

Political overview by Minister of Justice and Correctional Services & Deputies; Legal Aid South Africa 2020/21 Annual Performance Plan

[Justice and Correctional Services](#)

18 May 2020

Chairperson: Mr G Magwanishe (ANC)

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Meeting Summary

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[Annual Performance Plan \(APP\) of Government Departments & Entities 20/2021](#)

The Minister of Justice and Correctional Services presented a political overview for the Annual Performance and Strategic Plans of the Department of Justice and Constitutional Development, Department of Correctional Services and Office of the Chief Justice.

The Minister covered a number of issues, including mooted legislative amendments, the issue of parole and the early release of 19 000 offenders to decongest correctional centres, the establishment of a single-judiciary model and the need to capacitate the Departments and entities under their aegis. Members' questions focussed on early parole eligibility, the state of gender-based violence legislation and the need for additional capacitation of Community Corrections.

The Deputy Minister of Justice and Constitutional Development agreed with members that it was not ideal that admissions of guilt for the breach of lockdown regulations had produced such a large number of criminal records, and noted that the Department intended to reduce admissions of guilt producing criminal records.

The capacity constraints caused by budget cuts was also a key topic of conversation, although lack of clarity on the final allocation meant the Minister could not provide a final answer. The Minister also noted members' questions on the case backlog caused by the Covid-19 backlog, answering that a backlog management plan was in the process of formulation.

The Deputy Minister of Correctional Services echoed the Minister's point about the need to question whether sentences under two years merited incarceration, as rehabilitation programmes seemed to be ineffective in this timeframe.

Legal Aid South Africa presented its Annual Performance Plan. Of particular concern to members were the impacts of budget cuts on Legal Aid SA's service delivery and the transfer of the Land Rights Management Facility to Legal Aid SA, as well as issues relating to labour unrest and loss of employees to the private sector.

Meeting report

The Chairperson opened the meeting and ceded to the Minister of Justice and Correctional Services.

Remarks by the Minister

Mr Ronald Lamola, Minister of Justice and Correctional Services, gave a political overview of the plans for the Department of Justice and Constitutional Development, Department of Correctional Services and Office of the Chief Justice.

The Strategic Plans came as South Africa was faced with a pandemic that would change daily life. The pandemic signalled a paradigm shift in the country to rebuild the capacity of the state, restore investor confidence, recalibrate the economy and create jobs. No one knew what tomorrow would bring. Government had to implement plans in a pandemic and recessionary economic climate. The committee had to keep in mind that plans were formulated before the crisis hit. The Departments were experiencing challenges never faced before. The Minister apologised for the late submission of APPs for DOJ&CD and DCS, due in part to difficulties arising from Covid-19.

The words of Nelson Mandela were inspirational: “disasters would always come and go, leaving their victims either completely broken, or steeled and seasoned”. The Minister was confident South Africa would weather the pandemic.

The Minister was seeking an integrated justice system and good correctional system. This highlighted the need to build a capable state and fill vacancies. This would be done in tandem with issues set out by oversight bodies, including the Auditor General, Committee, Special Investigative Unit and elsewhere. DCS had been the subject of repeated investigations for high level corruption, harming its public trust. Consequence management had to be implemented at all levels.

DCS's mandate was to create a safe and secure correctional environment, where inmates could be corrected and reintegrated into the community.

DCS sought to minimise risk for those released into the system. It was in a pilot programme in the Western Cape, which would be extended to the new parole programme. Victims of crime were often robbed of breadwinners and not involved in the incarceration period. The Department wanted to build towards a clean audit in the coming years. Some of the DCS's major plans for the financial year included dealing with corruption and fraud in the department, managing correctional overcrowding, ensuring offender access to healthcare and increasing economic opportunities for parolees and probationers.

The parole system required review, which would require a review of the Correctional Services Act. The Western Cape was leading in this regard through the pilot project. The Minister had taken the step to ask the President to allow the parole of 19 000 low risk prisoners to de-congest the prison space and DCS facilities, to be done through parole boards. The first group would be offenders to be on parole in the following 2 years, the second those with a 5-year parole horizon. The Covid-19 pandemic had highlighted the need to reduce the number of people in correctional centres, to reduce Covid-19 risk. The system had to be readied to cope with the virus. When one offender tested positive, DCS had to test a huge number of offenders and officers. The Department had to investigate the issue of trial detainees who had been granted bail but could not afford it, which it was doing with the NPA. Building new facilities was not a solution in and of itself. The entire criminal justice system needed reform. One had to ask whether a person with 2-year and under sentences really merited incarceration. Those who emerged from centres from 2-year sentences did not emerge reformed. This was an ongoing discussion.

In terms of DoJ&CD, the Department had identified the need to address colonial era legislation that had to be reviewed. It would be reviewing both the Criminal Procedures Act and the CSA. The CPA was made with a different society in mind than South Africa's constitutional democracy. Despite amendments, it needed to come into line with a modern society. The other justice issue was related to land justice. It was an indictment that South Africa found itself with a

paucity of land jurisprudence 26 years after democracy. The process of transfer of the Land Rights Management Facility from the Department of Agriculture, Land Reform and Rural Development to Legal Aid SA was underway. This would place Legal Aid SA at the centre of land justice in South Africa. The transfer would ensure that LASA had both the finances and capacity to extend its reach to those seeking land justice: farm evictions, land claims and otherwise. This would come with the Land Court Bill that the Department would introduce, extending the mandate of the Land Claims Court and appointing permanent judges in this regard. DoJ&CD had created a Solicitor General position in the State Attorney's office, to which the Minister had appointed in an acting capacity Mr Fhedizisani Phandelani. Mr Phandelani would improve capacity in the office of the State Attorney.

DoJ&CD would also seek to address the transformation of the judicial profession. Organised legal professions had complained about the processes of acting judge appointment – the Department would expand consultation. The fight against gender-based violence continued to be a priority. DoJ&CD plans to amend the Domestic Violence Act to protect victims better. The Department will make amendments to the Criminal Law (Sexual Offences and Related Matters) Amendment Act, the DVA and the CPA, as well as legislation regulating minimum sentences. The Department would continue to roll out sexual offences courts and Thuthuzela Care Centres.

An efficient prosecutor was essential to a good criminal justice system. In this regard the Department would continue to support the NPA to enable it to fill vacancies and modernise its system. If the chain was weakened or broken anywhere, it led to justice not being served and the loss of public trust.

2021 would mark 25 years since the adoption of the Constitution. This was a milestone to review the resilience and strength of the constitutional order. The Constitution was made to be robust and dynamic. In the next 5 years, efforts would be made to deepen the constitutional and human rights of citizens. DoJ&CD would finalise accession to international statutes in this vein. It would modernise and improve South Africa's extradition and mutual legal assistances regimes.

DoJ&CD would continue to drive campaigns to further constitutional awareness. It would ensure those who interacted with and used the court system interacted with a modernised and accessible court. Challenges with regards to maintenance were detailed in both the APP and Strategic Plan.

The Masters Office was moving with speed in the digitisation space, to transform services to a digital platform. There was a need to introduce a paperless online e-Justice system.

The Constitution mandated the establishment a single judicial system in line with Section 166. The executive had to work with the judiciary in this regard. DoJ&CD had to support the OCJ to ensure that the Constitution was guarded by an independent judiciary. The Introduction of bills to replace the Magistrates Act and Magistrates Court Act remained a priority of the coming financial year. The OCJ was also looking forward to the finalisation of the review of remuneration of the judiciary.

With regards to the Covid-19 case backlog, DOJ&CD would as soon as practically possible convene a meeting of stakeholders including the NPA, LASA and others to develop a case backlog management plan. The proposed plan would be discussed with lower levels of the judiciary at a meeting to be convened by DOJ&CD.

Implementation would be coordinated through case floor management structures. The plan would only be concluded when all stakeholders had been consulted and agreed. The pandemic had brought turbulence to our lives, and had the potential to increase demand for court access. Courts had to implement appropriate safety measures. The DCS also had to provide safe and hygienic correctional centres. While the country had been under lockdown, courts had continued to address essential cases. Many cases would have to be rescheduled however, affecting the

targets in the APP.

The Minister concluded by quoting former President Thabo Mbeki, noting all South Africans were partners in making the country work. He thanked the Committee for its oversight and guidance.

Discussion

Mr G Hendricks (Al Jama-ah) appreciated that rehabilitation of offenders was in the heart of the Minister. He wondered if the Minister was willing to use neurolinguistic treatment to correct hardened offenders. What would the Minister do to ensure paroling did not drag on for years? Why was the Minister not making more use of SITA to help with case management plans? He proposed the use of robot detectives and AI in the justice system. He proposed resistance fighters should be considered for earlier parole. While they were engaged in criminal activity, they did bring about South Africa's freedom.

Adv G Breytenbach (DA) asked what risks had been identified to hinder achieving Medium-Term Strategic Framework targets, for which MTSF targets there was budget availability, for which there was a shortfall and how this would be overcome. On the National Action Plan on Racism and Xenophobia – had a funding model been created and had funds been allocated? National Treasury had provided R120m over the MTEF to Specialised Crime Courts. What plans were in place to ensure sufficient specialised prosecutors for these courts? What measures had been put in place to assist community corrections with 19 000 more parolees, given they could not cope with the existing burden?

Adv S Swart (ACDP) appreciated the mention of remand detainees, noting approximately 5 000 detainees could not afford bail – he would like to expedite the intervention. He was concerned with the cost of litigation. He recalled that in the previous Parliament he proposed the budget for the Land Rights Management Facility be moved from DALRRD to DoJ&CD. This was accepted by the

Committee – it was a pity this did not happen earlier. On UAE extradition – could the Minister update the Committee on the extradition of the Gupta family? He understood budget constraints from before Covid-19 would be aggravated by budget reductions. The SIU, Public Protector, Human Rights Commission and he presumed LASA, the NPA and DoJ&CD would lose money: he was concerned of the impact on service delivery. Concerning Covid-19 issues, he was deeply unhappy that, after 21 days, 107 000 cases related to lockdown regulations had been opened, with 118 000 people charged. He was worried that these charges were trivial, causing a case backlog, or, for those paying admission of guilt, producing criminal records which impacted employment. He made an appeal for the religious sector to be considered essential services: alert level 4 permitted social services, he argued it was easy to add religious officials that provided similar services.

Ms N Maseko-Jele (ANC) wanted to find out about timeframes for issues that the Minister mentioned – would clear timeframes be provided? Was there enough capacity to deliver on the issues mentioned by the Minister before the end of the Strategic Framework period? On the review of bail and parole – she emphasised there should be no bail for rapists, murderers or corrupt officials. Corrupt officials in the justice system were causing impediments to good work done - could the Minister comment? She welcomed the review of parole and asked how many women were on these parole boards? On the issue of racism – were we going to deal harshly with racist utterances in the coming years, not giving fines but rather sentences? Was the Minister going to make sure that sentences given to corrupt people in government were harsh? Did South Africa still have laws from the homelands? If yes, what were the Department's plans? What was the Minister going to do about departments not cooperating with the SIU or Public Protector?

Mr W Horn (DA), on Community Corrections and the 19 000 inmates to be released, asked to what extent was the DoJ&CD sure that all those released early at least went through some form of rehabilitation programme. He stressed that the chance to really benefit from rehabilitation came towards the end of a sentence. Had the Minister considered all formal reports of Parole

Boards? In respect of both DCS and DoJ&CD – the Minister referred to upgrades and new builds of correctional facilities. In terms of Level 4, DPW was allowed to continue with vital infrastructure projects – did the build programmes of DCS and DOJ&CD qualify in this regard? The Committee was well aware of what was in the pipeline, but in respect of both domestic violence and lower courts amendments, these had been in line for a long time. Could the Committee be given information as to what had been done during the lockdown? Mr Horn understood that many processes had to be followed before bills could go to Cabinet, and enquired whether these had been continued during lockdown. He requested the DoJ&CD to keep the Committee seized of progress on integrated case management systems. He noted, as the country moved to level 3, that the Minister and Cabinet did not accede to requests of the Legal Practice Council to start operating in level 4 – would this be allowed in level 3? He enquired as to the current status of engagement between the executive and judiciary on the issue of a judiciary-led court admin model.

Adv H Mohamed (ANC) welcomed the land justice programme, which had not reached its pinnacle, as was seen in a number of rural areas. He was looking forward to processing the legislative amendments the Minister had mentioned. He enquired as to when the Committee would see a final entity or model for the single-judiciary system. This work began in 2008. In 2020 the time had arrived for a final entity to be created. Regarding the case backlog plan, Adv Mohamed asked whether it would include Saturday sittings in the short term. He asked for a clarification of maintenance challenges.

Ms W Newhoudt-Druchen (ANC) noted the mention of offenders jailed for 2 years and less not receiving effective rehabilitation, and asked what was being done to address this. In terms of GBV, she expressed her concern that, during lockdown, women and children experienced a dangerous situation in abusive households. What happened to abusers if mothers and children left to safehouses? In DCS centres where upgrades were happening, she asked what the DCS was doing to mitigate spread from Covid-19 infected offenders. Did inmates have access to virtual services during lockdown, and did correctional centres have facilities to hold virtual meetings?

Mr R Dyantyi (ANC) asked whether the Minister was happy there was coherence between the MTSF and the plan he presented. In [October](#), the Minister promised turnaround plans for DoJ&CD and DCS – he requested an update. Would DoJ&CD be able to deal with ConCourt-enforced deadlines? As for the review of the CSA and parole – were there specific plans?

Mr Dyantyi welcomed the planned amendment of the Magistrates Commission Act. He would be looking for specific detail when the Committee met with the Department. He enquired as to whether any of the plans announced by the Minister would be postponed due to budget cuts.

Ms J Mofokeng (ANC) noted the GBV steering committee was not spread to all 9 provinces, arguing it should be a list of everybody concerned. Another dimension of GBV that was disturbing was the privacy and call secrecy of women reporting incidents.

Mr X Nqola (ANC) worried about the interpreting system of courts. When South Africa entered lockdown it was already suffering from the case backlog. The lockdown would cause an influx of cases to be heard after it was relaxed. There was a need to plan around the issue of the case backlog. He echoed Adv Breytenbach's concerns over Community Corrections capacity. He also asked for criteria for arriving at the 19 000 inmates to be released – how was this number arrived at? Had Magistrate's Courts resumed their work?

The Chairperson asked for an update on the Accountability Model.

Minister Lamola replied to Mr Hendricks, noting the red-tape in parole processes – recommendations from Parole Boards came to his office. The Ministry had cleared backlogs that existed on lifers' paroles. What it was currently dealing with were month-to-month cases.

Processes were being looked at for modernisation.

On SITA platforms: case management systems were being worked on with SITA. As for issues of algorithms and robots, at this stage this was not something the Minister had looked at, although he welcomed innovation and technology. The Department did look at innovative platforms. It took the Minister 2 weeks to a month to clear lifers' parole reports. Evidence was available that a very low number of lifers re-offended, despite the fact that their crimes were often of a significant nature. His view was there was a need for debate in society to understand parole better.

In reply to Adv Breytenbach's questions on the issue of Specialised Commercial Crimes, he expected the NPA to be able to fill vacancies with the resources they had been provided. He also wanted the NPA to bring in new blood to add to diversity and the passing on of skills.

On Adv Swart's questions, the Minister hoped that the LASA transfer would happen in the current financial year. On the UAE, the Department was still in the follow up phase for the ratification of mutual legal assistance and extradition treaties. There was a UN convention in this regard. Even without an agreement between the two countries, the UN convention was an instrument that should be enforceable. A country requested to provide mutual legal assistance is required to respond where there is no convention between the countries. Discussions were progressing well. Unfortunately, he did not know what information had been requested by the NPA, as the Department played a facilitation role. Windows of engagement were open, and work was happening.

Timeframes were available in the MTSF. The Land Court Bill and bills relating to GBV were targeted for implementation in the 2020-21 financial year. The issue of the budget for the capacitation of the Specialised Commercial Crimes Court would also be executed in 2020-21.

The filling vacancies, especially in senior positions, was important. This would be prioritised in the coming financial year.

Regarding the review of bail and parole, it would still have to be done guided by the Constitution. The Minister was unsure of the number of women in Parole Boards – he did state there was fair representation, and proposed to answer in writing. There were 53 boards across the country; each management area had its own board.

The issue of budget cuts was salient – there would be cuts across all departments, of huge amounts of money. Indications were that DoJ&CD and DCS would both have cuts over R1.5bn. Entities would also face cuts. The Minister had not heard a plan on budget cuts yet. Until MINCOM and the Cabinet confirmed amounts, he could not confirm the impact.

The Minister admitted issues of capacity in Community Corrections, and welcomed Committee input on this matter. He noted the need to address how communities interacted with parolees. Lack of engagement with the parole system sometimes led to issues of vigilantism.

There had been a recommencement of some of the Departments' build programmes at Level 4, however most infrastructural projects prioritise were in Health.

In reply to Adv Mohamed's question on the single judiciary model, the Minister noted an inevitable outcome of any constitutional democracy was that the interface between the judiciary and executive was a difficult balance to strike. On the issue of maintenance, people always complained about not receiving, being paid late or being paid slowly. DoJ&CD was working to make it so that maintenance was paid in real time.

The Minister noted Ms Newhoudt-Druchen's question on helping inmates with sub-2-year sentences. He argued that, as these inmates did not stay long in DCS facilities, it was difficult to be convinced by their rehabilitation. Many did not stay more than a year. Studies seemed to show that this was not enough time for a rehabilitation programme. He was asking whether there

was any point in holding these people in custodial sentences rather than relying on other possible interventions. Covid-19 victims in correctional centres were isolated and treated. As he spoke, there had been many recoveries from inmates. 40 inmates in the Eastern Cape had recovered.

Regarding Mr Dyantyi's question on MTSF mismatches due to changing budgets and issues, there had been thorough engagements with departments on this, but some plans would have to be changed on the move

He answered Ms Mofokeng's question, clarifying that there was a process to formally appoint the GBV steering committee

In reply to Mr Nqola, the Minister proposed there would be engagement when the Department had a plan. It would touch the civil and criminal sides. The first batch of inmates to be released were those who would be eligible for parole within the next two years, roughly 14 000 inmates were in this category. Those 2-5 years away from parole numbered roughly 4500

Mr John Jeffery, Deputy Minister of Justice and Constitutional Development, addressed Adv Breytenbach's question. On the National Action Plan Against Xenophobia and Racism – funds had been made available but the funding deadline for this was the current financial year. Operationalisation was moving too slowly, the Deputy Minister confessed, and stated his intention to speed it up.

On the lockdown regulation cases, Deputy Minister Jeffery clarified that, in terms of the Criminal Procedure Act, magistrates were allowed to set amounts for admissions of guilt. The Department had tried to engage magistrates to get uniformity in clusters, which it had managed, but there was no uniformity between clusters. Admissions of guilt attracting a criminal record was something he had been wanting to address and should be included in a judicial matters bill. He stated his intention for most admissions of guilt not to produce a criminal record.

Regarding Ms Maseko-Jele's question on bail, the Deputy Minister responded that it was not possible to legislate no possible bail for any offences, as this was a decision for the judge. The Department had, however, tightened provisions. People were innocent until proven guilty, and the nature of cases could often be disputed.

The [Hate Crimes \(Hate Speech\) Bill](#) was with the Committee. The issue of hate speech and its limitations was before the ConCourt. The Masuku case had been argued and was waiting for judgment. The Qwelane case, where the SCA ruled certain sections of PAIA invalid, was due for arguing earlier in May. Mr Qwelane did not want arguments to take place virtually. The Hate Crimes (Hate Speech) Bill would be difficult to finalise before these cases had been judged

Homeland laws still existed. The Committee had amended the Transkei Divorce Act, and there was also a Transkei Penal Code. The Previous National Director of Public Prosecutions argued that prosecutors of that area were familiar with it. Deputy Minister Jeffery did not see how there could continue to be criminal law that only applied to one small part of the country. The TDA would disappear when new marriage laws are passed. Many homeland laws would disappear when the [Traditional Courts Bill](#) passed.

On the issue of the Magistrates' Courts Bill, pre-lockdown the Department was preparing for broader consultation within the judiciary before the publication of the Bill for public comment.

GBV bills were published for public comment, an extension was asked for, and comments would be factored into those bills. Deputy Minister Jeffery noted there was a need to resolve the debate about whether the sexual offenders register was actually necessary when there was a pre-existing criminal records register.

The safehouses issue was dealt with by the Department of Social Development. Regulations

were amended to allow people to leave to find these. The general impression was that there had been fewer cases reported. Courts were dealing with GBV cases. What happened to the abuser when the victim leaves was something the Department had to follow up on.

The maintenance issue was important, as people were using lockdown as an excuse not to pay maintenance.

The amendments related to Section 63A of the CPA, for people with bail set who could not pay, was being implemented. Matters in this regard were going to court in the Western Cape this week, and was dependent on the heads of correctional centres producing relevant lists.

The backlog in district cases at the same time in 2019 was roughly 24 500, compared to around 37 000 in 202; similarly, regional court backlogs had moved from 23 000 to 29 000 cases. Level 4 and the ministerial directions had allowed a lot more to happen in courts. A major problem was, every time someone in a court contracted covid-19, the court could not operate properly. Deputy Minister Jeffery noted that Western Cape court orderlies testing positive had affected the whole court. The Western Cape Master's Office had closed because of this on the 18th. There had to be a plan for covid-19 as it was extremely disruptive. Courts would not be able to deal with the backlog properly until the pandemic subsided somewhat.

There would be budget cuts coming to pay for the fight against the coronavirus. The Department would only know the effects when it knew what the cuts were. DoJ&CD did not set budget amounts for many entities, including the SAHRC and Public Protector.

The staff at attorney's firms could work if the work was linked to level 4 cases. The LPC and Fidelity Fund were opening.

Inkosi Patekile Holomisa, Deputy Minister of Correctional Services, clarified he was expecting budget cuts of approximately R1.9bn in DCS because of Covid-19.

In terms of bills for Parliament, the [Phaahla judgment](#) directives were to be brought to Parliament in 2020. Amendments to the CSA to look at the issue of parole and make this more efficient and just would also be proposed. DCS was also contributing to the CPA Section 195A-D amendment and issues related to sentencing.

He clarified that inmates had telephonic contact on urgent matters with their lawyers.

DCS had learned the importance of Community Corrections during the pandemic. It was vital in improving the availability of space in correctional centres. DCS was looking at giving more human and financial resources to Community Corrections.

Before offenders were released on parole, DCS ensured they were screened, and if they were showing signs of illness, they were tested. When they were sent home, the Department emphasised the need for PPE and sanitisation facilities.

Rehabilitation was tricky with short term inmates, there was not enough time. In any event, these were some of the people considered for parole anyway. When these inmates arrived in centres, they were subjected to case management committees, who looked at the nature of the inmate and determined what kind of programmes they would be assigned to. People released were low risk offenders that DCS believed were unlikely to cause danger to society: people over 60 years old that had not committed cases that were on the exception list, women who were pregnant and women with babies in centres.

The Chairperson thanked the Minister and Deputies, noting his excitement about the appointment of a Solicitor General. He emphasised the importance of the matter raised by Ms Maseko-Jele – the Committee needed timeframes so it was in a position to monitor implementation as its oversight required. He asked the Minister to submit timeframes to the

Committee as soon as possible.

AdvSwart requested an urgent response on the issue of religious leaders operating at level 4.

The Chairperson noted the importance of Deputy Minister Holomisa addressing the issue of abuse of power by senior members of correctional services.

Briefing by Legal Aid South Africa (LASA)

Mr Nkosana Mvundlela, Deputy Chair of the LASA Board introduced the delegation.

Ms Mantiti Kola, CEO, LASA, presented the APP for Legal Aid SA.

It was envisaged that Legal Aid would provide legal services for land reform issues. It envisioned a single organisation of land adjudication. The Land Rights Management Facility would transfer to LASA during the 2020/21 financial year.

There is a workstream to facilitate the transfer of the LRMF into Legal Aid.

Adv Brian Nair, National Operations Executive, LASA, detailed strategic shifts related to criminal legal aid and client, community, stakeholder and shareholder relations, including LASA's intention to reduce pre-trial detention and working towards introducing measures of performance of the justice system with other justice-sector stakeholders.

Mr Patrick Hundermark, Chief Legal Executive, LASA, detailed strategic shifts in the civil legal aid approach, including the prioritisation of constitutional rights matter and the expansion of legal representation in land-related matters.

Mr Sethopo Mamotheti., COO, LASA, addressed performance on finance, governance and sustainability, noting the maintenance of clean audit outcomes and strengthening of financial management. He stressed the need for LASA's regulatory framework to remain relevant to the changing legal context. LASA was seeking to enhance its value proposition to its employees through non-financial aspects of the employment experience, and embrace a responsive and adaptive approach to IT.

Mr Nair and Mr Hundermark handled performance indicators for outcomes 1-6 of the MTSF (those related to Priority 5: Social cohesion and safe communities), highlighting a targeted expansion of the provision of general legal advice to clients and coverage targets in district, regional and high courts.

Ms Rebecca Hlabatau, CFO, LASA, addressed Outcome 7, wherein LASA targeted clean audits and a minimum of 98% expenditure of budget allocations.

Mr Mamotheti addressed Outcomes 8 and 10 regarding PFMA and audit compliance. LASA was targeting 95% staff recruitment, and a turnover rate less than 6%. He also addressed Outcome 13, which spoke to LASA's plans with regards to information technology.

Mr Hundermark addressed Outcome 9, noting the need for constant revision of the Legal Aid Act (where two amendments were awaiting executive approval) and the Legal Aid Manual and Regulations.

Ms Kola noted the Strategic Plan was completed prior to the impact of Covid-19, which affected LASA's operations. A Covid-19 Steering Committee comprising management and labour had been instituted, and a workplace plan implemented to direct operations during the different levels of alert.

LASA had rolled out Microsoft Teams to enable staff members to work virtually. Its staffing and training may be affected by budget cuts. LASA had to keep abreast with technological developments and cyber-security. It had been allocated R2.6bn in the 2020 budget, although budget cuts would impede its capacity. It would assess the impact of covid-19 on its service delivery.

Discussion

Adv Swart wanted an understanding of how budget constraints would impact Legal Aid's work, noting Parliament's power in appropriation votes. He asked what was being done to address labour matters occurring in Legal Aid SA. Regarding the transfer of land matters to Legal Aid – was it LASA's opinion that it would have sufficient resources to do this work? One of his concerns was that certain contracts had been signed by DALRRD to do the work and these might continue to be valid. He noted the impact of Covid-19 on the criminality of normally law-abiding citizens when it came to the breaching of lockdown provisions. To what extent was Legal Aid SA able to counsel those signing admissions of guilt that produced criminal records? He urged LASA to broadcast to the general public the implications of the payment of an admission of guilt fine.

Mr Hendricks noted that Parliament allocated over R1bn to LASA to pay salaries. Was it not possible that firms could provide attorneys from their *pro bono* quota to help build LASA capacity? Why was LASA using Microsoft licenses whereas SITA had similar facilities that could be used at lower cost? He hoped that indigent people can apply for a membership card for LASA.

Ms Maseko-Jele raised the issue of divorce, noting women often complained about a lack of representation in divorce cases. What criteria were used to identify those who received help? She also highlighted the plight of women on maintenance – most women were not happy with the payment of maintenance. What was LASA doing in this regard? Did LASA do follow ups with its clients?

Mr Horn commented that, historically, LASA had been able to perform miracles despite budget cuts. However, he noted it had had to stop its relief court assistance. He requested a comment from LASA on possible weekend sittings of courts due to backlog plans, and whether staff contracts would allow for this. Were LASA offices open at full complement and did they accept walk-in clients? How had LASA remained accessible to new and existing clients during lockdown?

Ms Mofokeng requested an update on the LASA labour dispute and the benefits accorded to employees. She also asked whether LASA was moving registration online. She wanted to know what LASA was doing to keep employees safe during the pandemic.

Adv Mohammed requested clarification on the operationalisation of the Land Rights Management Facility transfer, noting that DALRRD had a panel of private attorneys for this without effective performance monitoring.

Adv Breytenbach echoed Adv Mohammed's question on the LRMF. She requested detail on how budget cuts would impact LASA's work. She asked how LASA would cope with the increased demand brought by the rollout of the Specialised Commercial Crimes and Sexual Offences courts.

Ms Kola answered that LASA had been approached by Treasury to cut 20% of baseline in the 2020-21 financial year, which translated to roughly R350m in cuts. As its costs were 80% personnel, it would be difficult to effect this cut, and LASA had made representations to Treasury on this issue.

She noted the recognition of the South African Lawyers and Allied Workers *Union SALAWU* union, in addition to SAPTU. The LASA Board had approved an increase of the group-life

scheme from 250 to 500 thousand, and had asked management to look at enhancing this. LASA was contributing 50% of professional fees and contributed 100% of CAs legal practice and exam fees. It also had a funeral benefit.

LASA was availing R150 to its staff members to buy 3 cloth masks and R50 per month for those not office bound to buy sanitisers.

Regarding the LRMF transfer, LASA was in a workstream looking at all practical considerations.

Currently, LASA was open only for telephonic advice, not walk-ins at level 4.

When LASA was able it would present on budget impacts on core outcomes.

Regarding vulnerable groups: 87% of LASA's capacity was directed at criminal matters. In terms of civil matters, LASA did a merit report for each applicant, looking at prospects of success, enforcement of court order, and LASA fund availability.

Adv Nair responded on the employee relief programme termination, admitting some inefficiencies. In many instances, courts were made inefficient by LASA employees being off duty, especially areas where courts were 90-100% involved in LASA matters. LASA was aiming to plan with courts for scheduled unavailability of LASA staff. There was an understanding amongst stakeholders on LASA's budget constraints.

On Covid-19, most people were paying admission of guilt fines before going to court. Lawyers were helping clients that came to LASA. Where fines had been given in error LASA stepped in. It was dealing with relatively few of these cases.

LASA did have a pro bono scheme. By and large participants were already part of Judicare scheme. It had undertaken an exercise to encourage the joining of the pro bono scheme.

LASA staff had contracts that govern working hours; deviations would have to be addressed.

LASA would adapt its programme to direct existing resources as Sexual Offences courts rolled out.

The Chairperson wanted to know about coordination with NGOs and law clinics.

Mr Nair replied that LASA had relations with most university law clinics, and did work with NGOs to fund cases or conduct cases on its own.

Mr Hundermark responded to Adv Swart and Adv Mohammed's question on DALRRD contracts, explaining that there was a contract in place until the end of 2020-21 for LRMF legal representation with private attorneys. Committees had been meeting on this issue. LASA would only be able to establish a representation methodology once it understood the implications of the Land Court. The jurisdiction of the Court, especially whether it was exclusive or not, would change the resources needed. These issues were still under discussion. LASA had a mixed model of legal services, 96% in-house, 3% Judicare and 1% legal partners (law clinics). The Land Court issue had to be properly costed for all actors.

The cost in open-source software over Microsoft was that resources were needed for open-source that actually made it more expensive than Microsoft.

LASA would never be membership based; it was open to all applications.

Where anyone was refused legal aid for a divorce, they have 2 levels of appeal: the provincial and national heads.

On maintenance matters, Mr Hundermark noted that LASA's practice was restricted due to budget and capacity constraints. There were 250 000 new maintenance cases a year. LASA's capacity as funded in total was 48 000 cases. Maintenance made up 4% of the 54 000 cases LASA did a year.

LASA had a cooperation agreement with the Master's Office on the estates of minor children. Any estates for orphans came directly to LASA. It transferred estates to the Guardian's Fund, and collected all possible funds to protect the estate for the minors. Where there was immovable property, this was also addressed.

LASA had a programme to call its clients to determine satisfaction. If it picked up on a concern or an issue, it sent this through to the local office. LASA's advice line is also a complaints line. LASA also followed up with clients twice a year for complaints lodging.

Mr Mvundlela thanked the Committee for its commitment to assist with LASA financing. He undertook to revert to committee members on written questions as soon as possible. Certain answers were not yet possible due to the dynamic problems faced during the pandemic.

The Chairperson thanked LASA, noting his pride in the institution. The fact it had 16 received successive clean audits was commendable. He wished LASA could engage with justice system entities that were struggling to achieve clean audits. He stressed the importance of understanding budget cut impacts on LASA. He noted there would definitely be a cut, but the Committee would attempt to cushion the impact.

The meeting was adjourned.