

Covid-19: Lawyers urge justice minister to re-open more courts

By [Tania Broughton](#)

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The Legal Practice Council (LPC), which governs all lawyers in South Africa, says the administration of justice has largely ground to a halt and firms have been hit financially.



The Legal Practice Council says lawyers are in a "catch-22" situation under lockdown. Photo: Brian Turner via Flickr (CC BY 2.0)

In a nine-page letter addressed to all "stakeholders", the council said the Minister of Justice had requested an assessment of the business and economic impact of the Covid-19 lockdown on the profession as a whole.

The LPC report says there is a "catch-22" situation regarding essential service worker permits for the profession: "In terms of the directions, the permit can only be granted where there is urgency and the case is enrolled. But consultation is not deemed essential so the legal practitioner cannot consult properly in the first place."

Affidavit commissioning was another problem. During lockdown it can only be done by the police. Indigent clients who have no access to computers are unable to forward these to their attorney.

A criminal attorney, who did not wish to be named, told *GroundUp* that as a sole practitioner who employs one secretary, his financial situation is not that dire, for now. “I have had a couple of cases relating to the lockdown. But more worrying is that I have clients awaiting trial in prison whose cases should have, but have not, been heard because of the lockdown. And their cases will become part of a massive bottle-neck once courts re-open,” he said.

The report said most law firms had experienced a downturn in revenue because clients cannot afford to pay their bills. The cost of equipping staff members to work from home was also prohibitive, especially to smaller firms.

Also at risk were the social development payments, pro bono and bursary funds paid out by larger firms which would now be redirected to offset their fixed financial expenses.

Advocates reported that they had not been paid for invoices submitted to briefing attorneys before the lockdown, but they still had to pay their own staff, rents, professional insurance and group fees.

“The most vulnerable are the young and newly admitted who are not yet known in the market and have effectively ceased practice,” the council said.

It said the role of advocates to the administration of justice was indispensable and the civil and criminal justice systems would be “dysfunctional if the number of practicing advocates is suddenly and drastically reduced”.

“Many young advocates who are owed outstanding fees by state departments are black and women. Transformation in the legal profession is nowhere near where it should be and will be set back further by the lockdown.”

The LPC has proposed:

- That all government departments and state-owned entities which owe money to any lawyer as at March 31 this year, make immediate payment.
- That legal services be declared essential services.
- That courts be opened, not only to deal with urgent matters, but also with normal civil opposed and trial matters which can be heard via video conferencing.
- That the master’s office, registrar of deeds and sheriff services be opened.
- That Commissioning of affidavits be allowed via video call or teleconference through the relaxation of the Justices of the Peace Act.
- That social justice law clinics and legal aid clinics be allowed to operate.
- That there should be rental subsidies for deserving junior advocates and sole practitioners or medium-sized attorneys firms.
- That the Attorneys Development Fund be used to assist the most vulnerable lawyers.
- That all civil actions set down for hearing should proceed as arbitrations, with the award subject to an automatic right of appeal.

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