

25 July 2023

Dear Legal Practitioners,

**General training/Employment environment survey – update to Advocates and Pupils.**

The Legal Practice Council (LPC) thanks all the advocates and pupils who participated in the general training and employment environment survey conducted on 23 May 2023.

The purpose of the survey was to assist the Council in determining the dynamics faced by advocates (supervisors) who provide practical vocational training to pupils. The process entailed views, expectations, and realities around aspects such as:

- Remuneration of pupils.
- The status of pupils (Complexities of the employer/employee relationships such as basic conditions of employment).
- The supervision of pupils by supervisors.

In terms of section 27(2) of the Legal Practice Act, the Council must regulate the payment of remuneration, allowances and/or stipends to all candidate legal practitioners, including the minimum amount payable.

It goes without saying that the regulation of any minimum amount payable to pupils in particular as they have no employer, is fraught with difficulties. For example, setting a low minimum wage could result in lower stipends being paid to some pupils, whilst setting a high, or even moderate, minimum wage could result in fewer pupils being taken by advocate under a PVT-contact.

With a view to considering whether a minimum amount should be set for remuneration of pupils the Council has conducted surveys amongst pupils and practising advocates.

**Surveys conducted.**

The Legal Practice Council (LPC) conducted the survey as mentioned above for pupils and advocates (supervisors) for a period of 3 (three) weeks starting from 23 May 2023 to 9 June 2023.

In view of the overall response to the survey the following interesting responses were received from advocates:

- 245 advocates participated and completed the survey out of a total of 9 497 registered advocates in the country of which 88.2% are junior counsel and 40.4% have between 0 to 5 years post admission experience as advocates.
- 89.8% of the respondents advised that they are situated in urban areas, 7.3% from semi-urban areas and only 1.2% from rural areas.
- 68.6% of the respondents advised that they are affiliated with the GCB, 5.7% of the respondents advised that they are affiliated with AFT & PABASA, while 25.7% of the respondents indicated that they are affiliated with other National Bar Councils.
- 85% of the respondents advised that they currently have a pupil serving with them under a practical vocational contract and 46.7% of the respondents indicated that they have been a supervisor in terms of regulation 7(5) of the Act or under the previous regime for a year.
- 13.1% of the respondents advised that they cover the cost of registration for the competency-based-examination for their pupil and 86.9% of the respondents indicated that they do not cover the cost of registration for their pupil.
- 83.2% of the respondents advised that pupils should not be regarded as employees employed by their supervisor, and 86.5% of the respondents stated that pupils should not enter into a contract with written terms and conditions of employment with their supervisor during their practical vocational training.
- 51.4% of the respondents advised that they expect pupils to work and/or perform their duties for less than 40 hours per week and 70.2% of the respondents indicated that they do not require pupils to work on weekends.
- 68.6% of the respondents advised that they offer pupils annual leave/time off during their practical vocational training and 36.9% indicated that they offer more than 21 days of leave/time off in a year cycle.
- 76.3% of the respondents advised that they do have grievance procedures in place that a pupil can use while undergoing practical vocational training, and 23.7% of the respondents indicated that they do not have grievance procedures in place for pupils.
- 81.6% of the respondents advised that they do not require a pupil to have a drivers' licence and 30.6% of the respondents advised that they require a pupil to have their own transport while serving their PVT contracts.
- 90.6% of respondents advised that they do not require pupils to perform additional duties and/or work which is not part of the practical vocational training contract and 31.6% of the respondents who require pupils to perform additional duties and/or work indicated that they remunerate pupils for the work done.
- 62.4% of the respondents advised that when not in court they work mainly in chambers and 52% of the respondents advised that they do not require their pupils to be in chambers whenever they are.

- 54.3% of respondents advised that their pupils do not appear in court during their practical vocational training and 112 of the respondents who answered the number of times their pupils appear in court, 41.1% of those respondents indicated that their pupils appear 2 to 4 times a month.
- **71% of the respondents advised that they do not pay their pupils anything during their practical vocational training.**
- The following salary ranges are offered by supervisors and are based on the responses received from 155 respondents who answered this question. Please note that the below mentioned salaries may include stipends provided by the LPC to pupils during the PVT contract:
  - R2 000 or less – 1.9%
  - R2 000 to R3 000 – 4.5%
  - R3 000 to R6 000 – 6.5%
  - R6 000 to R12 000 – 9.7%
  - Over R12 000 – 6.5%
- 73.5% of the respondents indicated that the remuneration paid to pupils should not be the responsibility of the supervisor and 53.5% of the respondents advised that they would offer pupils the minimum wage as determined by the Minister of Employment and Labour in accordance with the BCEA (90 of the participants opted not to answer the question).
- 71% of the respondents advised that they strongly agree that a minimum wage would have an impact on job opportunities (access to the profession); 6.1% neither agree nor disagree and 9.4% disagree.
- When asked what would be the suitable and/or reasonable remuneration that should be paid to pupils whilst undergoing PVT, the respondents advised that a suitable total remuneration would be between R 5 000 to R 20 000 per month and provided the following reasons:
  - To allow pupils to obtain tools of trade and be supportive in the build up to the profession; and
  - To cater for their basic human needs such as food and shelter in instances where they had to relocate from their homes to be closer to the supervisor's chambers.
- The survey of advocates therefore indicates that **71%** of supervisors do not offer any stipends to pupils during their practical vocational training and **29%** of supervisors offer stipends to pupils during their practical vocational training to which 22,7% of the respondents earn between R 3 000 to R 6 000 or more.

The responses to the survey amongst pupils included the following:

- 59 pupils participated and completed the survey out of a total of 89 registered pupils in the country of which 83.1 % of those were from urban areas, 13.6 % from semi-urban areas and only 3.4 % from rural areas.
- 55.9% of the respondents advised that their supervisors are affiliated with the GCB, 15.6% of the respondents advised that their supervisors are affiliated with AFT & PABASA, while 28.8 % of the respondents indicated that their supervisors are affiliated with other National Bar Councils.
- 6.8% of the respondents advised that their supervisor cover the cost of registration for the competency-based-examination and 93.2% of the respondents indicated that their supervisor do not cover the cost of registration.
- 50.8% of the respondents advised that pupils should be regarded as employees employed by their supervisor, whilst 50.8% of the respondents stated that pupils should not enter into a contract with written terms and conditions of employment with their supervisor during their practical vocational training.
- 44.1% of the respondents advised that they work between 40 to 45 hours per week and 61% of the respondents indicated that they are not required to work on weekends.
- 57.6% of the respondents advised that their supervisor does not offer them annual leave/time off during their practical vocational training and 25 of the respondents who are offered leave/ time off, 52% indicated that they receive 15 days of leave/time off in a year cycle.
- 57.6% of the respondents advised that their supervisor and/or the Bar to which their supervisor is affiliated with have grievance procedures in place that a pupil can use while undergoing practical vocational training whilst 42.4% of the respondents indicated that they do not have grievance procedures in place for pupils.
- 74.6% of the respondents advised that they are not required to have drivers' licence and 50.8% of the respondents advised that they are not required to have their own transport while serving their PVT contracts.
- 72.9% of respondents advised that they do not perform additional duties and/or work for their supervisor and 16 of the respondents who perform additional duties and/or work for their supervisor, 87.5% of them indicated that they do not get remunerated for the work done.
- 71.2% of the respondents advised that they receive adequate supervision and guidance from their supervisor and 67.8% of the respondents advised that their supervisor work mainly from chambers.
- 50.8% of respondents advised that they appear in court during their practical vocational training and 30 of the respondents who appear in court, 43.3% of those respondents indicated that they appear 2 to 4 times a month.
- **72.9% of the respondents advised that they do not earn anything during their practical vocational training.**

- *The following salary ranges are earned by pupils during the PVT contract and are based on responses received from 16 respondents who took part in the survey:*
  - *R2 000 or less – 5.1%*
  - *R2 000 to R3 000 – 3.4%*
  - *R3 000 to R6 000 – 10.2%*
  - *R6 000 to R12 000 – 5.1%*
  - *Over R12 000 – 3.4%*
  
- *88.1% of the respondents advised that the remuneration is not paid by their supervisor and 66.1% of the respondents advised that the remuneration should be paid by their supervisor.*
  
- *56.7% of the respondents advised that they strongly agree that a minimum wage would have an impact on job opportunities (access to the profession);13.1% neither agree nor disagree and 1.5 % disagree.*
  
- *When asked what would be the suitable and/or reasonable remuneration that should be paid to pupils whilst undergoing PVT, the respondents advised that a suitable total remuneration would be between R 8 000 to R 15 000 per month and provided the following reasons:*
  - *Pupils need money to buy a number of expensive textbooks;*
  - *To pay for library access and online platforms for information when conducting research;*
  - *To pay for printing of prescribed legal documents, notes, and caselaw;*
  - *To pay for travelling (transport);*
  - *To buy clothes for court appearances; and*
  - *To cater for their basic human needs such as food and shelter in instances where they had to relocate from their homes to be closer to the supervisor's chambers.*
  
- *The survey of pupils therefore indicates that **72.9%** of pupils do not earn anything during their practical vocational training and **27.1%** of pupils receive stipends during their practical vocational training to which 18.6% of the respondents earn between R 3 000 to R 6 000 or more.*

Below, are the links to the survey results (as received and captured):

Results for the advocate survey –	<b>Click here to access the results</b>
Results for the pupils survey –	<b>Click here to access the results</b>

### **Legal Practice Council view.**

The survey highlighted to the LPC the importance of continued engagements with all the stakeholders in the legal profession from pupils, advocates, and other role players as this is the only way to ensure that the profession continues to grow and thrive as intended by the Legal Practice Act and South Africa's constitution.

The LPC survey also affirmed the commitment of the LPs in providing access to the profession by providing opportunities for candidate attorneys to receive practical vocational training. The survey further confirmed the general approach taken by several firms on aspects such as the number of candidate attorneys, working hours and overtime as well as availability of grievance procedures in the workplace.

Having regard of the feedback received from the surveys conducted, the Council believes that pupils should be remunerated, but it appreciates that they are not employed by their supervisors, and that imposing an obligation on a supervisor to remunerate a pupil will discourage many advocates from becoming a supervisor.

The Council therefore proposes that a levy be imposed on practising advocates to establish a fund from which pupils will be remunerated.

The Council proposes that:

- Senior counsel pays a once of levy of **R 8 400** per year, or **R 700** per month; and
- Junior counsel of 10 years standing and more pays a once of levy of **R 4 800** per year or **R 400** per month.

### **LPC view given the results.**

The South African Legal Practice Council ("the Council") has decided to issue a notice under the authority of sections 95(1)(a) of the Legal Practice Act, 28 of 2014 (as amended) proposing a minimum remuneration for pupils undergoing practical vocational training under a practical vocational training contract in terms of Rule 22 of the Legal Practice Council Rules, in accordance with Rule 22.4 of the Legal Practice Council Rules, as required by Section 27(2) of the Legal Practice Act 28 of 2014.

Please note that a notice will be published by the Council in the government gazette containing the proposed minimum remuneration for pupils in terms of section 27(2) of the Legal Practice Act, read with Rule 22.4 of the Legal Practice Council Rules, and legal practitioners are encouraged to make comments to the Council in writing in terms of Section 95(4)(a) of the LPA, on the proposed minimum remuneration.

### **Legal Practice Council**