

Exco meeting

A number of important issues were discussed at the national executive meeting of the GCB held at Kievits Kroon Country Estate on 12 October 2002. Several of the resolutions re-affirm the GCB's commitment to drawing young practitioners into the profession and keeping them there. Some of the topics tabled at the meeting are these:

- The constituent Bars and the Road Accident Fund (the RAF) have favourably received the proposal that a junior of less than two years standing be briefed with a senior junior by the RAF so as to facilitate transfer of skills. The proposal was adopted and Renata Williams was mandated to meet with the Road Accident Fund with a view to having it implemented.
- During the course of the discussion on the RAF item, it became apparent that members were unaware of the amended devilling rule. In its amended form, a senior counsel may involve at legal aid tariffs the services of a junior counsel who is then formally briefed and paid by the instructing attorney. The silk's fees are reduced *pro tanto*. The amended devilling rule will be circulated to all Bars.
- The contentious issue of briefing patterns and, in particular, the pressing need for change insofar as the briefing of previously disadvantaged members of the Bar are concerned was, again, the subject matter of an animated and informative discussion. This issue arose in consequence of the following resolution which was adopted at the July AGM:

“– The GCB recognises that the professional survival of young practitioners who are disadvantaged by race and gender is a pressing problem for the whole Bar.

- The GCB requests all Bar Councils to give full consideration to these issues and to take practical and innovative measures to address them.
- The GCB requests all Bar Councils to

convene a meeting with their senior counsel in order to convey to them the seriousness of this problem. The need for senior counsel at Bars to address briefing patterns of attorneys must be highlighted and they must be encouraged to be briefed with young members from disadvantaged backgrounds.

- The GCB requests all Bar Councils to engage with local law societies, to explain the seriousness of this problem; to devise measures which are directed at addressing continuing briefing patterns and to highlight potential opportunities created by the silk approached.
- The GCB requests all Bar Councils to report to the national executive, at its next meeting (ie on 12 October 2002), on steps taken in relation to this matter.
- As a public relations exercise, the incoming executive is to send out a communication to various institutions drawing their attention to the measures adopted to address the problem of briefing patterns. (All Bars were requested to advise the GCB Secretariat by 31 August 2002 of the names of institutions they would like included in the circulation list.)”

As the resolution demonstrates, there is no short and all embracing answer to the problem. Bringing about an effective change to briefing patterns will have to be addressed on a number of fronts. The Pretoria Bar has circulated the curricula vitae of its members of five years and less to all attorneys in Pretoria. Other Bars have communicated with their silks and encouraged them to work with previously disadvantaged members. As was pointed out by Nirmal Singh SC, if corporate South Africa is not briefing skilled black juniors, it is highly unlikely that it will brief unskilled black juniors. Chris Loxton SC emphasized that the nature of the senior junior relationship is such that silks draw heavily on the competence of the junior counsel. It is undoubtedly this factor which is perceived as inimical to engaging the services of an unskilled junior counsel.

The issue was resolved on the basis that the Cape Town, Eastern Cape, Durban, Johannesburg and Pretoria Bars each formulates

a twelve month strategy on how it intended addressing the issue of briefing patterns and to report back to the GCB secretariat by 30 November 2002. The members were encouraged to meet with representatives of the litigation departments of the larger law firms. The GCB Transformation Committee was also requested to report back to the GCB exco and, in so doing, to take cognisance of the reports of the five Bars aforementioned and those prepared by Roland Sutherland SC and Patric Mtshaulana.

The silks who attended the exco meeting agreed to lead by example by working with previously disadvantaged members and to keep the GCB apprised thereof.

- The issue of race statistics arose. This is an unfortunate but necessary corollary of transformation, particularly insofar as the tracking of the process is concerned, and it was accordingly decided that the constituent Bars should return race statistics to the GCB.
- A further change has been proposed to pupillage, namely a compulsory preparatory course of approximately two to three weeks' duration. This is not an entrance exam but a pilot project where pupils will be taught, inter alia, civil and criminal procedure, law of evidence, receive tuition in the five subjects that make up the NBE, and receive advocacy training. At the end of the course, each pupil will be assessed and given an indication as to whether he or she has a reasonable prospect of passing the NBE. This measure is being implemented in an attempt to raise the examination pass rate. An indication that any pupil is unlikely to meet the requirements of the NBE will not constitute an obstacle to pupillage. The Johannesburg Bar has offered to contribute R50 000 towards this initiative. Other sources of funding are being investigated.
- The meeting approved the designation of Swaziland and Nigeria in terms of section 3(2)(a)(ii) of the Admission of Advocates Act 1964, subject to a number of *caveats*, including that it may serve to increase the number of independent advocates and may result in a decrease in the work available to the junior Bar. 

Prizes for articles in Advocate

The 2001 prizes have been awarded as follows:

Juta Prizes

- 1 **Prize for the best contribution:** John Peter of the Johannesburg Bar for his article “The Internet – its impact on SA law” in 2001 December *Advocate* 27.
- 2 **Prize for the article which best enhances SA constitutional law:** Justice Kate O'Regan for her article “Change v certainty: precedent under the Constitution” 2001 April 2001 *Advocate* 31.

Butterworths Prizes

- 1 **Prize for best article on a practice-orientated subject:** Chris Marnewick SC for his article “Preparation for trial: from fact analysis to trial tactics” 2002 August 2001 *Advocate* 20.
- 2 **Prize for an article on law reform:** No award