



Date: 15 August 2023

The Honourable Minister L S Chikunga  
Minister of Transport  
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Dear Minister Chikunga

**RE: FOLLOW UP ON MEMORANDUM "CRISIS AT THE ROAD ACCIDENT FUND"**

1. We refer to our urgent memorandum dated 20 July 2023 ("the memorandum") dispatched by email on 21 July 2023.

2. We have noted with grave concern that there has been no reply from your office to the aforesaid correspondence to date, more than 3 weeks after the dispatch of said memorandum.
3. Since the publication of the memorandum, on 27 July 2023, the Honourable Minister of Transport published a list of 70 names of approved nominees for appointment to the Board of the Road Accident Fund following an invitation for nominations with a deadline for submissions being 26 June 2023. This move forward is welcomed and hopefully, as indicated by the Honourable Deputy Minister of Transport in a recent television interview, the process will be finalised during the current month, whereafter we hope that the new Board will entertain our request for a meeting to address the concerns articulated in our memorandum.
4. Recent public statements in media interviews and briefings following the dissemination of the memorandum indicate that the current management of the Road Accident Fund is, regrettably, not willing to meet with us with a view to finding solutions to the problems articulated in the memorandum.
5. The situation as highlighted in the memorandum is deteriorating and continues to pose a great risk to the fiscus and the constitutional rights of road accident victims.
6. We therefore appeal to you to make time available to meet with us on an urgent basis in the hopes that an intervention on your part will alleviate the plight of:
  - 6.1. Thousands of claimants whose claims are trapped in an overwhelmed court system, countrywide, in many instances leaving families destitute and/or unable to care for seriously injured road accident victims;
  - 6.2. Thousands of claimants whose claims are being rejected every day for non-compliance with Board Notice 271, in total disregard of the well-established and trite principle of substantial compliance, even though its validity has been challenged successfully more than once and there are at least two review applications pending to set it aside. There are many claimants who claim direct, without the assistance of a lawyer. They will have no hope of complying with the rigid requirements of Board Notice 271 and many will face the possibility that their claims will prescribe;

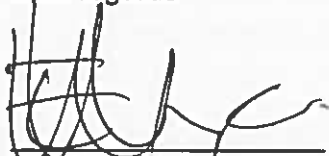
- 6.3. Many hundreds of foreign nationals whose claims are being rejected and who are being refused payment due to them in terms of settlements and court orders because they are deemed "illegal" if they cannot produce documentary proof that they were in the country and had a visa at the time of accident and the time of payment. This is in terms of an internal management directive issued in June 2022 and perpetuated in Board Notice 271;
  - 6.4. Many hundreds of claimants who are owed settlements that are outstanding longer than 180 days, who will eventually have to resort to issuing writs with significant additional unnecessary and wasteful expenditure and disruption of the Road Accident Fund's working environment;
  - 6.5. Many hundreds of medical aid members whose cover is being depleted due to the refusal of the Road Accident Fund to accept their claims or even to pay where they are already in possession of a court order in their favour, leaving them without access to their usual healthcare practitioners or treatment; and
  - 6.6. Thousands of claimants whose claims are just not being administered, leaving them no alternative but to institute action and to join the queue of those awaiting court dates.
7. Because of the ongoing dispute with the Auditor General on the preparation of its accounts, the last published financial statements of the Road Accident Fund are for the 2021 financial year ending 31 March 2021. In that report it was recorded that 51 306 new personal claims were registered and 105 007 supplier claims (from hospitals and other service providers). However, these figures are probably distorted by COVID and the previous years' figures for personal claims of 102 086 in 2020 and 103 423 in 2019 are probably a better indication of the new claims for the missing financial years 2022 and 2023.
  8. The CEO has stated that following the implementation of Board Notice 271, 97% of claims tendered for lodgment have been rejected. The documents are returned to whomever lodged them (sometimes by courier with the concomitant costs) and the claims are not registered in the Road Accident Fund's systems. Assuming 100 000 personal claims were tendered for lodgment in the year following implementation of Board Notice 271 in July 2022 this means that as many as 97 000 potentially

substantive compliant claims could be missing from the Road Accident Fund's records for this period.

However these claims, despite being rejected, still exist. Because the records of the Road Accident Fund do not reflect the rejected claims, not only their claims records but also their statistics and financial records for this period are at risk of being inaccurate, with obvious dire consequences.

9. Most, if not all, claims lodged by lawyers that are rejected will nevertheless be prosecuted by them by way of court cases issued out of the appropriate courts, further compounding already desperate situations in many courts.
10. We have suggested some solutions in our memorandum, but others will no doubt be developed through constructive consultation. For example, consideration could be given to an immediate suspension of the implementation of Board Notice 271, by agreement and without prejudice, pending the outcome of the various court proceedings. This will go a long way to putting the interests of claimants first and will give effect to the purpose of the Road Accident Fund Act as it currently stands.
11. We look forward to your response and indication of your availability to meet with us/afford us an audience.

Kind regards



**NTLAI EUNICE MASIPA**

Duly mandated to sign this letter on behalf of-  
The Black Lawyers Association  
The Gauteng Attorneys Association  
The Johannesburg Attorneys Association  
The Law Society of South Africa  
The Pretoria Attorneys Association  
The National Association of Democratic Lawyers  
The Personal Injury Plaintiff Lawyers Association  
The South African Women Lawyers Association  
The West Rand Legal Practitioners Association  
The South African Medico-Legal Association