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Course Outline

Administrative Law for State Functionaries

presented by the

Centre for Social Justice

Stellenbosch University

28 – 30 August 2023

Introduction

Administrative Law for State Functionaries is a three-day blended short course, offering participants an opportunity to understand administrative-law considerations that courts expect them and their principals to comply with and help them gain administrative-law insights from court jurisprudence, Public Protector and Auditor General reports with a view to minimising the possibility of having their decisions or those of principals they advise successfully reviewed by courts and administrative oversight bodies.

The short course will analyse a range of case studies in the typical areas within which public decision-makers function and illustrate what the law requires in each instance. The training will develop participants' competence in identifying the relevant administrative-law issues that may emerge in typical areas of public administration, how to address those issues, how a court or other oversight structure such as the Public Protector or Auditor General, may assess such conduct and how to design approaches to decision-making that will manage the legal risk in such instances.

The programme also provides basic leadership insights, including the understanding of lawyering as leadership, further aimed at improving good governance and minimising unproductive encounters with oversight bodies or personnel that leads to case hardening and related adverse outcomes.

Target Group

Lawyers, state functionaries at all levels, academics, judicial officers, students, civil society activists and international agency employees. International students are also welcome.

Course Objectives

To equip course participants with enhanced competencies to:

- **Strengthen your good governance acumen**, team compliance with good governance requirements in the Constitution, law and policies while reducing personal and institutional vulnerability to judicial reviews that cost money and time, thus, sabotaging efficient and effective service delivery.
- **Enhance participants' understanding** of key constitutional and legal requirements that must be complied with when making administrative decisions in state affairs.
- **Familiarise participants with core administrative justice principles** from case law to be complied with in everyday decision-making in state affairs.
- **Acquire greater awareness of typical mistakes** and systems fault lines in personal, team and organisational decision-making processes that could lead to successful judicial review.
- **Understanding of typical judicial considerations** in the interpretation of concepts such as rational, reasonable, lawful and fair.
- **Basic leadership and communication skills** to fortify their system against potential litigation that can derail the implementation of service delivery and social justice initiatives.

Course Outcomes

At the end of the course the participants should be able to:

1. **Demonstrate** understanding of basic administrative-law principles such as lawfulness, legality, reasonableness, procedural fairness, accountability, separation of powers, cooperative governance and judicial deference.

2. Apply these administrative justice-related principles and jurisprudence to analyse laws, policies, programmes and litigation problems and align their decisions or advise any competent authority accordingly.

3. Demonstrate skills gained to conduct research, identify and apply relevant administrative-law research and legal analysis to everyday decision-making and justice challenges.

4. Show ability to review-proof their organisation or client organisation by conducting an audit of administrative law fault lines and to redesign their systems and procedures to minimise administrative justice and related mistakes.

Course Structure and Key Content

The course has 6 units (modules) to be delivered as a blended online course combining contact and non-contact sessions executed in the following three phases:

1. Preparatory phase: Participants to be given a case study, to resolve before attending the course, based on their existing knowledge of the law and policy imperatives regarding social justice to assess current levels of knowledge and skills.

2. Contact Sessions: Contact sessions with course presenter(s) that include short individual and group exercises activities.

3. Summative Assessment: At the end of the course participants to submit an assignment that involves application of the social justice and the law learning outcomes.

Presenters



Prof Thuli Madonsela

Director of the Centre for Social Justice, SU.



Prof Sope Williams-Elegbe

Head of Department of Mercantile Law, Deputy Director of the African Procurement Law Unit, SU.



Prof Geo Quinot

Director of Procurement Law Unit at SU.

Assessment

1. Pre-course attendance assignment (Writing 20%, Presentation 10%)
2. Daily Individual and group tasks for formative assessment and ensure group members are collaborating (Individual 15%, Group 15%)
3. Final assessment presented on last day of course (Writing 15%, Presentation 25%)

Course Outline

UNIT 1: INTRODUCTION TO ADMINISTRATIVE LAW

- What is administrative law?
- The Constitution and other sources of administrative law
- Where do you find administrative law?

UNIT 2: ADMINISTRATIVE JUSTICE

- Introduction to the PAJA
- The meaning of administrative action
- The requirements of just administrative action
- Legality beyond PAJA
- Enforcement

UNIT 3: EVERYDAY AREAS OF ADMINISTRATIVE ACTION

- National
- Provincial
- Local government
- Regulatory authorities
- Administrative investigations

UNIT 4: UNDERSTANDING COMMON ADMINISTRATIVE LAW TRANSGRESSIONS THROUGH THE CASES

- Procurement
- Board appointments
- Licenses
- Grants
- Subsidies
- Registration
- Certification
- Social welfare benefits
- Failure to act

UNIT 5: LEADERSHIP TIPS FOR FRUITFUL INTERACTION WITH ACCOUNTABILITY AUTHORITIES

- The South African Public Accountability Architecture
- Dealing with the Auditor General
- Dealing with the Public Protector, Public Service Commission and other administrative oversight bodies
- Dealing with Parliament
- Dealing with the courts
- Dealing with the media and the public

UNIT 6: REVIEW-PROOF YOUR ADMINISTRATIVE DECISIONS AND ORGANISATIONAL CULTURE

- Identify common or previous administrative-law mistakes in your team
- Identify systems fault lines that enable transgressions
- Design an intervention to minimise transgressions and successful review

COST: Was R10 599, now reduced to **R7 450** per person

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REGISTER: <http://bit.ly/adminlawSU>