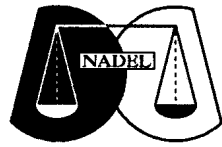


# National Association of Democratic Lawyers

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## **RESOLUTIONS**

### **OF THE**

### **YOUNG LAWYERS SUMMIT**

**26-27 JANUARY 2018**

**EMPERORS PALACE**

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### **PREAMBLE**

**WHEREAS** The National Association of Democratic Lawyers (NADEL) Youth Desk saw a need to consult with young people in the profession regarding issues pertaining to the anticipated changes in the Legal Practice Act that is to come into effect on 01 October 2018 and other matters affecting law students, candidate attorneys and young lawyers;

**AND WHEREAS** The National Executive Committee of the National Association of Democratic Lawyers affirmed the need to consult with young lawyers on the Legal Practice Act and resolved that it was the duty and responsibility of NADEL to ensure that such a consultation process was made possible;

**AND WHEREAS** Such consultative meeting, the Young Lawyers Summit was held at the Emperor's Palace in Kempton Park, Gauteng on 26 and 27 January 2018

where young lawyers from across the profession were present including members of NADEL, the Black Lawyers Association (BLA), non-NADEL/non-BLA members, members of council from provincial law societies, the Law Society of South Africa, law students, law deans and law lecturers.

**AND WHEREAS** the following issues were discussed and debated:

- The Legal Practice Act(regulatory matters), The Attorneys Fidelity Fund (AFF) and the Attorneys Insurance Indemnity Fund (AIIF);
- Non-regulatory matters, creating a professional interest organisation;
- The LLB Degree and professional vocational training;
- Challenges faced by young people in the profession especially females in a male dominated profession and the ill-treatment of candidate attorneys;

**THEREAFTER** the following resolutions and recommendations were adopted at the Plenary of the Young Lawyers Summit after conclusion of the commissions and are recorded hereunder as follows:

**THE LEGAL PRACTICE ACT, AFF AND THE AIIF**

**The Legal Practice Act:**

1. It is resolved that section 8 of the Legal Practice Act must be amended to include in all provincial law councils and the Legal Practice Council a youth representative from the profession.
2. It is resolved that Section 25(3) of the Legal Practice Act *“Right of appearance of legal practitioners and candidate legal practitioners”* must be amended.

- a) It is further resolved that the rules for rights of appearance for a legal practitioner practicing as an advocate and a legal practitioner practicing as an attorney must be the same.
3. It is resolved that in terms of Section 30 of the Legal Practice Act that the fee payable by a new practitioner entering into private practice must not be an impediment to access into the profession and the council must consider concessions for attorneys who cannot afford such a fee.
4. It is resolved that the Legal Practice Act should stipulate a minimum amount for the remuneration of candidate legal practitioners and pupils.
5. It is recommended that when disciplinary action is taken against a young practitioner the council must consider rehabilitating that practitioner first by using remedial methods such as:
  - a) not allowing the practitioner to practice for her/his own account for a stipulated period of time and
  - b) making further education and training programmes mandatory including courses in ethics, further mentorship, business practice and accounting and
  - c) the practitioner should be given a trial period of two (2) years thereafter and struck off immediately if found to be guilty of the same improper conduct.
6. It is recommended that in terms of rule 35 the Council note our views that it is not always possible and rational to expect one to provide a quotation on legal fees;
7. It is strongly recommended that the Act looks to standardising the admission requirements for pupils and candidate attorneys.
8. It is recommended that the Act should re-consider the number of years before which a legal practitioner practicing as an attorney can take on a candidate

attorney as the time stipulated for and advocate to take on a pupil is less and the system must be standardized.

**Attorneys Fidelity Fund and Attorneys Insurance Indemnity Fund:**

1. It is resolved that the Attorneys Fidelity Fund when granting a bursary must do so for the entire duration of a student's LLB Degree in line with their standards/grade requirements.
2. It is resolved that further training must be offered without a fee payable in order to prevent the mismanagement of trust accounts and dishonesty in the profession.
3. It is resolved that should the matters relating to charges in respect of professional indemnity insurance not be resolved then the LSSA or the professional interest organisation that is to be formed must investigate all possible alternatives.
  - a) We note that we could seek alternatives from other insurers/underwriters.
4. It is resolved that the AFF and AIIF hold a summit/meeting and a report be furnished for greater transparency and to explain to legal practitioners why there is a need for legal practitioners to now pay for professional indemnity insurance. Such a report must include an investigation of alternative steps to mitigate the need for practitioners to pay for indemnity insurance.
5. It is noted that there is a strong unified call by young lawyers at the summit to reject the charging of fees for professional indemnity insurance, it is not a sufficient explanation to say that other professions charge for professional indemnity insurance as other professions do not collect the interest from their professional's trust accounts.

**NON-REGULATORY MATTERS, CREATING A PROFESSIONAL INTEREST ORGANISATION**

1. Young Lawyers affirm the need for a need for a Professional interest organisation (PIO) to be created for the benefit of all legal practitioners.
2. It is resolved that such a professional interest organisation must be created.
3. It is resolved that the Professional Interest Organisation must be charged with the following duties and not limited to:
  - a) Protecting the independent voice of the legal profession;
  - b) Authority to have a union function that will represent all its members;
  - c) It must have as one of its serious aims and objectives addressing transformation in the legal profession;
  - d) Young legal practitioners must have a seat of representation in the professional interest organisation;
  - e) It must address the bias briefing patterns of government and state owned entities;
  - f) Will also ensure the quality and standards of legal training for all candidate legal practitioners;

**LLB AND PROFESSIONAL VOCATIONAL TRAINING**

1. Young Lawyers resolve that the Law Society of South Africa now and the Professional interest organisation that is to be formed must always consult with law students at tertiary level to address issues regarding the curriculum

content of the LLB Degree and the requirements of the profession to create proper and abled legal practitioners for the future.

2. It is resolved that “**Professional Vocational Training**” must be one training programme for all future candidate legal practitioners whether they choose to become attorneys or advocates is irrelevant. This will create a unified profession.
3. It is resolved that the Professional Vocational Training must include all the skills training that a legal practitioner would require including business and financial skills for the management of the firm.
4. It is resolved that the Professional Vocational Training programme must adhere ensure to the best quality standards and the best practices available to teach young legal practitioners irrespective of whether they are pupils or candidates.
5. It is recommended that the Professional Vocational Training must include the course material from Practice Management Training (PMT) course and that Practice Management Training (PMT) must not be a separate course that is done when one enters into practice only.
6. It is recommended that when the council or the relevant authority issues material for the purposes of preparation for the candidate legal practitioner’s admission examination that all material is included in any information pack that is provided there should be no need for candidates to refer to external sources.

**CHALLENGES FACED BY YOUNG PEOPLE IN THE PROFESSION**

**ESPECIALLY WOMEN/**

**THE ILL-TREATMENT OF CANDIDATE ATTORNEYS**

1. It is affirmed that women must be given equal and proper representation in all structures of the LSSA and the professional interest organisation that is to be formed.
2. It is resolved that a committee must be created by the LSSA and the professional interest body that is to be created whose specific purpose must be to deal with the abuse of candidate attorneys.
  - a) This committee should formulate rules and standards for the treatment of candidate attorneys;
  - b) Disciplinary rules for principals who are found guilty of subjecting candidate attorneys to ill-treatment and abuse;
3. It is resolved that the LSSA or the professional interest organisation that is to be formed and the committee that is recommended in 2 above must have a telephone line that candidates can phone in and anonymously report any abuse by their principals.
4. It is then recommended that the line should be operated by a qualified counsellor and/or psychologist who will be able to support and assist the candidate attorneys who call in;
5. It is resolved that such abuse must be investigated by the Legal Practice Council who must formulate a set of rules in order to adequately deal with reported cases of abuse.

6. Young Lawyers endorse the NADEL training programme designed by the NADEL training office for Candidate Attorneys.
    - a) It is recommended that the programme should first be tested by carrying out a pilot programme;
    - b) It is further recommended that once it is proved to be successful it should be rolled out nationally and should be mandatory for all practices/firms to adhere to the quality standards of the training programme.
    - c) It is further recommended that it should be adopted fully by the Legal Practice Council as a standard for training of Candidate Legal Practitioners.
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