

## **Six Months – 28 March 2010**

### **The Office**

Empty office, with everything packed in boxes for an office move. The move would have been on 1 September. It was now mid-October. We still couldn't move, being held to ransom by Telkom. Telkom? Maybe next week Tuesday; the copper cables had been stolen; we need wayleave from the City Council to dig up Fredman Drive, and this takes time; we need to have finance committee approval to place the order; we need to import equipment from overseas; we're still entitled to 45 – 60 workdays from 30 September to deliver.

10% of staff were suspended or retrenched, but still receiving salaries.

20 big relocation boxes of unsigned determinations, going back to 2005. Seven more boxes reappearing somewhere between midnight and sunrise.

More than half of staff members on contract.

Staff was working under difficult conditions, sometimes sitting two to a desk due to lack of office space.

And every week we were going to move next Monday...

At the end of November there was a decision to take: Slowly there was the realisation that Telkom was perhaps never going to deliver. Staff was getting increasingly restless and frustrated.

So we went wireless and moved. There were problems with communication and it took perhaps two months for our clients to finally find our new address and telephone numbers.

On 15 December 2009 the Cape Town Office was closed permanently, after 11 years. It was an emotional moment. I took the last two staff members out for lunch and then we said goodbye. Both were still without new jobs.

### **The professional work**

About four CCMA cases were pending against the OPFA, there was the scorecard fallout to manage. Threatened in the media with a massive damages action by a dissatisfied third party. Some 250 determinations taken on review, ostensibly for being given in default. Not all had been granted by default. (The same party had previously had a few hundred default determinations in its favour, without any protest.)

Long-winded draft determinations, English language and drafting skills had to be sharpened, drafts refocused, legal issues clarified. Some of the older drafts had been prepared by staff members long gone.

### **Operational**

17 professional staff members expected to prepare at least 10 draft determinations each per month, no reasonable expectation that one person can attend to operational issues involving a staff of 50 to 60 persons, a sizeable budget, guide and train staff and still sign off a minimum of 10 determinations per day plus work down the backlog. The Act was amended in 2007 to provide for the appointment of Deputy Adjudicators, but this had not yet been actioned. The immediate need is for one or more than one Deputy Adjudicator to deal with the professional side.

### **My style**

Assistant Adjudicators readily took to my style. I have encouraged a direct, hopefully clear style, imprinting that this was our only chance to place our view before Court should a determination be taken on review to the High Court. It therefore had to be factually accurate and correct, and the law stated as clearly as possible. All emotion had to be removed from drafts, and I asked over and over again for more respect towards parties, their dignity and their privacy, as far as possible, especially when it came to the more interesting family details in death benefit matters.

I am not a social reformer. The previous two adjudicators had rattled a few untouchable cages in industry, with significant results. My vision was to return to old fashioned law.

### **The six months**

On 26 January 2010 for the first time in 11 years, a staff member passed away. We held a small memorial service at work. At the same time we were able to welcome the deceased's family at work.

Greater co-operation with FSB and National Treasury, inevitably. We also arranged for different specialists from the FSB (pensions and actuarial) to share their experiences with our staff. This has been great.

I am still concerned about the turnaround time with complaints. Conciliation has been a great help, but I do believe that justice delayed is justice denied.

We have also tried to improve customer service.

## **Professional side**

I'm just an old-fashioned Roman Dutch lawyer, to borrow an expression from a much-loved mentor. So I have no ground-breaking determinations (sorry, Naleem!), no headline-grabbing stuff.

I've signed off more than 500 determinations during the past few months. To my surprise, I found that most complaints are dismissed. Two of the determinations I have signed, have been taken on review.

Many complaints simply cannot be investigated, such as long-standing grievances against employers, going back to the early 1990's, where there has never been closure. Many are family fights about the distribution of death benefits; general unhappiness with a small pension in relation to many years' service to an employer.

Most fund trustees now do a thorough investigation before deciding on the distribution in death benefit complaints. As long as the process is properly documented and presented to the Adjudicator, the Adjudicator would at best refer the matter back to the trustees for reconsideration.

Divorce complaints have declined since the last amendments to the Pension Funds Act and are now rare, except where the divorce order does not identify the fund, or refer to a pension interest, in which case an amended order would normally have to be sought.

## **Six months later**

I am glad to say that staff morale has improved greatly. The new offices are vast compared to the old ones. The standard of draft determinations is improving. Most of the staff members whose contracts expire on 31 March 2010, have been appointed permanently. The number of signed determinations is increasing rapidly every month, as the assistant adjudicators get used to my style. We have also been able to deal with most of the 2005 and 2006 complaints that were still outstanding.

## **Scorecard**

Service delivery to fund members has improved substantially, even before the results of the scorecard were made public. This year, only complaints lodged on or after 1 October 2009 will be considered.

When the previous adjudicator announced the scorecard results in September 2009, it was said that ten funds account for possibly 80 per cent of all complaints received. There has been some improvement by one or two funds, but the top scorers remain the PSSPF and the CCNPF, followed by the mineworkers' funds. The sad thing is that certain security companies that have obtained lucrative government tenders are far in

arrears with remitting contributions and schedules to the PSSPF. Other tenders that are apparently being granted, are so low that a simple calculation will show that the employers whose tenders have been successful, will not be able to afford minimum wages or pay provident fund contributions in terms of the sectoral agreement. There are wider issues that need to be addressed on a strategic level.

And in that vein, I've developed my own scorecard, six months later. And I am now going to announce the results.

This scorecard has been developed on a totally subjective, non-scientific basis. I've developed it on my own, with no input from any other expert, perceived or otherwise. Sampling has been done totally at random and is not necessarily representative. I therefore take sole responsibility for the results.

Over nearly two decades in the Pensions Industry, I've come to admire certain often unsung heroes providing a service to our industry.

### **Legal Services**

When it comes to legal services and the general quality of responses to complaints, from a legal point of view, the division that stands out, over many years, is Alexander Forbes Legal Services. Fiona Renton and her team, and before her Desire Partridge – over many years we have often differed, but the soundness, integrity, clarity of submissions are without parallel in the industry.

### **Customer Service**

Service delivery and general liaison with the OPFA: Here I think of three teams, who have impressed me: Hazel Lerman of Liberty, Donald Halley of Momentum, Dorea Ozrovech and Sammy Gallant of Sanlam. Hazel and Donald both inherited a mess through takeovers by their employers of smaller insurance companies, often with incompatible systems. Both managed, of course with the backing of their employers but also through their own attitude, dedication and perseverance, to improve service delivery to customers from very bad to good. Donald retired recently. All I can say is – Donald, we miss you.

Dorea and Sammy have managed to steer Sanlam's Client Service Division through a change in corporate culture as well as raised expectations by members of the public about additional payments in the case of early terminations of RA policies.

All three teams now provide prompt and clear responses.

### **Principal Officer**

Most admired principal officer is Peter Zibi, of the PSSPF, for diplomacy and sheer survival skills, for steering the PSSPF through a very difficult time in the fund's history, and for having to adjust to different boards and different service providers, each with a totally different approach and culture.

### **Most Admired Financial Journalist**

Most admired financial journalist, in a class of his own – no surprises – is Bruce Cameron. Bruce writes well, has insight, has a wide network of contacts, and all those usual nice fuzzy things. But he has never broken any embargo, never disclosed any information given to him in confidence, and he has a sensitivity about the wider ramifications and impact of his writing . A true professional, may he never have to retire and go on pension.

### **Beneficiary Funds**

Most admired professional in the beneficiary fund environment is surely Giselle Gould of Fairheads. She knows and understands her industry, she has a practical approach and she has sympathy for the widows and orphans who are her clients, but she also understands the long-term bigger picture.

### **Enthusiastic Pensions People**

The two most enthusiastic persons about pensions in general, must surely be Dube Tshidi, the Registrar of Pension Funds, and Jan Mahlangu, Cosatu's spokesperson on pensions. Both are truly passionate about all aspects of pension funds.

### **Administrative Excellence**

And then, for pure administrative excellence: Johan Badenhorst and his team at ABSA Consultants and Actuaries.

After all, they pay my pension every month, without fail, on time.

I thank you. It's been a great time, working at the OPFA. Staff support has been great. I hope I taught them something too.

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