Legal Aid Briefing:
Parliamentary Portfolio Committee –
Justice & Constitutional Development

5 August 2009
An Introduction
Legislation / Constitution / Mandate
Legal Aid SA - Mandate


- Section 35(2) “Everyone who is detained, including every sentenced prisoner, has the right -
  (a) …
  (c) to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly; …”
- Section 35(3) “Every accused person has the right to a fair trial, which includes the right –
  (a) …
  (g) to have a legal practitioner assigned to the accused person by the state and at state expense, if substantial injustice would otherwise result, and be informed of this right promptly; …”
- Section 28(1) “Every child has the right,
  (a) …
  (h) To have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; …”

Legal Aid Act (Act 22 of 1969)

Section 3: “The objects of the board shall be to render or make available legal aid to indigent persons and to provide legal representation at State expense as contemplated in the Constitution …”

Other legislation also provides for legal assistance at state expense
Legal Aid SA – enabling legislation

Legal Aid Act
- Legal Aid Act sets Statutory Framework for Legal Aid
- Current Act is 40 years old – pre-dates Constitutional Democracy hence not aligned to final Constitution
- Requires a new Legal Aid Act
- Task Team established by the Department of Justice and Legal Aid South Africa

Legal Aid Guide (LAG)
- Section 3A of Legal Aid Act requires a LAG
- Sets out particulars of Legal Aid Scheme
- Must be submitted annually to Minister
- Must be ratified by Parliament and NCOP
- Legal Aid Guide 2009 was ratified by Parliament and the NCOP in October 2008
An Introduction-
Historical Challenges and the Road to high performance (2001-2009)
Legal Aid SA – Historical Challenges

Pre - 2000

• Organisation not geared to serve post-democratic SA
• Delivery not able to meet demand for legal assistance by poor
• Judicare the primary system for delivery – not proving to be a cost effective model
• Management and administration systems not geared to ensure effective and efficient functioning of LAB
• Financial management poor
• Created opportunity for defrauding of organisation
• Governance systems poor and Board not functioning effectively
• Debt and contingent liability escalating – estimated at about R1billion by 1998-99 – LAB bankrupt
• ORGANISATION IN A STATE OF COLLAPSE AND QUESTIONS RAISED ABOUT WHETHER THE ORGANISATION SHOULD BE SHUT DOWN
Legal Aid Board Transformation : 2000-09

Post 2000

• Delivery system changed to a more sustainable model able to reach many more South Africans – Justice Centre model – the delivery of legal aid services through in-house salaried lawyers i.e. lawyers employed by LAB
• Organisation re-geared to serve post-democratic SA – shift to meet Constitutional mandate – special focus on poor and vulnerable
• Management and administration systems overhauled and geared to ensure effective and efficient functioning of LAB
• Financial management attended to and AG Reports improved to unqualified audits by 2002
• Contingent liability more accurately estimated and budgeted for
• Governance systems improved and Board functioning effectively
• LAB BECAME A HIGH PERFORMANCE ORGANISATION ABLE TO DELIVER ON ITS MANDATE
Staffing 2000 - 2009

Staffing increased from <500 to 2500

Legal Aid Board Staffing

- Positions
- Recruited
- Lawyers

Staffing increased from <500 to 2500
National Footprint 2000 - 2009

Offices (Justice Centres) increased from 8 to 62
Legal Aid Finances 2000 - 2009

Budget increased from R300m to R900m
Legal Delivery Matters (new) 2002 - 2009

Number of persons assisted with legal aid increased from <200,000 to more than 430,000

Legal Service Delivery - New Matters

- Total new matters
- JC
- Judicare
- Co-op

Number of persons assisted with legal aid increased from <200,000 to more than 430,000.
### ACTION 1. Intensify the fight against crime and corruption

<table>
<thead>
<tr>
<th>Action</th>
<th>Sub-Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.1 Formulate and implement a coherent set of objectives, priorities and performance measurement targets for the key components of the criminal justice system.</td>
<td>1.1.1 Adopt a single vision, mission, set of objectives, priorities and performance measurement targets for the CJS</td>
</tr>
<tr>
<td></td>
<td>1.1.2 Develop and implement various protocols/SOPs/manuals/policies</td>
</tr>
<tr>
<td></td>
<td>1.1.3 Review and determine human capital requirements for specific occupational categories</td>
</tr>
<tr>
<td></td>
<td>Number of prosecutors and legal aid practitioners increased by 5%</td>
</tr>
<tr>
<td>1.2 The establishment, through legislation or by protocol, a new and realigned single CJS coordinating and management structure.</td>
<td>1.2.1 Speedy resolution of trials</td>
</tr>
<tr>
<td>1.3 The modernisation of the CJS through the application of technology solutions...</td>
<td>1.3.1 Modernization and integration Systems</td>
</tr>
<tr>
<td>1.5 Promote the rehabilitation of detainees to reduce recidivism, addressing the challenge of overcrowding in detention facilities...</td>
<td>1.5.6 Coordination and implementation of the Child Justice Act</td>
</tr>
<tr>
<td>1.8 The development and implementation of an effective Civil Justice System to expand access to civil justice especially for the poor.</td>
<td>1.8.1 Review of the Civil Justice System</td>
</tr>
</tbody>
</table>
Client & Community
I. Changes in environmental factors (inequality, crime, health, consumer issues, migration…) create new and increasing demand for legal services
II. Organisational capacity resulting in inadequate access to justice for clients including at courts and Lack of funding for civil legal aid
III. Quality of legal services offered by Legal Aid Board (including judicare quality)
IV. Legal Aid Board Image/Reputation Risk

Legal & Justice
V. Inefficiencies of CJS negatively impact on image and credibility of all entities within CJS; Lack of confidence in CJS
VI. New proposals/laws implemented without requisite funding

Government/Parliament
VII. Efficiency of Department of Justice impacting on responsibilities as Executive Authority
VIII. Independence of Legal Aid Board
IX. Political support for legal-aid (as reflected in funding support)
X. Inconsistent application of OSD perpetuating non-alignment of salaries within the justice cluster

Finance & Sustainability
XI. Unequal resourcing of legal aid relative to other agencies impacts on Legal Aid Board performance and quality

Employee & Organisational Capacity /Innovation & Learning
XI. Attraction and Retention including career pathing and the attraction and retention of Specialist Skills
XII. IT Capacity gaps not responsive to business need
XIII. Organisational Culture
Vision 2020
A just South Africa in which the rights enshrined in The Constitution are protected and defended to ensure peace and justice for all.

Mission 2020
To be a leading provider of quality, professional legal services, ensuring effective access to justice for the poor and vulnerable, in an independent, efficient and caring manner.
Legal Aid Board Values

**Passion for justice**
To live for giving effect to the rights enshrined in our Constitution and to be committed and dedicated to increasing access to justice for all

**Caring**
To ensure we treat our clients and staff as human beings (and not as different form us or as numbers) in a manner that we would want others to treat us and to care for their well being.

**Respect for human dignity (ubuntu) and diversity**
To ensure that in all our dealings with our clients, communities and staff we respect the dignity of every person regardless of class, race, gender, sexual orientation, age or any other form of prejudice. To value our differences in a manner that celebrates our diversity.

**Empowerment**
To empower our clients to make informed choices about legal matters impacting on their lives. To empower our staff to develop to their full potential and to contribute to achieving our vision and mission.

**Integrity**
To be honest and ethical in all our dealings.

**Accountability**
To be accountable to our clients on their legal matters and to the public of South Africa for the effective and efficient utilisation of public funds as well as to our Executive Authority and Parliament for the public funds we receive and the mandate we have to fulfil.
**LAB Outcomes 2020**

<table>
<thead>
<tr>
<th>Outcome 1:</th>
<th>An effective and efficient justice sector as is realisable within our mandate.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outcome 2:</td>
<td>Justice for all focusing on the poor &amp; vulnerable and ensuring that the Constitution is a living document for all the people in SA.</td>
</tr>
<tr>
<td>Outcome 3:</td>
<td>A sustainable, efficient and independent organisation fulfilling its mandate.</td>
</tr>
<tr>
<td>Outcome 4:</td>
<td>Citizens and communities committed to and living by the rights in our Constitution i.e. creating a rights consciousness.</td>
</tr>
</tbody>
</table>
### Legal Aid Board Outcomes & Objectives (2009-12)

**Outcome 1:** An effective and efficient justice sector as is realisable within our mandate

**Outcome 2:** Justice for all focusing on the poor & vulnerable and ensuring that the Constitution is a living document for all the people in SA

**Outcome 3:** A sustainable, efficient and independent organisation fulfilling its mandate.

**Outcome 4:** Citizens and communities committed to and living by the rights enshrined in our Constitution.

<table>
<thead>
<tr>
<th>Client &amp; community objectives</th>
<th>Legal &amp; Justice/Stakeholder</th>
<th>Shareholder</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Clients and community with increased access to independent legal services (civil and criminal)</td>
<td>I. Efficient and effective justice system &amp; JCPS Cluster delivering on its Constitutional and legislative mandate thus engendering public confidence</td>
<td>I. Timeous accountability to Parliamentary committees and Executive Authority so that they are well informed of LAB strategy and programmes</td>
</tr>
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<td>II. Clients receiving timeous and quality legal services</td>
<td></td>
<td></td>
</tr>
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<td>III. Vulnerable groups protected</td>
<td></td>
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<tr>
<td>IV. Empowered and educated clients and community aware of their Constitutional rights and obligations and able to access legal-aid services</td>
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</tr>
</tbody>
</table>
### Legal Aid Board Outcomes & Objectives (2009-12) cont.

**Outcome 1:** An effective and efficient justice sector as is realisable within our mandate

**Outcome 2:** Justice for all focusing on the poor & vulnerable and ensuring that the Constitution is a living document for all the people in SA

**Outcome 3:** A sustainable, efficient and independent organisation fulfilling its mandate.

**Outcome 4:** Citizens and communities committed to and living by the rights enshrined in our Constitution.

<table>
<thead>
<tr>
<th>Finance and sustainability objectives</th>
<th>Internal Business Processes objectives</th>
<th>Employee &amp; organisational capacity objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Sustainable and financially stable Legal Aid Board including proportionate funding, funding for new legislation and new programmes</td>
<td>I. Efficient, effective and economic delivery</td>
<td>I. Expanded national footprint - Increased capacity to deliver and support the delivery of legal services</td>
</tr>
<tr>
<td>II. Good governance and compliance</td>
<td>II. Client-centred delivery</td>
<td>II. Appropriate competencies developed</td>
</tr>
<tr>
<td>III. Strong and recognised Legal Aid Board brand (nationally &amp; internationally)</td>
<td>III. Professional and independent delivery</td>
<td>III. Enabling environment to deliver quality legal services</td>
</tr>
<tr>
<td></td>
<td>IV. Accurate, relevant and timeous management information</td>
<td>IV. People-centred human resource management - LAB an employer of choice</td>
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<td></td>
<td>V. Sound financial management and sustainable business processes</td>
<td>V. Positive organisational culture and climate</td>
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<td>VI. Efficient, effective and responsive IT platform</td>
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<td>VII. Learning and innovative organisation</td>
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<td>VIII. Developed and functional legal aid systems in Africa and in the developing countries</td>
</tr>
</tbody>
</table>

**Outcome 1:** An effective and efficient justice sector as is realisable within our mandate

**Outcome 2:** Justice for all focusing on the poor & vulnerable and ensuring that the Constitution is a living document for all the people in SA

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**Outcome 4:** Citizens and communities committed to and living by the rights enshrined in our Constitution.

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**Strategic Plan 2009-2012**

Briefing to Justice Portfolio Committee
5 August 2009
<table>
<thead>
<tr>
<th>Client, community, stakeholder and shareholder objectives</th>
<th>Finance and sustainability objectives</th>
<th>Internal Business Processes objectives</th>
<th>Employee &amp; organisational capacity/Innovation &amp; learning objectives</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. To deliver client-focussed and quality legal services</td>
<td>v. To maintain a sustainable and financially stable Legal Aid Board</td>
<td>viii. To review business processes (delivery and support services) and ensure that they are efficient, effective, economic, client-centred, professional and independent</td>
<td>xi. To expand the national footprint - Increase capacity to deliver and support the delivery of legal services</td>
</tr>
<tr>
<td>II. To educate/inform communities about the Constitution and legal-aid services</td>
<td>vi. To ensure good governance</td>
<td>ix. To develop accurate, relevant and timeous management information to inform business planning and decisions</td>
<td>xii. To develop appropriate competencies</td>
</tr>
<tr>
<td>III. To contribute to building an efficient and effective justice system &amp; JCPS Cluster and to implement the actions emanating from the CJS Review</td>
<td>vii. To develop a strong and recognised Legal Aid Board brand (nationally &amp; internationally)</td>
<td>x. To ensure sound financial management and sustainable business processes</td>
<td>xiii. To implement people-centred human resource management - LAB an employer of choice</td>
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<tr>
<td>IV. To timeously account to Parliament and the Executive Authority so that they are well informed of LAB strategies and programs</td>
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<td>xiv. To maintain a positive organisational culture</td>
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<td></td>
<td></td>
<td></td>
<td>xv. To enhance the Legal Aid Board IT platform</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>xvi. To build a learning and innovative organisation</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>xvii. To support the development of functional legal aid systems in Africa and in the developing countries</td>
</tr>
</tbody>
</table>
LEGAL AID BOARD STRATEGIC PLANNING 2009-12
LINKING STRATEGIES

CLIENT/COMMUNITY STAKEHOLDERS
- To educate/inform communities about the Constitution and legal-aid services

SHAREHOLDERS
- To deliver client-focused and quality Legal services

FINANCE & SUSTAINABILITY
- To contribute to building an efficient and effective justice system & JCPS Cluster
- To maintain a sustainable and financially stable Legal Aid Board
- To ensure sound financial management and sustainable business processes

INTERNAL BUSINESS PROCESSES
- To review business processes (delivery and support services) and ensure that they are efficient, effective, economic, client-centered, professional and independent
- To develop accurate, relevant and timeous management information to inform business planning and decisions
- To ensure sound financial management and sustainable business processes

EMPLOYEE & ORGANISATIONAL CAPACITY INNOVATION AND LEARNING
- To support the development of functional legal aid systems in Africa and in the developing countries
- To maintain a positive organisational culture
- To implement people-centered human resource management – LAB an employer of choice
- To develop appropriate competencies
- To build a learning and innovative organisation
- To expand the national footprint – increase capacity to deliver and support the delivery of legal services
- To maintain and enhance the IT Platform

To develop a strong and recognised Legal Aid Board brand (national & Internationally)
- To ensure good governance
- To contribute to building an efficient and effective justice system & JCPS Cluster

To deliver client-focused and quality Legal services
- To expand the national footprint – increase capacity to deliver and support the delivery of legal services
- To ensure sound financial management and sustainable business processes

To maintain and enhance the IT Platform
- To ensure good governance
- To contribute to building an efficient and effective justice system & JCPS Cluster

To review business processes (delivery and support services) and ensure that they are efficient, effective, economic, client-centered, professional and independent
- To develop accurate, relevant and timeous management information to inform business planning and decisions
- To ensure sound financial management and sustainable business processes

To develop a strong and recognised Legal Aid Board brand (national & Internationally)
- To contribute to building an efficient and effective justice system & JCPS Cluster
- To maintain a sustainable and financially stable Legal Aid Board
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To maintain and enhance the IT Platform
- To ensure good governance
- To contribute to building an efficient and effective justice system & JCPS Cluster

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- To maintain a sustainable and financially stable Legal Aid Board
- To ensure sound financial management and sustainable business processes
From Strategy to Implementation
From Strategic Plan to Business Plan…

- The Strategic Plan was submitted to the Executive Authority on 30 September 2009. The final Strategic Plan informs the preparation of our Business Plans which expand the strategies into programmes and projects.

- We have identified targets and measures (Key Performance Indicators KPIs) for each of the programmes and projects and linked them to budgets, responsible persons, time-frames and milestones for delivery.

- This further informs the individual performance contracts of every staff member.
Legal Aid South Africa
Increasing Access to Justice in 2009
Increasing Access to Justice in 2009

Client & Community
Increasing Access to Justice – Client & Community

Legal Aid – National Footprint (offices) for delivery FY 08/09

<table>
<thead>
<tr>
<th>Region</th>
<th>Province</th>
<th>Justice Centres</th>
<th>Satellite Offices</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eastern Cape</td>
<td>Eastern Cape</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Free State &amp; North West</td>
<td>Free State</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>North West</td>
<td>7</td>
<td>4</td>
</tr>
<tr>
<td>Gauteng</td>
<td>Gauteng</td>
<td>10</td>
<td>4</td>
</tr>
<tr>
<td>KwaZulu Natal</td>
<td>KwaZulu Natal</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>Limpopo &amp; Mpumalanga</td>
<td>Limpopo</td>
<td>5</td>
<td>6</td>
</tr>
<tr>
<td></td>
<td>Mpumalanga</td>
<td>4</td>
<td>7</td>
</tr>
<tr>
<td>Western Cape &amp; Northern Cape</td>
<td>Northern Cape</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td>Western Cape</td>
<td>8</td>
<td>8</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>62</strong></td>
<td><strong>55</strong></td>
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</table>
Increasing Access to Justice – Client & Community

Legal Aid SA – National Footprint Staffing per province as at end June 2009

<table>
<thead>
<tr>
<th>Province</th>
<th>Legal Staff (incl paralegals)</th>
<th>Non Legal Staff</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Actual</td>
<td>Budget</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>274</td>
<td>285</td>
</tr>
<tr>
<td>Free State</td>
<td>123</td>
<td>137</td>
</tr>
<tr>
<td>Gauteng</td>
<td>356</td>
<td>373</td>
</tr>
<tr>
<td>KwaZulu Natal</td>
<td>304</td>
<td>319</td>
</tr>
<tr>
<td>Limpopo</td>
<td>106</td>
<td>116</td>
</tr>
<tr>
<td>Mpumalanga</td>
<td>104</td>
<td>121</td>
</tr>
<tr>
<td>North West</td>
<td>132</td>
<td>140</td>
</tr>
<tr>
<td>Northern Cape</td>
<td>74</td>
<td>85</td>
</tr>
<tr>
<td>Western Cape</td>
<td>284</td>
<td>293</td>
</tr>
<tr>
<td>National Office</td>
<td>14</td>
<td>15</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>1771</strong></td>
<td><strong>1884</strong></td>
</tr>
</tbody>
</table>

Total budgeted as at end June 2009: 2471
Increasing Access to Justice – Client & Community
Legal Aid SA – National Footprint Map (Justice Centres & Satellite Offices)
Increasing Access to Justice – Client & Community

Justice Centre Delivery Data 2008/09: new & finalised matters by court type

<table>
<thead>
<tr>
<th>Court type</th>
<th>New Matters</th>
<th>Finalised Matters</th>
</tr>
</thead>
<tbody>
<tr>
<td>District Court</td>
<td>307,565</td>
<td>285,409</td>
</tr>
<tr>
<td>Regional Court</td>
<td>62,356</td>
<td>58,857</td>
</tr>
<tr>
<td>High Court</td>
<td>7,552</td>
<td>6,836</td>
</tr>
<tr>
<td>Other</td>
<td>17,615</td>
<td>21,762</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>395,088</strong></td>
<td><strong>372,864</strong></td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Client & Community

Delivery Data 2008/09: criminal/civil split

<table>
<thead>
<tr>
<th>Matter Type:</th>
<th>Criminal Matters</th>
<th>Civil Matters</th>
<th>Total Matters</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Justice Centres</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New</td>
<td>370,769</td>
<td>24,319</td>
<td>395,088</td>
</tr>
<tr>
<td>Finalised</td>
<td>343,887</td>
<td>28,977</td>
<td>372,864</td>
</tr>
<tr>
<td><strong>Judicare</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New</td>
<td>32,109</td>
<td>3,614</td>
<td>35,723</td>
</tr>
<tr>
<td>Finalised</td>
<td>22,770</td>
<td>1,221</td>
<td>23,991</td>
</tr>
<tr>
<td><strong>Co-operations Agreements</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>New</td>
<td>1,735</td>
<td>2,376</td>
<td>4,111</td>
</tr>
<tr>
<td>Finalised</td>
<td>1,544</td>
<td>1,911</td>
<td>3,455</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>404,613</strong></td>
<td><strong>30,309</strong></td>
<td><strong>434,922</strong></td>
</tr>
</tbody>
</table>
Criminal and civil legal matters – 2008/09

Legal Service Delivery - New matters Criminal and Civil

- % Civil (all delivery systems)
- % Criminal (all delivery systems)
Increasing Access to Justice – Client & Community

Delivery Data 2008/09: Number of children assisted

<table>
<thead>
<tr>
<th>Matter type</th>
<th>Number of New Matters involving children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Criminal</td>
<td>39,989</td>
</tr>
<tr>
<td>Civil</td>
<td>5,279</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td><strong>45,268</strong></td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Client & Community

Delivery Data 2008/09: General Advice

<table>
<thead>
<tr>
<th>Legal Aid Office</th>
<th>Number of persons to whom advice was given</th>
</tr>
</thead>
<tbody>
<tr>
<td>Justice Centre</td>
<td>104,867</td>
</tr>
<tr>
<td>Satellite Office</td>
<td>9,061</td>
</tr>
<tr>
<td>Totals</td>
<td>113,928</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Client & Community

Delivery Data 2008/09: Automatic reviews

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Automatic Reviews</th>
</tr>
</thead>
<tbody>
<tr>
<td>FY 02/03</td>
<td>30,306</td>
</tr>
<tr>
<td>FY 03/04</td>
<td>29,133</td>
</tr>
<tr>
<td>FY 04/05</td>
<td>26,720</td>
</tr>
<tr>
<td>FY 05/06</td>
<td>18,370</td>
</tr>
<tr>
<td>FY 06/07</td>
<td>14,720</td>
</tr>
<tr>
<td>FY 07/08</td>
<td>12,019</td>
</tr>
<tr>
<td>FY 08/09</td>
<td>10,597</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Client & Community

Practitioner Quality Scores

<table>
<thead>
<tr>
<th>Legal Practitioner</th>
<th>JC Quality Assessment (File &amp; Court scores added)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Target %</td>
</tr>
<tr>
<td>Candidate Attorney (CA)</td>
<td>80%</td>
</tr>
<tr>
<td>Professional Assistant (PA)</td>
<td>85%</td>
</tr>
<tr>
<td>PA High Court Unit</td>
<td>90%</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Client & Community

Community outreach programmes – awareness of rights & of legal aid

**Single national access telephone line:** 0861 05 24 35

<table>
<thead>
<tr>
<th>Projects</th>
<th>Outputs</th>
<th>Targeted outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>School interventions and community events</td>
<td>Justice centres conduct public lectures and fair play tournaments with local schools on rights, Legal Aid SA services and other key socio economic issues</td>
<td>Increased awareness on the rule of law and their rights amongst learners and community members</td>
</tr>
<tr>
<td>Police and prison branding</td>
<td>Justice centres branding their local police ad prison cells with contact details</td>
<td>Increased awareness to detained persons on Legal Aid SA services</td>
</tr>
<tr>
<td>Court branding</td>
<td>Justice centres coordinating and manning information desks including poster displays at their local courts</td>
<td>Increased awareness to potential and existing clients on Legal Aid SA services</td>
</tr>
<tr>
<td>Printed materials including outdoor campaign</td>
<td>Billboards and Posters/pamphlets with relevant key messages</td>
<td>Increased awareness of rights and services to potential and existing clients</td>
</tr>
<tr>
<td>Radio campaign</td>
<td>Branded slots with key messages on African language stations</td>
<td>Increased awareness of rights and services to potential and existing clients</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Client & Community

Legal Delivery Challenges

• Low Practitioner per court ratio insufficient to meet demand at courts
• Low Practitioner per court resulting in high caseloads for practitioners
• Access to Legal Aid SA offices by clients in many rural areas is difficult
• Limited capacity to render civil legal aid services
• Sustainability issues with community advice offices which impacts on demand for Legal Aid SA services.
• Difficulties to access clients for consultations which sometimes negatively affects the functioning of courts.
• Quality of legal services rendered to clients
Increasing Access to Justice in 2009

Stakeholder & Shareholder
Increasing Access to Justice – Stakeholder & Shareholder

Reporting to executive authority & Parliament

• In terms of the PFMA, Legal Aid SA is a Schedule 3A National Public Entity and it reports to the Minister of Justice & Constitutional Development as its Executive Authority (EA);

• Legal Aid SA submits the following to the EA
  • Annual budget as well as its Medium Term Expenditure Framework
  • Quarterly reports on the progress of its work
  • Other statutory requirements e.g. Strategic Plans

• Legal Aid SA submits the following to the EA and Parliament
  • Audited Annual Financial Statements (AFS)
  • Annual Report on performance
  • Legal Aid Guide

• Redrafting the Legal Aid Act
  • Joint task team of DOJ and Legal Aid SA constituted
  • Draft Legal Aid Bill prepared
  • Legal Aid SA considered draft bill and proposed amendments/insertions - to be discussed by task team and amended Legal Aid Bill prepared
  • Legal Aid Bill only envisaged for consideration by Parliament in 2010
# Increasing Access to Justice – Stakeholder & Shareholder Projects

## Stakeholder – Client & Community

<table>
<thead>
<tr>
<th>Projects</th>
<th>Outputs</th>
<th>Target outcome</th>
</tr>
</thead>
</table>
| National/provincial forums            | • Improved profile of Legal Aid SA  
• Improved and co-operative relationship with stakeholders  
• Keeping stakeholders aware of developments at Legal Aid SA | Stakeholder Relationship Management at national, provincial and local level with client and community stakeholder |
| Stakeholder publications including the website | Informative newsletters developed, distributed and placed on the website on quarterly basis | • Keeping stakeholders informed  
• Improved relations with stakeholders |
| Stakeholder events                   | Co-partnering with stakeholders in disseminating human rights key messages | Improving the profile of Legal Aid SA  
Increased awareness of rights amongst communities |
| Legal Aid SA Website                  | Updated website sharing news and information with community and stakeholders | Informed community and stakeholders  
Sharing of legal aid best practices |

Legal Aid SA Website: [www.legal-aid.co.za](http://www.legal-aid.co.za)
Increasing Access to Justice – Stakeholder & Shareholder

Stakeholder – Justice Cluster

Legal Aid participates at National, Regional and Local level in the following Justice Cluster initiatives:

- Criminal Justice System Review
- Legal Services Charter
- Justice Crime Prevention and Security Cluster Development Committee
- JCPS MATD Task Team
- Integrated Steering Committee on Child Justice
- Case Backlog Committee
- National Initiative of Overcrowding in Prisons
- Children's Act Steering Committee
- Child Justice Act Implementation Committee
- National Project Oversight Committee
- National Integrated Case Flow Management Committee
- 2010 FIFA World Cup Committee
- South African National Aids Council
Increasing Access to Justice in 2009
Finance & Sustainability
## Increasing Access to Justice – Finance & Sustainability

### SUMMARISED MTEF 2010-13

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>BUDGET 2009/10</th>
<th>MTEF 2010/11</th>
<th>MTEF 2011/12</th>
<th>MTEF 2012/13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and related costs</td>
<td>R649,449,165</td>
<td>R735,691,660</td>
<td>R782,441,769</td>
<td>R832,187,842</td>
</tr>
<tr>
<td>Case backlog</td>
<td>R20,000,000</td>
<td>R25,000,000</td>
<td>R30,000,000</td>
<td>0</td>
</tr>
<tr>
<td>Direct expenditure</td>
<td>R100,815,823</td>
<td>R107,581,074</td>
<td>R112,422,255</td>
<td>R116,919,146</td>
</tr>
<tr>
<td>Operating expenditure</td>
<td>R149,462,749</td>
<td>R153,747,506</td>
<td>R162,071,550</td>
<td>R168,554,411</td>
</tr>
<tr>
<td>Capital expenditure</td>
<td>R27,057,813</td>
<td>R23,090,000</td>
<td>R25,843,103</td>
<td>R25,809,370</td>
</tr>
<tr>
<td><strong>Total Budget</strong></td>
<td><strong>R946,785,547</strong></td>
<td><strong>R1,045,110,239</strong></td>
<td><strong>R1,112,778,667</strong></td>
<td><strong>R1,143,470,769</strong></td>
</tr>
</tbody>
</table>
### Increasing Access to Justice – Finance & Sustainability

**MTEF Priorities – additional funding proposal 2010-13**

<table>
<thead>
<tr>
<th>Program proposals for funding</th>
<th>MTEF 2010/11</th>
<th>MTEF 2011/12</th>
<th>MTEF 2012/13</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increasing practitioners and civil capacity</td>
<td>R91,839,096</td>
<td>R97,349,442</td>
<td>R103,190,408</td>
</tr>
<tr>
<td>Provision for experts to assist defence practitioners</td>
<td>R3,000,000</td>
<td>R3,500,000</td>
<td>R4,000,000</td>
</tr>
<tr>
<td>IT Infrastructure upgrade</td>
<td>R5,260,000</td>
<td>R1,336,600</td>
<td>R2,633,718</td>
</tr>
<tr>
<td>Escalation in operational cost beyond macro increase</td>
<td>R2,344,000</td>
<td>R2,484,640</td>
<td>R2,633,718</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>R102,443,096</strong></td>
<td><strong>R104,669,681</strong></td>
<td><strong>R111,239,862</strong></td>
</tr>
</tbody>
</table>
## Increasing Access to Justice – Finance & Sustainability

**Budget 2009-10**

<table>
<thead>
<tr>
<th>Description</th>
<th>Budget 2008/09</th>
<th>Budget 2009/10</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and related costs</td>
<td>R575,164,990</td>
<td>R649,449,165</td>
<td>13</td>
</tr>
<tr>
<td>Case backlog</td>
<td></td>
<td>R20,000,000</td>
<td>100</td>
</tr>
<tr>
<td>Direct expenditure</td>
<td>R98,694,373</td>
<td>R100,815,823</td>
<td>2</td>
</tr>
<tr>
<td>Operating expenditure</td>
<td>183,921,872</td>
<td>R149,462,749</td>
<td>(19)</td>
</tr>
<tr>
<td>Capital expenditure</td>
<td>R45,974,216</td>
<td>R27,057,813</td>
<td>(41)</td>
</tr>
<tr>
<td><strong>Total Budget</strong></td>
<td>R903,785,450</td>
<td>R946,785,547</td>
<td>4.8</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Finance & Sustainability

Annual Financial Statements 2008-09

Summarised Statement of financial Performance

<table>
<thead>
<tr>
<th></th>
<th>2008/09 R</th>
<th>2007/08 R</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-current assets</td>
<td>97,628,814</td>
<td>63,397,284</td>
</tr>
<tr>
<td>Currents assets</td>
<td>235,661,788</td>
<td>256,740,386</td>
</tr>
<tr>
<td><strong>Total assets</strong></td>
<td><strong>333,290,602</strong></td>
<td><strong>320,137,670</strong></td>
</tr>
<tr>
<td><strong>NET ASSETS AND LIABILITIES</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accumulated surplus</td>
<td>164,899,464</td>
<td>142,417,179</td>
</tr>
<tr>
<td>Non-current liabilities</td>
<td>2,275,506</td>
<td>1,532,217</td>
</tr>
<tr>
<td>Current liabilities</td>
<td>166,115,632</td>
<td>176,188,274</td>
</tr>
<tr>
<td><strong>Net assets and liabilities</strong></td>
<td><strong>333,290,602</strong></td>
<td><strong>320,137,670</strong></td>
</tr>
</tbody>
</table>
## Increasing Access to Justice – Finance & Sustainability

### Annual Financial Statements 2008-09

#### Summarised Statement of financial Performance for the year ended at 31 March 2009

<table>
<thead>
<tr>
<th></th>
<th>2008/09 R</th>
<th>2007/08 R</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>838,120,000</td>
<td>613,029,000</td>
</tr>
<tr>
<td>Direct and operational expenses</td>
<td>(851,096,016)</td>
<td>(624,259,147)</td>
</tr>
<tr>
<td>Deficit from operations</td>
<td>(12,976,016)</td>
<td>(11,230,147)</td>
</tr>
<tr>
<td>Interest and other income</td>
<td>34,207,376</td>
<td>26,294,726</td>
</tr>
<tr>
<td>Surplus for the year</td>
<td>21,231,360</td>
<td>15,064,579</td>
</tr>
</tbody>
</table>
### Increasing Access to Justice – Finance & Sustainability

**Annual Financial Statements 2008-09**

**Summarised Cash Flow Statement for the year ended at 31 March 2009**

<table>
<thead>
<tr>
<th></th>
<th>2008/09 R</th>
<th>2007/08 R</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash flow from operating activities</td>
<td>22,841,181</td>
<td>74,051,756</td>
</tr>
<tr>
<td>Net cash flow from investing activities</td>
<td>(44,167,107)</td>
<td>(34,577,735)</td>
</tr>
<tr>
<td>(Decrease)/Increase in cash and cash equivalents</td>
<td>(21,325,926)</td>
<td>39,474,021</td>
</tr>
<tr>
<td>Cash and cash equivalents at the beginning of the year</td>
<td>251,981,956</td>
<td>212,507,935</td>
</tr>
<tr>
<td>Cash and cash equivalents at the end of the year</td>
<td>230,656,030</td>
<td>251,981,956</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Finance & Sustainability

Financial Performance 2008/09 – expenditure levels

<table>
<thead>
<tr>
<th>Description</th>
<th>Budget 2008/09</th>
<th>Expenditure 2008/09</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salaries and related costs</td>
<td>R575,164,990</td>
<td>R575,160,586</td>
<td>100</td>
</tr>
<tr>
<td>Direct expenditure</td>
<td>R98,694,373</td>
<td>R97,605,017</td>
<td>98.90</td>
</tr>
<tr>
<td>Operating expenditure</td>
<td>R183,921,872</td>
<td>R180,593,302</td>
<td>98.1</td>
</tr>
<tr>
<td>Capital expenditure</td>
<td>R45,974,216</td>
<td>R45,053,674</td>
<td>98.0</td>
</tr>
<tr>
<td>Total</td>
<td>R903,785,450</td>
<td>R898,412,579</td>
<td>99.4</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Finance & Sustainability

Financial Performance 2008/09 – expenditure levels

- Salaries and related costs
- Direct expenditure
- Operating expenditure
- Capital expenditure
- Total Budget

Bar chart showing expenditure levels for different categories compared to budget for 2008/09.
Increasing Access to Justice – Finance & Sustainability

Financial Performance 2008/09

- 99% of budget spent as planned – no under-expenditure
- Efficient management of all fixed assets and vehicle fleet management
- Functional and efficient Supply Chain Management Committees
- 99% of trade creditors were paid within 30 days of invoice date
- 97% of judicare accounts were paid within 30 days of receipt of invoice
- MTEF and budget were approved by Board and presented to the Executive Authority timeously
- Annual Financial Statements submitted to the National Treasury and the Auditor General timeously
Increasing Access to Justice – Finance & Sustainability

Auditor-General’s Report and audit record

- The 2008/9 financial year was the 8th year in succession of an Unqualified Audit Report
- 4th year in succession with no matters of emphasis
### Board Composition (i.t.o. Legal Aid Act) – 18 non-executive directors

<table>
<thead>
<tr>
<th>Section of Legal Aid Act</th>
<th>Category</th>
<th>Nominated by</th>
<th>Appointed by</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 4(1)(a)</td>
<td>Judge of Supreme Court</td>
<td></td>
<td>Minister</td>
</tr>
<tr>
<td>Section 4(1)(b)</td>
<td>1 Practising Advocate</td>
<td>General Council of the Bar of South Africa</td>
<td>Minister</td>
</tr>
<tr>
<td></td>
<td>4 Practising Attorneys</td>
<td>Association of Law Societies of the RSA</td>
<td>Minister</td>
</tr>
<tr>
<td>Section 4(1)(c)</td>
<td>DG: Justice</td>
<td></td>
<td>Ex officio</td>
</tr>
<tr>
<td>Section 4(1)(d)</td>
<td>State Attorney</td>
<td></td>
<td>Ex officio</td>
</tr>
<tr>
<td>Section 4(1)(e)</td>
<td>1 member with knowledge &amp; experience in the field of Legal Aid</td>
<td></td>
<td>Minister</td>
</tr>
<tr>
<td>Section 4(1)(f)</td>
<td>3 members who can further the aims of the board</td>
<td>members referred to in (a), (b), (c), (d) and (e)</td>
<td>Minister</td>
</tr>
<tr>
<td>Section 4(1)(g)</td>
<td>6 members</td>
<td></td>
<td>State President (consult Cabinet)</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Finance & Sustainability

Board functioning and committees

• The Board of Legal Aid South Africa operates in terms of its founding legislation - the Legal Aid Act, the PFMA, the Constitution and the PFMA. It is also guided by the King II Report on Corporate Governance.

• All Board members are independent non-executive members.

• The Board operates in terms of its Board Charter, which includes the terms of reference of all its committees, as well as the Strategic Plan for the organisation. It has four committees which assist it in the execution of its responsibilities
  – Board Executive Committee
  – Legal Services Committee
  – Audit Committee
  – Remuneration Committee.

• The Board meets 4 to 5 times a year to fulfill its statutory responsibilities, provide strategic leadership and guidance to management and to receive and assess reports on performance of the organisation and make the necessary intervention as required.
Increasing Access to Justice – Finance & Sustainability

Governance

Legal Aid SA comply with good governance principles and guidelines as outlined in the King II Reports as well as the Government’s Governance Framework;

Legal Aid SA also operates a toll-free Ethics Hotline (0800 20 44 73) to receive complaints related to fraud or any other matter. This Hotline is managed by an external operator to ensure independent recording of all complaints which are then processed/investigated by our Internal Audit Department.

Legal Aid SA has an Internal Audit Department that reports directly to the CEO and also has a direct reporting relationship to the Audit Committee. Approximately 90 Audits were conducted in the last financial year. Internal Audit ensures

- entity wide compliance with legislation, regulations, Board Policies and Procedures instituted by management.
- that adequate controls have been implemented to safeguard entity assets.
- that controls implemented are adhered to on an ongoing basis across the entity.
- all incidents of fraud, corruption and maladministration across the entity are investigated.
Increasing Access to Justice – Finance & Sustainability

Finance & Sustainability Challenges

• National Treasury Macro baseline macro increases are lower than CPI and wage settlements and this leads to real term decreases in the budget e.g. inflationary escalations experienced in office lease (9.5%) municipal costs – mainly by electricity (31%) and vehicle fuel (12%)

• Unfunded mandates resulting from the introduction of new or amended legislation e.g. Child Justice Bill.

• Global recession resulting in decrease in revenue collection and government funding

• Recession impacting on donor funding and NGO work resulting in a reduction in services offered by NGOs which impact on increased demand for services from Legal Aid SA
Increasing Access to Justice in 2009
Internal Business Processes
Increasing Access to Justice – Internal Business Processes

Delivery systems

<table>
<thead>
<tr>
<th>System of Delivery</th>
<th>New Cases 2008/09</th>
<th>% of new cases 2008/09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Justice Centres</td>
<td>395,088</td>
<td>91%</td>
</tr>
<tr>
<td>Judicare</td>
<td>35,723</td>
<td>8%</td>
</tr>
<tr>
<td>Co-operation Partners</td>
<td>4,111</td>
<td>1%</td>
</tr>
<tr>
<td>Totals</td>
<td>434,922</td>
<td>100%</td>
</tr>
</tbody>
</table>

* 372,864 cases were finalised
Legal Delivery Systems - 2008/09

Legal Service Delivery New Matters

- % JC - New Matters
- % Judicare - New Matters
- % Co-op - New Matters

395,086
35,723
4,111
Increasing Access to Justice – Internal Business Processes

Court Coverage Plan & legal aid courts

<table>
<thead>
<tr>
<th>Legal Aid Courts/Days FY 08/09</th>
<th>Q4</th>
</tr>
</thead>
<tbody>
<tr>
<td>DC - Full time Legal Aid Courts</td>
<td>13</td>
</tr>
<tr>
<td>RC - Full time Legal Aid Courts</td>
<td>0</td>
</tr>
<tr>
<td>DC - Dedicated Legal Aid Days</td>
<td>76</td>
</tr>
<tr>
<td>RC - Dedicated Legal Aid days</td>
<td>7</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Internal Business Processes

Practitioner per court ratios

<table>
<thead>
<tr>
<th>Court type</th>
<th>Average Ratio per court</th>
</tr>
</thead>
<tbody>
<tr>
<td>Reception Court</td>
<td>2 : 1</td>
</tr>
<tr>
<td>District Court</td>
<td>1 : 1</td>
</tr>
<tr>
<td>Regional Court</td>
<td>1.18 : 1</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Internal Business Processes

Legal Quality Interventions

- Candidate Attorney court readiness and pre-admission programme implemented at all Justice Centres
- Legal training programme arranged at both national and Justice Centre level
- Support for specialist court practitioners
- Individual development plans (IDPs) customised per legal practitioner and monitored on an ongoing basis.
- Mentorship programme in place for legal practitioners
- Case discussion forums – Proactive preparation and support for cases
- Legal supervision programme including court observations
- Dedicated day per week set aside by practitioners for preparation and consultations for cases
Increasing Access to Justice – Internal Business Processes

Legal Quality Monitoring

- Daily case file reviews by legal supervisors
- Justice Centre quarterly file quality review
- Justice Centre court observation supervision programme
- Regional Office file quality reviews and legal audit programme
- Internal Audit’s independent legal quality assurance programme.
- Peer reviews
- Judicial Officer feedback
- Improved business intelligence capability enables improved monitoring of practitioner performance.

Legal Quality Assurance Unit

- Legal Quality Unit consists of six legal quality assurance auditors and a manager, all of whom are qualified Attorneys with a minimum of eight years experience.
- Legal Practitioners across the entity are reviewed every two years.
- Instruments have been developed to assess the legal quality per practitioner. These instruments were reviewed internally and by an Advocate in private practice.
Increasing Access to Justice – Internal Business Processes

Legal Aid – legislative requirements to provide legal aid

The following laws require the government to provide legal assistance:

- The Constitution of the RSA (Section 35(2)(c)) – arrested, detained or sentenced persons
- The Constitution of the RSA (Section 35(3)(g)) – accused persons
- Criminal Procedure Act (Section 73, 309, 309B, 309C, 309D & 316) – Legal Representation in Trial and Appeals
- The Constitution of the RSA (Section 28(1)(h)) – civil legal assistance to children
- Child Care Act 74 of 1996, (Section 8A) will be replaced by Children’s Act 38 of 2005, (Section 55 was to have come into operation in May 2009)
- Labour Relations Act 66 of 1995 (Section 149)
- Mental Healthcare Act 17 of 2000 (Section 15)
- Restitution of Land Rights Act 22 of 1994 (Section 22)
- Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998 (Section 4(5))
- Divorce Court Rules (Rule 3)
A Policy Framework for the delivery of legal aid

Section 3A of the Legal Aid Act – administering legal aid

3A Legal Aid Guide

(1)(a) Subject to the provisions of this act and in order to attain its objects and to exercise its powers referred to in section 3 (d) and (dA), the board shall, in consultation with the Minister, include particulars of the scheme under which legal aid is rendered or made available and the procedure for its administration in a guide called the Legal Aid Guide.

(b) The provisions of the Legal Aid Guide shall be binding upon the board, its officers and employees.

(2) The board shall, …, submit the Legal Aid Guide at least once a year to the Minister and the Minister shall forthwith cause the Legal Aid Guide to be tabled in National Assembly and the Senate for ratification, and pending such ratification the Legal Aid Guide then in operation shall continue to apply.

(3) Whenever the board considers an application for the rendering of legal aid, other than a matter referred to the board in terms of section 3B (1), and whether the application is made in terms of section 25(1)(c) or (3)(e) of the Legal Aid Guide.

The 11th Edition of the Legal Aid Guide was ratified by the National Assembly on 23 October 2008 and by the National Council of Provinces on 11 November 2008. The ratified Legal Aid Guide came into operation on 10 February 2009.
Structure of the Legal Aid Guide 2009

- How to use this Legal Aid Guide
- Abbreviations and acronyms
- Explanations of Useful words
- Contents
- Part 1 – Preamble
- Part 2 – Legal Aid Policy
- Part 3 – Legal Aid Procedure
- Annexures
- Detailed Index
Legal Aid Guide – Types of Matters

**Criminal Matters**

**High Court and Regional Court**
If an accused is charged in the High Court or the Magistrates' Court for a regional division (a Regional Court), an accused will qualify for legal aid without further enquiry into the nature and seriousness of the charge if the accused is unable to afford the cost of his/her own legal representation.

**District Court**
Where a legal aid applicant is charged in a district Magistrates’ Court (a District Court), the accused will qualify for legal aid, provided the accused is unable to afford the cost of his/her own legal representation, if the matter is included in the list of offences contained in Paragraphs 4.3.2(a) to (c) of the Legal Aid Guide.

**Criminal Appeals**
It is necessary to limit the right to legal aid in appeals due to limited resources available to Legal Aid SA. The right to Legal Aid in an appeal will extend to assistance with the following:
- An application for leave to appeal to the trial court that sentenced the client
- An application/petition for leave to appeal to a Higher Court if leave to appeal is refused by the trial court
- An Appeal, if leave to appeal is granted or an automatic right of appeal is applicable to the accused.

Any further assistance with an appeal beyond what is stipulated above shall only be granted if there are prospects of success in proceeding further with the appeal.
Legal aid is available in civil matters where substantial injustice would otherwise result and subject to the availability of resources as well as the requirements of the Legal Aid Guide.

**Civil Matters**

Legal aid may not be granted for cases listed in paragraph 4.9.1(a) to (o), but a decision not to grant legal aid in these kinds of cases must be consistent with Legal Aid SA’s obligations under Section 7 of the Constitution read with the relevant legislation giving content to such constitutional rights.

**Civil Matters - Exclusions**

- Maintenance and domestic violence - Advice and representation where other party legally represented
- Labour cases – Farm Workers, enforcement of awards & Reviews
- Divorce and Family Law
- Non-Litigious assistance through Justice Centres
- Land Restitution – Funds must still be made available
- Labour Tenant, ESTA and PIE – Funds must still be made available
- Asylum Seekers
- Hague Convention
- Equality Act
- Children’s Civil Matters
- Mental Health Care Act Users

**Civil Matters - Inclusions**

- • Divorce and Family Law
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- • Equality Act
- • Children’s Civil Matters
- • Mental Health Care Act Users
Legal Aid Guide - Qualifying for Legal Aid

Residence and Citizenship/ Permanent Residence

Legal Aid SA grants legal aid in criminal matters to any indigent person and any other person who qualifies for legal aid in terms of this legal aid guide and who is *physically resident* in the Republic of South Africa.

Legal Aid SA grants legal aid in civil matters to all children resident in SA and to any indigent person who qualifies for legal aid in terms of this legal aid guide and who is both physically resident in the Republic of South Africa and a citizen or permanent resident of the Republic of South Africa.
Legal Aid Guide - Qualifying for Legal Aid

Means Test

The Legal Aid Act does not define ‘indigent person’. Therefore, Legal Aid SA has laid down a means test that is revised from time to time. The means test determines indigence for the purpose of considering legal aid.

There are 2 steps for determining qualification for legal aid through the means test in criminal or civil matters and a 3rd step in criminal matters being heard before the Regional and High Courts where the means test was exceeded by the applicant. All these stage 3 cases will be referred to the Constitutional Case Management Committee at National Office.

• The means test for households is applicable to children or their parents/guardians in all civil matters
• An applicant who is in receipt of a state grant or a state old age pension is automatically entitled to legal aid

Means Test Limits

- Nett Income after tax:
  Single Applicants - R 5 000 pm
  Households - R 5 500 pm
- Nett Assets:
  No Immovable Property - R 75 000
  With Immovable property - R 300 000 (Primary residence and must be physically resident in the property)

JCE Discretion - R 1 000 pm
ROE Discretion - R 2 000 pm
Legal Aid Guide - Granting and Authorising of Legal Aid

**Grounds for refusal of Legal Aid**

Legal aid will be refused in **criminal cases** if:

– The matter is not listed for the District Court, subject to the JCE’s discretion, and/or

– The applicant does not qualify under the means test

In **civil cases**, Legal Aid SA must always be satisfied that there are merits to the case. If there is little or no **prospect of success** and **enforcement** on a **balance of probabilities**, legal aid will be refused.
Increasing Access to Justice – Internal Business Processes

Legal challenges to the delivery of Legal Aid

• Court orders that accused enjoying an affluent lifestyle (supposedly due to the charity of children/trusts) should receive legal aid. (e.g. S v Porritt and Bennett.)

• Court orders that accused who terminate the mandate of their appointed representatives without good cause should have alternative representatives appointed. (e.g. S v Pretorius – Boeremag).

• Court orders that accused between whom there is no known conflict of interest should have separate legal representation. (e.g. Legal Aid Board v De Bruyn, S v Porritt and Bennett).

• Court orders that private legal representation (Judicare) should be provided when Justice Centre practitioners are available (e.g. S v Porritt and Bennett, Legal Aid Board v De Bruyn).

• Commission on Land Restitution/DLA undertakings to provide legal representation at State expense on a scale that is not sustainable (e.g. Richtersveld and Legal Services Project outsourced to Cheadle Thompson & Haysom).
Increasing Access to Justice – Internal Business Processes

Legal challenges to the delivery of Legal Aid

- Cases requiring substantial resources are increasing and this is concerning as it impacts on the sustainable delivery of legal services (Sv Pretorius - Boeremag, S v Porritt & Bennett, S v Beukes - Travelgate, S v Marinus – Mr Big) – An expensive cases fund should be considered and funded from monies confiscated in terms of POCA Legislation

- By comparison with developed countries the budget for legal aid in South Africa is small and the demands are high. This necessitates constant vigilance to ensure sustainability. While judicial officers may know what is required in the cases coming before them (per Navsa JA in Boeremag) the Legal Aid SA is best placed to determine whether it will be possible to replicate what is done in any one matter in all similar matters. Our limited resources and high demands require a Legal Aid Act and a Legal Aid Guide in which the availability, scale and delivery mechanisms of legal aid are strictly enforced. This will require setting boundaries to judicial authority to intervene in the management of legal aid.
Increasing Access to Justice – Internal Business Processes

Internal Business Processes - challenges

- Lack of accreditation of Judicare practitioners for rural areas
- High use of Candidate Attorneys in our District Court coverage programme
- Supervisor to Practitioner ratio low at some Justice Centres resulting in supervisory challenges
- Insufficient/inadequate consultation facilities for our legal staff at courts and prisons
- Inadequate interpretations facilities for legal staff
- Legal challenges to the delivery of legal aid
Increasing Access to Justice in 2009
Employee & Organisational Capacity & Growth
Increasing Access to Justice – Employee & Organisational Capacity

### Employee Capacity – Recruitment

| Regions                          | Number of posts | Number of Posts filled | Vacancy Rate % | *Number of Posts filled additional to establishment *
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>National Office</td>
<td>169</td>
<td>137</td>
<td>18.93</td>
<td>21</td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>353</td>
<td>342</td>
<td>3.12</td>
<td>15</td>
</tr>
<tr>
<td>Free State &amp; North West</td>
<td>340</td>
<td>319</td>
<td>6.18</td>
<td>9</td>
</tr>
<tr>
<td>KwaZulu Natal &amp; Mpumalanga</td>
<td>522</td>
<td>489</td>
<td>6.32</td>
<td>36</td>
</tr>
<tr>
<td>Gauteng &amp; Limpopo</td>
<td>590</td>
<td>567</td>
<td>3.90</td>
<td>23</td>
</tr>
<tr>
<td>Western Cape &amp; Northern Cape</td>
<td>445</td>
<td>427</td>
<td>4.04</td>
<td>22</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>2419</strong></td>
<td><strong>2281</strong></td>
<td><strong>5.70</strong></td>
<td><strong>126</strong></td>
</tr>
</tbody>
</table>

Average Annual Turnover: 14.7%
Average Annual Turnover Excl CAs: 7.21%
Increasing Access to Justice – Employee & Organisational Capacity

People Development Programmes & Organisational Culture Programme

• Talent Acquisition and Retention
• Leadership Development, Succession Planning and Career-pathing
• Skills Development (including Training and Staff Bursaries) and Employment Equity
• Performance Management and Achiever Recognition
• Health and Safety
• HIV Aids Management and Employee Wellness
• Knowledge Management and Learning Networks
• Greening initiatives
• Diversity Management including gender mainstreaming
• Value-centred Organisational Culture Programme including Brand Internalisation
## Increasing Access to Justice – Employee & Organisational Capacity

### Employee Growth – training (non-legal)

<table>
<thead>
<tr>
<th>Occupational Bands</th>
<th>Gender</th>
<th>Staff Compliment</th>
<th>Leadership</th>
<th>Legal Training</th>
<th>Paralegal Training</th>
<th>Skills Programmes and Other short courses</th>
<th>Other Developmental Programmes</th>
<th>Total Staff Attended</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legislators, Senior Officials and Managers</td>
<td>Female</td>
<td>77</td>
<td>8</td>
<td></td>
<td></td>
<td>5</td>
<td>2</td>
<td>15</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>116</td>
<td>7</td>
<td></td>
<td></td>
<td>13</td>
<td>5</td>
<td>25</td>
</tr>
<tr>
<td>Professionals</td>
<td>Female</td>
<td>355</td>
<td>2</td>
<td>473</td>
<td></td>
<td>7</td>
<td>3</td>
<td>485</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>633</td>
<td>5</td>
<td>820</td>
<td></td>
<td>25</td>
<td>15</td>
<td>865</td>
</tr>
<tr>
<td>Technicians and Associated Professionals</td>
<td>Female</td>
<td>382</td>
<td>20</td>
<td></td>
<td></td>
<td>123</td>
<td>43</td>
<td>186</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>439</td>
<td>31</td>
<td></td>
<td></td>
<td>143</td>
<td>37</td>
<td>211</td>
</tr>
<tr>
<td>Paralegals</td>
<td>Female</td>
<td>315</td>
<td>63</td>
<td>65</td>
<td>311</td>
<td></td>
<td></td>
<td>575</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>90</td>
<td>40</td>
<td>94</td>
<td>149</td>
<td></td>
<td></td>
<td>361</td>
</tr>
<tr>
<td>Sub Total</td>
<td>Female</td>
<td>1129</td>
<td>93</td>
<td></td>
<td></td>
<td>446</td>
<td>184</td>
<td>723</td>
</tr>
<tr>
<td></td>
<td>Male</td>
<td>1278</td>
<td>83</td>
<td></td>
<td></td>
<td>330</td>
<td>135</td>
<td>548</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>2407</td>
<td>176</td>
<td>1293</td>
<td>159</td>
<td>776</td>
<td>319</td>
<td>2723</td>
</tr>
</tbody>
</table>

**Note:** The table above provides a detailed breakdown of training attendees across different occupational bands, genders, and the types of training received.
Increasing Access to Justice – Employee & Organisational Capacity

Employee Growth – legal training

- The training unit was set a target of 15630 hours training for 2008/09 based on 10 hours of continuing legal education per legal practitioner
- 175% of the annual target was achieved in the 2008/09 financial year

<table>
<thead>
<tr>
<th>LDD Legal Training Hours against target</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>No of Training Courses</td>
<td>14</td>
<td>11</td>
<td>5</td>
<td>4</td>
<td>34</td>
</tr>
<tr>
<td>No of Attendees</td>
<td>792</td>
<td>476</td>
<td>117</td>
<td>269</td>
<td>1654</td>
</tr>
<tr>
<td>Target Hours</td>
<td>3908.5</td>
<td>3908.5</td>
<td>3908.5</td>
<td>3908.5</td>
<td>15634</td>
</tr>
<tr>
<td>Actual Hours</td>
<td>14428</td>
<td>7116</td>
<td>1808</td>
<td>4023</td>
<td>27375</td>
</tr>
<tr>
<td>Percentage Achieved</td>
<td>369.14%</td>
<td>182.06%</td>
<td>46.26%</td>
<td>102.93%</td>
<td>175.10%</td>
</tr>
</tbody>
</table>
Increasing Access to Justice – Employee & Organisational Capacity

Best Employer Accreditation

Requirements met for successful accreditation as a best employer

- Organisational strategy including talent management prioritisation
- Human Resources function and its alignment with the overall business strategy
- Organisational leadership activity in talent management as driver of employee engagement
- Communication between employees and organisation
- Diversity management
- Corporate social responsibility
- Knowledge management translation into organisational success
- Talent management and employee engagement
- Employee training and development
- Performance management
- Rewards and recognition
Increasing Access to Justice – Employee & Organisational Capacity

**IT Infrastructure & Capacity**

A Telkom Virtual Private Network (VPN) service provides a secure wide area network (WAN) which connects our national office to over 2,100 users at 130 sites - our Regional Offices, Justice Centers and Satellite Offices - with throughput of a maximum of 256 kbps at National office to a minimum of 64 kbps for our small JCs and Satellites.

**IT applications**

The following systems support the smooth operations of Legal Aid SA:

- **Ad Infinitum (AI)** is an in-house software system developed for administering and managing legal-aid ie ±450,000 matters per annum. New legal matters AI system is forecasted to grow at an estimated rate of 5% p.a. over the next 5 years

- The two IT application systems critical for good operations of both HR and finances for legal Aid SA are:
  - The Human Resources /Personnel Information System (SAP ERP) used for transacting HR related data for our 2,200 staff.
  - The Finance / Accounting Information System (SYSPRO ERP) for administering a R1billion budget
Increasing Access to Justice – Employee & Organisational Capacity

Employee & Organisational Capacity - Challenges

- Adequate legal staffing and unequal allocation of resources within justice cluster
- The development of specialist skills to respond to the demand for legal aid in complex matters
- Adequate resources for training of staff and for expert assistance
- OSD Phase II and an effective and fair performance management system across the justice cluster.
- For an effective functioning national footprint – technology is critical. Information necessary to be stored and transacted exceed the capacity of the IT infrastructure.
Legal Aid South Africa
Summary and Way Forward
Summary
Challenges
Legal Aid SA – Summary of Challenges

Legal Delivery Challenges

• Inadequate practitioner per court ratio
• Unequal resourcing across the justice cluster
• Limited capacity to render civil legal aid services
• Access to Legal Aid SA services by clients in rural area
• Quality of legal services
• Sustainability problems in the paralegal sector
• High numbers of Candidate Attorneys in District Courts
• Inadequate consultation facilities for legal practitioners at courts and prisons
• Legal challenges to the delivery of legal aid.
Legal Aid SA – Summary of Challenges

In support of legal delivery - Challenges

- National Treasury’s Macro increase on the budget base line is not in line with inflationary increase, especially salaries, operational costs e.g. office lease, electricity and vehicle fuel costs.

- OSD phase 2 outstanding since DoJ is to finalise a new performance management system for legal practitioners in the broader government service. Funding for OSD phase 2 will also be required.

- Unfunded mandates: New and amended legislation is either not funded or partially funded. This places a strain on current resources.

- Skilled personnel in the area of specialised legal work e.g. Commercial crime, land matters, and impact litigation.

- IT infrastructure needs further investment which will assist to improve stability of the network, speed and increased bandwidth to carry larger volumes of information throughout the national network of Legal Aid SA offices as well as in interactions with clients and stakeholders.
Summary

Performance
## Legal Aid South Africa in 2009

### A Snapshot

<table>
<thead>
<tr>
<th>Indicator</th>
<th>2008/09</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Infrastructure</strong></td>
<td></td>
</tr>
<tr>
<td>National Office</td>
<td>1</td>
</tr>
<tr>
<td>Regional Office</td>
<td>6</td>
</tr>
<tr>
<td>Justice Centres (local)</td>
<td>62</td>
</tr>
<tr>
<td>Satellite Offices (linking to JCs)</td>
<td>55</td>
</tr>
<tr>
<td>High Court Units (part of JCs)</td>
<td>13</td>
</tr>
<tr>
<td><strong>Staffing</strong></td>
<td></td>
</tr>
<tr>
<td>Budgeted posts</td>
<td>2,419</td>
</tr>
<tr>
<td>Number of staff</td>
<td>2,281</td>
</tr>
<tr>
<td>Number of lawyers</td>
<td>1,588</td>
</tr>
<tr>
<td><strong>Finances</strong></td>
<td></td>
</tr>
<tr>
<td>Total Budget</td>
<td>R 903,755,450</td>
</tr>
<tr>
<td>Government Grant</td>
<td>R 838,120,000</td>
</tr>
</tbody>
</table>
## Legal Aid South Africa in 2009

<table>
<thead>
<tr>
<th>Indicator</th>
<th>2008/09</th>
</tr>
</thead>
<tbody>
<tr>
<td>Legal Services Delivery</td>
<td></td>
</tr>
<tr>
<td>Number of new legal matters</td>
<td>434,922</td>
</tr>
<tr>
<td>Number of finalised legal matters</td>
<td>372,864</td>
</tr>
<tr>
<td>Justice Centres</td>
<td></td>
</tr>
<tr>
<td>New matters by Delivery System</td>
<td></td>
</tr>
<tr>
<td>Judicare</td>
<td>35,723 8%</td>
</tr>
<tr>
<td>Co-operation Partners</td>
<td>4,111 1%</td>
</tr>
<tr>
<td>Criminal legal matters</td>
<td></td>
</tr>
<tr>
<td>New matters by criminal and civil split</td>
<td></td>
</tr>
<tr>
<td>Civil legal matters</td>
<td>30,309 7%</td>
</tr>
</tbody>
</table>

*Please note that the figures for the 2008/09 financial year are those as per the Annual Report 2008/09.*
Legal Aid SA – Summary of Performance

Summary of Performance - Legal Delivery

• 100% coverage of criminal courts
• National Footprint expansion programme fully implemented - extending our national footprint by 3 Justice Centres (in Botshabelo, Bellville and Soshanguve) to 62 Justice Centres and by 8 Satellite Offices (mostly in rural areas) to 55 Satellite Offices.
• 434,922 new legal matters taken on in 2008/09
• 372,862 legal matters were finalised in 2008/09
• 30,309 civil legal matters taken on 2008/09
• 46,194 legal matters were for children
• Reduction in numbers of automatic reviews
• Dedicated programme focused on children awaiting trial
• Special project implemented to focus on unrepresented awaiting trial detainees.
Legal Aid SA – Summary of Performance

Summary of Performance - Non-Legal/Support

• Our governance structure and practices are in good standing. The Board of Legal Aid SA is actively guiding the organisation, engaging management and the Executive Authority on matters of strategic importance.

• Staff recruitment level for Legal Aid SA is at 94% and turnover rate has reduced to 14% (including contract CAs).

• We successfully, timeously, implemented OSD phase 1 for all our legal practitioners.

• We have successfully introduced best practices in human resource management therefore successfully accredited as a best employer.

• Legal Aid SA has maintained a record of eight unqualified audit reports by the Auditor-General as well as the fourth year without matters of emphasis.

• The rebranding of Legal Aid SA is launched, giving a new positive image to clients, communities and stakeholders.

• We have rolled out an improved IT network platform (Telkom VPN supreme) providing a minimum of 128 kbps per connecting point of service.
Legal Aid SA – Way Forward

Delivery – Increasing Access to Justice

• Expand Legal Aid SA’s National Footprint to increase access
• Increase Legal Aid SA’s capacity to render civil legal aid services
• Improve linkage with community structures and organisations
• Enhance Legal Aid SA’s legal advice service and online services
• Improve practitioner per court ratio to improve coverage of courts
• Improve quality of legal services rendered
Legal Aid SA – Way Forward

In Support of Delivery – Building the organisational capacity

• To continue to build a strong organisational culture and develop the competencies of our staff to deliver on our mandate

• To continue a high level of accountability and efficiency in the management of finances and assets thus ensuring no under-expenditure and maintaining unqualified audits

• To continue to develop best practices in our operations including leveraging on IT to improve business performance

• To continue communication with the client and community to increase awareness of legal aid services as well as of the rights enshrined in our Constitution.
Your voice For justice

END