

Lawyers fed-up with shambles in Master's Offices

Lawyers complain that the offices of the Master of the High Court are increasingly dysfunctional. As a result, people are unable to tie up deceased estates, set up or liquidate trusts, or appoint overseers of trusts and estates among other legal procedures.

By [Ella Morrison](#) 18 Oct 2023



Source: www.unsplash.com

The Master's Office also manages the Guardian's Fund, which manages money for people legally incapable of managing their affairs, such as children or people with mental disabilities.

"The Master's Office was functioning well enough until Covid," a Cape Town attorney, who wished to be anonymous, told *GroundUp*. "They can't seem to pick themselves up again."

GroundUp was shown photos, apparently from inside the Johannesburg Master's Office, that show papers scattered across carpets and desks.

Attorneys say delays at the Master's Office are unpredictable. Some documents are issued in the required few weeks; others take months.

Pretoria attorney Ronel van Rooyen said: "The filing system seems to be random."

She said the Master's Office did not respond to emails or phone calls. Yet members of the public, including attorneys, are unlikely to get hold of any staff if they go to the office.

"There's no boss taking control," she said.

Another Cape Town attorney, who also wished to stay anonymous, explained that when liquidating the estate of a deceased, documents are submitted to the Master's Office and a letter of executorship should be issued within 30 days. Without this letter, the assets remain frozen.

"It's a very simple process. They just need to process the documents," he said. But now six to ten follow-ups in person are required to see that it is done. He said it can take nearly a year to just get a letter of executorship.

“You can just assume that the further you are in the process, the more it will be delayed,” he said.

There are 15 steps needed to wrap up an estate, according to Brenton Ellis, from the Fiduciary Institute of Southern Africa (FISA).

According to Ellis the entire process of wrapping up an estate ought to take [six to eight months](#), “but this turnaround time is currently highly unlikely”.

Fisa closely monitors the Master’s Office and has provided an [overview](#) of the process and challenges of wrapping up an estate.



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Katherine Gascoigne, a Johannesburg attorney who specialises in work with the Master’s Office nationwide, said “It holds millions of rands which can’t go back into the economy because heirs can’t access their money. The knock-on effect is enormous.”

Gascoigne said her law firm has applied so often for a mandamus writ – an application to the court to force a government institution to do its job – that it has almost become protocol.

Poor digitisation

The Master’s Office has been trying to speed up its systems through digitisation. In March the Gauteng Master’s Offices took over a decade of files offsite to scan them for easy access.

“We were given a six-week period in which we’d have no access. Now however, many months later, we still have no access,” said Gascoigne.

She said the online service portal also does not go far enough. “We can’t access any documents and there is no directive as to whether we’ve been approved and what our next step should be.”

The Master’s Office still relies heavily on in-person visits to relay information.

A week ago, Minister of Justice Ronald Lamola launched the new [Deceased Estates Portal](#), which allows people to register deceased estates themselves.

“I have my doubts about whether this is going to be a silver bullet. Staff still need to process and check each and every document,” said a Cape Town attorney.

The new online system has been subject to [three cyber attacks](#) in the last three years. Most recently, the [Guardian’s Fund](#) lost R18-million to fraudulent transactions. During each attack, services are suspended for weeks.

The Information Regulator claims the [2021 hack](#) would have been prevented if the Department of Justice had renewed its anti-virus software licences. It fined the department R5-million for violation of the Protection of Personal Information Act (POPIA).

Crispin Phiri, spokesperson for the Department of Justice, said: “The procurement process, though initiated on

time, took much longer than expected and resulted in us having a gap in the support and maintenance of these licences.”

Attorneys we spoke to said Master’s Offices, except for Pretoria, are not operational during loadshedding.

But Phiri said the Deceased Estate online system “will always be accessible to the public even during loadshedding because it is centrally hosted from our main data centre that has UPS and sufficient back-up power”.

“It might partially affect the response times (by a few hours) from the Master’s offices that don’t have back-up power because they might not be able to login to the system during those hours of loadshedding.”

Chronic staff shortage

While the Master’s Office mostly only provides an in-person service, there is a nationwide staff shortage of assistant masters, who sign off on files and direct the public on what they need to do next.

According to FISA, the Cape Town Master’s Office has a 35% vacancy rate on estate controllers.

Pretoria attorney Francois Boucher, said: “There’s no leader taking control at the Master’s Office, at least in Pretoria.”

He said the role of Acting Master rotates between staff every few months.

“We’ve had instances where an assistant will issue a query sheet that is not in line with the Chief Master’s directives. They act on their own discretion,” said Boucher.

Another issue, said Boucher, was that some staff at the Master’s Office don’t always accept printed copies of court documents.

“We get court orders electronically, which we print and submit to the Master. Some assistant masters don’t accept the court orders, because they’re not originally stamped and signed by the registrar. Now, we have to go to the court to get a signed affidavit for each and every document we submit.”

Boucher said this is not a requirement of any Act or Chief Master’s directive.

Gascoigne said the Johannesburg Attorneys Association offered to help the Master’s Office clear its delays, but they were turned down. She suspects it’s because Master’s Office staff earn overtime for clearing the backlog.

“It’s getting so bad that [the Gauteng Attorneys Association] approached Judge President of Gauteng Dunstan Mlambo to create a specialised court for Master’s Office matters,” she said.

Haphazard filing

Attorneys used to be able to go into the Master’s Office and access non-digitised files, but members of the public and attorneys are now being denied access in Cape Town, Johannesburg and Pretoria.

“Older files are a nightmare, especially with them moving from one storage facility to another,” said van Rooyen

Most files are not stored on site.

“They often can’t find [the files] in the warehouse. We’ve had matters where we’ve been waiting for files for

years.”

A Cape Town attorney, who did not wish to be named, said things went wrong during the Covid lockdown. “A lot of files were misappropriated and some of them were lost. In a lot of cases, people had to resubmit quite a lot of documentation,” they said.

In August 2022, Minister Lamola said the [backlog](#) caused by Covid and a cyber attack in September 2021 would be cleared by the end of 2022.

Bribery and corruption

Johannesburg attorney Lesley Blake also suspects there could be corrupt practices at some offices. She was recently appointed to a 13-year-old estate case. Apparently, an executor had been appointed by the deceased’s wife, but the dead person was unmarried. Properties were sold and much of the estate liquidated. The previous attorneys says they had a letter of executorship. But the Master’s Office told Blake that they’ve lost the files.

In 2021, the Presidency and the Department of Justice empowered the Special Investigation Unit (SIU) to look into dozens of [allegations of fraud, corruption and misconduct](#). The SIU temporarily shut down every Master’s Office in the country to conduct its investigation.

That same year, Acting Chief Master Theresia Bezuidenhout was [accused of interfering](#) in disciplinary processes against corrupt employees. She has since been replaced.

Failure to respond to our queries

We attempted to get comment directly from the Master’s Office. On 11 October we emailed Thelma Setetemela, who has the title Personal Assistant: Chief Directorate Strategy and Policy. She responded on 12 October, stating that she’d forwarded our questions to Penelope Roberts, the Acting Chief Master. Despite sending follow-up emails, we have received no further response.

Published originally on [GroundUp](#).

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