

PARALEGAL SKILLS & ESTABLISHING AN ADVICE CENTRE

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Introduction

In South Africa it has always been difficult for poor and vulnerable people to have access to justice. Legal procedures are complicated, take a long time and often need attorneys who are very expensive. People now enjoy many new rights in terms of the Constitution, the Bill of Rights and other new laws, but they can only exercise these rights if they have access to the information and assistance to do so.

There is a growing movement of people who play the role of providers of information and assistance. Examples are community development employees (CDWs) working in local government structures, advice centre employees, employees in welfare organisations and other non-governmental organisations (NGOs), shopstewards in trade unions and ward councillors. Many of them are acting as informal paralegals.

Paralegals play an important role in providing access to justice in a transforming justice system. The Department of Justice is investigating ways of giving poor rural people access to legal help and has recognised the importance of involving paralegals in any new system that is developed.

This chapter looks at the different roles paralegals play and covers the skills they need to do their work. The last section looks at the process of establishing and running a community advice centre.

Paralegals and their role in the legal system

WHAT IS A PARALEGAL?

A paralegal is a person, who:

- Has basic knowledge of the law and its procedures
- Knows about conflict resolution procedures
- Has the necessary motivation, commitment, attitude and skills to help people and communities with their legal, human rights, administrative, constitutional and developmental problems, while at the same time empowering them to tackle these matters on their own in future

Paralegals use their knowledge and experience to help people with legal and other problems. A paralegal may investigate and refer matters to attorneys or relevant bodies for them to deal with. They can become educators on the law and rights for people in their communities. They can play a leading and supportive role in campaigns for improving community living standards and general community development.

Paralegals are not just mini-attorneys. Obviously they cannot assist people in court and other tribunals until they acquire the relevant qualification and accreditation. But more than this, their role is to look at a variety of methods, other than using the courts, to achieve long-term, sustainable solutions to people's problems. Using the courts can bring quick relief which is important in many cases, but this is not always the case. Court cases can take a long time to be finalised, the costs involved are often huge and the outcome for a person may be negative. Paralegals should aim to deal with problems in a more holistic way.

EXAMPLE

A woman and her children who are suffering from abuse at the hands of the husband and father, should be advised by a paralegal to apply for a Protection Order. But the paralegal should also see the bigger picture: the woman and her children are financially dependent on the husband and father for their survival so they cannot move out of the house unless they are supported in this process. The paralegal should therefore help the woman apply for Child Support Grants for her children and she should be referred to child welfare or to women abuse organisations for support.

Paralegals can also solve community or individual service problems by involving the relevant government department and working together to help the people.

In general, a paralegal should focus more on the use of conflict resolution methods like negotiation, conciliation, mediation and arbitration to resolve conflicts in communities rather than using the courts.

EXAMPLE

A farmer is planning to evict ten families from his farm without a court order. A paralegal can help the families to approach the courts (using an attorney) to get an urgent interdict to stop the evictions from taking place. But this only provides the families with temporary relief. It would probably be of more benefit to the families if they were to sit around a table with the farmer and negotiate a way of dealing with the problem which would benefit all the parties. While they are doing this they should be lobbying and putting pressure on the local government to provide land for the families to settle on because they don't have security of tenure rights on the farm. The paralegal can help them in all of these actions.

(See page 662 Checklist: Best practices for paralegal case-employees)

PARALEGALS IN DIFFERENT SECTORS

Paralegals work in different sectors of society. These include:

- **Community advice centres** – they offer a basic free legal advice service to people who cannot afford an attorney, they provide community education on the law and rights and referral service.
- **Trade unions** – Organisers, training officers and shop stewards need paralegal skills for their work. They also need to know the basic principles of labour law and labour relations.
- **Service organisations and NGOs** – Field employees working in service organisations, NGOs, CBOs and attorneys' organisations need paralegal skills, for example, giving advice, monitoring abuses of rights, understanding and simplifying the law, and assisting with community education.
- **Law firms** – Paralegal employees in law firms take statements, refer people to other organisations if necessary, give advice, etc.
- **Inside the legal system** – Lay assessors are paralegals who participate in the criminal courts by helping magistrates reach fair decisions in criminal cases. Lay assessors should have a basic knowledge of the law and court procedures.
- **Community Development Workers (CDWs)** – CDWs are based in municipal offices. Their role is to provide a link between government and communities. They need to have certain skills including those for effective conflict resolution and they need a sound working knowledge of broad issues such as social development and welfare, disaster management, the responsibilities of local councils to communities and how to make local government accountable.

THE ROLE OF PARALEGALS

These are some of the needs that paralegals can provide:

- Give legal and general advice to people on the law and their rights
- Write or distribute pamphlets, booklets and other resources to help educate people
- Refer people to social and health services, and other helpful organisations
- Refer people to attorneys where it is clear an attorney is necessary
- Help prepare people for formal legal procedures, such as what to expect in a court case
- Assist and prepare people to take labour problems to the Commission for Conciliation, Mediation and Arbitration (CCMA)
- Run workshops to educate people about their rights

- Work as a link between a community and attorneys, and help with things like taking statements, interpreting and following up cases
- Assist in making contact with the press and in publicising events and problems in a community
- Help sort out problems in a community, and problems with the authorities through negotiation and mediation
- Help in the building and developing of community organisations
- Build contacts with other paralegals, resources and organisations regionally and nationally.

(See page 662 Checklist: Best practices for paralegal case-employees)

Paralegals play an important role in the legal process because many people cannot afford attorneys, people sometimes find it intimidating going to an attorney and there are usually few sympathetic attorneys operating in rural areas.

FORMAL RECOGNITION OF PARALEGALS IN THE LEGAL SYSTEM

The public and the legal profession recognise that paralegals are important because they allow disadvantaged people to have access to justice. However, for many years paralegals were not formally recognized by the legal profession. There are a number of regulatory options being considered for paralegals, including an independent regulatory framework.

Practical skills useful for a paralegal

Paralegals should all have a basic but sound knowledge of the law and legal procedures. Advising someone about what the law says and what their rights are in a particular case is the first step in any advice giving process. This section looks at practical skills necessary and useful for a paralegal to have in their advice-giving role. The skills fall under three main headings:

- *Communication skills* • *Administrative skills* • *Development skills*

(See page 662 Checklist: Best practices for paralegal case-employees)

COMMUNICATION SKILLS

Paralegals can also now get formal diplomas at many colleges and universities.

This section looks at how you can develop your communication skills with:

- The person you are trying to help ('the client')
- The people you have to contact on behalf of your client, for example the government, an employer, a store manager, and so on
- The organisation or community to which you are accountable as a paralegal

Communication skills can involve the following:

- Interviewing clients
- Taking a statement
- Listening to clients
- Monitoring and evidence-gathering
- Counselling
- Advice-giving and problem-solving
- Referring your client to other organisations or assistance agencies
- Making telephone calls
- Writing letters
- Writing reports

INTERVIEWING CLIENTS

The process of interviewing a client is as follows:

- Introduce yourself to the client and (if it is the first time) ask for his or her name and address. Write this down.
- Ask the person why he or she has come for help.
- Work out how willing or able the person is to discuss their problem. Sometimes people find it very difficult to talk about their problems to strangers.
- Listen to the client and don't hurry to conclusions about what you think the problem is.
- Ask the client what steps he or she has already taken to try and solve the problem before coming to see you.
- Discuss with your client what steps you think are necessary to try and sort out the problem. Explain these steps in detail. The client may only need some advice or counselling or can be referred to a specialist agency that can help him or her.
- If you have to do some work on the case, your next step is to take a full statement.

(See page 614 Listening skills)

(See page 617 Counselling skills, Advice-giving and problem-solving skills and Referrals)

(See opposite page Taking a statement)

When you interview someone who comes to you for help it is important to think about the language you use while talking to the person. This refers to the actual language used as well as the level of language.

WHAT LANGUAGE SHOULD YOU USE?

It is always better to interview a person in his or her own language. People find it much easier to tell you about their problems in their own language. It makes them feel more at ease and they will be able to explain themselves better. Confusion and misunderstandings often happen when a person has to explain a problem in a language which is not his or her home language. If you cannot speak the language of the person you are interviewing, then you should have someone with you who can translate. If you need to have a translator this person should have a good understanding of both languages and it helps for them to have some basic knowledge of the law.

If you write to your client, you should also try to write the letter in your client's language.

USING THE RIGHT LEVEL OF LANGUAGE

It is important that the person or people you are trying to help can understand your words and sentences properly. If you do not explain things plainly and in a way that is easy to understand, you will not be helping your client. Your client will not learn anything from you and will not be able to help you try to sort out the problem.

These are some examples of language problems:

- Using difficult legal words
for example substantive, prescription, discretionary, and so on.
- Using a difficult explanation to explain a difficult word
for example, explaining that an interdict is 'a civil remedy calling on the offending party to refrain from harming the applicant' is not as easy to understand as saying that an interdict is 'a special kind of court order which you can get to protect you from harm'.

- Using foreign or Latin words for example *quid pro quo*, *rule nisi*, *inter alia*, *vis-a-vis*.
- Using jargon (words that are usually only clear to a certain group of people) for example *workerist*, *dynamics*, *concretise*.

TAKING A STATEMENT

A statement is necessary because it helps to keep a record of a client's case. The statement is recorded on a case sheet which is a standard question sheet and this is kept in the client's file. You will do all of your work on the case using the information you wrote down in the first statement and it is therefore very important for you to write down accurate and complete information. (See next page *Example of a simple case sheet*)

(See page 611 *Example of a statement*)

The statement is divided into four parts:

- Personal details of the client, for example, name, age, address, work details, and so on
- Description of the problem
- What advice you gave to the client
- What action can be taken to help the client

PERSONAL DETAILS OF THE CLIENT

Write down the standard personal details of the client. The most important details are:

- **Full name** – check the spelling
- **Address** – Check whether post can be delivered to the address or not. If the person is homeless, ask for the address of a relative who has a fixed home address.
- **Identity number** – this is often useful for reference purposes
- **Age or date of birth** – If the person does not know his or her age, then ask if some important event happened in the year he or she was born, for example, a very bad drought which was recorded; this will give you an idea of the year that the person was born.

DESCRIPTION AND DETAILS OF THE PROBLEM

The details you need will be different according to the different types of problems. For example, in a complaint about non-payment of wages you need to know what work the client was doing and what the wage was supposed to be, as well as the name and address of the employer. To help with a pension application, you need the age and present income of the client.

At the end of each chapter of this manual, there are usually one or two checklists. These include the questions that are important to the topics covered in that chapter. Once you know what kind of problem your client has, the checklists for that chapter can help you remember what questions you should ask your client.

Write down every detail of importance. Rather include information if you are not sure whether it is important or not. It might come in useful at a later stage.

Write down all the details of the problem in the correct date order that things happened.

EXAMPLE

- On 15 December 2014 Sara was dismissed from her job
- On 17 December she returned to get her notice pay
- On 20 December she went to the union about her dismissal, etc

ADVISING THE CLIENT

You must tell your client what his or her rights are. You must then explain what steps can be taken to help him or her.

Then you must **listen** to your client to find out exactly what he or she wants you to do. These are the 'instructions' that your client gives you. For example, if your client was dismissed from a job, don't just take it for granted that he or she wants the job back, even if you feel that the dismissal was unfair. On the other hand, if your client says he or she only wants notice pay, this may be because he or she does not know anything about unfair dismissal and reinstatement. It is up to you to explain to your client about all his or her rights, and then let him or her make her own choices.

If there is something that the client is not clear about, ask him or her to find out that information and bring it to you later.

Write down details of the advice that you gave and 'instructions' that your client gave you.

TAKING ACTION TO SOLVE THE PROBLEM

Discuss with your client what steps you will take to try to solve the problem. Make sure the client understands what you are going to do. Be **realistic** about how much you think you can do for your client and how long it will take to sort out the problem. Do not raise false hopes.

You must then agree on how you are going to **report back** to your client. This could be by writing a letter to the client or the client coming back to you on a set date.

EXAMPLE OF A SIMPLE CASE SHEET

HOPETOWN ADVICE CENTRE

Date:
Client's name:
Physical address:
.....
Postal address:
.....
Telephone/Cell number:
Age (if necessary):
Type of case (eg grant):

Description and details of the client's problem:

.....
(give this section plenty of space)
.....
.....
.....
.....

Advice or suggestions given to the client:

.....
.....
.....

Action taken on behalf of the client:

.....
.....
.....

Write down everything that you do. For example, if you make a telephone call, write this down and what was said in the telephone call. Keep copies of all letters that you write for your client.

Keep copies of all documents in connection with your client's claim, for example, a UIF record card in a complaint about UIF benefits, the Instalment Sales Agreement in a problem with hire purchase, and so on. Do not write on original documents. Documents should be stapled to the statement of the client so that they do not get lost.

EXAMPLE OF A STATEMENT

STATEMENT

1. My name is Benjamin Ngwane. I am a 30 year old male living at 52 Indwe Road, Langa, Cape Town. I am unemployed.
2. On Monday 26 September 2015, at about 8 p.m. I was walking on my way home after visiting a friend. I was walking alone on the pavement past Kentucky Fried Chicken.
3. A group of men crossed the road and came towards me. I recognised one of them. His name is Patrick Xegwana. He lives a few streets away from me in Pele Street.
4. The group stopped me and Patrick Xegwana grabbed me by my shirt and asked me where I was going.
5. I said I was going home.
6. Patrick Xegwana then slapped me on my left cheek with his left hand. One of the other men assaulted me by punching me in the stomach and kicking me where I lay on the ground. He was wearing a dark blue overall which was very torn. He was also wearing glasses. I recognised this man's face although I do not know his name. I also don't know where he lives. He is about 30 years old. I would recognise him if I saw him again.
7. I think there were five men altogether. I do not know the names of any of them except for Patrick Xegwana, but I recognised all of their faces. I would recognise them if I saw them again.
8. They were all crowding around me while I was lying on the floor being assaulted by the man in the blue overall. One of the men had a gun and was poking it in my side. I was very scared and I didn't say anything to them. They did not say why they were assaulting me. They only told me that I must not come near their area again.
9. Then I blacked out and only remember being picked up by a person called Vuyani. He telephoned the Langa Day Hospital. They sent an ambulance to come and fetch me.
10. In hospital I was treated for two broken ribs, severe bruising all over my body, and my eye was bleeding. I had to stay in hospital for 3 days. My hospital card number is 5487. I was treated by Dr Wyngaard at the hospital.
11. I do not know if there were any witnesses to the assault on me. I do not know if Vuyani witnessed the whole assault on me.
12. I do not know why I was assaulted by the group. I feel that I have been wronged and I want to make a claim against the people who assaulted me.

Date on which the statement was taken: 28 September 2015.

Name and address of person who took the statement:

Lawrence Ndlovu
c/o Langa Advice Centre
Telephone number: (021) 642 0202

AFFIDAVITS

An affidavit is a written statement which you swear is the truth. Another name for an affidavit is a sworn statement. You sign this statement (with your name, or X if you cannot write) in front of someone called a Commissioner of Oaths. A Commissioner of Oaths can be a magistrate, postmaster, a bank manager, attorney, members of the South African Police Services (SAPS), and certain priests and social employees.

For example, when you need to prove something (like your age in order to get a pension) and you do not have any written proof that what you are saying is true, then you can put this information in an affidavit.

Usually the same information that is used for an ordinary statement will be used in an affidavit. All that happens is that an attorney or paralegal will turn the statement into an affidavit by adding some formal words at the beginning and at the end of the statement.

HOW TO DRAW UP AN AFFIDAVIT

AFFIDAVIT

1. I *(name of person)*
do hereby make oath and say:
2. I am an adult. *(male/female)*
and I live at *(address)*
3. I am. *(married/single)*
unemployed/employed at.
4. The statement *(fill in what you is true)*
.....
.....
.....

DEPONENT

(the person making the statement is the deponent and must sign here but only in front of the Commissioner of Oaths)

(Then Commissioner of Oaths fills in this next part)

THUS SIGNED AND SWORN TO at. *(place)*

this day of. 2015

the Deponent having acknowledged:

1. That he/she has no objection to taking the oath;
2. He/she deems the oath binding on his/her conscience;
3. He/she understands the contents of this Affidavit and stated that same was all true and correct and uttered the words 'So help me God'.

COMMISSIONER OF OATHS

(Commissioner of Oaths signs here after asking the deponent to swear with his/her hand in the air that s/he is telling the truth)

(the name and address of the Commissioner will be given here, and the office held by the Commissioner, e.g. postmaster)

EXAMPLE OF AN AFFIDAVIT

AFFIDAVIT

1. I, Benjamin Ngwane, do hereby make oath and say:
2. I am an adult male and I live at Hostel number 52 Indwe Street, Langa, Cape Town.
3. I am unmarried. I am presently unemployed.
4. On Monday, 26 September 2015, at about 8 p.m. I was walking on my way home after visiting a friend. I was walking alone on the pavement past Kentucky Fried Chicken going in the direction of Hostel 52.
5. A group of men crossed the road and came towards me. I recognised one of them. His name is Patrick Xegwana. He lives in Pele street.
6. The group stopped me and Patrick Xegwana grabbed me by my shirt and asked me where I was going.
7. I told them I was going home.
8. Patrick Xegwana then slapped me on my left cheek with his left hand. One of the other men then assaulted me by punching me in the stomach and kicking me where I lay on the ground. He was wearing a dark blue overall which was very torn. He was also wearing glasses. I recognised this man's face although I do not know his name. I don't know where he lives. He was about 30 years old. I would recognise him if I saw him again.
9. I think there were five men altogether. I do not know the names of any of them except for Patrick Xegwana but I recognised all of their faces. I would recognise them if I saw them again.
10. They were all crowding around me while I was lying on the floor being assaulted by the man in the blue overall. One of the men had a gun and was poking it in my side. I was very scared and I didn't say anything to them. They did not say why they were assaulting me. They only told me that I must not come near their area again.
11. Then I blacked out and can only remember being picked up by a man called Vuyani. He telephoned the Langa Day Hospital for an ambulance to come and fetch me. I stayed there until the ambulance arrived and took me to hospital.
12. At hospital I was treated for two broken ribs, severe bruises all over my body, and my eye was bleeding. I had to stay in hospital for 3 days. My hospital card number is 5489. I was treated by Dr Wyngaard at the hospital.
13. I do not know if there were any witnesses to the assault on me. I do not know if Vuyani witnessed the whole assault on me.
14. I do not know why I was assaulted by the group.

.....
BENJAMIN NGWANE

THUS SIGNED AND SWORN TO at LANGA this 30th day of September 2015
the Deponent having acknowledged:

1. That he/she has no objection to taking the oath;
2. He/she deems the oath binding on his/her conscience;
3. He/she understands the contents of this Affidavit and stated that same was all true and correct and uttered the words 'So help me God'.

.....
COMMISSIONER OF OATHS

LISTENING SKILLS

It is important to listen properly to your client when she or he is telling you about a problem. There are different ways of showing your client that you are listening carefully.

- Use your body to say 'I'm listening':
 - use eye contact and look at your client
 - nod your head
 - say 'yes', 'I see', and so on
- Let your client tell their whole story first while you just listen. Summarise the **main points** of what your client said in your own words to make sure that you have got the story right.
- Show the client that you are sympathetic about his or her problem. The more sympathetic you are towards your client, the more your client will trust you and confide in you.
- Don't be impatient with your client while she or he is telling you about a problem.

If you listen carefully to your client, you will know what help she or he is looking for.

MONITORING SKILLS

A monitor is someone who watches and records what is happening – often when there is conflict between two sides. A monitor must be independent, and not take sides. A monitor must also be someone who is reliable and truthful.

WHY DO WE NEED MONITORS?

When there is fighting between different groups, for example in a community, or between the police and other people, it helps to have monitors to give evidence about what happened from a non-involved perspective. In any conflict each side will tell a different story. Monitors can help to find out the truth.

You can also monitor situations in your community on an on-going basis. For example, on-going monitoring of human rights abuses will help you build up a broader picture of the human rights situation in your community or country. You can use the information you gather while monitoring to challenge decision-makers in the different spheres of government. So, for example, you could monitor:

- Police cells and prisoners: (has the person been given access to an attorney, has s/he appeared in court within 48 hours / what are the conditions in prison / what ages are the prisoners / are children in a separate cell etc)
- Trials: (who was the accused / what was the charge / who was the magistrate or judge / did the accused have an attorney / what was the final judgment / was there an application to appeal, etc.)
- Hospitals: (what types of illnesses or injuries are people suffering from / were medicines available/ were patients given proper treatment by doctors / nurses,
- Vulnerable groups living in or near your community such as refugees, women, children, the disabled and minority groups

HOW DO YOU MONITOR PROPERLY?

If you are monitoring a specific situation then it helps to work together with someone in a pair. Each pair of monitors will monitor a certain area. The pairs must stay in contact with each other. You can do this by having a messenger who can run between pairs passing messages, or you can use a cell phone.

As a monitor you must stay as close to the action as possible, but be careful not to become involved in the action.

Whether you are doing on-going monitoring or monitoring a specific situation, you must write down everything that you see happening. If possible, you must take photographs of incidents, for example, where people were injured, you must photograph their injuries, with a match or ruler next to the injury (to show the size of the injury). This is important later if you have to give evidence in court. It is also useful if you can draw a map of where the incident took place.

(See page 664 Preparing for monitoring checklist)

For example, if you were monitoring a community conflict situation these are the important things you should write down:

- The size of the crowd
- How many police are present
- The registration numbers of the police vans and any other vehicles involved in the action
- The names of the police officers present
- The time that the action began
- Details of the events in the order that they happened
- The names of the people who are injured or arrested
- What weapons were being used

WHAT FOLLOW-UP ACTION MUST YOU TAKE?

When you are monitoring a specific incident or on an on-going basis you should immediately:

- Record what happens: who/what/where/when on an incident sheet
- Concentrate on the most serious abuses
- Focus on any group that is targeted for particular treatment.

You should take the following follow-up action:

1. Make sure that people have got an attorney if this is appropriate (for example, if someone has been arrested or killed).
2. File all your monitoring reports/statements/photographs.
3. Review the available facts and decide what type of action you or your organisation should take. For example:
 - should there be an immediate full investigation
 - do you need to collect further evidence for example, by taking statements from witnesses or victims
 - is the complaint so common that your report forms part of a documentation of the facts for possible follow-up action later on
4. Enter the facts into a simple system for storing information. These statistics can be very useful for different reasons, for example, when you are working out your priorities as an organisation (what issues you want to focus on), when you are meeting decision-makers in government (to put pressure on individuals), when you are meeting with possible donors, and so on.
5. Organise a press conference if this is appropriate or write a report about what has happened and send this to the press.

(See page 665 Checklist, Monitoring follow-up)

EXAMPLE OF AN INCIDENT SHEET

INCIDENT SHEET FOR MONITORING PUBLIC EVENTS AND CONFLICT SITUATIONS

Date:
Monitor's name:
Monitor's address:
Monitor's telephone no:

Date of incident:
Place of incident (town, district):
Time incident started:
Time incident finished:
People or parties involved:
Numbers of people involved:
Number of houses affected:
List of witnesses:
Number of people injured:
List of injured:
Number of people arrested:
List of arrested:
Name of the attorney and/or legal firm that has been helping:

SAPS or other security services information:

Names or Numbers	Rank	Wearing ID	Uniform
.....			
.....			

Vehicles used:

Type of vehicle	Number of such vehicles	Registration numbers
.....		
.....		

Weapons used: (if used by anyone other than security services, state who)

.....

Circumstances before incident: (for example, public meeting, march and so on)

.....
.....

Description of incident:

.....
.....

Developments after the incident: (medical treatment, appearances in court, and so on)

.....
.....

Map of the incident

Draw a map of the area where it happened, clearly showing the street names and where people were. Attach the map to the incident sheet.

Statements given by:
Contact addresses:
Telephone numbers:

COUNSELLING SKILLS

Sometimes people just want to talk to you about their problems and it may not be necessary for you to take any further action. It might be enough for you to counsel someone about ways to deal with a problem. For example, your client might have a problem with noisy neighbours who party through the night and keep her awake. You can suggest different ways to deal with the problem such as asking for a meeting with the neighbour to discuss the problem or getting a mediator in to help mediate between them.

Counselling is a skill used mainly by professional psychologists and social welfare employees. Where the issues raised by an advice seeker can have serious psychological consequences (for example, in the case of a child who has been abused, a person raped, etc) they will need deeper counselling. Paralegals are not trained to provide this service so they should refer the person to a professional.

ADVICE-GIVING AND PROBLEM-SOLVING SKILLS

Sometimes people only need advice to help them with their problems. It is not necessary to take any other action. For example, someone comes to you for help with a grant-related problem. You can then advise them to go to the South African Social Security Agency (SASSA) for assistance.

As far as possible you should encourage people to try and sort out their problems on their own. Often this means that you give a person some advice and tell them to come back to you if they haven't managed to sort it out. This makes people less dependent on you to solve their problems and it encourages them to take responsibility for dealing with their own problems.

Always make careful notes of the advice you give so that if the person comes back to you later, you can ask them whether they did as you advised.

REFERRALS

Paralegals often play an important role by linking people with a problem to an appropriate agency that is more qualified and better trained to deal with the problem. This could be a government department or it could be a private welfare agency, NGO, religious body, etc.

Examples of assistance agencies that you may refer a client to include child welfare organisations, organisations against women and child abuse, trade unions for labour issues, the maintenance officer at the court, community development employees for issues linked to local governance, etc.

Paralegals should build up a data base of agencies and contact people as part of their referral service.

Always give the person a covering letter when you refer him or her to another organisation. Explain why you are referring the person to them and what work, if any, you have done on the case. Advise the person to come back to you if the agency refuses or is unable to help.

TELEPHONE CALLS

Before you make a telephone call, you must make sure that you understand clearly what the problem is about and what you hope to get out of the telephone call. In other words, you must prepare yourself properly before making the telephone call.

Always introduce yourself to the other person. Tell the person you are telephoning on behalf of your client.

Always write down the name of the person to whom you are speaking, and the date and time of the telephone call.

Never change the story of your client. You must only say what your client told you. If you don't know how to answer the other person, say that you must speak to your client and you will call back.

Be polite but firm about your client's rights and never lose your temper over the phone. Try not to become involved in an argument on the telephone, because you might end up saying things that could harm your client or your future relationship with the official.

Make rough notes while you are speaking on the telephone, then write them down in more detail as soon as you have finished. This is because it is not always possible to remember everything that was said on the telephone. You might have to remember the details later for a court case.

If you reach any agreement with the other person, you must confirm what you agreed in a letter to that person.

LETTER-WRITING

MODEL LETTER SHOWING LAYOUT OF A LETTER

	(your address:)	UPINGTON ADVICE CENTRE Room 9, Avocado Centre Upington 0100
	(your telephone number:)	Telephone: (0555) 2345289
	(date:)	15 June 2015
	(some offices give every letter its own reference number:)	Our Ref: 135/98
The Manager Tex Stores (Pty) Ltd PO Box 1053 Upington 0100	(the name or title of the person who must read the letter)	
	(the address you are writing to – then you have this on your copy of the letter)	
Dear Madam / Sir	(the main thing that the letter is about – usually the client's name and the type of problem:)	
MS GERDA FORTUIN: LEAVE PAY	(introduction:)	
	We are writing to you on behalf of Ms Gerda Fortuin. She was employed by you as a checker at your Upington branch from 20/02/96 until 30/04/15. She resigned after giving the necessary notice. Her wage was R810 per week.	
	(give information to identify the client:)	
	Ms Fortuin's work number was 315. Her identity number is 4209050920088.	
	(what the problem is – setting out the details:)	
	Ms Fortuin says that when she received her final pay packet she was not paid out for leave owing to her. She last took leave in September 2014.	
	(what the law says and applying the law to the facts:)	
	In terms of the Wage Determination for the Commercial and Distributive Trade an employee may receive leave pay calculated according to the following formula:	
	(put in the formula and your calculations)	
	Ms Fortuin is therefore owed 7 months pro-rata leave pay.	
	(what the person you are writing to must do about it:)	
	Ms Fortuin requests that you forward the leave pay that is owing to her to the above address within 14 days of receipt of this letter. Please contact our office if you would like to discuss this matter further.	
	Yours faithfully	
	(sign your letter)	
	
	Mr P. Philander ADVISER	

Always include in a letter:

- Your own address (or the address that the person getting the letter must write back to)
- The address of the person to whom you are writing
- The date

Start your letter by saying that you are writing on behalf of your client.

Set out clearly in your letter the details of your client's complaint.

Say exactly what it is you want from the person you are writing to. In other words, say what the person you are writing to must do about the complaint.

Remember to include information that can help to identify your client, for example, identity number, work numbers, pension number, UIF number, Compensation for Occupational Injuries case number, and so on.

Make sure that your letter is signed and has the date on it before you send it out. If possible, get another person to check your letter before you post it.

Keep a copy of all letters written in your client's file, including any hand-delivered letters.

Some standard letters can be photocopied to cut down on typing load. Type the main part of the letter that always stays the same, leaving blanks to fill in the things that change like the client's name. Photocopy the standard letter and then every time you need this kind of letter you just fill in the blanks.

Examples of such letters are:

- Letter asking client to call at the office
- Letters of referral, for example to another assistance agency
- Letters of referral to the Small Claims Court

There are standard MODEL LETTERS in this manual. These letters are there to give you some guidance on what to include in typical letters you may have to write. For example, you will often have to write a letter of demand asking someone to do something, like pay your client money that is owing.

REPORT-WRITING

Reports are written to **report back** about what a person, group or committee has done.

Paralegals might have to write regular reports on their work for their management structures, for funders and partner organisations.

A community-based paralegal who is monitoring a situation in a community, for example, a demonstration, should write a report on what was witnessed. This should include relevant dates, times, venue, people involved, etc.

Office-bearers in an organisation should also write regular reports, for example a treasurer can write a monthly report on the finances of the organisation, a community liaison person should write a brief report on meetings attended on behalf of the organisation and the outcomes of those meetings. Report-writing is a very important communication tool which enables people to share information in a structured way and it means everyone is kept informed on what is happening.

PLANNING A REPORT

Whenever you write a report remember to follow certain planning steps:

- Ask yourself:
Who am I writing for? What do I want to tell them? Why should they know this?
- List the things you want to say
- Plan the order in which you will put things
- Write the report

REPORTS FOR FUNDERS

Here is a simple outline for a report for funders (after they have given money):

1. **Introduction**
2. **Achievements of the organisation in terms of the funding proposal and objectives.**
Describe what you have done and link this to what you said you would do when you asked the funders for money.
List each of your objectives and what you have done to achieve them. Also describe problems that stopped you if you did not achieve all objectives. Most funders have their own format for reports – try to give them the information they want.
3. **Plans for the next year**
4. **Financial statement**
A full financial statement and records, to show how you have spent the money.

REPORTS TO YOUR OWN MEMBERS OR TO A COMMUNITY ON AN ISSUE

These reports are usually given verbally in a meeting. Here is a useful outline to make sure you come across clearly:

1. **Issue** – Explain what issue is covered by the report.
2. **Facts** – Give people the basic facts about the issue or any events that have taken place.
3. **Options** – Often you report on something where the meeting must make a decision. Try to outline the main options open to people.
4. **Proposal** – Say which option you think is the best one, or propose a clear way forward. The meeting may disagree, but the proposal provides a good starting point for discussion.

EXAMPLE OF A REPORT FOR AN ANNUAL GENERAL MEETING

CHAIRPERSON'S ANNUAL REPORT 2011

1. MEMBERSHIP

We have set up a membership sub-committee under Maria Hendricks. They have been very successful and the membership has increased from 200 to 700 members.

2. FUNDRAISING

We held a film show at the start of the year and raised R900.

3. GENERAL MEETINGS

We have held general meetings in different areas this year. Many members came to these meetings and met the committee. This helped the committee to hear what members think.

4. PROJECTS

HIV/AIDS community forum

The HIV/AIDS Community Forum was established in May 2007. It's focus is:

- education and awareness around HIV and AIDS in the Mulati farming area (26 farms)
- a Voluntary and counselling and testing campaign to have all people living on farms in this area tested

We have held 3 workshops on farms in the past 3 months, attended by 140 people.

5. PARTNERSHIPS

We are working in partnership with the Agricultural Workers' Union (AWU) and Education for Farm Workers (EFW) to get this project off the ground. They were very helpful in giving us advice and support. EFW assisted with the workshops.

6. FUTURE PROJECTS

In the next year we need to:

- Run workshops on all 26 farms
- Initiate the VCT programme

7. I would like to thank the committee for all their hard work.

USING THE MEDIA

Media is an important communications tool that can be used to help organisations communicate with other people. Examples of media that can be used are pamphlets, posters, newsletters, badges, banners, T-shirts, newspapers, sms, facebook, emails, radio and television.

HOW CAN YOU USE THE MEDIA?

You can use media to:

- **Inform** other people about a situation or an event, or about an organisation. For example, you can use media to inform people that pensions are a legal right.
- Explain facts to people, for instance how to apply for an old age grant (pension) from SASSA. This **educates** people about pensions.
- **Politicise** people, to make people more aware of what is happening around them. For example, you can link service delivery problems to a campaign against corruption.
- Ask people to do something. This is called **mobilising**. For example, you can try to mobilise people to protest by coming to a meeting.
- **Advertise** an event.

MAKING MEDIA

Making media includes, creating posters, pamphlets, drama shows with the purpose of communicating a message to people. It is important to know what your aim is when you decide to use media. For example, if you are planning a pamphlet or a poster you must think about:

- the aim of the pamphlet or poster
- who the pamphlet or poster is for (the target group)
- what you want to say (the content)

The design of the pamphlet or poster is also very important. Remember these things:

- Make the language easy to read.
- Use different kinds of headings such as underlining, boxes, capitals. Most computers can be used to make attractive pamphlets by changing the font size for different headings.
- Arrange the writing in different ways.
- Use pictures.
- Don't make the design too cluttered so that it becomes confusing or unreadable.

WHAT THE LAW SAYS ABOUT PAMPHLETS AND POSTERS

The pamphlet must include the name of the organisation that produced the pamphlet, an address and who printed the pamphlet.

You must get permission from the local council in your area if you want to put up any posters in public. In many areas you have to pay a deposit.

NEWSLETTERS

Newsletters are the newspapers of the organisation. Newsletters usually come out regularly, for example four times per year, or every two months. They take a lot of work to produce.

Before deciding to have a newsletter you should decide:

- If you are going to print it or email it and how many pages it will be
- The topics it should cover and who should write what

- If there is enough money to pay for it
- If there are some experienced people who can help with producing the newsletter

WEBSITES

Websites are an important source of information for people wanting to find out more about an organisation. It is therefore also an important communications tool. It is important if you have a website to ensure it is kept up to date with online newsletters, resources, contact details, and so on.

ADMINISTRATIVE SKILLS

This section looks at how you can develop your administrative skills as a paralegal. Administrative skills can involve the following:

- Filing
- Bookkeeping
- Looking up a number in the telephone directory
- Arranging and holding meetings
- Managing your time

(See page 662 Checklist: Best practices for paralegal case-employees)

FILING

Filing means keeping information (papers, letters, addresses) in a safe place. You file information by arranging it in a certain order, so that you or anyone else can find it quickly.

Filing helps you to decide:

- Where to put information
- Into which file to put a paper
- In which file to look to find a paper
- Where to find an address

Filing is important because it:

- Helps you not to lose documents
- Keeps documents clean and tidy
- Helps you to find documents quickly and easily
- Helps you to be efficient

WHAT SHOULD YOU FILE?

The important things to file include:

- All documents that your organisation receives, for example letters, notices, reports, and useful information
- All copies of documents you send out
- Documents about the money side of the organisation – receipts, vouchers, deposit slips, etc.
- All case sheets and information relating to cases

Filing should be done according to a carefully planned method.

If you use your computer to file all documents you write or receive on email, make sure you create a back-up at least once per week. If you have Internet it is worth saving everything on a cloud (a server provided by Google or others). This means you will be able to access the files even if you are in another town.

WHAT EQUIPMENT DO YOU NEED?

You need the following pieces of equipment for filing:

- Files (hanging folders or ringbinders)
- A filing cabinet, shelves or something to keep your files in
- A date stamp to put the date on letters you receive – or write the date and sign it
- An A4 size hard-covered book that you call a 'day-book'

When you start a filing system you need to decide how you want to file. Do you want to file in alphabetical order (for example, using surnames) or in date order (according to the months in the year), or according to issues (such as grants, HIV/AIDS, housing development, etc). Each organisation is different. You should keep your filing system simple and easy for all to operate. Within a file you should file in date order – with the latest documents on top.

REMOVING FILES FROM THE OFFICE

Files should never be removed from the office. If documents or statements have to be removed for any purpose, it is better to photocopy them first so that the original remains in the office.

BOOKKEEPING

Just as you keep records of meetings and letters, you also need to keep the records of the organisation's money. Bookkeeping means keeping records of all the money that you collect and all the money that you spend.

Always keep **every** piece of paper connected with money, such as invoices, receipts and cancelled cheques.

The books you keep must show:

- **Income**
all the money that comes into the organisation
(fundraising, donations, and so on)
- **Expenditure**
all the money that is spent (for example on postage, petrol or stationery)
- **Balance**
the money that is left over at the end of each month

You keep books so that members can always find out what happens to the money. You need to know how much money you have and how much you still need to collect.

OPENING A BANK ACCOUNT

When you put money into a bank, the bank opens an account for you. When you open a new account you must know:

- What kind of account will be appropriate for your organisation (savings, cheque)?
- What is the name of your account?
- Who will have authority to sign on the account (the signatories)?

The easiest kind of account for an organisation to use is a cheque or current account. The committee of your organisation decides who is allowed to sign for money. The bank will only give money to those people whom they know are allowed to sign for money. There should be at least two (2) signatories to the account. This means two signatories must sign before money can be withdrawn from the account. The two signatories should be members of the management or executive committee who are usually available to sign cheques. It is better not to have any of the paid employees as signatories.

The cheque book is used to draw money out of the account. Only those signatories who have authority to sign your organisation's cheques can sign. Cheques can also be used to pay someone directly, such as for rent or electricity and are usually used for payments over R50. Money can also be transferred electronically into people's accounts but if you want to implement an electronic system you will need to put strict guidelines and clear restrictions as to who will have the authority to do these transfers.

Cash can be taken out of the bank to make small payments, such as for stamps, tea, paper and so on. This money is called petty cash and it is usually kept in a safe place in a small money box in the office. Put all receipts in the petty cash box so it is easy to account for spending.

Putting money into the account – Putting money into the account is called making a deposit. When you deposit money you fill in a form at the bank called a deposit slip. A copy of the deposit slip will be given to you. You must file this for your records.

Taking money out of the account is called a withdrawal. With a cheque account, you use a cheque to withdraw money. A cheque is a form that can be used instead of money. On the left hand side of the cheque is the STUB. The stub stays in the cheque book as your record of the cheques you sign. It is important to fill in the stub carefully. If you are paying electronically (EFTs) you should print out the payment confirmation (receipt) and file that.

The bank statement – Once a month you will receive a bank statement. This is a record of cheques issued, or EFTs made in that month and of all the deposits and withdrawals made that month.

DAILY RECORDS

The most important books that you must keep for your daily records are:

- Receipt book
- Petty cash vouchers and record book

Receipts

When anyone hands any money into the organisation you must give them a receipt. This receipt proves that money was handed in. You give the original receipt to the person who gave in the money, and the duplicate is left in your receipt book.

When you receive money you should deposit it in the bank as soon as possible. It must never be used as petty cash.

It is best to buy a receipt book from a stationery shop and to put your stamp on every page.

EXAMPLE OF A RECEIPT

No 473 18/4/2015
Received from Mrs Mgadi
Ontvang van
the sum of Fifty
die som van
for Membership
vir Gagwenya OCA
With thanks/Met Dank
(cheque)

Rand 5000
Cents sent

Petty cash

You should keep some money in the office for small payments. If you need R100 for stamps, tea or milk, you will use petty cash to make these payments.

How does petty cash work?

- The treasurer draws an amount of money out of the bank, using a cheque. This amount could be R100 or more depending on what your monthly expenses are and how busy your office is.

- This money is put in a locked metal box called a petty cash box.
- If someone needs money to pay for something for the organisation, the treasurer will give it to them from the petty cash box.

All the petty cash that is spent must be recorded on a petty cash voucher.

The receipts or invoices or cash slips that you get when you pay for something must be kept. These slips should be pinned onto the petty cash vouchers.

EXAMPLE OF A PETTY CASH VOUCHER

Petty Cash Voucher / Kleinkasbewys	
Date / Datum <u>15/3</u> 20 <u>15</u>	
FOR WHAT REQUIRED BENODIG VIE	AMOUNT BEDRAG
Stamps + Envelopes for AGM minutes	60 25
Signature / Handtekening <u>Mrs Kadebe</u>	
Folio	Passed by Goedgekeur <u>gngwenya</u>

The petty cash book

At the end of each month the treasurer must record the information from all the vouchers into the petty cash book. You can use an ordinary school exercise book for the petty cash book. At the end of the month, the petty cash book must be balanced.

To do this you must:

1. Add up the expenditure column to get a total. This is called total expenditure.
2. The treasurer must then put back into the petty cash box the same amount of money s/he took out during the month. So, in other words, s/he must put back the total expenditure.
3. He or she then records this under income and adds up the income column.

EXAMPLE OF A PAGE FROM A PETTY CASH BOOK

DATE	APRIL 2015	INCOME	EXPENDITURE
	DETAILS		
1	Balance	300,00	
12	Glue & cardboard for poster		30,00
17	Envelopes for office use		32,00
19	Milk & sugar for office use		30,00
20	New window for office		100,00
21	Tea for office		15,00
25	Paper for printer		30,00
	TOTAL EXPENDITURE		237,00

MONTHLY INCOME AND EXPENSES RECORDS

The cash book

At the end of each month all the records you keep during the month are recorded in one book called the CASH BOOK. This includes all bank deposit slips, cheques, receipts and petty cash. You can buy cash books at stationery shops.

The deposit slips are the records of the income.

The cheques and the petty cash book are the records of the expenditure.

The income and expenditure are recorded in the cash book.

The whole of the left hand page is the INCOME side of the cash book. The whole of the right hand side page is the EXPENDITURE side.

EXAMPLE OF THE INCOME SIDE OF THE CASH BOOK

In this example there are 5 main columns on the income left-hand page:

- Receipt number
- Date of receipt
- Details

Write the name of the person or organisation who gave the money.

- Analysis columns

The analysis columns tell us the kind of income it was, for example donations, subscriptions, books, sundries, and so on. You must decide how many columns you need and what headings you need for these columns. Sundries is for any kind of income - it is like a 'general' column (see the example below).

- Bank

The DEPOSITS you put into the bank account are filled in this column.

The amount from each receipt must be written in the correct ANALYSIS column.

The amount is also written under BANK when you deposit the money (see example below).

CASH ANALYSIS							
Rec No	Aug 2015	Details	Sundries	Donations	Books	Subs	Bank
	1	Balance	335,54				335,54
473	2	Mrs Radebe				32,00	
474	3	Mr Johnson		50,00			
475	4	Mrs Mgade			23,50		65,50
476	14	Mr Nkasi				32,00	32,00

EXAMPLE OF THE EXPENDITURE SIDE OF THE CASH BOOK

All the cash and cheque payments and bank charges are recorded on the expenditure page. This is the right hand page of the cash book.

In this example there are 5 main columns on the expenditure page:

- Cheque number (the actual number of the cheque not the amount)
- Date of each cheque

- Details

Write the name of the person or organisation to whom the cheque was made out. For a cash cheque, write 'CASH' and what the cash was used for (for example petty cash).

- Analysis

The analysis column tells you what your expenses were, for example petty cash, rent, printing, transport, sundries, and so on. You must decide how many columns you need and what headings you need for the columns.

- Bank

You write down any WITHDRAWALS from the bank.

All expenditure must be written in the correct ANALYSIS column and under BANK. Bank charges are always recorded under 'sundries'.

BOOK MAY 2015								
Cheque No	Date	Details	Petty Cash	Rent	Printing	Transport	Sundries	Bank
853	1	Cash	70,00					70,00
854	4	Small printers			77,50			77,50
855	7	Johannesburg Motors				98,48		98,48
856	19	Russel Furniture					45,00	45,00
857	24	Small Printers			37,48			37,48

Balancing the cash book

After you have recorded the income and expenditure, you need to work out how much money is left over at the end of the month. This is the **balance**. To get the balance, subtract the expenditure from the income.

For example, if your total income for May 2015 was R12 571 and the total expenditure was R10 305. To find out how much money was left over subtract R10 305 from R12 571.

The balance is R2 266. The balance in your cash book should be the same as the balance in your bank account.

Adding up the analysis columns

The analysis columns tell us what **kind** of expenditure and what kind of income there was. The analysis columns help us to answer questions like 'how much money did we get from subs from members in May 2015. To answer this kind of question you need to find the totals for each analysis column. (See example on next page)

CASH ANALYSIS BOOK MAY 2015													
Rec. No.	Date	Details	Subs	Backs	Subs	Bank	Chq. No.	Date	Details	Post. Cash	Ent.	Fin. g.	Bank
	1	Balance	335,54			335,54	153	1	Cash	78,00			78,00
473	2	Mrs Radebe			32,00		154	4	Small prices		18,50		18,50
474	3	Mr Johnson		50,00			155	7	Johannesburg Motors			184,8	184,8
475	4	Mrs Mgade		23,50		65,50	156	11	Read Furniture			45,00	25,00
476	4	Mr Nkomo			32,00	32,00	157	14	Small Prices		36,48		36,48
477	17	Matthews Trust		150,00			158	25	L.K. Jacobs		44,36		44,36
478	17	Comet Bookshop		44,50		194,50		30	Bank Charges				22,12
479	21	Miss Agwanya			32,00				SUB-TOTALS	78,00	44,36	14,98	184,8
480	21	Mr Mweni			32,00	44,00			Balance				216,60
		TOTAL	335,54	200,00	68,00	428,50	678,58		TOTAL	78,00	44,36	14,98	184,8

MONTHLY REPORT-BACKS

The treasurer must give a monthly report to the management or executive committee on the income and expenses of the organisation for that month. All the books should be up-to-date for the reportback, for example, the petty cash book and the monthly cash book. The treasurer should have all the cash slips, bank statements, cheque book stubs, invoices, petty cash vouchers, receipts and so on, at the meeting in case there are questions from the committee.

FINDING A TELEPHONE NUMBER OR ADDRESS IN A TELEPHONE DIRECTORY

All telephone books work in ALPHABETICAL ORDER.

All government departments for national and provincial spheres are listed at the back of the telephone book in both English and Afrikaans. The government departments are listed alphabetically. If there is no number for the department you want in your regional telephone directory, phone 1023 and get the number of the nearest office.

Provincial government departments are listed under 'P' under the heading 'Provincial Administration', in the central government departments alphabetical list at the back of the directory.

Metropolitan councils and their departments are also listed at the back of the telephone directory, for example, the Western Cape directory will have contact details of the Cape Town Metropolitan Council and its departments.

Areas that fall outside the metropolitan areas are not listed at the back of the telephone directory with the other government departments. They are listed under 'M' alphabetically with all the other telephone numbers in the directory. For example, the municipal council for Mtubatuba is listed under 'M' for municipality in the telephone directory for that area.

All hospitals are listed under 'H' with all the other numbers in the directory. The hospitals are then listed alphabetically under 'H'. Doctors are listed under 'Medical' alphabetically by name.

All emergency service numbers are listed on one of the first few pages at the front of the directory. If you are using a directory which has many different towns listed in it, then the emergency numbers for each town will appear at the beginning of each of the towns.

MEETINGS

There are some ways that can help make meetings go well:

- Make sure everyone necessary will be able to attend the meeting.
- The chairperson must plan the agenda in advance so that s/he knows what should be discussed and how long it will take.
- Appoint a chairperson if there is no chairperson.
- Make sure proper minutes are kept.

CHAIRING MEETINGS

Chairing a meeting means facilitating and steering discussion so that the meeting achieves its aims.

At the start of the meeting

The chairperson starts by reading the agenda and asking whether there are any additions to the agenda. Ideally, the agenda should have been circulated by the secretary to all people attending the meeting at least a week before the meeting takes place. This seldom happens so it is polite to ask the committee at the start of the meeting whether they have anything to add to the agenda.

Important matters and items that can be dealt with quickly should be discussed first.

An agenda looks like the example below.

EXAMPLE

AGENDA

1. Apologies
2. Read minutes of last meeting
3. Matters arising from the previous meeting
4. Important reports for discussion
5. Upcoming meeting with the donors
6. Employing a new employee
7. Fund-raiser
8. Any other matters, or general

During the meeting

Everyone must get a chance to talk. The chairperson must not do all the talking, and must not allow people to interrupt each other or to talk at the same time. The chairperson must make sure that everyone sticks to the topic.

The chairperson must work out how much time to spend on each discussion, and stop people from wasting time. It is best to introduce each topic briefly and then allow someone to report or give an input. Allow for questions and discussion. Give clear direction when a decision is needed – try to outline the options if there are different proposals. Reach a decision by consensus if possible and vote only if needed.

At the end of the meeting

The chairperson must summarise what happened at the meeting. This means going over the important decisions that were made. Everyone must know what they promised to do and by when it must be done.

Preparing for the next meeting

The chairperson asks members when, where and what time the next meeting will be held.

TAKING MINUTES

It is the secretary's job to take minutes at the meeting. If the secretary is not present, then the chairperson should ask someone else at the meeting to take minutes. Minutes are an important way of keeping a record of what decisions were taken at a meeting.

After the meeting the minutes must be typed or written up neatly in a minute book. A copy should be given or sent to all the committee members.

At the beginning of the next meeting, the secretary reads out the minutes of the previous meeting. The main purpose of this is to note corrections and 'matters arising': those matters that the previous meeting decided must be finalised or discussed in this meeting, and tasks that people had to do.

TIME MANAGEMENT

There is always too much to do and too little time to do it in. Time management is a skill that can help you to organise your time effectively. It can help you free up time so that you can do more without feeling that you have too much to do.

NOTE

A diary is the most important tool you have when you start to manage your time. Use a book or your cell phone.

To manage the way you use time, you must know what your commitments are, for example to your family, your friends, your job, your organisational work outside of your job.

Problems happen when the demands from different commitments clash. So you need to plan your time.

To do this you must start by identifying your regular commitments and drawing up a list of the demands each commitment makes on you. All your other commitments must be fitted around these routine commitments. Write them in your diary.

Think ahead about all the non-routine things that will happen, so that you start planning for them now (for example, a friend's wedding, an evaluation of your organisation, and so on).

WHAT ARE THE THINGS THAT IMPACT ON YOUR TIME?

- Being disorganised - wasting time looking for lost documents
- Unrealistic deadlines which mean you always feel you are 'behind' with your work
- Spending hours waiting for or getting to meetings
- Constant interruptions
- Feeling too busy and under stress all the time

TIME-WASTERS

Most people waste time in similar ways. Some examples of common time-wasters are:

- | | |
|---|------------------------------|
| • Disorganisation | • Visitors and interruptions |
| • Procrastination (leaving things to the last minute) | • Telephone calls and emails |
| • The inability to say no | • Waiting |
| • Lack of interest | • Meetings |
| • Burn out (exhaustion from too much stress) | • Personal crises |

You can identify your own time-wasters and write them down. Then think of ways to avoid these time-wasters.

MANAGING YOUR TIME

When you have many different demands on your time, you must decide **which ones to do first, when to do them and how to do them**. It is useful to keep a to-do list on your desk, and then allocate the tasks to different days in your diary. Mark the tasks on your list as:

A: Urgent and important – do it soon!

B: Important – do it this week

C: Do it this month

Put both your personal and work tasks on the list, but try to separate them.

If you are too busy to do something, or it is inappropriate for you to do it, then you should hand the task to someone else. This is called **delegating**.

You must also plan your use of time and set your objectives. Objectives are the things that you plan to achieve. If you are clear about your objectives you can do things in a useful order more easily. Plan your objectives as:

- Long-term objectives (this year – for example complete my UNISA course)
- Medium-term objectives (this month – for example complete the funding report)
- Short-term objectives (this week – for example run a workshop for community)

DEVELOPMENT SKILLS

This section looks at two important development skills which are very important for paralegal work. By 'development skills', we mean skills that contribute to building and empowering communities. These are:

- Conflict resolution skills which include negotiating, mediating and arbitrating
- Facilitation skills for community education and training
- Managing projects aimed at addressing community problems such as unemployment, health issues etc.

NEGOTIATION SKILLS

Most of us deal with some or other negotiation every day of our lives. The paralegal will constantly be involved in negotiating on behalf of clients.

WHAT IS NEGOTIATION?

Negotiation takes place when two or more people or groups who have a conflict come together to agree on how best to resolve this conflict. This might mean that one side must compromise. Usually it means that both sides compromise so that they can reach a settlement. This is called a 'win-win' situation.

HOW DO YOU NEGOTIATE?

The main purpose of being a negotiator is to get the best settlement possible for yourself or for the person or group that you are representing. To do this, a negotiator needs certain skills such as:

- Finding out facts and information about the other side before you start negotiating
- Knowing what questions to ask
- How to create the right atmosphere for successful negotiation – if you are too aggressive too early in the negotiation this will create a very tense atmosphere.
- Knowing how much to tell the other person or group – for example, you should not give too many details too early in the negotiation as this gives the other person or group an advantage over you.

- Knowing when to put your proposals to the other person or group
- Controlling your attitude towards the other side – all kinds of different emotions, prejudices, different values and cultures can affect your attitude towards the other side. This can make it harder for you to communicate properly with them.

EXAMPLE

A union official negotiates with the manager of a farm about the right of employees to join the union. The union official is very emotional because the manager is threatening to dismiss the employees. The union official also believes that the manager is not concerned about the employees and that he is cruel and immoral.

The manager is also very emotional. He believes that the union official is trying to take over the farm. He is worried about financial losses, and believes that as soon as employees join a union they will go on strike. He believes that all employees are lazy and only want money to spend on alcohol.

In this example there are many conflicting emotions, prejudices, and values between the two sides. This will affect negotiations between the two parties.

PREPARING FOR NEGOTIATIONS

The following points are a guide to planning and preparing for a negotiation.

STEPS IN PLANNING AND PREPARING BEFORE NEGOTIATION

- | | | |
|---|------------------------------------|---|
| 1 | IDENTIFY THE ISSUE | <p>Background and context – Analyse the background and context to the issue. Each issue has its own particular background and history that is important to know and acknowledge in a negotiation.</p> <p>Power and positions of the parties – Look at the power and positions that the different parties will have in the negotiation you are preparing for. For example, a municipality wants to build a road through a town. To do this it needs to move people living there. The people are not prepared to move until the municipality finds them acceptable alternative land. The municipality has the power of its official position and it has the power of the law behind it (under the Constitution property can be expropriated in certain circumstances). The community also has the power of the law (they cannot be arbitrarily evicted from the land or be evicted without a court order). The community also has the power of large numbers.</p> |
| 2 | DEFINE YOUR OBJECTIVES | <p>Work out your key points and what you want to achieve in the negotiation.</p> |
| 3 | BE CLEAR ABOUT YOUR MANDATE | <p>As a paralegal you will be representing either a person or a group in negotiations. You must know what your mandate is from that person or group. In other words, you must know exactly what they want and how much they are prepared to compromise.</p> |
| 4 | SELECT A TEAM | <p>Select a negotiation team. It is usually better to have more than one person in a negotiating team.</p> |
| 5 | GET TO KNOW THE OTHER SIDE | <p>You need to have as much information as possible about the people in the party you are negotiating against. For example, you need to know what their interests and needs are in the issue, their strengths, weaknesses, problems and pressures.</p> |
| 6 | PLAN YOUR PRESENTATION | <p>Organise all the information you have gathered in a logical format so that it can be used in the negotiation.</p> |

THE PROCESS OF NEGOTIATION

STEPS IN THE PROCESS OF NEGOTIATION

- | | | |
|---|---|---|
| 1 | PARTIES MEET | The parties meet and they acknowledge a problem exists. Each party states the reason (as they see it) for the negotiation. |
| 2 | EXPLORING THE ISSUES | The negotiation moves into the issues and parties say what their needs and interests are. This is the exploration phase where the parties ask lots of questions and acknowledge the common points. |
| 3 | BARGAINING PHASE | Parties move into the bargaining phase where they start to look for possible solutions or options for solving the problem. During this phase the parties may even start moving closer together and there may be a feeling of working together to solve a common problem. Negotiation does not always mean that parties have to be aggressive towards each other. For a negotiation to end in an agreement, one side must show that it is ready to 'move' or compromise. |
| 4 | REACHING AGREEMENT | The parties reach an agreement. At this point you may need to take the agreement back to the person or group on whose behalf you are negotiating. If the agreement falls within the mandate you were given, then you can make a final agreement. |
| 5 | REPORT BACK TO THE GROUP | You will always need to report back to the person or group you were representing to tell them what the outcome of the negotiation was. |
| 6 | PUTTING THE SETTLEMENT INTO PRACTICE | Once you agree to something with the other side, then you must make sure that the agreement is put into practice. |

EXAMPLE OF THE STAGES OF THE NEGOTIATION PROCESS

NEGOTIATING TO GET AN EMPLOYEE'S JOB BACK

You are representing an employee who has been dismissed. You have to negotiate with the manager of the company where she was working.

GETTING A MANDATE

The employee wants her job back and asks you to represent her. You have to stay in touch with this person throughout and get a new mandate if there are changes.

PREPARING AND PLANNING FOR THE NEGOTIATION

- Find out all the details about the dismissal of the employee. Find out how many warnings she received in the past, her length of service, what her job was, whether she was a member of a union, why she thinks she was dismissed, etc.
- Find out about the company, the name of the manager, whether the company has a reputation for treating its employees badly, and so on.
- Plan what you are going to say to the manager when you telephone.

MEETING OR CONTACTING THE OTHER SIDE

- You telephone the manager. You explain who you are representing, and the reasons for your telephone call. You ask for the manager's side of the story. You explain that the employee wants her job back. The manager refuses but makes you another offer - for example, that she will be paid out for the notice period plus leave due, and will be given a positive reference. This is called a counter-offer.
- You do not have a mandate to accept this. You tell the manager that you must go back to the employee.

GOING BACK TO THE PERSON OR GROUP YOU ARE REPRESENTING

- You go back to the employee and explain what the manager has offered. (If you think it is a good settlement you can try to encourage the employee to accept it.) If the employee accepts the offer, you telephone the manager again and say that you agree to the company's offer.

PUTTING THE SETTLEMENT INTO PRACTICE

- You immediately write a letter to the company confirming your agreement.
- If the company does not keep to its side of the agreement, you must meet again with the employee, and decide together what you are going to do.

MEDIATION

Where two conflicting parties cannot reach agreement on the issue causing the conflict, they can agree to ask a third party (a mediator) to help them reach a solution. A mediator is a person who acts as a facilitator between the parties but does not make a decision about who is right or wrong. So, a mediator is not a judge.

The mediator goes on assisting both sides until the parties themselves come to an agreement. If it is clear that the parties are not going to reach an agreement, the mediator might have to withdraw from the process. The parties will then have to find another way to resolve their conflict, for example, by using arbitration or going to court. (See page 125 *Settling disputes outside of court*)

The main job of a mediator is to keep the parties in the negotiation communicating with each other. To do this the mediator must get the trust and confidence of both parties and keep this trust by always being objective. The mediator must try to find out exactly what the problem or conflict is about. When the two sides meet together the mediator must encourage both sides to be realistic about what they want from the other side and what they are prepared to give.

If you are representing a person or group at a mediation you need to prepare for the mediation in the same way as for a negotiation.

EXAMPLES OF ISSUES WHERE YOU CAN USE MEDIATION

CONSUMER COMPLAINTS

You can use mediation or arbitration to solve consumer complaints.

For example, a second-hand TV which you bought breaks down completely after a month. The company that you bought it from refuses to fix it. It is too expensive to go to court, so you could ask the company to agree to call in a third party to act as a mediator between you and the company. This is a cheaper and much quicker way of solving the problem.

DISPUTES IN THE COMMUNITY

Community or neighbourhood disputes such as those between different political groups, or landlords and tenants.

THE CRIMINAL COURTS

In some cases mediation could be used to bring the person who committed the crime together with the victim of the crime, to see whether they can reach any agreement as an alternative to laying a criminal charge.

EDUCATION

Disputes between students and teachers, students and administrators, parents and administrators, and so on.

ENVIRONMENT

Disputes between communities and authorities, for example about dams, waste disposal, land development and so on.

FAMILY OR DIVORCE MATTERS

Family and divorce disputes.

PLANNING A MEDIATION SESSION

You should be flexible when you plan a mediation session. For example, a more informal mediation between two neighbours needs a different approach compared to a mediation between a consumer and a company.

On the next page is an example of a mediation session. This example is for a formal mediation session around a conflict between two organisations, parties or groups. You need to allow time for translation, for each side to caucus (speak among themselves), or to give the mediator time to meet both sides separately.

(See page 665 *Checklist: Mediation code of conduct*)

(See page 666 *Checklist: Tips for mediators*)

OUTLINE FOR A MEDIATION SESSION

1. INTRODUCTION (5 mins)

Explain the structure and aims of the mediation session

2. OPENING OF MEDIATION (15 mins)

Welcome

Introductions

Agreeing to rules and procedures (no interruptions, no aggression, time-out if needed etc)

3. STATEMENT OF POSITIONS (30 mins)

- a. Each side presents their position (their point of view)
- b. The mediator summarises these positions
- c. Allow time for clarifying questions
- d. Allow responses

4. FINDING COMMON GROUND (POINTS THAT BOTH SIDES AGREE ON) (30 mins)

- a. What is each side prepared to do – ask for practical suggestions and possible solutions
- b. Take responses to these suggestions
- c. The mediator summarises the common ground and adds alternative solution.

Note: if there is very little common ground at this point, this might be a good time for the mediator to speak to both sides separately and in private

5. REASSESSING AGREEMENT (10 MINS)

Give both sides a chance to caucus on how they feel about suggested solutions

6. REACHING AGREEMENT (30 MINS)

- a. Ask each side to briefly repeat their position and say what they feel about the possible solutions
- b. The mediator goes over the common ground and summarises any points of agreement
- c. Encourage agreement on the remaining points
- d. Write down and read back whatever agreement is reached

7. CLOSURE OF MEDIATION (15 MINS)

- a. Discuss the way forward, including the enforcement, monitoring and publicising of the agreement, and the need for future meetings
- b. Thank everyone

ARBITRATION

In an arbitration, a third party, acceptable to both parties, is called in to help the parties resolve the conflict. The difference between an arbitration and a mediation is that in an arbitration, the arbitrator is called on to make a decision about who is right or wrong. In other words, the arbitrator acts like a judge. The arbitrator chairs the hearing at which both parties are present, listens carefully to both sides of the story, listens to any witness, and looks at any documents which might be produced as evidence. He or she then goes through all the evidence and decides who wins the arbitration. The arbitrator writes down the reasons for his or her decision in a judgment and gives this to the parties.

Before the arbitration takes place the parties should agree in writing on the parameters of the arbitrator's powers. For example, will the arbitrator's decision be

final or will there be a right of appeal. Usually the parties agree that the decision of the arbitrator is final. This means the parties must obey this decision and the losing party cannot appeal against the decision.

An arbitrator should use proper legal principles to interpret the evidence, but the arbitration process is not as formal as in a court.

(See page 232 Arbitration by the CCMA or Bargaining Council)

FACILITATION SKILLS FOR COMMUNITY EDUCATION AND TRAINING

Community education usually takes place in interactive workshops where the person running the workshop acts as a facilitator rather than a trainer.

BASIC GUIDELINES FOR RUNNING A WORKSHOP

- **Everyone must understand the aim of the workshop**
Ask the question: *'What are you trying to achieve with this workshop?'*
- **Build on people's own experience and understanding**
People want to have a better understanding of things that are a part of their lives, so sharing their own experiences must be part of what they learn. So, when you introduce a new idea, you must link it to things that people know about.
- **Formal inputs should be kept very short**
Formal inputs which are too long can become very boring. There are many interesting ways of passing on information to people – for example, role-plays, problem-solving exercises, debates, videos and demonstrations.
- **Everyone must understand the language used**
It is much better to talk to people in their home language. If this is not possible use plain language and translate if necessary.
- **Everyone must have a chance to talk and participate**
People learn better when they take part in the action. It is harder for people to participate in big groups. To keep people's concentration, use methods that involve people, such as small group discussions and buzz groups.
- **Let participants give direction on follow-up work**
After the workshop you may need to do follow-up work or more workshops. All the people taking part should help you assess the workshop to decide whether there is a need for follow-up work or workshops, and how this should happen.

PLANNING A WORKSHOP

You can plan and structure a workshop according to the following guidelines:

1. Aims

Why are you running the workshop?

What are its aims?

Workshops must be planned so that they have direction and also so that something practical comes out at the end.

2. Participants

Who is the workshop for?

How many people will come?

If it is a big group, then you need to plan for smaller group sessions during the workshop. A group of more than 30 people is difficult to handle and makes it harder for everyone to participate in a way that is meaningful to them.

3. Language (link to point 2)

Which language or languages will you use?

What level of language will be best for the workshop?

Will you need translation? Who will do the translating?

Translation takes a lot of time and skill. It must be planned and not left to the last minute.

4. Time and venue (link to point 2)

When is the best time for running the workshop?

How long should it run for?

Where is the most suitable venue?

Work out what facilities you will need, for example enough room or quiet smaller spaces for small group work. People should always be able to sit around in a circle at the venue. Make all the practical arrangements, for example, booking a venue, catering, seating arrangements, transporting the participants, having a crèche for children, and so on.

5. Content (link to points 1 and 2)

What will you cover in the workshop and in how much detail?

You can divide your workshop into the following sections:

- a. **The beginning:** This includes your welcome, your own and the group introductions, establishing ground rules for the workshop, looking at peoples' expectations.
- b. **The middle:** This is where you deal with transferring knowledge and/or skills to people. Remember, people learn by practicing what they have heard or learnt. You need to make time in your workshop for people to practice using the information they have been given or shared. For example, if you are running a workshop on mediation skills, you need to explain the theory to people and then give them time to practice the mediation process.
- c. **The end:** This includes your summary of the workshop, evaluation by participants and your own concluding remarks.

6. Methods (link to point 5)

How will you get the message to people?

What workshop methods will help you to achieve this?

Decide how much time each part of the workshop will need.

(See below Workshop methods)

7. Facilitators and resources

Who will run the different parts of the workshop?

What resources will they need to run the workshop effectively?

Prepare the resources you will need in the workshop, for example, inputs, small group questions, handouts, charts, and so on.

WORKSHOP METHODS

These are some examples of workshop methods.

Introductions

Go-arounds – In a go-around everyone in the circle gets a chance to speak, for example, to introduce themselves, saying their name and organisation.

Wordwheels – Ask people to stand in two circles of equal numbers, one inside the other, so that each person in the inside circle faces someone in the outside circle. Ask people to introduce themselves to each other. After a minute or two, you ask the outside person to move one place to the right. Then ask people to do a second introduction or to say something about themselves or their work.

Icebreakers – Icebreakers are ways of getting people to loosen up and relax. For example, ask people to shake hands and introduce themselves to everyone in the group in two minutes. You can also try things like singing, playing games or warm-up exercises.

Expectations – Ask people to say what they want out of the workshop (their expectations) using the go-around or wordwheel method.

Finalising the programme – After hearing the expectations of the participants, summarise the aim of the workshop. Then go through the workshop programme (structure) which should already be written up on newsprint on the wall. Allow some time for questions or changes that people may want to make.

Big group (plenary) methods

Formal inputs (talks or lectures) – A talk by one person should not go on longer than 15 or 20 minutes. The input can be split between two people. Inputs should be kept as simple and practical as possible, and use charts, handouts and plenty of examples.

Big group (plenary) discussions – There are different times in a workshop when you can have a big group discussion, for example, after small groups report back, or when the big group must decide on something. In a big workshop, it is better to keep the time for big group discussions short and to make more use of different small group methods

Speaking from experience – Ask one of the participants to talk about his or her direct experience of the issue or problem you are discussing in the workshop.

Case-study input – Give a short input on how a particular problem or issue was handled before and on what lessons can be learnt from this experience. If available, use photos, press-clippings or videos to explain the case-study.

Drama – A prepared and well-practised play (drama) is a good way of highlighting particular issues or processes, for example, acting out the steps involved in a forced removal.

Role-play – The role-play can also be used to act out everyday problems. A role-play is different from a drama because you get people in the workshop to act a part without letting them practise beforehand. Afterwards you assess their responses to being thrown into a situation. For example, role-playing a house being raided.

Debate – In a debate you make people take up different positions on a particular issue or proposal. Have a discussion after the debate and give each side an equal chance to answer the points that came up in the debate.

Buzz groups – In buzz groups you ask each person in the circle to turn to both their neighbours and to discuss something for a short time (usually 5 or 10 minutes). Then from the chair you do a quick go-around to get feedback by asking someone from each group to report back one point, and then other groups to only add on new points.

Wordwheels – You can also use the wordwheel method to discuss questions in a big group.

Small group methods

Small group discussions are an important part of all workshops.

After any long presentation (for example an input, role-play or drama), break people up into small groups to discuss what they saw or heard. Small groups should have no more than 8 people. Give small groups at least 30 minutes for discussion. It is better to give groups one or two clear questions to discuss rather than a long list of questions.

Facilitating small groups – A facilitator is a 'group leader'. Each group should have

a facilitator who has been part of the workshop planning and who is clear on the questions the group has to discuss. Ask someone else in the group to take notes and to report back in the big group later on. The facilitator makes sure that everyone gets a chance to speak, that people stick to the topic and that people do not interrupt each other or get involved in one-to-one discussions.

(See below Guidelines for facilitating small groups)

Floating – While people are discussing in small groups, it is a good idea to have one or more of the workshop organisers moving about from group to group checking if everyone is clear on the questions, and, later on, reminding people how much time they have left.

Reporting-back – There must always be a full report-back from each of the small groups. Ask the report-back person to report back in a lively way. The main points only should be summarised.

Write on newsprint the main points that each group reports. You can also ask each group to write a very short summary of their discussion on newsprint. Put this up for everyone to see.

These are methods you can use to improve small group discussions:

Go-arounds – The go-around method works very well in small groups. Go around in the circle giving each person a chance to talk. Do not let people interrupt or disagree with each other until everyone in the group has had their chance to speak.

Problem-solving and tasks – Give each group a very practical problem or task to work on. Ask the group to give a step-by-step approach to the problem and to write this down on newsprint. Write out the problems or questions for each group on a piece of paper beforehand and give this to the group facilitator. For example, you can ask small groups to develop a short drama around the issue, or to draw a map to explain the layout of an area, or to draw up a chart or pamphlet to simplify some problem or law.

A listening exercise – This is like a debate. You divide the group into two sides. Side A has to motivate for a particular solution, Side B has to motivate against it. Side A presents its argument. Before Side B responds, someone from the group must summarise Side A's argument. Then Side B gives its first argument. Side A must then summarise this point before giving the next argument. The exercise then continues in the same way until the time is up. The main aim of this exercise is to encourage people to listen to the arguments of others and to learn how to summarise important points in a short time.

GUIDELINES FOR FACILITATING SMALL GROUPS

- Be very clear on your role
- Seat the group in a circle
- Get people to introduce themselves
- Check if translation is needed and get a volunteer to help
- Ask someone in the group to take notes for reporting back later on
- Explain how much time you have and how the small group discussion will work
- Introduce ideas and questions – don't enforce your own views
- Keep looking at everyone in the group (eye-contact)
- Be aware of your own voice – don't talk too much or too loudly
- Be aware of the way you approach people in the group – for example, don't intimidate people
- Don't get into arguments or allow them to develop
- Allow and encourage different opinions
- Don't allow people to interrupt each other

- Be firm with dominant people and say that they should allow others a chance to speak
- Give people time to think and to explain what they mean
- Explain or summarise briefly where necessary, for example, with difficult words or concepts
- Check if people understand before going on to the next topic, and allow for further questions
- Use the go-around method to encourage participation from everyone in the group
- At the end, ask the report-back person to summarise to check if everyone is happy with the report

LANGUAGE

The two main problems concerning language in a community workshop situation are what language to use and the level of the language.

Choice of language – Part of your planning for the workshop, should include the language you are going to use and whether you need translation. Translation could be in full, in other words, point by point, or it could be a summary after a whole section.

Level of language – The success or failure of a community workshop can rest on the level of language used. When planning the workshop it is important to identify your workshop audience and what level of language you should aim for. These are some basic guidelines:

- **Structure your input** – have a clear introduction, a list of main points, and a summary or conclusion at the end. Structure your sentences and keep sentences short and simple.
- **Don't use difficult words** – For example, jargon (difficult words that are usually only clear to a certain group of people), abbreviations (words that are shortened), legal words, foreign words, difficult expressions, and so on.
- **Never be impatient** or make people feel that they don't know anything.

Written materials should be easy for the audience to read and understand. These are some of the ways to make written materials easier to read:

- Use short, clear sentences and avoid long paragraphs
- Use point-form, numbering and subheadings
- Use pictures, maps, diagrams, charts – have summaries of main points and even use pictures and charts as a way of summarising
- Use questions and answers
- Use a typeface and print that is easy to read

WORKSHOP RESOURCES

These are examples of workshop resources which can be used during workshops or after workshops for people to take away and read:

- plain language booklets, pamphlets and handouts
- diagrams, charts, pictures, cartoons and maps
- plenty of newsprint to write on and stick on the wall
- videos and other visual material like slides, photographs and press-clips
- training manuals, handbooks and resource packages

EVALUATION AND ASSESSMENT

Evaluation is a process where a facilitator gets feedback from participants about how they experienced the workshop. Assessment is a process for measuring what

participants have learnt and whether they have achieved their objectives (for the workshop).

EVALUATION

Evaluation is about judging the overall value or worth of your workshop. By using various evaluation tools you can get information from participants that will tell you how they experienced the workshop, what contributed to the learning process and what hindered it. This information will help you decide whether the workshop was successful, whether it achieved what you wanted it to, and what the problems were. In this way you can build on your strengths and learn from your mistakes. So, workshop evaluations can be used for different purposes, such as:

- Finding out whether workshop aims have been achieved (from the participant's perspective)
- Finding out how things can be improved during the workshop or for future workshops
- Showing participants that their views are valued
- Giving feedback to donors or other interested parties

What are you evaluating?

Your evaluation will provide you with information about one or more of the following aspects:

- Were the participants satisfied with the workshop
- Did the workshop meet their expectations
- What did participants believe they learnt in the workshop
- How participants experienced specific aspects of the workshop, such as:
 - general flow of the workshop plan (do the activities flow / are people keeping up?)
 - facilitation methods
 - materials
 - practical issues (such as the venue, accommodation, food and transport)
 - the content (is it too complex or should it be simpler / is it relevant to the participants)

When do you evaluate?

As a rule, you should always include some form of evaluation in your workshop plan, either as an ongoing evaluation throughout the workshop, or at the end of the workshop.

The most common form of evaluation is probably the questionnaire handed out at the end of a workshop for participants to complete and hand in. However, evaluation can be included at different stages of a workshop. For example, a 'Mood evaluation' can be done at the same time each day to evaluate participants' moods. This can help you pick up any negative feelings about the workshop early on, and you can try to deal with the issues that are creating the negative feelings.

ASSESSMENT

While evaluation looks at the overall value and worth of the workshop, assessment has to do with measuring what participants have learnt at the workshop. Assessment measures what participants have learnt against set standards. 'Set standards' in a workshop programme are the learning objectives defined at the beginning of the programme. The learning objectives should say clearly what the participants should be able to do at the end of the workshop and the assessment helps to see whether they have actually achieved this.

EXAMPLE

In a workshop on child abuse and human rights protection mechanisms, the learning objectives are for participants at the end of the workshop to be able to:

- *Identify different types of abuse suffered by children*
- *Define the rights that protect children from abuse and neglect and the laws that give effect to these rights*
- *Describe the steps to follow in dealing with cases of child abuse*

So, by the end of the workshop, participants should be able to do what is described in the objectives. They could write a test or complete an assignment to determine whether or not these learning objectives have been achieved.

What do you assess?

In order to see whether participants have achieved the objectives, you will measure one or more of the following:

- What knowledge was gained
- What skills were developed
- What attitudes were changed

EXAMPLES

1. At the end of a workshop on managing an advice centre, participants should be able to:

- *Define a budget (knowledge objective)*
- *Draw up a budget (skills objective)*

Your assessment of the learning in these workshops could be to set a test where participants have to draw up a budget for a specific case-study set or do an assignment where they draw up a budget for a specific project.

2. At the end of a workshop on the rights of refugees, participants should be able to:

- *List the rights that apply to refugees (knowledge objective)*
- *Apply these rights in the work that they do (skills objective)*
- *Explain attitudes of xenophobia and describe how they can change negative attitudes in their community towards refugees (attitude changes)*

Your assessment of learning in this workshop could include a test where participants have to list the rights that apply to refugees, explain how they would apply these rights in their own case work and define positive steps that can be taken to stop discrimination against refugees in their own community

When do you assess?

You do not always have to include assessment in your training workshop. It all depends on the nature and the purpose of the workshop.

NOTE: You need to be cautious if you do decide to include assessment in your workshop. Adults are not used to being assessed and may feel threatened. So, if you are planning to do an assessment you should discuss this with the participants at the beginning of the workshop – they need to understand why it is necessary and how it can help them.

ORGANISATIONS THAT TRAIN AND SUPPORT PARALEGALS

You can find the addresses and telephone numbers for organisations that provide training and support for paralegals on page 675 under Resources.

Establishing an Advice Centre

Paralegals working in advice centres are there to serve the community by giving people easier access to the law and to social services. They will try to help people who have problems by giving them advice, referring them to an organisation that can help them, or taking up the case on their behalf. The role of an advice centre is

to help people learn about their rights and in this way give them the confidence to try and sort out their own problems in the future. It does this in the following ways:

- By identifying the social and health services available to the community, referring people to them and supporting them in this process
- By offering a **free advice service** to people and taking up individual cases
- By running public **education programmes** for volunteers in the office and **educational workshops** for community organisations.
- By encouraging people to resolve disputes through methods which do not involve the law courts, such as negotiation and mediation

An advice centre should have strong links with the community which it serves so that it is always aware of the needs of that community. Usually the management committee of the advice centre consists of members elected by the community. An advice centre should also create useful relationships with other services, institutions and organisations – for example, the magistrates office, different welfare services, and so on.

Factors to consider when setting up an advice centre include the following:

- The role and functions of the committee as the 'manager' of the centre must be defined.
- Identifying the venue for the centre – the venue should be identified with the following in mind:
 - How near and how accessible will the centre be to the community it is aiming to service?
 - How near to other resources in the community should the centre be, for example social services, magistrates' courts, and so on?
 - Whether the venue can be located in existing offices of other organisations, the municipality, etc. so that it keeps the running costs low
- Constitution – what will this include
- Budgets for running the centre
- Long-term sustainability of the centre
- Employing people for the centre and how they will be paid
- Training of employees, volunteers and committee members (where appropriate)

CONSULTING THE COMMUNITY

Setting up an advice centre begins with consultations with organisations in a community. Organisations from the community should meet to discuss the need for an advice centre and to decide on its purpose. The community must decide whether it needs to be serviced by an advice centre, and the organisations must decide whether they will give the advice centre their commitment and support. There must be clarity about how the advice centre will link to the services being offered by other community organisations, municipality and government departments so that there is no conflict or competition for resources.

SETTING UP A MANAGING STRUCTURE FOR THE ADVICE CENTRE

Once the community has decided that they need to have an advice centre, a committee must be elected to set this up. This committee can be called a **steering committee**. Its job will be to set up and guide the advice centre in its early stages before a proper **management committee** is elected. The Constitution must state exactly what portfolios the management committee should consist of, how its members will be elected and its powers and functions, etc.

(See next page A constitution for an Advice Centre).

The following are examples of different types of committees:

Representatives from organisations – The committee consists of people who represent their organisations (in this way the organisations have a direct say in the running of the centre).

Members of organisations – The committee consists of people who are members of organisations (although not necessarily representatives of these organisations). This may exclude certain individuals who could make a valuable contribution to the advice centre, for example, a doctor, attorney, teacher, and so on.

Sub-committees of community organisations – Some communities prefer that the committee be drawn from a particular organisation, for example a civic association or a religious institution. This means that the management committee is directly accountable to the civic or religious institution.

Individuals – The committee can consist of a number of individuals drawn from the community who are broadly accountable to the community either through regular meetings or Annual General Meetings (AGMs), where all organisations are invited.

The type of committee and its accountability to the community depends on the conditions in each area as well as the available resources.

OFFICE BEARERS AND THE WORK THEY DO

In a good structure everyone knows what each person must do and everyone knows what is happening in the organisation, who to ask for what information, and who must do specific tasks. Good structures make it more difficult for a few people to take advantage of the organisation, for example, to control the money.

In organisations such as an advice centre, the management committee consists of office bearers who are responsible for the day-to-day management. This includes the chairperson, vice-chairperson, secretary, treasurer and ad hoc members. To decide what office bearers your committee needs, start by listing the work the committee must do. Then you can decide what office bearers you need to do each part of the work.

Before electing office bearers, it is a good idea to discuss what job each office bearer will do and what kind of person will be good for that job. For example, a treasurer must be able to do basic bookkeeping – understanding bank accounts, writing receipts and so on. Office bearers are responsible for the following tasks:

- The **Chairperson** helps to organise meetings and usually runs meetings.
- The **Secretary** lets people know when and where meetings will be held and takes minutes. (*See page 630 Taking minutes*)
- The **Treasurer** keeps a record of all the money that comes into the organisation and all the money that the organisation spends. The treasurer must ensure that income and expenses are in line with budgets. He or she must keep committee members informed about the organisation's finances and is also responsible for fund-raising.

Sub-committees – These are small committees which are accountable to the management committee. For example fundraising sub-committee, project sub-committee, and so on.

Portfolios – individuals are usually given specific portfolios that they take responsibility for, for example newsletter editor, press liaison person, public relations.

A CONSTITUTION FOR AN ADVICE CENTRE

Before an organisation like an advice centre writes and approves a constitution, it must be clear:

- **Why** the organisation exists, in other words, what its aims and objectives are
- **How** the organisation intends to work – its policies, principles and strategies

These matters must be carefully discussed in order to see whether they are appropriate to the needs of the community. This means an organisation can exist for some time before it is ready to finalise its constitution. A draft constitution can be discussed with the various stakeholders and then finally approved and adopted by the highest decision-making body.

A constitution is a set of rules and regulations that govern the structures of an organisation and how it should function. Organisations need constitutions so that people are clear about:

- The aims and objectives of the organisation (why it exists)
- Who the organisation's key constituency and stakeholders are (who should benefit from its work)
- How the organisation works –
 - the structures
 - the duties of members
 - the duties of elected membership

The Constitution should be clear and simple so that members understand their rights and responsibilities, leaders understand their mandate and how to be accountable and members of the public understand why the organisation exists and how it operates.

In law the constitution is called the 'founding document' and it is legally binding on the executive and members of the organisation.

The *Non-profit Organisation Act* has detailed and clear sections on what needs to be included in the constitution of a nonprofit organisation if it wants to register under the act. (See page 652 *Non-profit Organisations Act (No 71 of 1997)*)

WHAT ARE THE MAIN PARTS OF AN ORGANISATION'S CONSTITUTION?

NAME

The name of the organisation.

AIMS AND OBJECTIVES

- The organisation's immediate goals
- The organisation's broader political or social aims

MEMBERSHIP

- Who may join
- The duties and privileges of members
- What the membership fees are

Some organisations like an advice centre may not be membership-based organisations. so they will not include a membership section.

STRUCTURES AND DECISION-MAKING

- What structures exist
- How they are formed/elected/employed/appointed
- What powers and duties each structure has
- To whom they are accountable

Structures could be:

- General meetings, including an Annual General Meeting (AGM)

- Executive Committee and/or Management Committee
- What office bearers certain structures have, for example the Executive Committee may have positions of Chairperson, Secretary, Treasurer
- Sub-committees
- Employees
- A staff committee
- National structures
- Regional structures
- Branch structures
- Local structures

Decision-making includes:

- What powers and duties each structure or portfolio has
- The notice period required for certain meetings
- What quorum is needed to make meetings constitutional ('Quorum' means that a certain number of members must be present at a meeting if any decisions are to be made. For example, a constitution may say that at least two-thirds of the committee must be present at any committee meeting. Here a quorum will be two-thirds of the total number of the committee.)

MEETING PROCEDURE

- Who will chair meetings
- What type of things will be on the agenda
- How voting will take place
- How minutes are recorded, read and approved

ELECTION OF OFFICE BEARERS

- At which structure or level office bearers are elected
- How office bearers are elected, for example by verbal nomination and show of hands, or by nomination forms and ballot papers
- How the results of the voting procedure are announced
- How vacancies are filled

STAFF

- How staff are appointed
- What positions they hold
- What their duties are
- To whom they are accountable and how they report on their tasks and activities

DISCIPLINE

- What kind of behaviour is expected of members, office bearers or staff
- What kind of behaviour is unacceptable
- When an investigation or disciplinary hearing will be held
- How people may be disciplined

FINANCIAL CONTROL

- Who is responsible for keeping records of all financial income and expenditure
- To whom is that person accountable, for example to an executive committee
- Who can sign cheques
- How often money has to be banked and by whom
- Who has to approve withdrawals from the bank account

- Who must draw up financial statements
- How often these have to be submitted to a controlling structure
- When the organisation's financial year will begin and end
- When and to whom audited statements are submitted, for example to the AGM

AFFILIATION

- To whom is the organisation affiliated
- What responsibilities or duties this carries

AMENDMENTS TO THE CONSTITUTION

- What percentage of the membership is needed to vote in favour of amending the constitution
- How a member or members wishing to propose an amendment go about this

DISSOLUTION

- What percentage of members is needed to vote in favour of ending the organisation
- What decisions must be taken with regard to the organisation's assets
- The appointment and duties of a liquidator (the person who administers the dissolving of an organisation)

A constitution with all these parts would be very long and involved. On the opposite page is an example of a very simple constitution. You must draw up your constitution to suit the needs of your organisation.

EXAMPLE OF A CONSTITUTION

CONSTITUTION OF THE KAROO RURAL ADVICE SERVICE

1. The name of the advice centre is the Karoo Rural Advice Service (KRAS).

2. AIMS AND OBJECTIVES

The aims and objectives of the Karoo Rural Advice Service are to:

- Serve the needs of all people living in the Colesberg area by running an efficient and effective advice centre
- Work with other organisations and people in addressing the problems of residents
- Work with other advice centres who share similar aims and objectives
- Negotiate with the town council, to improve living conditions and public facilities

3. STRUCTURES AND DECISION-MAKING

- The Annual General Meeting (AGM) will be held once a year.
- General Meetings will be held at least once every 3 months. The powers of the General Meeting will be to propose and implement projects and campaigns, to discuss and approve the appointment of staff, and to debate and decide on all issues raised by the Management Committee.
- Management Committee meetings will be held at least once every 2 weeks.

At least half of the Management Committee members must be present.

The Management Committee is made up of a Chairperson, Vice-chair, Secretary, Treasurer and 3 other members. Office bearers will be elected at the AGM. If there are vacancies between AGMs, elections will take place at General Meetings.

The powers and duties of the Management Committee are as follows:

- To look after the finances of the KRAS
- To have the finances properly audited for approval at the AGM
- To take responsibility for the general office administration of KRAS
- To plan the activities of the KRAS in accordance with its aims and objectives

STAFF

Advice employees in KRAS are accountable to the Management Committee for their activities. Employees must submit monthly reports to the Management Committee.

DISCIPLINE

The Management Committee has the right to investigate the actions or attitude of any staff member who acts against the aims and objectives of the organisation.

FINANCES

The Treasurer is responsible for all accounting and money matters of KRAS. The Treasurer must produce quarterly financial statements to the Management Committee. An audited financial statement must be presented at every AGM.

AMENDMENTS

The constitution can be changed by a two-thirds majority of a General Meeting.

DISSOLUTION

Only the General Meeting can dissolve the advice centre.

BUDGETS

WHAT IS A BUDGET?

Income is the money an organisation receives. **Expenses** are the amounts of money an organisation pays out.

A **budget** sets out the amounts the organisation expects its income and expenses to be for a fixed period of time, such as a year. In other words, the budget tells you how much money the organisation thinks it will need to do its work in the next one to three years; where it hopes some of the money will come from, and how much money it still needs to find.

The Management Committee must decide what should be included in the budget. Someone – usually the treasurer – must be given the job of drawing the draft budget up. The Management Committee – or the highest decision-making body – then has to approve this.

Once the budget has been prepared, it needs to be checked and discussed by other members of the executive. Then it must be approved by the trustees, management committee or whoever has authority in the organisation.

- The budget should be presented to the membership, either at the Annual General Meeting or in the Annual Report, and it should be used regularly as a way of monitoring the spending of the organisation.
- Budgets are also an important part of trying to raise money from funders. You cannot fool funders with made-up amounts. Amounts must be properly motivated, either in the funding proposal or in a note with the budget. An example of such a note is 'A motor vehicle is essential for the field employee because the settlements are, on average, 150 kilometres apart, and there is no public transport.'

WHAT PERIOD OF TIME SHOULD A BUDGET COVER?

There is no fixed rule about this. A budget can cover any time from months to years. With an overall budget for an organisation, you need to budget for at least three years. This shows a sense of commitment and continuity.

If you are preparing a budget for more than one year, you must remember to add on a percentage to cover the cost of living increase for each year. This is called 'inflation'. So, if salaries cost R60 000 in 2015, they should cost R66 000 in 2016 if the cost of living goes up by 10%. Find out what the cost of living is by reading

the financial section of the newspapers or by talking to an accountant.

When preparing a budget for more than a year, you need to remember that some projects could expand. The office may also set up new projects, bring out a new publication, get new staff and new equipment.

HOW TO CALCULATE EXPECTED EXPENSES AND INCOME

Before you can work out what your organisation's expenses will be, and how much money you will need, you must be clear about the organisation's objectives, and how you plan to achieve them in the period for which you are preparing a budget.

ANALYSE WHAT THE ORGANISATION SPENDS MONEY ON

Once you are clear about what work the organisation will do for the time the budget covers, you must write down everything that costs the organisation money. Start off with a list of everything you can think of. Afterwards you can put the items into groups or categories.

So your final list could look like this:

STAFF:

salaries
medical aid
pension fund
UIF

ACCOMMODATION:

rent
electricity, water
telephone and ADSL lines
Internet service provider

ADMINISTRATION:

stationery
telephone, fax
postage
bank charges
groceries

TRAINING DEPARTMENT:

transport
food
cost of venues
accommodation for participants

EQUIPMENT:

rent / purchase
repair and maintenance

PUBLICATIONS:

printing costs
distribution costs

When you have worked out what you plan to spend money on, you can work out how much each item and each category costs. You can use your own records to work out the costs.

EXAMPLE

If stationery has cost your Advice Centre R500 per month in the past year in the Ezikweni Advice Centre and inflation is at 10%, what should you budget for in the following year?

$$R500 + 10\% \text{ inflation} = R550 \text{ per month}$$

$$R550 \times 12 \text{ months} = R6\,600 \text{ per annum}$$

But the records show that the number of clients who came to the Advice centre over the past six months increased by 10% every month. This means there will be an increase in spending of approximately 10% on stationery.

The calculation will then look like this:

$$R500 + 10\% \text{ inflation} = R550 \text{ per month}$$

$$R550 + 10\% \text{ increase in spending due to increase in numbers of clients} = R550 + R55 \\ = R605 \text{ per month}$$

$$R605 \times 12 \text{ months} = R7\,260 \text{ per annum}$$

DOING AN INITIAL BUDGET FOR AN ORGANISATION

If this is the first time that your organisation is preparing a budget, you should make a list of the items and categories you think you will need to spend money on.

Remember to include those items which you will need in the beginning, but that you will not have to buy again, such as desks, chairs, kettle, filing cabinets, rent deposit, telephone installation, advertising jobs, computer and printer. This is called **capital outlay**.

Running costs are those costs that you spend on a regular basis to keep the organisation going.

It is important to include a section in your budget on **expected income**. This means the income that you expect to get from your own fundraising, or membership fees and so on.

You are then telling the funder what your needs are, and also how you expect to pay for these needs.

WRITING THE BUDGET

When you have calculated your expected expenses and income, the next step is to write your budget down in a way that is useful for the organisation and for funders.

For the organisation's own use it should be possible to understand, at any time, how amounts were decided upon and what they are.

Motivations for particular items in the budget do not have to be written into the budget, but they can be part of the written proposal, or they can be attached to the budget as notes.

Where you think that something in the budget may be unclear to the reader, it is worth including a note to explain it. For example, when in the first year of the budget you have a fairly small amount, but in the second year it is much bigger, you should have a note explaining the big increase.

WHAT SHOULD YOU SEND WITH YOUR BUDGET TO THE FUNDERS?

If you are preparing a budget to send to funders, you will have to send certain other documents with it. These could include:

- Overall funding proposal
- Project proposal
- Annual report
- Programme of action for the year to come
- Audited statement
- Copies of publications (if available)
- Copies of newsletters (if available)

EXPECTED EXPENDITURE (IN RANDS)		PER MONTH	2015/2016
Administration:	Auditors	250	3 000
	Bank charges	100	1 200
	Travel (work related)	1 000	12 000
	Equipment and repairs	500	6 000
	Rent	1 200	14 400
	Stationery	300	3 600
	Telephone and postage	600	7 200
SUBTOTAL		3 950	47 400
Staff:	Salaries (1 person)	3 000	36 000
	Staff training	500	6 000
SUBTOTAL		3 500	42 000
Publications	Printing	1 250	15 000
	SUBTOTAL	1 250	15 000
Training	Trainer's fee	600	7 200
	Travelling and sundries	300	3 600
SUBTOTAL		900	10 800
OVERALL EXPENDITURE	TOTAL	9 600	115 200
EXPECTED INCOME (IN RANDS)		2015/2016	
Income generated:	Raffle	3 500	
	Evening function	6 000	
Donations:	Membership fees	20 000	
OVERALL INCOME	TOTAL	29 500	

DATED: 1 September 2011

MONITORING YOUR BUDGET MONTHLY

In order to calculate the amount that you can spend each month, you must divide your total annual budget by 12 months. So, for example, if your total expenditure budget is R115 200 per annum, then you should be spending about R9 600 per month.

AUDITED STATEMENTS

An audited statement is the complete record of all your expenditure and income for a year as shown by your bookkeeping system, and checked and approved by a qualified accountant.

Organisations should have their bookkeeping audited (checked and approved by an accountant) at the end of each financial year. The financial year is different from

the ordinary year. It does not go from January to December, but can be from 1st April of one year to 31st March of the next. This will differ between organisations.

The audited statement shows exactly how much money was spent in the year, what it was spent on, where the income came from and whether you spent more than you had, or less. Donors also use the audited statement to check how good the financial management in your organisation is before they give you any more money.

FUNDRAISING

When people give money to an organisation they want to know that there are budgets and structures in place to manage the money properly. Monthly and annual bookkeeping records must be kept to show clearly what money is collected and what money is spent. So, all these things need to be in place before embarking on a fund-raising initiative. It is advisable for an organisation like an advice centre to register with the Department of Social Development as a non-profit organisation (NPO). This gives the organisation credibility with donors and the community. There are also other advantages offered by the government to organisations who do register. We will first look at the Act itself and then at the process of registering as an NPO.

THE NON-PROFIT ORGANISATIONS ACT (NO 71 OF 1997)

The *Non-profit Organisations Act* (the NPO Act) has repealed the *Fund-raising Act* except for chapter 2 of the *Fund-raising Act* which deals with disaster and relief funds.

The *NPO Act* says an NPO is a trust, company or other association of people:

- Established for a public purpose, and
- The income and property are not distributed amongst its members or staff except to pay for a service

So, in terms of the Act, NPOs are civil society organisations (in other words, they are not part of government) that have self-governing boards which are accountable to their owners or members. To summarise, NPOs –

- Provide a public service or have some public purpose that goes beyond serving the personal interests of the members of the npo (such as the promotion of social welfare, economic development, religion, charity, education or research)
- May make a profit, but may not give any of the profits to its members – they can use the profits they make for the work of the organisation
- Often have to fund-raise from donors because they don't make enough money (income) to cover their expenses

The *NPO Act* encourages organisations to register as NPOs with the Department of Social Development. Organisations can benefit from being registered because it formalises the institution and in this way makes them more credible to donors and to the public. There are also certain benefits from government for organisations that register. However, it is not compulsory to register as an NPO in order to exist. Registration is a choice but in the long run it will benefit the organisation.

(See page 693 Resources: NPO registration)

The Act aims to meet these objectives by allowing organisations to register with the Directorate of the Department of Social Development. This is called voluntary registration.

VOLUNTARY REGISTRATION

The NPO Act encourages non-profit companies, trusts and voluntary associations to register with The Directorate in the Department of Social Development. However, organisations only have to register if they want to and if they meet certain requirements, which are:

- it must not operate for profit (it must be a non-profit organisation)
- it must have a separate legal identity to its members

The purpose of voluntary registration is to make NPOs more accountable and transparent to the public by prescribing certain rules on how they must function.

BENEFITS OF VOLUNTARY REGISTRATION

NPOs that register with the Department of Social Development will qualify for certain benefits and allowances from the government. In the future it is possible that the government will not pay benefits or allowances to an NPO unless it is registered with the Department. The following acts also say that NPOs must be registered under the NPO Act in certain circumstances:

- The *Lotteries Act* – if the NPO wants to run a lottery
- The new tax laws – if the NPO receives a tax benefit

HOW DOES AN ORGANISATION REGISTER AS AN NPO?

Before applying to register as an NPO the organisation must check that their founding documents are in order and meet the requirements of section 12(2) of the NPO Act.

The founding documents are:

- The constitution for a voluntary association
- The deed of trust for a trust
- The Memorandum and Articles of Association for a section 21 company

NPOs should then send two copies of their founding documents together with the application form to the NPO directorate.

DUTIES OF AN NPO THAT HAS REGISTERED

Once an NPO has registered with the department, it must follow certain procedures. The most important procedures are:

- To keep all accounting records
- To draw up financial statements within six months of the end of the financial year (these must include a statement of income and expenditure and a balance sheet)
- To arrange for an accountant to compile a written report within two months after drawing up its financial statement. The report must say that the financial statements are consistent with the accounting records and that the NPO has complied with all the financial reporting requirements of the NPO Act.

TAX LAW FOR NPOS

The *Tax laws Amendment Act No 30 of 2000* has amended the *Income Tax Act No 58 of 1962* (the Tax Act). There are two main tax benefits for NPOs under the Tax Act:

- Income tax exemption – the NPO doesn't have to pay any tax on its income
- Donor tax deductions for people or bodies that donate money to the NPO

HOW TO REGISTER AS A NON-PROFIT ORGANISATION (NPO)

An NPO can be a non-profit company, a trust or a voluntary association of persons.

An organisation that is not-for-profit can be set up as a non-profit company. A non-profit company is similar to a normal profit company but it is not allowed to operate to make a profit and it can't share the profits out amongst the company members.

Large organisations which run big programmes and budgets and have got lots of staff usually set up a non-profit company. It is a difficult structure to set up because there are complicated procedures and legal requirements to follow.

Non-profit companies have a separate or independent legal identity which is distinct from its members. This means –

- The organisation, not its members and staff, are responsible for the organisation's debts, contracts and other legal responsibilities
- The assets of the organisation are in the name of the organisation, not its members
- The organisation carries on with its work even if its members or staff change
- The organisation can sue, be sued and enter into contracts in its own name

Who runs a non-profit company?

A company consists of members and directors. The members appoint the directors who have executive powers. The directors are responsible for the day-to-day running of the company.

How do you form a non-profit company?

All companies, including non-profit companies, are registered with the Registrar of Companies under the *Companies Act*. To register as a non-profit company your organisation must:

- Be established for a lawful objective
- Have as its main objective the promotion of religion, the arts, science, education, charity, social activity or a communal or group interest
- Only use its income and property to promote the main objective
- Not distribute its money or property to the members or staff, unless they are being paid for work they have done
- Appoint official auditors
- Keep financial and accounting records
- Hold an annual general meeting

The memorandum and articles of association for a company

The founding documents for a non-profit company are the memorandum and the Articles of Association. The memorandum sets out the purpose of the NPO and the Articles of Association say how it will work.

TRUSTS

An organisation can be set up as a Trust under common law and the *Trust Property Control Act No 57 of 1988*. It is easier to set up a Trust than a section 21 company. A trust is a written arrangement between an owner and trustees. The owner hands over property and/or funds to a group of people (called trustees) who look after the property and funds and use it for the benefit of other people (called beneficiaries) for a specific objective.

Who runs a trust?

A trust is run by a Board of Trustees. A deed of Trust will say what the powers and duties are of a trust. Trustees can be paid for the work they do for the NPO.

Which laws govern trusts?

Trusts are governed by the common law and the *Trust Property Control Act*.

Trusts do not have a separate legal personality. If there is a legal dispute, the trustees, not the trust, can sue or be sued. The property of the Trust is protected

and the *Trust Property Control Act* says trust property must be kept separate from the trustees' personal property. Trusts must have their own bank accounts.

How do you form a trust?

A notary public must write and attest your trust deed and the trust must be registered with the Master of the High Court. If there are any changes to trustees at any stage, then the Master must be given notice of this.

The trust deed

The trust deed is the founding document of a trust.

Registering as a trust under the NPO Act

If a trust registers as an NPO under the NPO Act (in addition to registering with the Master of the Court) it will become a body corporate with an independent legal personality.

VOLUNTARY ASSOCIATION

This is the easiest and simplest structure to set up and manage. It also has the same powers and can do the same thing as a trust or non-profit company. A voluntary association can be set up when three or more people enter into an agreement to form a non-profit organisation. Voluntary associations are best suited to small community-based organisations that do not need to own or manage large amounts of money or property and equipment. For example, a school parent association.

A voluntary association is the quickest and cheapest structure to set up.

Who runs a voluntary association?

There is usually a constitution that provides for the appointment of a group of people with executive and/or management powers.

Which laws govern voluntary associations?

The common law and the *Communal Property Associations Act (No 28 of 1996)* govern voluntary associations.

If you want to make a voluntary association an independent legal personality, the law says the constitution must specify that:

- The organisation will continue to exist even if the membership changes
- The assets and liabilities (debts) of the organisation will be held separately from those of its members

How do you form a voluntary association?

You can form a voluntary association by having a written or verbal agreement. There is no government registry that you have to register with but you can register under the *Non-profit Organisation Act*.

The constitution of a voluntary association

The written agreement of a voluntary association is called the constitution. These are the rules which say how the organisation will run. It also says what its main purpose and objectives are, who will make the decisions and how decisions will be made.

The constitution of a voluntary association will usually have detailed and clear sections on:

- The purpose of the organisation
- The objectives of the organisation – what it wants to achieve
- The type of organisation it is: for example, non-profit voluntary association

- The membership of the organisation – who may become a member and the rights and duties of members; how people can join, resign or be expelled
- The structures and main procedures of decision-making in the organisation:
- Annual general meetings and other meetings
- Elections and appointments for the different structures of the organisation
- Their powers and functions
- Who makes what decisions
- How the organisation is governed and how decisions are made
- How it is organised to get the work done
- The roles, rights and responsibilities of people holding specific positions and of the different structures: what individuals and structures are responsible for, to whom must they account.
- How the finances and assets of the organisation are controlled
- Financial year and audit process
- Closing down the organisation – what process must be followed and what will happen to the money and assets of the organisation.

Registering as a voluntary association under the NPO Act

If a voluntary association wants to register as an NPO under the NPO Act it will have to follow the requirements set out in the Act. It can be an advantage to register under the NPO Act because funders generally prefer to work with organisations that have been formally and legally recognised. NPOs that have registered under the Act also have access to certain government benefits.

GUIDE TO CHOOSING A STRUCTURE FOR AN NPO

The following factors are guidelines to help you choose a structure for your organisation.

Size, capacity and complexity of your organisation – Large organisations with big programmes and budgets will usually set up a non-profit company. Smaller organisations will usually set up a trust or voluntary association.

Funder's needs – People funding the organisation, for example, overseas funders or government may prefer a particular structure. For example, corporate (business) funders usually prefer organisations to be non-profit companies.

Paying tax – It doesn't matter which structure you choose. This does not affect the amount of tax your organisation might have to pay. The factors that influence your tax status are the purpose, objectives and activities of the organisation.

Registering with a government registry – Only non-profit companies and trusts have to register with a government registry. The advantages of doing this include:

- There are rules and regulations which organisations have to follow if they are registered, this helps to make things clear to those inside and outside the organisation
- Organisations have to be accountable to the public which means all stakeholders, for example, donors, people benefiting from the organisation's work, the general public and the government are aware of how money is being spent by the organisation

RAISING FUNDS THROUGH FUND RAISING ACTIVITIES

Each office should have an income plan for at least three years which includes a range of activities, including fundraising.

- Most organisations with members have a membership fee called a **subscription or membership fee**.

- You can **charge a fee** for some or all of the services you provide. You can do this on a sliding scale of affordability.
- You can have public **fundraising** events, such as raffles, parties or suppers, cake or jumble sales, fairs, and so on.
- You can ask for **donations** of money or things (for example office equipment, or items to be prizes for fundraising events) from religious bodies, businesses or other organisations.
- You can approach large local and international funders as well as government. To do this it will be necessary to draw up a funding proposal.

STEPS IN PLANNING A FUNDRAISING EVENT

- | | | |
|---|-----------------------------|---|
| 1 | WHAT TO DO? | <ul style="list-style-type: none"> • Decide how much money you want to raise • What resources do you have available? (time, money, people) • How much is the event going to cost you to run? |
| 2 | WHEN TO DO IT? | <ul style="list-style-type: none"> • Decide on a date for the event • What time of the day will the event take place? |
| 3 | WHERE TO DO IT? | <ul style="list-style-type: none"> • What venue will be suitable? • Is the venue easy to get to? |
| 4 | WHAT EXTRAS TO OFFER | <ul style="list-style-type: none"> • Will you offer refreshments? • Will you offer a place where people can leave their children? |
| 5 | PUBLICITY | <ul style="list-style-type: none"> • What kinds of publicity will you use? (pamphlets, posters, banners, stickers, newspaper advertisements, radio, and so on) • Where will you advertise, for example where will you distribute your pamphlets? • When will you advertise? |
| 6 | WHO DOES THE WORK? | <p>You will need people to do the preparation work and to work on the day. Without committed employees no fundraising event can be a success. There must be a co-ordinator who takes overall responsibility. But there are also hundreds of small jobs and the co-ordinator cannot do them all. The co-ordinator must delegate many of the jobs. His or her job is to make sure that everyone else does what they promised.</p> |
| 7 | EVALUATION | <p>When it is all over the money is counted. Then it is important to ask:</p> <ul style="list-style-type: none"> • What did you do right? • What did you do wrong? |

WRITING A FUNDING PROPOSAL

Funding proposals can be written for the organisation as a whole or for specific projects initiated by the organisation. Funding proposals can be found in newspapers, on websites, or sent via email from other organisations. It is therefore very important for the advice centre to be registered on the databases of other organisations, such as provincial forums, government departments and funders.

Calls for proposals will often provide specific guidelines and details of the information to be provided. Sometimes, donors will ask for an expression of interest before inviting a proposal.

Here is a list of things that should be included in a funding proposal:

- **Name and address** of your organisation
- **Background and motivation** (why you are asking for funds)
Give the reader (funding agency) some information about when the organisation was formed and why it was formed. It is always useful to include figures in your motivation for funding, for example, if you are asking for funds for a literacy programme, state that there are 9 million people in your country who cannot read.
- **Aims** of your organisation
- **Description of activities** for the past year or two
Send your annual reports
- **Plans for the future** – include specific outcomes for what you intend to achieve in year 1, year 2 and so on
- **Timelines** – give details of when you intend to start with implementation of specific activities and how
- **Organisations you have worked with or intend working with**
- **Description of the structure** of your organisation
- **Income**
 - money received in the past from different agencies
 - money receiving now
 - ways in which the organisation has raised money itself
- **Budget**
List the expenses and income you think you will have in the next year.
(See page 648 *Budgets*)

Send your proposal with a **covering letter**.

If you receive funding, always send letters of thanks.

EMPLOYING PEOPLE IN AN ORGANISATION

When an organisation employs people, it wants employees to have a clear idea about what the goal of the organisation is, and a commitment to fulfilling it. The employee must be clear about the job that he or she is expected to do. The organisation must also ensure that it has performed all its duties as an employer, for example, having registered employees for UIF, SITE and PAYE.

(See page 545 *Registrations as a new employer*)

(See page 180 *The contract of employment*)

The basis of the relationship between an employer and an employee is the **employment contract**. This is an agreement that spells out what the organisation expects the employee to do, and what the employee can expect from the organisation.

GUIDELINES TO DRAWING UP AN EMPLOYMENT CONTRACT

1. State who the employer is and the employee.
2. State the day on which the employee will begin work.
3. Describe the expectations that the organisation has of the employee, such as:
 - job description and performance standards
 - promoting the best interests of the organisation
 - discretion and confidentiality
 - use of time, equipment and materials
4. Describe the conditions of employment:
 - salary

- office hours and employment
- notice: termination of employment
- leave: ordinary, maternity or paternity, sick, study, or long leave
- fringe benefits: provident or pension fund, medical aid, staff loans, housing subsidies
- travelling expenses, including the use of private car for work purposes
- grievance and disciplinary procedures
- redundancy policy
- staff training and development

A formal contract of employment must be shown to the new employee. Both the new employee and the committee (or representative of the committee) responsible for running the office and making employee appointments must sign the contract.

DRAWING UP A JOB DESCRIPTION

A job description sets out the specific duties and responsibilities that go with a staff position, the skills and qualifications required for the position, and the person or structure to whom the person filling the position is accountable. The first step in drawing up a job description is to analyse exactly what is involved in the job. The second step is to write it up following certain guidelines.

Analysing the job means looking at:

- All the tasks involved in the job
- All the knowledge and skills needed to do the job properly
- The relationship of the job to other jobs in the organisation

Guidelines to writing a job description

Include the following in a job description:

- The title of the job
- A brief statement about the purpose of the job
- The responsibilities of the job, listed in order of importance
- The tasks involved in fulfilling the responsibilities. As far as possible, you must say:
 - the proportion of time to be spent on each task
 - the minimum standard that is acceptable (for example, typing at 40 words a minute)
- A person specification, which states what kind of person should be employed for the job

A person specification covers two areas:

- skills, education levels, experience, abilities (for example, language abilities) needed
- personal and physical attributes needed. In other words, things that would suit your organisation and the staff already working in it
- Conditions under which the person doing the job must be able to work. This includes for example having to work weekends or nights.
- The management structures and lines of accountability, and how the person doing the job described fits into them

DISCIPLINE AND TAKING DISCIPLINARY ACTION

Discipline is any action taken by the managing committee to change unacceptable behaviour or job performance of an employee who works for the organisation.

Below is an example of a formal notice to tell an employee that she or he must come to a disciplinary enquiry. The notice can be changed to suit each organisation's own needs.

Employees have to work and behave according to the standards set by the organisation's Constitution and the contracts of employment. If an employee does not work according to these standards action must be taken to correct and improve the employee's performance. But if the employee's conduct or performance is very bad, the organisation may decide to dismiss the employee. Before the organisation decides what action to take, the employee must get a chance to present his or her case fully.

The organisation might decide to take any of the following kinds of disciplinary action:

- Formal counselling
- Recorded verbal warnings
- Written warnings
- Suspension without pay (as an alternative to dismissal)
- Dismissal

The type of action taken by the organisation depends on how serious the employee's action was, and anything else in the employee's favour or against the employee. If the employee's actions seem serious enough to allow for dismissal, then the organisation must follow legal procedures.

(See page 222 What is a dismissal; page 223 When is a dismissal fair or unfair?)

(See page 229 Solving disputes under the LRA)

Every organisation should also have a simple Grievance Procedure that employees can use if they have a problem at work and they feel that it cannot be dealt with at a committee meeting.

EXAMPLE

NOTICE OF A DISCIPLINARY ENQUIRY

To:

From:

Today's date:

A disciplinary enquiry will be held on at o'clock
at

The enquiry is about the following alleged offence(s):

1.....

2.....

Please note that you have the right to:

- | | |
|----------------------------|-----------------------------|
| 1. a representative | 5. plead in mitigation |
| 2. call your own witnesses | 6. an interpreter |
| 3. ask questions | 7. appeal against a penalty |
| 4. give evidence | |

..... CHAIRPERSON DATE

..... EMPLOYEE DATE

Witnesses 1. DATE

2. DATE

EVALUATING THE ACTIVITIES IN AN ORGANISATION

Evaluation means measuring the value of what the organisation is doing. It is a way of stepping back from our work and asking ourselves: 'How are we doing? What should we change to do better?' Different people have different ideas of progress and problems. At an evaluation session, people come together to share their ideas in an organised and planned way.

When we evaluate, it is much easier to make decisions about the future of the organisation. For example, after an evaluation it may be clear that the structure of the organisation is not working very well. Therefore, the structure will have to be changed. It may become obvious after an evaluation that the work methods being used by the employees of the organisation are not very effective. People will then have to think about ways of improving the effectiveness of the organisation.

Here are some examples of questions that can be part of an evaluation:

- What has been achieved in the time between this evaluation and the last one?
- What aims have not been achieved?
- What needs to be continued, changed or stopped?
- What are the organisation's strengths and weaknesses?

The reasons why we evaluate can be seen from the different reasons given around this 'wheel':



WHEN TO EVALUATE

Evaluation is usually an ongoing process. This means that a day (or more) is set aside for evaluation at regular times in the year, or maybe only once a year.

Sometimes if employees have been working on a specific project, then it is worthwhile to make time for an evaluation after the project has been running for a while.

WAYS OF EVALUATING

There are many different ways of evaluating in a group. The aims of evaluating should be to encourage everyone to join in actively and to get out the information and ideas that will help the organisation understand its problems in a way that will make everyone feel motivated to do something about them. Evaluations should show the strengths and weaknesses of the organisation.

CHECKLISTS

Best practices for paralegal case-employees

The contents of this checklist are adapted from the *Policy and Procedure* manual of the Black Sash. Many of the points have been summarised or changed to make them more general. You will probably still find that the practices given here do not all apply to your organisation. Use this as a guide and adapt it to suit your own needs.

ATTITUDE

- Should be willing to go the extra mile for advice seekers
- Advice seekers problems are seen as part of a bigger socio-economic problem which needs action from individuals as well as at a collective level
- Dedication and commitment to work
- Understand the core values of the organisation
- Understand what it means to empower somebody
- Have a vision of a society based on a respect for human rights

CASE-WORK KNOWLEDGE

- Know the material in the *Paralegal Manual* and can work with it
- Can give information to advice seekers based on the following primary laws:
 - COIDA
 - Labour Relations Act
 - Basic Conditions of Employment Act
 - Social Assistance Act and the Regulations
 - Prevention of Family Violence Act
 - Maintenance Act
 - Divorce Act
 - UIF Act

REMEMBER

These are just examples; you must write down the laws that are relevant to your organisation's work.

Understand the following and work with them:

- Constitution of South Africa
 - Welfare White paper
 - Socio-economic rights
 - GEAR (government's economic policy)
 - Know the problems experienced by rural advice seekers
 - Know and understand how to use the State institutions supporting democracy (for example, the SA Human Rights Commission, Public Protector, etc)
- Able to identify, contact and refer to the process of -
 - Legal aid
 - Insurance Ombudsman

- Pension Fund Adjudicator
- Consumer institutes
- CCMA
- Independent Complaints Directorate of SAPS, Correctional Services and other sectors
- Key bargaining councils of five main sectors presenting to the advice centre
- Small Claims Court
- Magistrate's Commission and public prosecutions appeal divisions
- Know how the office administration system works in respect of:
 - Administration systems
 - Budgets
 - The need for co-operation amongst staff
 - The need for honesty

INTERVIEWING AND COMMUNICATION SKILLS

My interviewing and communication skills need to be excellent so that I can:

- Present advice seekers with options to their problems which they can easily understand and suggest action to deal with problems which is in the advice seekers' best interests and not what I think is best for them.

CASE-RECORDING SKILLS

My case-recording skills need to be accurate and people must be able to read what has been written.

KEEPING MY OWN RECORDS

- I know how to record problems on the computer
- The monthly print-out of problems accurately reflects my work
- I am up to date with recording cases on the computer
- I record any meetings attended

REFERRALS PROCEDURE

I can refer advice seekers to appropriate structures when necessary and appropriate and I send a professionally prepared report with any advice seeker when I refer them.

EFFECTIVE USE OF TIME

I ensure that time-wasting is cut to a minimum.

FOLLOW-UP

My follow-up of cases is well planned, proactive and consistent, for example, recording dates to follow up, and making appointments when necessary.

CLOSING CASES

I follow up with advice seekers to make sure that I can close a case.

ADMINISTRATION

- My writing is clear for all to read

- My notes are filed in order of date received
- The name of the person is clearly written at the top of the file
- I put the files where others will know where to find them
- All letters have spelling and grammar checked
- All faxes have the fax record stapled to the letter

IDENTIFICATION OF MY LEARNING NEEDS

I am able to identify areas where I am weak in knowledge. I feel free to acknowledge this and will either find the information myself or will ask other staff members for advice.

USING DIFFERENT REMEDIES

I am able to know what remedies to use to deal with different cases.

ANALYSING TRENDS IN CASE-WORK

I can identify common problems of advice seekers, identify what is causing the problem and make the necessary interventions to deal with the problems.

REFERRING CASES TO COURT

- I can identify good test cases that should be referred to court and understand the legal problem involved
- I have kept a file of all the documentation and work done
- I have explained to the client what action will be taken and the possible outcomes
- I will frequently follow up the case with the attorney

MEETINGS WITH OTHER PEOPLE AND ORGANISATIONS

- I must work with members of my organisation and within the organisation's strategy when planning a meeting and inform them who will be attending
- I must prepare in advance and decide on priorities
- I must be on time
- I must send a follow-up letter to the person thanking them for the meeting and summarising what was agreed and prepare a report for my organisation

Preparing for monitoring

This is a checklist to prepare yourself for monitoring public events or incidents like police conflict, community conflict, and registration and voting for elections:

KNOWLEDGE

What are your rights as a monitor; the procedure for making complaints; where the nearest police station is; the background to the event; what the area looks like; names of organisations working in the area, and services you can call on for support.

EQUIPMENT

Stationery for recording the event; incident sheets; useful contact numbers; your ID; money, and a camera.

DRESS

Dress appropriately with an armband or identification card to identify you as a monitor, but no activist badges or t-shirt.

PLANNING AND TEAMWORK

Know the plans for the event and establish a communication network within your organisation, and with other organisations.

Monitoring follow-up

- After monitoring a public event report back verbally to your co-ordinator or organisation, and prepare a written report to submit to your organisation
- Take necessary action steps, for example, go to the police station, find witnesses or go to the hospital or clinic
- Co-ordinate with other organisations or structures and liaise with the media
- Hold a debriefing session in order to give all the monitors a chance to talk about what happened

Mediation code of conduct

This is a checklist of rules and procedures which you can get each side to agree on before you start to run a mediation session:

- Trust and respect for the chairperson (who will be the mediator) and the mediating team (if there is more than one person)
- Should there be translation and who should do it?
- Is the venue secure and neutral?
- Do the chairs and tables have to be re-arranged?
- Size and leadership of delegations.
- Should observers be allowed?
- Agree to behave in a polite and disciplined manner.
- No interrupting of other speakers.
- No verbal abuse and shouting.
- No physical intimidation (for example, pointing) and violence.
- No presence and carrying of weapons.
- Should smoking, drinking and eating be allowed?
- No distracting behaviour, for example, caucusing while the other side is speaking.
- How long should the sessions be?
- Equal time for each side to speak and who should speak first.
- Opportunity to caucus and consult when necessary.
- How should the mediation be minuted?
- What parts of the discussion should be confidential?
- How should the agreement be reported back to members?
- Should the outcome of the mediation be publicised and how?

Tips for mediators

This is a checklist of things you can do as a mediator to make a mediation session run better:

- Explain that the purpose of mediation is to get the two sides to discuss their points of view and to get a voluntary agreement between the two sides
- Apply the rules and procedures that both sides have agreed on to both sides equally.
- Always stay impartial by keeping your personal opinions to yourself and be careful of the way you address people. For example, if you call people 'comrade', or 'ladies and gentlemen', will this suit all the people who are there?
- Be aware of personal tensions between the sides. If possible, try to get these out of the way before going on, or at least stress that people should avoid being personal
- Encourage each side to listen and to keep a note of questions and comments
- Give each side a chance to state their position fully before allowing questions and answers
- Give each side a chance to start off speaking, and then alternate this (this means give each side a chance to speak first)
- Announce the time allowed for each speaking turn, for example, 5 minutes each
- Inform people when they have one minute of speaking time left
- Whenever it is useful, summarise the main points and ask both sides if they are happy with your summary
- Make notes of questions asked and practical solutions suggested
- If a speaker makes very general or vague points or accusations, encourage the speaker to be more specific
- Try to encourage agreement on easier and less heated issues first
- To encourage both sides to compromise, suggest that for mediation to succeed, a 'give-and-take' attitude is needed, rather than a 'winner-take-all' approach
- If one side admits something or makes a compromise, then encourage the other side to respond
- If things are very heated, suggest a short break, or ask the sides to hold the particular issue till later
- If there is a deadlock (no progress on an issue), try to break it by speaking separately to each side
- If one side says something important in the separate meeting with the mediator, encourage them to say it directly to the other side
- To start moving to an agreement, link the different solutions suggested by either side and add alternative solutions from the chair (especially solutions which make both sides do something, for example, both sides agree not to attack members of the other side)
- When drawing up an agreement, first list the things that force both sides to do something. Then list the different things that each side needs to do, alternating them (that means, first one from side A and then one from side B). Lastly, write down what will happen if anyone breaks the agreement.