

Uproar over ‘chaos’ at master’s offices

● *Of the 15 master’s offices across the country, Johannesburg, Pretoria and Cape Town are the hardest hit by extended bottlenecks in the system*

Luyolo Mkentane

Legal practitioners, who are already disgruntled with what they allege is corruption at the master’s offices, say the disarray in winding up deceased estates – worsened by Covid-19 deaths – risks taking them out of the R30bn sector.

The 15 master’s offices in the country, one for each division of the high court, deliver crucial services to the public such as the administration of deceased estates and liquidations, as well as the registration and supervision of trusts.

However, the functioning of the offices has been a contentious issue with concerns raised especially over the huge backlogs. The pandemic has worsened the situation as Covid-19 deaths add to the bottleneck of deceased estates.

Covid-19 has infected more than 1.5-million people in SA and killed more than 49,000.

Attorney Michael Dansky from Michael Dansky Attorneys, whose law firm has been involved in the administration of deceased estates for the past three decades, described the situation at SA’s master’s offices as “absolute chaos that’s destroying our practices”.

“I can’t believe it,” he told Business Day. Dansky said the master’s offices in Johannesburg had been closed to the public since March 2020.

“I have about 15 files that I need responses for from the master’s offices. In another case I’m acting on behalf of a blind woman. She is the beneficiary of a deceased estate and her property rates account is in arrears of over R200,000,” said Dansky.

“The city council has threatened to sue her and the only way she can pay them is if she sells the property but she can’t because there is no letter of executorship, which I have been waiting for since December 2019,” Dansky said. He cannot get fees until the deceased estates are wound up, and he himself has lost more than R200,000 to date.

“Covid-19 has disrupted operations at the master’s offices entirely. Files are lost, there are no letters of executorship, there is no staff. It’s a whole big mess. This is terrible and very tough on me. And I’m not the only one,” he said.

Frustrated, Dansky wrote to master of the high court in Johannesburg Leonard Pule in early February, asking for access to the building. He said he has been unable to gain access for nearly a year despite needing the services provided by the office.

“As a result of me being unable to get into the building, a complaint has been made against me to the disciplinary committee of the Law Practice Council, because I have not attended to the transfer of a property to an heir, because I have been unable for almost a year to obtain certified copies of documents required to transfer the property,” he wrote.

Dansky said that he had two properties for which he had applied for letters of executorship at the end of 2019.

“I have not received these letters of executorship in either case. In one of the estates, the heir is in urgent need of disposing of a property, but she can only dispose of the property when she obtains

letters of executorship.”

Dansky said he had been waiting for documents related in other matters for “between six months to a year”. These matters are also urgent and he has asked Pule to intervene.

Pule responded the next day (February 2), saying: “Access to the office floors or building is currently restricted during this period. The office capacity has been reduced to 50% as officials continue to be on rotation.”

Pule asked Dansky to send details of the urgent matters and “clearly indicate what is required in respect of each matter”.

In his response two days later, Dansky raised the estate of a deceased woman who has no living relatives in SA.

“There is no-one to look after the house which she owned and there is a very serious likelihood that the property will be occupied by squatters and vandalised,” Dansky wrote in the letter, which Business Day has seen.

“Furthermore, the estate is incurring monthly expenses of about R25,000 and without a letter of executorship the executrix is unable to access funds to pay these debts.”

According to the Administration of Estates Act, winding up a deceased estate should take six months after a letter of executorship is issued.

Black Lawyers Association president Mashudu Kutama, who works in the administration of deceased estates, referred to the overload as “huge”.

This delays the winding-up process, and the payment of beneficiaries, “more especially if the estate has a number of properties or other assets”.



Slow pace: Some master’s offices require that all correspondence be done by ‘snail mail’. There is also a demand for hard copy documents despite no such legal requirement, lawyers say. /123RF/Andrey Popov

In February 2020, justice & constitutional development minister Ronald Lamola ordered the closure of all master’s offices in the country for a day to facilitate an investigation under way by the Special Investigating Unit (SIU) into alleged corruption.

“There are allegations of massive corruption in the administration of deceased estates and liquidations. There is no transparency in the appointment of liquidators. The apartheid machinery in the liquidation department has not changed,” Lamola said.

“I have raised all these matters with advocate Doctor Mashabane, the newly appointed director-general of the justice & constitutional development department.”

Kutama said that the pan-

demic has worsened the situation at the master’s offices.

“Covid-19 has killed more than 40,000 people. Now if, say, 50% of those people had assets that will add to the backlog. The justice department must find a way of resolving this because the public will lose confidence in the entire justice value chain if it remains unsolved,” he said.

“Another thing is that attorneys and administrators make fees out of this [winding up deceased estates]. If there are delays you can’t charge a fee.”

A director of a legal firm dealing with estate matters, who did not wish to be named, told Business Day it was dealing with three deceased estates. One lodged with the master’s office in September 2019 still had to be wrapped up. The firm has not

received any letters of executorship for the three estates.

“Covid-19 has worsened the backlog because they [master’s office] were inefficient to start with. This matter needs to be looked at because you can’t claim if the estate is not wound up,” the director said.

Another lawyer dealing with estates, who does not wish to be named for fear of victimisation, said the backlog is a “nightmare” that has been made worse by Covid-19.

“The master’s office is one of the very badly run departments. We have staff at the master’s office who don’t really care, there is a lot of fraud and under-handed staff,” the lawyer said.

His firm has been waiting for a year to get approval to finalise an estate in Nelspruit.

“There’s millions of rand tied to trusts and estates that should be going back to the economy,” the lawyer said.

“There are people who should be benefiting from that, but because the master’s office is underperforming, it’s become a huge problem for our country. They don’t realise how important they are, they don’t care.”

The newly appointed chief master, Martin Mafojane, said his office was “aware of the backlog”, especially in Johannesburg, Pretoria and Durban. Employees are working overtime to try to remedy the situation, he said.

“That overtime does assist in terms of attending to e-mails, letters and documents that had been dropped in our boxes during the first wave of Covid-19, which was April, May and June 2020,” Mafojane said.

“When the lockdown restrictions were eased, people came flooding into our offices and this exposed our officials to infections. We are now looking into implicating online registrations of deceased estates and trusts. That’s in the pilot phase already.”

Furthermore, said Mafojane, they were “encouraging” heads of the master’s offices to engage the legal fraternity and update them about the challenges they are encountering and what is being done to deal with them because “communicating is of utmost importance”.

He said Covid-19 deaths have increased the backlog and called on everyone involved to be patient and understand that “we are not folding our arms”.

“We are trying our level best to try and reduce the backlog. Working overtime is part of

those efforts,” Mafojane said.

Louis van Vuren, CEO of the Fiduciary Institute of Southern Africa, a nonprofit organisation representing fiduciary practitioners in the country, said that while turnaround times and service levels “are under strain in most master’s offices”, this did not apply to all as some offices cope better with their workload than others.

“The reasons for this are varied. Some offices have a shortage of staff and vacancies which have not been filled for quite some time,” said Van Vuren.

“The vast majority of complaints from the major centres in the last three years relate to the master’s offices in Johannesburg, Pretoria and Cape Town, while no complaints have been received about the offices in Bloemfontein and Kimberley.”

In some cases deceased estates are delayed by years due to complex issues, “but there have also been news reports of files going missing from time to time in some master’s offices”, he said.

“Some master’s offices still require that all correspondence be done by ‘snail mail’ and they reply in the same fashion. There is also a demand for hard copy documents where no such legal requirement exists. By law, the deceased’s last will and testament has to be a hard copy original, but that is about the only document where that is a requirement,” Van Vuren said.

It would be great if master’s offices embraced technology, he said. “There is no reason web-based and e-mail solutions cannot be employed to a much larger extent.”

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