

25 July 2023

Dear Legal Practitioners,

General training/Employment environment survey – update to Attorneys and Candidate Attorneys

The Legal Practice Council (LPC) thanks all the attorneys and candidate attorneys who participated in the general training and employment environment survey conducted in August and October 2022.

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

- Remuneration of candidate attorneys.
- The supervision of candidate attorneys by principals.
- Complexities of the employer/employee relationships (such as basic conditions of employment).

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

It goes without saying that the regulation of any minimum amount payable to candidate legal practitioners, and pupils in particular because they have no employer, is fraught with difficulties. For example, setting a low minimum wage could result in lower salaries being paid to some CAs, whilst setting a high, or even moderate, minimum wage could result in fewer CAs being employed.

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

Surveys conducted.

You will recall that the surveys for both candidate attorneys and attorneys were conducted in August 2022, and initially the response from attorneys was very poor, and so a further opportunity was given to attorneys to complete the survey in October 2022, and an improved, but overall, still poor, response was received.

In view of the overall poor response to the survey, its results are not statistically reliable, but the following interesting responses were received from practising attorneys:

- *4838 attorneys participated in the survey of which 1 957 completed (out of a total of 31 852 practising attorneys in the country) and 86 % of those were from urban areas, 9.25 % from semi-urban areas and only 4.75 % from rural areas.*
- *21.7 % of those who responded do not employ candidate attorneys.*
- *23.9 % of the respondents were sole practitioners, 33 % were partners/directors and 43% were associates.*
- *61.75 % of the respondents advised that their firms offered 12 months practical training contracts, but 53.5 % of the respondents stated that their firms still required the CA to do two full years of PVT.*
- *39.8 % of the Legal Practitioners indicate that their firms require CAs to have their own transport, and 44.75 % of respondents advised that their firms provide transport for the use of CAs when going about the firm's business.*
- *12 % of the respondents advised that they do not pay their CAs anything.*
- *The following salary ranges are paid:*
 - *R2 000 or less – 1.2 %*
 - *R2 000 to R3 000 – 3.4 %*
 - *R3 000 to R6 000 – 20.1 %*
 - *R6 000 – R12 000 – 42.6 %*
 - *Over R12 000 – 20.6 %*
- *58.6 % of the respondents advised that their firm's CAs bring in sufficient fees to cover their cost to the company.*
- *50.5 % of the respondents stated that they would offer a CA the minimum wage as determined under the Basic Conditions of Employment Act –*
 - *The respondents that opposed the minimum wage stated that CAs are qualified professionals and therefore the minimum wage would be too low for the amount of work expected.*
- *65.8 % of the respondents either agreed or strongly agreed that if minimum wage was set it would result in law firms employing fewer CAs, while 14% either disagreed or strongly disagreed with this.*
- *12.5 % of the respondents advised that their firms do not offer leave to CAs.*

- 10 % of respondents advised that their firms offered medical aid to CAs.
- 8.5 % of respondents advised that their firms pay overtime to CAs.

The survey of attorneys therefore indicates that 36.75 % of attorneys pay their CAs R6 000 or less, or don't pay them at all.

The responses to the survey amongst candidate attorneys included the following:

- 5 149 candidate attorneys participated in the survey of which 2 299 completed (out of a total of 15 057 registered candidate attorneys in the country) and 78% of those were from urban areas, 15.8% from semi urban areas and only 6.2% from rural areas.
- 54.4% of the respondents advised that they are required to have drivers' licence and 57.5% of the respondents advised that they are not required to have their own transport while serving their PVT contracts.
- 57% of the respondents advised that the firms they currently work at offer 12 months PVT contracts but 25.1% of the respondents stated that their firms still required a CA to do two full years of PVT despite completion of 6 months law school.
- 30.2% of the respondents advised that their firms cover the cost of registration for Attorneys Admission Exams and 67.2% of the respondents advised that their firms do not cover the cost of registration for the training course offered at the practical legal training school of the Law Society of South Africa (i.e., LEAD) or any other accredited training body providing practical training.
- 60.7% of the respondents advised that they receive adequate supervision and guidance from their principals and 82.5% of the respondents advised that they appear in court.
- 3.2% of the respondents advised that they do not earn anything during their PVT.
- The following salary ranges are earned:
 - R2 000 or less – 3.8%
 - R2 000 to R3 000 – 9.4%
 - R3 000 to R6 000 – 31.9%
 - R6 000 to R12 000 – 35.7%
 - Over R12 000 – 16%

- 63.9% of the respondents advised that they agree that a minimum wage would have an impact on job opportunities (access to the profession);19.2% neither agree nor disagree and 16.9 % disagree.
- 59.7% of the respondents advised that they did not enter into a contract with written terms and conditions of employment with the firm besides the PVT contract and 69.5% of the respondents advised that the firms they work for do not have grievance procedures in place that candidate attorneys can use while in their employ.
- 59.3% of the respondents work between 40 to 45 hours a week.
- 44.6% of the respondents advised that the firms they work for do not offer leave to Cas and 27.2% of the respondents advised that they receive 21 annual leave days or less in a year cycle.
- 93.3% of respondents advised that the firms they work for do not offer medical aid to CAs.
- 96.7% of respondents advised that the firms they work for do not pay overtime to CAs.

The survey of candidate attorneys therefore indicates that 51.7% of candidate attorneys earn between R6 000 to R 12 000 or more.

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

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| Results for the candidate attorney survey – | Click here to access the results |
| Results for the attorney survey – | Click here to access the results |

Legal Practice Council view

The survey highlighted to the LPC the importance of continued engagements with all the stakeholders in the legal profession from CAs, LPs 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 (as detailed in the data included in the links above) as well as the general economic and market conditions – The Council is of the view that applying a uniform minimum remuneration for candidate attorneys would be impractical due to the diversity of law firms taking on candidate legal practitioners in the different areas around the

country and would further result in attorneys taking fewer candidate legal practitioners to undergo practical vocational training under their supervision, and this may apply particularly to attorneys who are practising in rural areas.

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 minimum remunerations for candidate attorneys undergoing practical vocational training under a practical vocational training contract in terms of Rule 22 of the Legal Practice Council Rules, in accordance to Rule 22.3 of the Legal Practice Council Rules, as required by Section 27(2) of the Legal Practice Act 28 of 2014.

In determining the minimum proposed remuneration, the Council took into consideration the current economic climate and the challenges faced particularly by legal practitioners practising in rural areas, the Council resolved to propose a different minimum remuneration for candidate attorneys in urban and rural areas.

Please note that a notice will be published by the Council in the government gazette containing the proposed minimum remunerations for candidate attorneys in terms of section 27(2) of the Legal Practice Act, 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 remunerations.

Legal Practice Council