

New Zealand

Community Paralegals: Recognition & Financing



Community paralegals are trained in basic law and in skills like mediation, organizing, education, and advocacy.

They are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. All share a common purpose: to help people to understand, use, and shape the law.

Introduction

Community paralegals are dedicated to legal empowerment: they help people to understand, use, and shape the law. These advocates are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. They are trained in law and policy and in skills like mediation, organizing, and advocacy. Some are generalist – they engage whatever justice issues community members bring to them. Others specialize – they may focus on supporting survivors of sexual violence, or protecting community land rights, or in addressing failures in the delivery of public services.

Community paralegals are client-facing. Although they are called "community paralegals," they are not the kind of paralegals who primarily serve as lawyers' assistants. Community paralegals work with clients to seek concrete solutions to instances of injustice, often at the community or administrative levels. They form a dynamic, creative frontline that can engage formal and traditional institutions alike. Moreover, just as primary health workers are connected to doctors, community paralegals are often connected to lawyers who may help to pursue litigation or high-level advocacy if frontline methods fail.

This research brief is part of a series that reviews the nature of the work undertaken by community paralegals, and the extent to which that work is recognized or funded by government. Please note that the first briefs published for this series focus on the types of community paralegals who have been formally recognized either in law or policy. We acknowledge that this is just a small part of a much larger picture. Beyond the government-recognized paralegals discussed in these briefs, a broader, dynamic ecosystem of community paralegals operates effectively without state recognition in many countries. We aim to one day expand our research to offer a more comprehensive analysis of this larger universe. For now, however, our research briefs are limited to offering summary information and illustrative examples of the community paralegals who have been formally recognized by law or policy.

Each of these briefs is a living document-- if you have an update, addition or a correction, please contact us at community@namati.org.

Acknowledgements

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		Notes
NATURE OF WORK		
Recognition*		
Are community paralegals formally recognized?	Yes	In 2011 New Zealand Legal Services Act + 2006 Lawyers and Conveyancers Act.
What are community paralegals called?	-	Formally, “community workers” or “non-lawyers.”
Recognized Functions		
Educating community and clients about the law?	Yes	
Mediating disputes?	Yes	
Organizing community members for collective action?	No	
Advocating to authorities?	Yes	
Monitoring for violations of rights?	No	
Litigating (with or without the help of lawyers)?		
- Criminal	No	
- Civil	No	
Navigating administrative processes?	Yes	
Recognized Places of Work		
Government-run offices or legal aid centers?	No	
Non-Governmental Organizations?	Yes	
Independent practice?	Yes	
INDEPENDENCE AND ACCOUNTABILITY		
Is the independence of community paralegals explicitly protected?	N/S	Community legal centres are independent organizations that enter into contracts with the Secretary of Justice to provide legal aid services. However, relevant legislation does not explicitly guarantee their independence.
Are there boards or bodies that monitor community paralegals?	Yes	
If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)?	No	However, Ministry of Justice does require that legal aid providers meet certain standards. CLCs have also formed their own independent association to monitor and direct the provision of legal aid services.
If so, do these boards or bodies include civil society representatives?	N/S	
QUALITY AND STANDARDS		
Must community paralegals meet certain criteria in order to practice?	No	However, Ministry of Justice does require that legal aid providers meet certain standards.

Notes

Is there a board, body, or certification scheme to recognize qualified community paralegals? No

SCALE AND FINANCING

Does any public revenue fund community paralegals? Yes

	Do Community Paralegals Work on this Issue?	Is Community Paralegal Work on this Issue Formally Recognized?	Does the Government Fund Community Paralegals who Work on this Issue?
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Note: The New Zealand Government funds paralegal work through community law centres under the Ministry of Justice.

Issues

Criminal Justice	Yes	Yes	Yes
Civil and Political Rights	Yes	Yes	Yes
Education	Yes	?	Yes
Environmental Justice	?	Yes	?
Family Law	Yes	Yes	Yes
Health	Yes	?	Yes
Housing	Yes	Yes	Yes
Labor & Employment	Yes	Yes	Yes
Land & Natural Resources	Yes	Yes	Yes
Migrants, Refugees, & Citizenship	Yes	Yes	Yes
Peace-building	?	?	?
Transparency	?	?	?
Water & Sanitation	?	?	?

Key	
N/S = Not specified	? = Unknown. To share data on this point, contact community@namati.org

* Note that we consider the following as sources of formal recognition: legislation, regulations, policies, court judgments, memorandums of understanding, etc.

The Law In Practice

Defining Community Paralegals

Are community paralegals recognized? How are they defined?

The 2006 Lawyers and Conveyancers Act prohibits any person who is not a lawyer from providing legal services in New Zealand.¹ However, an exception to the law allows for any person who works in a community law centre to furnish certain legal services to any person who is or intends to be a litigant in any proceedings. These services include providing legal advice and assistance in drafting or revising documents for filing proceedings.²

Community law centres are defined as a “body whose function includes the provision of community legal services”.³ In addition to employing lawyers, most centres also employ paralegals, or community workers. Many also have volunteer lawyers and law students assist with their work.⁴ There are 24 community law centres across New Zealand.⁵ In addition to these centres, the national body, Community Law Centres of Aotearoa (CLCA), has over 120 outreach locations in order to provide services to as many people as possible.⁶ There are also three specialized centres: Auckland Disability Law,⁷ the Ngāi Tahu Māori Law Centre,⁸ and YouthLaw Aotearoa.⁹

In this brief, we refer to “community workers” as community paralegals.

Community paralegals are non-lawyers who provide legal assistance to low-income individuals from within community law centres.

It is important to distinguish these individuals from legal executives, who perform the functions attributed to paralegals in many other countries. A legal executive is a person who has been trained to be, and works as, an assistant to a lawyer.¹⁰ In New Zealand, community paralegals at community law centres are distinct from legal executives, who might elsewhere be referred to as commercial paralegals.

¹ Lawyers and Conveyancers Act 2006, s 21 (N.Z.).

² *Id.*, s 27.

³ Legal Services Act 2011, s 93 (N.Z.).

⁴ *Free legal help – our lawyers*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/free-legal-help/our-lawyers/>.

⁵ *Our Law Centres*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/our-law-centres/>.

⁶ *Id.*

⁷ *Auckland Disability Law*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/centre/disability-law/>.

⁸ *Ngāi Tahu Māori Law Centre*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/centre/maori-land/>.

⁹ *YouthLaw Aotearoa*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/centre/youth-law/>.

¹⁰ *NZLS Legal Executive Diploma*, NEW ZEALAND LAW SOCIETY, (2017), <https://www.lawsociety.org.nz/for-lawyers/joining-the-legal-profession/nzls-legal-executive-diploma>.

What do community paralegals do? What issues do they focus on?

Community paralegals at community law centres may provide a variety of legal services, including legal information and education, and legal advice, assistance and representation. In particular, community paralegals seek to provide legal assistance to individuals who cannot otherwise afford to pay for legal services.¹¹

Community paralegals can assist with a number of legal problems related to employment and income, tenancy and housing, aboriginal Māori land, health and disability, family matters, domestic violence, and criminal matters.¹²

Independence and Accountability

Is the independence of community paralegals explicitly protected?

Community paralegals must work within a community law centre in order to be legally entitled to provide legal advice and assistance. As such, community paralegals cannot be seen as operating independently from these facilities.

However, each community law centre is an independent community charitable organization that holds a separate contract with the Ministry of Justice for the delivery of legal services in its region.¹³ In addition, the CLCA has an independent board and a separate staff.¹⁴

Are there boards or bodies that monitor community paralegals? If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)? Do these boards or bodies include civil society representatives?

Every community law centre is an incorporated society with its own Governance Board.¹⁵ The CLCA acts as a representative body that oversees the work of all centres, including the work of community paralegals within these centres. CLCA members elect a Board that directs CLCA's activities. This Board includes four members elected from the governance of law centres, two independent members from outside of the law centres, and two management representatives.¹⁶ Three members of the Board are designated Māori representatives, in order to ensure that community law centres are able to effectively and efficiently serve New Zealand's aboriginal population.¹⁷

¹¹ *How Can We Help*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/>.

¹² *Am I eligible?*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/free-legal-help/eligibility/>.

¹³ Sasha Borissenko and James Greenland, *Community Law in Aotearoa*, NEW ZEALAND LAW SOCIETY, LawTalk Issue 880, (January 27, 2016), <https://www.lawsociety.org.nz/lawtalk/lawtalk-archives/issue-880/community-law-in-aotearoa>.

¹⁴ *Our History*, COMMUNITY LAW NEW ZEALAND, <http://communitylaw.org.nz/about-us/our-history/>.

¹⁵ Borissenko and Greenland, *supra* Note 13.

¹⁶ *Id.*

¹⁷ *Community Law Centres o Aotearoa*, COMMUNITY LAW NEW ZEALAND, (2017), <http://communitylaw.org.nz/about-us/>.

In 2011, the Ministry of Justice introduced national performance standards for community law centres. These standards work to ensure consistency in the delivery of services across the centres.¹⁸ They also ensure that the performance of all staff of community law centres is appraised annually.¹⁹ To this end, the Ministry of Justice may carry out audits or quality checks on legal aid providers.²⁰

Quality and Standards

Must community paralegals meet certain criteria in order to practice? Is there a board, body, or certification scheme to recognize qualified community paralegals?

There are no specific criteria outlined for community paralegals to meet in order to be employed by a community law centre. However, the Ministry of Justice has established some standards for the recruitment of community law centre staff. For instance, job descriptions must outline the skills and knowledge required of each position, and the education and qualifications of each applicant must be vetted.²¹

No certification scheme exists for community workers. They are simply non-lawyers who provide legal services in community law centres.

Is community paralegal training available? What does it look like?

According to the performance standards introduced by the Ministry of Justice, all community law centres are required to have a system in place to plan and facilitate training and continuing educational development for staff and volunteers.²²

Public Financing

Does any public revenue fund community paralegals?

The New Zealand government funds community law centres. Approximately half of their funding comes directly from government taxpayer funding. The rest comes from the Lawyers and Conveyancers' Special Fund, which is forwarded to the New Zealand Law Society to be vetted before being sent to the Ministry of Justice to fund community law centres.²³

¹⁸ *National Performance Standards for Managing and Delivering Community Legal Services*, NEW ZEALAND MINISTRY OF JUSTICE, 17, 2, (July 1, 2011), <https://www.justice.govt.nz/assets/Documents/Publications/1-July-2011-National-Perfromance-Standards.pdf>.

¹⁹ *Id.*, at 16.

²⁰ *Information for Legal Aid Providers*, NEW ZEALAND MINISTRY OF JUSTICE, (2017), <http://www.justice.govt.nz/services/service-providers/information-for-legal-professionals/information-for-legal-aid-providers/information-for-legal-aid-providers>.

²¹ New Zealand Ministry of Justice, *supra* Note 18.

²² *Id.*

²³ Borissenko and Greenland, *supra* Note 13.

Practitioner Perspectives on Community Paralegals

General observations about the law in practice

A major concern that has been highlighted with respect to the provision of legal aid through community law centres is a lack of sufficient funding. The funding provided by the government to community law centres has remained flat for the last eight years. Banks have also retained a significant portion of the funds coming from the Lawyers and Conveyancers' Special Fund,²⁴ although, recently, some banks have agreed to withhold a smaller portion of the interest accrued on the Special Fund.

Another issue that has been raised is the fact that community law centres are not currently reaching the Māori clients in proportion to the needs they have. To improve reach, the role of CLCA Māori coordinator, or Kaitakawaenga, was established in 2015. Julia Whaipooti, the current CLCA Māori coordinator, has stated that in order to better serve the Māori population, community law centres require Treaty Training and cultural competency training.²⁵

²⁴ *Id.*

²⁵ *Id.*

ANNEX: The Law (Excerpts)

The Lawyers and Conveyancers Act 2006

6. Interpretation

community law centre means a community law centre within the meaning of section 93 of the Legal Services Act 2011 that is providing community legal services under a contract entered into by the Secretary for Justice pursuant to section 94 of that Act

legal services means services that a person provides by carrying out legal work for any other person

legal work includes –

- (a) the reserved areas of work;
- (b) advise in relation to any legal or equitable rights or obligations;
- (c) the preparation or review of any document that –
 - i. creates, or provides evidence of, legal or equitable rights or obligations; or
 - ii. creates, varies, transfers, extinguishes, mortgages, or charges any legal or equitable title in any property;
- (d) mediation, conciliation, or arbitration services;
- (e) any work that is incidental to any of the work described in paragraphs (a) to (d)

...

21. Provision of legal services

(1)

A person commits an offence who, not being a lawyer or an incorporated law firm,—

- (a) provides legal services in New Zealand; and
- (b) describes himself, herself, or itself as—
 - (i) a lawyer; or
 - (ii) a law practitioner; or
 - (iii) a legal practitioner; or
 - (iv) a barrister; or
 - (v) a solicitor; or
 - (vi) a barrister and solicitor; or
 - (vii) an attorney-at-law; or
 - (viii) counsel.

(2)

This section is subject to the exceptions set out in [sections 25\(2\)](#) and [27](#).

...

27. Exceptions to sections 21, 22, 24, and 26

(1)

Sections 21, 22, 24, and 26 do not prevent—

(a) any person from representing himself or herself in proceedings before any court or tribunal; or

(b) any person from appearing as an advocate, or representing any other person before any court or tribunal if the appearance or representation is allowed or required—

(i) by any Act or regulations; or

(ii) by the court or tribunal; or

(c) any person who may, in accordance with paragraph (b), appear in any proceedings as an advocate or representative from—

(i) giving advice in relation to those proceedings; or

(ii) giving assistance in drafting, settling, or revising documents for filing in those proceedings.

(2)

Sections 21, 24, and 26 do not prevent any person who works in a community law centre or who is employed by a community law centre from giving to a person who is or intends to be a litigant in person in any proceedings—

(a) advice in relation to those proceedings; or

(b) assistance in drafting, settling, or revising documents for filing in those proceedings.

(3)

A person does not commit an offence against any provision of sections 21, 22, 24, and 26 by reason only of filling in, on behalf of any other person, a printed form required for the purposes of any proceedings before any court or tribunal if—

(a) the printed form is either—

(i) a form prescribed for the purpose of the proceedings; or

(ii) a form prepared by a person who, at the time when it was prepared, was an authorised person within the meaning of section 26(2); and

(b) it is reasonable to expect that the form could be properly completed by persons who were not authorised persons within the meaning of section 26(2); and

(c) no charge is made, directly or indirectly, for the filling in of the form or any service in relation to the filling in of the form.

(4) Sections 24 and 26 do not prevent a statutory officer or Crown organisation, or any employee of a statutory officer or Crown organisation,—

(a) from discharging any of his, her, or its duties, or exercising any of his, her, or its powers, under any enactment; or

(b) from doing any thing that is intended to facilitate, or is conducive or incidental to, the discharge of the functions conferred on the statutory officer or Crown organisation by any enactment.

(5)

Section 24 does not prevent a conveyancing practitioner from providing conveyancing services.

289 Lawyers and Conveyancers Special Fund

- (1) The New Zealand Law Society Special Fund, which was established by section 91B of the Law Practitioners Act 1982, continues in existence but is, as from the commencement of this Act, to be known as the Lawyers and Conveyancers Special Fund.

290 Money payable into Fund

The special Fund consists of—

(a) All sums paid to, or on account of, the Special Fund by banks in accordance with section 302; and

(b) Any interest earned on any money from time to time in the Special Fund pending its application in accordance with this Part.

Legal Services Act (2011)

Part 1 – Preliminary provisions

4. Interpretation

Community legal services means any 1 or more of the following services that a community law centre provides under a contract between the centre and the Secretary:

- (a) Legal services;
- (b) Law reform and advocacy work

Legal services,—

- (a) In relation to legal aid, means legal advice and representation and, subject to subsection (2), includes assistance—
 - i. with resolving disputes other than by legal proceedings; and
 - ii. with taking steps that are preliminary to any proceedings; and
 - iii. with taking steps that are incidental to any proceedings; and
 - iv. in arriving at or giving effect to any out-of-court settlement that avoids or brings to an end any proceedings;
- (b) in relation to anything other than legal aid, includes —
 - i. legal advice and representation (including the kinds of assistance described in subparagraphs (i) to (iv) of paragraph (a)); and
 - ii. the provision of legal information and law-related education

...

3. Purpose of Act

The purpose of this Act is to promote access to justice by establishing a system that—

- a) provides legal services to people of insufficient means; and
- b) delivers those services in the most effective and efficient manner.

...

69. Methods of delivery of legal services

Without limiting section 68(2)(c), the methods of delivery of legal services may include—

- a) making arrangements, subject to the Lawyers and Conveyancers Act 2006, for the services of non-lawyers to be made available;
- b) entering into agreements with individual lawyers, groups of lawyers, or law firms for the provision of legal services;
- c) employing salaried lawyers to provide legal services:

- d) entering into contracts with community law centres to provide community legal services.

...

75. No person may provide legal aid service or specified legal service unless approved

A person must not provide a legal aid service or specified legal service unless—

- a) the person is approved by the Secretary to provide that service; and
- b) the person complies with the conditions (if any) of that approval.

...

88. Ministry may carry out quality assurance checks

The Ministry may carry out quality assurance checks on providers of legal aid services or specified legal services to ensure that the services are delivered in an effective and efficient manner.

93. Definition of community law centres

- 1) For the purposes of this Act, a community law centre is a body whose function includes the provision of community legal services.

94. Secretary may enter into contracts with community law centres

- 1) The Secretary may enter into a contract with 1 or more community law centres to purchase community legal services as the Secretary determines appropriate.
- 2) The money provided by the Secretary to a community law centre under a contract under this section must come from either or both—
 - a. the Special Fund; or
 - b. any other money.