



National Alliance for the Development of Community Advice Offices (NADCAO)

SECOND NATIONAL WORKSHOP

6 – 8 July 2009

Parktonian Hotel, Johannesburg, South Africa

1. ATTENDEES

Please see the list of attendees attached.

2. REPRESENTATION

Not all of the delegates were mandated from formally representative or elected provincial advice offices or paralegal structures, and therefore the workshop could make recommendations but could not pass formal resolutions.

The recommendations and actions resulting from the discussions were, however, accepted as being necessary to ensure progress with the programme and strategies outlined by Nadcao in consultation with the advice offices and paralegals across the country.

3. WORKSHOP OBJECTIVES AND PROGRAMME

At the 1st National Workshop on Provincial Advice Office Forums held on 4th December 2008, Nadcao presented its vision and strategic objectives for the paralegal and advice office sector. A summary of the discussions was distributed in January 2009.

The major recommendations of the 1st National Workshop were:

- Nadcao continues to develop its strategy and programmes to sustain the advice office sector in line with the objectives and vision presented at the workshop on 4 December 2008.

- Nadcao continues to engage with key stakeholders, including the Legal Aid Board, DOJ&CD and SASSETA to secure support for community advice offices and the paralegal sector.
- Nadcao assists in the establishment of representative provincial advice office forums in Gauteng, Free State, Northern Cape, Limpopo and Eastern Cape Provinces as part of the process of consolidating the sector. Nadcao was also requested to hold discussions with existing forums in KwaZulu-Natal, Western Cape and North West to identify areas of support and collaboration.
- The purpose of the 2nd National Workshop is to provide an overview of the status of these activities since December 2008 and to discuss the next steps in the strategy to create a sustainable advice office sector.

4. UPDATE OF KEY DEVELOPMENTS

As a result of a number of significant developments in discussions held between Nadcao and DOJ&CD, the programme was adjusted to update delegates on the Legal Practice Bill and the Access to Justice Policy Framework.

4.1 Legal Practice Bill and Legal Services Charter

The Minister of Justice had publicly stated that the Legal Practice Bill will be submitted to Parliament in 2009.

- It is possible that the regulation of paralegals will be excluded from the Bill, based on the view from the LSSA and submission to the DOJ&CD by its own counsel that there needs to be further research into the matter.
- The Legal Services Charter was finalised in 2007 and is therefore closed for public comment. While it recognises paralegals operating in a non-profit environment, it refers to the LPB to define the regulations governing paralegals.
- The LPB will go to parliament, and public comment will then be invited through written and oral submissions.
- It is important for advice offices and paralegals to speak with one voice and make input into the legislative process.

Recommendations:

- Nadcao is to keep abreast of developments and seek opportunities through which the LPB process can be influenced, and to facilitate the participation of the advice offices and paralegals in the process.
- It would be useful to draw on lessons from other auxiliary services, such as social workers. An auxiliary social worker may practice for two years without a qualification under the supervision of a registered social worker, but must then make some effort to obtain a proper qualification, and be duly registered. There are, however, a number of challenges still to be addressed, even in this sector.

Developments since the Workshop:

Nadcao has been requested by the DOJ&CD to (1) formally comment on, and (2) facilitate advice office and paralegals input into the LPB working documents which will be drafted in the next few weeks.

We are awaiting the working documents and once these are received, will initiate a process of consultation with the provincial advice office and paralegal forums. The consultation process is expected to take place during September.

4.2 DOJ&CD Policy Recognition

- The Department of Justice has requested input from Nadcao about the roles of advice offices in the wider justice system. Advice offices and paralegals have already been formally recognised in the DOJ&CD policy documents but these now need to be taken forward.
- The Legal Aid Board has indicated its support for advice offices through the Justice Centres and Satellite Offices in the various regions.
- The CCMA has offered to develop a Memorandum of Agreement with advice offices at national level to enable their regional offices to have direct relationships with advice offices on labour matters.

Recommendations:

- Nadcao is to make formal representation to DOJ&CD for formal stakeholder recognition, which includes the representation of advice offices and community-based paralegals.
- Nadcao will continue to formalise these arrangements to enable advice offices to benefit from direct relationships with the Legal Aid Board (now known as Legal Aid South Africa) and the CCMA.

Developments since the Workshop:

Nadcao has presented a formal stakeholder recognition proposal to the DOJ&CD which is currently under consideration.

The LA SA has requested a formal co-operation agreement which includes support to the provincial forums and advice offices.

The LA SA has also indicated a willingness to make their boardroom and videoconferencing facilities available to be used by provincial forums to facilitate national meetings and consultations.

LA SA has a list of all provincial representatives and will be making contact through the regional offices. The Mpumalanga Advice Office and Paralegal Consortium have already been contacted.

5. KEY POLICY ISSUES FOR CLARIFICATION

The Nadcao vision for the recognition and sustainability of the sector must be further developed and communicated to stakeholders, especially government. The strategy provides for clearly defined roles for community-based paralegals and advice offices in the wider justice sector.

In order for Nadcao to effectively advocate the position for community advice offices, it requires recommendations on key principles that can be put to stakeholders. The workshop discussed these in detail and consensus was reached on the following, noting however that further discussion is required on a number of key points.

5.1 Sustainability

- Sustainability means financial and organisational sustainability. In other words, it focuses not only on income, but also organisational capacity.
- Advice offices must not be solely dependent on one source of income but should endeavour to have a combination of state, donor and local support.
- It is imperative that the State make a contribution in some form to the work of advice offices and paralegals in extending the mandate of access to justice to the poor in South Africa. The forms of support from state institutions need to form part of the agenda in discussions with DOJ&CD and other state departments.

5.2 Independence

- There is some concern among advice offices that their independence may be compromised by accepting state support. It is important that advice offices remain independent community structures that are able to respond to community needs.
- It is important that advice offices are seen as politically and personally impartial, since they also need to hold the State accountable on certain aspects of delivery of access to justice.

5.3 Standards

- A key aspect in promoting a positive view of the sector will be how the advice offices are managed and operated. This will have a strong influence on the quality and scope of the work or service provided, and will strengthen public respect from all stakeholders.
- Professionalism is determined by conduct, less so by qualifications. While it may be required by the regulations that a paralegal requires a minimum qualification, it does not necessarily mean that people who have no qualifications offer poor service.
- A regulatory body, as well as norms and standards and a Code of Ethics must be in place, together with the mechanisms that are needed to monitor compliance. There must be uniformity with regard to both competency and structure, so that clients know they will receive the same service at any advice office across the country.
- One of the important objectives of regulation, minimum standards, general ethics, structure and governance, is so that when donors provide grants they have an assurance that the money will be properly utilised and will benefit the target beneficiaries to the fullest extent.

5.4 Salaries

- There is a concern that community-based paralegals may be underpaid as a result of their work not being understood and thus undervalued by their Boards, and possibly funders.
- While the management committees of the advice offices decide on salaries, based on the views of their Board of Trustees as well as the financial resources of the advice office, some guidelines may be required to ensure that there is some degree of standardisation.
- This is itself linked to the overall job market, and it may be useful to conduct a salary survey of the sector. Remuneration is always a sensitive issue as it is linked to how we view our work and value our contributions. However, it is also linked to a number of external factors. Where does the paralegal fit into the overall qualifications framework?
- Funders do not determine salaries, although they draw on industry norms to guide them. Unfortunately the research on this issue is poor and needs to be strengthened.
- Salary guidelines are, however, a formal process which has to be linked to standards, qualifications and experience.

5.5 Qualifications

- Many paralegals do not have a formal qualification, even where linked to recognition of experience, and this has a serious adverse impact on how the sector is perceived.
- While it is agreed that minimum standards and a minimum qualification are required, there is some concern that prescribing a minimum standard could be difficult to attain, and might adversely affect the sector. However, recognition of prior learning will go some way towards addressing this concern, and is a key aspect in the process of beginning to enforce the minimum qualification.
- RPL can also lead to a formal qualification and the assessment of prior experience is essentially a test of the competency of the individual against the standards in the qualification. This route will be explored with SASSETA.

5.6 Understanding of Community-based Paralegals

- They operate within non-profit organisations, principally community advice offices, i.e. they do not operate as independent fee-charging paralegal practices.



- Community-based paralegals do not charge for services because advice offices do not charge for services. It is possible the advice offices can request donations or ask for nominal contributions for administration, but these must be strictly regulated.
- Community-based paralegals must have a clearly defined career path.
- There must be a code of ethics to which all community-based paralegals adhere.
- Community-based paralegals should aim to possess at least a minimum qualification of the 1-year National Certificate in Paralegal Practice.

5.7 Understanding of Community Advice Offices

- Community advice offices are independent community organisations governed by the NPO Act and managed by voluntary committees or boards
- They offer a range of information and advisory services, including basic or primary legal services, which have to be defined in more detailed regulations.
- Advice offices must have a defined relationship with a case referral organisation that will support with litigation, offer professional support to the paralegals and assist in the oversight of cases where required.
- Advice offices should employ a manager or co-ordinator who will be responsible for daily management, and will participate in the Board meetings.
- The co-ordinator will also represent the advice office in representative forums, such as the provincial advice office forum, and liaise with external stakeholders on behalf of the advice office.

Recommendations:

- It was broadly agreed that Nadcao use these understandings as the basis for engaging with stakeholders around the recognition and support of community advice offices and paralegals in the context of the wider justice system.
- Nadcao is to use its resources to ensure that community-based advice offices and paralegals are able to participate in policy and legislative processes to ensure recognition and support.
- Nadcao must assist in clarifying the roles and responsibilities of the Advice Office Board or Management Committee in relation to the co-ordinator and paralegals. The Board and staff are also in need of capacity-building support to ensure good governance.

Developments since the workshop:

A proposal for stakeholder recognition was sent to the DOJ&CD on 3 August, 2009.

6. ROLES AND RESPONSIBILITIES OF THE PROVINCIAL ADVICE OFFICE FORUMS

Forums are in the process of being established in six provinces. Decisions about the status of a national association cannot be taken until all the provincial structures are in place, as these are essential components of a strong national body.

6.1 North West

- The North West Paralegal Advice Offices Cluster reported that it has developed a code of conduct, and its members are registered as NPOs.
- Meetings are held with provincial government departments, which have a number of different budget lines that can be accessed. They also facilitate community development initiatives in the four regions.
- Relationships are fostered with the health sector and the faith-based organisations, and training is promoted in all forums. For example, there is a need to strengthen the rights-based approach to

dealing with HIV and AIDS, and in this regard a Memorandum of Agreement has been entered into with the Public Protector.

- Peer support is already in place in North West and this provides an excellent example. It is noteworthy how the province has developed a practical model that delivers, rather than waiting for the required funding to become available. North West also has a number of large corporates to draw on for support, such as the platinum mines.

6.2 Mpumalanga

- It was reported that some consultative meetings have been held, including with a number of communities, and structures have been duly elected. The challenge now is to implement programme activities. There are 16 advice offices but the majority are not resourced. There is a serious need to build capacity.
- The government departments in Mpumalanga are keen to work with the advice offices but these must first be properly constituted. The key challenge is the lack of resources, even to attend government meetings to which they have been invited.
- While the advice offices are independent, the need to consolidate the provincial structures was emphasised in the last general council meeting.

6.3 Western Cape

- The Western Cape reported that there are two representative organisations involved with advice office. The Advice Office Association was set up to support the work of advice offices through training on financial support. The Paralegal Association has a stronger rights-based approach and has had some successes in the communities, such as reinstating dismissed workers. The intention now is to align the various structures to function better, taking the current status and unifying people around similar ideas.
- The Advice Office Association is management-driven and efforts to align with them have met with little success. On the other hand, the Paralegal Association focuses more on the people doing the work than the structures in which they do it. While the overall intention is to capacitate management in the advice offices, there are also issues of politics and power that must be engaged with.

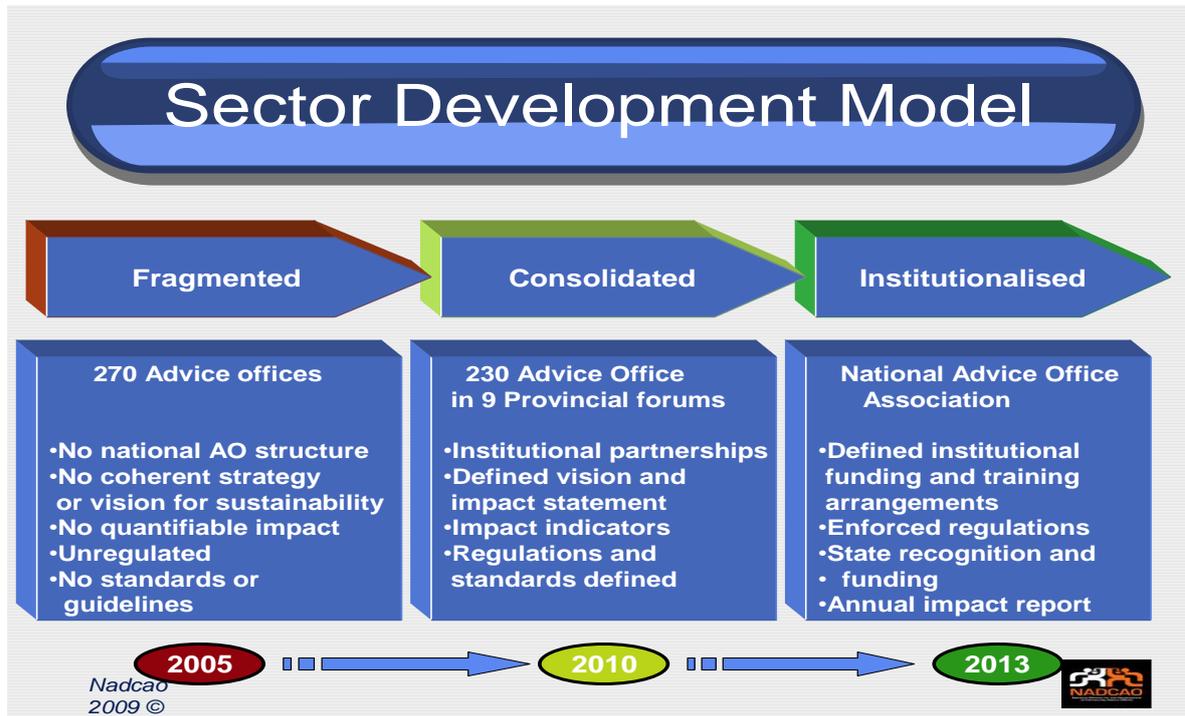
6.4 National Association of Advice Offices

- There was consensus that a national community advice office association was required to ensure the direct representation and participation of advice offices as national stakeholders.
- The idea of an association would be discussed in more detail once all the provincial forums had been established and the representatives mandated to participate in the formation of such a structure.
- In the interim, Nadcao would continue to represent the voice of the sector, with the understanding that the provinces are kept informed and enabled to participate in processes and discussions where required.

Recommendations:

Nadcao will facilitate the process of research and discussion about the roles, responsibilities and functioning of a national advice office association and provide a framework to the provinces prior to the next national workshop.

7. STRATEGIC PLAN OF ACTION



7.1 Where are we currently?

- Advice office forums initiated in the provinces of Free State, Northern Cape, Limpopo, Gauteng and Eastern Cape.
- DOJ&CD has requested a formal proposal motivating Community Advice Office policy recognition to enable structured state support.
- LAB has offered to formulate a national framework for co-operation agreements with Community Advice Offices.
- CCMA has offered to develop a National MOU with Community Advice Offices.
- FHR / DOJ&CD / EU to provide funding for Access to Justice work in South Africa.
- There is increased donor interest in developments in the Community Advice Office Sector.
- Service providers are aligning strategies to support emergence of provincial advice office forums.
- There is international interest in the strategies to consolidate and institutionalise the sector.

7.2 What are the next Phase objectives up to July 2010?

- Provincial forums established and operational.
- Recognition and accreditation protocols established with DOJ&CD, LAB, CCMA, and SASSETA.
- Plan developed for accredited training and supervision for CBP with SASSETA and training providers.
- Funding and sustainability models defined and published.
- Standards – national services codes and ethics adopted.
- Case management and reporting in place.
- Model for the Institutionalisation of the Advice Office Sector by 2013 defined.
- National workshop in March 2010.

7.3 The immediate tasks at provincial level include:

- Establishing representative provincial structures.
- Providing feedback to membership from the National Workshop.

- Defining nationally aligned, provincial objectives and strategies.
- Adopting a constitution / articles of association.
- Electing representatives.
- Formalising the working relationship with NADCAO.
- Efficient communication mechanisms with members and Nadcao in place.

7.4 **Priorities of the Provincial Forums:**

- Local resource (funding) and support partners in place.
- Business and sustainability plan documented.
- National service standards and codes of ethics in place.
- Case management system implemented.
- All members should be registered NPOs.
- Identify paralegals to register for the national certificate.
- Relationships with key government departments established.

8. **PROVINCIAL PRIORITIES**

Each Province was asked to list its immediate priorities. It is important that all provincial structures have a clear idea of what must be done, and also how to commence these processes in the provinces, although some actions may depend on resources being available.

- The Free State will establish a provincial structure with a constitution, articles and a governance structure before the end of July.
- Limpopo will hold a strategic planning meeting in July and elect office bearers; launch formally in August; and evaluate the functioning of the office.
- Mpumalanga will convene a general council to provide feedback; and review the Programme of Action before end September.
- The Northern Cape will have its structures in place by end August.
- The Eastern Cape will finalise a constitution and access discretionary funds from state departments (both Mpumalanga and the Eastern Cape maybe able to get funding from DED, a German donor).
- In the Western Cape, the meeting report will be circulated and a general meeting held in Mossel Bay from 2 to 5 August.
- Gauteng will meet with the Department of Justice and with the CCMA; and will convene a meeting to discuss the draft code of conduct.
- KwaZulu-Natal will register under the NPO Act (although it has a unique situation as Advice offices fall under two organisations); and will co-ordinate the paralegals by end September.
- In the North West all the Advice offices will be visited to conduct an audit and inventory of skills and resources, and a report sent to NADCAO by early August.

8.1 **The agreed Nadcao priorities to the end of December 2009**

At national level, the National Office will identify the requirements and needs per province that it should provide support to, and develop a work plan which also indicates impact and timelines. It will also:

- Provide the necessary support to provincial advice offices to formalise their structures.
- Develop a Code of Conduct, and Norms and Standards for the sector.
- Unlock resources for short and long term support to advice offices.
- Formalise accreditation protocols with the key government departments.
- Secure support for the provincial forums from key stakeholders.
- Institute framework agreements with key government departments.



- Roll-out the Case Management System for advice offices.

9. PRESENTATION BY FHR: FHR/EU/DOJ&CD ACCESS TO JUSTICE PROGRAMME

Mr Hanif Vally of the Foundation for Human Rights in South Africa explained that FHR has been a key grant-maker since its establishment in South Africa in 1996. The second EU grant ended in January 2007, and 1 400 organisations received support. In the next phase from 2009-2012, the funding comes through government departments only, in this instance through the Department of Justice, which then contracts the FHR as an implementing agent.

FHR will be issuing calls for proposals for the funding of 45 new advice offices, as well as support for programmes and capacity-building for existing advice offices. More information can be obtained from the FHR website.

FHR is trying to establish costing guidelines according to which advice offices can be supported. For example, it is trying to calculate allocations to the new advice offices versus supporting the existing offices. FHR has undertaken some research and consultation but would like a direct indication from the sector on these issues, and has requested Nadcao to assist in obtaining these inputs.

Recommendations:

The FHR strongly supports the establishment of a reference group for the programme and will be open to taking advice on how to proceed.

10. NADCAO CASE MANAGEMENT SYSTEM

Ms. Deidre Mullan presented a demonstration of the Nadcao Computer-Based Case Management System, which was designed to enable advice offices to better record and report on their activities. Nadcao will implement the CMS in various provinces from August.

Closure

The workshop closed at 1pm on Wed 8 July.



ATTENDANCE REGISTER

PROVINCE	ADVICE OFFICE	CONTACT PERSON	E-MAIL	TELEPHONE
Eastern Cape	Steytlerville Advice Office	Nkoleko Petros		
	Dordrecht Legal Community Development Office	Thandeka Ndyumbu		
Free State	Sunrise Resource Centre, Bethlehem	David Malaba		
	Moakeng Advice Centre, Kroonstad	Tommy Makau		
Kwazulu Natal	Black Sash - Durban	Njabulo Khumalo		
	Centre for Criminal Justice	Marryjane Mkhize		
Limpopo	Relemogile Advice Office	Albert Makwela		
		Phineas Kopa		
Mpumalanga	Mpumalanga Paralegal Advice Office Forum	Ncedi ka Nkosi		
	Mpumalanga Paralegal Advice Office Forum	Jane Vilakazi		
North West	North West Paralegal Advice Office Forum	Arick Mogatwe		
	North West Paralegal Advice Office Forum	John Moerane		
Northern Cape	Phillipstown Advice Office	Clarens Makaleni		
	The Assoc. for Sustainable Dev.	Samuel Beukes		
Western Cape	Clanwilliam	Ben van Rooy		
	Bonteheuwel	Lucille February		
Gauteng	Thuso Yasechaba Legal Advice Centre	Lulama Radebe		
	Zola Advice and Development Centre	Bheki Shange		
Steering Comm.	Aulai Trust	Schalk Meyer		
	CLRDC	Langa Mtshali		
	Ithembalabantu	Sandile Magutshwa		
	CS Mott Foundation	Vuyiswa Sidzumo		
	Foundation for Human Rights	Hanif Vally		
	KCHR	Kelvin Horn		
	Ukada	Ricardo Kock		
	Nadcao	Greg Erasmus		
	Black Sash Trust	Marcella Naidoo		
Scat	Joanne Harding			