



Office of the Solicitor-General and SALGA Partnership

Date:

Presentation by:
Solicitor-General

OUTLINE

- Background
- Mandate of the Office of Solicitor-General
- Current Projects
- Future Plans
- Proposed Areas of Collaboration
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BACKGROUND

There is an exigent need for the transformation of State Legal Services within all spheres of government and State institutions. The transformation of State Legal Services is seminal to redressing past imbalances, iniquities and inequalities within the legal profession that is pervasive relative to black and female legal practitioners in the Republic of South Africa.

Government's obligations arising from Constitutional, International and Regional instruments inform the overall transformation of society and this extends to the legal profession. The Constitution seeks to improve the quality of life of previously disadvantaged individuals and is the foundation upon which the policy framework for transformation of State Legal Services rests.

To achieve the constitutional mandate and policy framework for transformation of State Legal Services the State Attorney Amendment Act, 2014 (herein after refereed to the Act) was enacted. The State Attorney Amendment creates the Office of the Solicitor General and made Solicitor General an Executive officer of all offices of the State Attorney.

Since the down of our democracy there is no meaningful collaboration and coordination among State legal services from all three spheres of government, in the areas of briefing and outsourcing of State legal work, policies, legal training, sharing of skills and management of litigation contingent liability. The lack of meaningful collaboration and coordination of State legal services has led to a number of operational challenges being experienced across government, such as prescription of government's claims, default judgments granted against government and inconsistency in the determination of legal practitioners' fees and delayed transformation of the profession.

In general, the key guiding principles facing all spheres of government that underpin the transformation of State legal services are, among others: (i) Professional efficiency (ii) Collegiality; and (iii) Accountability and value for money. On these basis there is a need for all State legal services to work together in dealing with legal issues or providing legal services.

Mandate of the Office of Solicitor-General

The office of the Solicitor-General was established in 2020 after the coming into effect of the State Attorney Amendment Act. In March of 2020, the Minister of Justice and constitutional development appointed the first Solicitor-General, Mr Fhedzisani Ronald Pandelani (SG).

The powers and functions of the Office of the Solicitor-General are amongst others to:

- (a) Exercise control, direction and supervision over all offices of State Attorney.
- (b) In implementing the policy referred to in section 3 (4).
- (c) Issue directives and standards regarding the functions of the offices of State Attorney.
- (d) Develop policy for the minister of justice relating to the functions of the offices of State Attorney.
- (e) Co-ordination and manage all litigation on behalf of the Organs of State through the:
 - (i) Provision of reporting protocols on the implementation of the policies, norms and standards.
 - (ii) Intergovernmental stakeholder engagement and consultations with private legal practitioners.
- (f) Turn the offices of the State Attorney into a central authority for State litigation.
- (g) Develop a viable organizational structure for the Office of the State Attorney. This involves developing a viable organizational structure for the Office of the State Attorney, development of intergovernmental collaboration structure that would deal with the integration of legal services for all spheres of government and improving the competitive advantage of the offices of the State Attorney.

Current Projects

The Office of the Solicitor General is currently engaged on the following two major projects:

1. Implementation of the provisions of State Attorneys Act by developing various policies relating to the functions of the offices of State Attorney and State legal services. The Office of the Solicitor-General (OSG) has since developed six (6) policies in line with the provisions of Section 3 (4) of the State Attorney Act. These policies are:
 - (a) Management of State Litigation;
 - (b) Initiating, Defending and Opposing matters on behalf of the State;
 - (c) Alternative Dispute Resolution (ADR) State Mediation;
 - (d) Management of State Litigation Contingent Liability;
 - (e) Briefing and Outsourcing of State Legal Work;
 - (f) State Legal Representation.

These policies are in the process of finalisation through the procedures of being tabled in Parliament by the Minister of Justice and Constitutional Development.

The aforementioned six policies are formulated in order to:

- (a) Promote an integrated, policy driven, professional, empowering and cost-effective, efficient coordination and management of State litigation;
- (b) Redress the imbalances of the past by transforming the State Legal Services as well as the Legal profession;
- (c) Improve service delivery and stakeholder engagements; and
- (d) Introduce uniform procedures and standards in an effort to reduce State liability.

Current Projects cont...

The policies will apply to all State Attorneys; State Departments within the national, provincial and local spheres of Government, State organs and State owned enterprises, as well as private legal practitioners.

2. Overseeing the operation of Intergovernmental National Litigation Forum”(INLF): The forum is co-chaired by the Solicitor-General together with the Office of the Presidency. The mandate of the forum is to:
 - (a) Improve intergovernmental relations for effective and efficient management of the State litigation.
 - (b) Identify challenges faced within the management of State litigation by and against the State, find appropriate solutions and make recommendations.

The responsibilities of INLF are to:

- a) Monitor the various forums within Organs of State for effective and efficient management of State litigation by identifying problems that prevent the flow of processes in litigation,
- b) (ii) Analyse reports submitted by departments in order to identify litigation trends, root causes to litigation as well as adverse judgments, the effects and consequences and devise uniform approach.
- c) Oversee, monitor and device mechanisms for the reduction of State Contingent Liability as well as legal/litigation costs.
- d) Make proposals for legislation/regulatory/policy amendments where there are gaps resulting in fraudulent litigation.

Future Plans

The office of the Solicitor-General has among others the following main future plans:

1. Implementation of Policies:

The Solicitor-General has developed an implementation plan for the six (6) policies in order to raise awareness, deal with barriers to ensure effective implementation of policies. Once the policies are noted by parliament and are in operation, the Office of the Solicitor General shall in collaboration with State organs and other stakeholders adopt a collective approach towards the implementation and review of the policies and strategy. Extensive consultation will be conducted by way of meetings, workshops and electronically with various stakeholders, in different phases, in order to make organs of State aware of the policies and made them to meet what is expected of them.

Then all organs of State including local governments will be required to implement the policies

2. Development of Standards and Directives:

The office of solicitor general will also develop standards and directive (guidelines) for purposes of effective implementation of transformation of the legal profession and empowerment of previously disadvantaged individuals (legal practitioners). The guidelines will deal with issues relating to briefing and outsourcing of State legal work to young and female legal practitioners, outsourcing State legal work to private attorney, procurement of services of expert witness

3. Intergovernmental National Litigation Forum:

The office of Solicitor- General and the Office of the Presidency are in the process of organising the general meeting of the Intergovernmental National Litigation Forum, where all legal services of organs of State will be invited to attend the meeting. The meeting will all be about the issues relating to State litigation and State legal services.

Proposed Areas of Collaboration

For the purpose of advancement of transformation, good governance and sharing of skills, the office of the Solicitor-General may collaborate with the local government on the following areas:

- (a) Training and article of clerkship services for legal services officials of local government.
- (b) Secondment of Local government attorneys to State attorney to handle local governments' matters as specialist.
- (c) Sharing of expertise on Municipal litigation matters.
- (d) Strengthening relations between SALGA and OSG and participation in INLF activities through Heads of Legal Services.
- (e) Implementation of policies
- (f) Sharing methods of reduction of State contingent liability and litigation costs.
- (g) Development of a strategy to address vicious litigation.
- (h) Development of a training plan/program for State departments and Offices of the State Attorney through secondment, mentoring and coaching.

Impact

All the Policies developed in terms of the State Attorney Amendment Act are binding on the State Department and its Institutions.

THE END

ngiyathokoza! ro livhuwa!
 dankie! ke a leboga! ENKOSI!
 thank you! ude livhuwa!
inkomu!
 ke a leboga! ngiyabonga!
siyabonqa!