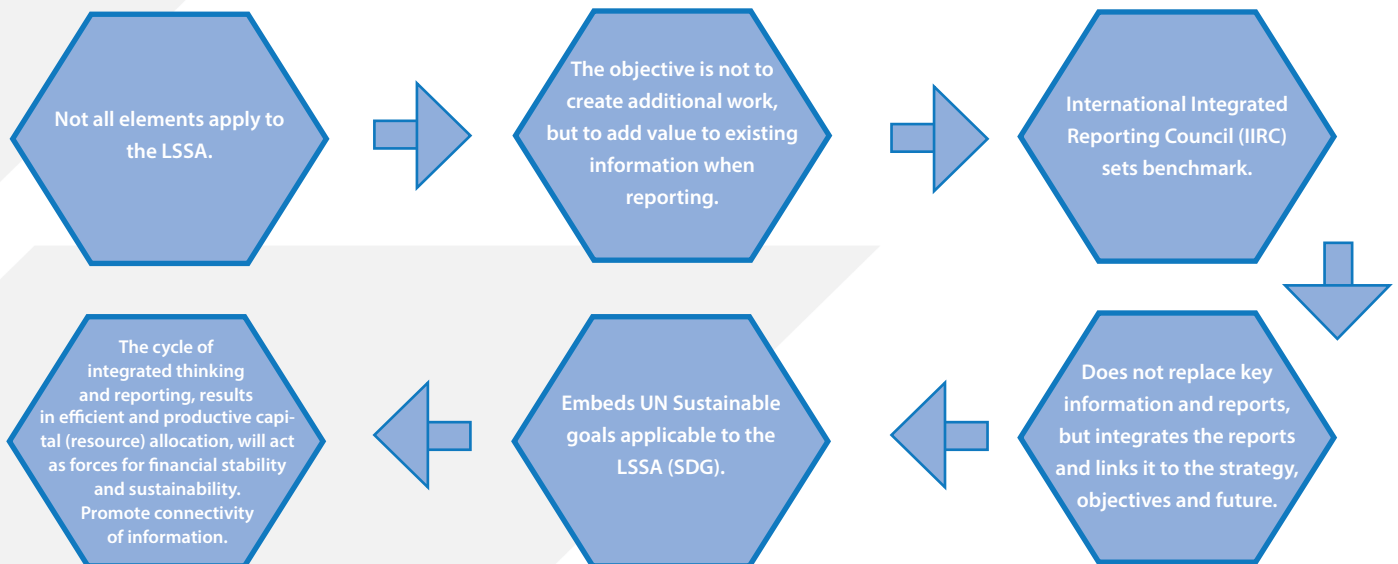
Black	63%
White	37%

Female	57%
Male	43%

HOW THE LSSA DIVERSITY POLICY IMPACTS ON OUR PEOPLE

Applicable to (stakeholders)	Affirmative impact
Applicants	You are assured that you are applying to work for an organisation fully committed to ensuring equality and diversity and that the recruitment process fully supports and upholds this statement in accordance with the law.
Employees	You are assured of the commitment of the LSSA, under the authority of its House of Constituents to the promotion of equality and diversity, which is supported across the organisation and a range of policies, processes and procedures that ensure the LSSA benefits from best practice standard and benchmarks.
Potential candidates (students)	You are assured you will be treated with equality and fairness in accordance with the LSSA's admissions policy and procedures that implicitly and holistically seeks to assist new entrants to the legal profession in the pursuit of ensuring the demographics of our country are reflected in the profession. You are guaranteed access to information and advice throughout the training process to assist you with your decision making.
Students (candidates)	You will benefit from studying at an institution with a diverse student body and workforce. Our commitment to employment equality and diversity is based on a culture of dignity, tolerance and respect that is founded in the LSSA's constitution and included in the 'students handbook', which details your rights and responsibilities.
As a service provider, supplier	You have both rights and duties as specified in acceptance of the LSSA conditions of engagement. You are required to act in accordance with our principles and standards. You will work with the LSSA to promote equality within joint activities for the benefit of all.
As a consultant/ instructor/ presenter	Over and above the requirements as a supplier and/or service provider it is explicitly required that you engage with the LSSA, its staff and clients in an affirmative (positive) manner to promote equality within joint activities for the benefit of all stakeholders.
Visitors and potential clients	You will be welcomed and treated with dignity, respect and courtesy.
Attorneys	As the people who make up the profession, you are our priority and will be treated with dignity, respect and gratitude as we are here to serve you and to work with you for the benefit of the legal profession and our community (public).

The LSSA's journey towards integrated reporting



Governance

History

From its formation as a voluntary non-profit body in 1998 until 31 October 2018, the Law Society of South Africa (LSSA) was constituted by six members, viz, the Black Lawyers Association (BLA), the National Association of Democratic Lawyers (NADEL) and the four statutory (regulatory) provincial law societies. The LSSA was not a regulator.

The LSSA also had its mandate to act in the profession's national interest and provide legal education for the attorneys' profession.

The provincial law societies' mandate included both members' interest and regulatory affairs. The LSSA acted as the profession's national voice.

From 31 October 2018, due to the impact of the Legal Practice Act 28 of 2014 (LPA) which created a national regulatory body, the Legal Practice Council (LPC), with the dissolution of the statutory law societies, the LSSA changed its constitution to a members representative body.

Current governance

All legal practitioners (attorneys and advocates) in South Africa are registered with the LPC in terms of the LPA.

One of the primary purposes of the LPA is the creation of 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 in the public interest.

The control of the LSSA vests in the House of Constituents (HoC) with an Executive Committee (Exco) dealing with important issues between meetings of the HoC. The LSSA constituent members: The BLA, NADEL and the nine Provincial Attorneys Associations (PAA) each nominate nine members, with the governance principle of one-third each.

The focus of the LSSA is for a transformed profession that acts in the interest of both the profession and society, with an expanded objective for the creation and provision of members' interest initiatives.

The LSSA transitioned to a governance model that consolidated governance, risk and compliance, and ethical culture and is aware of its responsibility to the environment and broader societal issues.

The new regulatory environment requires a new strategic and operational approach to deliver the transformation agenda that was the *raison d'être*, (purpose) on its establishment and the additional key objective, to be the representative (professional) body for the legal profession.

The LSSA is registered and recognised by the South African Qualifications Authority (SAQA) as the professional body for attorneys.

Strategic

All operational sections of the LSSA must align with the new mandate and implement business processes that allow departments to monitor, mitigate, and manage specific risks associated with their operations and, where appropriate, to realise the opportunities presented by risks.

A key challenge remains the building of organisational resilience and the new DNA of the LSSA to its purpose (this is distinct from its vision and mission).

The LSSA continues to streamline internal administrative processes and cost containment efficiency and optimise the overall organisational performance, both operationally and financially.

Among major contributors to cost efficiency is the migration to the cloud. The benefits include greater collaboration, improved efficacy and lower costs over the long-term.

Technology remains a key tool to implement the new mandate of the LSSA to achieve a cost-effective digital workplace; and improve data governance, analysis, real-time data access and delivery of value-add services and assistance to members.

The LSSA staff remains its most critical asset, including its repository of institutional knowledge.

The ongoing human resources change management, including management of posts, has contributed to budget efficiency.

LSSA Draft Strategic Plan Framework

Mission and Vision

MISSION

To represent the attorney's profession, safeguard the rule of law via efficient and fair administration of justice.

Core strategy

To align the operations, governance and renew the business model to the 'modified' mandate and operational environment, including the economic environment of legal practice.

Strategic objectives/outcomes

1

Litigation, regard to type and impact

2

Members interests and benefits

3

Public interest – link activities and communicate societal benefits

Operational Objectives and Implementation

LEAD

- Focus on income generation – new business priority.
- PVT model – five-week structured courses fully integrated into Schools model – allow expertise of legal professionals (School principals) to provide management and development (not mere coordination).
- Break internal silos – 'transverse management'.
- Partner with firms on new initiatives to identify new training initiatives and reduce costs.
- Protect LEAD and LSSA brand.
- Address marketing capacity and skills

Professional interest

- Capacitate and resource the section to deal with members benefits.
- Rationalise committees in terms of approved process.
- Identify, evaluate and prioritise member benefits.
- Develop, maintain and enhance strategic partnerships.
- Develop products, based on expertise and market (services + expertise + skills + knowledge = products).
- Develop, implement and market public interest work.
- Seek donor funding = public interest
- Protect LSSA brand.



LAW SOCIETY OF SOUTH AFRICA

VISION

To empower attorneys to provide excellent legal services to the community in an ethical, professional, considerate and competent manner.

Achieved by operating strategically

Achieved by operating sustainably

Achieved by operating efficiently, effectively with optimum processes and skilled staff

Driven by technology and innovative products and systems

4

Business development – increase corporate products and training

5

Increase stakeholder visibility across all media

6

Partnerships – develop and increase including leverage

7

Human Capital development (continuous)

De Rebus

- As an educational tool to:
 - Roll out digital version to all legal practitioners = increase rates.
 - Cross sell LSSA services and products.
 - Utilise technical skills and make available to law firms at fee
 - Mini websites – see communication JV.

Support Services

Technology: Integration and data analysis – product development

Finance

- New approach and professional work ethic to support and improve business decision making.

Human Resources (HR)

- Performance benchmark of staff for new LSSA
- Skills training and development aligned to strategy
- Enhance change management and have staff drive this forward – new mindset (linked to HR)

Communication

- Support the work of operational sections by increased marketing
- Increase public interest communication work of LSSA
- Develop mini websites and make available to profession and *De Rebus*

Management

- New integrated reporting*
- Governance and direction – GRC
- Management by Organisational: Objectives, key performance and reporting* (OKR)
- Staff are driven and act via the 'team' where every staff member is valued and participates in all activities, and is treated with respect, without hierarchical barriers.

Business Models



Key partnerships	Key activities	Value propositions	Customer relationships	Customer segments
<ul style="list-style-type: none"> • Editorial Committee • Authors • Readers • Printers (other suppliers) • Advertisers • Publishers (Juta and LexisNexis) • Stakeholders (Legal Practitioners Council (LPC), Legal Practitioners' Fidelity Fund (LPFF) and Legal Practitioner's Indemnity Insurance Fund (LPIIF)) • Publisher: Law Society of South Africa • Black Lawyers Association (BLA) • National Association for Democratic Lawyers (NADEL) • Law firms 	<ul style="list-style-type: none"> • Knowledge management • Content creation • Editing • Publishing • Subscription management • Marketing and sales 	<ul style="list-style-type: none"> • Publish legal professional journal • Up-to-date educational legal information. • Post professional development 	<ul style="list-style-type: none"> • Co-creation relationships • Educating the profession • Social media interaction • Research services 	<ul style="list-style-type: none"> • Legal profession <ul style="list-style-type: none"> – Attorneys – Advocates – Legal advisors – Students – Judges – Law clerks – Governments – Candidate legal practitioners and pupils
	Key resources <ul style="list-style-type: none"> • Qualified staff • Support services • Design software • Editorial Committee • Credible content • <i>De Rebus</i> Brand • Authors and readers 		Channels <ul style="list-style-type: none"> • Newsletter • Website • PDF • Social media 	
Cost structure		Revenue streams		
<ul style="list-style-type: none"> • Salaries • Printing • Service provider subscriptions • Posting 	<ul style="list-style-type: none"> • Support service levies, facilities and administration • Marketing costs 	<ul style="list-style-type: none"> • Advertising • Subscriptions • Funding • Post professional development 		

Key partnerships	Key activities	Value propositions	Customer relationships	Customer segments
<ul style="list-style-type: none"> • LPC and LPFF • Legal practitioners • Candidate legal practitioners/Pupils • Instructors/presenters • Non-practicing legal practitioners • Universities (UP, Unisa) • Government/ Department of Justice (DOJ) • Business entities • Trade unions • Health Professions Council of South Africa • South African Institute of Chartered Accountants (SAICA) and others • Suppliers eg, venues, travel • Publishers • Printing • Southern African Development Community (SADC) • South African Qualifications Authority (SAQA)/ Services Sector Education and Training Authority (SETA) • Large law firms • Safety and Security Sector Education and Training Authority (SASSETA) • Irish Rule of Law International (IRLI) 	<ul style="list-style-type: none"> • Training (PVT) • Development of material • Sale of material • Mentorship • Practice development (PPD) • Marketing • Knowledge management 	<ul style="list-style-type: none"> • Providing PVT • Seminars • PPD • Support staff training • Training • Online courses • PVT – Schools etcetera • Skills development – internal and external • Review the relevance of all programmes 	<ul style="list-style-type: none"> • Training to legal practitioners, candidate legal practitioners and pupils. • Reduce rates and financial assistance • Mentorship • Early bird discounts • Discounts to more than one resgistration from the firm • Complimentary attendance 	<ul style="list-style-type: none"> • Candidates – PVT • Candidates – Other • Practitioners – PPD • Training for other sectors • Law firms/Bar Associations • Universities (UP, Unisa) • Professional bodies
	Key resources <ul style="list-style-type: none"> • Brand name – LEAD • Human resource • Financial resources (funding, fees, sponsorships) • Institutional knowledge (preferred provider for legal educator) • E-Leader • Increase of panel instructors and presenters 		Channels <ul style="list-style-type: none"> • Marketing • E-mails • Communication • <i>De Rebus</i> • Social media • Brochures • Newsletters • SMS 	
Cost structure		Revenue streams		
<ul style="list-style-type: none"> • Administration • Material production • Development of material • Technological costs • Rental/venues 	<ul style="list-style-type: none"> • Presentation costs • Marketing • Training costs - other • Human resources costs • Honorarium for instructors and presenters 	<ul style="list-style-type: none"> • Funding/LPC • Fees • Sponsorship 	<ul style="list-style-type: none"> • Business development • Selling of material • Projects eg IRLI 	

Professional Affairs

Key partnerships	Key activities	Value propositions	Customer relationships	Customer segments
<ul style="list-style-type: none"> • LPC • Government departments • Internal departments • Parliament • NGOs • Service providers • Statutory bodies • Law firms • Provincial Attorney Associations • Advocates' Associations • Internal bodies 	<ul style="list-style-type: none"> • Content production • Articles • Videos • Brochures • Newsletters • Research • LOBBY – legislation changes • Meetings • Litigation • Upgrade processes for Fourth Industrial Revolution • Special projects • Knowledge management 	<ul style="list-style-type: none"> • Protecting interest of profession • Enhancing access to justice and rule of law • Influence change • Enabling environment for attorneys • Skills development 	<ul style="list-style-type: none"> • Published content • Surveys • Face-to-face • Request comments • Mentorships • Forums • Wellness • Solicit comments 	<ul style="list-style-type: none"> • Attorneys • Candidate legal practitioners • Public • Advocates
	Key resources <ul style="list-style-type: none"> • Committees • Subject matter experts • Stakeholders • Technology electronic resources • Social media • Database • Institutional knowledge 		Channels <ul style="list-style-type: none"> • Website • YouTube • Social media • <i>De Rebus</i> • Apps • Roadshows • Webinars and videos • Marketing 	
Cost structure		Revenue streams		
<ul style="list-style-type: none"> • Office facilities, services and infrastructure • Staff • Member benefit partners • Travel • Meetings: Committees, stakeholders, forums 		<ul style="list-style-type: none"> • Litigation • Research and Development • Marketing costs • Service providers • Consultants 		
		<ul style="list-style-type: none"> • Membership fees • Sponsorships • New Business Development 		
		<ul style="list-style-type: none"> • Subscription fees • Charge out options 		



LAW SOCIETY
OF SOUTH AFRICA

Report by the President

Report by the President



Mvuzo Notyesi
President of the Law Society
of South Africa

At the outset, I must thank the Vice-Presidents, Mabaeng Denise Lenyai and Jan van Rensburg; this report reflects work of the Presidents subcommittee and where appropriate decisions and key engagements by the President or delegated Vice-President.

The Law Society of South Africa (LSSA) Executive Committee (Exco) is acknowledged for the tremendous support afforded to the President and Vice-Presidents. The House of Constituents (HoC) has overall control of the LSSA, with the Exco acting between HoC meetings. The HoC is a relatively new structure in its form and composition. It is the highest decision-making body of the LSSA, responsible for governance, control, risk management and strategy discussions. The diverse nature of the HoC has contributed to robust and objective decisions taken in the interest of the profession.

As we entered the new dispensation in April 2019, the external context was clear, the Legal Practice Council (LPC) is primarily focused on regulatory matters, and the interest of the profession required immediate attention, including the establishment of LSSA provincial attorneys associations, transformation and interventions to support legal practitioners. Funding for legal education and resources required to make meaningful contributions in the interest of member benefits is an ongoing challenge. The transition to the new LSSA and the redesign of the structure, coupled with the funding, have resulted in the organisational optimisation of the LSSA process and operations and a clearly defined financial sustainability exercise, that has commenced.

The annual general meeting of 2020 is focussed on the financial sustainability of the LSSA and the establishment of Provincial Attorneys' Associations.

The challenges were significant. We, as the leaders, took charge and worked tirelessly with the support of all members of the HoC, committees, constituent members and the professional affairs and governance committees, with the assistance of all staff to meet these challenges.

We could not fully finalise many challenges, but the work done will ensure the new leadership team has a solid foundation to work from and indeed complete the work started.

The new LSSA, since 1 November 2019, moved transformation to the top of its agenda, and the details of the work done are reflected in this report, which indicates progress. The road ahead requires renewed commitment, effort, sacrifice and unity; if we are to make meaningful progress. Transformation is broad and includes the profession and our Society. The LSSA is required to increase its vigilance and contribution to the community in which our members practice and earn their living.

The economic downturn has affected many legal practitioners, and it

is anticipated that there will be a call to the profession to assist our colleagues in whatever way we can, I remain confident that legal practitioners will rally to help.

This past two years we redefined the LSSA's vision and mission. This connects our strategy to various societal and professional elements. As a country, we are facing significant challenges and the profession must actively and positively contribute our skills, experience and time as we are the cornerstone of our constitutional democracy and the rule of law.

Some of the crucial issues that the LSSA addressed are –

- attacks on the judiciary;
- femicide and violence against women and children;
- a spate of attacks on legal practitioners fulfilling their professional requirements to protect the rights of their clients, sadly some were killed;
- state capture;
- looting of state and parastatals;
- economic recession, seriously impacting on the poor and marginalised in our communities;
- the continued degradation of our environment;
- racism;
- a massive impact on the legal profession by the COVID-19 pandemic with many small firms closed down; and
- the compound effect of the COVID-19 pandemic, which seriously impacted the poor of our society.

The year 2020 was, globally, unprecedented. The impact of the pandemic had a massive effect on most legal practitioners and law firms. As an intervention to mitigate the impact of Covid-19 on the legal profession, the Benevolent Scheme was introduced by the LPC which provided once-off assistance to eligible legal practitioners.

We continue to work with the LPC on various issues to represent 'practitioners' views.

Legal Services Ombud

In December 2020 the LSSA welcomed the appointment of retired Cape Town High Court Judge Siraj Desai as the Legal Services Ombud. The appointment is long overdue and should have coincided when the LPC came into effect in October 2018, or shortly thereafter. We encourage the Department of Justice to ensure that the Ombud's office is fully capacitated as soon as possible so that the Ombud can become fully operational.

The LSSA commits itself to support the work of the Ombud's office, in the broader interests of the profession and our society.

The Ombud in terms of the Legal Practice Act 28 of 2014 (LPA) is independent and only answerable to the Constitution and the law.

Litigation

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

1 March 2019 to 28 February 2020 Strategic Litigation

- **Law Society of South Africa and Others v President of the Republic of South Africa and Others**

As stated in the 2018/2019 annual report, the LSSA applied to the Gauteng Division of the High Court to have the former President of South Africa's participation in the suspension of the operations of the SADC Tribunal, and his subsequent signing of the 2014 Protocol declared unlawful, unconstitutional and irrational. The application was successful, and the Constitutional Court confirmed the constitutional invalidity on 11 December 2018. **President Ramaphosa has subsequently complied with the Constitutional Court judgment by withdrawing South Africa's signature from the 2014 Protocol.**

- **Proxi Smart Services (Pty) Ltd v LSSA et al**

Proxi Smart applied to court for declaratory relief regarding its business model's lawfulness 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.

- **University of Stellenbosch Law Clinic v National Credit Regulator and Other**

The LSSA is a respondent in this matter, which deals with the interpretation of certain provisions of the National Credit Act 34 of 2005, and more specifically, the meaning of the words 'collection costs'. On 13 December 2019, the Western Cape Division of the High Court delivered judgment in favour of the applicants. The LSSA filed an application for leave to appeal to the SCA.



National Director of Public Prosecution, Shamila Batohi, with the outgoing Co-Chairpersons of the LSSA, Mvuso Notyesi (left) and Etienne Barnard (right).

- **Janse van Vuuren v Roets and Others and Nel v Roets and Others**

Following a Practice Directive by the Judge President of the Gauteng Division of the High Court, the LSSA was admitted as *amicus* in this matter, which 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 issues. In its judgment, delivered on 12 September 2019, the court, *inter alia*, concluded that the High Court does not have jurisdiction as court of first instance to confirm that an applicant is no longer over-indebted, where no valid declaration of over-indebtedness is before court.

- **Roderiques v National Director of Public Prosecutions**

The LSSA participated as *amicus* in this matter. A Full Bench of the Gauteng Local Division dismissed Rodrigues' stay of prosecution application for the murder of anti-Apartheid activist Ahmed Timol.

- **Women's Legal Centre Trust and Others v Minister of Justice and Constitutional Development; Faro and Others v Minister of Justice and Constitutional Development**

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 in this regard. The President and Minister filed an application for leave to appeal.

- **Cape Bar v Minister of Justice and Correctional Services and others**

The LSSA participated as *amicus curiae* in a matter where the Cape Bar brought an application in the Western Cape Division of the High Court and the Equality Court to have the LPA regulations dealing with the election of practitioners to the Western Cape Provincial Council declared unlawful and invalid. The LSSA supported the position of the LPC and the Minister of Justice to oppose the application. The matter was heard on 19 and 20 February 2020, and judgment was reserved.

1 March 2020 to 28 February 2021

- **University of Stellenbosch Law Clinic v National Credit Regulator and Other (interpretation of provisions of the National Credit Act, including 'collection costs').**

The LSSA was added as a respondent in this matter in the Western Cape Division of the High Court. In 2019, judgment was delivered in favour of the applicants, and the LSSA filed an application for leave to appeal. The matter is now before the Supreme Court of Appeal.

- **President of the RSA and Another v Women's Legal Centre Trust and Others; Minister of Justice and Constitutional Development v Faro and Others; and Minister of Justice and Constitutional Development v Esau and Others (Muslim marriages)**

The LSSA participated as *amicus* in this matter, dealing with the duty of the Executive and Legislature to protect the rights of women and children in Muslim marriages and divorce. In 2019 we reported that the 'Women's Legal Centre Trust (WLCT) successfully brought an application in the Western Cape Division of the High Court. The President and Minister appealed the judgment, and the WLCT cross-appealed. On 18 December 2020, the SCA delivered judgment, *inter alia*, declaring the Marriage Act 25 of 1961 and the Divorce Act 70 of 1979 inconsistent with sections of the Constitution. The declarations of invalidity were suspended for 24 months to enable the Executive and Legislature to remedy the defects by amending existing legislation or passing new legislation. The SCA also granted interim relief, pending the legislative changes.

- **Mabunda Inc and Others v RAF (panel attorneys)**

In this matter – which dealt with the Road Accident Fund's (RAF's) decision to remove its panel attorneys – the LSSA intervened as an *amicus*. The LSSA's case was that whatever the merits of the dispute between the RAF and its panel attorneys, the legal profession, the courts, the administration of justice and the rights of road accident victims should not be affected by the RAF's changes in operating models. The matter was dealt with in two parts. The first part, which was heard in March 2020, was an application to interdict the RAF from implementing its directives to its panel attorneys to hand over their files. The judgment was in favour of the RAF. The second part was an application to review the RAF's decision to remove its panel attorneys. On 1 June 2020, judgment was delivered in favour of the applicants. The court found that the way in which the RAF has changed its operating model was not done in a manner that is lawful and rational and that the *status quo* should remain for at least six months to enable the RAF to reconsider its position and retain the social responsibility net in place protecting the public. On 19 June 2020, the RAF's application for leave to appeal against the judgment and order was dismissed by the Gauteng Division of the High Court, and the RAF applied for leave to appeal to the Supreme Court of Appeal, which application was granted on 17 November 2020.

- **Cape Bar v Minister of Justice and Correctional Services and others (LPC election process)**

The LSSA was an *amicus* in this matter, where the Cape Bar challenged the election process for members of the Western Cape Provincial Legal Practice Council. The case was heard in February 2020, and the judgment was delivered on 10 June 2020. The Cape Bar's application was dismissed.

International engagement

These engagements were held virtually in 2020 and included the International Bar Association (IBA) meetings, SADC Lawyers Association, and other fora.

The President addressed the International regulators conference on

transformation, based on his address to the IBA in 2019. An excerpt of his address:

'The regulatory function on behalf of Society is held by the Government, in the technical function of organisation and coordination, which regulates Society's functioning and, secondly, political domination [political domination is a higher function than the concept of the State as a neutral entity or a functional instrument for the development of productive forces and the fair allocation and distribution thereof].

The regulation of the profession is contracted out to the legal regulator, this function is part of the State's responsibility and at its core is subject to the State and political oversight and therefore it is not outsourced, as this will be akin to abrogation of political and State responsibility.

This symbiotic relationship extends to communities wherein the legal profession earns its living, including corporate citizens.

Diversity and inclusion as part of the broader societal contract requires the regulator and the representative professional bodies to jointly work with other key stakeholders in implementing initiatives and policies in achieving these societal transformation goals within the legal profession. This requires an obligation on the regulator in terms of the social contract by its establishment to ensure the 'public interest,' which is much more than protection thereof in terms of legal practice. The regulator is to ensure the transformation issues are part of the Society and considering the unique role of the legal profession as the bastion of a democratic society and for the delivery of the social contract is embraced and the question is how to give expression, develop and implement the broader social contract that established the regulator.'

African Free Trade Agreement

The legal profession must seriously consider the African Free Trade Agreement (AFCFTA), which will open trade and services across the continent.

Legal practitioners should not only focus on risks but grasp the opportunities presented.

Its key objectives are:

- Improve our continent's economic prospects
- Become the benchmark of cross-border trade and cooperation. The international trend is nationalism and self-isolation, which the pandemic and vaccines have highlighted.
- To improve our communities, especially the poor.

To the above, we must add the United Nation's (UN's) sustainable goals, which addresses the exploitation of resources and people on our continent.

The African Union has added additional goals linked to its agenda that incorporates the UN goals, covering social, economic and sustainability considerations in the broad context, political, cultural and other African priorities.

In this report, the LSSA has highlighted the legal professions' responsibility to our society's vulnerable and poor.

The degradation of our environment has the most significant impact on developing countries, which are continued to be exploited with little or no regard for the future.

The legal profession is held at a higher level of responsibility, action and ethical intervention on behalf of society.

Attorneys Development Fund (ADF)

Under the new board and with a solid and excellent chairperson, the ADF

has been consolidated and making good progress in delivering its mandate to assist new practitioners. The legal process of the recovery of assets fraudulently 'liquidated' under the poor stewardship of the previous board, is still in process.

THE COVID-19 PANDEMIC

LSSA COMMUNICATION ACTIVITIES AND COVID-19 FOCUS

The LSSA has conducted numerous activities and engagements around COVID-19 and its impact on the legal profession and society in general.

On its website, the LSSA has a COVID-19 resources and support page that is dedicated to informing the profession on the pandemic and providing guidance. The LSSA constantly monitors the situation and provides regular updates. The page is easily accessible from the LSSA homepage via a link. This page is divided into four sections, namely, financial assistance, LSSA letters and advisories, court directives and regulations, and general COVID-19 resources.

Some of the communication was province specific, which were sent to legal practitioners in the affected province. This included communication such as when a Deeds Office was closed due to contamination especially during the initial stages of the lockdown. The LSSA was the Chief Registrar's main port of call to get messages about the temporary closing and opening of Deeds Offices to practitioners. It often happened overnight, and legal practitioners were notified immediately. The same applied when Judge Presidents, in some courts sent out amended Directives.

Listed below are some of the activities conducted by the LSSA:

LETTERS OF RECOMMENDATION

• LSSA letter to Minister of Justice, Ronald Lamola, on proposed changes to lockdown regulations

On 13 April, the LSSA wrote a letter incorporating comments by legal practitioners concerning practice under the COVID-19 regulations. Many practical proposals were made by members with practitioners expressing the view that the legal profession should be classified as an 'essential service'. The LSSA proposed that the Minister of Justice, in his directions, should consider more flexible methods so that legal practitioners can continue to work while having due regard to the advice of health professionals and full adherence to safety protocols because the total shut down of services would be detrimental to all law firms and their clients.



• LSSA submission for partial relaxation of lockdown regulations in respect of Deeds Offices

On 14 April, the LSSA made submissions to the Minister of Trade and Industry, Ebrahim Patel, for the partial unlocking of Deeds Offices services. In these submissions the LSSA stated that the inability to register property transactions has a myriad of consequences including a massive impact on the economy and the lives of people. The LSSA explained that payment of billions of Rand is dependent on registration of property transactions and the continued full-scale lockdown of the Deeds Offices and property industry will have a disastrous impact on the South African economy.

The LSSA expressed the view that a *partial* unlocking of Deeds Offices will assist to alleviate some of the problems experienced, taking into consideration that the public has very little contact with a Deeds Office and contact was primarily between the Registrar of Deeds and their staff, as well as conveyancers and limited staff.

• LSSA comment on draft court directions and schedules

On 28 April the LSSA submitted comments to the Minister of Justice on the draft court directions and schedules that were sent to the profession for comment. The comments were compiled from the various LSSA specialist committees. These submissions defined the legal profession as an integral part of and crucial to the proper functioning of the courts, the administration of justice and the rule of law. It added that public interest cannot be limited to urgent matters and that there are many matters, which are not urgent as envisaged by the courts but are of importance to many members of the public.

In addition, the LSSA's view was that it was inappropriate that trials cannot proceed on level 4 and noted that trials will not proceed at full capacity until level 2. The LSSA added that essential services rendered by legal practitioners will extend beyond the ambit of the proceedings/services listed by the Minister of Justice and Constitutional Development under the Schedule of the proposed Directions. The Directions should accordingly be drafted in a manner to expressly enable legal practitioners to render such services.

The LSSA also submitted comments on the [Risk Adjust Strategy](#).

The LSSA continues to provide updated [summaries of the regulations](#) in easy to understand, plain language.

ADVISORIES AND NEWSLETTERS

The LSSA advisory of 7 April called for suggestions on how the regulations may be relaxed in the interest of justice and rule of law. It also included a compilation of all the financial measures and resources that were available from government to assist small business to help them through COVID-19.

An advisory on the 3 April provided an update on COVID-19 and included regulations and additional guidelines regarding the rendering of essential legal services during lockdown.

Newsletters with important COVID-19 updates were sent once a month, and advisories were distributed on regular basis when key changes were identified.

LSSA GUIDELINES

In June, the LSSA published a guideline on the phased-in return of employees to the workplace on alert level 3. The guideline was based on the directions issued by the Minister of Employment and Labour dated 4 June 2020.

In June, the LSSA also published a concise, easy-to-understand guide on the Unemployment Insurance Fund's COVID-19 Temporary Employee/Employer Relief Scheme benefit (COVID-19 TERS). The guide explained the COVID-19 TERS directive, and outlined who can apply for the benefit, as well as the application process.

DIRECTIVES AND NOTICES

Directives of most of the Divisions of the High Court appear on the LSSA's website and legal practitioners have been informed thereof through social media. In respect of some Courts, the court rolls also appear for a limited period.

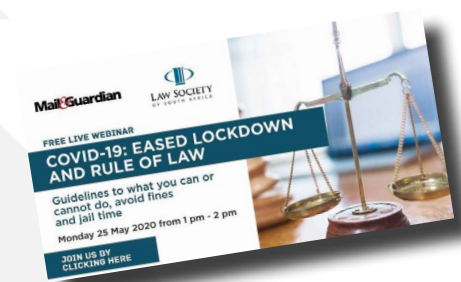
The LSSA often receives notices of office closure and related matters during the pandemic, as well as general notices from institutions such as Companies and Intellectual Property Commission, the Master's Offices, the Registrar of Deeds, the Office of the Tax Ombud, etcetera. These we place on the LSSA website for information of practitioners and/or advise practitioners via social media.

FREE WEBINARS

• The tech revolution: How to take your smaller law firm digital



A free webinar in collaboration with Lucien Pierce, an attorney who specialises in cyber law including data protection and privacy, was held on 8 May 2020. The webinar was titled 'The Tech Revolution: How to take your smaller law firm digital'. This webinar was beneficial to legal practitioners especially during the pandemic as more businesses are going digital. The webinar was recorded and can be accessed at: <https://youtu.be/S4Vox5gMLRA>.



- There were 895 registrations and 700 were in attendance.
- This webinar was advertised via LEAD's e-mail communication and on the LSSA and LEAD social media platforms.

• COVID-19 eased lockdown and rule of law

This free webinar, in collaboration with the Mail & Guardian, titled 'COVID-19 eased lockdown and rule of law' was held on 25 May 2020. The webinar featured LSSA President, Mvuzo Notyesi and Criminal Law Committee Chairperson, William Booth, and was moderated by Michael Avery, Anchor of Classic Business, Classic 1027 and Presenter for Business Day TV.

The webinar was advertised by e-mail sent by the LSSA to its database, as well as by the Mail & Guardian to its database. The LSSA, LEAD and the M&G also advertised the webinar on all its social media platforms. 1 038 people registered and 610 attended. The LSSA captured all the contact details of law firm and participants. Additional information on the webinar can be viewed at: <https://mg.co.za/special-reports/2020-05-25-covid-19-eased-lockdown-and-rule-of-law-webinar/>

SOCIAL MEDIA

The LSSA posts news and information across its social media platforms and shares all new regulations, directions, office closures and directives. Social media is immediate and enables communication in real time. This was appreciated by members when there were closures of government offices and courts for decontamination etc. There has been an increase of followers, especially younger lawyers during the pandemic.

MEDIA INTERVIEWS

Media interviews on aspects of the COVID-19 regulations, as well as general issues, were held by the President, the Vice President and practitioners. This includes an interview on the Devi Show on eTV relating to the landlord and tenant relationship, as well as the issue of evictions during the lockdown period.

INFORMATION CLIPS

Information clips were posted on various aspects, including admission of guilt fines, which is of specific relevance during the lockdown period. At the beginning of the pandemic, the President addressed practitioners through an informative video.

PRESS RELEASES

We issued press releases on a number of issues, not only relating to COVID-19. One example of when the RAF lambasted the profession in a media release and the LSSA issued a media statement refuting the RAF's allegations.

The LSSA also issued press releases to support the independence and integrity of the court.

DE REBUS

There were numerous COVID-19 related articles published in *De Rebus*:

- Dealing with mental health during COVID-19.
- NADEL discusses the impact of COVID-19 on female legal practitioners.
- Legal practice management during and beyond COVID-19.

- Are the stringent COVID-19 lockdown regulations unconstitutional and unjustifiable?
- Employee safety during COVID-19: When does an imminent and serious risk exist?
- COVID-19 impacting the workplace: Outlining retrenchments in good faith.
- The delay of COVID-19 test results and medical misdiagnosis may have legal implications.
- Unemployment Insurance Fund's COVID-19 Temporary Employee/Employer Relief Scheme.
- COVID-19: *Force majeure* and the effect it has on rental contracts.
- Employee support amidst the COVID-19 pandemic in South Africa.
- SAWLA reaches out to female prisoners in bid to prevent the spread of COVID-19.
- Legal questions brought by COVID-19.
- How will COVID-19 impact the buying and/or selling of property?
- Government's response to COVID-19: Has the Bill of Rights been given effect to?
- The impact of COVID-19 on the property sector – how does it influence property values and possible litigation?
- Three principle ways COVID-19 will affect South African jurisprudence in bail proceedings.
- Deputy Minister says the executive, the judiciary and the DOJ should work together to help flatten the curve of COVID-19.
- Interpreting contracts: Determining if COVID-19 is covered by *force majeure*.
- Court dismisses application for man to attend family funeral to curb the spread of COVID-19.
- The judiciary accepts President Ramaphosa's challenge to contribute to the Solidarity Fund established for COVID-19.
- Minister Lamola appoints COVID-19 Designated Judge.
- COVID-19 and the possible price gouging effect: Does South Africa have the legislative framework to cope?
- Employers and COVID-19.
- Judiciary outlines measures to curb the spread of COVID-19 at courts.
- Available virtual conferencing options.
- The certainty of legal technology in South African legal practice.
- Mental health and the workplace: The role of the employer.
- Lessons learned from law firm failures.
- Practical tips for legal practitioners working from home.
- Should sex workers be classified as essential workers?
- Faith in the time of lockdown: A Constitutional right to freedom of religion.
- SCA successfully holds court proceeding via online video platform.
- Access to courts will be limited in level 4 of the national state of disaster.
- Chief Justice issues directives that will remain in place during the national state of disaster period.
- BLA requests six to 12 months funding for small law firms affected by the lockdown.
- Level 4: What does this mean for the legal profession?
- E-learning in legal services sector.
- Legal practitioners traveling with no proper permits during lockdown may face possible criminal prosecution.

- Lockdown will be gradually phased out.
- Minister of Justice amends court directives during lockdown period.
- South Africa under lockdown.

In addition to the above articles, the *De Rebus* website also contains a page where all COVID-19 related directives are published.

SUBMISSIONS ON GENERAL ISSUES

The LSSA continued inviting input from practitioners on submissions to be made on various aspects. This we have done mostly through social media. In addition to COVID-19 related submissions, we made submissions, amongst others, to the Rules Board regarding amendments to rules; to the Parliamentary Portfolio Committee regarding tax legislation; to the Legal Practice Council regarding the issues of senior status and drivers' licences; and to the Chief Registrar of Deeds on various issues.

GENERAL ENQUIRIES AND DISCUSSIONS

The LSSA fielded numerous enquiries and complaints about the disarray in the courts, the deeds offices, the municipalities, permits for practitioners etc. Not all the work done by the LSSA can be listed, such as all the behind the scenes negotiations, discussions and information gathering with stakeholders such as the Gauteng Attorneys Association, etcetera to try and find solutions to challenges.

The LSSA was also involved in meetings at various courts regarding new directives and finding solutions to the many challenges faced by practitioners.

The LSSA Covid-19 resources page is accessible at: <https://www.lssa.org.za/covid-19-resources/>

Future outlook

The LSSA has a bold and ambitious mission, yet we have undertaken our activities on limited resources and in a complex environment with financial uncertainty.

The LSSA continues to pursue financial sustainability goals, provide value-added services to our members, and be socially active and responsible in our greater communities.

While we are optimistic that we have continued on this path in 2019 and 2020, we are aware that the legal profession does not exist in a vacuum and have a responsibility to our society, we are subject to the challenges of our limited resources with a national and regional mission.

These challenges will require ethical and committed leadership, and the LSSA is committed to ensuring we rise to these challenges and find solutions. The move to integrated reporting will be more noticeable in 2021 as during the years under review, this was done on a limited scale.

Key to the future success will be prioritisation and leveraging our members, constituents and key stakeholders without which, we would not be able to achieve our strategy and the progress we have set out in this integrated report.

The LSSA will consider extending its membership to other legal practitioners in the future.





LAW SOCIETY
OF SOUTH AFRICA

The House of Constituents

House of Constituents (HoC) Member	Constituency	Meeting attended	
		2019	2020
Mvuzo Notyese*	President	04, 06, 08, 11	02,08,10,11
Mabaeng Denise Lenyai*	Vice-President	04,06,08,11	02,08,10,11
Jan van Rensburg*	Vice-President	08,11	02,08,10,11
Joanne Anthony-Gooden	IC – Eastern Cape	04,06,08,11	02,08,10,11
David Bekker*	IC – Free State	04,06,11	02,08,10,11
Ettienne Barnard*	IC – Western Cape	04,06,08,11	02,08,10,11
Dave Bennett	IC – Mpumalanga	04,06,08,11	02,08,10,11
Danielle du Plessis ¹	IC – Free State		02
Krish Govender	Nadel	04, 11	02,08,10,11
Mfana Gwala*	Nadel	08,11	02,08,10,11
Peter Horn	IC – Northern Cape	06,11	02,08,10,11
Tiaan Joubert	IC – Gauteng		02,08,10,11
Chwaroeugene Kgotlagomang	BLA	06,08,11	02,10,11
Magda le Roux	Nadel	06	08
Elvira le Roux	IC – Limpopo	04,06	02,08,10,11
Diana Mabasa	BLA	06,08,11	02,08,10,11
Sinawo Makangela	BLA	04,06,08,11	02,10,11
Eunice Masipa	Nadel	04,06,08	08,10,11
Rabbie Mashabala ²	BLA		08,10,11
Rebone Mohlahatsa ³	BLA		02
Nkosana Mvundlela	BLA	04,06,11	02
Ugeshnee Naicker*	Nadel	04,06,08,11	08,10,11
Sibani Ndzimande	BLA	04,06,08,11	02,08,10,11
Asanda Pakade*	BLA	04,06,08,11	02,08,10,11
Monise Ponoane	BLA	08,11	08,10,11
Matshega Ramagaga*	BLA	04,06,11	02,08,10,11
Mojauo Ramathe	BLA	06,08,11	02,10,11
Richard Scott	IC – KwaZulu-Natal	04,06,08,11	02,08,10,11
Carol Selepe	Nadel	04,06,08,11	02,08,11
Simon Tshehla	Nadel	06,08	10,11
Elzaan van Wyk ⁴	IC – Eastern Cape		02

* Member of Executive Committee

Key:

02	–	February
04	–	April
06	–	June
08	–	August
10	–	October
11	–	November
BLA	–	Black Lawyers Association
HoC	–	House of Constituents
IC	–	Independent Constituency
Nadel	–	National Association for Democratic Lawyers

Notes

1. Ms du Plessis is an alternate for the IC – Free State.
2. Mr Mashabala replaced Mr Mvundlela on the HoC.
3. Ms Mohlahatsa is an alternate for the BLA.
4. Ms van Wyk is an alternate for the IC – Eastern Cape.





LAW SOCIETY
OF SOUTH AFRICA

Operational Reports by Management

Law Society of South Africa Senior Management

Lizette Burger	Senior Manager: Professional Affairs
Nomfundo Jele	Acting Communications Manager
Zimasa Mtwecu	Acting Senior Finance Manager
Nkhensane Nthane	Senior Manager: Human Resources
Anthony Pillary	Acting Executive Director
Ogilvie Ramashaba	Senior Manager: Legal Education and Development
Mapula Sedutla	Editor: <i>De Rebus</i>

Communication

2019

• Loss of Barbara Whittle

The period under review saw the tragic loss of Communication Manager, Barbara Whittle, who lost her battle with cancer and passed away on the 10 July 2019.

The Law Society of South Africa (LSSA), its House of Constituents, staff and the profession have lost a colleague, who was passionate about the profession, people, and her job.

• Media engagement

The LSSA continues to be the first port of call for enquiries from the media for the profession's views on various issues. During the year, the LSSA – through the President and Vice Presidents and where relevant the specialist committee members – continued to speak nationally on behalf of the attorney's profession on various issues. The views of the profession are publicised widely in the print and broadcast media.

During 2019 the LSSA President commented publicly on several burning and critical issues through press releases which received comprehensive media coverage in the print and broadcast media.

• National Wills Week

The National Wills Week was held from 16 to 20 September 2019 and continues to be popular with the public, media and other stakeholders such as Legal Aid South Africa and the Justice Department. The extensive media coverage generated much-needed goodwill for the profession and its reputation and links directly with the LSSA's vision to make a difference to our society.

• Provincial Attorneys Associations of the LSSA

The LSSA held numerous roadshows in all nine provinces across the country. The roadshows aimed to establish provincial associations of the LSSA. The provincial attorneys' associations of the LSSA will enable the LSSA to have a membership base and will enhance the LSSA to make it a self-sustainable organisation. The LSSA exists as a professional interest body. The associations are to deal with the issues on the ground affecting and members and their practices.

It would be difficult to question, engage organisations and law makers if there was no LSSA to speak on behalf of the profession nationally. The LSSA has an interest in professional interest matters and there is no other structure to raise these issues on behalf of all attorneys if the LSSA ceased to exist.

In 2019, the LSSA engaged with the Legal Practitioners' Indemnity Insurance Fund NPC (LPIIF), regarding concerns about the professional indemnity insurance fees. The LSSA is always looking out for attorneys' interest and at times stops matters affecting attorneys long before the attorneys are aware of such matters.

The LSSA is also looking into a wellness programme for attorneys and encourages practitioners to advise the LSSA of anything that the LSSA can do to add value in their lives.

• Communication channels

The communication forms used by the LSSA are:

- Press releases: To express the LSSA's views on topical issues.
- Media interactions: Providing attorneys as speakers on request of reporters.
- Newsletters: Monthly newsletter on general news updates and Legal-brief LSSA Weekly, every Friday morning
- Advisories: For focus on specific critical issues.
- *De Rebus*, the SA Attorneys' Journal
- Social media (Twitter, LinkedIn, Facebook, and Instagram)

2020

The year under review was a difficult one for most people globally, and legal practitioners were not spared the brunt of the corona virus pandemic.

Despite the challenges, the LSSA continued to keep the profession abreast of developments and advocate and lobby for the profession.

The national lockdown caused a lot of job losses, uncertainty, confusion, and fear. The LSSA used various communication channels to relay important information on the lockdown such as updates on the alert level restrictions and regulations and the latest notices and directives.

Most practitioners were unable to access the business support programmes offered by the government.



Advisories and newsletters were issued more regularly. The LSSA also saw a huge increase in the number of followers on its social media platforms as legal practitioners and the public flocked there because of the pandemic's informative updates.

• Social media

Our social media profiles are growing strongly. As at early December 2020 the LSSA and LEAD stats were:

LAW SOCIETY OF SOUTH AFRICA		
	Facebook	7 497 followers
	Instagram	2 342 followers
	LinkedIn	27 994 followers
	Twitter	27 994 followers
	Newsletter mailing list	35 000

LEGAL EDUCATION AND DEVELOPMENT

	Facebook	7 208 followers
	LinkedIn	9 953 followers
	Newsletter mailing list	53 176

• LSSA website

The LSSA website (www.LSSA.org.za) was refreshed and launched in January 2020. It not only provides information on all LSSA activities and news but is also a source of information for the public and the media. The new website is more user-friendly and is interactive. It consists of a members registration function and a members' forum where legal practitioners can have discussions. Please follow the website instructions to use this facility to engage with your peers in areas of practice and or specialisation.

An overview of a year's analytics shows the following top searches:

- 1 COVID resources
- 2 Professional examinations
- 3 National Wills Week
- 4 Getting legal assistance
- 5 Complaining about an attorney

The average session duration was 01:55.

• National Wills Week

The National Wills Week campaign was held in October 2020 because of

the lockdown. The LSSA thanks the hundreds of attorneys' firms and attorneys who participated in drafting free basic wills for the public during our annual National Wills Week campaign. This successful project was made possible by your contributions and commitments, and we graciously thank you. In 2020 some law firms conducted consultations electronically because of the pandemic.

• Topical issues

During 2020 the LSSA President welcomed the Supreme Court of Appeal decision on the appeal on Muslim marriages. In this matter, the LSSA made submissions as *amicus curiae*. President Ntyesesi commented: 'This is a judgement to be welcomed by thousands of women and children in the country. Many women and minor children did not benefit from the protection provided in the Marriage Act 25 of 1961 and the Divorce Act 70 of 1979. This legislation did not recognise marriages solemnised in accordance with Muslim marriages as valid marriages for all purposes in South Africa.'

The LSSA also cautioned against uninformed criticism of courts. The LSSA noted the public outcry following the Supreme Court of Appeal (SCA) judgment on the 'Coligny sunflower' case. Some politicians urged the National Prosecuting Authority to appeal the acquittal to the Constitutional Court while many members of the public were disappointed and angered by the decision of the SCA with some questioning the motive of the three judges who presided over the appeal.

Mr Ntyesesi stated: 'We support the independence of judges and the rule of law, but as clearly illustrated in this matter, judges are not infallible, but we have mechanisms which allow us to seek redress. As with any legal matter adjudicated by our courts, people are entitled to have differing views. However, attacks on the court's integrity are unwarranted, and we condemn the use of such opportunistic attacks for political gain. We urge everyone, including the public to make use of the correct mechanisms and not take the route of uninformed public criticism of the court process.'

Nomfundo Jele

Acting Communications Manager



De Rebus

The SA Attorneys' Journal

MEMBERS	
• Giusi Harper (Chairperson)	• Maboku Mangena
• Peter Horn	• Mohamed Randera
• Mabaeng Denise Lenyai	

Due to financial constraints, the Law Society of South Africa – which publishes *De Rebus* – took a decision to no longer print free copies of the journal for practising attorneys and candidate attorneys. As of March 2019, *De Rebus* is being distributed for free electronically. Readers wishing to receive printed copies pay subscription fees. The digitisation of the journal will ensure its future sustainable existence while offering a Post-Qualification Professional Development service to the profession and makes researching articles in the journal easier for the profession.

The digitisation of the journal has not alienated its readers or its contributors. Since access to the journal can be digitally tracked we have the statistics which indicate that readers continue to read the journal in its digital format. The digital format of the journal has also ensured that legal practitioners receive important news, information and announcements sooner as these are published on the website immediately.

In 2019, *De Rebus* successfully launched the CV portal, which is a free service for candidate legal practitioners where candidate legal practitioners can place their CV's on the *De Rebus* website. Prospective employers are then able to contact candidate legal practitioners directly. The service is based on a first-come, first-served basis for a period of two months, or until the candidate legal practitioner has been appointed.

As the journal entered uncharted territory and became a digital publication in 2019, there was uncertainty whether advertisers would continue advertising in the journal. With its five offerings of advertising space, namely, the print version (which is also published digitally as a PDF), newsletter, website, app and the classifieds supplement, the journal brought in an income of R 2 290 281.

The year 2020 was a challenging one as the world battled with the









COVID-19 pandemic. The pandemic had a negative impact on the financials of the journal as less advertisers booked advertising space, this can be seen in the income received. However, the pandemic also meant that more legal practitioners had more time on their hands to write articles to be published in the journal. *De Rebus* started a Facebook page during 2020 and we are looking into ways of having a bigger reach on social media.

Even in its digital format, the journal continues to be a relevant trusted source of credible information for the profession. This can be seen by the number of articles, letters and opinions legal practitioners send for publication. This is an important element of having a publication that is dedicated to the profession because the engagement it receives shows that the publication covers topics that are relevant. *De Rebus* will continue to be a reliable educational tool, which brings the legal profession the latest news on developments in the profession in digital format.

Objectives

- The mandate of *De Rebus* is to be an educational tool for the profession, while it informs legal practitioners of the latest developments in the profession.
- The journal aims to provide legal practitioners, with a platform to discuss and share opinions on matters relating to the profession.
- The journal plays a pivotal role in the profession as its content is authoritative, credible and enables practitioners to practise more efficiently and effectively. It also reinforces collegiality in the profession, which in turn promotes the maintenance of high professional standards.



Output comparison table		as at December 2019	as at December 2020
	Income	R 2 290 281	R 1 840 372 (unaudited figure)
	Print subscribers	171	59
	Website subscribers	6 306	8 624
	Mailing list	10 837	19 214
	App downloads	6 225	7 566
	Facebook	N/A	1 825
	LinkedIn	12 119	18 531
	Twitter	5 851	8 169

Most page views on the De Rebus website in 2019		
	Page	Page views
1	Home page	78 431
2	PDF download	52 854
3	Protecting victims of human trafficking – is South Africa doing enough?	33 496
4	Default judgment	22 329
5	The role of law in curbing xenophobia	16 825
6	Step-by-step guide to residential housing eviction proceedings in the magistrate's court	15 005
7	Classifieds: Vacancies	13 044
8	Your life, your decision? The Constitution and euthanasia	10 988
9	Alternatives to retrenchment – are employers obliged to save jobs?	10 593
10	Section 65A(1) Notice to appear for a s 65 hearing of the Magistrate's Court Act	9 447

Most page views on the De Rebus website in 2020		
	Page	Page views
1	Home page	67 978
2	PDF download	36 486
3	Employment law update – Severance pay and a new amendment to the BCEA	22 771
4	LPC Notices	20 777
5	The difference between a non-profit company and a non-profit organisation	14 800
6	Default judgment	13 267
7	Classifieds: Vacancies	13 121
8	The doctrine of precedent and the value of s 39(2) of the Constitution	10 652
9	Directives – COVID-19	9 269
10	Step-by-step guide to residential housing eviction proceedings in the magistrate's court	8 854

Finance

FINANCE 2019 REPORT

MEMBERS	
• Ashwin Trikamjee (Chairperson)	• Willie Scholtz (Risk and ICT expert)
• Jan van Rensburg (Deputy chairperson)	• Jan Maree
• Peppy Kekana	• Igna Klynsmith (Chairperson Internal Audit Subcommittee (IAS))
• André de Lange	• Mvuzo Notyesi (LSSA President <i>ex-officio</i>)
• Vincent Faris (independent nominee South African Institute of Chartered Accountants (SAICA))	

The Audit and Risk Committee (ARC) reports to the Law Society of South Africa's (LSSA's) House of Constituents (HoC) via the LSSA Executive Committee (Exco).

The following statement has been communicated to the HoC members, prior to their approval of the Annual Report and the financial statements for the financial year ended 31 December 2019:

Statement by the ARC on the LSSA's consolidated financial statements prepared in accordance with the general principles of the International Financial Reporting Standards (IFRS)

The ARC, in terms of its charter, which is reviews annually, has as its primary purpose the following key objectives:

- Ensure that the operations of the LSSA and its accounting records are maintained in a proper manner
- Ensure that the financial statements are free of misstatements and reporting errors
- That the organisation is sustainable by considering an enhanced going concern principle over an extended period
- That risk management processes are in place, effective and adequately monitored

The ARC, therefore, reports on the implementation of its key objectives:

- Appointed as external auditors, SAB&T for their final audit for 2019, in terms of the rotational policy adopted.
- Reviewed the auditors audit plan, scope and process. Examined, discussed and interrogated their reports.
- Noted that the opinion of SAB & T on the Annual Financial Statements (AFS) for the year ended 31 December 2019 is unqualified.
- Convened five meetings during the financial year.
- The ARC has been dealing with the change of funding mechanism via its Budget subcommittee. This change was brought about by the Legal Practice Act 28 of 2014 (LPA) and the LSSA received legal education funding subvention from the Legal Practice Council (LPC) in terms of the LPA.
- The mandate of the LSSA has changed as it is now a member's interest organisation and hence the funding subvention is directed at core educational activities, resulting in reduced subvention as compared to 2018.

- The LSSA due to changes did not collect any membership levies in 2019 as compared to prior years. This risk has been escalated to the HoC.
- Indications are that effective levying of membership subscriptions will only be in 2021
- At each ARC meeting, the Internal Audit Subcommittee (IAS) discuss the regular review of Risk management, internal control, corporate governance and internal audit reports. The ARC reviewed and interrogated the reports, and monitored action plans and interventions to address any weakness it deemed appropriate, in the discharge of its duties.
- The ARC considered the assurance from the IAS and Management on the effectiveness of the internal control and risk aversion measures.
- The remuneration committee's (Remco) terms of reference was revised to ensure that it deals primarily with financial considerations of salary, due to the establishment of an HR Committee during 2019. Remco is chaired by an independent practitioner with the other members being the ARC chairperson and independent SAICA member of ARC.
- That the audit plan and scope is defined to consider specific objectives determined annually by the IAS, to ensure value added services to the external audit, with specific mandate to evaluate the effectiveness of the internal control environment.
- The Committee conducted training for the HoC on Risk management and Governance.
- The ARC highlighted the financial sustainability of the LSSA for medium to long-term to the HoC.
- The HoC and Exco of the LSSA received regular reports from the committee.
- The LSSA has through its membership of the Open Compliance and Ethics Group (OCEG) adopted the Governance, Risk and Compliance (GRC) model.
- The GRC model is the systemic integration of the LSSA's resources and capabilities that enable it to reliably achieve objectives, address uncertainty, ensure opportunities are realised and acts with integrity, in all spheres of its operations and governance.
- The main purpose of GRC is to ensure "principled performance."
- As GRC is relatively new in the LSSA, it is in the initial stages (less than two-years) the level of maturity of GRC is not high.

That the foregoing provides a reasonable basis for this statement and in terms of the ARC charter and the LSSA Corporate governance policy, to the best of its knowledge and judgement

- Confirms that the financial activities of the LSSA are conducted in an adequate combined assurance for a holistic and systemic risk management process: analyses, review, action and implementation.
- Affirms via engagement with the IAS, external auditors and Management that the internal control environment is satisfactory.
- Confirms regulatory compliance for the year under review.
- Confirms that the ARC performed a non-executive role and was not involved in the management and operational affairs of the LSSA.
- Affirms that the operations of the LSSA have been conducted in terms of its financial capacity and budget. That financial records are properly maintained in terms of benchmarked standards. The oversight and financial and operational processes are in compliance with the governance protocols established.
- Confirms that the AFS of the LSSA as at the 31 December 2019, which comprise the balance sheet, the Income Statement and the cash flow statement for the year then ended, including all policies, and reporting requirements in terms IFRS for SMME's are in compliance.
- The AFS as tabled to the LSSA AGM provides a true and fair reflection of the financial position of the LSSA and its results of its operations and cash flow for the year under review.

FINANCE 2020 REPORT

MEMBERS	
• Ashwin Trikamjee (Chairperson)	• Willie Scholtz (Risk and ICT expert)
• Jan van Rensburg (Deputy chairperson)	• Jan Maree
• Peppy Kekana	• Igna Klynsmith (Chairperson Internal Audit Subcommittee (IAS))
• André de Lange	• Mvuzo Notyesi (LSSA President <i>ex-officio</i>)
• Vincent Faris (independent nominee South African Institute of Chartered Accountants (SAICA))	

The Audit and Rick Committee (ARC) and its subcommittees consider the Law Society of South Africa's financial statements and the underlying management reports, accounting policies, risk management and finance function.

The following statement has been communicated to the HoC, prior to their approval of the Annual Report and the financial statements for the financial year ended 31 December 2020:

Statement by the ARC on the LSSA's consolidated Annual Financial Statements (AFS) prepared in accordance with the general principles of the International Financial Reporting Standards (IFRS)

The AFS includes the Statement of Financial Position (Balance Sheet), Income Statement, Cash Flow Statement and Notes to the AFS.

The committee therefore reports on the AFS as follows:

- That the accounting records are maintained in a proper manner and reasonably reflect the operational records of the various divisions of the LSSA
- That the Financial statements are free of misstatements and reporting errors
- That the Income Statement correctly reflects the net results of the LSSA
- That the cash flow statement indicates the efficient use of cash resources.
- That the notes to the AFS, provides policy and basis of the AFS, including details of key disclosures.

The ARC therefore reports on the implementation of its key objectives:

- Appointed new external auditors, MNB CA for the 2020-audit and confirm that the appointment was made in terms of the rotational policy for three-years.
 - The appointment followed open proposals invite and a shortlisting process in terms of the LSSA B-BBEE policy, including adequate experience and skills for an organisation of the LSSA's nature.
 - The Internal Audit Subcommittee (IAS), reviewed the auditors audit plan, scope and process. Examined, discussed and interrogated their reports.
 - That the audit plan and scope is defined to consider specific objectives determined annually by the IAS, to ensure value added services to the external audit.
 - Noted that the audit opinion on the Annual Financial Statements (AFS) for the year ended 31 December 2020 is unqualified.
- The audit opinion also notifies readers of the prior year adjusted via 'emphasis of matter'. The committee's operational plan was fully accomplished and the report on key activities for the year under review:
- Convened five meetings during the financial year.
 - The ARC has been dealing with the financial sustainability of the LSSA, which is identified as a key risk and communicated to the LSSA Exco and HoC and the development of organisational sustainability using the model.
 - The LSSA due to changes did not collect any membership levies in 2020 as compared to prior years, thereby impacting on financial sustainability.
 - The LSSA has adopted an in-house developed risk analysis and action toolkit
 - The ARC considered the assurance from Management on the effective-

ness of the internal controls [level 1] and the assurances from the IAS (Level 2) on its review of managements risk reports, including its reports on the internal control environment. The IAS regularly reviews the processes and reports on risk identification and action, to ensure the LSSA is able to meet its objectives.

- The remuneration policy of the LSSA was based on CPI inflation due to COVID-19 and funding constraints, both linked to financial sustainability.

That the foregoing provides a reasonable basis for this statement and in terms of the ARC charter and the LSSA Corporate governance policy, to the best of its knowledge and judgement

- Confirms that the financial activities of the LSSA are conducted in an adequate combined assurance for a holistic and systemic risk management process: Analyses, review, action and implementation.
- Affirms via engagement with the IAS, external auditors and Management that the internal control environment is satisfactory.

- Confirms regulatory compliance for the year under review.
- Confirms that the ARC performed a non-executive role and was not involved in the management and operational affairs of the LSSA.
- Affirms that the operations of the LSSA have been conducted in terms of its financial capacity and budget. That financial records are properly maintained in terms of benchmarked standards. The oversight and financial and operational processes are in compliance with the governance protocols established.
- Confirms that the AFS of the LSSA as at the 31 December 2019, which comprise the balance sheet, the Income Statement and the cash flow statement for the year then ended, including all policies, and reporting requirements in terms IFRS for SMME's are in compliance.
- The AFS as tabled to the LSSA AGM provides a true and fair reflection of the financial position of the LSSA and its results of its operations and cash flow for the year under review.

Ashwin Trikamjee
Chairperson

Human resources

Staff numbers

Consolidated staff numbers	Total actual as at 31/12/2019	Budget 2019	Less terminations and transfers out	Add appointments and transfers in	Total as at 31/12/2020
LSSA	28	33	4	2	26
<i>De Rebus</i>	6	6	0	0	6
LEAD	56	60	4	6	58
Total:	90	99	8	8	90

Acknowledgement

New Appointments 2019 -2020

No	Title	Name	Section	Post	Date	Equity
1	Ms	Michelle Beatson	Potchefstroom School for Legal Practice	School Principal	09 January 2019	W/F
2	Ms	Selina Sekano	Professional Affairs	Committee Secretary	08 April 2019	A/F
3	Mr	Kay Malema	UNISA Distance School	School Principal	06 May 2019	A/M
4	Ms	Antoinette Mkhabela	UNISA Distance School	Training Coordinator	01 August 2019	A/F
5	Ms	Queen Gopo	Polokwane School for Legal Practice	School Principal	16 August 2019	A/F
6	Ms	Zukiswa Kala	UNISA Distance School for Legal Practice	Training Coordinator	01 September 2019	A/F
7	Mr	Sifiso Kunene	Human Resources	Payroll Administrator	20 September 2019	A/M
8	Ms	Drinnette Du Randt	Bloemfontein School for Legal Practice	School Principal	01 January 2020	W/F

Terminations 2019 - 2020

The LSSA had ten terminations during the period of this report. Of the terminations recorded, four deaths during this period:

- Ms U Knott (Pretoria Principal);
- Ms B Whittle (Communication Manager);
- Ms B Maluleke (Data capturer); and
- Ms Gail Mason (Information/data officer).

LSSA Staff Training 2019-2020

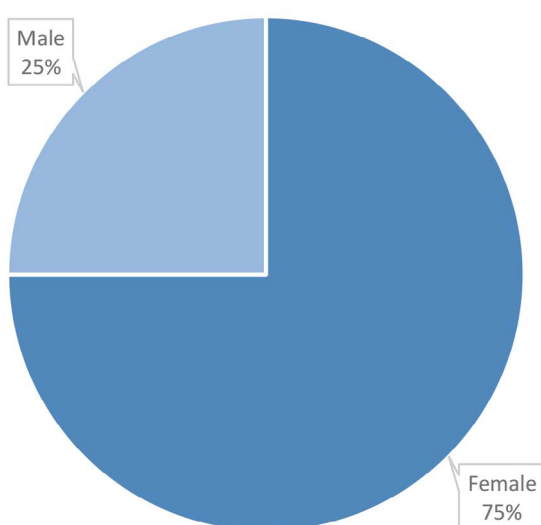
The LSSA invested R170 000 for the development and skilling of staff. Over and above the recommendations by management, the staff training committee makes recommendations on the various types and nature of training requirements.

Employment Equity Statistics 2019

Employment equity return as at September 2019

Occupational level	Male				Female				Foreign		Total
	African	Coloured	Indian	White	African	Coloured	Indian	White	Male	Female	
Top management	0	0	1	0	0	0	0	0	0	0	1
Senior management	2	0	0	0	1	0	0	2	0	0	5
Professionally qualified and experienced specialists and mid-management	1	1	0	1	5	2	2	5	0	0	17
Skilled technical and academically qualified workers, junior management, supervisors, foremen, and superintendents	5	0	0	1	3	1	1	6	1	0	18
Semi- skilled and discretionary decision making	11	0	0	0	24	4	3	4	1	2	52
Unskilled and defined decision making	0	0	0	0	4	0	0	0	0	0	5
TOTAL PERMANENT	19	1	1	2	37	7	6	17	2	2	98
Temporary employees	0	0	0	0	0	0	0	0	0	0	0
GRAND TOTAL	19	1	1	2	37	7	6	17	2	2	98

Employee gender ratio



Ratio (actual): Female to male: 70 : 24

Challenges in 2019 - 2020

- Security of Tenure and stability in relations to future funding model of the organisation remains the biggest challenge.
- Possibilities of termination of tenure (retrenchments) as a result of restructuring of the organisation.
- A continuous challenge to keep staff motivated and invested within the organisation.

Objectives for 2021

- Roll out of the revised performance management and appraisal system.
- Ensure the performance management system is automated and paperless going forward.
- Finalise the skills audit to have clear understanding of the skills the organisation has.
- Encourage change management initiatives to keep the momentum and acceptance of change in the working environment.
- Continue to communicate and provide open and honest information about developments on the future of the LSSA.
- Continue to empower all staff through training and development in their areas of specialisation.
- Commitment to 'teams as a flat structure'.

Legal Education and Development



LEAD 2019 REPORT

2019 MEMBERS	
• Raj Badal (Chairperson)	• Mbongeleni Mchunu
• Dave Bennett	• Zaahira Tiry
• Taunyane Hlapolosa	• Zinedile Tiya
• Peter Horn	• Ashwin Trikamjee
• Jan Maree	
ALTERNATES	
• Motseki Morobane (alternate)	• Zuko Tshutshane (alternate)
• Janine Myburgh (alternate)	
MEMBERS BY INVITATION	
• Krish Govender	• Mvuzo Notyesi (President of the Law Society of South Africa)
• Praveen Sham	

Committee meetings

Four meetings of the Standing Committee on Legal Education (the committee) were held during the period under review, three of which were scheduled ones and the fourth for the discussions relating on uniform practical vocational training.

Key focus

- LEAD was accredited by the Legal Practice Council (LPC) as a legal education provider for 2019.
- More than 12 000 persons enrolled for LEAD programmes in 2019.
- LEAD, in its endeavour to make its training accessible to all legal practitioners, irrespective of their location, presented 27 webinars in 2019.
- LEAD continued to collaborate with the Black Lawyers Association (BLA) – Legal Education Centre and the education department of the National Association of Democratic Lawyers (NADEL) to provide legal education to the profession.
- LEAD presented the six-day Judicial Skills training to 30 legal practitioners in Mpumalanga.
- LEAD collaborated with Irish Rule of Law International (IRLI) in presenting the Commercial Drafting Skills Workshop. The workshop was attended by 12 legal practitioners from previously disadvantaged background. The teaching panel comprised of five legal practitioners from Matheson law firm in Dublin and advocate Ismail Hussain SC from South Africa.
- LEAD was allocated 20 university graduate placements for 12 months by SASSETA, as compared to the 100 that were previously allocated for 24 months. Refer to the SASSETA report for full details.

Key developments

- LEAD was requested by the LPC's Education Committee to present a proposal for a uniform practical vocational training (PVT) programme that would accommodate all candidate legal practitioners (both candidate attorneys and pupils).
- A task team, comprising of two LEAD School principals and two advocates (who also form part of the LEAD panel of instructors) was established. The task team consulted with relevant stakeholders.
- LEAD presented a three-day bookkeeping workshop to assist those advocates who wanted to sit for the bookkeeping admission exam and eventually practise with a Fidelity Fund certificate
- In addition to its other online programmes, LEAD will present an online Child Law course in the second half of 2020 and registration will be open to both legal practitioners and support staff. Plans are also underway to introduce an online mediation course before the end of 2020.

Funding

- The Committee noted the challenges that were brought about by the reduced budget. The members of the Committee unanimously agreed that these challenges have the potential to derail the training programmes of LEAD and have to be dealt with decisively by the profession. The Committee was particularly concerned that the LEAD budget, having been approved by the Legal Practitioners Fidelity Fund (LPFF), was reduced. As it stands, LEAD may lose committed and dedicated staff because of the funding uncertainty.

Summary of attendance of all LEAD programmes for 2019

	2018	2019
Schools for Legal Practice	1 609	1 855
25-Day courses for candidate attorneys	2 478	2 357
Conveyancing and notarial training	777	663
Diplomas and certificates	134	168
Practice management training	1 249	1 737
Seminars	2 533	2 645
Mediation	122	81
Other training:		
• e-Learning	774	464
• Business development (all training of that section including support staff training)	1 851	2 106

LEAD 2020 REPORT

2020 MEMBERS	
<ul style="list-style-type: none">• Raj Badal (Chairperson)	<ul style="list-style-type: none">• Jan Maree
<ul style="list-style-type: none">• Dave Bennett	<ul style="list-style-type: none">• Zaahira Tiry
<ul style="list-style-type: none">• Peter Horn	<ul style="list-style-type: none">• Zincedile Tiya
<ul style="list-style-type: none">• Genedius Mangokoane	<ul style="list-style-type: none">• Ashwin Trikamjee
ALTERNATES	
<ul style="list-style-type: none">• Clive Hendricks (alternate)	<ul style="list-style-type: none">• Zuko Tshutshane (alternate)
<ul style="list-style-type: none">• Janine Myburgh (alternate)	
MEMBERS BY INVITATION	
<ul style="list-style-type: none">• Krish Govender	<ul style="list-style-type: none">• Mvuzo Notyesi (President of the Law Society of South Africa)
<ul style="list-style-type: none">• Praveen Sham	

Committee meetings

During 2020, the Committee met twice. A special meeting, which was motivated by webinar fees which were regarded as unaffordable to legal practitioners especially during the Covid-19 pandemic when most of them were not earning an income, was held virtually on the 12th of October 2020.

Impact of Covid-19 and the imposed lockdown on LEAD training

The lockdown interrupted most, if not all, of the training programmes that were scheduled to take place in the first half of 2020. It should be noted that most of LEAD's training programmes, besides the fully online courses, were presented face-to-face contact in a venue with some of the classes having more than 70 attendees. Some of the programmes were presented through blended learning with elements of both contact and online. The lockdown regulations required social distancing between groups should be limited to a maximum of 50 at a time. This therefore required of LEAD to come up with a mode of training that would address the new normal in the training space. Training was therefore presented virtually for groups that exceeded 50.

Key focus

- LEAD was accredited by the Legal Practice Council (LPC) as a legal education provider for 2020.
- More than 9 000 persons enrolled for LEAD programmes in 2020.
- In the endeavour to make some training accessible to all legal practitioners, irrespective of their location, 10 webinars were presented in 2020.
- The collaboration between LEAD, the Black Lawyers Association (BLA) – Legal Education Centre and the education department of the National Association of Democratic Lawyers (NADEL) to provide legal education to the profession continued.
- SASSETA awarded LEAD 70 graduate placements for the 2020/2021 financial year.
- Application for the re-accreditation of the National Certificate - Attorney Practice NQF Level 7 qualification was submitted and approved in May 2020.
- A short course in Leadership for Legal Practitioner's was being developed and there was optimism that the said course would be rolled out in March 2021.

Key developments

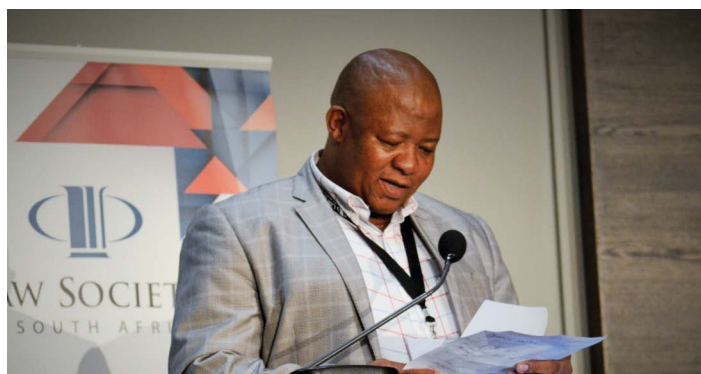
- One of the highlights of 2020 was the new Norms and Standards were gazetted for comment and later approved by the Legal Practice Council (LPC) in December 2020.
- LEAD added Child Law to its online courses. The pilot course was offered to both legal practitioners and support staff and was presented from 28 September to 23 November (two months). A total of 91 delegates registered for this course.
- An online mediation programme was developed and introduced in 2020. The online civil mediation training was presented from 31 August to 11 September and again from 30 November to 11 December. The online divorce mediation training was presented from 16 to 27 November.

Funding

- Funding remained a challenge for LEAD. This is an ongoing issue. Members of the committee were urged to lobby the LSSA and other constituents to ensure that there was adequate funding so that LEAD could continue with its vital role of providing legal education. There was consensus that there should be a similar provision in the Legal Practice Act (28 of 2014) as was contained in section 46(b) of the Attorneys Act (53 of 1979). This will require an amendment to the LPA.

Summary of attendance of all LEAD programmes for 2020

	2019	2020
Schools for Legal Practice	1 855	1 643
25-Day courses for candidate attorneys	2 357	2 011
Conveyancing and notarial training	663	380
Diplomas and certificates	168	125
Practice management training	1 737	1 662
Seminars	2 645	1 035
Mediation	81	179
Other training:		
• e-Learning	464	499
• Business development (all training of that section including support staff training)	2 106	1 727



Practical Vocational Training

Since 2019 the LSSA has consolidated the PVT training section, with the PVT short course and PVT Schools merged into a single unit. The short courses previously was merely an administrative and coordination section. In the new team, under the guidance of School principals, there is a dedicated focus on quality and outcomes and not merely the number of candidates trained (output).

Purpose and objective of PVT Schools

The School is discretionary. Its focus is to assist candidates who cannot secure articles by providing them with practical legal skills training. This training will equip candidates to be more proficient in legal practice, and thereby secure Practical Vocational Training (PVT) contracts, increasing their likelihood of accessing the profession.

Night Schools allow candidates in PVT contracts to increase their practical skills in a range of practice areas. The percentage rate of candidates who are in PVT contracts has steadily declined to below 25% of candidates in the night schools.

The Schools, established by the Law Society of South Africa (LSSA) and implemented via its Legal Education and Development division (LEAD), provides a postgraduate, vocational training course for law graduates and is registered by SAQA and accredited by the Legal Practice Council (LPC).

LLB law graduates who complete the course qualify to reduce their practical vocational training contract period (articles) as candidate attorneys by one year. The School plays a pivotal role in transforming the profession by increasing the available pool of candidate legal practitioners. Access to the profession is severely constrained by the number of PVT contracts available to candidates. The Schools, therefore, allows the majority of its candidates' access to PVT contracts due to the practical skills transfer and intense focus on practice and law firm management by experienced instructors who are legal professionals.

The primary benefit of attending the School is that law graduates gain a full spectrum of skills and knowledge, which they may not gain as candidate attorneys during their service under practical vocational training contract (articles).

In-depth practical vocational training is offered at nine campuses. These are situated at Bloemfontein, Cape Town, Durban, East London, Johannesburg, Polokwane, Port Elizabeth, Potchefstroom, and Pretoria. This is five-month attendance courses. In addition, the LSSA offers a distance School in conjunction with UNISA (this is a six-month School).

PVT SHORT COURSE

This 23-day short course is offered to candidates who are in PVT contracts. The primary aim of the course is to ensure candidates are adequately prepared to write the attorney's admission examinations. Since the consolidation of PVT training, School principals who are admitted attorneys with an educational focus, now have oversight of this training's quality and content. The material and quality assurance are currently uniform. There is an increased focus to ensure that the training standards and outcomes apply to all candidates, as small firms do not have resources. The LSSA management, especially the School Principals, ensures that all candidates are treated with dignity and respect and that these candidates are the future of the profession. Their function is to nurture and mentor candidates, who are at the centre of training our priority. The thematic table below, which applies to PVT schools, now has significant elements to all PVT training. Principals can where practical mentor candidates.

IMPACT OF COVID-19

In 2020, COVID-19 had a significant impact on learning and required increased use of a blended learning approach. The LSSA had to increase the number of courses using blended learning and adding additional online resources. The joint UNISA-LSSA School had serious challenges as UNISA closed all 23 of its training campuses. Venue costs increased as Schools on university premises had to hire external venues. The limitation of numbers and social distancing in the venues, as per the lockdown regulations, saw a reduction in the number of candidates that the LSSA could accommodate.

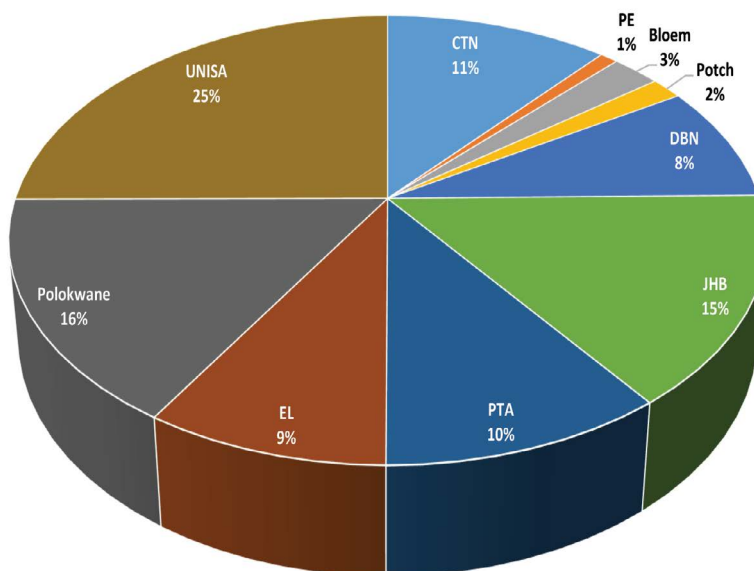
	Intervention logic	Objectively verifiable indicators of achievement	Sources and means of verification
Objectives	<p>New Key Competencies 2021/2021</p> <p>Candidates committed to:</p> <ul style="list-style-type: none"> • Independence • Ethical Conduct • Clients' interests • Confidentiality • Non-conflicted • Professional competence 	<ul style="list-style-type: none"> • performance of candidate legal practitioners Admission exam results • special courses as claim mitigation <ul style="list-style-type: none"> – Legal Accounting – Practice Management training – risk management seminars and or workshops – Practice development – ICT and Cybersecurity – Firm and case management 	<ul style="list-style-type: none"> • Entrance to the profession and the quality (professional competence) of incumbent legal practitioners • Surveys and other metric analysis, including qualitative studies.

	Intervention logic	Objectively verifiable indicators of achievement	Sources and means of verification
Specific objectives	The training and development of candidate legal practitioners.	<ul style="list-style-type: none"> Evaluation by participants shows satisfaction, and sample focus groups indicate objectiveness Quality assurance of instructors as required by new Norms and Standards. Training material revamped to be in-line with new Norms and Standards. 	<ul style="list-style-type: none"> Evaluation results on all interventions. LPC criteria and metrics for compliance.
Outcomes	<ul style="list-style-type: none"> Candidate legal practitioners' performance in assessment indicates key learning outcomes achieved Candidate at Schools can enter into PVT contract with skills already developed. Candidates are ready for admission examinations and or assessments 		<ul style="list-style-type: none"> Examination results and info from LPC, including regional offices. Analysis of public commentary and media on the perception of newly admitted practitioners. Feedback and affirmation from practitioners on the quality of candidates.

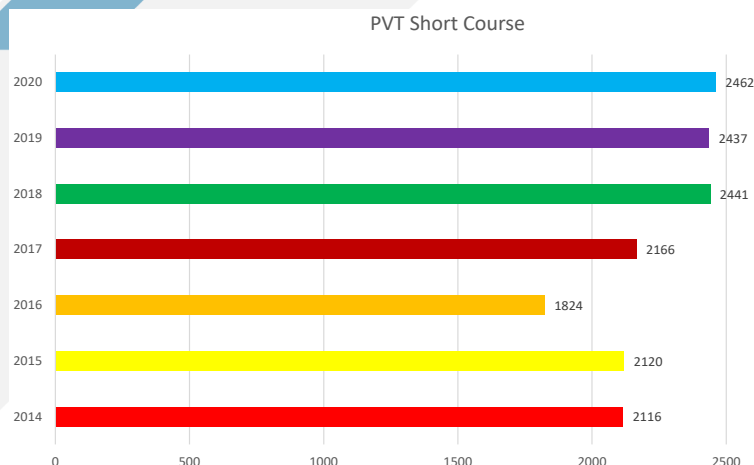
The new norms and standards gazetted by the LPC in December 2020 will increase training hours. This will require fundamental amendments to existing regulations 6 (attorneys) and 7 (advocates). There will be a resultant increased in the training costs.

The LSSA has already begun by adapting to the new curriculum development and material updates and enhancement to be ready with the new norms and standards. Once the regulations are changed, there can be a smooth transition into the new PVT regulatory landscape.

PVT Schools 2020: 1,752 (2019 Total: 1,862)



	Cape Town	Port Elizabeth	Bloemfontein	Potchefstroom	Durban	Johannesburg	Pretoria	East London	Polokwane	UNISA	Total
2020	199	16	43	28	148	263	180	154	282	439	1752
2019	295	20	42	24	168	364	226	132	226	365	1862



Gender	2018	2019	2020
Female	59%	62%	60%
Male	41%	48%	40%

Professional Affairs

The period under review has been busy and challenging. The specialist committees had to scrutinize, monitor and make submissions on a myriad of legislation, policy processes and other documents, invariably within very short timeframes. Most of the submissions can be accessed on our website at www.LSSA.org.za.

I mention merely a fraction of the critical issues that the committees dealt with. The extensive work done by the respective committees are highlighted in the specialist committee reports later in this Annual Report.

The implications of section 35 of the Legal Practice Act (LPA) are of major concern to practitioners. This section mandates the South African Law Reform Commission (SALRC) to undertake an investigation into legal costs and make recommendations to the Minister of Justice and Correctional Services. The SALRC published its first document in the course of the investigation, Issue Paper 36, in 2019. The second document, Discussion Paper 150, was published for comment in 2020. The Discussion Paper contained some recommendations for legislative and other interventions. The LSSA made extensive submissions on both the Issue Paper and the Discussion Paper, taking into consideration the comments received from the specialist committees and practitioners. We are grateful for the many comments received from members of the profession.

After many years, there is some movement as regards the issue of cross-border practice rights, with the SADC Lawyers Association (SADCLA) having established a task team to ensure that every SADCLA member country comes up with a position statement on the issue. We understand that the government is now also looking at the liberalisation of legal services across country borders. The LSSA has drafted a position paper that appears on the LSSA's website. This is a complex issue and may have serious implications. Practitioners are urged to read the document and submit their views to the LSSA.

In 2020, the House of Constituents established a task team to investigate the reasons for the low pass rate of the conveyancing admission examinations and make recommendations to increase the pass rate without compromising standards. The LSSA submitted some recommendations to the Legal Practice Council (LPC), including changing the format of the

examinations and increasing the pool of examiners. Some of these recommendations have already been implemented. The low pass rate remains a problem and the task team is working tirelessly to find some solutions. The key obstacle to passing the conveyancing examination is often a lack of mentors and for that reason, the LSSA embarked upon a mentorship programme. Conveyancers are requested to avail themselves as mentors.

For a number of years, the Professional Affairs department has focused on improving relationships and set up lines of communication and co-operation with important stakeholders. This has paid off and the LSSA is now consistently approached by stakeholders seeking its input. In many instances, issues are resolved at committee level through close co-operation and engagement with stakeholders, before they can have a negative impact on the profession or the public.

Committee members are regularly called upon to assist with press releases and act as commentators on radio and television. They also suggest and draft information brochures and make video clips available on specific subjects, with the view to inform practitioners of developments and also market the services of the profession.

Practitioners are invited to send comments and proposals on any legislation and policy documents to Professional Affairs for consideration by the relevant specialist committees. Please also follow the LSSA on Facebook, Twitter, LinkedIn and Instagram for notices of important developments and invitations for comment on specific issues.

Professional Affairs would like to take this opportunity to thank the members who serve tirelessly on the specialist committees. Our committee members are all practising attorneys who offer their expert knowledge and service voluntarily, and we appreciate the sacrifice that they make. They often spend long hours attending to the affairs of the profession.

I also wish to thank the Professional Affairs team of Ricardo Wyngaard (Senior Legal Officer), Kris Devan (Personal Assistant), Nonhlanhla Chanza (Parliamentary Liaison Officer) and Selinah Sekano (Committee Secretary) for their continued commitment and dedication, ensuring that the department functions professionally and efficiently.

Lizette Burger
Manager Professional Affairs





LAW SOCIETY
OF SOUTH AFRICA

Other reports



VII BRICS LEGAL FORUM

SAINT PETERSBURG DECLARATION

We, the representatives of the legal communities of the BRICS Member States, having gathered online on 18-19 November 2020 at the VII BRICS Legal Forum entitled 'Law and legal order: values and principles in the context of global challenges of modernity';

FOLLOWING the provisions of the final documents of the heads of the BRICS Member States, including the Moscow Declaration of 17 November 2020 (made in Moscow, Russian Federation);

RECOGNISING the importance of legal values for maintaining the stability of legal systems and creating a just, democratic and multipolar world order rooted in the mutual respect of legitimate interests of all States and generally recognised rules and principles of international law;

ACKNOWLEDGING the need of strengthening the cooperation based on the principles of equality, respect of sovereignty and multilateralism within BRICS;

TAKING COGNISANCE of the deepening of cooperation among the BRICS Member States in the sphere of law and jurisprudence, in particular, the promoting of the exchange of knowledge and best practices within BRICS; hereby DECLARE as follows:

- 1 We affirm our commitment to the attaining of the objectives set in the final documents of the BRICS summits by way of taking part in the development of the legal framework based on the principles of justice, equality, inclusiveness, respect for social and economic human rights, as well as rule of law.
- 2 We will continue our efforts to create the BRICS Dispute Resolution Network.
We support the initiatives of the working group on arbitration to develop the rules and concepts required for the functioning of the BRICS Dispute Resolution Centres. We intend to expand it to include and serve the interests of emerging markets and developing economies, through capacity building and promoting democratization and inclusiveness in international commercial disputes resolution.
- 3 We recognise the need to receive support and endorsement from our governments and business communities in creating and promoting the BRICS Dispute Resolution Network.
- 4 We support the initiatives aimed at improving the quality of legal education, fulfilment of human capacity in the legal sphere and creating social elevators for young lawyers.
We emphasise the importance of training and capacity development of qualified legal personnel to operate effectively and efficiently in international legal sphere, to pursue and defend cases involving commercial and national interests on the global stage without bias and in a fair, open and transparent legal institutional environment, in particular in the sphere of international law, finance, intellectual property and sports. We support the initiative

undertaken by the participants of the Forum for the purpose of developing legal education and professional capacity building and will explore avenues of greater collaboration and participation in such initiatives.

- 5 We note the role of the reforms aimed at the constitutional development of the BRICS Member States in ensuring the stability of the constitutional system, as well as in strengthening state sovereignty, territorial integrity and forming a state founded on the rule of law to promote inclusive and sustainable growth predicated on values of human and social welfare.

- 6 We affirm our commitment to fighting against terrorism, terror financing, arms and drug trafficking, countering corruption and money laundering, as well as combatting human trafficking as well as other transnational crimes by developing legal capacity, cooperation and knowledge exchange.

- 7 We attach great importance to the improving of the competitiveness of the national jurisdictions of the BRICS Member States by creating conditions for transparency and impartiality of the legal and judicial process in terms of enforcement of contracts and inexpensive and expeditious resolution of disputes. We support the measures taken by the BRICS Member States in order to protect the businesses and the rights of investors. We urge the governments to undertake on priority the issue of mutual recognition of judicial verdicts and awards amongst BRICS Member States.

- 8 We will further develop our cooperation in the sphere of developing legal and regulatory frameworks to govern developments in artificial intelligence, fintech, lawtech and information and communication technologies in order to prevent cybercrime and ensure network security and in order to leverage the drivers of the Fifth Industrial Revolution.

- 9 We are aware of the importance of the exchange of young specialists in the sphere of law, in particular, by way of implementing the annual BRICS Legal Talent Programme and will continue to expand its scope and sphere.

- 10 We will ensure fair representation of women lawyers in all the activities and committees and task force created to carry out the work of the BRICS Legal Forum, and will bring into activity section of Women Lawyers of BRICS during the next Forum meeting in India.

- 11 We will continue the cooperation among the BRICS legal communities in the following spheres:

- in the sphere of mediation in order to combine the best practices and improve the mechanism of alternative dispute resolution in the BRICS Member States;
- in the sphere of sports law in order to exchange experience in elaborating sports legislation, preventing doping in sports and competitive activities.

- 12** We recognise the urgent need to respond effectively to the challenges posed by the COVID-19 outbreak. In this regard, we support the initiatives of the BRICS Member States aimed at ensuring health security, maintaining sustainable development, well-being of the population, business recovery, and protection of the rights and legitimate interests of the citizens of the BRICS Member States.
- 13** Bearing in mind the fact that the VII BRICS Legal Forum has been included in the official calendar of the Russian chairmanship in BRICS in 2020 and sectoral meetings mentioned in the XII BRICS Summit Moscow Declaration 2020, we note the need to

approach the Governments of our States for the support of initiatives put forward by the BRICS legal communities.

- 14** Participants of the VII BRICS Legal Forum express their gratitude to the hosting party, i.e. the Association of Lawyers of Russia and Saint-Petersburg State University, and highly appreciate their efforts in organizing a very high-quality Forum in terms of both content and hospitality.

- 15** We also unanimously accept and endorse the proposal of the Bar Association of India to host the VIII BRICS Legal Forum in 2021 in India in a period to be agreed on.

19 November 2020

Legal Provident Fund

The Legal Provident Fund (LPF) was created by the attorneys' profession to help attorneys meet their and their employees' retirement savings and death and disability benefit needs. It is an independent umbrella retirement fund regulated by the Pension Funds Act 24 of 1956. The LSSA is a key stakeholder of the LPF.

The LPF was first registered in 1967 and has grown to accommodate more than 4,000 active members and hundreds of participating employers throughout South Africa. The Fund experiences general membership turnover in line with that expected within the Fund's participating employer environment. Unfortunately, this has meant reduced membership over the past year due to financial difficulties experienced by participating employers as a result of the National Lockdown. This resulted in an increased number of retrenchments. The table below shows the membership movements since 31 March 2019 (the LPF's financial year end).

	1 April 2020 to 31 December 2020	31 March 2019 to 31 March 2020
Opening membership	4,207	4,277
New members	201	498
Withdrawals	(255)	(399)
Retirements	(47)	(84)
Retrenchments	(165)	(67)
Deaths	(12)	(18)
Closing membership	3,929	4,207

The LPF has set a strategic goal for 2022 to grow its membership and increase assets invested on members' behalf by ensuring that the LPF offers a competitive product, excellent client service and best practice governance. To this end, the LPF has started to increase its communication with employers and members and has updated the LPF's website at www.legalprovidentfund.co.za. The LPF is also in touch with the LSSA in respect of key stakeholder issues and marketing.

The increased governance requirements of the industry, including the



LPF's improved communication plans, regrettably required the LPF to increase its expense deductions with effect from April 2020. Deductions had not increased over the past eight years prior. The Fund remains extremely competitive and will be able to reduce expenses on a per member basis as the LPF membership grows. Fund expenses over the last two financial years are summarised below.

	2020 financial year	2019 financial year	Change
Investment fees as a percentage of investments	0.57%	0.57%	0.00%
Fund expenses* as a percentage of salaries	0.71%	0.61%	0.10%
Investment fees and Fund expenses as a percentage of investments	1.15%	1.09%	0.06%

* This includes administration expenses and all governance charges

Fund expenses have increased from 0,61% to 0,71% of salaries. For a member that earns R 200 000 a year, this means a R 16,67 increase in monthly expenses.

It is important to note that the LPF does not have financial advisor fees on retirement savings. The LPF's investment and operational expenses are 1,15% while members in their own products can pay up to 1,15% (1% plus VAT) in financial advisor (broker) fees alone.

The table below provides some key financial statistics for the Fund for the past nine months since our previous report of 31 March 2019:

	1 April 2020 to 31 December 2020*	31 March 2019 to 31 March 2020	Percentage change
Investments	R 1 106 032 489	R 973 240 144	13,64%
Contributions	R 74 420 286	R 112 602 221	-11,88%
Gross investment income	R 180 544 148	- R48 516 528	
Investment fees	R 4 449 371	R 5 992 803	-1,01%
Administration, operational and governance expenses	R 4 430 920	R 6 081 807	-2,86%
Benefits paid and transfers to other funds	R 118 740 413	R 159 918 049	-1,00%

*Unaudited as this is not the LPF's complete financial year

The reduction in contributions over the last nine months is indicative of the financial strain currently being experienced by participating employ-

ers, with some participating employers opting to take one of the three COVID-19 contribution relief options currently being offered by the Fund.

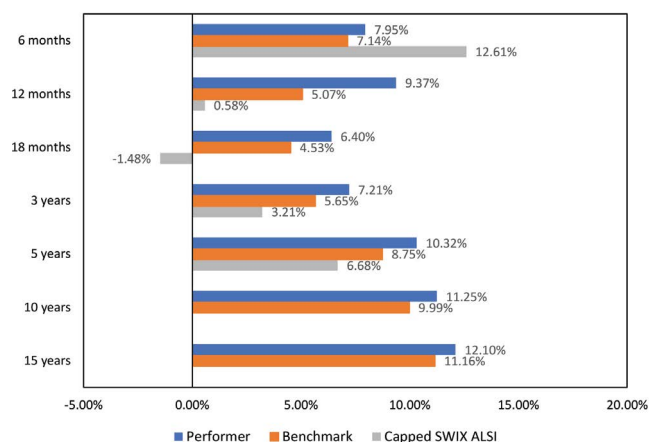
COVID-19 and the resulting country-wide lockdown implemented in March 2020 resulted in significant investment market losses for the month, which impacted returns for the LPF's entire financial year. The LPF invests in portfolios that diversify investments across different managers and different asset classes and, therefore, managed to perform better than its benchmark notwithstanding the difficult circumstances.

Investment markets recovered significantly leading up to the year end, with the nine-month return to 31 December 2020 more than recovering the losses over the 12 months to 31 March 2020.

The graphs below show the Performer Portfolio and Real Return Focus Portfolio performance to the end of December 2020 compared to its benchmark and the Capped SWIX ALSI. These are the two main portfolios in which member assets are invested. The LPF is comfortable in light of its 2020 investment performance and portfolio review that members' current portfolios have mostly been among the top performers in their respective risk-return categories. The LPF continues to actively monitor investment performance and will make changes if needed.

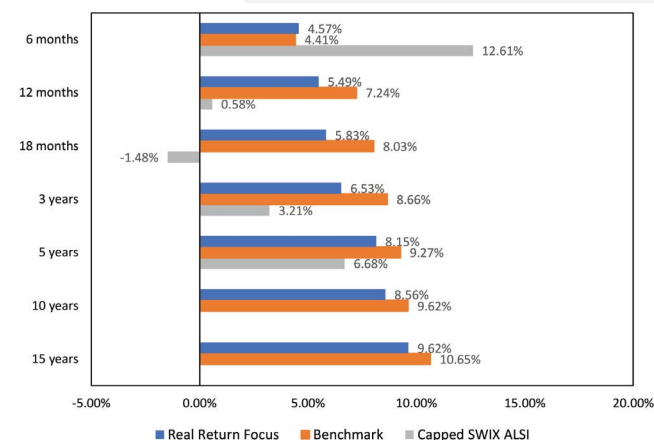
The LPF will continue to communicate to its members and participating employers on, amongst others, the impact of COVID-19 on the broader investment environment, the LPF and its investments.

Performer Portfolio



* Capped SWIX ALSI did not exist for the ten year and 15 year comparisons

Real Return Focus Portfolio



* Capped SWIX ALSI did not exist for the ten year and 15 year comparisons

Hannie Drake
Chairperson

Projects

LSSA received funding for the following programmes for the 2018/2021 window:

Programme	Amount awarded	Number of candidates	Status	Duration	Start Date
WIL: University Placements	R 14 400 000	100 R 6 000 per month	Completed end of September 2020	24 months	1/9/2018
WIL: University Placements	R 3 120 000	20 R 6 500 per month	Recruitment and selection	24 months	1/1/2020
Mentorship	R 43 500	10	Recruitment and selection	Short-term	1/1/2020
WIL: Candidacy	R 16 800 000	100 R 7000 per month	Selection	24 months	01/04/2021*
TVET Graduate Placement (Public Admin)	R 2 520 000	35	Selection	18 months	01/04/2021*
TVET Graduate Placement (Public Admin)	R 360 000	5	Selection	18 months	01/04/2021*

Accreditation

All applications for programme accreditation have been put on hold until the Quality Council For Trades and Occupations gives us a go ahead, this does not impact on the implementation of projects.

Stakeholder relations

To ensure that SASSETA funded programmes are executed efficiently, and stakeholder engagement is improved, a Joint SASSETA/LSSA Coordinating Committee was established, and a Memorandum of Understanding was signed November 2019.

Joint venture

The LSSA is partnering with the law faculty at the University of Johannesburg for the attendance of several legal practitioners to its programme on 'Law and Industry 4.0' with subvention by SASSETA as part of its next discretionary funding window. – awaiting SASSETA finalisation of its own industry 4.0 initiative. An expression of interest is lodged with SASSETA.

Member initiatives

To support small to medium law firms with their training needs and funding applications for mandatory SASSETA grants and aid in submitting their annual workplace skills plan and annual training report. The LSSA developed a guideline for all small firms, following engagement with and assistance for 15 firms.

Registration as professional qualification

Motivation has been sent to SASSETA to register Conveyancing and Notary as a professional qualification. SASSETA will consider this as part of its outcomes for 2021 with the allocation of budget.

Challenges

Late payment of the candidate attorney's stipend has been a challenge that threatens the reputation of both the SASSETA and the LSSA. Both parties are engaging on alternate payment mechanisms.

TVET placements and candidates require regular reporting by firms. Delays, negatively impact on candidates and graduates.







LAW SOCIETY
OF SOUTH AFRICA

Specialist Committee Reports

Alternative Dispute Resolution Committee

MEMBERS	
• John O’Leary (Chairperson)	• Ugeeta Pala
• Mahomed Essack (Deputy-Chairperson)	• Ebrahim Patelia
• Fazel Bulbulia	• Mojau Ramathe
• Daryl Burman	• Thembelani Nkele
• Maribe Mamabolo	• Dumisani Sonamzi
• Ugeshnee Naicker	

Key developments

• Court-annexed mediation

With effect from 1 April 2019 a total number of 80 mediation sites were proclaimed by the Minister of Justice and Correctional Services for court-annexed mediation. Both magistrates and clerks of the courts have started to refer matters for court-annexed mediation, some of which take place on Saturdays.

This significant development took place during the same year in which the South African Law Reform Commission (SALRC) received comments on its Issue Paper 36: *Investigation into Legal Fees* (Project 142). The SALRC subsequently issued Discussion Paper 150: *Investigation into Legal Fees, including access to justice and other interventions* (Project 142), which contained its recommendations. One of the recommendations is that referral to Alternative Dispute Resolution (ADR) should be made mandatory, except where good cause can be shown. The Law Society of South Africa (LSSA) submitted comments on both the Issue Paper and the Discussion Paper. It remains to be seen how court-annexed mediation will impact on legal fees and access to justice in South Africa.

• ADR in family matters

During June 2019, the SALRC published its Discussion Paper 148: *Alternative Dispute Resolution in Family Matters* (Project 100D). The Discussion Paper introduces a ‘therapeutic-justice process’ including the provision of information and education programmes, skills development, access to appropriate services, and different dispute resolution forums aimed at resolve family disputes while avoiding additional emotional trauma. The Discussion Paper proposes a draft Family Dispute Resolution Bill, which deals with, among others, mandatory engagement in family mediation programmes, other forms of voluntary ADR programmes, parenting coordination and education and training. The proposals will extensively alter the way in which family disputes are resolved.

• Rule 41A of the Uniform Rules of Court

The Rules Board for Courts of Law introduced a new r 41A, which requires parties to consider mediation before litigation proceeds too far. It obliges the parties to file a prescribed r 41A notice of consenting to or opposing mediation prior to summons or a plea. This Rule took effect on 9 March 2020.

Focus for 2021

The ADR Committee (the committee) will coordinate with the LSSA’s Family Law Committee to submit a comprehensive commentary on the SALRC’s Discussion Paper 148: *Alternative Dispute Resolution in Family Matters* (Project 100D).

The LSSA’s Legal Education and Development (LEAD) division has embarked on a process to present mediation training in Johannesburg after hours or on Saturdays to eliminate interference with client work during office-hours. Once successful, this will be replicated elsewhere.

The committee will continue its educational awareness on the benefit of ADR and will publish a brochure on the benefits of mediation.

Conclusion

Appropriate access to justice remains a key thread throughout the above key developments. The rise of alternative dispute resolution is a reality in South Africa aimed at ultimately increasing access to justice – through appropriate measures.

The Legal Practice Act 28 of 2014 has removed certain areas of reserved legal work and the time is ripe for attorneys to embrace ADR and to equip themselves to become specialists in mediation and arbitration.

I wish to thank the committee’s former Chairperson, Ebrahim Patelia, for this sterling work and my fellow committee members for their support and guidance during 2019.

John O’Leary
Chairperson

Company Matters Committee

MEMBERS	
• Miranda Feinstein (Chairperson)	• Nano Matlala
• Walid Brown	• Nolundi Mda
• Johan Fouché	• Arnold Mohobo
• Nolukhanyiso Gcilitshana	• Abigail Reynolds
• Paul Hay	• Peter Veldhuizen
• Umesh Jivan	

The Company Matters Committee (the committee) operates to achieve the Law Society of South Africa's (LSSA's) strategic objectives by taking account the constituency, which the LSSA represents and endeavouring to protect its interests whilst bearing in mind the interests of the public. It does so predominantly by meeting with the officials at the Companies and Intellectual Property Commission (CIPC) to raise ongoing problems experienced by attorneys and their clients in interactions with CIPC. The committee acts sustainably because when meetings take place in Gauteng, members of the committee members resident in other provinces can participate in the meeting by dialling in. Committee meetings are only held when necessary; in all other cases e-mail engagements are used.

Key developments

• Companies Amendment Bill

The Department of Trade and Industry (DTI) met with various stakeholders during May 2019 to discuss the proposed changes to the Companies Amendment Bill, 2018 (the Bill). The DTI requested a meeting with the committee to discuss the LSSA's input to the Companies Bill and to seek clarity on certain matters. As most of the committee members were not available on the proposed date, the DTI undertook to engage with the LSSA as the Bill progresses. Unfortunately, the DTI did not engage as promised.

• CIPC Compliance and Legal Committee

The CIPC invited the LSSA to attend regular meetings of the Compliance and Legal Committee (CLC). Meetings of the CLC took place in May and August 2019. As a result, the LSSA has – through its newsletter – provided legal practitioners with ongoing updates as received from the CIPC.

The CLC considered whether certain law firms incorporated pursuant to the Companies Act 71 of 2008 (Companies Act) should be required to prepare audit reports under the Companies Act Regulations, which provides that any company that holds assets in a fiduciary capacity for persons who are not related to the company, and the aggregate value of such assets held at any time during the financial year exceeds R 5 million, must have its financial reports audited. The LSSA has previously maintained that the *status quo* should remain, and such incorporated practices should not be required to have their business accounts audited. The CIPC undertook to investigate this aspect. To the best of the committee's knowledge this matter has not yet been resolved.

• Business Rescue Practitioners

Prior to the establishment of the Legal Practice Council (LPC), the provincial law societies were accredited by the CIPC as an Accredited Professional Bodies in terms of s 138(1) of the Companies Act. The LPC has replaced the law societies as the Accredited Professional Body.

The CIPC established a Business Rescue Liaison Committee (BRLC) together with the representatives of professional bodies. The committee's Peter Veldhuizen serves on the BRLC. The BRLC Committee prepared a draft Policy Document on continuous professional development (CPD) applicable to business rescue practitioners.

• Companies Act review being carried out by Genesis

Genesis, which has been appointed by the DTI to undertake a regulatory impact assessment of selected provisions of the Companies Act, requested a meeting with the committee. The assessment concerns the public interest score, business rescue, external companies, social and ethics committees, the objections against filing, directors' misconduct, share buy backs, independent reviews and the Companies Tribunal. The committee met with Genesis and gave inputs on certain of the issues. A further meeting was requested by Genesis, but that has not yet happened.

Focus for 2021

The committee will continue to monitor developments on the Companies Amendment Bill, 2018 and audit reports for law firms under the Companies Act Regulations.

The CIPC's Business Rescue Liaison Committee will continue to meet quarterly in 2021 but in compliance with challenges posed by the COVID-19 pandemic, will not meet in person, but rather virtually. The LSSA is represented on the BRLC and will continue to give feedback to members as developments occur.

The BRLC has decided that due to the COVID-19 pandemic disruptions of last year, business rescue practitioners are only required to comply with 50% of the allocated CPD points and members who are business rescue practitioners are urged to make themselves aware of the requirements for compliance.

The LSSA's Legal Education and Development division has pioneered business rescue courses for attorneys, which offer legal practitioners a unique platform to become industry experts.

Miranda Feinstein
Chairperson

Competition Law Committee

MEMBERS	
• Paul Coetser (Chairperson)	• Eric Mbhele
• David Bekker	• Rebone Mohlahatsa
• Hussan Goga	• Lunga Peter
• Gavin Gow	• Matshego Ramagaga
• Jan Janse van Rensburg	• Mojau Ramathe
• Petra Krusche	• Howard Stephenson
• Genedius Mangokoane	• Kagi Tladi

Key developments

The Competition Law Committee (the committee) considered and commented on competition characteristics of important documents during the period under review:

• Code of Conduct for Legal Practitioners, as published by the Legal Practice Council (LPC)

The committee asserted that the Code of Conduct must be assessed against the provisions of the Competition Act 89 of 1998 (Competition Act), in particular section 4(1)(a). This section prohibits an agreement or concerted practice between competitors or a decision by an association of competitors if it has the effect of substantially preventing or lessening competition in a market, unless a party to the agreement, practice or decision can prove that any technological, efficiency or other pro-competitive gain resulting from it outweighs that effect. The committee expressed the view that it is incumbent of the Legal Practice Council (LPC) to ensure that the provisions of the Code of Conduct do not contravene the Competition Act or cannot give rise to a contravention of the Competition Act by its Provincial Councils or committees. If there is any risk in this regard, the LPC must then –

- consider engaging with the Competition Commission on a pro-active basis to bring the Code of Conduct in line with the Competition Act; or
- apply for an exemption from the Competition Act in terms of sch 1 of the Competition Act.

• South African Law Reform Commission's (SALRC) Issue Paper and Discussion Paper on s 35: Fees for Legal Services

Pursuant to the provisions of s 35 of the Legal Practice Act 28 of 2014 (LPA), in March 2019 the SALRC published Issue Paper 36: *Investigation into Legal Fees* (Project 142). In September 2020 the SALRC published its Discussion Paper 150: *Investigation into Legal Fees, including access to justice and other interventions* (Project 142), which contained recommendations in this regard. The LSSA made submissions on both.

The committee considered various competition-related aspects embedded within the SALRC's Issue Paper and Discussion Paper. The committee noted that, although the LPA does not currently offer an empowerment provision with reference to the regulation of a fee mechanism structure by the LPC, it favoured fee guidelines as opposed to fixed tariffs. The LSSA's submission on the Issue Paper stated that '... to avoid competi-

tion issues, it would be appropriate for the LPC to be the body to prepare fee guidelines. Sector-specific guidelines could be considered in certain instances. As an example, in the case of conveyancing matters, the consumer public benefit greatly from guidelines, because they give both the public and conveyancers an idea of the costs involved in conveyancing transactions. They also fulfil an important function as the purchaser pays the conveyancer's fees, whilst the seller usually appoints the conveyancer'. The LSSA's submissions to the SALRC can be viewed on its website at www.LSSA.org.za.

• Service level agreements with banks

The committee, together with the Property Law and Ethics Committees, engaged with the Competition Commission on the issue of the service level agreements between banks and their panel attorneys, particularly as regards the high investment thresholds implemented by the banks in order for attorneys to remain on the banks' panels.

The Competition Commission is engaging in an advocacy project with the banks and these issues will also be addressed. The committee will be liaising further with the Competition Commission in this regard.

• Stakeholder relations

The committee met with the Council for the Built Environment (CBE), which is the overarching body regulating the six Councils for the Built Environment Profession, these being the engineering, architecture, landscape architecture, quantity surveying, property valuation and project and construction management professions.

Matters such as professional fees guidelines and the demarcation of categories of work in relation to the competition legislation were discussed.

• Lunga Peter

It is with great sadness that the committee learnt of the passing of committee member Lunga Peter and we offer our most heartfelt condolences to his family. Mr Peter was an active member of this committee and his invaluable contributions will be sorely missed.

Focus for 2021

The committee will continue monitor and make submissions to the relevant authorities on competition law issues.

Paul Coetser
Chairperson

Constitutional Affairs and Human Rights Committee

MEMBERS

• Busani Mabunda (Chairperson)	• Sekonyela Moeketsi
• Daryl Burman (Deputy Chairperson)	• McDonald Moroka
• Eliot Buthani	• Mvuzo Notyesi
• CP Fourie	• Xolile Ntshulana
• Saber Jazbhay	• Shamila Singh
• Sonja Labuschagne	

Key developments

Twenty-five years after our constitutional democracy, the work of the Constitutional Affairs and Human Rights Committee (the committee) has been pivotal in contributing towards the enhancement of South Africa's (SA's) human rights values and culture through the parliamentary processes and jurisprudence.

• Outreach activities

Given the importance of this committee and noting its strategic position in dealing with constitutional and human rights issues, the committee deemed it necessary to expand its horizons and cooperate with various human rights organisations and organisations advocating human rights.

To this end, the committee is collaborating with Legal Aid South Africa (Legal Aid SA) to participate in community outreach activities.

The 16 Days of Activism for No Violence Against Women and Children – which is an international campaign – runs from 25 November to 10 December annually and it opposes violence against women and children. The committee liaised with Legal Aid SA in an attempt to encourage and facilitate the involvement of legal practitioners in educational outreach events. As a result, two members of specialist committees participated in radio interviews (Voice of Wits FM, Johannesburg and Alfred Nzo FM, Mount Ayliff).

The LSSA will continue to be involved in human rights related events and campaigns.

• Southern African Development Community (SADC) Tribunal

The committee is happy to report that President Cyril Ramaphosa has officially withdrawn South Africa's signature from the 2014 Protocol on the SADC Tribunal, which deprives citizens from the SADC region, including SA, of the right to refer a dispute between individual citizens and their government to a regional court (the SADC Tribunal). The withdrawal of the signature was in compliance with the order of the Constitutional Court in the matter of *Law Society of South Africa and Others v President of the Republic of South Africa and Others* 2019 (3) SA 30 (CC).

This is a major victory for constitutional democracy and citizens' rights. In SA, we have an independent and efficient judiciary, but it is not necessarily so in other SADC countries. The judgment made it clear that SA will

not turn a blind eye to human rights abuses and non-adherence to the rule of law.

• Recognition of Muslim Marriages

The LSSA participated as *amicus* in the matter of *Women's Legal Centre Trust v The President and Others* 2018 (6) SA 598, where the Women's Legal Centre Trust (WLCT) brought an application regarding the recognition and regulation of marriages concluded in terms of Shari'a law. The WLCT was successful in its application and in August 2018, the Western Cape Division of the High Court found that the state has a duty to recognise Muslim marriages and ordered that legislation be enacted to positively remedy the constitutional defects in our law within two years.

The President and Minister of Justice subsequently appealed against the whole judgment and order on the basis that they remain committed to a process to regulate all religious marriages through only a single law (referred to as the 'omnibus legislation'). The WLCT also appealed against certain findings.

On 18 December 2020, the Supreme Court of Appeal found that the non-recognition of Muslim marriages is a violation of the constitutional rights of women and children. The court ordered that legislation be enacted within two years to remedy the constitutional defects and granted interim relief to provide for the recognition and regulation of Muslim marriages, pending the enactment of legislation to remedy the constitutional omission.

The progressive position that the LSSA took in filing an *amicus* brief was vindicated by the relief of the court.

• Road Accident Benefit Scheme (RABS)

The Road Accident Benefit Scheme Bill (RABS), a legacy bill from the fifth Parliament, lapsed in 2018, but was back on the Parliamentary agenda in 2019. In August 2020, the Parliamentary Portfolio Committee on Transport rejected the Bill and suggested that amendments rather be made to the Road Accident Fund Act 56 of 1996.

• Legal fees and access to justice

In the LSSA's submissions to the South African Law Reform Commission (SALRC) on Issue Paper 36: *Investigation into Legal Fees* (Project 142), it was reiterated that: 'Access to legal services to those who cannot afford a legal practitioner is a human rights issue.'

The legal profession has been and continues to play its role in promoting access to justice, but it is the responsibility of the state to ensure that it also plays its role. To this end, an increase of the budget of Legal Aid SA will assist in working towards the realisation of the dream of access to justice for all.

Focus for 2021

The committee will strive to participate more on the plethora of human rights related issues which continue to find expression, through continued interpretation as and when the issues develop.

Busani Mabunda
Chairperson

Contingency Fees Committee

MEMBERS	
• George van Niekerk (Chairperson)	• Vusumuzi Nsibande
• Frank Dorey	• Marinkie Putukaa
• Howard Maimela	• Yandisa Tsipa
• Matodzi Neluheni	• Yusuf Wadee

Key developments

During the period under review Henri van Rooyen and Anthony Millar have resigned as members of the Contingency Fees Committee (the committee).

The committee met with the Costs, High Court, Magistrates' Courts, Family Law, Intellectual Property Law and Personal Injury Committees of the Law Society of South Africa (LSSA) on 5 February 2019 to consider the papers delivered at the conference convened by the South African Law Reform Commission (SALRC) on Access to Justice in Durban from 1 to 2 November 2018.

Subsequently, the committee considered the official report on the Conference issued by the SALRC and Issue Paper 36: *Investigation into Legal Fees* (Project 142) published by the SALRC inviting comment from the profession.

The issues raised in Issue Paper 36 were extensively discussed by the committee in a telephone conference on 2 August 2019 and resulted in detailed submissions by the committee to the Task Team appointed by the LSSA to finalise the submissions to the SALRC.

After having considered the comment received from stakeholders, the

SALRC issued Discussion Paper 150: *Investigation into Legal Fees, including access to justice and other interventions* (Project 142) containing recommendations for legislative and other interventions. The committee considered the recommendations pertaining to contingency fees agreements and provided its comments to the LSSA's Task Team.

In its submission to the SALRC, the LSSA commented that s 35(7) should not apply to matters governed by contingency fees agreements, since the Contingency Fees Act deals comprehensively with aspects that need to be contained in a contingency fees agreement. The LSSA's submission can be viewed on its website.

The Legal Practice Council published Rules in terms of s 6 of the Contingency Fees Act 66 of 1997 on 4 October 2019.

Focus for 2021

The committee will continue to provide input to the SALRC in regard to contingency fee arrangements as part of the broader inquiry into legal fees specifically, and access to justice in general.

The committee will continue to monitor and deal with issues relating to the Contingency Fees Act.

George Van Niekerk
Chairperson

Costs Committee

MEMBERS	
• Asif Essa (Chairperson)	• Howard Maimela
• Jan Janse van Rensburg (Deputy Chairperson)	• Lufuno Mathobo
• Xoliswa Bacela	• Vusumuzi Nsibande
• Graham Bellairs	• Morné Scheepers
• Johan le Roux	• Charles Zietsman
• Sinawo Makangela	

The function of the Costs Committee (the committee) is to represent the legal profession in respect of all issues relating to costs, *inter alia* in respect of statutory tariffs, as well as in the context of the Legal Practice Act 28 of 2014 (the LPA).

Key developments

The meetings of the committee during the period under review concentrated on Issue Paper 36: *Investigation into Legal Fees* (Project 142) and the subsequent Discussion Paper 150: *Investigation into Legal Fees, including access to justice and other interventions* (Project 142), which relate to the investigation into legal fees being conducted by the South African Law Reform Commission (SALRC). The Issue Paper and Discussion Paper were circulated to the legal profession and comments were sought in respect of same. We thank those legal practitioners who have made input.

A Task Team was also established by the Law Society of South Africa (LSSA), culminating in submissions made to the SALRC on both the Issue Paper and the Discussion Paper.

• Section 35 of the LPA

The parameters of investigation into legal fees are set out in ss 35(4) and 35(5) of the LPA.

In terms of s 35(4) of the LPA, the SALRC is required to investigate and report back to the Minister with recommendations on the following:

- ‘(a) the manner in which to address the circumstances giving rise to legal fees that are unattainable for most people;
- (b) legislative and other interventions in order to improve access to justice by the members of the public;
- (c) the desirability of establishing a mechanism, which will be responsible for determining fees and tariffs payable to legal practitioners;
- (d) the composition of the mechanism contemplated in paragraph (c) and the processes it should follow in determining fees or tariffs;
- (e) the desirability of giving users of legal services the option of voluntarily agreeing to pay fees for legal services less or in excess of any amount that may be set by the mechanism contemplated in paragraph (c); and
- (f) the obligation by a legal practitioner to conclude a mandatory fee arrangement with a client when that client secures that legal practitioner’s services.’

In broad terms, this constitutes the mandate of the SALRC, and in giving effect to this mandate, the Commission must, in terms of s 35(5), take the following into consideration:

- ‘(a) best international practices;

- (b) the public interest;
- (c) the interests of the legal profession; and
- (d) the use of contingency fee agreements as provided for in the Contingency Fees Act [66 of] 1997.’

• Deliberations of the committee

The committee deliberated on various aspects of the Issue Paper *inter se*, together with the Chairpersons of other LSSA Committees, and was also represented on the Task Team culminating in the preparation of the submissions to SALRC.

The deliberations included, *inter alia*, the consideration of the following:

- The need for professionals to be treated equally.
- The provisions of the Competition Act 89 of 1998.
- The impact of experts’ fees on the costs of litigation.
- The undesirability of a fixed tariff.
- The inhibition of access to justice.
- The right of a legal practitioner to refuse a mandate.
- The extent and ambit of a contractual arrangement.
- The applicability of any proposed tariff to different categories of persons.
- The undesirability of ss 35(3) and 35(7) of the LPA.
- The commercial realities and costs of running a practice, having regard to the provisions of s 35.
- The different factors that are relevant to the quantification of a reasonable fee, which would be impossible to formulate.
- The contribution of the profession to access to justice, for example –
 - *pro bono*;
 - community service;
 - the use of contingency fee agreements;
 - fees charged at less than a reasonable fee in special circumstances; and
 - various other contributions to access to justice by the profession.
- The vast array of unintended consequences.
- A comparative analysis with other professions.
- The difference between party-and-party and attorney-and-client costs in litigious matters.
- The quantification of fees in non-litigious matters and the vast array and differences in non-litigious matters and different types of expertise required.
- The freedom to contract.
- Constitutional rights of a legal practitioner.
- The obligation of the state to enhance Legal Aid South Africa.

• The Issue Paper

The Issue Paper was divided into six chapters and varying general topics, which were as follows –

- Chapter 1: Introduction;
- Chapter 2: Factors and circumstances giving rise to legal fees that are unattainable to most people;
- Chapter 3: Desirability of establishing a mechanism responsible for determining legal fees and tariffs;
- Chapter 4: Litigious and non-litigious matters;
- Chapter 5: Attorney-and-client costs and contractual freedom; and
- Chapter 6: Legislative and other interventions to improve access to justice by members of the public.

• The Discussion Paper

The Discussion Paper was the second document issued and took into account input received on Issue Paper 36. It contained the SALRC's recommendations regarding the following –

- mechanisms for party-and-party costs;
- mechanisms for attorney-and-client costs;
- amendments to various pieces of legislation, including the LPA, the

Contingency Fees Act, the Rules Board for Courts of Law Act 107 of 1985 and the Criminal Procedure Act 51 of 1977; and

- non-legislative interventions.

• The LSSA submissions

The submissions represent the collective articulation of the profession in respect of the array of issues raised in the Issue Paper and the Discussion Paper and these submissions are being considered by the SALRC, together with those of other stakeholders. The submissions are available on the website of the LSSA at www.LSSA.org.za.

Focus for 2021

It will be necessary to ensure that the issue of legal costs is considered in the context of s 35 of the LPA and this will involve liaison with relevant stakeholders so that the interests of the profession are considered in the context of fees and tariffs. In regard to the statutory tariffs, submissions have previously been made to the Rules Board for the Courts of Law, resulting in more regular adjustments to the statutory tariffs and this issue will also be part of the deliberations of the Committee in 2021.

Asif Essa
Chairperson

Criminal Law Committee

MEMBERS

• William Booth (Chairperson)	• Odwa Mgxaji
• Llewelyn Curlewis (Deputy Chairperson)	• Nolundi Nyati
• Elsje Clarke	• Imkitha Salman
• Johan Kramer	• Tshapo Thusi
• Motsomi Litheko	• Zincedile Tiya
• Avinash Maharaj	• Amanda Vilakazi

Key developments

The Criminal Law Committee (the committee) met on two occasions in 2019, being 11 March and 19 November 2019 and on one occasion by way of a zoom meeting on 30 of July 2020. Below are some of the many issues dealt with by the committee:

• Conditions in prison system

One of the main issues that was discussed was engaging with the Department of Correctional Services relating to lectures, seminars and workshops on a more regular basis to deal with problems that exist in the South African prison system. This includes the lack of humane conditions in many prisons for both sentenced and awaiting trial detainees.

• Conversion of sentences

The issue of conversion of sentences still remains a major concern. In terms of the Criminal Procedure Act 51 of 1977, the commissioner is obliged to identify suitable candidates to be released from prison under correctional supervision. In practice, this does not often happen, even in the most deserving of cases. The general lack of adequate rehabilitation programs for prisoners and their proper reintegration into society is still problematic. We have recently seen prisoners being released on parole who shortly thereafter again commit serious crimes.

• Parole boards

The composition of parole boards and the manner in which they deal

with the release of inmates and their lack of adequate engagement with victims of crime must again be addressed. The fact that prisons are overcrowded is to an extent caused by detainees who have had bail fixed for them by courts, but remain in custody as they do not have the financial means to pay bail. Consideration should, therefore, be given to releasing non-violent detainees on warning, especially those who are being held for less serious offences.

• National Efficiency Enhancement Committee, Provincial Efficiency Enhancement Committees and National Operations Committee

The Law Society of South Africa (LSSA) is represented at the National Efficiency Enhancement Committee (NEEC) and, depending on the agenda, members of the committee attend the meetings. These meetings, unfortunately, do not take place as regularly as they should.

Members of the committee also attend Provincial Efficiency Enhancement Committee (PEEC) meetings. These usually take place every term and are chaired by the various Judges President.

The committee members also, depending on the agenda, attend meetings of the National Operations Committee (NOC), whose primary function is to deal with practical issues relating to the better management and functioning of all courts. The last meeting of the NOC was to take place on 21 November 2019, but was unfortunately postponed.

• Arrested persons

The committee has submitted a number of items to be included on the agenda of the NOC. These relate to problems with regard to the availability of afterhours detectives at police stations. There are often no or insufficient detectives at police stations to deal with arrested persons. Many of those arrested are detained for petty offences and often have to wait for long periods of time to be processed, clearly affecting their rights. It is felt that instead of arresting people for minor offences, the police should arrange to have them summonsed or warned for court.

• Typing of court records

The typing of court records is a further aspect that has been submitted to the NOC to consider. The high cost of typing court records and the delays in obtaining records affect litigants being able to process reviews and appeals speedily. As a result of the monopoly of certain transcription companies, it is often impossible to negotiate a fee to enable a litigant to exercise his rights to appeal. This is an area that the Competition Commission should consider investigating.

• 16 Days of Activism

The Committee unanimously supported the 16 Days of Activism for No Violence Against Women and Children and all members of the committee made themselves available to assist.

• Acting appointments in the High Court

The LSSA has requested that a discussion take place at the NEEC with regard to acting appointments in the High Court. The request is that clear guidelines be established as to the manner in which these appointments are facilitated and a request has been made for more transparency with regard to such appointments.

• Dress code for legal practitioners

There seems to be confusion among many legal practitioners as to how they should dress in court. The Legal Practice Council (LPC) has not yet forwarded guidelines in this regard. As a result, in some courts all legal practitioners (attorneys and advocates) should robe and wear bibs and in other courts they are only robed. Legal practitioners should at all times be dressed appropriately to highlight their professionalism. Consideration should also be given to distinguishing between legal practitioners who appear in the High Court and those who appear in the Magistrates' Courts only.

• Section 35 of the Legal Practice Act 28 of 2014

The committee made input on the submissions submitted to the Spith African Law Reform Commission on Issue Paper 36: *Investigation into Legal Fees* (Project 142).

In addition, the following topics were dealt with:

- The effect of the COVID-19 pandemic on the criminal justice system as a whole and the proper functioning of the court during this time.
- The manner in which the police and other law enforcement agencies enforced the regulations during lockdown.
- The manner in which the South African Government has promulgated various regulations without in some instances properly consulting with the relevant role-players, causing a massive effect on the economy of the country.
- Admission of guilt fines in terms of s 57 Criminal Procedure Act 51 of 1977 that have been issued in breach of the regulations in terms of the Disaster Management Act 57 of 2002.
- The conferment of Senior Counsel and attorney status.
- The following pending legislation was also discussed:
 - Victim Support Services Bill, 2019;
 - The Prescription in Civil and Criminal Matters (Sexual Offences) Amendment Bill, 2019;
 - Correctional Matters Amendment Bill, 2020.

Finally, I wish to thank my Deputy Chairperson and other members of the committee, as well as Ricardo Wyngaard, Lizette Burger and other members of the LSSA for their support.

Focus or 2021

The committee will continue to deal with the outstanding issues raised above. It will also endeavour to ensure that practitioners are informed of developments by way of newsletters and notices.

William Booth
Chairperson

Deceased Estates, Trusts and Planning Committee

MEMBERS	
• Hussan Goga (Chairperson)	• Mervin Messias
• Ceris Field (Deputy Chairperson)	• Benjamin Mttjhalali
• David Bekker	• Ngqiqo Sakhela
• Marchel Davel	• Lutendo Sigogo
• Thumeka Dwanya	• Refilwe Tshukudu
• Paul Hay	• Willie van der Westhuizen
• Noxolo Maduba-Silevu	• Karen van Niekerk

2019 presented significant transitions for the Deceased Estates, Trusts and Planning Committee (the committee). Although the committee members remained unchanged, the demise of the statutory law societies also meant that the Masters' Liaison Committees, which operated under the auspices of those law societies, vanished. In the Law Society of South Africa's (LSSA's) 2014 Annual Report, I stated that the establishment of those committees would represent a significant milestone. I further commented that: 'The establishment of these committees will provide a platform to establish relationships and discuss operational issues with the Master. It will also allow for the performance levels of the various Master's offices to be measured and compared with each other in order to establish performance trends.'

As also previously reported, there has consequently been increased engagement with the various Master's offices at provincial and regional level through these Liaison Committees. It is, therefore, imperative for the members of those Liaison Committees to be integrated under the auspices of the new LSSA Provincial Associations.

The profession must not lose the momentum on this front.

Key developments

The Committee attended, among other, to:

• Enduring power of attorney

The LSSA approached the South African Law Reform Commission (SALRC) with a request to revive the issue of enduring powers of attorney. The SALRC replied stating that their recommendations have been finalised and published. The committee shall engage further with the Legislative Development section of the Department of Justice and Constitutional Development.

• Primary Estate Duty Abatement

The committee proposed to the National Treasury that the primary estate duty abatement, as increased to R 3,5 million from 1 March 2007, be increased to at least R 15 million.

• Regulation 10 prescribed in terms of s 103 of the Administration of Estates Act 66 of 1965

During 2016 the committee suggested that the tariff as provided for in the Transport Handbook on Tariffs not be used, but that the amount of

R 3,50 be appropriately increased. This recommendation was not accepted and the LSSA was, on further inquiry, invited to provide a motivation to the Chief Directorate Legislative Development, which will then be submitted to the Costing Unit in the Department of Justice and Constitutional Development to investigate the matter and inform the Chief Directorate of the outcome of their investigation. The motivation, as prepared by the committee, is available on the LSSA's website at www.LSSA.org.za.

• Chief Masters Directive – appointment of independent trustees

The committee communicated fundamental concerns regarding Directive 2 of 2017 pertaining to independent trustees for family trusts. It was previously agreed that the committee would prepare comments, which the Office of the Acting Chief Master would duly consider, for potential amendment. Despite several exchanges with the Office of the Acting Chief Master, the matter remains, disappointingly, unresolved. We intend pursuing this matter further.

A meeting was convened between the LSSA and the Banking Association of South Africa (BASA) on 3 April 2019, where all the major banks were present. A number of matters were discussed, and the participating banks undertook, among others, to provide a list of the contact people and escalation list, for publication by the LSSA. The meeting also discussed the divergent Financial Intelligence Centre Act 38 of 2001 (FICA) requirements for executors and legal practitioners acting under a power of attorney. This is due to the risk management approach introduced through the Financial Intelligence Centre Amendment Act 1 of 2017, which nullified the erstwhile rules-based approach. As a result, the banks have introduced different risk management assessments and programmes. BASA undertook to share this challenge with their FICA committee for consideration. We will continue our engagement with BASA.

Chief Master's Directives

- Chief Master's Directive 1 of 2019 – no cheque deposits will be accepted in the guardian's fund as from 1 April 2019.
- Chief Master's Directive 2 of 2019 – payment of minor's inheritance into the guardian's fund as from 1 May 2019.
- Chief Master's Directive 4 of 2019 – *Mortis Causa* Trusts: Suffix in *mortis causa* trusts as from 15 November 2019.

Focus for 2021

The committee will continue to follow up on the issues mentioned above and keep the legal profession apprised of developments in the field of deceased estates, trusts and planning.

Conclusion

I wish to express my sincere gratitude to my fellow committee members

for their dedication to profession and supporting the committee's mandate. I wish to also express my sincere gratitude to Ricardo Wyngaard for his invaluable assistance.

Hussan Goga
Chairperson

E-Law Committee

MEMBERS

• Sizwe Snail (Chairperson)	• Gavin McLachlan
• Crystal Maphalla (Deputy-Chairperson)	• Muziwandile Nhlapo
• Brendan Hughes	• Wilfred Phalatsi
• Dineo Machedi	• Memory Sosibo
• Lynnette Marais	

Key developments

• Electronic Deeds Registration Systems Act

The signing into law of the Electronic Deeds Registration Systems Act 19 of 2019 (the EDRS Act) was a significant development during 2019. The E-Law Committee (the committee) has in the past collaborated with the Law Society of South Africa's (LSSA's) Property Law Committee and other stakeholders to comment on the anticipated electronic deeds registration system, which will introduce a new paradigm for conveyancing in South Africa. Conveyancers will have to prepare for this eventuality.

• E-Development

The Rules Board for Courts of Law (the Rules Board) established an e-Development Task Team in 2019, which primary objective is to investigate and recommend the introduction of new rules that will promote access to justice and reduce the costs of litigation. The LSSA has, in its comments to the South African Law Reform Commission's Issue Paper 36: *Investigation into Legal Fees* (Project 142) - commented that the Rules of Court should be amended to enhance e-discovery to reduce legal costs. The LSSA had previously made submissions to the Rules Board in 2016 regarding the benefits of electronic discovery in lowering the costs of litigation and in helping to improve the administration of justice. Although the Rules Board has been considering this possibility for several years now, and amended the provisions of r 35 of the Uniform Rules as recently as 30 October 2020 (Amendment of Rules Regulating Conduct of Proceedings of several Provincial and Local Divisions of the High Courts of South Africa (r 35, 45A and 65, 67-70). GN R1157 GG43856/30-10-2020) with regard to

rules relating to the discovery and production of documents, the published rule change has again unfortunately overlooked the benefits of enabling litigants to request electronic copies of electronic documents discovered by the other party and still prescribes making discovered documents available for inspection at a time and date at a particular office of the discovering party.

• Cyber risk

The committee invited a representative from the Legal Practitioners Indemnity Insurance Fund (LPIIF) to deliberate on the impact of cyber risk within the legal profession. Unfortunately, since 2016 cybercrime is excluded from the LPIIF Master Policy and the LPIIF will not cover losses resulting from cybercrimes. The LPIIF was willing to collaborate with the LSSA to conduct educational outreach to the profession on information security.

Legal practitioners are urged to ensure that they have adequate risk mitigation measures in place to deal with cybercrime related risks and, if necessary, purchase additional cover.

Focus for 2021

The committee will continue its awareness raising interventions in collaboration with the LSSA's Legal Education and Development division, the LPIIF and the Legal Practitioners' Fidelity Fund.

The LSSA will also develop a best practice guide to assist legal practitioners in dealing with the volumes of electronic information produced during the discovery stage. This will be made available to legal practitioners to encourage them to make use of eDiscovery.

Sizwe Snail
Chairperson

Environmental Affairs Committee

MEMBERS	
• Norman Brauteseth (Chairperson)	• Ilan Lax
• Terry Winstanley (Deputy Chairperson)	• Podu Mdhuli
• Zukisani Bobotyana	• Rose Mfundisi
• Hajira Kara	• Zoleka Ponoane
• Krishnambal Krishna	• Catherine Warburton

Key developments

2019:

Generally, it has been a quiet year and there has been very little on which the Environmental Affairs Committee (the committee) has needed to make representations or otherwise intervene.

The committee had one formal meeting in July.

• Anti-rhino poaching

Perhaps the most interesting endeavour has been an attempt to assist the Department of Environmental Affairs (the department) with its anti-rhino poaching challenges, but not much headway has been made for a variety of institutional reasons.

• Draft legislation

Apart from our members' individual interests and involvement in a variety of environmental bodies and fora, we have throughout the year given attention to various draft Bills covering many matters, such as climate change, forest management, general amendments to the National Environmental Management Act 107 of 1998 and marine oil pollution.

• International Bar Association (IBA) Bar Issues Commission (BIC)

The committee expressed interest in participating in the IBA BIC project on the issue of environmental law, and hope that there will be a positive response.

Focus for 2021

The committee circulated among themselves various issues and concerns in the fields of planning and environmental law, more as part-and-parcel of their practices than formal committee business. Nothing arose which needed the committee to convene or provide consolidated input. To a large extent COVID-19 put a dampener on the whole year, and looks as though it will have the same effect on at least the first half of 2021.

The advent of the Legal Practice Council, and the changed focus of the Law Society of South Africa is a matter that the committee will need to consider in relation to its functions going forward.

Norman Brauteseth
Chairperson

Environmental justice

Environmental justice has been formally defined as the fair treatment and meaningful involvement of all people, regardless of race, colour, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies (US Environmental Protection Agency).

Over the past 26 years South Africa has made significant progress in protecting the environment and public health while also ensuring fair treatment under the law. Environmental laws and regulations generally require increased scrutiny and consideration of environmental and health impacts in environmental decision-making.

The Constitution guarantees equal rights for all, regardless of race or socio-economic conditions. Environmental justice is the intersection of these two areas, simultaneously advancing environmental and public health rights, and non-discrimination.

Ethics and Rules Committee

MEMBERS	
• Krish Govender (Chairperson)	• Nicci Messina
• Dave Bennett	• Masika Modupe
• John Christie	• Deirdre Milton
• Motsomi Litheko	• Odwa Nyembezi
• Charlotte Mahlatji	• Ed Southey
• Sam Matsimela	• Butch van Blerk

Key developments

The importance of the Ethics and Rules Committee (the committee) to the legal profession is borne out by the output of and swift assistance given to many of our legal practitioners by the committee over the years, but more especially over the past year under the aegis of the Legal Practice Council (LPC). For many reasons members of the legal profession do not turn to the LPC as a regulator, for advice or assistance on queries requiring clear answers to ethical questions arising in the course of practise. Legal practitioners are constantly confronted by many questions, some basic, but nowadays, more complex ones that traverse the grey areas of legality, conflict and doubt. In addition, these complex questions are accompanied by the attendant temptation of turning a profit as against sacrificing same, in the good name of sound ethics. Under these and other related circumstances, members have sought advice from the committee and have obtained quick responses within a day or two, or soon thereafter. This committee serves a vital purpose for the profession through the Law Society of South Africa (LSSA) in providing support to those many legal practitioners who are committed to upholding the good reputation of our profession and following best practices in providing quality service to the public and their clients.

What about those legal practitioners who decide not to follow the ethical route? For some of them, ethics is just an irritating stumbling block on the road to profiteering. As a result, for those with no conscience, it is an easy step over this 'stumbling block' in order to plunder. For many others who are struggling to survive in our over traded profession and poor economic climate, ethics can present itself as a further obstacle to make ends meet. Moreover, in a shrinking litigation marketplace, the high levels of competition, among many legal practitioners have reached the proverbial 'cutthroat' level. This competition for limited work results in clients' rights being sacrificed at the altar of profit. Ethics is too thin a veil to protect clients from such greed. All legal practitioners know that it takes great discipline and strong integrity to ensure that the ethical veil remains unbroken. So it should come as no surprise that as a result of all these 'pressure' factors, there are groups of legal practitioners within the legal profession all over the country, mainly in the cities, that are litigating against specific Government Departments, in a form that has been described in court judgments as 'cottage industries'.

Sadly, our strong Bill of Rights – under our still surviving constitutional democracy – has been exploited by these 'cottage industry' legal practitioners because of a national and widespread systemic failure. The structural and administrative faults, corruption and human resource breakdowns in state administration, have placed certain departments in the

firing line of these rapacious legal practitioners. First, more than a decade ago was the Social Welfare Department. Then followed the Department of Home Affairs, and in the past few years, the South African Police Services and the Department of Health have all come under the proverbial 'cosh' of these 'industrious' legal practitioners. It is true that in the vast majority of these actions brought by these legal practitioners, the constitutional rights of these mostly poor South Africans, have been denied or blatantly trampled on by helpless and some lazy civil servants, as a result of this national systemic failure. However, this state of malaise has been compounded many of civil servants forming corrupt relationships with legal practitioners. The passing of valuable data and information to such legal practitioners for financial returns is the norm. For these legal practitioners, ethics is non-existent. All government has done is cry 'foul' and malign the whole of the legal profession, but is unable to use its vast array of resources to eliminate corruption within its belly. The reason is easy to find, namely, the poison to kill the corruption will seemingly kill the beast.

Obviously, these 'industrious' legal practitioners have had to throw the ethics book out of the window in order to secure their ill-gotten loot. If our state struggles to catch criminals, how much harder will it be for anyone to catch crooked legal practitioners. Well not so hard, if the profession and its regulators apply their minds and harness resources to clean up its house.

The rest of the private sector businesses are also not immune to the corruption virus. In the field of conveyancing this stands out. Most of the conveyancing practitioners, banks and estate agencies form a tight matrix in 'restructuring' and discounting conveyancing tariffs. Furthermore, banks 'induce' investments of trust monies from conveyancers into their banks in order for conveyancers to earn a place to secure work via their so called 'panels' of conveyancers. Panels are also subtly divided on race and class basis. At the same time the estate agents merrily make hay in this dark unethical triangle, ignoring their own forgotten Code of Conduct and undercutting commissions and 'forcing' the reduction in conveyancing fees. While the irony of all this is not lost since the financially hard-pressed public emerge as the winners, it is the rules of ethics that are destroyed and ultimately, the respect for the profession. Whether the competition authorities will support all of these 'competitive' undercutting of legal fees is a matter that might well reach the courts for a decision in the foreseeable future.

Eliminating corruption in the private sector is not an easy task. What are the chances of applying rules of ethics to legal practices to eliminate corruption? It will require super human efforts from everyone, including government and state departments, to give meaning to firstly, our Con-

stitution, and hope to the victims, who are members of the public, by affording good and caring services. When state institutions fail or are taken over by agents of crime and other looters, the rest of the citizenry and the arms of government are crippled. Legal practitioners will either aid this corrupt disease or stand with those who will fight for a just and fair society, free from racial and other forms of prejudice, corruption and exploitation. Thus far it is the legal practitioners who are earning billions, defending the 'innocent' corrupt in courts, in the name of our Constitution

and its wonderful Bill of Rights, especially ss 34 and 35, amongst others.

Undeterred by all of the above, members of this committee and many, many legal practitioners in South Africa, all share a common passion for this subject and commit to do their utmost to protect the interests of the public against any exploitation or overreaching by any legal practitioner. Finally, despite their own very busy daily professional and other duties, these legal practitioners will serve and continue to serve the profession and the nation with pride and integrity.

Krish Govender
Chairperson

Family Law Committee

MEMBERS	
• Nomaswazi Shabangu-Mndawe (Chairperson)	• Nkosana Mvundlela
• Colin Geoffreys	• Ugeshnee Naicker
• Zenobia du Toit	• Ncumisa Nongogo
• Queen Mamaila	• Brian Segal
• Refilwe Masilo	• Karin van Eck
• Deirdré Milton	

Key developments

During the period under review, the South African Law Reform Commission (SALRC) published a number of important Issue Papers pertaining to family law and related matters. These include:

• Issue Paper 35: *Single Marriage Statute (project 144)* – and Discussion Paper 152: *Single Marriage Statute (Project 144)*

The SALRC is investigating the feasibility of a single marriage statute to replace the Marriage Act 25 of 1961, the Recognition of Customary Marriages Act 20 of 1998 and the Civil Unions Act 17 of 2006. The idea is to have a single, all-inclusive marriages Act that will apply to all types of marriages, or an 'Omnibus Act' with different chapters to deal with the different types of marriages.

In 2019, the SALRC published its first paper on this subject, namely Issue Paper 35. The Issue Paper did not contain proposals for law reform. The second document, Discussion Paper 152, which was published in January 2021 for comment, contains recommendations.

• Review of Issue Paper 34: *Review of aspects of Matrimonial Property Law (Project 100E)*

The legal and social landscape has changed since 1984, when the Matrimonial Property Act 88 of 1984 was implemented. The SALRC is undertaking a review of the matrimonial property law to ensure that the current needs are taken into consideration.

The Issue Paper is the first step in the investigation.

• Discussion Paper 149: *Sexual Offences: Pornography and Children (Project 107)*

The SALRC issued a Discussion Paper on Sexual Offences (Pornography and Children). The main aim of the discussion paper is to review the legislative framework that currently applies to children in respect of exposure to pornography and sexual abuse material. The Discussion Paper includes a draft Bill.

• Discussion Paper 148: *Alternative Dispute Resolution in Family Matters (Project 100D)*

The SALRC published Discussion Paper 148 for general information and comment.

A draft Family Dispute Resolution Bill that contains proposals for the regulation of alternative dispute resolution (ADR) processes such as family mediation, family arbitration, collaborative dispute resolution and parenting coordination, is included in the discussion paper. The preliminary proposals and draft legislation need to be interrogated thoroughly. The SALRC is seeking feedback regarding all its proposals as set out in the proposed draft Bill. The purpose of the paper is to initiate and stimulate debate and to serve as a basis for further deliberation. Roadshows will also be held around the country.

• Issue Paper 36: *Investigation into Legal Fees (Project 142)*

The Family Law Committee (the committee) considered the SALRC's Issue Paper 36 and Discussion Paper 150: *Investigation into Legal Fees, including*

access to justice and other interventions (Project 142) and provided input to the Law Society of South Africa's (LSSA's) submission, specifically as far as the rights of families are concerned.

The committee stated that the ideal would be to have dedicated Family Law Courts, alternatively a stream dedicated to these matters, with the presiding officers and staff being specifically trained.

Domestic Violence Amendment Draft Bill 2020

The Domestic Violence Amendment Draft Bill was published for comment. The Bill deals with matters such as protection orders, the obligation of functionaries to provide certain services to victims of domestic violence and the alignment of the provisions of the Domestic Violence Act 116 of 1998 with the provisions of the Protection from Harassment Act 17 of 2011.

Other issues

The committee considered various other issues, such as cooperation with the South African Police Service in respect of a national instruction on

domestic violence, the LSSA's involvement in university programmes on gender-based violence and procedural rules relating to family law matters.

Susan Abro

Susan Abro resigned from the committee after many years as the Chairperson. The committee is grateful to Ms Abro for her excellent leadership and guidance over the years. She always gave of her time freely and expertise for the benefit of the profession. We wish her well in her future endeavours.

Focus for 2021

The committee will closely monitor any new developments relating to the above issues and any others that may arise and deal with them appropriately.

Legal practitioners are urged to submit comment to the committee on discussion papers, proposed legislative amendments and other issues that fall within the focus area of the committee. Submissions can be sent to kris@lssa.org.za.

Nomaswazi Shabangu-Mndawe
Chairperson

Financial Intelligence Centre Act Committee

MEMBERS

• David Bekker (Chairperson)	• Aneesah Patel
• Greg Duncant	• Praveen Sham
• Angela Itzikowitz	• Nkosana Mvundlela
• Maboku Mangena	• Muziwandile Nhlapo
• Perino Pama	• Dee Takalo

Key developments

In my first annual report in 2009 as Chairperson of the Financial Intelligence Centre Act Committee (the committee), I reported that: 'The FIC [Financial Intelligence Centre] has been engaged in understanding the nature of the legal profession, and has accepted that the statutory provincial law societies will act as supervisory bodies'. In my 2018/2019 report I observed that: 'It is anticipated that the former provincial law societies as regulatory bodies will be exited. The effect will be that practitioners will resort directly under the FIC.'

With the dissolution of the provincial law societies, the Legal Practice Council (LPC) would have acted as supervisory body in terms of the Financial Intelligence Centre Act 38 of 2001 (FICA). However, pending an amendment to sch 2 of the FICA, the Financial Intelligence Centre (FIC) and the LPC entered into a Memorandum of Understanding during November 2019 in terms of which the LPC delegated its powers to the FIC until such time as the amendment takes place. The FIC has since Novem-

ber 2019 become the entity that supervises compliance by legal practitioners with FICA.

This presents a significant development for the South African legal profession. For example, legal practitioners are required – under the FICA – to develop, document, maintain and implement a programme for anti-money laundering and counter-terrorist financing risk management and compliance. Failure to comply with this duty constitutes non-compliance and is subject to administrative sanction.

In their 2018/9 Annual Report, the FIC reports that a total of 14 298 legal practitioners have registered on their goAML-platform, which represents an increase of 976 compared to the 2018 total of 13 322. The FIC notes that legal practitioners register based on the number of main businesses and branch offices, rather than the individual practitioners active in each office or branch. Accordingly, the number of registrations does not reflect the total number of practitioners subject to the FICA. The FIC also reported that 34% of all accountable and reporting institutions that

migrated to the goAML-platform were non-compliant at the end of March 2019. This may lead to the imposition of a financial penalty of at least R 5 000. It is imperative for legal practitioners who have not yet done so, to register on the goAML-platform or to update their details.

Focus for 2021

We have predicted that the LSSA will, in this new context, play an advisory and supporting role to practitioners and will have to protect their inter-

ests. In doing so, the LSSA intend to develop a sample risk management and compliance programme for attorneys.

Conclusion

I wish to earnestly thank my fellow Committee members for their committed service during the year under review.

David Bekker
Chairperson

General Agreement on Trade in Services (GATS)

MEMBERS	
• Willy Phalatsi (chairperson)	• Shanaaz Mohamed
• Max Boqwana	• Mosiuwa Mokoena
• Iqbal Ganie	• Motlatsi Molefe (Legal Practitioners' Fidelity Fund)
• Thinus Grobler (Legal Practice Council)	• Silas Nkanunu,
• Caron Jeaven (Legal Practice Council)	• Ogilvie Ramoshaba
• Clayton Manxiwa	• Tshepo Shabangu
• Bayethe Maswazi	• Zincesh Tiya

Key developments:

Some important developments have taken place as regards the General Agreement on Trade in Services (GATS) (the committee), and in particular the issue of cross-border practice rights.

During the period under review, the Committee was addressed by the Director of International Trade in Services of the Department of Trade and Industry. She advised that negotiations are starting between the member states of the Southern African Development Community (SADC) regarding the mutual recognition of professional services (which include legal services). These Mutual Recognition Agreements (MRA) will have to be between the various professional bodies.

At this stage, it appears that professional services will be covered on the basis of 'temporary movement' or 'temporary presence', which will be work based on contracts, as well as the timeframe that immigration legislation will allow one to work in a country.

In anticipation of the negotiations, the Law Society of South Africa (LSSA) prepared a position paper on cross-border practice rights, which appears on its website at www.LSSA.org.za. This document sets out the complexities and potential risks to the public and the legal profession in permitting the cross-border delivery of legal services by foreign lawyers and makes some recommendations regarding putting in place regulatory monitoring systems.

Due to the potential impact the liberalisation of legal services may have on legal practitioners, practitioners are urged to consider the document and provide comment to the LSSA.

In the meantime, a decision was taken at a previous SADC Lawyers Association (SADC LA) conference to establish a Task Team to consider this

important matter. Each SADC LA member is to come up with a position on how they see themselves in relation to cross-border practice rights and a consolidated paper will then be submitted to the relevant authorities. The LSSA Vice President, Mabaeng Lenyai, is the LSSA's representative on the Task Team, together with representatives from the Legal Practice Council and various other SADC member states.

Over and above the SADC negotiations, there is the African Continental Free Trade Agreement (ACFTA) negotiations, and the committee was informed that these are being fast-tracked. Modalities for ACFTA are still being negotiated and once this is finalised, offers will be requested from the professional sector.

The committee raised concern that the government appears to be working in silos when negotiations take place, while the professions are best placed to advise what happens in their specific areas. The committee was assured that a cabinet memorandum will not be approved without proof that the relevant stakeholders have been consulted.

Focus for 2021

The committee will focus on discussions and consultation in an attempt to find a balanced and legally justifiable dispensation for the rendering of services across country borders. In doing so, the committee will analyse and assess the applicable legal principles and professional structure of not only South Africa, but all the countries that propose MRAs, and the effect issues such as the recognition of foreign qualifications and professional insurance will have on the public and legal practitioners.

Willy Phalatsi
Chairperson

High Court Committee

MEMBERS	
• Umesh Jivan (Chairperson)	• Niel Joubert
• Zuko Tshutshane (Deputy Chairperson)	• Bannicky Mabunda
• Anver Bhayat	• Ntsoafi Maema
• Graham Bellairs	• Itiseng Matlapeng
• André Bloem	• MacDonald Moroka
• Asif Essa	• Dudu Mthimunye-Hluyo
• CP Fourie	• Adam Pitman
• Peter Horn	

Key developments

The High Court Committee (the committee) held two telephone conferences during the year, on 2 May and 7 November 2019, respectively.

It also held virtual meetings during 2020 to discuss, *inter alia*, the South African Law Reform Commission's (SALRC's) Issue Paper 36: *Investigation into Legal Fees* (Project 142).

• Digital or electronic case management and litigation

One of the most important developments is the introduction of the CaseLines system.

The Chairperson of the committee represented the Law Society of South Africa (LSSA) on the E-development Task Team, hosted by the Rules Board for Courts of Law, with the intention of implementing the electronic issuing, filing and serving of documents in all courts in South Africa.

The Task Team's task is to research and advise on the amendments of laws and rules to enable the implementation of the electronic issuing, filing and serving all court documents.

Concurrently with the working of the above Task Team, the Office of the Chief Justice was involved in its own planning for the implementation of the electronic issuing, filing and serving of all documents in the Constitutional Court and this has been called the Chief Justice's Court Online project.

With effect from 27 January and as part of the above project, the Gauteng Divisions of the High Court, Pretoria and Johannesburg, will be implementing a digital or electronic case management and litigation system, which has been named CaseLines.

During 2019, The Judge President of the Gauteng Division, Dunstan Mlambo, had requested legal practitioners practising in that province to register to be part of the CaseLines system. The Judge President's Practice Directive 1 of 2020 can also be viewed on the LSSA website, together with a Reference Guide of CaseLines at www.LSSA.org.za.

• The acting appointment of judges in the High Courts

One of the main issues that the committee addressed was the manner in which acting appointments of judges were made in the nine provinces.

There is currently no standard procedure followed for the appointment of acting judges and in the absence of a standard procedure, the appoint-

ments appear to the legal practitioners' profession to be arbitrary and at the discretion of the Judge Presidents or the Deputy Judge Presidents or the individual judges of each province.

The committee had resolved that a top down approach had to be followed in standardising the procedure for the appointment of acting judges and it was for this reason that the committee requested that the procedure be placed on the agenda of the National Efficiency Enhancement Committee (NEEC) for discussion so that a standardised procedure could be implemented as soon as possible.

The LSSA has since been requested to make recommendations for guidelines in respect of the appointment of acting judicial officers.

• Representation of the LSSA on the NEEC and the Provincial Efficiency Enhancement Committees (PEEC)

The legal profession is represented on both the NEEC and the PEECs and representatives should endeavour to attend the meetings of these committees.

Important information regarding the administration of justice and the maintenance of court buildings is exchanged at these meetings.

• Section 35 of the Legal Practice Act 28 of 2014 (LPA)

The committee expressed concern that no members of the legal profession were appointed to the SALRC Advisory Committee to advise the Minister of Justice and Correctional Services on the implementation of this section of the Act relating to the issue of legal costs.

The committee recommended that its concern of being excluded from the Advisory Committee be communicated to the minister.

The committee has also made input to the LSSA Task Team that was established to make submissions to the SALRC regarding the investigation into legal fees and access to justice.

• Submissions to Rules Board for Courts of Law

The committee considered and made comment on various proposed amendments to the Rules regulating the conduct of the proceedings of the several provincial and local divisions of the High Court of South Africa (Uniform Rules). Submissions can be viewed on the LSSA website.

The LSSA often requests input on various issues, including proposed amendments to legislation, and legal practitioners are urged to make use of this opportunity to make your voice heard.

• Judge Presidents' Directives

A number of important Judge Presidents' directives have been issued during the period under review, and these can be viewed on the LSSA's website at www.LSSA.org.za.

Focus for 2021

The committee will –

- monitor developments regarding the CaseLines system and make input where necessary;
- continue to interrogate and make submissions on draft legislation pertaining to the administration of justice; and
- engage with the Office of the Chief Justice and the NEEC in order to open communication regarding matters of concern to the profession.

Umesh Jivan
Chairperson

Immigration and Refugee Law Committee

MEMBERS

• Julian Pokroy (Chairperson)	• Christopher Manzini
• Ashraf Essop	• Boitumelo Maubane
• Neil Goodway	• Onesimo Mkumbuzi
• William Kerfoot	• Sam Nemuhuyuni
• Kabelo Manamela	

Key developments

The years under review have been particularly difficult for Immigration, Citizenship and Refugee specialist legal practitioners.

While a precedent was set in previous years of regular interaction by way of meetings with the relevant senior officials at the Department of Home Affairs (the department) in the Directorates with which legal practitioners have the most contact, there has been a perceived reluctance by the department in recent times to not only refuse to interface by way of not responding to requests for meetings, but also to be totally reluctant to even respond to questions and queries that concern the profession, originating from the Immigration and Refugee Law Committee (the committee) and/or its members.

This is most disconcerting against the background that the department at various levels is now also either refusing in some instances or being reluctant to interface with legal practitioners in respect of certain functionalities. This has made it particularly difficult to interface on a proactive and constructive level between the organised legal profession and the department.

This period has further been characterised by regular and ongoing blatantly incorrect (both at law and otherwise) decisions emanating from the adjudication teams of the department at Head Office level and/or the Embassies/High Commissions and Consular Missions outside of South Africa.

Because of huge backlogs in virtually every section of the department,

an incorrect decision can lead to considerable prejudice as it forces the foreign national applicant, in most cases highly skilled individuals or investors, to file a review process in terms of the Immigration Act 13 of 2002 or to appeal a decision. This is where a further crunch comes in, since the backlogs in those sections are such that it is almost impossible to predict how long it will take to finalise an appeal or review and waits of up to one year are not uncommon, with no guarantee in respect of the outcome.

Permanent residence applications were no longer accepted during the lockdown period, and it is unclear as to when they will be accepted again. It is almost impossible to gauge whether applications that were in process are in fact being dealt with.

The closure of borders during lockdown, whether partial or otherwise, has not had a positive effect at all.

At local level, the Civic Affairs section of the department at most offices of the department is refusing to deal with what they term 'third party agents', such as attorneys, advocates and immigration consultants. This is making it particularly difficult for legal practitioners to practice in this rather complicated area of speciality.

A meeting has been convened to specifically deal with the representation issues, but at the time of writing this report, it has not yet taken place.

The processing times in respect of visa and all other applications is deteriorating and bearing in mind the critical shortage of skills in the country and the need to bring in investors, this is totally unacceptable.

During the period under review, the committee has met sporadically to deal with issues as they crop up and will continue to do so.

Members of the profession continue to conduct interviews on both broadcast and print media, to the credit of the profession.

Articles by our legal practitioners in the specialist area also continue to be published in the media on an ongoing and regular basis, for which we thank them.

I wish to thank my fellow committee members for the effort they have made during the year under review and a very special thank you to Lizette

Burger and Kris Devan at the Law Society of South Africa who have been of great assistance.

Focus for 2021

The committee will redouble efforts to meet with the department and find a solution to the challenges experienced by legal practitioners.

The committee will also continue to monitor and interrogate relevant legislation and, where necessary, intervene and make submissions.

Julian Pokroy
Chairperson

Insolvency and Liquidation Committee

MEMBERS

• Vincent Matsepe (Chairperson),	• Reshoketsoe Malefo
• Peter Whelan (Deputy Chairperson)	• Onesimo Mkhumbuzi
• Walid Brown	• Ebi Moolla
• Mashudu Kutama	• Benjamin Mttjhali
• Nolundi Mda	• Refilwe Tshukudu

Key developments

The Insolvency and Liquidation Committee (the committee) convened a telephonic meeting during August 2019 to discuss the outcomes of the Draft Insolvency Policy Workshop which took place on 10 July 2019. The workshop followed a Constitutional Court decision in *Minister of Justice and Another v SA Restructuring and Insolvency Practitioners Association and Others* 2018 (5) SA 349 (CC), where the court held that the Minister's erstwhile impugned policy was 'not reasonably capable of achieving equality'.

Three policies were circulated to the stakeholders prior to the workshop. The committee agreed that the draft policies be circulated to the Law Society of South Africa (LSSA's) constituent members and widely to the legal profession for further input. During September, the LSSA, through its newsletter and website, invited attorneys to review the proposed policies and to submit their comments, if any, to the LSSA. Unfortunately no comment was forthcoming.

The policies are aimed at, amongst other, creating a uniform procedure

in all Master's Offices for the appointment of insolvency practitioners. It also proposes a new category of mentored practitioners who are required to participate in a mentorship arrangement of at least two years. New applicants will be assessed according to a written test and/or an oral test as determined by the Chief Master. All applicants will be required to participate in a written test. The pass mark is 65%.

Legal practitioners are often invited to provide the LSSA with their views on a variety of topics. Comments and submissions can be sent to kris@lssa.org.za.

Focus for 2021

The committee will continue to monitor refinement of the policy to ensure compliance with constitutional prerogatives.

I wish to thank the committee for their engagement and support.

Vincent Matsepe
Chairperson

Joint Legal Practitioners and Accountants Committee

MEMBERS	
• Iqbal Ganie (Chairperson)	• Peppy Kekana
• Robert Burawundi (LPFF)	• Clayton Manxiwa
• Jan de Beer (LPFF)	• Nkosana Mvundlela
• Miles Carter (LPC)	• Morolong Noge
• Asif Essa	• April Ramontja
• Etienne Horn	• Johan van Staden (LPC)
• Jan Janse van Rensburg	

The purpose of the Joint Legal Practitioners and Accountants Committee (the committee) is to facilitate interaction and cooperation between the South African Institute of Chartered Accountants (SAICA), the Independent Regulatory Body for Auditors (IRBA), the Legal Practitioners Attorneys Fidelity Fund (LPFF), the Law Society of South Africa (LSSA) the Legal Practice Council (LPC), as well as other stakeholders.

Etienne Horn resigned from the committee while it was confirmed that Miles Carter and Johan Van Staden would represent the LPC.

During 2020, the name of the committee was changed to the Joint Legal Practitioners and Accountants Committee.

Key developments

Two joint meetings with the accountants and auditors were held in 2019 and two in 2020.

As is usual, the legal practitioner members met immediately prior to the joint meetings where, *inter alia*, matters raised in the agenda of the Joint Attorneys and Accountants Committee were discussed. The accounting members held similar meetings prior to the joint meetings to prepare for the meeting with the legal practitioners.

The auditors were provided with a full progress report on the Legal

Practice Act 28 of 2014 (LPA) and the fact that it became fully operational (except for a few sections) on 1 November 2018.

A full report was provided to the committee by Jan De Beer of the Legal Practitioners' Fidelity Fund (LPFF) at each meeting.

Further reports were also provided on behalf of the LPFF on the claims lodged with them, as well as the latest position in relation to the income derived from 5% of the interest accrued on monies invested by legal practitioners.

SAICA and IRBA confirmed that they disseminate the communication received from the LPC regarding the submission of audit reports in terms of r 54.24.1 of the Rules under the LPA, read with sch 8. SAICA also issued a communication to its members of the additional procedures that may need to be performed in light of the new Rules.

The position of incorporated practices with a public interest score of less than 350 and holding assets exceeding R 5 million in a fiduciary capacity were discussed in relation to the requirements of being audited.

Focus for 2021

The committee will continue to interact with the accountancy profession and also update practitioners on issues that may affect them.

Iqbal Ganie
Chairperson



Labour Law Committee

MEMBERS

• Motseki Morobane (Chairperson)	• Roy Ramdaw
• Llewellyn Curlewis	• Jan Stemmett
• Peter Hobden	• Jason Whyte
• Mpho Mabidi	

Key developments

• Representation at Commission for Conciliation, Mediation and Arbitration (CCMA)

1 January 2019 marked the coming into operation of the amended Rules for the Conduct of Proceedings before the CCMA (the Rules), which introduced two significant changes to r 25 dealing with representation. In terms of the first change, candidate attorneys are now finally permitted to represent parties in arbitration proceedings at the CCMA, albeit subject to limitations in certain matters. The Labour Law Committee (the committee) has previously advocated for the Rules to be amended to allow candidate legal practitioners to represent parties at the CCMA. This is indeed an important development for the legal profession.

Pursuant to the second change and unusually so, the presiding commissioner can allow parties to be represented by someone other than a legal practitioner, a candidate legal practitioner, or a member of a registered trade union or any office bearer or an official as defined in the Act. In doing so, the commissioner must consider whether or not it is unreasonable to expect the party to participate without representation. The commissioner is also required to consider several factors, including whether this will result in meaningful representation and/or whether the proposed representative is subject to the oversight and discipline of a professional or statutory body.

The second change came about as a result of a declaratory order made by the Labour Court of South Africa, Johannesburg. The court declared that on a proper interpretation of r 25 read with r 35 of the CCMA Rules and the provisions of the Labour Relations Act 66 of 1995, a commis-

sioner has a discretion to authorise any party to CCMA proceedings to be represented by another person, on good cause shown. The committee has commented on this aspect, but its views were not taken on board because of the declaratory order.

• Resources

Given the importance of the changes to the Rules, the committee resolved that an educational brochure to members of the public should be compiled to explain the issue of representation at the CCMA. It is anticipated that this brochure will be ready for publication during the early part of 2021 and will follow on from the previous brochure entitled: 'Your labour law rights – protect yourself'.

Focus for 2021

The committee will continue to monitor and deal with developments in the area of labour law. It will also pursue separate meetings with the South African Society for Labour Law (SASLAW), the CCMA and the Judge President of the Labour Court to discuss matters of mutual interest. At the meeting with the Judge President, the committee will offer its assistance to the Judge President to identify suitable members of the profession to serve as acting Judges in the Labour Court.

Conclusion

I am thankful to my fellow committee members for their dedication towards the mandate of the committee and the profession.

Motseki Morobane
Chairperson



Legal Aid Committee

MEMBERS	
• Noxolo Maduba-Silevu (Chairperson)	• Makgabhana Majobhi Mokoena
• William Booth (Deputy Chairperson)	• Mandla Motha
• Katherine Gascoigne	• Nkosana Mvundlela (<i>ex officio</i>)
• Jan Janse van Rensburg	• Asanda Pakade
• Philippa Kruger	• Siyabonga Sotenjwa
• Moshanti Makgale	• Zincedile Tiya

A joint meeting of the LSSA Legal Aid Committee (the committee) and Legal Aid South Africa (Legal Aid SA) took place on 26 November 2019. The representatives of Legal Aid SA were Mr Brian Nair (National Operations Executive), Mr Patrick Hundermark (Chief Legal Executive) and Mr Upkaar Mungar (Legal Support Manager).

Key developments

• Regulations to the Legal Aid South Africa Act

The Regulations to the Legal Aid South Africa Act 39 of 2014 have been amended with regard to the means test. This could see a huge increase in the applicants for legal aid services.

Previously, only people earning up to R 5 000 per month, with a household income of less than R 6 000 would qualify for legal aid. These amounts have been increased to R 7 400 per month with a household income of less than R 8 000.

• Legal Aid manual

Amendments to the Legal Aid manual, as far as the Judicare tariffs, subsistence allowances and preparation fees are being considered.

• Quality reviews

Legal Aid SA has implemented a process to ensure that the required quality services are rendered by practitioners in Judicate matters.

• Legal Aid SA Board

A new Board was appointed for Legal Aid SA during the period under review. The previous Board's term of office ceased at the end of February 2019.

The committee congratulates Nkosana Mvundlela on his appointment as Deputy Chairperson of the Board.

• New CEO of Legal Aid SA

Mantiti Kola was appointed as the new Chief Executive Officer (CEO) of Legal Aid SA, with effect from 1 November 2019. The previous CEO, Vidhu Vedalankar resigned at the end of October 2019.

The committee congratulates Ms Kola on her appointment and wishes her all the best with her future endeavours at the helm of Legal Aid SA.

• Merging of committees

The possibility of merging with the Criminal Law Committee was discussed and the challenge of aligning the objectives of the two committee was foreseeable, as legal aid is not entirely for addressing the criminal component of the society but rather vast and goes to all the spheres of law that affect the public.

Focus for 2021

The committee will continue to monitor developments and make interventions in respect of matters that fall within its ambit. For setting its objectives for 2021 and its meeting frequency, the committee will be guided by the decision made by the LSSA on whether the committee would be merged with other committees of the LSSA going forward.

Noxolo Maduba-Silevu
Chairperson

Liquor Matters Committee

MEMBERS	
• Kobus Burger (Chairperson)	• Eugene Kruger
• Mhlanga Bala	• Mashudu Kutama
• Guy Dakin	• Sam Matsimela
• Sandile Dlomo	• Abongile Matomane
• Barry Kruger	

Key developments

National Liquor Policy

As previously reported, the National Liquor Policy, 2016 has been published in 2016. No further feedback has been received concerning the progress of any Amendment Bill pursuant thereto.

Developments at provincial level

• Free State

It appears that the backlog for new applications in respect of the Free State, which was considerably less in 2018, has increased in 2019 and continued into 2020, with some applications lodged some nine to ten months (and in some instances more) before being considered. This is due to administrative laxity, as well as the reluctance of the Board to convene and hold sufficient meetings and hearings. In 2019 some three months went by without the Board holding any meetings/hearings whatsoever. Together with a marked level of decreased efficiency and a lack of administrative prowess, the authority has seemingly also opted as explained above to somewhat neglect its statutory duties with a 'cavalier approach'.

In respect of 2020 and annual renewals, the protracted discussions between the Free State Gambling Liquor and Tourism Authority and stakeholders have meant that, as of 27 January 2020, no final tariffs in respect of renewal fees have been published, with the result that license/registration holders have not yet been able to renew their licenses and/or registrations. In light hereof, it is widely expected that the cut-off date for renewals will be extended.

• North West and Limpopo

In light of the fact that North West and Limpopo have not yet enacted their own provincial liquor legislation, their statutory arrangements and liquor affairs still being arranged in terms of the Liquor Act 27 of 1989 (the Act), not much developments in respect of their liquor trades have taken place.

It needs mentioning that the North West Liquor Board's administration and overall performance and administrative functioning seems to be in dire straits. Applications for transfers are, for instance, simply not being done. It does not seem as if the Liquor Board has the intention of righting the ship or doing anything towards bettering its dismal performance.

Even if these and other types of applications are eventually considered and/or finalised, it takes a tremendous amount of effort, including threats of litigation and pleading, to get the applications done. This in no small part are to be expected due to the administrative and overall unraveling of the North West's governance (which crucially include the Magistrates' Courts and the South African Police Service (SAPS), which play a huge part in liquor licence application proceedings in terms of the Act). Hence, due

to the malfunctioning of these institutions, the delays and failures on the part of the Liquor Board are aggravated/exaggerated.

There also seems to be much grievances within the Liquor Board itself, with the concomitant malfunctioning of the whole administrative and adjudicating apparatus of the Board, with strikes being at the order of the day, which fact does not bode well at all for the retail liquor industry in the North West. Obviously, the same is applicable in respect of new applications for licences, some of which were lodged more than a year ago with no finalisation in sight, even where massive amounts of additional effort are expended (which would be unnecessary had the Board functioned as it is intended to).

• Mpumalanga, Eastern Cape, KwaZulu-Natal

From the feedback, which has been received from legal practitioners, it seems that the Mpumalanga, Eastern Cape and KwaZulu-Natal Liquor Boards are functioning fairly well.

• Western Cape

Regarding the Western Cape Liquor Authority, it also seems to be functioning well and disposing of its duties in an acceptable manner, with regular meetings of the Liquor Licensing Tribunal, although with a slow turnover time, which could be improved.

• Gauteng

In Gauteng the online application system, which was introduced was found to be wholly unsatisfactory, with the result that applications are still submitted manually, which makes for a much better process. Overall, the Gauteng Liquor Board seems to be functioning well; it seems to be a case of 'business as usual' with no major complaints and less litigation.

• Northern Cape

The Northern Cape Liquor Board is still dragging its feet regarding turnover times for new applications; and applications such as structural alterations and transfers are also not done timeously. The administration of the Board seems to be in a state of flux with none or minimal oversight and accountability.

Focus for 2021

The committee will continue to monitor developments pertaining to its field of expertise at national and provincial level and deal with issues appropriately

Kobus Burger
Chairperson

Magistrates' Courts Committee

MEMBERS	
• Graham Bellairs (Chairperson)	• Thembalihle Majali
• Praveen Sham (Deputy Chairperson),	• Mvuzo Notyesi
• Vanessa Graham	• Odwa Nyembezi
• Jan Janse van Rensburg	• Bukky Olowookorun
• Bannicky Mabunda	• Gerhard Painter
• Niclas Mabuse	• Lebo Ralenala (<i>ex officio</i>)
• Ntsoafi Maema	• Jacques Tarica

The Magistrates' Courts Committee (the committee) met on two occasions during the course of 2019, the first being on 28 January 2019 and the second on 14 November 2019. Although no in-person meeting of the committee was held during 2020 – due to the limitations caused by the COVID-19 pandemic – the committee did nevertheless have one formal meeting on the Zoom platform on 31 August 2020 and another on 19 November 2020 to consider specifically the South African Law Reform Commission's (SALRC) proposal of tariffs to be determined in terms of Section 35 of the Legal Practice Act (LPA). During the August meeting and from time to time on an ad hoc basis the committee considered and responded to the submissions received from the Rules Board for Courts of Law (the Rules Board).

The object of the meetings and the resultant actions taken were to promote the LSSA's mission to represent the legal profession, protect the interest of legal practitioners and the public, to promote the rule of law and ensure efficient and fair administration of justice.

The major objective of the committee is to liaise with the Rules Board, which distributes proposed rule and tariff amendments, which are then circulated to all stakeholders of which the LSSA Magistrates' Courts Committee is one, and, indeed a very important one. The committee considers these proposals and responds in line with its objectives to the Rules Board. The committee Chairperson, Graham Bellairs, is a member of the Rules Board and sits on the Costs and Magistrates' Courts Committees of the Rules Board. Thereby, the views and responses of the committee are conveyed and articulated in debate with the Rules Board. A standing item on the committee's agenda for each meeting is a report back on Rules Board activity from Mr Bellairs, particularly in respect of submissions made by the committee.

In the interest of making the practice of law easier and more accessible, the committee has endorsed in principle the efforts of the Rules Board to align the High Court and Magistrates' Courts Rules as much as possible.

Key developments

The more important rule and tariff amendments referred to by the Rules Board and considered by the committee are the following:

• Address of service

The necessity for the appointment of an address for service in summons, applications and notices of intention to defend or oppose.

The committee considered and responded to the six questions posed by the Rules Board in relation to this issue as follows:

- The requirement for the appointment of a physical address for service should be retained as the existing forms of electronic service are not completely reliable and thus it would be premature to abandon the requirement at this stage. However, legal practitioners should still be encouraged to make use of electronic forms of service.
- The radius of 15km should not be increased.
- The address for service should be the distance from the Registrar or Clerk's office and should not be linked to the local authority or any other point of reference.
- The requirement for a physical address may increase costs but this requirement provides certainty and reduces the likelihood of documents going missing and the resultant applications for rescission of judgment.
- The committee considered that the requirement of a physical service address does not hamper access to justice for litigants.
- The committee's answer to the question whether the practice in any foreign jurisdiction regarding the appointment of a physical service address should be considered was that the practice in a foreign jurisdiction depends on the existence of adequate technological infrastructure within the local context.

• The merging of scales A and B in the Magistrate's Court tariff

A proposal was received from the Rules Board for the committee to consider the collapsing of scales A and B into one tariff, the effect of which would mean that scale A would fall away and scale B would cover claims from R 1 to R 50 000. The committee supported the proposal on the grounds that scale A applies to a limited number of claims of up to R 7 000 and the merging of the two scales would result in a successful party being able to recover a larger portion of attorney and own client costs. This would, therefore, enhance access to justice.

• Tariff for traveling time for Sheriffs

The committee considered a proposal from the Rules Board that Sheriffs should be compensated on a time basis for long distances travelled by them. The committee does not support the proposal. The committee is of the view that Sheriffs may and often do coordinate their travel arrangements to ensure service of execution for a particular area on a given day. The remuneration of Sheriffs on a time basis may create opportunity for abuse as multiple travel claims may be submitted for one trip undertaken in different matters. The committee feels that presently Sheriffs are ad-

equately remunerated for traveling time by way of the kilometre and service attendance charges.

- **Proposed amendments to Magistrates' Courts r 54 and insertion of Form 59 in relation to actions by and against partners**

This is a rule, which has been debated and considered at length by the Rules Board.

The existing rule is perceived as unconstitutional in the way it allows for proceedings to be instituted against partners and for judgments to be obtained against them without them necessarily having acquired proper notice of such proceedings.

The committee also considered whether the rule could be extended to apply to the pleading of trusts as 'the trustees for the time being of the ABC trust'. Given the nature of trust and the court decisions, which had been delivered in relation to such citations, the committee agreed with the Rules Board that the rule could not be extended to trusts.

Similarly, a proposal for the extension of r 54 to include associations did not meet with the approval of the committee.

The committee supported the proposed amendments to r 54 and the related forms as they bring them in line with constitutional and rule of law principles.

- **Taxation of Sheriff's fees**

A problem raised by the Rules Board is the period of 90 days within which a legal practitioner can call on a Sheriff to tax his fees. The committee agreed that this period was far too long as it would severely impact on a the cashflow of the Sheriff. The committee supports the reduction of the period, but not to 15 days as proposed by the Rules Board. A period of 30 days was considered to be appropriate.

- **Time period to lodge a criminal appeal**

The committee is considering a Rules Board proposal that r 67 be amended to provide a time period of ten days within which to lodge a criminal appeal. Presently there is no time limit. The prevailing opinion of the committee is that ten days is too short and the period allowed should be 20 court days.

- **Execution of movable property**

Proposed changes to legislation and rules relating to sales in execution of movable property have been received from Messrs Jacques Tarica and Roger Glover. These will be considered by the committee at its next meeting.

- **Annual subscription fees payable to the Legal Practice Council**

The committee participated in formulating a submission to the Legal Practice Council (LPC) regarding proposed annual fees. The submissions were lengthy and dealt with certain incorrect assumptions made by the LPC regarding earning capacity of attorneys of different periods of experience and the unaffordability of the proposed fees.

- **South African Law Reform Commission's (SALRC's) investigation into legal fees and access to justice**

The SALRC has published Issue Paper 36: *Investigation into Legal Fees* (Project 142) and Discussion Paper 150: *Investigation into Legal Fees, including access to justice and other interventions* (Project 142) for comment. These documents relate to a directive to the SALRC contained in s 35 of the Legal Practice Act 28 of 2014 (LPA) regarding the desirability of and mechanism for determining fee tariffs.

Both were lengthy documents, and the Issue Paper contained a questionnaire for consideration by stakeholders. The Discussion Document included the SALRC's recommendations. The committee participated in the determination of the LSSA's responses and certain committee members attended at meetings of the SALRC to motivate these responses.

The LSSA's submissions can be viewed on its website at www.LSSA.org.za.

- **Code of Conduct for Legal Practitioners, Candidate Legal Practitioners and Juristic Entities**

The committee considered the draft code of conduct submitted by the LPC and participated in the submissions of responses to that code.

Focus for 2021

The committee will continue to monitor and assess developments within its field of expertise and deal with them appropriately.

Legal practitioners are invited to make submissions to the committee on proposed amendments to rules and legislation and other issues for consideration and submission to the Rules Board or relevant government departments. These can be e-mailed to kris@LSSA.org.za.

Graham Bellairs
Chairperson



Personal Injury Law Committee

MEMBERS	
• Jacqui Sohn (Chairperson)	• Azwifaleni Matodzi
• Mpendulo Gama	• Vincent Matsepe
• Lindy Langer	• Gert Nel
• Likhaya Makana	• Matodzi Neluheni,
• Sinawo Makangela	• Benock Shabangu
• Jan Maree	• Ignatius Shirilele

The Personal Injury Law Committee (the committee) made use of e-mail and telephone/video conferencing as required.

Key developments

• Road Accident Benefit Scheme Bill B17 of 2017

During the course of 2019 RABS, which had lapsed on the last day of sitting of the National Assembly in 2018, was revived and on 29 October 2019. The Bill was referred back to the relevant Portfolio Committee for consideration by the newly elected members of the 6th Administration in order to comply with s 55(1) of the Constitution.

On 19 August 2020 RABS was formally rejected by the Portfolio Committee on Transport. Below is an extract of the report issued by the Portfolio Committee on 21 August 2020.

- The Road Accident Benefit Scheme Bill [B 17B – 2017] was revived and referred to the Portfolio Committee on Transport in the 6th Parliament by resolution of the National Assembly on 29 October 2019.
- The committee deliberated on the Bill on 18 and 26 February and 17 March, and on 19 August 2020 decided that the Bill be rejected. The committee, having considered the presentations made on the B-version of the Bill, rejected the Bill in its entirety and was of the view that amendments to the Road Accident Fund Act 56 of 1996 (as amended), may be more prudent at this time.

The Law Society of South Africa (LSSA) has opposed RABS consistently since inception and its final demise is welcomed. However, it is apparent that the RAF requires substantial revision in order to make it more affordable, sustainable and effective.

The LSSA's proposal for a hybrid scheme submitted to the Portfolio Committee during the course of the presentations is available on the website.

Any proposals or suggestions to improve RAF that colleagues may wish to make are welcomed.

• Termination of RAF Panel

On 18 and 20 February 2020 the RAF issued a notice calling on its panel attorneys to return all file starting with trials set down on 1 June 2020. According to them this involved the termination of mandates in 178 547 trials in Pretoria and 93 274 trials in Johannesburg.

On 26 and 28 February 2020 the RAF announced that the tender to appoint a panel to act for the RAF in claims made had been withdrawn and it would be handling all claims 'in-house'.

The LSSA, acting in the public interest and in the interest of all its members, intervened. However, the orders granted were appealed by the RAF and an application for the execution of the order pending the appeal was refused. All mandates were terminated.

Colleagues are well aware of the ensuing disruption to the operations of the RAF, which has been compounded by the COVID-19 pandemic.

LSSA wrote letters to the Ministers of Transport and Justice, as well as to the Chief Justice, calling for a meeting to address this. However, no meeting has been agreed.

• State Liability Amendment Bill B16 of 2018

This Bill has also been withdrawn. However, the very significant financial exposure and drain on cash flow arising, in particular, from medical malpractice claims against Provincial Hospitals will inevitably dictate government policy in regard to future legislative initiatives.

The LSSA made submissions on the Bill, which can be viewed on the LSSA website at www.LSSA.org.za.

• The Contingency Fees Act 66 of 1997 (CFA): Rules in terms of s 6

As reported last year, the committee was requested to finalise draft rules in terms of the CFA for consideration by the former statutory law societies.

After dissolution of the law societies, the draft rules were, in turn, referred directly to the Legal Practice Council (LPC).

On 4 October 2019 the Rules were published by way of Legal Practice Council Notice (Amendment of rules made by the Legal Practice Council in terms of s 6 of Contingency Fees Act 66 of 1997 and proposed amendments to r 4 in terms of the Legal Practice Act 28 of 2014 for comment. GenN525 GG42739/4-10-2019). The LSSA will continue to interact with the LPC with regard to the content and implementation of the Rules.

• Issue Paper 36: Investigation into Legal Fees (Project 142)

The LSSA made extensive submissions to the South African Law Reform Commission (SALRC) whose mandate is contained in s 35(4) and (5) of the Legal Practice Act 28 of 2014 (LPA), which provides that it must, within two years after the commencement of chapter 2 of the Legal Practice Act (LPC), investigate and report back to the Minister of Justice and Correctional Services (the Minister) with recommendations, *inter alia*, on the circumstances giving rise to legal fees that are unattainable for most people, improved access to justice by the members of the public, the desirability

of determining fees and tariffs payable to legal practitioners, the processes to follow in determining fees or tariffs, whether potential clients should have the option of voluntarily agreeing to pay fees for legal services less or in excess of any amount that may be set as fees and the obligation by a legal practitioner to conclude a mandatory fee arrangement with a client when that client secures that legal practitioner's services.

These issues are of fundamental importance to practitioners and the report and recommendations made by the SALRC in fulfilment of its mandate could impact significantly on future practice.

Section 35(7) of the LPA in its current form is particularly unsuitable to litigation, where there are other mechanisms available to regulate fees,

inter alia, published court tariffs, the taxing master, fees assessment by Provincial Councils of the LPC and the Contingency Fees Act.

It is my view of this committee that, having regard to the provisions of the Contingency Fees Act (and the published Rules), litigation conducted in terms thereof should be governed by it, alone, and s 35 should be amended to the extent necessary to achieve this. This committee, as well as the Contingency Fees Committee, have recommended this to the LSSA Task Team established to make further submissions to the SALRC.

Jacqui Sohn
Chairperson

Pro Bono Committee

MEMBERS	
• Mohamed Randerer (Chairperson)	• Mfundiso Mavonya
• Shaun Hangone	• Msnls Motha
• Benedict Jordaan	• Ncumisa Nongogo
• Ilan Lax	• Siyabonga Sotenjwa
• Vincent Matsepe	• Liesl Williams

Key developments

Delegates at the provincial consultative workshops held during 2017 recommended that section 29 of the Legal Practice Act (LPA) be amended to specifically make provision for pro bono services to be regarded as community service. The LSSA brought this to the attention of the Legal Practice Council (LPC) and during May 2019 the LPC issued communication to all practising legal practitioners, stating "Kindly note that the Legal Practice Council has taken a policy decision that free legal services (referred to as pro bono services) provided to indigent members of the public by legal practitioners will be regulated. This is to ensure that as a legal profession we continue to make a meaningful contribution of providing access to justice to members of the public who cannot afford legal services." Even though the LPA has not been amended, this presents a major boost for our attempts to have pro bono legal services recognised under section 29 of the LPA. The LPC stated that it is in the process of formalising the regulations in respect of pro bono services to give effect to its policy decision.

During the period under review, the Pro Bono Committee had various face-to-face and online meetings to deliberate on the South African Law Reform Commission's Project 142: Issue Paper 36: Investigation into Legal Fees and its subsequent Discussion Paper 150. While Issue Paper 36 did not contain recommendations, Discussion Paper 150 included some draft legislation. Given the important contribution made by attorneys through pro bono legal services, the Committee agreed to prepare detailed comments for inclusion as part of the LSSA's submissions. The Committee identified a number of aspects to be addressed, including the means test, community service, community-based paralegals and whether the 24-hour rule is sufficient.

The Committee agreed, amongst other, that the means test for Legal Aid South Africa and the pro bono means test should be increased. The LSSA's comments on the Issue Paper noted that "One of the most direct ways in which legal practitioners extend access to justice to those most in need of it, is to take on cases on a pro bono basis. Before the advent of the LPA, it was compulsory for all attorneys to provide at least 24 hours per year of pro bono work and many have performed in excess of the expected hours."

In its Discussion Paper the SALRC recommended that the Legal Practice Act be amended to the effect that community service may include service on a pro bono basis in compliance with the rules of the LPC. The LSSA supported this recommendation, as this is in line with its view that pro bono services should fall within the ambit of community service (and not in addition).

The LSSA's submissions to the SALRC on both the Issue Paper and the Discussion Paper can be viewed on its website.

Focus for 2021

The Committee will pursue the process of formalising the regulations in respect of pro bono services with the Minister of Justice and Correctional Services and the LPC.

The Committee will continue to closely monitor developments relating to community service as envisaged in section 29 of the LPA and will make further submissions at the appropriate time.

Mohamed Randerer
Chairperson

Property Law Committee

MEMBERS	
• Dave Bennett (Chairperson)	• Khanyiswa Peter
• John Christie	• Xolani Mpeto
• Sharon de Lange	• Bonwabile Nyanda
• Denise Lenyai (<i>ex officio</i>)	• Wilfred Phalatsi
• Hussan Goga	• Monise Ponoane
• Anita Gounden	• Nicole Sauli-Koren
• Loleah Mamabolo	• Anri Smuts
• Pumla Mncwango	• Anton Theron
• Ken Mustard	• Bongikile Zulu (<i>ex officio</i>)

Key Developments

• Electronic Deeds Registration Systems

During 2019 the President of South Africa signed into law the Electronic Deeds Registration Systems Act 19 of 2019 (the Act). Section 2 of the Act, which provides for the development, establishment and maintenance of an electronic deeds registration system, came into operation on 2 December 2019. The electronic deeds registration system will eventually replace the current paper-based registration system and thereby profoundly change the South African conveyancing landscape. However, the introduction of a secure and cost-effective electronic deeds registration system will require comprehensive and meaningful consultation and engagement with all relevant stakeholders and role players in the property environment.

Mark Heyink (Information Governance Consultant) and Maeson Maherry (LAWtrust) addressed a joint meeting of the Property Law and E-Law Committees on the practical implementation of advanced electronic signatures (AES). Signature, within the context of the Act, means an advanced electronic signature as defined in s 1 of the Electronic Communications and Transactions Act 25 of 2002. AES will accordingly become a crucial security tool for conveyancers under the Act. A special working group was subsequently appointed to deal with the aspect of electronic signatures. The sub-team is in the process of developing a model of how the certification of conveyancers could be practically undertaken with the assistance of the Legal Practice Council (LPC) and the certifying authority, LAWtrust.

The committee also invited service providers LexisNexis and E4 to provide the committee with a presentation of the key technological developments already present within the property industry and the legal profession. The presentation underscored the need for effective digital transformation to ensure efficient integration of electronic systems at various government departments and institutions, including the Deeds Office, with the South African Revenue Service, the Department of Home Affairs, the Companies and Intellectual Properties Commission, etcetera. This would, for example, ensure that obtaining rates clearance certificates and municipality accounts would be quick and efficient. It also became evident that many attorneys and conveyancers have already embraced vendor-based software packages as part of their practices, and are already conducting significant part of the conveyancing process electronically.

• Property Practitioners Act 22 of 2019

The President also signed into law the Property Practitioners Act 22 of 2019, which is expected to come into operation soon. The Act, which will replace the Estate Agency Affairs Act of 1976 (EAA Act), applies to a 'property practitioner', as defined, which is broader compared to an estate agent as defined under the EAA Act. The committee will continue its interaction with the Estate Agency Affairs Board and, once established, the Property Practitioners Regulatory Authority on property-related matters affecting attorneys and conveyancers.

Draft Regulations in terms of the Property Practitioners Act were published for public comment. These Regulations include a Code of Conduct which, *inter alia*, deals with the acceptance of mandates by attorneys for the sale of properties. The LSSA submitted comment in which it expressed the view that the Regulations, as far as they seek to legislate the conduct of attorneys, are ultra vires and may be open to constitutional challenge. The LSSA's submissions can be viewed on its website at www.LSSA.org.za.

• Conveyancing Task Team

2019 marked the appointment of a Conveyancing Task Team by the LSSA's new Exco, which had been tasked with the responsibility of looking at access to conveyancing initially and on the longer term to the future of conveyancing as a specialist part of the profession. Although the Task Team reports separately, the outcomes of that process remain central to the committee's mandate.

• Proxi Smart matter

Arguably, the most significant development during the reporting period was the Constitutional Court's dismissal, with costs, of Proxi Smart's application for leave to appeal on 5 August 2019. The court concluded that 'given the procedural inefficiencies in the applicant's case, it is not in the interests of justice for this Court to adjudicate this issue on these papers.' Matojane J, in the High Court judgment, stated that: 'The highest standard of professionalism and honesty are fundamental to conveyancing transactions which involve large sums of money represented by undertakings exchanged on trust.'

The LSSA, as mandated by this constitution, is committed to safeguard and maintain the independence and integrity of the profession.

• Service level agreements

The service level agreements between banks and conveyancers and the manner in which the banks set up their conveyancing panels have been of concern for quite a while. Some banks require legal practitioners to invest substantial amounts with them in order for the legal practitioner to remain on the banks' panels. The matter was brought to the attention of the Competition Commission, which embarked on a process of engaging with key stakeholders, including the banks and the LSSA. During the period under review, the committee, together with the LSSA's Competition and Ethics Committees, had various meetings with the commission and we will continue to deal with this issue.

• Engagement with stakeholders

The committee met multiple times with representatives from the Banking Association of South Africa, LAWtrust, as well as other role players in the market. This culminated in the formation of a working group to interrogate and make proposals to the Chief Registrar of Deeds on the electronic deeds registration system. As the development of an electronic deeds registration system is one of the biggest changes facing the conveyancing profession in recent years, it will, therefore, be important to obtain the buy-in from all the organisations representing conveyancers.

A representative from the World Bank addressed the committee on experiences of ordinary citizens of the conveyancing process. The World Bank is considering ways in which the conveyancing process can be simplified. The committee pointed out that the conveyancing process is often complicated through the introduction of new laws and delays in obtaining certificates from relevant institutions. The committee undertook to engage with the World Bank in order to provide an accurate reflection of the South African context.

A representative from the South African Local Government Association (SALGA) met with the committee with a view to explore a relationship to address ongoing practical challenges with, amongst other, rates clearance certificates. The committee identified the need to compile a list of issues to discuss with SALGA in the foreseeable future.

• Deeds Registries Regulations Board and Sectional Titles Regulations Board

Mabaeng Denise Lenyai and I have been appointed to serve on the Deeds Registries Regulations Board, with Anita Gounden and Hussan Goga as alternate members. Khanyiswa Peter serves on the Sectional Titles Regulations Board, with Mabaeng Denise Lenyai as an alternate.

• Committee meetings

During the period under review, the committee held six meetings. In addition to the above, the committee addressed issues, such as the performance of the deeds offices and municipalities under the COVID-19 regulations; the various Chief Registrar's directives; the South African Law Reform Commission's Issue and Discussion Papers on the investigation into legal fees; and concerns regarding various pieces of legislation, including the Spatial Land Use Management Act 16 of 2013.

Focus for 2021

2021 will be a very busy year for the committee and, in addition to monitoring and assessing developments within its field of expertise and dealing with them appropriately, the following will receive specific attention:

- The committee is committed and geared to continue engaging with the Chief Registrar of Deeds and other stakeholders in the property registration industry to navigate an effective approach to the electronic deeds registration system.
- The committee will continue to deal with the issue of the service level agreements between banks and conveyancers and engage with the Competition Commission and other stakeholders.

Legal practitioners are advised to keep abreast of developments, particularly as regards the issue of the electronic deeds registration system, as this will impact on their practices.

Legal practitioners are also invited to make submissions to the committee on proposed amendments to legislation and other issues falling within the committee's field of expertise. These can be e-mailed to kris@LSSA.org.za.

Dave Bennett
Chairperson



Small Claims Court Committee

MEMBERS	
• Mojau Ramathe (Chairperson)	• Manla Motha
• Charmaine Lindsay (Deputy-Chairperson)	• Nomachule Oliphant
• Ettienne Barnard	• Cuma Siyo
• Llewelyn Curlewis	• Siyabonga Sotenjwa
• Jerome Levitz	• Butch van Blerk

Key Developments

During 2018, the Small Claims Court Committee (the committee) created an App to collate various resource materials dealing with Small Claims Courts. The App is available on the Google Play store and had, since its publication, been downloaded well over 1 500 times with over 1000 unique users from various countries. This offers a remarkable platform to engage with the public and expand knowledge on the workings of the Small Claims Court. All the Law Society of South Africa's (LSSA's) brochures had been loaded onto the App for ease of access on LSSA functions and activities.

The Minister of Justice and Correctional Services, acting under ss 15 and 16 of the Small Claims Courts Act of 61 of 1984, determined that the monetary jurisdiction for the Small Claims Courts be increased to R 20 000 with effect from 1 April 2019. In his address, at the KwaZulu-Natal Small Claims Courts Workshop, the Deputy Minister of Justice and Constitutional Development, John Jeffery, remarked that: 'The monetary jurisdiction was also discussed at a recent Small Claims Courts workshop. All the participants were of the view that it must be increased to at least R 20 000 and the Law Society of South Africa's specialist Small Claims Court Committee has considered an increase and also recommends an increase to R20 000'.

The increase culminated in a video production on SABC 1's *Yilungelo Lakho* wherein the Deputy Minister and I engaged about the implications of the monetary increase and answered questions from members of the public who called in. The SABC expressed willingness to explore engagements on the topic of Small Claims Courts with the committee, which offer was accepted.

The increase in the establishment of Small Claims Courts throughout the country has enabled our members to be commissioners in various jurisdictions serving on a *pro bono* basis, which supported our agenda for access to justice for our communities.

The committee also invested considerable time and effort to develop a Small Claims Court manual, which is aimed at equipping Clerks of the Court and Commissioners of Small Claims Courts to deal with some of the salient legal and practical aspects pertaining to Small Claims Court matters.

Focus for 2021

The committee will finalise the Small Claims Court manual after which the committee and the LSSA's Legal Education and Development division will liaise with the Department of Justice and Constitutional Development to explore joint training interventions for the benefit of Clerks and Commissioners of Small Claims Courts.

The committee will work towards ensuring that the database for the members who serve diligently as Commissioners is finalised and the deserving recognition of their service is applauded.

Conclusion

We have dedicated our time, experiences and knowledge into the service of our constitutional responsibilities as members of the legal profession with the sole view of improving the coal face of access to justice.

I wish to express my sincere gratitude to the distinct members of the committee and the officials in the LSSA for their unwavering dedication to the service of the profession and our country.

I thank you all for the support and confidence you have displayed towards me over time.

Mojau Ramathe
Chairperson

Tax Matters and Exchange Control Committee

MEMBERS	
• Robert Gad (Chairperson)	• Vusi Rajuili
• Hellen Phaleng-Podile (Deputy Chairperson)	• Asanda Pakade
• Charles Ancer,	• Thopane Maloka
• Iqbal Ganie	• Nano Matlala
• Mzawuthethi Kalimashe	• Dirk Terblanche

Key developments

The Tax Matters and Exchange Control Committee (the committee) held telephone conferences during the period under review to discuss a wide range of topics, including the changes to legal practice. It has proven challenging to convene physical meetings, but telephone conferences seem to be a more economical and convenient alternative.

The main actions for the year were as follows:

• Annual Tax Indaba

The Law Society of South Africa (LSSA), through the committee, was again one of the participating bodies at the 2019 Annual Tax Indaba, which took place from 26 to 30 August 2019. The South African Revenue Service (Sars) Commissioner, Mr Edward Kieswetter, was the keynote speaker. The Indaba took place over five days with two streams per day. Speakers included members of the accountancy profession, the legal profession and Sars officials.

Due to the COVID-19 pandemic, the 2020 Tax Indaba was held virtually over three days on a part-day basis, from 7 September to 9 September 2020. The LSSA was once again one of the participating bodies. Topics discussed included 'A global look at healing the economy past pandemic' and 'Trends in tax digitalisation and reporting'.

• Stakeholder relationships

The committee has improved its profile and has received frequent invitations to attend Sars/National Treasury workshops, and make submissions on proposed Tax Law, to which the committee responds.

More generally, Lizette Burger has a very good relationship with Sars, and she has regular access in order to raise any tax operational issues, such as the challenges being faced by legal practitioners in tax compliance and in reaction to the Tax Administration Act 28 of 2011.

Members of the committee also attended to operational and substantial law stakeholder meetings with Sars and Regulatory Controlling Bodies.

• Submissions

The committee was instrumental with the preparation of extensive written and oral comments on changes to the tax legislation, sometimes in cooperation with other professional bodies.

The submissions can be viewed on the LSSA website at www.LSSA.org.za.

Focus for 2021

The committee intends to –

- again facilitate participation at the Annual Tax Conference;
- continue to review proposed tax legislation of general import, and make written submissions to National Treasury and other relevant institutions; and
- increase engagement with legal practitioners via newsletters, advisories, etcetera with the view to obtain input on various tax related issues.

Conclusion

As Chairperson, I would like to thank my Deputy Chairperson and committee for all of their input and efforts during the course of the year under review. I would also like to thank Lizette Burger for her efforts, as well as those of her professional assistant, Kris Devan, Nonhlanhla Chanza (Parliamentary Liaison Officer), Ricardo Wyngaard (Senior Legal Official) and Selinah Sekano (Committee Secretary).

Robert Gad
Chairperson





LAW SOCIETY
OF SOUTH AFRICA

Financial report

Annual financial statements for the year ended 31 December 2019

Law Society of South Africa

(Registration number: 021-221-NPO)

Annual Financial Statements for the year ended 31 December 2019

House of Constituents (HoC) Responsibilities and Approval

The HoC is required by the Nonprofit Organisations Act 71 of 1997, to maintain adequate accounting records and is responsible for the content and integrity of the annual financial statements and related financial information included in this report. It is their responsibility to ensure that the annual financial statements fairly present the state of affairs of the organisation as at the end of the financial year and the results of its operations and cash flows for the period that ended, in conformity with the International Financial Reporting Standard for Small and Medium-sized Entities. The external auditors are engaged to express an independent opinion on the annual financial statements.

The annual financial statements are prepared in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities and are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgments and estimates.

The HoC acknowledge that it is ultimately responsible for the system of internal financial control established by the organisation and places considerable importance on maintaining a strong control environment. To enable the HoC to meet these responsibilities, the HoC sets standards for internal control aimed at reducing the risk of error or loss in a cost effective manner. The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures and adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the organisation and all employees are required to maintain the highest ethical standards in ensuring the organisation's business is conducted in a manner that in all reasonable circumstances is above reproach. The focus of risk management in the organisation is on identifying, assessing, managing and monitoring all known forms of risk across the organisation. While operating risk cannot be fully eliminated, the organisation endeavours to minimise it by ensuring that appropriate infrastructure, controls, systems and ethical behaviour are applied and managed within predetermined procedures and constraints.

The HoC is of the opinion, based on the information and explanations given by management, that the system of internal control provides reasonable assurance that the financial records may be relied on for the preparation of the annual financial statements. However, any system of internal financial control can provide only reasonable, and not absolute, assurance against material misstatement or loss.

The HoC has reviewed the organisation's cash flow forecast for the year to 31 December 2020 and, in the light of this review and the current financial position, it is satisfied that the organisation has or has access to adequate resources to continue in operational existence for the foreseeable future.

The external auditors are responsible for independently reviewing and reporting on the organisation's annual financial statements. The annual financial statements have been examined by the organisation's external auditors and their report is presented on page 5 - 6.

The annual financial statements set out on page 7 - 19, which have been prepared on the going concern basis, were approved by the HoC on 24 August 2020 and were signed on its behalf by:

Signed on behalf of the HoC By:



Mr M Notyesi
President

Law Society of South Africa

(Registration number: 021-221-NPO)

Annual Financial Statements for the year ended 31 December 2019

House of Consituents (HoC) Report

The HoC has pleasure in submitting their report on the annual financial statements of Law Society of South Africa for the year ended 31 December 2019.

1. Nature of business

The Law Society of South Africa is the representative, professional body of the attorneys' profession in South Africa. The organisation operates in South Africa

There have been no material changes to the nature of the organisation's operations from the prior year.

2. Review of financial results and activities

The annual financial statements have been prepared in accordance with International Financial Reporting Standards for Small and Medium-sized Entities. The accounting policies have been applied consistently compared to the prior year.

Full details of the financial position, results of operations and cash flows of the organisation are set out in these annual financial statements.

3. HOUSE OF CONSTITUENTS

The HoC members in office at the date of this report are as follows:

HOUSE OF CONSTITUENTS

Mr M Notyesi	President
Ms M Lenyai	Vice-President
Mr J C Janse van Rensburg	Vice-President
Ms D Mabasa	
Mr A Pakade	
Mr M Ponoane	
Ms M Ramagaga	
Mr F Mvundlela	
Mr C Kgotlagmang	
Mr M Ramathe	
Mr S Nzimande	
Mr E Barnard	
Mr D Bekker	
Mr T Joubert	
Ms E le Roux	
Mr R Scott	
Ms J Anthony-Gooden	
Mr P Horn	
Mr D Bennett	
Mr M Gwala	
Ms U Naicker	
Mr K Govender	
Ms E Masipa	
Ms CI Selepe	
Mr S Makangela	
Ms M Le Roux	
Mr S Tshehla	

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House of Consituents (HoC) Report

4. Property, plant and equipment

There was no change in the nature of the property, plant and equipment of the organisation or in the policy regarding their use.

5. Events after the reporting period

During December 2019, there had been an outbreak of the Covid-19 disease in Wuhan, China. The virus has subsequently spread to other parts of the world including South Africa and has caused unprecedented disruptions in the global economy as efforts to contain the spread of the virus have intensified. During March 2020, the President had declared a National lock down in South Africa to ensure that the spread of the virus is somewhat contained.

On March 11, 2020, the World Health Organization officially declared this corona virus outbreak (also referred to as COVID-19) a pandemic. Our organisation has been adversely affected by the corona virus pandemic as the LSSA had to close down for just over a month. We are carefully reviewing all rules, regulations, and orders and responding accordingly.

During 2020 the LSSA planned to establish the provincial Law Societies with the objective of levying and collection of membership fees from the attorneys profession. The adverse effects of the corona virus pandemic in future on related financial impact include the delayed the establishment of the various Provincial Attorneys Associations (whose members will be levied once established) and has resulted in the Law Society of South Africa delaying the levying of provincial members until 2021, which The HoC is aware of.

The HoC is aware that the Law Society of South Africa will initially levy a lower amount as the Law Society of South Africa is a voluntary body and the economic climate is not conducive to attract and or levy members. This will result in a shortfall of approximately R 2 million Rand in 2020. The LSSA has also had in place certain cost saving and cash flow improvement measures during the lock down period such as significant savings on international and local travel and accommodation expenses as the meetings are virtually held.

Legal education activities are funded by the Legal Practice Council (LPC) and the Law Society of South Africa has advised the Legal Practice Council of impact that the pandemic will have on legal education, with an estimated deficit of approximately R1.5 million that will probably need to be funded by the Legal Practice Council and this will therefore have a limited impact on the Law Society of South Africa financial position or cash flows in 2020.

With all the above mentioned, the Law Society of South Africa has enough reserves to carry on with its operation for the future and HOC is busy establishing methods that will enhance the sustainability of the organisation in future periods.

6. Going concern

The HoC believe that the organisation has adequate financial resources to continue in operation for the foreseeable future and accordingly the annual financial statements have been prepared on a going concern basis. The HoC has satisfied itself that the organisation is in a sound financial position and that it has access to sufficient borrowing facilities to meet its foreseeable cash requirements. The HoC is not aware of any new material changes that may adversely impact the organisation. The HoC is also not aware of any material non-compliance with statutory or regulatory requirements or of any pending changes to legislation which may affect the organisation.

INDEPENDENT AUDITOR'S REPORT

To the House of Constituents (HoC) of the Law Society of South Africa

Report on the Audit of the Financial Statements

Opinion

We have audited the financial statements of the Law Society of South Africa set out on pages 7 to 19, which comprise the statement of financial position as at 31 December 2019, and the statement of comprehensive income, statement of changes in equity and statement of cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In our opinion, the financial statements present fairly, in all material respects, the financial position of the Law Society of South Africa as at 31 December 2019, and its financial performance and cash flows for the year then ended in accordance with the Financial Reporting Standard for Small and Medium-sized Entities and the requirements of the Non-profit Organisation Act, 1997 (Act 71 of 1997).

Basis for Opinion

We conducted our audit in accordance with International Standards on Auditing (ISAs). Our responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of our report. We are independent of the organisation in accordance with the sections 290 and 291 of the Independent Regulatory Board for Auditors' *Code of Professional Conduct for Registered Auditors (Revised January 2018)*, parts 1 and 3 of the Independent Regulatory Board for Auditors' *Code of Professional Conduct for Registered Auditors (Revised November 2018)* (together the IRBA Codes) and other independence requirements applicable to performing audits of financial statements in South Africa. We have fulfilled our other ethical responsibilities, as applicable, in accordance with the IRBA Codes and in accordance with other ethical requirements applicable to performing audits in South Africa. The IRBA Codes are consistent with the corresponding sections of the International Ethics Standards Board for Accountants' *Code of Ethics for Professional Accountants* and the International Ethics Standards Board for Accountants' *International Code of Ethics for Professional Accountants (Including International Independence Standards)* respectively. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Other Information

The House of Constituents members are responsible for the other information. The other information comprises the information included in the document titled "Law Society of South Africa Annual Financial Statements for the year ended 31 December 2019", which includes the House of Constituents' Report and the Detailed Income Statement. The other information does not include the financial statements and our auditor's report thereon.

Our opinion on the financial statements does not cover the other information and we do not express an audit opinion or any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Responsibilities of the House of Constituents (HoC) for the Financial Statements

The HoC members are responsible for the preparation and fair presentation of the financial statements in accordance with the Financial Reporting Standard for Small and Medium-sized Entities and the requirements of the Non-profit Organisation Act, 1997 (Act 71 of 1997), and for such internal control as the HoC determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the HoC is responsible for assessing the organisation's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the HoC either intends to liquidate the organisation or to cease operations, or has no realistic alternative but to do so.

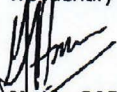
Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with ISAs, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the organisation's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the HoC.
- Conclude on the appropriateness of the HoC's use of the going concern basis of accounting and based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the organisation's ability to continue as a going concern. If we conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the organisation to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

We communicate with the House of Constituents regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.



Nexia SAB&T
Yousuf Hassen
Director
Registered Auditor
24 August 2020
Centurion



Law Society of South Africa

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Annual Financial Statements for the year ended 31 December 2019

Statement of Financial Position as at 31 December 2019

Figures in Rand	Note(s)	2019	2018
Assets			
Non-Current Assets			
Property, plant and equipment	2	8,900,152	8,833,277
Intangible assets	3	29,517	-
		8,929,669	8,833,277
Current Assets			
Trade and other receivables	4	4,917,328	23,419,883
Cash and cash equivalents	5	137,345,171	124,018,688
		142,262,499	147,438,571
Total Assets		151,192,168	156,271,848
Equity and Liabilities			
Equity			
Accumulated Surplus		24,917,986	27,708,807
Liabilities			
Non-Current Liabilities			
Provisions	6	8,207,667	7,442,107
Current Liabilities			
Trade and other payables	7	31,710,550	36,212,349
Financial Assistance	8	2,308,603	2,308,603
Operating lease liability		14,065	233,357
Current tax payable		7,876,149	7,876,149
Special Projects and donations	9	73,470,506	72,066,071
Provisions	6	2,686,642	2,424,405
		118,066,515	121,120,934
Total Liabilities		126,274,182	128,563,041
Total Equity and Liabilities		151,192,168	156,271,848

Law Society of South Africa

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Annual Financial Statements for the year ended 31 December 2019

Statement of Comprehensive Income

Figures in Rand	Note(s)	2019	2018
Revenue	10	41,869,417	46,709,151
Other income	11	59,938,015	79,972,469
Operating expenses		(113,308,780)	(131,284,306)
Operating deficit	12	(11,501,348)	(4,602,686)
Investment revenue	13	8,718,074	5,191,663
Finance costs	14	(7,547)	(6,711)
(Deficit) / Surplus for the year		(2,790,821)	582,266
Other comprehensive income		-	-
Total comprehensive (deficit) / surplus for the year		(2,790,821)	582,266

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Annual Financial Statements for the year ended 31 December 2019

Statement of Changes in Equity

Figures in Rand	Accumulated Surplus	Total equity
Balance at 01 January 2018	27,126,541	27,126,541
Surplus for the year	582,266	582,266
Other comprehensive income	-	-
Total comprehensive income for the year	582,266	582,266
Balance at 01 January 2019	27,708,807	27,708,807
Deficit for the year	(2,790,821)	(2,790,821)
Other comprehensive income	-	-
Total comprehensive loss for the year	(2,790,821)	(2,790,821)
Balance at 31 December 2019	24,917,986	24,917,986

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Annual Financial Statements for the year ended 31 December 2019

Statement of Cash Flows

Figures in Rand	Note(s)	2019	2018
Cash flows from operating activities			
Cash generated from operations	16	3,686,784	51,706,757
Interest income		8,718,074	5,191,663
Finance costs		(7,547)	(6,711)
Tax received		-	157,015
Net cash from operating activities		12,397,311	57,048,724
Cash flows from investing activities			
Purchase of property, plant and equipment	2	(88,177)	(167,175)
Sale of property, plant and equipment	2	42	236
Purchase of other intangible assets	3	(10,490)	-
Net cash from investing activities		(98,625)	(166,939)
Cash flows from financing activities			
Movement in provisions		1,027,797	(770,647)
Total cash movement for the year		13,326,483	56,111,138
Cash at the beginning of the year		124,018,688	67,907,550
Total cash at end of the year	5	137,345,171	124,018,688

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Annual Financial Statements for the year ended 31 December 2019

Accounting Policies

1. Basis of preparation and summary of significant accounting policies

The annual financial statements have been prepared on a going concern basis in accordance with the International Financial Reporting Standard for Small and Medium-sized Entities. The annual financial statements have been prepared on the historical cost basis, except for the cash flow statement which is prepared on a cash basis of accounting, and incorporate the principal accounting policies set out below. They are presented in South African Rand.

These accounting policies are consistent with the previous period.

1.1 Property, plant and equipment

Property, plant and equipment are tangible assets which the organisation holds for its own use or for rental to others and which are expected to be used for more than one period.

Property, plant and equipment is initially measured at cost.

Cost includes costs incurred initially to acquire or construct an item of property, plant and equipment and costs incurred subsequently to add to, replace part of, or service it. If a replacement cost is recognised in the carrying amount of an item of property, plant and equipment, the carrying amount of the replaced part is derecognised.

Property, plant and equipment is subsequently stated at cost less accumulated depreciation and any accumulated impairment losses, except for land which is stated at cost less any accumulated impairment losses.

Depreciation of an asset commences when the asset is available for use as intended by management. Depreciation is charged to write off the asset's carrying amount over its estimated useful life to its estimated residual value, using a method that best reflects the pattern in which the asset's economic benefits are consumed by the organisation.

The useful lives of items of property, plant and equipment have been assessed as follows:

Item	Depreciation method	Average useful life
Land		Indefinite
Buildings	Straight line	50 years
Furniture and equipment	Straight line	6 years
Computer Equipments	Straight line	3 years

When indicators are present that the useful lives and residual values of items of property, plant and equipment have changed since the most recent annual reporting date, they are reassessed. Any changes are accounted for prospectively as a change in accounting estimate.

Impairment tests are performed on property, plant and equipment when there is an indicator that they may be impaired. When the carrying amount of an item of property, plant and equipment is assessed to be higher than the estimated recoverable amount, an impairment loss is recognised immediately in surplus or deficit to bring the carrying amount in line with the recoverable amount.

An item of property, plant and equipment is derecognised upon disposal or when no future economic benefits are expected from its continued use or disposal. Any gain or loss arising from the derecognition of an item of property, plant and equipment, determined as the difference between the net disposal proceeds, if any, and the carrying amount of the item, is included in surplus or deficit when the item is derecognised.

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Annual Financial Statements for the year ended 31 December 2019

Accounting Policies

1.2 Intangible assets

Intangible assets are initially recognised at cost and subsequently at cost less accumulated amortisation and accumulated impairment losses.

Amortisation is provided to write down the intangible assets, on a straight-line basis, as follows:

Item	Depreciation method	Average useful life
Computer software	Straight line	3 years

The residual value, amortisation period and amortisation method for intangible assets are reassessed when there is an indication that there is a change from the previous estimate.

1.3 Financial instruments

Initial measurement

Financial instruments are initially measured at the transaction price (including transaction costs except in the initial measurement of financial assets and liabilities that are measured at fair value through surplus or deficit) unless the arrangement constitutes, in effect, a financing transaction in which case it is measured at the present value of the future payments discounted at a market rate of interest for a similar debt instrument.

Cash and cash equivalents

Cash and cash equivalents comprise cash on hand and demand deposit and short term highly liquid investments that are readily convertible to a known amount of cash and are subjected to an insignificant risk of change in value. These are initially measured at fair value and subsequently recorded at amortised cost

Other financial liabilities

Commitments to receive a loan are measured at cost less impairment.

Equity instruments that are not publicly traded and whose fair value cannot otherwise be measured reliably without undue cost or effort are measured at cost less impairment

Trade and other Payable

Debt instruments are defined in the standard are subsequently measured at amortised cost using effective interest method. Debt instruments which are classified as current assets or current liabilities are measured at the undiscounted amount of cash expected to be received or paid, unless the arrangement effectively constitutes a financing transaction.

At the end of each reporting date the carrying amounts of assets held in this category are reviewed to determine whether there is any objective evidence of impairment if so, an impairment deficit is recognised.

Legal Practice Council and the Legal Practitioners Fidelity Fund

The Legal Practice Council and the Legal Practitioners Fidelity Fund is an obligation on the basis of normal credit terms and do not bear interest. The liability is governed by an agreement between the parties.

Special projects and donations

Special projects are obligations not within the basis of normal business of the organisation. The creditor does not bear interest.

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Annual Financial Statements for the year ended 31 December 2019

Accounting Policies

1.4 Leases

A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidental to ownership to the lessee. All other leases are operating leases.

Operating leases – lessee

Operating lease payments are recognised as an expense on a straight-line basis over the lease term unless:

- another systematic basis is representative of the time pattern of the benefit from the leased asset, even if the payments are not on that basis, or
- the payments are structured to increase in line with expected general inflation (based on published indexes or statistics) to compensate for the lessor's expected inflationary cost increases.

Any contingent rents are expensed in the period they are incurred.

1.5 Impairment of assets

The organisation assesses at each reporting date whether there is any indication that property, plant and equipment or intangible assets may be impaired.

If there is any such indication, the recoverable amount of any affected asset (or group of related assets) is estimated and compared with its carrying amount. If the estimated recoverable amount is lower, the carrying amount is reduced to its estimated recoverable amount, and an impairment loss is recognised immediately as surplus or deficit.

If an impairment loss subsequently reverses, the carrying amount of the asset (or group of related assets) is increased to the revised estimate of its recoverable amount, but not in excess of the amount that would have been determined had no impairment loss been recognised for the asset (or group of assets) in prior years. A reversal of impairment is recognised immediately in surplus or deficit.

1.6 Employee benefits

Short-term employee benefits

The cost of short-term employee benefits, (those payable within 12 months after the service is rendered, such as leave pay and sick leave, bonuses, and non-monetary benefits such as medical care), are recognised in the period in which the service is rendered and are not discounted.

1.7 Provisions and contingencies

Provisions are recognised when the organisation has an obligation at the reporting date as a result of a past event; it is probable that the organisation will be required to transfer economic benefits in settlement; and the amount of the obligation can be estimated reliably.

Provisions are measured at the present value of the amount expected to be required to settle the obligation using a pre-tax rate that reflects current market assessments of the time value of money and the risks specific to the obligation. The increase in the provision due to the passage of time is recognised as interest expense.

Provisions are not recognised for future operating losses.

1.8 Revenue

Revenue is recognised to the extent that the organisation has transferred the significant risks and rewards of ownership of goods to the buyer, or has rendered services under an agreement provided the amount of revenue can be measured reliably and it is probable that economic benefits associated with the transaction will flow to the organisation. Revenue is measured at the fair value of the consideration received or receivable, excluding sales taxes and discounts.

Interest is recognised, in surplus or deficit, using the effective interest rate method.

1.9 Borrowing costs

Borrowing costs are recognised as an expense in the period in which they are incurred.

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Annual Financial Statements for the year ended 31 December 2019

Notes to the Annual Financial Statements

Figures in Rand

2019

2018

2. Property, plant and equipment

	2019			2018		
	Cost or revaluation	Accumulated depreciation	Carrying value	Cost or revaluation	Accumulated depreciation	Carrying value
Land	1,327,560	-	1,327,560	1,327,560	-	1,327,560
Buildings	7,872,440	(1,256,571)	6,615,869	7,872,440	(1,099,122)	6,773,318
Furniture and fixtures	1,783,279	(1,565,176)	218,103	1,793,987	(1,624,310)	169,677
Computer equipment	4,045,481	(3,306,861)	738,620	5,359,888	(4,797,166)	562,722
Total	15,028,760	(6,128,608)	8,900,152	16,353,875	(7,520,598)	8,833,277

Reconciliation of property, plant and equipment - 2019

	Opening balance	Additions	Disposals	Depreciation	Closing balance
Land	1,327,560	-	-	-	1,327,560
Buildings	6,773,318	-	-	(157,449)	6,615,869
Furniture and fixtures	169,677	21,682	(8)	26,752	218,103
Computer equipment	562,722	66,495	(34)	109,437	738,620
	8,833,277	88,177	(42)	(21,260)	8,900,152

Reconciliation of property, plant and equipment - 2018

	Opening balance	Additions	Disposals	Depreciation	Closing balance
Land	1,327,560	-	-	-	1,327,560
Buildings	6,930,767	-	-	(157,449)	6,773,318
Furniture and fixtures	299,918	16,442	(9)	(146,674)	169,677
Computer equipment	1,188,150	150,733	(227)	(775,934)	562,722
	9,746,395	167,175	(236)	(1,080,057)	8,833,277

Details of properties

The land and building situated at 304 Brooks Street, Menlo Park was revalued at 31 December 2019 at R 8,500,000 by an independent valuator, Andre Zybrands (Member of SA Institute of Valuers) using capitalisation of potential net income method.

3. Intangible assets

	2019			2018		
	Cost	Accumulated amortisation	Carrying value	Cost	Accumulated amortisation	Carrying value
Computer software	207,869	(178,352)	29,517	197,379	(197,379)	-

Reconciliation of intangible assets - 2019

	Opening balance	Additions	Amortisation	Total
Computer software	-	10,490	19,027	29,517

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Notes to the Annual Financial Statements

Figures in Rand	2019	2018
4. Trade and other receivables		
Trade receivables	3,433,880	4,618,517
Provision for doubtful debts	(3,040,981)	(3,722,060)
Prepayments	855,916	1,388,125
Deposits	191,547	27,967
VAT	-	641,265
Legal Practitioners Fidelity Fund	-	13,728,747
Other receivables	3,476,966	6,737,322
	4,917,328	23,419,883

Trade and other receivables pledged as security

Trade and other receivables have not been pledged as security for any financial obligation.

5. Cash and cash equivalents

Cash and cash equivalents consist of:

Cash on hand	17,215	16,823
Bank balances	137,327,956	124,001,865
	137,345,171	124,018,688

In order to maximise interest received, funds are held in call accounts and linked money market account and are only transferred to the current accounts when payments are presented to the bank, in terms of a sweeping arrangement with First National Bank.

6. Provisions

Reconciliation of provisions - 2019

	Opening Balance	Additions	Utilised during the year	Total
SADC Provision	1,000,000	-	(1,000,000)	-
Seminars	520,000	-	-	520,000
Schools projects	904,406	1,337,250	(75,013)	2,166,643
Restructuring	7,442,106	765,560	-	8,207,666
	9,866,512	2,102,810	(1,075,013)	10,894,309

Reconciliation of provisions - 2018

	Opening Balance	Additions	Utilised during the year	Total
SADC Provision	1,000,000	-	-	1,000,000
Seminars	520,000	-	-	520,000
Schools projects	1,832,151	(927,745)	-	904,406
Restructuring	7,285,008	157,098	-	7,442,106
	10,637,159	(770,647)	-	9,866,512

7. Trade and other payables

Trade payables	18,326,646	22,146,893
Revenue received in advance	11,418,924	11,140,914
VAT	24,099	-
Accrued leave pay	1,940,881	2,924,542
	31,710,550	36,212,349

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Annual Financial Statements for the year ended 31 December 2019

Notes to the Annual Financial Statements

Figures in Rand	2019	2018
8. Financial Assistance		
Financial Assistance		
Financial Assistance brought forward	2,308,603	2,308,603
Terms and conditions		
Current liabilities		
At amortised cost	2,308,603	2,308,603

Financial assistance

In prior years the Legal Practitioners Fidelity Fund (AFF) provided funds to the Law Society of South Africa to enable it to provide loans to law graduates for the payments of fees for the Society's PVT Schools. These loans are not included in trade receivables and other receivables fair values of the financial liabilities were determined as follows:

As at 31 December 2019 the loans unpaid by law graduates which are subject to impairment amounted to	2,867,137	2,853,000
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9. Special Projects and donations

Reconciliation of special projects and donations - 2019

	Opening balance	Additions	Utilised during the year	Total
LEAD project account	13,234,890	-	-	13,234,890
Schools	28,658	-	-	28,658
Legal Practitioners Fidelity Fund	5,478,379	-	-	5,478,379
Provincial Law Societies	50,000,000	-	-	50,000,000
SADCLA Project	373,477	138,900	(210,823)	301,554
SASSETA project	260,543	1,159,291	-	1,419,834
BRICS Project	-	689,346	(378,996)	310,350
Sponsorships	68,276	7,740	-	76,016
Competition Commission	327,900	-	-	327,900
Practical Vocational Training	2,293,948	216,118	(217,141)	2,292,925
	72,066,071	2,211,395	(806,960)	73,470,506

Reconciliation of special projects and donations - 2018

	Opening balance	Additions	Utilised during the year	Total
LEAD project account	10,340,360	4,258,207	(1,363,677)	13,234,890
Schools	1,487,916	-	(1,459,258)	28,658
Attorneys Fidelity Fund	13,893,607	65,608,000	(74,023,228)	5,478,379
Provincial Law Societies	-	50,000,000	-	50,000,000
SADCLA Project	612,048	118,784	(357,355)	373,477
SASSETA projects	(242,367)	1,022,411	(519,501)	260,543
Sponsorships	67,899	377	-	68,276
Competition Commission	102,899	225,001	-	327,900
Legal Practice Act (LPA)	1,893,704	-	(1,893,704)	-
Provincial Associations & LPA	-	2,298,846	(4,898)	2,293,948
	28,156,066	123,531,626	(79,621,621)	72,066,071

Law Society of South Africa

(Registration number: 021-221-NPO)

Annual Financial Statements for the year ended 31 December 2019

Notes to the Annual Financial Statements

Figures in Rand	2019	2018
10. Revenue - Members		
Capitation levies	-	11,127,234
Advertising - De Rebus	2,286,663	3,884,838
De Rebus subscriptions	167,336	105,284
Diplomas and certificates	1,505,447	1,125,738
Publication and other	67,374	97,132
PVT Course fees	6,834,926	7,035,544
PVT School fees	13,220,919	11,026,010
Projects	8,505,539	3,611,545
Bad debts recovered	368,573	264,165
Seminars	4,947,455	4,981,458
Financial assistance recovered	223,103	85,045
Practice Management	3,742,082	3,365,158
	41,869,417	46,709,151
11. Other income		
Legal Practice Council (2018: Attorneys Fidelity Fund)	55,933,001	74,023,228
Selling of documentation	1,160,255	2,563,125
Sundry Income	2,844,759	3,386,116
	59,938,015	79,972,469
12. Operating deficit		
Operating deficit for the year is stated after accounting for the following:		
Amortisation on intangible assets	(19,027)	15
Depreciation on property, plant and equipment	21,260	1,080,057
Employee costs	40,457,626	40,145,575
13. Investment revenue		
Interest revenue		
Other interest	8,718,074	5,191,663
14. Finance costs		
Bank	7,547	6,711
15. Auditor's remuneration		
Fees	331,059	412,296

Law Society of South Africa

(Registration number: 021-221-NPO)

Annual Financial Statements for the year ended 31 December 2019

Notes to the Annual Financial Statements

Figures in Rand

2019

2018

16. Cash generated from operations

(Deficit) surplus before taxation	(2,790,821)	582,266
Adjustments for:		
Depreciation and amortisation	2,233	1,080,072
Interest received	(8,718,074)	(5,191,663)
Finance costs	7,547	6,711
Movements in operating lease assets and accruals	(219,292)	77,744
Movements in special projects and donations	1,404,435	45,397,921
Changes in working capital:		
Trade and other receivables	18,377,039	2,402,380
Trade and other payables	(4,376,283)	7,351,326
	3,686,784	51,706,757

17. Commitments

Operating leases – as lessee (expense)

Minimum lease payments due

- within one year	2,362,153	1,451,248
- in second to fifth year inclusive	530,430	13,377,681
	2,892,583	14,828,929

Operating lease payments represent rentals payable by the organisation for certain of its office properties. Leases are negotiated for an average term of two years and rentals are fixed for an average of two years. No contingent rent is payable.

18. Guarantees

The Society have provided the following Guarantee

An amount of R200,000 (2018:R200,000) to the South African Post Office in respect of bulk mailings.

19. Related parties

Related party balances and transactions with key management personnel and council members

Related party balances

Amounts included in Trade receivable (Trade Payable) regarding related parties

Trade Payables	(4,210,982)	(3,070,809)
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Related party transactions

Lecturing service, Committee and Council services rendered by members of the society or their firms or constituents' member payments	7,464,281	9,304,226
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Compensation paid to key management

Short-term employee benefits	13,989,325	12,324,653
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Law Society of South Africa

(Registration number: 021-221-NPO)

Annual Financial Statements for the year ended 31 December 2019

Notes to the Annual Financial Statements

Figures in Rand	2019	2018
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20. Comparative figures

Certain comparative figures have been reclassified.

21. Impact of COVID-19

During December 2019, there had been an outbreak of the Covid-19 disease in Wuhan, China. The virus has subsequently spread to other parts of the world including South Africa and has caused unprecedented disruptions in the global economy as efforts to contain the spread of the virus have intensified. During March 2020, the President had declared a National lock down in South Africa to ensure that the spread of the virus is somewhat contained.

On March 11, 2020, the World Health Organization officially declared this corona virus outbreak (also referred to as COVID-19) a pandemic. Our organisation has been adversely affected by the corona virus pandemic as the LSSA had to close down for just over a month. We are carefully reviewing all rules, regulations, and orders and responding accordingly.

During 2020 the LSSA planned to establish the provincial Law Societies with the objective of levying and collection of membership fees from the attorneys profession. The adverse effects of the corona virus pandemic in future on related financial impact include the delayed the establishment of the various Provincial Attorneys Associations (whose members will be levied once established) and has resulted in the Law Society of South Africa delaying the levying of provincial members until 2021, which The HoC is aware of.

The HoC is aware that the Law Society of South Africa will initially levy a lower amount as the Law Society of South Africa is a voluntary body and the economic climate is not conducive to attract and or levy members. This will result in a shortfall of approximately R 2 million Rand in 2020.

The LSSA has also had in place, certain cost saving and cash flow improvement measures during the lock down period such as significant savings on international and local travel and accommodation expenses as the meetings are virtually held.

Legal education activities are funded by the Legal Practice Council (LPC) and the Law Society of South Africa has advised the Legal Practice Council of impact that the pandemic will have on legal education, with an estimated deficit of approximately R1.5 million that will probably need to be funded by the Legal Practice Council and this will therefore have a limited impact on the Law Society of South Africa financial position or cash flows in 2020.

With all the above mentioned, the Law Society of South Africa has enough reserves to carry on with its operation for the future and HOC is busy establishing methods that will enhance the sustainability of the organisation in future periods.

22. Going concern

The annual financial statements have been prepared on the basis of accounting policies applicable to a going concern. This basis presumes that funds will be available to finance future operations and that the realisation of assets and settlement of liabilities, contingent obligations and commitments will occur in the ordinary course of business.

Law Society of South Africa

(Registration number: 021-221-NPO)

Annual Financial Statements for the year ended 31 December 2019

Detailed Income Statement

Figures in Rand	Note(s)	2019	2018
Revenue			
Capitation levies		-	11,127,234
Advertising - De Rebus		2,286,663	3,884,838
De Rebus subscription		167,336	105,284
Diplomas and certificates		1,505,447	1,125,738
Publication and other		67,374	97,132
Seminars		4,947,455	4,981,458
PVT Course fees		6,834,926	7,035,544
PVT School fees		13,220,919	11,026,010
Financial assistance recovered		223,103	85,045
Practice management		3,742,082	3,365,158
Projects		8,505,539	3,611,545
Bad debts recovered		368,573	264,165
	10	41,869,417	46,709,151
Other income			
Legal Practice Council (2018: Attorneys Fidelity Fund)		55,933,001	74,023,228
Selling of documentation		1,160,255	2,563,125
Sundry income		2,844,759	3,386,116
		59,938,015	79,972,469
Expenses (Refer to page 21)		(113,308,780)	(131,284,306)
Operating deficit	12	(11,501,348)	(4,602,686)
Investment income	14	8,718,074	5,191,663
Finance costs	14	(7,547)	(6,711)
		8,710,527	5,184,952
(Deficit) surplus for the year		(2,790,821)	582,266

Law Society of South Africa

(Registration number: 021-221-NPO)

Annual Financial Statements for the year ended 31 December 2019

Detailed Income Statement

Figures in Rand	Note(s)	2019	2018
Operating expenses			
Consulting and professional fees - Accounting		(14,500)	(167,429)
Administration and management fees		(11,630,154)	(12,690,034)
Advertising		(443,195)	(545,935)
Auditors remuneration - External auditors	15	(331,059)	(412,296)
Bad debts		586,368	(1,130,340)
Commission paid - De Rebus		(353,170)	(349,386)
Committee LEAD		(286,640)	(345,207)
Commission paid - De Rebus		(195,133)	(285,583)
Committees - LSSA		(2,446,439)	(2,242,315)
Extraneous Expenses - LSSA		(2,627,382)	(3,810,126)
Other publication cost - De Rebus		(678,992)	(570,777)
Depreciation		(2,233)	(1,080,072)
Donations		(20,000)	-
Employee costs		(40,457,626)	(40,145,575)
Correspondence - Courses		(371,393)	(387,216)
E - learning		(725,794)	(1,250,224)
Project division		(4,974,074)	(4,725,494)
Meetings - LEAD		(113,831)	(218,720)
Financial assistance LEAD		(1,613,670)	(2,539,495)
Diplomas and certificates LEAD		(266,947)	(47,602)
Governance LSSA		(4,453,377)	(8,875,131)
PVT Schools		(22,749,724)	(23,138,392)
Examinations		(2,598,332)	(1,136,823)
PVT Course material and production		(1,216,285)	(2,041,785)
De Rebus Postage		(238,656)	(2,324,059)
De Rebus magazine printing		(415,674)	(2,859,996)
General activities - LEAD		(1,074,529)	(806,669)
Seminars		(2,752,177)	(3,813,385)
PVT Courses		(7,308,816)	(7,997,171)
Training Other		(3,535,346)	(5,347,069)
		(113,308,780)	(131,284,306)

Annual financial report for the year ended – 31 December 2020

The audited financial statements (AFS), is completed after the annual report; it is available as a separate annexure.

The Audit and Risk Committee (ARC) is responsible for implementing and reviewing finance matters, remuneration, and risk management.

The following extract from the LSSA Corporate governance policy details some of the ARC's mandate and responsibilities.

- The ARC makes recommendations and or advise the House of Constituents (HoC) on general finance matters referred to the committee.
- The ARC oversees integrated financial reporting, subject to limitations defined by the HoC.
- The ARC reviews the integrated financial statements and reports, considering all factors and risks that may impact the integrated report's integrity.
- The ARC chairperson issues a statement each year on whether the financial statements and other financial information is an accurate and fair view of the financial position of the LSSA, in respect of its assets and liabilities, including the results of the operations and cash flows for the year then ended.
- The ARC provides detailed reports on its work results, including verification that the activities align to best practice benchmark standards applicable to it.
- The external auditors report directly to the Internal Audit Subcommittee (IAS) and cannot perform any advisory work, thus impacting their independence.
- The ARC evaluates the finance function's efficiency and effectiveness annually and discloses this in the integrated annual finance report.
- The IAS reports on the LSSA's internal controls system's efficacy via the ARC.
- The ARC is responsible for overseeing the internal audit activities, subject to the terms of reference of the internal audit subcommittee (IAS).
- The ARC (including delegated functions to subcommittees) has overall oversight of financial reporting, financial risks and internal financial controls, and fraud and ICT risks related to financial reporting.

Meetings

ARC: 5	IAS: 4	Budget: 2	Remco: 1
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Internal Audit

Due to the *sui generis* nature of the LSSA, internal audit is under the oversight, evaluation, review, and implementation of the IAS, with direct reporting to ARC.

Risk management

The IAS considers risk management with recommendations to ARC for analysis and review.

The ARC tables recommendations to the LSSA HoC and operational committees, the HoC retains overall responsibility for risk management.

The IAS considers the LSSA exposure to risks and their management and control, particularly the primary risks of achieving strategic objectives.

These include financial sustainability, operational risks, strategy and implementation, and reputational risks.

Operational risks include risks from inadequate or failed processes or systems, staff, and management performance.

The risk process is to analyse and manage risks independently, identify, assess, monitor, recommend and report on a consolidated basis of all risks across the LSSA.

The IAS aligns the risk process to changing economic conditions and evolving standards and practice. It adapts them on an on-going basis as these develop.

Risk tolerance

The ARC recommends the risk tolerance level and set prudent boundaries for the risks arising from the operations and business strategy. The HoC is responsible for ensuring the risk profile aligns with the business strategy and stakeholders' expectations.

Critical Risk

Financial sustainability of the LSSA is a critical risk, and a process started for the restructure and the repurposing of the LSSA to achieve its mandate.

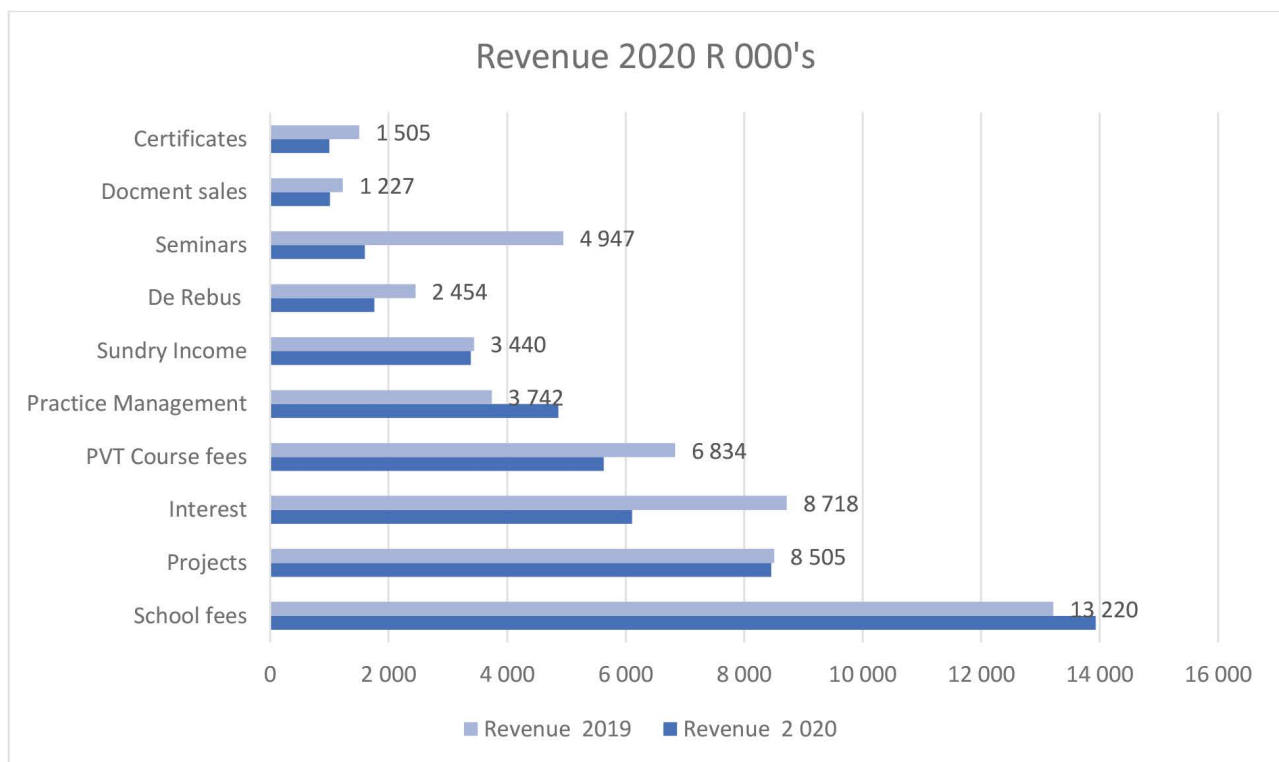
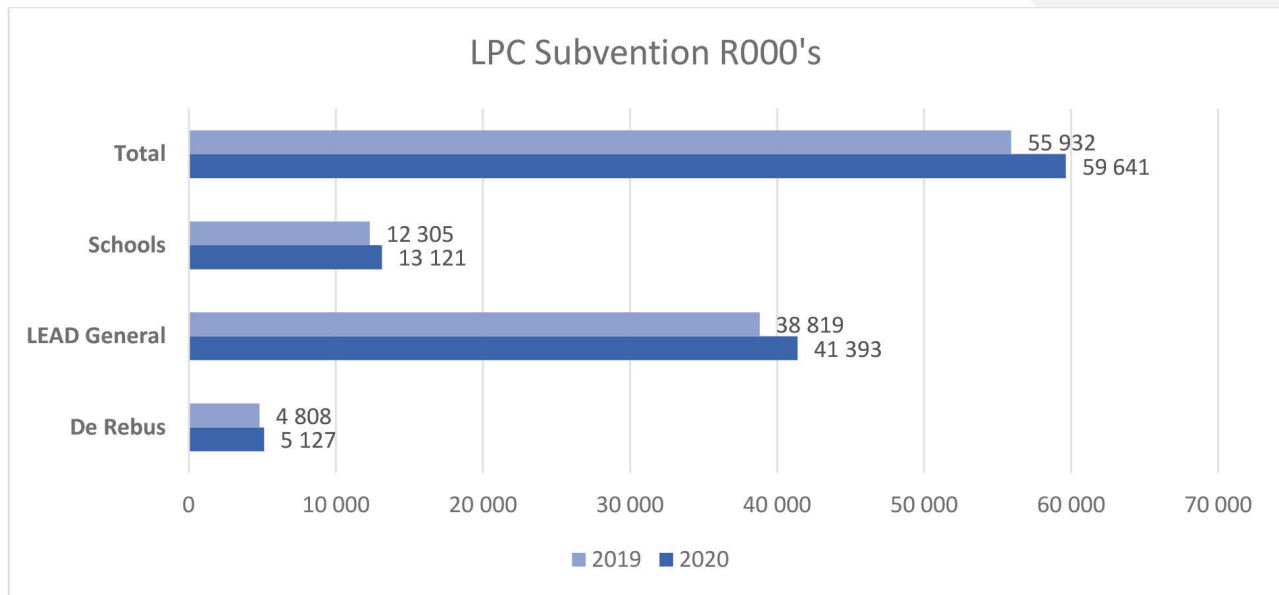
General

Key responsibilities for risk management:

- The HoC assumes responsibility for risk management governance by ensuring the framework is in place and effectively monitored; this is achieved via delegation of the responsibilities to the following committees, with the HoC accountable for all risks.
- The Executive Committee (Exco) is responsible for communication and ancillary risks.
- The Human Resources Committee is responsible for human capital risks.
- The Editorial Committee is responsible for *De Rebus* operational risks.
- The Legal Education Committee is responsible for Legal Education and Development (LEAD) Department's risks
- Financial and fraud risks are monitored by the Internal Audit subcommittee and reported via the Audit and Risk Committee to Exco and the HoC.
- Under the Acting Executive Director's responsibility, the management team is responsible for designing, implementing, and monitoring the risk management plan via strategic risk analysis and action.

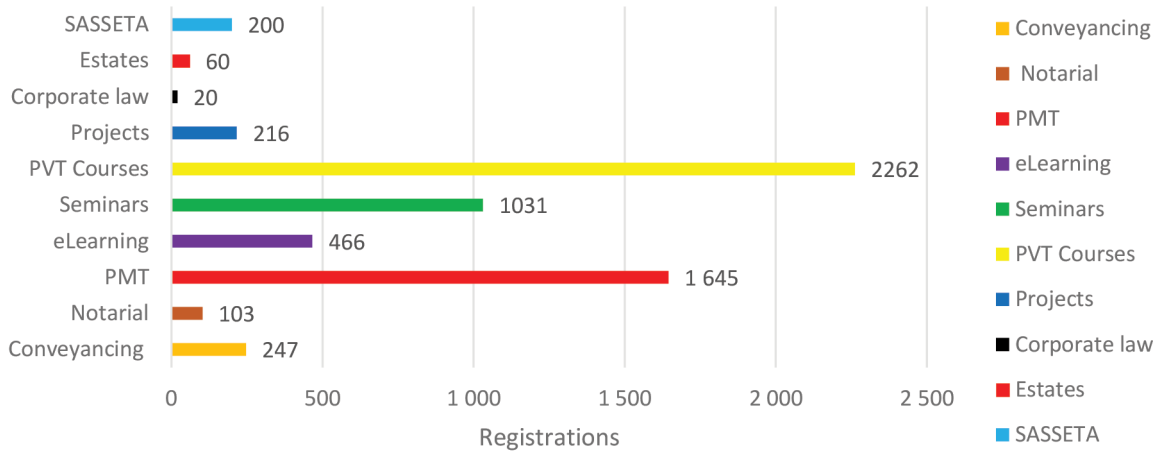
SUMMARY MACRO FINANCIAL INFORMATION AND STATISTICS¹

The LSSA is appreciative of the financial support via the LPC.

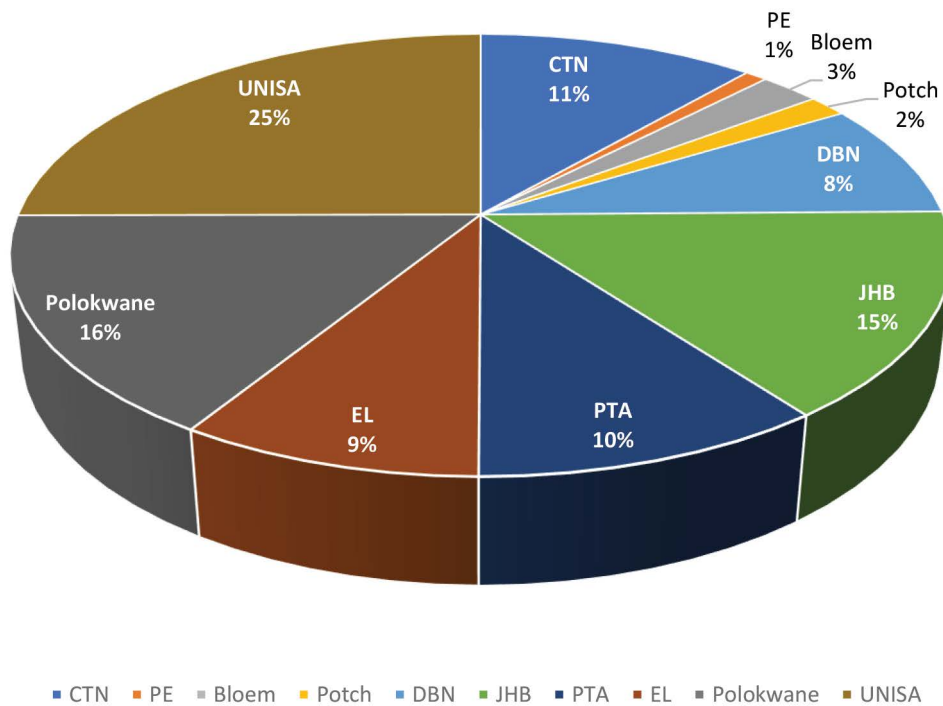


¹ The financial information is not the final audited figures, however management is of the view that any possible changes will not be material.

LEAD GENERAL STATS - Dec 2020 Total 6 250 (2019: 7 774)



PVT Schools 2020: 1, 752 (2019 Total: 1,862)



TOTAL ATTENDANCE LEAD GENERAL 8 002 (2019: 9 636)1

Notes

This image shows a single sheet of white paper with horizontal blue ruling lines. The paper is oriented vertically and features three distinct folded corners, each indicated by a soft gray shadow. These folds are located at the top-right corner, the bottom-left corner, and the bottom-right corner. The ruling lines are evenly spaced and extend across the width of the page. There is no text or other markings on the paper.



