

GAUTENG EFFICIENCY ENHANCEMENT COMMITTEE MEETING - PRETORIA

MINUTES – 07TH COMMITTEE MEETING

DATE: 07th day of June 2023

TIME: 14h00 – 16h38

LOCATION: Pretoria High Court – Judges' Chambers

CHAIR (OR PRESIDING MEMBER): Deputy Judge President Ledwaba

COMMITTEE MEMBERS PRESENT

NAME, SURNAME	E-MAIL ADDRESS	Organisation
Casper Badenhorst (CB)	casperbadenhorst@gkchambers.co.za	Pretoria Bar
Conrad van der Vyver (CvdV)	conrad@vnattorneys.net	Pretoria Attorneys Association
Daniel Mogagabe (DM)	dpmogagabe@gmail.com	Pretoria Society of Advocates
Deputy Judge President Ledwaba (DJP)	Phago.ledwaba@gmail.com	Pretoria High Court Deputy Judge President
Esther Pillay-Naidoo (EPN)	esthern@lpc.org.za	Legal Practice Council
Gerhard Naudè (GN)	gerhard@lawcircle.co.za	Pretoria Society of Advocates
Gifty Thabethe	GThabethe@jics.gov.za	JICS
Judge President Mlambo (JP)		Judge President
Lillian Anneke Van Wyk (LvW)	lillianv@legal-aid.co.za	Legal-Aid
Magdalewe Malatsi (MM)	magdakewe@lpc.org.za	Legal Practice Council
Marianne Pretorius (MP)	marianne@mpattorney.co.za	Gauteng Attorneys Association, Johannesburg Attorneys Association, West Rand Legal Practitioners Association
Mark Upton	Markupton1965@gmail.com	Pretoria Attorneys Association
Nicolette de Witt	nicolette@dwn-attorneys.co.za	Pretoria Attorneys Association
Salome Malatji (SM)	smalatji@judiciary.org.za	Court Manager – Pretoria High Court
Simonè Denner (SD)	simonedenner@mpattorney.co.za	West Rand Legal Practitioners Association
Thillay Pillay (TP)	thillay@law.co.za	Pretoria Society of Advocates
Tumelo Ledwaba (TL)	TLedwaba@judiciary.org.za	Chief Registrar – Pretoria High Court
Vijayta Rana (VR)	Vijayta@delberg.co.za	Pretoria Attorneys Association
Yusuf Wadee (YW)	joewadee@wadeeatt.co.za	Gauteng Attorneys Association, Johannesburg Attorneys Association,

APOLOGIES / ABSENTEEISM

NAME, SURNAME	E-MAIL ADDRESS	ORGANISATION
Brett Kingsley Phillips (BKP)	brettp@raf.co.za	Road Accident Fund – Johannesburg Region
Brenda Makganyoha (BM)	bmakgonyoha@justice.gov.za	Family Advocate
Dawie Bekker (DB)	dawie@fsf.co.za	Pretoria Attorneys Association

No.	Item	Actions arising (if any) who is responsible; due date	Initials
1.	WELCOME		
	The meeting was held on the 07 th of June 2023, commencing at 14:00pm and Chaired by Deputy Judge President Ledwaba. Judge President Mlambo also attended the meeting virtually via Microsoft Teams. Welcome extended to all stakeholders in attendance.		DJP
2.	ATTENDANCE AND APOLOGIES		
	Attendance and apologies of committee members are as listed above.		
3.	ADOPTION OF AGENDA		
	Agenda adopted save for the items added under the heading of "listing of new items to be added".		
4.	LISTING OF NEW ITEMS TO BE ADDED		
	Legal Practitioners Identity Cards – LPC not issuing cards. Cannot access or consult with prisoners without the LPC ID card.		LvW
	Action Log - Separate meeting to be held with the Chief Registrar regarding item (ii) i.e., Number of Non-RAF trials per day. - Feedback from members regarding meeting to be held with the RAF, Judge President and Deputy Judge President Ledwaba and Deputy Judge President Sutherland (meeting to exclude stakeholders). - Logbook on infrastructure issues (report on what is not in working condition).		
5.	APPROVAL OF MINUTES (6TH EFFICIENCY ENHANCE COMMITTEE MEETING – HELD ON 01ST OF DECEMBER 2022)		
	Minutes approved.		TL, CvdV
6.	MATTERS ARISING		
	i. <u>Court Online</u> - The continued challenges encountered with Court Online were escalated to the State Information Technology Agency ("SITA"), which agency is attending to the daily maintenance of the system. - System glitches and down time remains the biggest challenge. - The Help Desk does not have a queuing function; however, the function will be implemented. - Pursuant to the Judge President's meeting with SITA the following was raised and attended to: - - Johannesburg High Court's call centre is fully operation since 07th of June 2023. - The Pretoria High Court's call centre will be fully operational if all goes according to plan by latest the 9th of June 2023. - System challenges encountered have been identified and are attended to. - Measures have been implemented to identify and resolve the system glitches as and when they arise. - High Level Monthly meeting will be scheduled with Secretary General in charge of Court service. First meeting to be held within two weeks, during which meeting the representatives of the various stakeholders will be able to demonstrate their challenges to the Information Technology appointed personnel. These meetings will be enforced until the ongoing challenges have been successfully resolved.		JP

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	ii. <u>Number of Non-RAF trials per day</u> Pretoria Society of Advocates requested for that more “non-RAF” matters be enrolled for trial per day.		GN
	- The bulk of applications for trial dates received are RAF matters. - Have opened space for non-RAF matters, however practitioners make application for trials and request a duration of four (4) to five (5) days to be allocated for hearing, resulting in the trial rolls filling up quickly. - Will attempt to assist with dates for non-RAF matters. - Liaison meeting with the Chief Registrar on the 15th of June 2023, representatives of stakeholders are welcome to attend to the meeting and gain insight to the statistics and challenges involved.		TL
	Pretoria Attorneys Association offered to assist the Chief Registrar to identify solutions and implement plans in respect of the allocation of matters to make more slots available for trials of shorter duration.		NdW
	- Between five and eight Judges are allocated to deal with the Civil trial rolls. - Roll call is done and then the practitioners do not attend even though the matter is enrolled for hearing. - Matters are allocated in 2025, this is the result of judicial case management being cancelled. - Training must be provided – Pre Trial-Minutes must comply with the Practice Directive and Rules of Court. - RAF was invited – they do not attend the meetings. RAF does not appreciate or have regard to the cost factor and associated implications. - Chief Justice Zondo was advised of the position.		DJP
	- Advocate Brett Phillips indicated capacity issues experienced. Last minute attempts – settlement campaign is running in Pretoria. - RAF will not come to the table with solutions. - Suggest that a recommendation be made to meet separately with the RAF and revert to the stakeholders.		YW
	- Numerous meetings have been arranged. RAF reluctant to co-operate. - Start engagement proceedings, but no further action is taken without stakeholders or interested parties being informed. - Should at least attempt to secure a meeting with them.		MP
	- RAF indicated in writing that they will not meet with other stakeholders. - Judiciary will not “side” or prejudice stakeholders.		DJP
	- Counterproductive to object to separate meeting, stakeholders should have faith in the Judiciary to engage with the RAF and revert. - Integrity of the Court is at stake.		TP
	Meeting was set up with the Chief Justice and Minister of Transport. No harm to meet with the RAF and revert to stakeholders.		JP
	Feedback from stakeholders to be provided before Friday, latest Wednesday, the 14th of June 2023 for the meeting with RAF to be arranged or not.		DJP
	iii. <u>Compliance with Practice Directives</u> <u>Orders to Compel/dismiss – Not all Judges willing to grant orders. Practice Directive stipulate that before a date is allocated for trial, both parties must have filed their discovery affidavit.</u>		NdW

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	- Pretoria Attorneys Association indicated that its members have experienced instances where they wait for months for an Interlocutory hearing order to Compel the opponent to discover, as is required by Practice Directive one of 2021 as amended. - Encounter Judges who refuse to grant orders to compel discovery, given that discovery is not a strict requirement in terms of the Rules of Court, and if a party elects not to discover, the party cannot rely on documentary evidence not so discovered. Contrary to the provisions of the Practice Directive of 2021 as amended leaving Plaintiffs who have fully complied with the Rules of Court in a position where he/she/it/they cannot obtain an order to compel discovery and cannot proceed to apply for a trial date in the absence of such order. - Encountered instances where matters which have been allocated trial dates, were removed from the trial roll because the Defendant has not discovered and where there appears to be no Order to Compel Discovery. - Judges have made rulings, where they are reluctant to strike the RAF's defence in instances where the RAF has failed to comply with the order compelling discovery, or compelling them to deliver further particulars, in which event leave is then granted to bring an application to strike out.		
	- Judges operate independently. - Judges' meeting is to be held on the 12th of June 2023. - Issue raised will be discussed during Judges' Meeting. - Uniformity is imperative. - Purpose of the Practice Directive was to get the RAF to participate and to protect public funds.		DJP
	<u>Specific Provisions relating to interest and costs in Court Orders</u> Judiciary requires simple and short Court Orders without provisions for expert costs, travel expenses, and other specified items, which should be raised and resolved during taxation.		DJP
	- Taxing Master refuses to exercise discretion in respect of expenses such as expert costs, travel costs and other specified items, as well as counsel fees if same is not provided for in the Court Order. - Disjoint between the Judiciary's desire not to make rulings in cost related items and the taxing masters' willingness to allow any items not specifically noted or provided for in the Court Order. - Taking the Taxing master's Ruling on review – immense amount of time and Plaintiffs are in many instances left having to pay out of their own pocket for items not provided for in the Court Order.		NdW
	Liaison meeting to be facilitate with Chief Registrar to address issue. Judiciary will in the meantime require succinct Court Orders and stakeholders are to inform their members of this position.		DJP
	- Interest rate – some Judges remove interest provisions from Draft Orders as same is regarded as superfluous seeing that interest is due <i>ex lege</i>. - The RAF is however, maintain the stance that unless it is not so noted on the Court Order, interest on late payments of capital is not recoverable, and as such they simply refuse to load interest payments on matters where this removed from the Court Order, leaving the Plaintiff in such matters, out of pocket with interest due and payable to the Plaintiff, an intolerable and unjustifiable position.		NdW
	<u>iv. High Court Precinct</u> Police presence and Metro Police presence during the day has increased.		DJP

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	- Issue of homeless people remain unresolved. - Court Manager requested to assist in addressing the issue of disruptions caused by the conduct of members of the public outside the Court Building during the day.		
	v. <u>Infrastructure</u> a. Some of the Recoding Machines not working b. Court Infrastructure Reporting System		
	- Eight Court Rooms on the second floor are not being used due to the recording machines in those Court Rooms not operating. - Judges left to share Court Rooms, resulting in Trial matters only being heard once another Judge has finished his/her roll. Counsel, attorneys, clients, and expert witnesses left waiting in the corridors until the Court Room becomes available.		NdW
	Department of Justice is responsible to ensure that the Recording Machines are fully operational. Was raised at meetings of the heads of Courts, during which the Department of Justice was requested to resolve the issue as a matter of urgency.		DJP
	No budget or financial means available to repair the recording machines and condition of the Court Rooms.		SM
	- Court building and Court Rooms are in dire condition with many issues to be attended to. - Propose that a logbook is kept, recording all the issues which require attention and repairs, and for a separate meeting to be facilitated to address these issues and seek solutions to resolve it.		GN
	Pretoria Attorneys Association volunteered to assist with an Online (electronic) logging system and assist the Court Manager by bringing issues raised by members and stakeholders to the Court Manager's attention.		NdW
	vi. <u>Laptop Check-In System</u> a. Proposal: Bar issued Laptop-ID Card		
	- Current hand registering procedure of laptops is slow and cause counsel and practitioners who must appear in Court, to arrive late for Court because of the long que and tedious procedure. - Proposed that issue be resolved by introducing a system by which a laptop is registered as the property of a particular member (counsel, legal practitioner), and that members who have registered their devices, produce an ID card of some sort, enabling them to avoid having to wait in the que.		GN
	- Current system assisting the personnel to recover stolen laptops. - Suggestions are welcome to improve the system and resolve issues encountered.		SM
	Meeting to be facilitate with the Court Manager to address and resolve the queue and hold up encountered at the entrance of the Court Building. Workable System and practical solutions to be considered and implemented.		JP
	vii. <u>Acting Judges</u> - Significant improvement in trial, default, settlement, Unopposed, Opposed Motions and Interlocutory Motion Court hearings which have been finalised since this initiative has been implemented. - More names of practitioners are required to assist in the third and fourth term. "Criteria" for practitioners to be eligible and nominated to Act as Acting Judge:		DJP

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	a. At least ten years post admission experience in litigation. b. Must be in good standing with the Legal Practice Council (Fit and proper) c. Integrity, experience, knowledge, and skill. Ability to prepare written judgments. • As mentioned earlier, there is a problem with the shortage of Court Rooms. Solutions to this problem might be for certain proceedings to be attended to virtually, however the secretarial workload of the secretary assisting the Acting Judge is increased significantly, and virtual appearances will only be feasible if the Court Online System is fully operational. • Stakeholders are invited to provide the names of members who fit and meet the criteria, and to nominate individuals who are able and willing to act as Acting Judges.		
	• Administrative / secretarial support is imperative. Only have a limited number of secretaries who can assist Acting Judges.		JP
	• Pretoria Attorneys Association indicated that they would provide the names of Candidate Legal Practitioners who are cable and willing to assist Acting Judges with the administrative and secretarial duties.		NdW
	viii. <u>Appeal Records</u> • Matters from the lower Courts are not attended to, resulting in a “bottle neck”. •		
	ix. <u>Wi-Fi</u> • Parallel Wi-Fi system to be installed to assist practitioners with their ongoing challenges to connect to the internet whilst at Court is investigated. • Pretoria Attorneys Association and Pretoria Bar Council to revert on the prospects.		GN
	x. <u>Allocation of dates</u> a. Trial dates i. System moving allocated trial dates to earlier dates. ii. Number of non-RAF trails per day (already discussed prior). b. Default dates c. Taxation dates d. TIC dates		
	• Chief Registrar’s Report indicates that dates are allocated as follows: Divorces – 13th of November 2023 RAF Trials – 18th of August 2025 Default Trials – 13th of November 2024 Other (non-RAF) trials – 26th of May 2025 Trials (interlocutory court) – 26th of October 2023 Opposed Motions – 31st of July 2023 (forty matters enrolled per week) Unopposed Motions (or applications not provided for above) – 27th of October 2023 Insolvency matters – 5th of September 2023 Default Judgments – 10th of August 2023 Interlocutory Applications – 4th of September 2023 Summary Judgment & Rule 43 – 10th of July 2023 Taxations – 18th of April 2024		TL
	• Dates are “brought forward” as and when it is possible. Procedure in terms of which dates are brought forwards requires clarification, to ensure transparency, fairness and to eliminate the possibility of favouritism or allegations of corruption to arise.		GN

No.	Item	Actions arising (if any) who is responsible; due date	Initials
	- Difficulties encountered with matters being brought forwards where counsel have already been briefed and are not available for the earlier date. - Wasted cost and detriment of Plaintiff when date is not utilised and must wait again for another date to be allocated.		
	Practitioners must address correspondence to the office of the Trials Registrar with a request that the “old” / first trial date allocated, should be re-allocated in instances where the Plaintiff cannot attend the new date on counsel is not available.		DJP
	xi. <u>Taxations – Cost Court Orders</u> Taxing Master not willing to allow certain items, administrative office, utilisation of MS Teams and CaseLines for taxations, complaints procedure. Pretoria Attorney Association proposed solutions.		
	- Taxation roll is published along with the day roll – which assists with the profession immensely. - Chief Taxing master’s office confirmed, pursuant to the Directive issued by the Judge President on the 22nd of May 2023 <i>In Re: Revisions to the Several directives dealing with settlement agreements</i>, that taxations may proceed in the Pretoria taxation office without an Order of Court. - Propose a few solutions. Due to time constraints – the matter will be addressed at the weekly liaison meeting held between the Pretoria Attorneys Association and the Chief Registrar.		
	- Chief Registrar did confirm additional space will be opened on the taxation roll to make provision for more non-RAF matters. - Daily Taxation Roll presently comprise of: - 10 non-RAF matters. 60 RAF Matters; and 10 Opposed Taxations. - Only have five taxing masters who are allocated between ten and fifteen taxations per day, and another 15 settled matters. - Situation will improve the moment additional taxing masters are appointed, but due to frequent resignations, it remains an unresolved challenge.		TL
7.	<u>REPORTS</u>		
7.1	<u>DISCUSSION OF REPORTS</u>		
7.1.1	<u>CHIEF REGISTRAR – UPDATE REGARDING STATE OF COURT ROLLS</u>		
	- Nothing additional to report except that less matters are received in respect of Trial Interlocutory Court matters. - Less queries and follow ups are received. - Back-log is addressed, and practitioners are requested to contact Mr Manene if matters are long outstanding or if practitioners are waiting too long for dates to be allocated. - Open door policy – if queries are not addressed or resolved, practitioners are welcome to visit the Chief Registrar’s Office to assist.		TL
7.1.2	<u>COURT MANAGER</u>		
	Nothing additional to report.		SM
7.1.3	<u>PRETORIA ATTORNEYS’ ASSOCIATION</u>		
	a. <u>Settlement Roll – Clarification sought.</u> There will no longer be a settlement roll included in the trial roll under a “separate sub-section”.		NdW

No.	Item	Actions arising (if any) who is responsible; due date	Initials
	- Application for and the allocation of dates for settlement orders will remain unchanged and the current position shall be implemented. b. <u>Clarification notes issued by Deputy Judge President Sutherland on the 12th of May 2023</u> - Due to time constraint – matter will stand over to the next meeting. - Both Deputy Judge Presidents will be working together to ensure that the Practice Directives align. c. <u>Special Interlocutory Registrar's Office</u> - Chief Registrar confirmed that various complaints have been raised by the Pretoria Attorneys Association regarding the way the offices is being conducted and that she recently had a meeting with the Registrar. - Measures implemented by him reduced the backlog and queries have also significantly decreased. - Chief Registrar emphasised the “open door policy”. Practitioners are welcome to raise any specific issues with the office of the Interlocutory Registrar and the Chief Registrar's Office to assist. - Matter to be ventilated further during the liaison meeting the Pretoria Attorneys Association have with the Chief Registrar. d. <u>Notice of appearance to defend filed on day of hearing of trial by default.</u> - Pretoria Attorneys Association noted the trend of the RAF arising in the Default Judgment Court – RAF files its notice of intention to Defend and Plea the day before or the day for which the matter is enrolled for default judgment. - Most Judges then remove the matter from the roll, leaving the Plaintiff having to start afresh with the entire procedure, applying for a trial date, which according to the status quo implies the matter will only be heard in two years' time. - Deputy Judge President noted the trend and confirmed that he will raise it at the Judge's meeting. e. <u>Call for one consolidated Practice Directive</u> - It was confirmed by the Judge President and Deputy Judge President, that note has been taken of the above, and that same will be attended to. f. <u>Assistance to office of Trial Registrar</u> - Pretoria Attorney Association's Court Liaison Committee has successfully partnered with the Office of the Trials Registrar to deal with the allocation of trial and default hearing dates more effectively. - Was proposed to further extend this assistance to the trial registrar's office by implementing very simple web-based forms, that will enable practitioners to fill in a follow up form on the internet. The system will then provide the Registrar with a list of matters, enabling them to allocate dates.		
7.1.4	PRETORIA SOCIETY OF ADVOCATES		
	Nothing further to report.		GN
7.1.5	LEGAL-AID		

No.	Item	Actions arising (if any) who is responsible; due date	Initials
	- Issues are encountered with the Identity Cards the Legal Practice Council issues to Practitioners. - Fees are paid into the Legal Practice Council's account, but the amount is not allocated, and Legal-Aid employees appear not to be able to apply for the virtual / digital Identity Card. - Cannot consult with clients who are detained in prison, or inmates cannot consult with their legal representative as access is denied, when the ID card cannot be presented. - Investigating Officers are not willing to assist. - Advocate Annelie Coetzee (from Director of Public Prosecutor) indicated that it is imperative to have Pre-Trials. - No longer have access to the Department of Correctional Service's system which makes it is nearly impossible to locate accused or inmates, delaying matters and same not being finalised. - Pre-Trials to be attended to at least two weeks before the trial to address any issues. - List of outstanding fees to the Legal Practice Council was provided to resolve the issue of the ID Cards. - In March Report was submitted, significant improvement on full Court Appeal records, which we thank all the role players for. - Reconstruction of trial records are not being dealt with. - Outstanding appeals – will be brought to the DJP's attention as Judge President Mlambo deal with those matters personally. - Criminal Appeals – Registrar is responsible to create the file on Court Online and CaseLines, but the Registrar is not attending to this, resulting in Legal-Aid having to bring a condonation application.		LvW
	LEGAL PRACTICE COUNCIL (not on the agenda but in attendance of the meeting)		
	- Mr van Staden resigned, and Ms Pillay-Naidoo has taken over as Director of the Legal Practice Council. - Legal Practice Council is struggling with Fidelity Fund Certificates. - Made aware of practitioners who are producing fraudulent Court Orders and Audit Reports. - Appearance of non-practitioners, practitioners who have been struck off the roll and suspended practitioners. - List of Practitioners on the Legal Practice Council's website is updated daily.		EPN
	Fraudulent Court Orders must be sent to the Chief Registrar to investigate the matter on their side.		TL
	- Sting Operation suggested by Advocate Naudè. - Will be discussed with Chief Registrar in separate Liaison meeting.		GN
7.1.7	NATIONAL PROSECUTING AUTHORITY (NPA)		
	Nothing additional to report.		
7.1.8	DEPARTMENT OF CORRECTIONAL SERVICES (JICS)		
	- Over crowding in Gauteng. - Department of Correctional Services acting, task team assigned to address overcrowding. - Atteridgeville converted into female centre. - Request that the Judges inspect the facilities and one of the centres before the end of this year.		GN

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	- Deputy Judge President Ledwaba confirmed that Judges will be encouraged to visit their centres and the facilities. - Number of cases are attended to ProBono, which makes the AVR system useful to be implemented across board. - Explore possibility to create virtual court – Create office or space where there is space for inmates to deal with matters from those centres.		DJP
7.1.9	STATE ATTORNEY		
	Not in attendance.		
7.1.10	FAMILY ADVOCATE		
	Not in attendance		
7.1.11	ROAD ACCIDENT FUND		
	Not in attendance		
7.1.12	TAXATION		
	Not in attendance		
8	MEETING DATES FOR 2023		
	Next meeting to be held on the 07th of September 2023 at Pretoria High Court. Time to be confirmed. Meeting adjourns at 16:38pm		