

Medico-Legal Service Providers and issues related to the panel of medico-legal experts

a) Background

1. Medico-Legal experts ('experts') play a vital role in the RAF ecosystem. The reports produced by medical experts (such as general practitioners; specialist doctors and occupational therapists) assist the RAF in validating and quantifying claims for injuries and loss of earnings. Reliable, accurate and timely reports are a necessary tool in ensuring that the RAF compensates claimants speedily and fairly.
2. The RAF has historically procured its own experts to assist it with the assessment of claims. However, claimants also submit their own medical reports and may procure the services of experts to provide expert testimony for purposes of court proceedings. If a claimant utilises the services of an attorney to process their claim, the attorney would typically procure the services of experts on behalf of a claimant to defend their claim.
3. During the public participation process, the Committee received several submissions from experts – both those acting for the RAF and those procured by attorneys on behalf of claimants. In both cases, the main contention was non- payment of expert fees. These experts can be grouped into two categories as follows:
 - 3.1. Experts performing work for the benefit of the RAF (whether directly or indirectly via RAF attorneys). In these cases, either the RAF or a RAF Panel Attorney, acting on behalf of the RAF, failed to make payment; and
 - 3.2. Experts performing work on behalf of a claimant on the instruction of the claimant's attorney.
4. The former, falls squarely within the mandate of the Committee as it concerns the non-payment of services performed for and received by the RAF. The latter however is a private contractual issue between the said attorneys and the experts they procure on behalf of their clients. The Committee does however deal with this issue briefly at the end of this section.

Summary of Evidence

5. The Committee received a submission from Ms Cecillia Margaretha Minnie, who was invited to testify before it. Ms Minnie is the owner of a close corporation, MMB Made Easy (MMB), which processes accounts on behalf of experts who have provided services to the RAF. The rationale for calling Ms Minnie, as opposed to individual experts, was that MMB has provided services to more than 100 clients over an extended period of time (since 2007). As such Ms Minnie was able to provide the Committee with historical information and records to support her contention that experts are facing mounting challenges of non-payment.

Procurement of experts

6. According to Ms Minnie, the RAF has, since at least 2007, utilised a dedicated panel of experts to act on its behalf. According to her, these experts received their instruction briefs via an attorney appointed to the RAF's Panel of Attorneys (PoA). Notwithstanding that they were procured by the RAF, the PoA managed their services as part of their case management. Experts would be responsible for submitting written medico-legal opinions and testifying as expert witnesses where necessary, on behalf of the RAF in court to defend the content of their opinions.
7. Although the experts were procured onto the panel by the RAF, in Ms Minnie's experience the manner in which they submitted their invoices and received payment varied. According to her, some experts would submit invoices to the instructing attorney for onward submission to the RAF whilst others would submit to the RAF directly. Payment was therefore made either directly to the medical expert by the RAF (notwithstanding that they were instructed via the attorney) or to the attorney for onward payment to the expert.
8. In mid-2015 a new expert panel ('the 2015 Panel') was put in place for a period of three years (2015 – 2018) following a bid process that had commenced in 2013. Successful bidders were provided with Service Level Agreements (SLA's) which were concluded based on the RAF's tariff for expert fees at that time.
9. The RAF published a list containing the names and designation of the experts appointed to the 2015 Panel. According to Ms Minnie, no such list was published in respect of later panels until 2025. This meant that for the intervening period it was not possible for third parties to ascertain whether an expert has been lawfully contracted by the RAF. However, the Committee notes that it has been able to access a copy of service providers on the 2021 panel on the RAF website. This was presented to Ms Minnie who provided evidence,

in the form of an email between herself and a medical expert which showed that the expert was only informed that she was on the panel in June 2022. Ms Minnie maintains that as recently as last year (August 2025) the list was not published.

10. Ms Minnie testified that notwithstanding the appointment of the 2015 Panel and the publication of the list of experts, the RAF also utilised experts who were not on the 2015 Panel, as the 2015 Panel was unable to fully service the needs of the RAF or services were required of experts who were not contracted to the RAF. She testified that the 2015 Panel consisted of only 82 experts for the entire country and by way of example, only had two orthopaedic surgeons listed. According to her, some experts would not have contracted with the RAF as they charged higher rates than the RAF tariff. However, recognising that the 2015 Panel was not sufficient for its needs, the RAF allowed its PoA to use experts not on the 2015 Panel with the proviso that they should attempt to contract these services within the RAF tariff (but were not bound to do so).
11. Ms Minnie testified further that after the expiry of the 2015 Panel (in May 2018) there was no panel in place and the RAF issued an interim directive which allowed attorneys to appoint any expert subject to prior approval by the RAF i.e. the attorney would procure the services of the expert on behalf of the RAF. Ms Minnie noted that some of these experts were not contracted in respect of the RAF tariff i.e. they charged higher rates and according to her this *'calls into question the adequacy of the RAF's procurement processes.'*
12. On 27 July 2018, the RAF issued a 'Request For Information' ('RFI') (RFI: RAF/2018/00034). An RFI is not a tender process. According to National Treasury, *'An RFI is generally used when the solution to a business problem is not immediately evident or clearly defined.'*¹ Importantly, the National Treasury has emphasised that, *'The RFI is used to gather information, NOT to make a selection or an award.'* As such its purpose ought to have been to allow the RAF to obtain information on pricing and service offerings so that it could draft a fit for purpose bid invitation in the future.
13. According to Ms Minnie, the RFI process was not followed by a tender process until December 2021 when the RAF sought to appoint experts for a period of three years until

¹ See National Treasury's Strategic Procurement Framework, Good Practice Guide on 'Market Engagement, Evaluation & Award' available at [https://www.treasury.gov.za/espf/LinkedDocuments/S5\(5.0\)%20SPF%20GPG%20-%20Market%20Engagement,%20Evaluation%20and%20Reward.pdf](https://www.treasury.gov.za/espf/LinkedDocuments/S5(5.0)%20SPF%20GPG%20-%20Market%20Engagement,%20Evaluation%20and%20Reward.pdf).

2024 ('the 2021 Panel'). On Ms Minnie's evidence there was therefore a gap of approximately three and a half years in which there was no tender process.

14. The Committee heard evidence from Mr John Modise, former Senior Manager: Procurement Excellence and Governance at the RAF who provided the Committee with some insight into the intervening period between the RFI and the establishment of the 2021 Panel.
15. According to Mr Modise the envisaged panel was 'large and high value (estimated cost over 1 billion per annum).' His evidence suggests that the RAF viewed the RFI process as a tender process and that same was supported by National Treasury. Mr Modise testified that doctors typically were not interested in responding to bids and providing proposals and this created difficulties for the RAF as they required experts throughout the country. According to Mr Modise the RAF engaged the National Treasury and they *'advised us to then initiate a request of expression of interest, where we then publish on the public media to say any medical profession that is interested in participating or assisting the RAF in whatever profession of medical experts that they are in, they can then log on to this portal. We created the portal where they can log on and put in the minimum information that we required for regulatory purposes and also to then sign the service level agreement, which they will download from the portal and send back to us for us to then look at and check the validity checks, check if the service provider is on the CST, which is a central supply database, and when we are okay, the service provider is not blacklisted at the National Treasury, we can then also attest our signature on it and then send it back to the service provider and we then put that service provider on the VRS vendor rotating system, which was then used by the panel - management office to then keep on assigning work to those medical experts.'*
16. Mr Modise went on to explain, that the 2018 process was marred by practical difficulties. Due to the value of the contracts exceeding R20 million in total (i.e. across the expert panel as a whole), the Delegations of Authority ('DOA') required Board approval for purposes of signing SLA's with those experts who had submitted a response to the RFI. Accordingly, in November 2018, the Supply Chain Management (SCM) department sought approval from the Board to delegate the signing of the SLA's to certain executives (including the Chief Operating Officer; the General Manager: Legal and the General Manager: Medical). This would allow the process to be streamlined. However, the Board authorised only the Acting Chief Executive Officer (CEO) at the time (Ms Lindelwa Jabavu) to sign the contracts with experts and the authorisation further did not confer on her the

power to sub-delegate. This obviously caused delays in the signing of contracts as Ms Jabavu had to personally sign contracts.

17. The delay in signing contracts with experts persisted and resulted in some experts refusing to do RAF work in the absence of an SLA. According to Mr Modise, Mr Letsoalo, who had assumed the role of Acting CEO in September 2019, sent an email on 14 February 2020, wherein he delegated the power to sign the contracts to Ms Jabavu in her capacity as Chief Operating Officer and instructed that *'this should be finalised by end of business tomorrow.'*

18. Mr Modise testified that SCM had not been engaged on the matter and it was his view that the delegation was not valid. He thus cautioned, via email to Mr Letsolao, that for audit purposes the Board should be engaged to rescind their previous resolution of December 2018 to delegate the signing power appropriately. However, according to Mr Modise, it appeared that Mr Letsoalo took umbrage as he responded in a matter of minutes to say:

'Is there anywhere written John that those delegated powers cannot be delegated further to any other functionary by the ACEO. I wonder why you take a legal position when you are in SCM. You seem hell bent on impeding progress. No wonder it takes forever for SCM to execute anything. I find this rather disturbing.'

'The COO has full knowledge of these contracts, and it makes sense that I delegate to her to sign applying her mind of course.'

19. In his affidavit, Mr Modise explained that he agonised over how to respond and by Monday, 17 February 2020 he capitulated agreeing that there is no written provision that the CEO is not empowered to delegate his powers further. Nonetheless, he testified that the incident sparked what he termed his 'retaliatory suspension'.

20. Ms Minnie stated that some of the experts in her books did not receive an SLA at all despite responding to the 2018 RFI, whilst others who had not even responded were given work, nonetheless. In her words, *'It was therefore never clear how the RAF procured and established this Panel of Medical Experts.'*

21. Ms Minnie's evidence was that the contracting process in respect of the 2021 Panel was also chaotic and confusing. The 2021 Panel was approved by the Board on 31 March 2022, but some experts had received SLA's for signing prior thereto. Ms Minnie provided the Committee with documentary evidence in the form of emails she wrote to the RAF

between December 2021 and February 2022, wherein she highlighted various discrepancies in the SLA's:

- 21.1. Experts had already received 3 different versions of the SLA;
- 21.2. Portions of the SLA were blank;
- 21.3. The SLA referred to the 2018 RFI as opposed to the 2021 bid process;
- 21.4. The pricing schedule attached to the SLA was based on the 2018 tariff rather than the higher 2019 tariff;
- 21.5. The pricing schedule was VAT inclusive whereas not all experts are VAT vendors;
- 21.6. The start date of the contract was 14 December 2018 yet the SLA was provided to experts in December 2021;
- 21.7. The SLA referenced officials who were no longer in the employ of the RAF; and
- 21.8. The SLA still referred to attorneys even though the PoA was not in existence.

Payment challenges experienced by experts

22. In respect of payment, it was the testimony of Ms Minnie that experts continuously faced payment challenges, regardless of who instructed them (i.e. whether via attorneys or the RAF itself). She explained that a formal complaint was lodged by more than 200 experts on 14 November 2018 regarding non-payment of invoices and lack of clarity on payment procedures. However, despite the Fund's undertaking to deal with unpaid invoices, the problem persisted.

23. Matters were however exacerbated by the abrupt termination of the PoA in June 2020 which had an adverse impact on experts who had been procured via the attorneys and who had previously submitted their reports to the attorneys. According to a directive from the RAF that was issued on 02 March 2020 (3 months prior to the dissolution of the PoA), experts were directed to send their reports directly to the RAF. However, Ms Minnie alleges that there was no concrete plan in place for experts to engage directly with the

RAF and receive full and timeous information that may be necessary for them to provide accurate medico-legal opinions. She testified that:

“What happened was, the experts had to find out who the claims handler was that was dealing with the matter at the Road Accident Fund, and they had to contact that person. If I remember correctly, there was a dedicated email address that the experts could forward their reports to.

The problem that the experts experienced with that was they needed information to compile their reports that they would usually get from the attorneys, but that they were not able to get from the RAF because no, there wasn't a dedicated person that the experts could contact to be helped in that regard.”

24. Given that the PoA were no longer instructing the experts, they were required to wait for a Vendor Rotation System ('VRS') number confirming instruction, but patients often arrived without this number being issued, forcing experts to turn patients away to avoid risking non-payment.
25. In addition, experts still had monies owing to them in respect of work completed during the term of the PoA for which payment had not been made. In a meeting on 01 June 2020 (the very same day that the PoA was cancelled), the RAF's Acting CEO, Mr Letsoalo held a virtual meeting with experts in which the RAF acknowledged the debt owed to experts and undertook, amongst others, to approach the National Treasury for guidance pertaining to payments due to experts who were contracted by the PoA.
26. The RAF also undertook to facilitate meetings with the experts in each province to resolve the process for submitting invoices in terms of an agreed plan and timeframe; and to continue working on rolling out an Integrated Claims Management System (ICMS) that would ensure traceability of invoices and payments. According to Ms Minnie, experts were *“assured that the new system would streamline processes and would allow Medical Experts to easily lodge invoices, access payment information and even access patient information and records including the medico-legal reports of other Medical Experts) to assist them in compiling their own.”*
27. On 06 August 2020, experts met with Mr Letsoalo again who reported that the RAF had engaged the National Treasury to pay experts directly and the National Treasury would give a formal 'go-ahead' subject to the RAF validating invoices.

28. On 15 August 2020, the RAF requested experts to resubmit invoices and supporting data for due diligence and reconciliation. Ms Minnie testified that experts repeatedly resubmitted invoices with no reliable system to manage the process. The RAF's offices appeared to have no proper filing system for these invoices with 'thousands of invoices strewn on office floors.'
29. Despite further acknowledgements and promises, non-payment persisted. Experts faced a situation where they struggled to obtain payment for services duly rendered. Ms Minnie explained that this problem was exacerbated by the fact that some attorneys had closed their doors (presumably as they relied mainly on RAF work); some attorneys had not been paid and other attorneys had been paid but not in full and it was not clear which disbursements the RAF was paying for (i.e. making it difficult for the attorney to reconcile accounts and pay experts).
30. On 12 November 2020, the then Acting Chief Operations Officer, Ms Maria Rambauli met with experts. In terms of the draft minutes of the meeting, the RAF:
 - 30.1. Reported that some experts were complaining about a lack of instructions whilst others were receiving too many instructions;
 - 30.2. Acknowledged that attempts to reach claim handlers were not successful;
 - 30.3. Acknowledged that payment was due within 30 days of receipt of an invoice and encouraged staff to engage experts timeously if there were invoice queries;
 - 30.4. Apologised for delays in payment and made undertaking to process the backlog and to send experts their individual Requested Not Yet Paid (RYNP) (.
 - 30.5. Undertook to provide the 'Medical Experts Representative Committee' with monthly progress reports on the clearing of the backlog.
31. Notwithstanding the above, non-payment persisted. In the circumstances, the Medical Experts Representative Committee submitted a notice of its intention to resign in April 2021. Their notice cites the RAF's repeated failures to address experts concerns, including a lack of communication, the inadequacy of the VRS, pending work and concerns about SLA's expiring in December 2021. Allegedly no response was received.
32. Instead, on 09 July 2021, the RAF, despite its previous undertakings, appeared to do an about-turn and issued a letter to experts wherein it raised the legal defence of prescription. According to the RAF, there were experts who had submitted invoices dating back 10 years without proof of prior submission, and that an invoice must be submitted

within 3 years of becoming due, failing which the claim will prescribe unless prescription was interrupted. Ms Minnie viewed that this as an 'unethical' attempt to effectively write off genuine claims.

33. On 02 November 2021, Ms Rambauli addressed a letter to the PoA (which had come to an end one and a half years before) undertaking to make payments to them in respect of experts even where prior authorisation had not been obtained.

34. According to Ms Minnie's affidavit, 35 experts that are her clients are owed a balance of R41.29 million, with some claims dating back to 2014 – this amount does not include interest. She asserted that a broader group of 47 medical experts is owed more than R120.75million, excluding interest. Ms Minnie maintains that her clients have no way of knowing what the status of their invoices are i.e. they regarded as prescribed and written off; are they in a queue awaiting payment or were they paid to the attorney.

35. To complicate matters, Ms Minnie alleges that the RAF is further refusing to make payment in respect of some matters where it claims the PoA did not obtain authorisation to instruct experts – this notwithstanding that the RAF utilised their reports and expert testimony to defend matters.

36. Ms Minnie's testimony is supported by public submissions received by the Committee wherein experts have bemoaned their non-payment. By way of example, in one submission in respect of an estate of a late orthopaedic surgeon, the executor indicated that an amount exceeding R14.5 million is owed to the Estate.

37. In another submission, the submitter provided evidence of correspondence on behalf of more than 55 experts to the Minister of Transport in June 2023, to intervene and assist them to obtain payment. This was to no avail. The letter, drafted on behalf of experts by clinical psychologist Monique Kok, states:

'The history between the RAF and medical experts is a long and tumultuous one. Since the supposed SLA in 2019, and appointment of Mr. Collins Letsoalo, medical experts have had nothing short of a nightmare to recover payments for services that were legally and rightfully administered for the purposes of settling RAF claims. The biggest confusion is the RAF's lack of commitment to a process and their constant retraction of instructions and directives (even backdated) which null and voids instructions that experts had acted on. The RAF wilfully ended their contract with their panel attorneys further, confusing the system and delaying the processes for claimants. The end results is that medical experts were instructed to perform medico-legal assessments on claimants for the

aforementioned purposes, these findings were used in the Courts to assist the RAF in settling matters, but the experts remain unpaid. The RAF finds new and cunning ways of explaining and nullifying the expert's authority to have performed such assessments, when each and every single assessment done was done so in the presence of some form of written instruction, either from the RAF directly or their panel attorneys prior to their termination.'

38. The letter goes on to say that there are many experts who have lost their homes and livelihoods as the result of the failure of the RAF to make payment. The Committee subsequently also received correspondence from Dr Kapitani, one of the signatories to the letter to the Minister of Transport, who informed the Committee in May 2026 that the RAF continues to refuse to pay invoices on the basis that the work performed by the experts was unauthorised notwithstanding that the reports have been utilised by the RAF.

39. In addition to the challenge of receiving timeous payment, Ms Minnie also raised other system deficiencies. These include double payments. Ms Minnie indicated that:

'In some instances, the RAF would pay the attorney to pay the expert after the RAF already paid the expert directly. In some instances, they would pay the expert directly and then, three months later, the attorney would also pay the expert, which means the RAF paid the attorney to pay the expert. Double payments were made.

It wasn't – it created chaos, you know. The experts had to refund the money. And we did that, and it is difficult to refund a R10 000 payment for a double payment when you are actually still owed R2 million. But for bookkeeping purposes and accounting, it was the right thing to do, and that is how we treated it.'

40. Miss Minnie further explained how the RNYP is a useful tool in eliminating double payments as it allows errors to be picked up quickly and corrected. However, its usefulness is only to the extent that it is shared with experts.

Payment of experts who perform work on behalf of claimants

41. As indicated in the introduction to this section, the Committee also received submissions from claimant experts who are briefed on behalf of claimants by their attorneys.
42. These cases fall outside of the ambit of the Committee as the RAF has not contracted these experts nor is it liable for their payments.
43. Nonetheless, it is extremely concerning that there are experts in this category who are battling to receive payment from attorneys and it points to two possible scenarios: Either the claimant's claim is delayed and has not been settled hence the attorney is not in a position to pay the expert or the claimant's matter has been settled but the attorney, despite receiving those funds in trust, has not settled the monies owed to experts. In the latter scenario, it raises a further question whether the attorney has in fact duly paid the claimant. In both scenarios, claimants suffer.
44. By way of example, the Committee received information from an expert that the expert has proof that certain attorneys have failed to pay the expert and/or the claimant despite being paid by the RAF. However, despite reporting same to the RAF, it has failed to investigate the matter. Similarly, the expert alleges that the issue is exacerbated by the fact that claimants and experts who have performed services on behalf of a claimant are completely reliant on the honesty of attorneys in informing them of whether payment has been made by the RAF or not.

b) Findings

45. The Committee identified deficiencies, poor internal controls and procurement irregularities in the appointment of experts. Of serious concern is the following:

45.1. The failure of the RAF to procure the services of experts in a timely manner.

These delays expose the RAF to the risk of non-compliance with procurement prescripts due to the continuous need for expert services. This is borne out by testimony that the services of experts were utilised even in the absence of a panel of experts. It is unclear why these processes were always delayed given that the services of experts are essential in the RAF ecosystem. Proper planning requires that bids are prepared and processed in advance of the end date of current

contracts. This was not the case over the period of consideration. In addition, further delays were occasioned in respect of the signing of SLA's exposing the RAF to legal risks and creating uncertainty amongst experts.

45.2. The failure by the RAF to carry out adequate planning, research and analysis of the need and the supplier environment prior to embarking on bid processes.

This resulted in practical challenges such as a shortage of experts; the unreasonableness of the tariff and the failure of bidders to properly understand the process. It remains puzzling for example why the 2018 process was referred to as an RFI but treated as a formal bidding process when the two are not one and the same thing. There is no evidence that the shortage of experts is due to there being an insufficient number of experts in the country. It appears rather that the size of the panel, location of experts and type of experts on the panel was informed by poor planning and the failure of the RAF to design fit for purpose bids. This was further exacerbated by a reluctance of experts to do work with the RAF given ongoing payment and communication challenges.

45.3. The failure by the RAF to ensure that the award of contracts and service level agreements are legally sound.

In this regard, it is shocking that the RAF expected experts to sign contracts that were riddled with inaccuracies. Given that the spend on experts is estimated to exceed R1 billion, it is imperative that SLA's are watertight and prepared with care and diligence. Sloppy contracts show a lack of professionalism and is evidence of a rushed process. Besides reflecting poorly on the RAF, it also exposes the RAF to risks that are preventable. In addition, it appears in respect of the 2021 panel that Board approval was obtained on 31 March 2022, yet the contracts commenced in December 2021. Retrospective approvals expose the RAF to unnecessary and avoidable risks and calls into question the adequacy of governance processes.

46. The Committee finds that the failure to pay valid invoices from experts within 30 days is a flagrant violation of the Public Finance Management Act and National Treasury Regulation 8.2.3 which require payment of invoices within 30 days. From the evidence before the Committee, there are invoices older than a decade which remain unpaid. In addition, there appears to be serious shortcomings in the way invoices are processed which has resulted in repeated requests to experts to furnish invoices and a failure to communicate with experts in respect of disputed invoices. Considering this, the Committee finds that the RAF has acted disingenuously in raising the defence of prescription in cases where experts can in fact show evidence of having submitted their

invoices. It cannot be that experts are prejudiced by the RAF's own inability to process invoices efficiently.

47. The Committee finds that the impact of the cancellation of the PoA on experts was not adequately addressed and no contingency plans were in place whilst the RAF continues to transition to the State Attorney model. There is evidence that experts were expected to deliver reports in the absence of clear instructions and sufficient information. It is very worrying that in some cases experts provided reports, but because the RAF failed to defend matters in court these reports could not be considered by the judiciary. Where reports were provided but not used (due to no fault of the expert) the expenditure in respect thereof must be regarded as fruitless and wasteful.
48. There was further no clear guidance on the contractual arrangement and payment obligations that flowed from work done by experts in the period preceding and especially the period post the cancellation of the PoA. It ought to have been patently obvious to the RAF Board and management that the cancellation of the PoA will lead to complications in respect of the payment of experts. The fact that experts were instructed 3 months prior to the cancellation of the PoA to send their reports directly to the RAF means that the RAF recognised that the attorneys would no longer act as intermediaries between experts and the RAF yet did nothing to ensure that the contractual arrangements reflected that reality. To expect the PoA to bear the brunt of this inadequate planning and to deny payment on the basis of a lack of authorisation is disingenuous.
49. The committee further identified weaknesses in the RAFs payment system. The system failed to recognise that certain payments for experts had already been disbursed, leading to double payments in some instances. In addition, the RNYP does not appear to be routinely shared with experts. The RNYP is a critical tool in the management of experts and other medical service provider claims. Furthermore, it is clear that the failure to communicate payment of claims to all role players such as attorneys, claimants and experts create fertile ground for double payments and the misappropriation by attorneys of payouts meant for road accident victims and for purposes of settling the disbursement costs of experts.
50. The Committee is concerned about allegations of attorneys misappropriating funds meant for the benefit of claimants. It notes that this misappropriation also affects other service providers like experts who have provided services, in good faith, to claimant attorneys. The RAF cannot operate and function as an island. The monies paid by the RAF are public funds which are meant to benefit claimants – not to unlawfully self-enrich

attorneys. As such, where a claimant fails to be paid (or an expert or any other person to whom money is owed in respect of that claimant's claim) it translates into a situation where the RAF cannot be said to have achieved its objectives.