

GAUTENG EFFICIENCY ENHANCEMENT COMMITTEE JOHANNESBURG

59TH MEETING MINUTES

DATE: 12TH of September 2023

TIME: 15:00pm – 16:56pm

LOCATION: Microsoft Teams

CHAIR (OR PRESIDING MEMBER): Deputy Judge President - Sutherland

COMMITTEE MEMBERS PRESENT

NAME & SURNAME	E-MAIL ADDRESS	ORGANISATION
A Jansen van Vuuren (AjvV)	Antoinette.jansenvanvuuren@dcs.gov.za	Department of Correctional Services
Brett Kingsley Phillips (BKP)	brettp@raf.co.za	Road Accident Fund
Deputy Judge President Sutherland (DJP)	rsutherland@judiciary.org.za	Deputy Judge President Johannesburg High Court
Enrico Guarneri (EG)	enricoG1@legal-aid.co.za	Legal-Aid
Esther Pillay-Naidoo (EPN)	esthern@lpc.org.za	Legal Practice Council
Gifty Thabethe (GT)	GThabethe@jics.gov.za	JICS
Gi-Gi Olwage- Meyer	gmeyer@law.co.za	Johannesburg Society of Advocates
Gugu Nkabinde (GN)	flonkabinde@judiciary.org.za	Registrar Johannesburg High Court
GP Detect-Colonel Zondo		High Court Precinct
Hans Coetzee (HC)	jocoetsee@judiciary.org.za	Registrar Johannesburg High Court
Ignatius Briel (IB)	ignatiusb@lpc.org.za	Director Legal Practice Council (Gauteng)
Sheriff Johannesburg South	june@sheriffgn.co.za	Sheriff Johannesburg South
Marianne Pretorius (MP)	marianne@mpattorney.co.za	Gauteng Attorneys Association, Johannesburg Attorneys Association, West Rand Legal Practitioners Association
Nakka De Klerk (NdK)	nakka@crouzys.co.za	Johannesburg Attorneys Association
Liana Tulleken	secretarydjp@judiciary.org.za	Secretary Deputy Judge President Sutherland
Petro Verster (PV)	pmvattorneys@mweb.co.za	Johannesburg Attorneys Association
Riegal S. du Toit (Rdt)	rsdutoit@npa.gov.za	National Prosecuting Authority
Roanne Bramdaw (RB)	RBramdaw@judiciary.org.za	Chief Registrar Johannesburg High Court
Rudolf Fuls (RF)	rudolf@rfuls.co.za	Taxations
Tebogo Musana (TM)	TMusana@judiciary.org.za	Registrar Johannesburg High Court
Thokozani Kunene (TK)	Thokozanik@raf.co.za	RAF
Mahluale JD (MJ)		
Simonè Denner (SD)	simonedenner@mpattorney.co.za	West Rand Legal Practitioners Association

Shertina Letlaka	RLetlaka@judiciary.org.za	Court Manager
Yusuf Wadee (YW)	joewadee@wadeeatt.co.za	Gauteng Attorneys Association, Johannesburg Attorneys Association &
APOLOGIES / ABSENTEEISM		
Willem Janse van Rensburg (WjVV)	willemvanrensburg.1@gmail.com	Johannesburg Attorneys Association
Ahmed Cajee (AC)	acajee@chambers.co.za	Johannesburg Society of Advocates
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Brenda Makganyoha (BM)	Bmakganhayo@justice.gov.za	Family Advocate
Nicolette De Witt (NdW)	nicolette@dwm-attorneys.co.za	Pretoria Attorneys Association
Sandy van Blerk	Sandy.vanblerk@za.g4s.com	Mangaung G4S

No	Item	Action arising (if any) who is responsible; due date	Initials
1	WELCOME & FORMALITIES		
	The meeting was held on the 12 th of September 2023, commencing at 15:00pm and Chaired by Deputy Judge President, Sutherland. Welcome extended to all stakeholders in attendance.		
2	ATTENDANCE AND APOLOGIES		
	Attendance and apologies of committee members are as listed above.		
3	ADOPTION OF AGENDA		
	Agenda adopted safe for the items added under the heading of "listing of new items to be added".		
4	LISTING OF NEW ITEMS TO BE ADDED		
	i. Access to the prison by Court Officials. ii. Wheelchair access and operation of Lifts of the Johannesburg Court. iii. Video link facilities and facilities of the High Court in respect of minor children witnesses ("in-camera" witness facilities). iv. Department of Correctional Services – dealing with amended warrants.		
5	APPROVAL OF MINUTES (58TH EFFICIENCY ENHANCE COMMITTEE MEETING – HELD ON 13TH OF JUNE 2023)		
	Minutes adopted and approved.		RB, EG
6	MATTERS ARISING		
	i. Court Online Feedback • Separate committee or meeting is being facilitated by Judge President Mlambo who is chairing that meeting to discuss and ventilate the issues in depth.		RB

	• Appreciate the attorneys who are willing to participate actively. Visited practitioners in conjunction with the project leader from OCJ National Office and the SITA technical team who is working on the system. • Strides are being made to improve the system • Onboarding of Microsoft has been taking longer than anticipated and this is due to the engagements with the attorneys. The commitment from SITA was to try and onboard Microsoft by end of September, but seems like we will not meet that deadline. • Joint effort between the users of the system, OCJ and the people responsible for maintaining the system.		
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	ii. <u>Distribution of Court Rolls</u> No complaints from the Registrar's Office. Court Rolls are distributed in line with the mailing list.		RB
	Majority of Court Rolls are not received timeously. Just a humble request whether the family Court could be made available a bit earlier.		GO
	- RAF requested that the lead time for the distribution of the Default Judgment court rolls is extended. Request that the allocation not only state attorney groupings but to the staff who are dealing with the default judgment court matters. - Often happens that matters are duplicated on the Court Rolls.		BKP
	iii. <u>Appeal dates</u> - Appeal dates are not being allocated. - Appeals are prepared and presented in the third last week of the term, the Registrar then would have them set down during the 2nd and second last week of the next term. - Lead time on getting dates is a term (roughly three months) a bit longer if you get an allocation in the fourth term for the first term of the next year. - Magistrate Court Appeals are set down on Tuesdays and Thursdays. Currently the volume is, and usually works at two to three on each of those two days and all the full Court appeals are set down on Wednesdays. - As a rule, no more than three full court appeals are set down on Wednesday and that seems to be meeting the demand in most terms. - Increase in full Court Appeals and this trend is expected to increase. - Criminal Court Appeals are done on Mondays by judges who otherwise would be in trial court. - No specific complaints about the system and it is not practical to have a lead time shorter than that, simply because things are done one term at a time. - Urgent appeals do pose a problem – difficulty to attend to these out of the routine. These do however get set down the fortnight after the index is presented – this has been implemented for three terms without any issues.		DJP
	During the High Court Liaison meeting – it was agreed that the State Attorney will have a meeting with the Registrar to resolve the issue – meeting had to be held with Mr Coetzee to resolve the matter.		PV
	iv. <u>Master's Office – Possibility of Court allocated for specific Court</u> - Various application ongoing and being brought against the Master's Office, forcing them to do their jobs and Cost Orders need to sign all application being brought. - Have approached the Judge President's office and his office indicated a willingness to look at the request and what can be done to resolve this issue – perhaps issuing a Practice Directive. Judge President Mlambo requested that we provide him with feedback and some input as to what we suggest going forward.		PV
	- Special Court can only be justified by volumes. - Establish what the volumes are in order to have a discussion regarding the practicalities. - Provide information on the Masters matters , volumes and the nature, in order to identify them and whether it is feasible and appropriately and fair to give these matters some kind of accelartion.		DJP
	v. <u>Granting of Cost Orders by Registrars</u> Registrars appear to be granting Cost Orders in respect of Default Judgment, and award cost in the amount of R200. Understand that if it is a Magistrate's Court matter, the Registrar has a discretion. There should be an explanation, especially when there is an attorney and client cost provision in the underlying agreement.		MP
	Have received judgments where we seek cost of suit, but the Registrar grants an order of R200 plus sheriff fees. Have enquired with the Registrar but no response or explanation is provided.		PV
	Rules changed some time ago. Cost order that are granted in in default judgments and the majority of registrars would say cost granted in terms of the rule and then specific sub rule relating to the High Court costs or the Magistrate's Court Costs.		RB

	Practitioners should forward those default judgments to the Chief Registrar to address the issue and concern raised.		
	vi. <u>Reserved Judgments</u> a. Procedure to report / follow up Email address was sent to the various members of the stakeholders, informing them to who, how and when the matters should be escalated.		MP
	vii. <u>Practice Directive</u> - Anomalies have been picked up. - Request that those be sent Deputy Judge President Sutherland's office for the corrections to be made. - Judge President Mlambo have commenced with the project to have a new practice manual issue which will be uniform for the whole Division. - Two Registrars of the Division will have to have a very close role in making sure that the technicalities dealing with Court online and so forth are properly observed.		DJP
	- Paragraph 178.1 of the New Directive deals with opposed motions and state that before a date will be allocated, consolidated index including cross referencing to case lines must be done. - This is impossible seeing that should your matter have been initiated on Court Online, you cannot index yet, until you obtain a Court date, then only can you create your bundle. Only then are you able to proceed with the matter on Caselines, and then do what is necessary.		PV
	- Directive states that Criminal Appeals will be decided on the papers without an oral hearing unless the council points out in a practice note why they want to have the matter heard in open Court. - These provisions came into operation when we had COVID. - Currently the default position is, you will always have an oral hearing unless you ask for it to be otherwise which is hardly ever and certainly never in criminal matters.		EG
7	REPORTS / DISCUSSION OF REPORTS		
7.1.1	<u>CHIEF REGISTRAR: UPDATE REGARDING STATE OF COURT ROLLS</u>		
	- As per the Report lead times are as follows: - Admissions – 2-2 ½ months (10 November 2023) - Civil Trials – 12 to 26 months (RAF Matters November 2025 – Rolls are full. Matters are now being set down for 2026); Non-RAF matters 18 months (May 2025). Divorces 9 months (August 2023). - Trial Interlocutory – 3 weeks (03 October 2023) - Trial Default Judgments – (February 2024) - Opposed Motions – 3 months (01st term of 2024) - Unopposed Motions – 8 weeks (31 October – 3 November 2023) - Family Court – 3 -5 Weeks (09 October 2023) - Unopposed divorce – 4 weeks (6 October 2023) - Civil Appeals – 4th term of 2023 - Taxation – 5 months (12 February 2024) - Criminal Appeals – 4 – 6 months - Three newly appointed registrars commenced duty on the 1st of August 2023. Ms Helen Machaba is responsible for writs. Mr Mogomotsi Maphunye is assigned to the Motions section and Mr Robert Matonya is assigned to the Criminal Section. One vacant Registrar post remains. - Meeting will be held with the stakeholders in October (DPP, Legal-Aid, DCS regarding the reconstruction of records and management of amended warrants). - In previous meeting an allegation was raised of wrongdoing with regards to preferential treatment of an attorney with allocation of motion dates- it was reported to the OCJ risk unit		RB

	for investigation – sufficient grounds were found on which to request an investigation. This is an ongoing investigation and once it's completed formal feedback will be provided. Fraudulent orders – influx have been received. Encourage practitioners to continue requesting the authentication of orders that seem questionable and to stay alert.		
7.1.2.	COURT MANAGER		
	<u>Access of Court Facilities by disabled persons:</u> - The Court has a wheelchair ramp at the main entrance only. - A project for the installation of wheelchair ramps inside the Court Rooms have been registered with the Department of Public Works. - In the interim – the Court is currently in process of procuring portable wheelchair ramps to accommodate disabled individuals to access the Court rooms. <u>Operation of Lifts</u> - Department of Public Works confirmed that they do not have the parts or the funds to assist with the fixing of the lifts and enabling disabled individuals to access the Courts on the first floor. - Requested Department of Public Works to forward confirmation in writing that they do not have the funds or parts to fix the lifts – still waiting for this correspondence. <u>CCTV facilities for minor children:</u> - Project was registered for CCTV to be installed.		SL
	- Zondo Commission matters will be heard soon. - Need to ensure that all the facilities are available as they plan to elicit evidence and lead evidence. This will be streamed via video link across various countries in the world. Need answers before February 2024.		RdT
	- Meeting to be facilitated to discuss the logistical requirements for the Zondo Commission cases. - Request stakeholders to assist reporting the building and the infrastructure – it is a fire hazard and risk. The stakeholders who make use of this building are encouraged to use their influence in regard to this.		DJP
7.1.3	JOHANNESBURG ATTORNEYS' ASSOCIATION		
	Nothing further to be addressed.		YW
	Candidate attorney programme to act as secretaries for the Judges were discussed with the JAA.		DJP
	LPC should provide feedback on this suggestion within the next week. They are waiting for NEC to make a decision in respect of the request but so far it would appear that it is going to be favourable.		YW
7.1.4	JOHANNESBURG SOCIETY OF ADVOCATES / BAR		
	Nothing additional to report		GO
7.1.5	WEST RAND LEGAL PRACTITIONERS ASSOCIATION		
	Nothing additional to report.		MP
7.1.6	LEGAL-AID		
	<u>Reserved judgements:</u> - There are matters where judgment is reserved and there is no outcome. Also instances where the Court made an order, but the written judgment is outstanding. - Provided the Judge President's secretary with a list of reserved judgments which contain matters outstanding for longer than three months since the matter was heard.		EG

	- There cannot be an order, especially in criminal matters without reasons being given, even if it is only two sentences. - There will always be reason that would be captured on the audio record – and if in the context of appeals, you’ve got an order without any reasons, the quickest ought to be to get the record. - A “naked” order does not mean there is or was a reserved judgment. It’s a golden rule never to give an order without reasons this Court.		DJP
7.1.7	NATIONAL PROSECUTING AUTHORITY (JOHANNESBURG)		
	Nothing additional to report on.		RdT
	- Defense counsel, sometimes state advocates for reasons not known seem feel entitled to choose which Court they can appear in when they’ve double booked and then leave one or other judge with no ability to proceed with the trial as it can’t carry on. - If you take a defense brief – organise your diary to prevent double briefings. Holding two judges ransom is disrespectful and undermines the productivity of the Court. - Suggest that a meeting be facilitated to put an end to the this practice.		DJP
7.1.8	DEPARTMENT OF CORRECTIONAL SERVICES		
	- Overcrowding and strategies implemented for the reduction with focus on remand detainees. - Department of Correctional Services developed a revised strategy to reduce the overcrowding. - Inmates that have been in detention for longer than four years – currently the list for the High Court is twenty-eight (28) who have been in detention for four years and longer. - Names made available – seek to have an update regarding those cases and what the challenges might be, confirmation that trials have commenced. - Department of Correctional Services only receive warrants for further detention. - Recent remission of sentence announced – the number of sentenced offenders decreased. Johannesburg released 1282 sentenced offenders. - Special remissions have its own challenges - foreign nationals that are released – must be deported as well.		AjVV
	- Appeal matters are being heard in the High Court, the sentence then sometimes is changed on appeal and then it just doesn’t reach the prison. - During previous meeting agreed to have a meeting with the Registrar, however not all problems can be solved by the Registrar. - If matters come from the lower Court, the High Court sends the order through to the Regional Court and the Regional Court must then, and this is where the problem then occurs, send it to the prison. Concerning that prisoners who might have been eligible for parole and also given the status of overcrowding in the facilities. - Legal-Aid closes its file once the appeal is finalised – no mechanisms in place to control or police the delivery of Warrants to the appropriate prisons. - Department of Correctional Services does not accept Warrants delivered to them by Legal-Aid. Tread carefully not to release an inmate on a fraudulent warrant of liberation or amended Warrant. Require the Warrants to be handed to them by an official of the High Court. Not enough for an email to be sent, it must come from an official.		EG
	- Authenticity Audit is required – Police Officials are not a position to attend thereto as they are the recipients of the Warrant. - Meeting to be facilitated between the stakeholders who have a hand in the process in order to assign the responsibility of the overall process.		DJP
	- Stakeholder meeting to be facilitated regarding this issue raised in October 2022. - Meeting will be arranged with Department of Correctional Services, Legal-Aid, NPA, Office of the Registrar and the Department of Justice as well as the lower Court operations to discuss this issue and facilitate an arrangement and way forward.		RB

	- Department of Correctional Services must ensure the authenticity of documents received. Usually when an offender goes to Court on Appeal, Department of Correctional Services will follow up with that Court to have an amended Warrant. Usually, it does not clearly state whether sentence was reduced or not. - Meeting as proposed is welcomed.		AjvV
	- Propose that the High Court implement a standard practice that the Court issuing the Order include directions regarding administrative hurdles. - Should workshop this proposal during meeting to be held in October to explore whether there is space sensibly to effectively have the Court Order deal with the administrative hurdles, and that the protocol in the prison is that they want not only the Warrant, but also the Order of the Court enabling them to establish what the position is.		DJP
	There should be officials from the various prisons working on the ground, who should attend these meetings. They should be in attendance of the October meeting.		EG
	- Chief Registrar will send out an invite to all of the appropriate stakeholders as identified by the Department of Correctional Services and Legal-Aid. - Ensure that a representative from the Regional Courts also attend the meeting, and feedback to be provided at the next meeting.		DJP
	- Received a high number of complaints regarding legal representation. - Legal-Aid has attended to legal education and will also raise awareness at one of the Johannesburg female prisons, this will be attended to by Legal-Aid and JICS. - First incident which occurred at Kutama correctional centre- an ongoing investigation is still underway; all of the inmates have been transferred to respective centres.		GT
	- There was a prison visit during the course of December 2022, report was circulated to the NPA and to Legal-Aid South Africa and the prisons to deal with the issue of overcrowding in the main and some ancillary issues. - All of the stakeholders gave written responses which overall, apart from the NPA who had a number of constructive suggestions about where we might go to deal with those problems. Legal-aid and the end report received from the prisons lacked enthusiasm about doing anything regarding the overcrowding – taken aback that Department of Correctional Services raises the issue of overcrowding – wil anything be done about the issue. No suggestions or solutions are brought forward.		DJP
	- Any meeting or proposal to address the issue of overcrowding is welcomed by the Department of Correctional Services. - Department of Correctional Services have drawn up an action plan, have to provide status updates on a monthly basis which indicates what has been found during the inspection and must be addressed. For example the nutritionist report will only be available at the end of this month, but the Department of Correctional Services is attending to address and resolve the issues raised in the report after the inspection was conducted at the facilities.		AjvV
	Request a more substantive report to be circulated by the Department of Correctional Services		
7.1.9	STATE ATTORNEY		
	- Not in attendance. - No report submitted		
7.1.10	FAMILY ADVOCATE		
	Not in attendance		BM
7.1.11	ROAD ACCIDENT FUND (RAF)		
	- Report prepared for the month of June, July and August. - A total of 3713 product acceptances for those three months. - An advocate was robbed of his laptop and two cell phones outside of Court – did raise this with Advocate Cajee.		MP

	Draft Amendment Bill is out for comment on the RAF. Interested parties are invited to submit their comments.		DJP
7.1.12	TAXATION		
	- Had a discussion with the Registrar. - Court Online remains problematic – Cost Consultant cannot be joined and cannot operate on Court Online. - Cost consultants do not have LPC numbers and cannot register for Court Online.		RF
	Submit written request to the Chief Registrar and Copy Deputy Judge President Sutherland’s office in the correspondent to sort out the issue encountered.		DJP
	Taxing masters are insisting on taxation that the actual Plaintiff must be present when council is consulting with experts and independent witnesses and employers. Advocate raised this with us stating it is inappropriate.		YW
	Correspondence with the details regarding this instance to be sent to DJP’ Sutherland’s Office.		DJP
	GENERAL		
	- Quality of Court Orders are poor. - Request that the quality of Court Orders submitted be looked at.		PV
8	NEXT MEETING		
	28th of November 2023 at 14:00 and will be held at the National Prosecuting Authority’s Office (Innes Chambers 10th Floor, Big Executive Boardroom).		
	CLOSURE OF MEETING		
	Meeting adjourns at 16:55pm		