

CONCEPT DOCUMENT ENCOMPASSING
AMPLIFIED DIRECTIVES FOR THE
WESTERN CAPE DISTRICT COURT
ADMINISTRATIVE REGION 12, CLUSTER A,
FOR COURT BUSINESS INCREMENT AND
RESUMPTION OF CERTAIN ACTIVITIES ON
LEVEL 4, COVID-19 DISASTER 2020

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INTRODUCTION

The Covid-19 virus was declared a disaster that affected the entire nation. One of its effects was to cause court business disruption. Exposure to the Covid-19 virus could lead to death. Magistrates' Courts render an essential service, as part of the Judiciary that upheld the Rule of Law. The declaration of a level 5 lockdown caused a significant reduction in judicial services for the Administrative Region.

In the light of the movement from level 5 to level 4 of the lockdown scale, it has become necessary to consider the likely impact of delay of output of judicial services and to approximate the length of time needed to re-establish the lost output. Whereas the level 5 lockdown was informed foremost by health considerations, the movement from level 5 to 4 was necessitated more by economic considerations than health and safety stability in relation to the virus.

OBJECTIVES OF THE CONCEPT DOCUMENT

1. To reflect on the community of court staff, court users and stakeholders who still require significant mitigation of exposure to the virus.
2. To analyse the obligations of court staff having regard to the background that Courts render an essential service and are unable to sustain a prolonged limitation to its services.
3. To reflect on the balance between the genuine fear and anxiety of court staff on one hand and the need for the State to uphold the Rule of Law on the other.

THE STRATEGY

The concept document seeks to identify the necessary measures to open up key organizational functions whilst ensuring the safety and health of staff and the public. It seeks to identify the path leading to how to get back as safely and as quickly as possible through a set of procedures to help the courts to eventually restore full operations to a new normal.

UNPACKING THE STRATEGY

1. Each Magistrates' Court within the Western Cape Administrative Region 12, Cluster A, District Courts, should establish an ad hoc Business Resumption Planning Committee.
2. The Committee is to be chaired by the Judicial Head of the Magistrates Office and should have the most senior official of the National Prosecuting Authority and the Court Manager as members. The committee may decide on additional members. For instance, for effective attention to the Children's Courts, the

Committee may deem the attendance of the Department of Social Services necessary whilst for the Civil Courts, the local Attorneys Association may be invited. For Criminal Matters Legal Aid South Africa may be necessary.

3. Based upon the actual impact of the level 5 lockdown and the local circumstances and exigencies, the committee shall decide on a gradual adaptation of court rolls incrementally for maximum output as the circumstances determine, for a movement to level 4 .
4. The committee shall advance and enable collaboration amongst key stakeholders to discuss business resumption plans and necessary solutions to local challenges.

GUIDELINES AND KEY RESPONSIBILITIES

1. The committee shall strive to understand the scale and effect of the disruption on the court operations and on the impact of disruption on the staff and their families (where this is necessary).
2. It shall also strive for the identification of immediate corrective measures where necessary and make workplace adjustments where there is a need and it is possible to do so.
3. It shall do a Business Impact Analysis.
4. It shall source input from staff and other stakeholders
5. It shall conduct an assessment of facilities and the readiness of safety measures in place to mitigate risks to employee health
6. It shall construct an action-plan with Critical Processes, Systems and Identified Persons as Leaders responsible if a staff member gets infected with Covid-19 and also for roll out of court operations.
7. It shall set out a plan of action for recovery of business activities
8. It shall monitor compliance with Regulations and Directives related to the disaster declaration including but not limited to the management of:
 - 8.1. Measures for employees at a higher risk
 - 8.2. Social distancing, (whether it is started, in progress or not started)
 - 8.3. Temperature checks (if and when deemed necessary)
 - 8.4. Hygiene supplies (Personal Protective Equipment and necessities) to be properly stocked at all times
 - 8.5. Continuous testing, isolating and contact tracing
 - 8.6. Consistently sanitized facilities through disinfection of common areas and high-touch surfaces)
 - 8.7. regular cleaning schedules with specific focus on the areas frequented (for instance courtrooms and cells to be cleaned and sanitized more often)
9. It shall introduce a staggered phase of court operations returning to the new normal, guided by the level of the lockdown applicable.
10. It shall ensure incremental procurement and use of electronic, both audio and audio-visual, telecommuting facilities for holding courts.
11. Periodic review to assess effectiveness of progress measures.
12. Promote effective, efficient and accountable administration of justice.

13. Advise the Chief Magistrate on matters to be reported on as set out in this concept paper encompassing amplified directives.

CONCLUSION

The Judicial Heads of Courts shall ensure that interpretation and application of these Directives are not inconsistent with the Directives issued by the Chief Justice dated 2 May 2020, as well as Directives issued by the Minister for Justice and Correctional Services dated 3 May 2020.

All previous Directives issued by this Office remain in force, to the extent that they are not inconsistent with the Directives issued by the Chief Justice on 2 May 2020 and those issued by the Minister on 3 May 2020.


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