

Chapter 9: Advice-giving – Case Studies

These case studies illustrate ways in which our paralegals are able to help those who seek our assistance, to navigate their way through complicated bureaucracies in order to claim their rights in terms of the law.

Case Study 1: Disability Grant Application

Ms N is HIV positive. She applied for a disability grant on 25 February 2008 but was rejected. On 27 February 2008 she lodged an appeal application to the office of the Minister of Social Development through the SASSA offices. After a long wait for her appeal hearing date she decided to come to the Black Sash offices in Durban where she reported the delay on 16 September 2008.

Our advice and action:

The Black Sash referred her to her local SASSA office to query the delay. On 22 September she came back to the Black Sash with the response from her local SASSA office confirming that her name was on the list sent to the SASSA Regional Office for appeal hearing dates. On the same date, the Black Sash wrote a letter to the Minister of Social Development requesting reasons for the delay in processing appeals. On 2 December 2009, we sent a list to Mr Mokoela of the Department of Social Development (DSD) who was coordinating urgent appeal hearing dates for KZN. On 12 January 2009 we received an email from DSD advising the client to appear before the Tribunal on 4 February 2009. We phoned and advised the client on the appeal procedure and the date of appearance. On 1 June 2009 we received a letter from the DSD advising on the outcome of the Tribunal.

Outcome of case:

The Tribunal established that our client is indeed HIV positive and suffers from pulmonary tuberculosis. The Tribunal determined that, as a result, Ms N is functionally impaired and can be awarded a permanent disability grant.

Case Study 2: State Old Age Pension Application

Mr DD applied for an Old Age Pension (or Older Persons' Grant) following the introduction of the new qualifying age for men (61 years) in April 2009. The following month (May), when he went to check whether his application had been approved, he was told by the SASSA officials that it had failed. He was not given any reasons for the rejection of his application. The officials advised him to reapply but this would mean that he would not be eligible for back-pay from April as one only receives grant payments from the date one applies.

Mr DD refused to reapply, saying he was frustrated at not being informed about the rejection of his initial application. After hearing about our "Equalisation of the State Old Age Pension" campaign on Alex FM community radio, Mr DD called us for assistance with his application.

Our advice and action:

Our first intervention was to contact the SASSA Regional Office to enquire about the matter as presented to us by the client. The customer care manager requested that we write to their regional office and ask them to conduct an investigation. Our second intervention was to send our query to the senior customer care manager. We sent several follow-up e-mails and made a number of phone calls to the manager in an effort to resolve the case.

Outcome of case:

On 18 September 2009, we heard from the customer care manager, informing us that our client's claim had been resolved and that he would be paid an amount of R5,420.00, including the back-pay.

There were two interesting issues about the case – firstly, the local office wanted the client to reapply without the back-pay but the regional office went ahead and processed his initial application and back-pay for the client. It showed that a regional office can turn around a local office decision without an appeal on the application. Secondly, our State Old Age Pension campaign was effective in alerting elderly people that we could help them resolve their problems with SASSA.

Case Study 3: Birth certificate for Foster Care Grant Application

Ms M has an orphan child but when she approached the Department of Social Development to lodge an application for a Foster Care Grant, she was told to go to the Department of Home Affairs and apply for a full birth certificate. She was told she needed this before they could lodge the application for the grant. Ms M went to her local Department of Home Affairs office to apply for the birth certificate on 18 July 2007. After waiting nearly two years, she was advised by a friend to come to the Black Sash offices and lodge a complaint around the delay in issuing the certificate.

Our advice and action:

On 1 July 2009, we wrote a letter to the Director-General to ask for the reasons for the delay. On 2 July 2009, we received an acknowledgment letter from the Director-General's office. On 30 September 2009, we phoned the Director's office and we spoke to a man who informed us that the certificate was ready for printing at the Durban office. We then contacted our client and referred her to the Durban office.

Outcome of case:

Ms M called back and informed us that she had received her certificate. Although it took her almost two years to receive her certificate, it took the Black Sash only two months to finalise the case with the Department of Home Affairs.

Case Study 4: Unfair Dismissal

In an alleged unfair dismissal case that was registered in mid-October 2008 and resolved in March 2009, the client was employed by a local transport company as a driver. The client was accused of theft and was summarily dismissed without due process. The employer reported a theft case with the police and the client was arrested and jailed for three days.

Our advice and action:

The client approached our office for help and we referred an unfair dismissal dispute to the relevant transport and freight bargaining council. The employer did not attend the conciliation and arbitration hearings in Port Elizabeth. Subsequently, the bargaining council issued a default judgement or arbitration award in favour of the client. The employer was ordered to reinstate the client with financial compensation (R11 200). However, the employer refused to comply with the arbitration award and enlisted the services of his attorney. The client was fetched from home and attended a private meeting at the attorney's offices. At this meeting, the employer proposed that the client resign and was offered an additional R2 000 as a so-called golden handshake payment. The client did not accept the proposal and reverted back to our office. When we confronted the employer about the meeting, the employer denied that the client had been asked to resign. We threatened to file an unfair labour practice dispute with the Labour Court.

Outcome of case:

The employer eventually agreed to comply with the arbitration award. The client was paid a handsome severance package on top of the arbitration award.

Case Study 5: Private Pensions

Our client worked for X Security Services from 4 April 2005 until 30 June 2007. As a consequence of the termination of his services, our client was entitled to receive the withdrawal benefit but no such benefit was paid to the client.

Our advice and action:

On our investigation of this matter, we found that the employer was not forwarding the employee's contributions to the Fund although deductions were reflecting on our client's pay slips. We therefore sent a letter of demand to X Security Services on 20 February 2008.

On 15 May 2008 we sent a complaint to the Pension Funds Adjudicator (PFA) (in terms of section 30A of the Pension Funds Act 24 of 1956), and since then have communicated with the PFA's office on behalf of our client.

Outcome of case:

On 29 September 2009 we received the default determination in which the Fund was directed to pay the complainant's withdrawal benefit less any deductions permitted by the Act, together with interest thereon calculated at the rate of 25% from 30 December 2007.

Chapter 10: Monitoring Service Delivery



Project Coordinator, Gouwah Samuels (centre), with interns Farai Mawisa (left) and Maren Drewes (right)

Based on a long history of the monitoring of service delivery by Black Sash members, volunteers and staff, in 2009 we developed and piloted a national monitoring project. The project, now known as the Community Monitoring and Advocacy Project (CMAP), aims to coordinate community monitors nominated by their organisations to maintain a regular and disciplined presence at sites of service delivery, and to record their observations against standardised instruments.

Through our workshop sessions, monitors are encouraged to exercise independence when monitoring, yet to take up key issues they observe with the relevant service point managers at a different time. All monitors are informed about the district and service point supervisors so they know who to talk to about which issues. The organisations are encouraged to take up local delivery issues as identified by their monitors, and the Black Sash both supports this process and uses the aggregate reports to advocate for improvements in service delivery at provincial and national levels. The project therefore combines the actions of monitoring and advocacy into an intervention, which we believe will help build a culture of accountability – rights with responsibilities – within communities and government.

The objectives of the CMAP are twofold:

- to assess and report on the quality of service delivery in specified government departments and municipalities across South Africa, and
- to develop a methodology for civil society organisations and community members to hold government accountable for the principles of Batho Pele (people first), as well as specific norms and standards that govern the quality of services delivered.

The Western Cape SASSA Pilot

Phase one of the Western Cape Pilot kicked off on 12 October 2009. The following Advice Offices participated in the project: New Lentegour Youth Development and Education, Western Cape National Welfare Forum, Elsie's River Advice Office, Gugulethu Advice Office, Heideveld Advice Office, Masincedisane (Du Noon), Township Development Agency – Khayelitsha (TDA), Ithemba Support Group, Paarl Advice Office, Athlone Advice Office, Bonteheuwel Advice Office, N2 George Advice Office, Mossel Bay Advice Office, and Laingsburg Advice Office.

Monitoring was conducted by 27 monitors at 30 different SASSA service points across 14 districts. Of the 30 service points, five were local/district offices and the remaining 25 were satellite service points in the Cape Town Metro, Boland and Knysna areas. There were a total of 377 respondents to the questionnaire, of which 38 were SASSA officials and 339 service beneficiaries. Both the Black Sash offices and our project coordinators were involved in this process.

Highlights of our findings are presented here:

Our questions related to	We found out
Time: Opening and closing times of the service point and the length of time beneficiaries spend waiting to be served	While the Knysna service point achieved positive results with respect to time, we had concerns with respect to the Metro and Boland.
Venue: The physical state of the venue, availability of the chairs, toilets and clean water	Based on the data, interviewees are generally satisfied that SASSA provides adequate and well-maintained shelters. However, 25% of SASSA officials confirmed that their sites had inadequate seating available. On the issue of special arrangements for persons with disabilities, old and frail persons and pregnant women, the SASSA officials felt there were adequate special practices for these groupings. However, 42% of beneficiaries interviewed felt these practices were only available in theory.
Security: The availability of private security or police at venue	While the 2002 Norms and Standards only consider security issues for paypoints, we are concerned that these do not take account of the vulnerability of the majority of applicants who arrive before the service point opens, often in the early hours of the morning, and before 8am when the service point opens. We were concerned that 22% of Metro points, 100% of Boland points and 80% of Knysna points were without adequate security.
Transport: How beneficiaries arrived at the site, how long it took for them to travel and how much it cost	Over 65% of respondents were comfortable to walk to the service site. In the Metro over 80% of respondents said the venue was within 5 kilometres of where they live, but this fell to 40% in Knysna, where one respondent reported travelling for five hours to get to the service point, and another reported a cost of R50 to travel to the point.
Personnel: Customer care	The Boland service points were particularly poor. Monitors observed that officials were not identified by badges, there was no help desk or 'floating' official and customer norms were not displayed. Not surprisingly, in this area 50% of respondents felt that SASSA did not provide good service and did not treat them with respect. This contrasts with respondents in the Metro and in Knysna where under 10% were dissatisfied. Monitors observed in the Metro that the administration infrastructure of satellite service sites was inadequate and led to inefficient service.
Language and Communication: Whether official languages are spoken and foreign language translators are available at sites; how much people know about the grants and services of SASSA and where they received their information	It became clear from our data that communication remains a problem.
Processing of Grants: How long it took for a matter to be resolved and how this was communicated to beneficiaries (including whether receipts were provided)	Our data shows that beneficiaries return once on average to resolve their matters, which conflicts with the SASSA norm that an application process must not take more than 45 minutes to complete and approve. We found particularly at satellite service points that the system was inefficient: all details were handwritten by the SASSA officials – a process that takes up much time. Upon interviews with officials, the majority of the officials indicated that the use of technology (computers linked to the same online system used at the local/district office) at the satellite service points would shorten the application process and feedback time. An average of 47% of the beneficiaries interviewed claimed not to have received receipts as proof that they entered the application process. Receipts should be given as a matter of course.

The Black Sash engaged SASSA on the findings of our first report in January 2010 and has received comprehensive and positive feedback from them. A full copy of our report is available on our website (www.blacksash.org.za).

Future of CMAP

The project is now being rolled out in Gauteng, KwaZulu-Natal and the Eastern Cape. The Black Sash, together with Social Change Assistance Trust (SCAT), has received funding from the European Union for an expanded version of this project which was set to launch in August 2010.



Community monitors with Black Sash staff in Caledon

Chapter 11: Monitoring in times of Crisis

The Black Sash has participated in human-rights-in-crisis monitoring from November 2009. This was a spin-off from our Community Monitoring and Advocacy Project (CMAP) when service delivery monitors were recruited to assist in the crisis situation that arose in De Doorns in the Western Cape.

The situation and our response

The Black Sash was approached to partner with the Consortium for Refugees and Migrants South Africa (CORMSA) and Oxfam-SA in a response to the crisis where, in mid-November, up to 3 500 mainly Zimbabweans were displaced by local communities. We were deeply concerned at the nature of this conflict and agreed to participate, drawing on our experiences with the May 2008 xenophobic crisis, as well as our sensitivities to the particular context of Western Cape peri-urban and farming communities.

We agreed that in the context of intense attention by government, international organisations and NGOs, what was needed was regular and independent monitoring to provide a balance to the sensationalised media response and to try to unpack the underlying causes of this situation.

*'They hate us, says Zimbabwean woman'
'Stay away, Zimbabweans told',
'Migrant workers anger South Africans'
'Field is temporary home for De Doorns folk'
'Police on high alert in De Doorns'*



Black Sash monitoring displaced people in November 2009

Drawing on the network of monitors involved in the service delivery pilot in the Western Cape, we established and managed a series of monitoring teams and arranged training by the South African Human Research Council (SAHRC). The team focused on monitoring the conditions at the De Doorns safety site, as well as conditions outside the site. In November and December, teams monitored the area for stretches of three to four days at a time, gradually decreasing this to at least once per week, while keeping in touch with key role players by telephone.

Following this, representatives from our Western Cape Provincial Office, together with the Gender Advocacy Programme and the African Disabled Refugee Organisation, continued monitoring activities into 2010. The purpose of these sessions was to 'put our collective finger on the pulse' of the De Doorns situation. We monitored the conditions in the temporary site and assessed the progress made with regards to reintegrating the displaced foreign nationals who had been driven out by the local community. For detailed reports on this situation please refer to our website under 'Monitoring'.

Chapter 12: Our Supporters

The Black Sash Trust is grateful that there are many people and organisations that are willing to assist us, either through grants and donations or through the volunteering of their time and energy. These people continue to make it possible for ourselves, and the rest of civil society, to play an active and significant role in making South Africa a better place for all who live here.

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Adam Lisabeth
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Farai Masiwa

Chapter 13: Audited Financial Statements

Annual Financial Statements for the year ended 31 December 2009

Statement of Financial Position

Figures in Rand	Note(s)	Organisation		Black Sash	
		2009	2008	2009	2008
Assets					
Non-Current Assets					
Investments	2	2,473,401	2,289,638	2,473,401	2,289,638
Current Assets					
Trade and other receivables	3	1,029,360	1,361,699	764,000	1,220,676
Cash and cash equivalents	4	15,059,240	16,255,564	13,619,560	14,782,605
		16,088,600	17,617,263	14,383,560	16,003,281
Total Assets		18,562,001	19,906,901	16,856,961	18,292,919
Funds and Liabilities					
Funds					
General funds		2,478,059	2,566,540	831,375	1,178,924
Endowment funds		13,219,625	14,317,196	13,219,625	14,317,196
Susceptibility fund		2,654,380	2,611,985	2,654,380	2,611,985
		18,352,064	19,495,721	16,705,380	18,108,105
Liabilities					
Current Liabilities					
Trade and other payables	5	209,937	411,180	151,581	184,814
Total Funds and Liabilities		18,562,001	19,906,901	16,856,961	18,292,919