**NATIONAL ASSEMBLY**

**FOR WRITTEN REPLY**

**QUESTION 2273**

**DATE OF PUBLICATION OF INTERNAL QUESTION PAPER: 10/09/2021**

**(INTERNAL QUESTION PAPER 22 OF 2021)**

**Mr Q R Dyantyi (ANC) to ask the Minister of Justice and Correctional Services:**

1. What (a) total number of applications by persons who are entitled to monies from the Guardian Fund in the Master’s Offices are received each week and (b) is the provincial breakdown of such applications;
2. What total number of litigation cases have been lodged against the Master’s Offices;
3. What is the quantified total amount that should have been distributed to families and individuals, but are still in the accounts of the Master’s Offices;
4. Whether any consequence management action has been taken against any personnel; if not, why not; if so, what are the relevant details;
5. How does he intend to turn things around?

**NW2582E**

**REPLY:**

1. All applications received by the Guardian’s Fund is captured on the Application Tracker System by each office. However, the Department of Justice and Constitutional Development’s Information Technology Systems are currently down, hence the inability to extract and provide such information at this stage.
2. Though various litigation cases are served on the Master annually, they are not necessarily lodged against the Master, as the Master is and have to be, in many instances, cited as an interested party due to the functions of the Master as prescribed in the various acts governing the Master. In most of those matters, no specific relief is necessarily sought against the Master. The tables below provide details of all litigation matters received in which the Master is cited according to the records kept:

|  |  |
| --- | --- |
| **1 April 2020 – 31 March 2021** | **Total** |
| **Unopposed summonses** | 74 |
| **Opposed summonses** | 6 |
| **Unopposed applications** | 574 |
| **Opposed applications** | costs only opposed | 22 |
| application opposed | 6 |
| **Matters where no specific action was filed (withdrawn, incorrectly cited, etc.)** | 25 |
| **Annual Total** | **707** |

| **1 April 2021 – 30 June 2021** | **Total** |
| --- | --- |
| **Unopposed summonses** | 29 |
| **Unopposed applications** | 207 |
| **Opposed applications** | costs only opposed | 4 |
| **Matters where no specific action was filed (withdrawn, incorrectly cited etc.)** | 15 |
| **Quarter 1 Total** | **255** |

1. The only funds held by the Master, is that which have been deposited into the Guardian’s Fund in terms of the applicable laws.

Funds are received or accepted by the Master into the Guardian’s Fund for the benefit of a specific beneficiary. The Master opens an account in the name of the person to whom the money belongs to or the estate of which the money forms part of. Only that beneficiary may claim the funds due to him/her once it becomes claimable. The Master will administer the funds, free of charge, for the minor until he/she turns major (now 18 years of age) or reach the age as indicated in the Will/Testament.

Deceased Estate funds in the Guardian’s Fund becomes claimable by beneficiaries as soon as they reach the age of majority, or such other date as may be determined by a Will/Testament. Funds which earn interest will still bear interest for a period of five (5) years after it became claimable. Claimable funds are also advertised in the Government Gazette for three (3) consecutive years in September each year (Section 91). These adverts must also be displayed at all Magistrate Courts. The advertisement is further also placed on the Master’s Website

Whilst the funds are not yet claimable by the beneficiary, the guardian of a minor/persons incapable of managing their own affairs can claim maintenance/allowance from the Guardian’s Fund. The Master is entitled to pay for maintenance, such as school and university fees, clothes, medical fees, boarding and lodging and any other needs that can be fully motivated. Payments can be made directly to the service provider such as schools, universities, bookshops, etc.

In terms of Section 92 of the Administration of Estates Act, if funds are not claimed for thirty (30) years after it became claimable, it is forfeited to the State and are paid over to the Commissioner of Revenue. All funds which have not yet been claimed prior to thirty (30) years are still claimable by the relevant beneficiaries.

As the Master does not have control over who decides to claim the funds, maintenance etc. and how much they want to claim – it is not possible to indicate a quantified amount which should have been distributed to families or an individual, but is still with the Master. As from the above explanation, it is clear that all funds in the Guardian’s Fund, can be applied for by the beneficiary, guardian, etc. at any stage, from the date it is deposited, up to 30 years after it became claimable.

1. Yes, action has been taken against relevant personnel. Below are the relevant details:

| **NATURE** | **NUMBER** | **STATUS** | **OUTCOME OF THE SANCTIONS** |
| --- | --- | --- | --- |
| Bribery  | 3 | 2 Finalised  | 2 Final Warning  |
| 1 Not Finalised | 1 Pending  |
| Corruption | 7 | 5 Finalised 2 Not Finalised | 1 Suspension  |
| 1 Verbal Warning  |
| 1 Written Warning  |
| 2 Dismissal  |
| 2 Pending  |
| Fraud | 3 | 1 Finalised  | 1 Withdrawal  |
| 2 Not Finalised  | 2 Pending |
| Insubordination | 3 | 1 Finalised  | 1 Final Warning  |
| 2 Not Finalised  | 2 Pending |
| Intimidation | 1 | Not Finalised | 1 Pending |
| Negligence | 3 | 1 Finalised  | 1 Dismissal |
| 2 Not Finalised | 2 Pending |
| Unauthorised Absence | 1 | Finalised | 1 Written Warning |
| Unethical Behaviour  | 2 | Not Finalised  | 2 Pending |
| Maladministration (Busasa) | 1 | Not Finalised | Pending |
| Non-Disclosure (Busasa) | 1 | Not Finalised | Pending |
| **Total** | **25** | **11 Finalised 14 Not Finalised** | **14 Pending** **1 Withdrawal** **2 Written Warning** **1 Verbal Warning** **3 Final Warning** **3 Dismissal** **1 Suspension** |

1. A new administration and financial system for the Guardian’s Fund was developed together with Information Systems Management.

The tender process has been done in the 2020/21 financial year, and it is envisaged that development of this system will be finalized and rolled-out in the 2022/23 financial year. The new system will be a full financial system which will ensure accurate financial statements and management. The move to a fully financial system will guarantee accurate records and reports while simplifying processes of the Master’s office in Guardian’s Fund matters.