

## **Introduction to Paralegal Studies**

Only study guide for PAR1501

DEPARTMENT OF JURISPRUDENCE  
UNIVERSITY OF SOUTH AFRICA, PRETORIA

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Dear Student

Welcome to the module, **Introduction to Paralegal Studies – PAR1501**.

We are sure that you are very excited to embark on the first step to becoming a *paralegal*. This module is your first module dealing specifically with the career you have chosen. In this module we will introduce you to paralegal practice.

You probably fall into one of the following three groups:

- You have not worked in a legal environment and would like to know more about a paralegal career.
- You have worked in a legal environment and want to develop more skills.
- You have not decided which specific legal career you want to follow and hope that this field of study will help you to learn more about the legal profession.

Before you can study the legal subjects necessary to become a paralegal, it is very important for you to understand what a paralegal is and what paralegals do.

The following are the most important questions to consider:

- What is a paralegal?
- What is the difference between a paralegal and a lawyer?
- What is the role of the paralegal in legal practice?
- Where do paralegals work?
- What do paralegals do?
- How are paralegals regulated?
- What skills should a paralegal have?

In South Africa, paralegal practice is quite a new career and is still in its developing stages. This means that some of these questions still need to be answered. In this module we will try to answer all the questions we can and inform you about the various debates that exist where there are still no answers.

**PAR1501** consists of the following study units:

- **Study unit 1:** Introduction to paralegal practice

In this study unit we will look at the historical origins of paralegals, what a paralegal is and what makes a paralegal different from other legal professionals. We will also look at the future of paralegal practice in South Africa.

- **Study unit 2:** Role of paralegals

In this study unit we will look at the role that paralegals play in the legal profession and the various places where paralegals work. We will also look at how paralegals promote the values enshrined in the South African Constitution, in particular the rights protected in the Bill of Rights.

- **Study unit 3:** Formal recognition of paralegals

In this study unit we will look at whether paralegals enjoy formal recognition and what developments have taken place in order to provide them with formal recognition. We will also look at the different ways in which paralegals are trained and the associations and organisations for paralegals that exist.

- **Study unit 4:** Practical skills for paralegals

In this study unit we will look at the practical skills that a paralegal must possess in the workplace.

**How to use this study guide:**

There is **no prescribed textbook** for this module. You must study this study guide together with the tutorial letters for this module.

At the beginning of each study unit there is a box with the heading “**Learning outcomes**”. The contents of these boxes set out the most important aspects covered in each specific study unit. At the end of each study unit you should refer back to the learning outcomes and ensure that you have achieved all of them for that study unit.

You will notice that various **activities** are set out in this study guide. You will need to work through all these on your own. We will provide feedback in a further Tutorial Letter 201 so that you can assess whether or not you answered the activities completely and correctly. It is very important that you complete all the activities before you look at Tutorial Letter 201 so that you can see what you understand and what you don't understand about the work covered in this module. Keep all your answers to the activities so that you can refer back to them when working through Tutorial Letter 201.

As this is an introductory module, you will be provided with some **background information** on paralegal practice. This background information is necessary for you to understand where paralegals come from and where you as a paralegal will fit in, but we will not examine you on these aspects. All such discussions will contain an icon at the beginning which will indicate that you do not have to study these sections for assignment or examination purposes. However, you should not just ignore these sections but read through them attentively as they will help you understand paralegal practice better and will provide you with the background needed to understand the other work covered in this module.

This is your first module dealing with paralegal practice and therefore you will be introduced to many new terms. Where necessary we have explained certain terms throughout this study guide as they are introduced to you. However, the study guide may also contain other terms that might be unfamiliar to you. You will find a **glossary** at the end of this study guide which contains an alphabetical list of all these terms and their meanings. Such terms are indicated in *italics* throughout this study guide when used for the first time.

You will also find a list of **abbreviations** at the end of this study guide which will contain all the abbreviations used in this study guide. Please refer to both the glossary and the list of abbreviations when you encounter a term and you are not sure of its meaning.

At the end of each study unit (including at the end of this section) there is a heading called “**Sources referred to in this study unit**”. This section indicates the sources used to compile this module and you do not have to study these sources for assignment or examination purposes. Of course, you are welcome to look at these sources if you would like to know more about the specific subject.

We have used icons to indicate important information that will assist you in using this study guide. The following icons will be used:



This icon indicates an **activity**.



This icon indicates that the specific paragraph forms part of **background information** and will not be formally examined in your assignments or the examination. You should read through these sections attentively but do not have to study them.



This icon indicates **very important information** that will definitely form part of your assignments and your examination.

We trust that you will enjoy this module and wish you success in your studies!

#### **Sources referred to this section**

Statsky WP *Introduction to paralegalism: perspectives, problems, and skills* 4th edition  
(1992) West Publishing: St Paul



# STUDY UNIT 1

## Introduction to paralegal practice

"[P]aralegals bridged the gap between hope and despair, between right and wrong, between justice and injustice." M Smallhorne Lawyers for Human Rights (1994:32)

### 1. LEARNING OUTCOMES

By the time you have worked through this study unit, you should be able to

- explain when and where the paralegal career originated
- illustrate the historical and future importance of paralegals in South Africa
- provide a general definition for a paralegal
- list and discuss the main characteristics of paralegals
- differentiate between paralegals and lawyers

### 2. INTRODUCTION

Paralegal practice is a relatively new career. However, there is a high demand for qualified and experienced paralegals in South Africa and the rest of the world. In South Africa, it is difficult for poor and vulnerable people to obtain access to justice and legal advice. This is because legal procedures can be very complex, expensive and time consuming. This is especially true in rural areas where there are few or no formally qualified legal professionals and little infrastructure to support the existence of law firms.

Paralegals are specifically trained and qualified to assist the community with basic legal advice and to provide community members with easier access to justice and legal advice.

Paralegals are also trained to assist legal professionals by performing basic or routine legal administrative tasks. The use of paralegals makes legal services more affordable to the greater public as paralegals work at a lesser rate per hour than legal professionals. This means that the same legal services can be offered to the public for less than would have been charged if legal professionals did all the work themselves.



### 3. HISTORY OF PARALEGAL PRACTICE

#### 3.1 International history

Historically, lawyers did most of the legal work themselves. Secretaries were mainly used to type documents, do filing and answer the office telephone. Sometimes they also used clerks for document delivery and filing of documents at court.

In 1967, a small law firm in Kansas (in the United States of America) began to use trained non-lawyers to do routine tasks in cases. These non-lawyers were responsible for responding to enquiries, setting dates, completing standard forms and managing schedules.

Thus, a great volume of routine legal work that was previously done by highly paid lawyers was performed by these inexpensive and reliable non-lawyers. This meant that the law firm could take on more work at better rates for their clients, making the law firm more lucrative and providing cheaper legal services.

In around 1968, a group of legal professionals approached the American Bar Association (the national association for legal professionals in the United States of America) to recognise that these legal assistants could be of assistance to law firms. This proposal was accepted and so the concept of the paralegal was born.

### 3.2 National history

Although the term *paralegal* is quite new in South Africa, paralegals have worked in this country for a long time.

It has been a long established practice in law firms to train administrative staff with specific legal skills in order to draft certain standard legal documents and complete prescribed forms. Secretaries and typists with these additional skills are highly regarded by legal professionals and receive better salaries than other administrative staff. You only have to look at any local job advertisement column to notice many advertisements for legal typists, *conveyancing* secretaries or other administrative jobs that require experience in *debt collection* or conveyancing or the *administration of estates*, to name just a few examples.

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#### ACTIVITY 1

Have a look at the job advertisements in any local newspaper or job advertisement website such as [www.jobmail.co.za](http://www.jobmail.co.za) or [www.gumtree.co.za](http://www.gumtree.co.za). Now, see how many advertisements you can identify for paralegals.



#### FEEDBACK ON ACTIVITY 1

If you are not sure about which advertisements are for paralegals and which are for lawyers, don't worry. You will learn the difference between lawyers and paralegals in section 4 below. Keep a copy of all these advertisements as you will have to look at them again in **Activity 4** of this study unit after you have learnt how to differentiate between a lawyer and a paralegal.

Community-based paralegals also played an important role in protecting the rights of disadvantaged people during the *apartheid era*. At that time, there were very few South African lawyers who could speak indigenous languages, while a large part of the rural communities could not communicate effectively in English or Afrikaans. For many South Africans, paralegals employed by or volunteering at human rights organisations and legal resource groups were the only recourse they had to protect their basic human rights.

In 1994, South Africa changed from a parliamentary supremacy to a constitutional democracy. In consequence, the Constitution of the Republic of South Africa, 1996 ("the Constitution") was adopted. In study unit 7 of module **ILW1036: Introduction to the Law**, you learnt more about the Constitution of our country. You learnt that the Constitution is the most important piece of legislation in our country and is the cornerstone of our democracy. You also learnt that the Constitution contains the Bill of Rights, which sets out the basic human rights of every individual in our country.

Although the Constitution provides all individuals with basic human rights, these provisions must be implemented within our society to give effect to the Constitution. Paralegals still



have an important role to play in the implementation of the values and provisions contained in the Constitution. We will look at the Constitution in more detail in study unit 2.

Since 1994, community-based paralegals practice has focused mainly on the following areas: social welfare, pension benefits, the rights of people living with HIV and AIDS, basic employment issues, family violence and land restitution. In addition, they provide basic education to the community on people's legal rights (especially their human rights) and how to exercise these rights.

In the past, one of the problems with community-based paralegals was that they lacked funding and support from the national level. In 1996, the *National Community Based Paralegal Association* (NCBPA) was established. The NCBPA represents over 350 paralegal advice offices around the country and is the national association for paralegals in South Africa. The NCBPA has done extensive work in providing paralegals with financial and administrative support and has lobbied extensively for the formal recognition of paralegals in South Africa.

Initially, paralegals gained their knowledge and skills through experience. However, today there are many formal paralegal courses that provide paralegals with the knowledge and skills needed to embark on a paralegal career.



#### **4. WHAT IS A PARALEGAL?**

##### **4.1 Definition of a paralegal**

This is the first and most important question that must be answered. There is no universally accepted definition of a paralegal. This is because there is no agreement on what a paralegal is. Broadly speaking, a paralegal can be defined as

... a person qualified through education, training or work experience to perform legal, social welfare or related work, which require a basic knowledge of the law. The person may be community-based, employed by a legal practitioner, a law firm, governmental institution, non-government organisations, corporation or any other entity and may be supervised by, or work under a legal practitioner in performing work (Dercksen 2000:10).

From this definition we can list the following characteristics of a paralegal:

- A paralegal is not a legal professional (*lawyer*).
- A paralegal has a basic knowledge of *the law*.
- A paralegal obtained his/her legal skills and knowledge through education, training or work experience.
- A paralegal works under the supervision of a legal professional.
- A paralegal can be employed at different places.

We will now look at each of these characteristics.

##### **4.2 A paralegal is not a legal professional (lawyer)**

It follows that if a paralegal works under the supervision of a legal professional, he or she is not a legal professional or lawyer.

**What is a legal professional or lawyer?**

When we talk about a legal professional or lawyer, we are generally referring to someone who has a law degree. Lawyers are divided into two groups, namely, attorneys and advocates. An *attorney* is a legal professional who works at a law firm and works directly with the client. *Advocates* specialise in court work and receive all their work from attorneys. We can summarise the above information as follows:

<b>Legal professional (lawyer)</b> Has a law degree		<b>Paralegal</b> Does not have a law degree	
<b>Attorney</b> Works at a law firm  Works directly with the client  Does all types of legal work	<b>Advocate</b> Does not work at a law firm  Receives work from attorneys  Specialises in court work		

We will insert more information into the above table when we discuss further characteristics of paralegals.

Paralegals may be compared to nurses or paramedics and lawyers to doctors. Paramedics and nurses have certain knowledge and skills of medicine and medicinal treatments and are recognised as such, but they are never confused with doctors. In the same way, paralegals have certain knowledge and skills but should never be confused with lawyers.

However, this does not mean that paralegals are inferior to other legal professionals. In fact, in some areas, paralegals are better qualified than legal professionals because they receive training in these areas while legal professionals do not. For example, paralegals receive training in the areas of *social welfare law* and *social grants*, while this subject of the law is not a requirement for most law degrees that are the entry-level qualification to becoming a legal professional. We will look at the other reasons for using paralegals rather than legal professionals in study unit 2.

**It is very important to differentiate between paralegals and other legal professionals.**

A paralegal may not intentionally or unintentionally misrepresent himself or herself as an attorney or any other legal professional. This means that the people who contact a paralegal must not be brought under the impression that a paralegal is in fact a qualified legal professional.

**ACTIVITY 2**

Which one of the statements below is most clear in telling someone about what your status is and ensuring that they are not under the impression that you are an attorney (also provide reasons for your answer):



1. I work for attorneys Mkwane, Bongani and Buys.
2. I am a paralegal.
3. I am a legal assistant.
4. I am not a lawyer.





with obtaining pension benefits must understand the law and the procedures applicable to pension benefits.

More importantly, a paralegal must have enough knowledge of the law to realise when the assistance of a legal professional is required. A paralegal must be able to realise when legal action is appropriate and must then refer the matter to a legal professional.

Although paralegals must have a basic knowledge of the law and how the law works, their focus is not always on using the law to assist their clients. A paralegal must also be able to assist his or her client by using alternative methods. In fact, a paralegal must try to avoid resorting to formal legal procedures if the problem can be resolved more efficiently in another way. This is especially applicable to community-based paralegals who are the first point of contact with the community. Community-based paralegals usually have a good knowledge of the community values and the processes that may assist in resolving disputes within the community.

**4.4 A paralegal obtains his/her legal skills or knowledge through education, training and work experience**

Paralegals can obtain the legal knowledge and skills needed to carry out their work in three different ways:

- formal education programmes such as a paralegal diploma
- informal training programmes such as workshops offered by organisations involved in the giving of legal advice
- work experience (learning on the job)

We will now insert the above information in our table:

<b>Legal professional (lawyer)</b>		<b>Paralegal</b>	
Has a law degree		Does not have a law degree but has one or more of the following: <ul style="list-style-type: none"> <li>• A paralegal diploma</li> <li>• Informal legal training</li> <li>• Practical legal experience</li> </ul>	
<b>Attorney</b>	<b>Advocate</b>		
Works at a law firm	Does not work at a law firm		
Works directly with clients	Receives work from an attorney		
Does all types of legal work	Specialises in court work		

**4.5 A paralegal works under the supervision of a legal professional**

Generally, paralegals are divided into two main groups: paralegals who work in the community or in organisations and paralegals who work in law firms.

The following definition of a paralegal who works in a law firm has been proposed:

A paralegal is a person with legal skills who *works under the supervision of an attorney* or who is otherwise authorised to use those skills; this person performs tasks that do not require all the skills of an attorney and that most secretaries are not trained to perform (Statsky (1992:28) (emphasis added)).

The National Paralegal Institute has proposed the following definition for a paralegal who works in the community:

A paralegal is an accredited person who

- has a basic knowledge of the law and how it is applied
- is familiar with *mediation* and *conflict resolution methods*
- is motivated and committed
- possesses the necessary attitude and skills to help people and communities with their legal rights, thus empowering them to manage their own legal affairs independently in the future (Paralegal skills and establishing an advice centre 2008).

From the above definitions you will notice that paralegals working in law firms work under the supervision of an attorney, while it would seem that paralegals working in the community do not. As explained above, this does not mean that community-based paralegals work entirely independently; such paralegals have to be able to realise when matters require the attention of legal professionals (or lawyers) and should then refer such matters to the appropriate legal professional.

Most community-based paralegals have access to the expertise of a legal professional, especially in the form of public interest organisations (e.g. the Legal Resources Centre [LRC]) which employ legal professionals for this purpose. In fact, some of South Africa's most prominent public litigation cases were referred to these organisations by paralegals.

We can now insert more information regarding the different types of paralegal in the table below to indicate the main differences between paralegals and lawyers:

Legal professional (lawyer)		Paralegal	
Has a law degree		Does not have a law degree but has one or more of the following: <ul style="list-style-type: none"> <li>• A paralegal diploma</li> <li>• Informal legal training</li> <li>• Practical legal experience</li> </ul>	
Attorney	Advocate	Law firm paralegals	Community-based paralegals
Works at a law firm	Does not work at a law firm	Works at a law firm	Works at a community centre
Works directly with clients	Receives work from an attorney	Works under the direct supervision of an attorney	Works independently but refers work to an attorney where necessary
Does all types of legal work	Specialises in court work		

#### 4.6 A paralegal can be employed at different places

Paralegals have many career options, as many different organisations and institutions require the skills provided by paralegals. Paralegals work in the following main sectors:

- *law firms*
- community-based organisations
- *trade unions* and labour law consultancies
- service organisations
- government institutions
- corporate institutions

The paralegal's role in each of the above categories will differ according to the requirements set out for that specific category. In study unit 2, we will discuss each of these categories and the role that paralegals play in each of these sectors.

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#### ACTIVITY 4

Refer back to all the advertisements that you collected for **Activity 1** and consider whether all of them were in fact for paralegal positions (taking into account what you have learnt above). In particular, see if you can differentiate between advertisements for legal professionals and positions for paralegals.



#### FEEDBACK ON ACTIVITY 4

You should now have a better idea of what a paralegal is and what a paralegal does. Look closely at the education and the job requirements of each advertisement. Formal feedback will be provided in a further Tutorial Letter 201.

#### 5. FUTURE OF PARALEGAL PRACTICE

As explained above, the paralegal career is a relatively new and undefined concept and many developments in this field are still expected. However, it is very certain that paralegals will play an important role in promoting access to justice and educating members of the public on their legal rights and how they can exercise and protect those rights. Although many initiatives for community centres and education centres exist, a lack of funding has crippled some of them. This is the biggest obstacle in providing access to justice to the poor communities in rural areas.

Paralegals will also play an important role in law firms in making specialised legal services more available to the general public and providing support to legal professionals.

In order to clarify, organise and protect the role of the paralegal in our society, it is very important that they should be recognised by law and that their role in legal practice should be defined. As will be seen in study unit 3 below, many calls for the formal recognition of the paralegal have been made by government and various paralegal and human rights initiatives. These calls have been formulated into draft legislation but it is uncertain what is going to happen to the proposed legislation and when it is expected to be adopted and implemented.

#### 6. CONCLUSION

In this study unit you were introduced to a career in paralegal practice. You learnt where paralegals come from, what a paralegal is and what the future holds for paralegal practice. You now understand what a paralegal is and where paralegals fit into our society.

Now that you understand what a paralegal is, we will take a closer look at what paralegals do. In the next study unit, we will look at the role that paralegals play in our society and discuss their general duties.

## 7. SELF-ASSESSMENT



Before you start with the next study unit, please answer the following questions on your own to ensure that you know and understand the work covered in this study unit:

- 7.1 Explain when and where the paralegal career originated.
- 7.2 Illustrate the historical and future importance of paralegals in South Africa
- 7.3 Compare the attorney profession and the advocate professions.
- 7.4 Provide a general definition for a paralegal.
- 7.5 List and discuss the main characteristics of paralegals.
- 7.6 Differentiate between paralegals and lawyers.

## 8. SOURCES REFERRED TO IN THIS STUDY UNIT

Association of University Legal Aid Institutions of South Africa *Report on the first All-Africa colloquium on clinical legal education: combining learning and legal aid: clinics in Africa* (2003) [online] available: [www.soros.org](http://www.soros.org)

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Paralegal Advisory Services *Report on findings, lessons learnt and recommendations from the study visit to understudy South Africa's legal aid service provision* (2008) at [online] available: [www.fhri.org.ug](http://www.fhri.org.ug)

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## STUDY UNIT 2

# Role of paralegals in legal practice

### 1. LEARNING OUTCOMES

By the time you have worked through this study unit, you should be able to

- list the reasons why we need paralegals
- illustrate the importance of paralegals in South Africa with reference to the Constitution
- describe and differentiate between the different institutions where paralegals are employed
- distinguish between the duties of law firm paralegals and those of community-based paralegals

### 2. INTRODUCTION

In the previous study unit you were introduced to a career in paralegal practice. You learnt where paralegals came from, what a paralegal is and what the future holds for paralegal practice. You now understand what a paralegal is and where they fit into our society.

Now that you understand what a paralegal is, we will take a closer look at what paralegals do. In this study unit, we will look at the role that paralegals play in our society and discuss their general duties.

### 3. WHY WE NEED PARALEGALS



Paralegals play a very important role in our society. In study unit 1, we touched on the following advantages of paralegals:

- They are less expensive than legal professionals.
- They are situated in areas where there is a great need for basic legal advice but not many legal professionals.
- They are trained in areas of the law that legal professionals traditionally do not receive training in and do not practice in.

However, there are more reasons why paralegals (especially community-based paralegals) may be better equipped to deal with certain issues. These include:

- Paralegals are often **part of the community they serve**, while legal professionals are frequently from outside the community. Paralegals who are part of the community can communicate better with the community owing to the fact that they can speak the community's language and they have a better understanding of the community's internal structures and workings.
- Paralegals are **more approachable** than a legal professional. Sometimes, people find it quite intimidating to talk to a legal professional or to go to court. This is especially true for illiterate people who see the law as strange, suspicious and unknown. This can make

them afraid to talk to a legal professional who (to them) is part of this terrifying process. They may find it easier to talk to a paralegal who is not as intimidating as a legal professional.

- Paralegals have **more skills to resolve issues without resorting to formal legal procedures** and to assist and promote the interests of the community; for example community education and community organising.
- Paralegals are **better equipped to function in dualistic legal systems**. When we talk about dualistic legal systems we are referring to the fact that rural communities may have their own legal system and rules (called indigenous law) to resolve community issues; in addition there are the formal written legal principles applicable in our country. Therefore, there are two sets of rules that can be followed in each situation. As most community-based paralegals form part of the community, they are more aware of the community's rules and can use these rules to resolve issues.
- Paralegals are **more focused on a holistic approach** and do not merely resolve matters through legal processes. Let us look at the following scenario to explain this further. You (as a paralegal) have to advise Zinhle and her child Mdu who have been abused by Mike (Zinhle's husband and Mdu's father). Legally, you should advise Zinhle to obtain a protection order against Mike. However, this alone will not solve the problem as you should realise that Zinhle and Mdu may be dependent on Mike and do not have the finances to leave the family home. Therefore, in addition to obtaining the protection order you should also assist Zinhle with applying for a child support grant and refer her to child welfare and women abuse organisations for further support.
- Paralegals play an important role in the **"empowerment" of the community** through community education.

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### ACTIVITY 5

What do you think is meant by empowerment? How do you think a paralegal can contribute to the empowerment of his or her community?



**Answer**

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### FEEDBACK ON ACTIVITY 5



We suggest that you start a discussion about this question with your fellow students and exchange ideas with them. Formal feedback will be provided in a further Tutorial Letter 201.

#### 4. ROLE OF PARALEGALS WITH REFERENCE TO THE CONSTITUTION

As discussed in study unit 1, paralegals have and can play an important role in the implementation of the values and provisions contained in the Constitution. We will look at three different sections of the Constitution that are relevant to our discussion. All of these

sections form part of the Bill of Rights (the part of the Constitution containing the basic human rights and fundamental freedoms).

#### **4.1 Section 9 of the Constitution**

Section 9 of the Constitution provides for the right to “equality before the law and the right to equal protection and benefit of the law”.

You will agree that a rich businessman has more access to the protection of the law because he is able to pay an attorney to give him legal advice and help him exercise his legal rights. However, a woman from a rural area may not have the money to pay an attorney to provide her with legal advice and protect her rights. In fact, she probably does not have enough money to pay for a taxi to get to the nearest law firm! Therefore, it is difficult for poor rural communities to receive the same protection and benefit of the law because they cannot afford proper legal advice. You could also say that poor rural communities do not have sufficient “access to justice”, while wealthier people do. This is what is meant by the term “access to justice”.

Paralegals working in the community and giving legal advice to disadvantaged people are, in fact, fulfilling an important function in promoting the values enshrined in our Constitution.

You will remember that we explained that the use of paralegals in law firms also promotes “access to justice”. This is because these paralegals work at a lower rate than legal professionals, which means that the same legal services can be offered to the public for less. Therefore, paralegals at law firms also promote the values enshrined in the Constitution.

#### **4.2 Section 35 of the Constitution**

Section 35 of the Constitution provides for the right to legal representation for any arrested, detained and accused person at state expense if such a person cannot afford to pay for legal representation. This section refers to criminal matters, in other words, where a crime has been committed. It does not deal with cases where a crime is not involved, for example where two spouses are getting a divorce.

Therefore, the State has an obligation to provide these people with free legal representation. After the enactment of the Constitution, the Legal Aid Board was established in South Africa to fulfil this obligation. As will be seen below in section 5.5, the Legal Aid Board employs paralegals. Therefore, paralegals play an important role in fulfilling the state’s obligations, as set out in section 35 of our Constitution.

#### **4.3 Section 28 of the Constitution**

Section 28 of the Constitution provides that children also have a right to legal representation in civil matters (matters where no crime is involved, for example divorce proceedings) at state expense “if substantial injustice would otherwise result”. Again, the State has an obligation to provide these children with free legal representation. Paralegals also play an important role in such cases.

From the above discussion, it should be clear that paralegals play an important role in promoting the values and obligations contained in our Constitution.



## 5. ROLE OF PARALEGALS IN LEGAL PRACTICE

As mentioned earlier, paralegals can be employed in different places and across different sectors in our society. We will now look at the main sectors in which paralegals work and the role they play in these sectors.

### 5.1 Law firms

Generally, paralegals employed in law firms do the following:

- act as interpreters and statement takers
- prepare simple general legal documents
- monitor cases
- perform conveyancing tasks
- give advice on simple legal inquiries

*Please note:*

Paralegals should **not** involve themselves in the touting practices of the attorneys which are aimed at obtaining more work from the prospective clients.

In **BWE1501: Business Practice and Workplace Ethics** we will look at the role of paralegals in law firms in more detail.

### 5.2 Community-based organisations (CBOs)

These *organisations* include paralegals located in the cities, towns and rural areas of South Africa. These paralegals serve the communities that they are situated in and are appointed by their communities as paralegal advisors.

The main purpose of CBOs is to provide basic legal advice to poor communities who otherwise have no access to legal services. The paralegals in CBOs are mainly called upon to give advice on social welfare, pension benefits, the rights of people living with HIV and AIDS, basic employment issues, family violence and land restitution. They also provide the community with basic education concerning their legal rights and how to exercise these rights.

Law clinics provide back-up legal services for paralegal advice offices situated in rural communities. In other words, law clinics provide support for these advice offices by sending legal professionals to assist with more legally complex matters which require the attention of a legal professional.

Law clinics are legal advice offices established and managed by the law faculty of a university. As such, they are usually named after the university that manages them, for example the Unisa Law Clinic. Law clinics provide training for law students and graduates while using these law students and graduates to provide free legal advice to members of the public who cannot afford to pay for legal services. Law clinics provide legal services and advice in all areas of the law, but some also specialise in human rights law. All law students and graduates working at law clinics work under the supervision of a legal professional.

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## ACTIVITY 6

Do some research in your community at your nearest magistrates' court or government department or even on the internet (if you have access to the internet) and see if you can identify a community law advice centre close to you? Contact the manager or director of this centre and ask them if you could perhaps spend a day there in order to see for yourself what they do.



### **5.3 Trade unions and labour law consultancies**

Organisers, training officers and shop stewards can all be paralegals. These paralegals will need a good understanding of labour law and labour relations. Such paralegals will be employed by trade unions, government offices, non-governmental organisations (NGOs) and other institutions and will include people who give advice to union members and other members of the public on labour issues, social welfare and related matters.

### **5.4 Service organisations**

Service organisations include advice offices operated by non-profit organisations (e.g. the Legal Resources Centre), educational institutions (e.g. university law clinics) and lawyer associations (e.g. the Law Society) in South Africa. Paralegals are employed as fieldworkers to give advice, take statements, monitor human rights abuse, educate the community and help with the training of volunteer paralegals. CBOs also fall into this category.

### **5.5 Government organisations**

Many government organisations employ paralegals to give advice to the public. For example, the paralegals employed at advice desks in the courts. This category also includes lay assessors used in the criminal courts and community development workers (CDWs) employed by municipalities.

A good example of a government organisation that employs paralegals is Legal Aid South Africa. The Legal Aid Board is funded by the government and employs paralegals to work in their justice centres. These paralegals are usually the first point of contact with potential clients and work under the supervision of legal professionals who are also employed by the Legal Aid Board. Their duties include the following:

- screening of clients
- opening of files
- capturing data on files
- drafting legal opinions on simple matters
- drafting referral letters
- conducting prison visits
- dealing with enquiries at court relating to delays, court documents and court dates
- other administrative duties

The Legal Aid Board deals mainly with criminal cases (where a crime has been committed) and family law matters (such as divorce).

### **5.6 Corporate institutions**

Many *corporate institutions* also employ paralegals to do certain work. For example, paralegals are employed by banks and insurance companies. The specific duties of the paralegal will vary from institution to institution, but all these positions require a basic knowledge and understanding of the law and most will require good administrative and communication skills.

## **6. WHAT PARALEGALS DO**



Paralegals are employed by different types of institutions to fulfil various functions and duties. In addition, the tasks assigned to a paralegal will depend on the area of law in which the paralegal works. Therefore, it is difficult to give a finite list of the things that a paralegal will do, as each paralegal may have different duties.

Generally, paralegals do the following:

- investigate matters, collect evidence and carry out research
- draft court papers for lower court procedures
- *counsel, advise* and *refer* people to the correct institution to assist them with their legal enquiries
- assist people in obtaining access to *social services*
- organise community development initiatives and engage in legal advocacy
- negotiate and mediate disputes in the community
- assist in the development of community organisations
- educate people about their human rights (e.g. running workshops for the community)
- refer cases to the appropriate organisation
- represent clients at industrial dispute meetings at the Commission for Conciliation, Mediation and Arbitration (CCMA)

Paralegals employed by law firms do the following:

- prepare certain standard legal documents and complete standard forms (e.g. in property and conveyancing matters, debt-collection matters, the registration of companies and the registration of trademarks)
- conduct basic legal research (e.g. searches and enquiries at certain government organisations like the *Companies and Intellectual Property Commission (CIPC)* and the *Deeds Office*).

We will look at this in more detail in the other modules that form part of this course. In this module, we expect you to be able to list the basic duties listed above.

## 7. CONCLUSION

In this study unit you learnt about the role that paralegals play in our society and how they assist in promoting the goals contained in the Constitution. You also learnt that paralegals are employed by law firms, CBOs, trade unions, service organisations, government organisations and corporate institutions and play different roles in each of these entities. Finally, you learnt what paralegals do every day.

Now that you understand what role paralegals play in our society as well as what they do, we can consider what formal recognition paralegals enjoy and what training and support are offered to paralegals. In the next study unit, we will look at why paralegals should be formally recognised and the issues hampering their formal recognition. We will also look at the different paralegal training methods and at the organisations that provide support for paralegals.

## 8. SELF-ASSESSMENT



Before you start with the next study unit, please answer the following questions on your own to ensure that you know and understand the work covered in this study unit:

- 8.1 List the reasons why we need paralegals.
- 8.2 Illustrate the importance of paralegals in South Africa with reference to the Constitution.
- 8.3 Describe and differentiate between the different institutions where paralegals are employed.
- 8.4 Differentiate between paralegals and other legal professionals.
- 8.5 Distinguish between the duties of law firm paralegals and those of community-based paralegals.

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## STUDY UNIT 3

# Formal recognition of paralegals

### 1. LEARNING OUTCOMES

By the time you have worked through this study unit, you should be able to

- define the term “formal recognition”
- identify the reasons why paralegals should enjoy formal recognition
- discuss the problems related to the formal recognition of paralegals
- differentiate between substantive training and skills training
- compare the two main associations for paralegals in South Africa

### 2. INTRODUCTION

In the previous study unit you learnt about the role that paralegals play in our society and how they assist in promoting the goals contained in our Constitution. You also learnt that paralegals are employed by law firms, CBOs, trade unions, service organisations, government organisations and corporate institutions and play different roles in each of these entities. Finally, you learnt what paralegals do every day.

Now that you understand what role paralegals play in our society as well as what they do, we can consider what formal recognition paralegals enjoy and what training and support are offered to paralegals. In this study unit, we will look at why paralegals should be formally recognised and the issues hampering the formal recognition of paralegals. We will also look at the different paralegal training methods and at the organisations that provide support for paralegals.

### 3. CURRENT STATUS OF PARALEGALS IN SOUTH AFRICA



Currently, there is no formal recognition for paralegals practising in South Africa. When we say that paralegals are not formally recognised we mean that there is no law or policy that officially acknowledges the role of paralegals in society. This also means that the rights and obligations of paralegals are not regulated by any law or policy.

The need for increased access to justice and the role that paralegals can play in this respect has been recognised by the Government of South Africa and other relevant bodies.

In 1996, the Legal Forum of Access to Justice Commission 5 proposed (among other things) the following in respect of paralegals:

- the recognition of the role of paralegals
- the promulgation of a paralegal act to define the role of paralegals
- the establishment of some form of certification for paralegals (preceded by a training system)
- the establishment of a paralegal institute

We will be looking at all these issues in our discussion below.

#### **4. RECOGNITION OF THE ROLE OF PARALEGALS**

There has been much controversy around the recognition of the role of paralegals. Although draft legislation has been proposed in order to provide paralegals with formal recognition, many obstacles exist that hamper the acceptance of the draft legislation. Draft legislation is legislation that has been drafted but is not yet enforced as law. In other words, it is proposed legislation.

We do not expect you to know the different pieces of draft legislation or their specific provisions. However, it is important that you have a good understanding of the reasons why paralegals should receive formal recognition and what obstacles hamper their formal recognition.

##### **4.1 Why paralegals should receive formal recognition**

In study unit 2 we listed some of the reasons why paralegals are so important in our society. We also looked at the role that paralegals can play in the access to justice and the actualisation of other values contained in the Constitution.

One of the other important reasons why paralegals should be regulated is to ensure that they have the knowledge and skills needed to help the public and that they do not abuse their position as paralegals. In other words, it is important that minimum standards for the training of paralegals and for paralegal practice should be established. Subsequently, an *independent* body should be established to ensure that all paralegals comply with the minimum requirements.

##### **4.2 The unresolved issues around the formal recognition of paralegals**

There are many unresolved issues surrounding the formal recognition of paralegals and these will be discussed as follows:

###### **4.2.1 Regulation of paralegal work**

As explained above, most paralegals work with members of the public and many paralegals work with members of rural communities who have very little (if any) knowledge of their legal rights, legal procedures and the legal profession. This means that these people have no choice but to trust the paralegal they have approached for legal advice. They have to trust that the paralegal has the necessary knowledge to assist them and will not take advantage of them.

If there is no one to monitor whether or not a paralegal can do the work, is doing the work and is not taking advantage of the client, it can easily happen that a paralegal can do more harm than good. This is also true for many other professions, for example lawyers and doctors. However, lawyers and doctors are regulated by rules contained in *legislation* and *ethical codes*. Independent bodies ensure that lawyers and doctors comply with these rules. In the case of lawyers, the Law Society of South Africa governs *attorneys* and the General Council of the Bar of South Africa governs *advocates*. You will learn more about these different legal professions and institutions in the module **BWE1501: Business Practice and Workplace Ethics**.

Rules also protect the paralegal, as the paralegal knows exactly what he or she may or may not do. It is difficult to know what will be considered wrong in a specific situation if there are no rules against which to test the specific facts.

Currently, the draft legislation does not set out in detail how paralegals will be regulated and what rules they will need to abide by. The National Community Based Paralegal Association is busy developing and drafting an ethical code that will be applicable to all paralegals.

#### **4.2.2 Minimum training and experience required**

As discussed in study unit 1, paralegals can obtain the necessary legal knowledge and skills in three different ways:

- formal education programmes such as a paralegal diploma
- informal training programmes such as workshops offered by organisations
- work experience (learning on the job)

As most formal training courses are accredited and provide students with good legal knowledge and paralegal skills, there are no major issues with formal education programmes. However, as informal training programmes and paralegals' experience are not regulated in any way in South Africa, it is very difficult to know whether or not a paralegal has the knowledge and skills needed to do the work, especially if they have not received any training or just informal training.

Let us look at the following scenario to explain the discussion further: Mary is a paralegal who has worked in the community for 15 years. She has gained extensive experience in giving basic legal advice on social grants. She has attended many workshops and training sessions on social grants and worked at the Department of Welfare for five years before setting up a paralegal office in her community. On the other hand, Liz has been a paralegal in her community for three months. She has not attended any workshops or training and receives no support from other paralegals or legal professionals. Can you see that Mary probably has the skills and knowledge needed to assist people with their social grants (despite her lack of formal training), while Liz probably does not know any more than the person she is advising?

This has been one of the main problems in granting paralegals formal recognition. It has been proposed that standards for the training of paralegals should be established, including the recognition of relevant experience. If a paralegal has fulfilled these training requirements, he or she should be able to apply for certification and receive formal recognition. The problem is that these standards have not been determined yet and this has contributed to the delay in granting formal recognition to paralegals.

#### **4.2.3 Overlap with legal work reserved for legal professionals**

In the module **BWE1501: Business Practice and Workplace Ethics** you will learn that certain types of legal work may only be done by a legal professional. The draft legislation does not specifically set out what type of work a paralegal may do. Therefore, it is uncertain whether or not a paralegal will also be permitted to do the legal work that may only be done by legal professionals. For this reason, there is concern from legal professionals regarding the draft legislation, as they insist that the specific work that may be carried out by paralegals should be clearly stated and should not overlap with the legal work reserved for legal professionals.

#### **4.2.4 Right of appearance of paralegals**

In study unit 13 of module **ILW1036: Introduction to the Law**, you learnt that not anyone can appear in a court on behalf of someone else. Generally, only attorneys and advocates have the right to appear in a court on behalf of someone else. However, the right of appearance that we are referring to here also refers to tribunals (more informal courts) and



## FEEDBACK ON ACTIVITY 7

You should have set out the different arguments and provided reasons for your opinion. In your answer you should have referred to the reasons why paralegals should receive formal recognition and what obstacles hamper such recognition. Specifically, you should have referred to the obstacles related to the following issues:

1. regulation of paralegal work
2. minimum training and experience required
3. overlap with legal work reserved for legal professionals
4. right of appearance of paralegals in courts

### 5. TRAINING AND CERTIFICATION OF PARALEGALS

Generally, paralegals receive two kinds of training, namely, substantive training and skills training.

Substantive training refers to training in respect of the law and the applicable legal principles. For example, a paralegal must know and understand the legal requirements that must be met before someone qualifies for a social grant.

Skills training refers to the skills that a paralegal needs. For example, a paralegal must be able to educate someone on how to complete the forms needed in order to obtain a social grant.

Paralegals need both legal knowledge and skills in order to be a good paralegal. As discussed above, the lack of formal standards in respect of paralegal training has contributed to the delay in granting formal recognition to paralegals.



### 6. PROFESSIONAL ASSOCIATIONS AND ORGANISATIONS FOR PARALEGALS

There are two main associations for paralegals in South Africa, namely, the *National Community Based Paralegal Association (NCBPA)* and the *National Paralegal Institute (NPI)*.

#### 6.1 National Community Based Paralegal Association (NCBPA)

The NCBPA is a national network of provincial paralegal associations and was established in 1996. In turn, the provincial paralegal associations consist of local paralegal advice offices and paralegals. The majority of paralegal advice offices in South Africa are affiliated to the NCBPA. The main focus of the NCBPA is to promote access to justice and to advance human rights.

The NCBPA has the following objectives (among others):

- the development of uniform standards and training for paralegals
- human rights education of the greater public
- the development of a code of ethics for paralegals

#### 6.2 National Paralegal Institute (NPI)

The NPI is a voluntary association representing South African paralegals and their training organisations. After the call by the Legal Forum for a paralegal institute, the NCBPA initiated the establishment of the NPI by involving the *stakeholders* involved in paralegal practice. After a long consultation process between all the stakeholders, the NPI was established in April 1999.

The NPI's main functions are to represent all paralegals in South Africa, to develop uniform standards in respect of the training, qualification and certification of paralegals and to assist with fund-raising for paralegal advice offices. Therefore, the NPI was established to address the training issues of paralegals in order to obtain formal recognition for them.

## 7. CONCLUSION

In this study unit you learnt about the reasons why paralegals should be formally recognised and the issues hampering the formal recognition of paralegals. You also looked at the different paralegal training methods and the organisations that provide support for paralegals.

At this stage you should know where paralegals came from, what a paralegal is, what role a paralegal plays in our society, what paralegals do, what formal recognition they should enjoy and why they should enjoy such formal recognition, the different ways paralegals are trained and what associations support paralegals. These aspects form the background that you need before you can embark on your paralegal career.

You are now ready to learn some of the basic skills you will need in order to practise as a paralegal and we will deal with the following skills in study unit 4:

- paralegal communication skills
- paralegal administrative skills
- paralegal bookkeeping skills
- negotiation, mediation and arbitration skills
- community education skills



## 8. SELF-ASSESSMENT

Before you start with the next study unit, please answer the following questions on your own to ensure that you know and understand the work covered in this study unit:

- 8.1 Define the term “formal recognition”.
- 8.2 Identify the reasons why paralegals should enjoy formal recognition.
- 8.3 Discuss the problems related to the formal recognition of paralegals.
- 8.4 Differentiate between substantive training and skills training.
- 8.5 Compare and contrast the two main associations for paralegals in South Africa.

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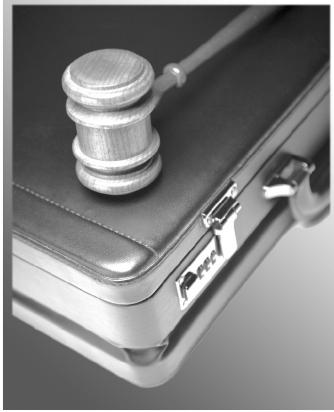
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# STUDY UNIT 4

## Practical skills for paralegals

### 1. LEARNING OUTCOMES

By the time you have worked through this study unit, you should be able to

- identify the general attributes of a good paralegal
- list and apply the guidelines for various forms of communication (including drafting a formal letter a telephone note)
- illustrate good administrative skills (including practising good record-keeping skills and drafting of statements and sworn affidavits)
- apply basic bookkeeping skills (including differentiating between withdrawals and deposits, keeping a cash book, calculating balances and record keeping for bookkeeping purposes)
- define and differentiate between negotiation, mediation and arbitration
- plan and execute a community training workshop

### 2. INTRODUCTION

In study unit 3, you learnt that paralegals have to acquire legal knowledge and training in legal skills. In the module **SCL1014: Skills for Law Students**, you learnt the general legal skills that all legal professionals need. In addition to the skills you learnt in SCL1014, there are specific skills required for paralegal practice. We will be looking at these specific skills in this study unit as follows:

- paralegal communication skills
- paralegal administrative skills
- paralegal bookkeeping skills
- negotiation, mediation and arbitration skills
- community education skills

Although the above skills are discussed from the perspective of paralegals working in the community and in service organisations, many of these skills will also be used by other paralegals (e.g. paralegals working in law firms). Where necessary, we will also discuss specific skills that law firm paralegals need to have.

### 3. GENERAL GUIDELINES

Before we look at specific paralegal skills, we will set out and discuss the general approach and attitude of a good paralegal. You should follow these guidelines to ensure that you carry out your duties in the best way possible.

- You should be prepared to “go the extra mile”.
- You should be committed and diligent in the execution of your duties.



- You should know and understand the values underlying the organisation or the firm you work for.
- You should always make an effort to develop your knowledge and skills.

You can do this in the following ways:

- Identify the areas in which you still need more knowledge and skills and put time aside to research these areas and discuss any uncertainties you may have with a more knowledgeable person (e.g. a lawyer or more senior paralegal).
- Always ask questions if you are uncertain about something.



#### 4. PARALEGAL COMMUNICATION SKILLS

You learnt basic communication skills in **SCL1014: Skills for Law Students**. You will also learn some specific communication skills in the module **ENN1504: Practising Workplace English**. In this study unit we will introduce you to the specific communication skills you will need as a paralegal.

As a paralegal you should be able to communicate with different types of people. Firstly, you should be able to communicate with the client (the advice seeker); secondly, you should be able to communicate with the people you contact in order to address the client's problem (e.g. a government representative); and finally, you must be able to communicate with the people you work with or who you are accountable to.

In this section we will look at the following aspects of communication skills:

- interviewing skills
- listening skills
- using the correct language
- advising the client
- taking instructions
- referrals
- counselling
- meetings
- telephone calls
- writing letters
- writing memorandums, reports and proposals
- media communication

##### 4.1 Interviewing skills

Please refer back to study unit 4 section 4.4 of the module **SCL1014: Skills for Law Students** when studying this section. You should remember the following when interviewing a client:

- Introduce yourself and ask for the client's personal and contact details.

#### ACTIVITY 8

List all the client details that you think you should record on the client's file.



**Answer**

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### FEEDBACK ON ACTIVITY 8

When answering this question, consider what information you might need to take the matter further and report to the client on your progress. Formal feedback will be provided in a further Tutorial Letter 201.

- Ask the client why he or she came to see you and how you can help him or her.
- Treat the client with respect and show compassion and empathy.
- Give the client an opportunity to explain their problem before asking any questions. Sometimes people find it difficult to discuss their problems with someone they do not know. You should remain patient with the client and not hurry them.
- It is important not to jump to conclusions immediately.
- Try to distinguish between the important facts and the irrelevant facts.
- After you have formed an initial idea about why the client came to see you, you can start asking questions to obtain more information that you will need for the case. Start with open questions and move to more closed questions as you narrow down the issues. Let us now look at the difference between open and closed questions: Open questions are questions that cannot be answered with a simple yes or no. *For example:* Why did you go to the manager? The client will need to explain the situation from his perspective, rather than simply answering the question. The client will emphasise what was important to him or her which will give you a better idea of the important facts. When you have enough information you can start piecing together the facts, and you can start asking more closed questions. Closed questions are questions which require a yes, a no or a standard response. *For example:* After you went to see the manager, did he do anything about your request?
- To ensure that you do not misunderstand the client, explain to the client in your own words what you understand from his or her story.
- Ask what the client has already done in respect of the problem. Record (in date order) all the relevant facts necessary to address the specific legal problem. For example, if a client wants to apply for a pension, you will need to know the age of the client as well as his or her current earnings. On the other hand, if a client complains that he or she has not received wages due, you will need to obtain the employer's contact details, the client's job description and the amount of the wages due. In each legal subject, you will learn what facts and documentation you will need to obtain for specific legal enquiries. With experience, you will know what questions to ask in order to obtain the relevant information. If you are not sure whether the information is important or not, rather record it for the sake of safety.

## **4.2 Listening skills**

You should show good listening skills when interviewing a client. Please refer to study unit 4 sections 4.5 of the module **SCL1014: Skills for Law Students** where listening skills are discussed.

## **4.3 Using the correct language**

As a paralegal you should think about the language you will use in the interview with the client. This will include the following:

- what language to use (e.g. English, Sotho or Afrikaans)
- the level of language to be used (i.e. using words and sentences that the client will understand)

### **4.3.1 What language?**

You should try to interview a client in his or her own language, as it is easier for people to explain their problems in their home language. It also means that they will be less nervous and will be able to explain their problem more clearly. If a person has to communicate in a second language it becomes more likely that he or she will be misunderstood and this can lead to confusion.

If you cannot speak the home language of the client, you should consider using an interpreter. However, the interpreter must have a good understanding of both languages. Furthermore, it would be an added advantage if the interpreter also has a basic understanding of legal principles and terms.

### **4.3.2 Level of language**

You have to ensure that the client understands what you are saying to them. If your client cannot understand what you are telling them, you will not be able to assist them with their problem and they will not know any more than they knew when they first came to you.

You should avoid the following:

- using difficult legal terms (e.g. discretionary and substantive)
- explaining a difficult legal term with a difficult explanation (e.g. giving the legal definition of a difficult legal term)
- using foreign words, especially Latin words (e.g. *prima facie*)
- using *jargon* (e.g. legal consequences)

## **4.4 Advising the client**

After you have interviewed the client it is important to do the following:

- Ensure that you have all the information needed to make a proper assessment of the issue.
- If you need more information before you can properly advise the client, and the client does not have this information, ask him or her to obtain the relevant information and bring it to you when he or she has it.
- Only after you have all the relevant information for assessing the problem can you start advising the client.
- Explain the relevant legal principles to the client (i.e. what the client's rights are).
- Explain all the different remedies available to the client. This may include referrals to a lawyer or other agencies that can assist the client.

- Do not let the client decide on a specific remedy before you have advised them of all the possible options.
- Remember to use easily understandable language when explaining the legal principles and remedies available to the client.
- Always try to encourage clients to resolve issues on their own as far as possible so that they can take responsibility for their problems and learn how to deal with them in future. You can always tell the client that he or she can come back to you if they cannot manage to resolve the issue on their own.

#### **4.5 Taking instructions**

After you have explained all the possible remedies to the client, you have to find out which of them the client wants to pursue. Listen carefully to the client to find out what the client wants you to do. Do not assume that you know what the client wants and what remedies should be followed.

When your client tells you what he wants you to do, he gives you “instructions” or a “mandate” to act on his behalf, and you may not act outside these instructions. For example, Mr Sithole has been dismissed from his job. You cannot merely assume that Mr Sithole wants his job back even if you are of the opinion that he was dismissed unfairly. For example, if Mr Sithole tells you that he only wants his notice pay, you have to make sure that he understands that he may have other rights because the dismissal was unfair. Then, if he still only wants notice pay, you only have instructions to try and recover the notice pay and may not do anything further. In other words, it is the client’s prerogative to choose what he wants you to do (even if you feel that there may be more that you can do). You **may not under any circumstances** act outside your mandate or instructions!

After taking the client’s instructions, explain to the client how you will address the problem and make sure that he or she understands what you are planning to do (be realistic about what you will be able to achieve and do not give the client false hope).

Agree with the client about how you will report to him or her in respect of your progress (e.g. either writing a letter to the client or making an appointment for the client to come back to see you again).

#### **4.6 Referrals**

When taking instructions from a client it may become clear that he or she should be referred to other agencies or organisations or to a legal professional.

##### **4.6.1 Referrals to agencies and organisations**

As a paralegal you must refer a client to another agency or organisation if there is one specifically dealing with the problems your client is experiencing. Often, these organisations are better equipped to assist the client. These agencies may include trade unions, government departments and private welfare agencies.

When you refer a client to another agency or organisation, you must always give the client the contact details of the relevant agency or organisation and a referral letter explaining why the client was referred and what action you have taken (if any) in respect of the case.

It is very important to ensure that the client is not sent from one agency to the next without being assisted. Tell the client that they should come back to you if they are not assisted by the relevant agency.

#### **4.6.2 Referrals to attorneys**

As a paralegal it is very important that you are able to identify when a matter should be referred to an attorney and you should be able to provide the necessary support for both the attorney and the client. This will entail the following:

- You must understand the legal problem involved.
- You should obtain all the necessary information before referring the case to the attorney. This will include a record of the history and relevant facts of the case, all relevant documentation and a record of all actions taken in respect of the case.
- You must explain to the client that you are referring the case to an attorney and what action will be taken by the attorney.
- You must explain to the client that the referral to the attorney may result in costs and fees that they might need to pay and that they have to confirm this with the attorney at the first consultation.
- You must follow up with the attorney regularly in respect of the case and report any progress to the client.

#### **4.7 Counselling**

It may not always be necessary to refer the client to another person or to take any action on behalf of the client. Sometimes it will be enough to inform the client on how they can deal with the problem on their own. Counselling entails identifying the problem and suggesting different ways to deal with the problem. For example, you have a client who complains to you about his noisy neighbours that are bothering him with their late night parties and music. You can suggest that the client meets with his neighbour to discuss the problem or that perhaps he should realise that there will always be some noise. Therefore, perhaps he could be a bit more tolerant.

You should be very careful before counselling any client, especially where the client's problem can have serious psychological repercussions. Qualified and experienced psychologists and social welfare workers are trained to counsel such persons and you should always refer them to these professionals for assistance. As a paralegal, you are not trained or qualified to deal with such issues.

#### **4.8 Meetings**

As a paralegal you will organise, attend and document many meetings. You will meet with clients, colleagues and other persons outside your organisation. You will learn everything about attending and documenting a meeting in study unit 3 of **ENN1504: Practising Workplace English**, therefore we will not deal with meetings in this study unit.

However, as a paralegal it is important that you take note of the following important guidelines in respect of meetings:

- You must identify all the interested parties.
- You must plan meetings in conjunction with the members of your organisation and within the strategy of the organisation you are working in.
- You must inform all the interested parties about the meeting.
- You must research the people or the organisation you are meeting with in order to prepare for the meeting.
- You must decide what will be discussed at the meeting.
- You must arrive on time.
- After the meeting, you must write a letter to all the interested parties thanking them for their participation and setting out what was agreed at the meeting.
- You must report back to the relevant members of your organisation.

#### 4.9 Telephone calls

The following guidelines should be followed when dealing with telephone calls:

- Prepare yourself before making any telephone call. Make sure you understand the problems and issues involved and what you want to achieve with the call.
- Introduce yourself to the person on the line by giving your name and organisation and telling them on behalf of whom you are calling.
- Tell them in clear terms why you are calling.
- Only act within your instructions (in other words do not change or add to the client's story or ask for things that they have not instructed you to ask for).
- If you do not know the answer to a question, inform the person that you first need to check with the client and will phone back.
- Be firm about your client's rights but remain polite. Do not lose your temper and do not become involved in an argument as that may harm your client's case.
- Record the following details:
  - date and time of the call
  - the matter in respect of which the call was made or received (including the file reference)
  - the person you are speaking to, the organisation they represent and their telephone number (if you do not have it on file already)
  - the reason for the call
  - the outcome of the call (what was agreed upon)
  - your name as author of the note or record
- If any agreement was reached between you and the other person, you should write a letter to that person to confirm the details of the agreement.

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#### ACTIVITY 9

On 17 November 2011, Mrs Ngcobo phones you from SASSA in connection with one of your cases, where you are assisting a client to obtain outstanding social grant payments. She gives you your file reference (SG154) and the client's name and identity number (Mr S Grant – 721120 0485 086) and informs you that SASSA will pay the money due to the client but that they need to know how and where the money must be paid. You inform her that you will contact your client to obtain the necessary information and send it to her. She also confirms that the social grant number is the client's identity number. She informs you that you can fax this information to her at fax number (012) 326 5547. Draft the telephone note that you would make after this telephone conversation, which should be filed in the case file.



#### Answer

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## FEEDBACK ON ACTIVITY 9

Remember to include all the necessary information in the telephone note. Formal feedback will be provided in a further Tutorial Letter 201.

### 4.10 Writing letters

In study unit 2 of **ENN1504: Practising Workplace English**, you will learn all the basic skills necessary to write letters. In this study unit we will introduce you to letter writing as a paralegal. These guidelines will be applicable to all letters you will be writing as a paralegal.

When you are writing letters as a paralegal you should remember the following:

- A letter should **always** contain the following:
  - the sender's name, address and contact details
  - the date of the letter
  - sender's and receiver's file reference
  - receiver's name, address and contact details
  - how the letter will be delivered (e.g. by email, fax, post or hand)
  - when delivering the letter by email or fax, include the email address and the fax number
  - include a subject line that gives a summary of what the letter is about
  - signature, name and position of the person writing the letter
- Start the letter by informing the addressee that you are acting on behalf of your client.
- Set out the reason why you are writing the letter.
- Include as much information as possible in order to identify your client (e.g. full names, identity numbers, any reference or case numbers).
- Clearly set out what it is you want the person to do.
- Sign and date the letter before sending it out.

We have set out an example of such a letter below. This example can be used as a guideline for all your letters. Depending on the facts of the case and the reason for the letter you may find that it is not necessary to deal with all the issues set out in the content or body of the letter below. However, you must ensure that you insert all the information given in the guidelines above.

<p><b>Example</b></p> <p style="text-align: right;">Hatfield Advice Centre First Floor, Hatfield Office Building Burnett Street Hatfield 0115 Tel: (012) 428 8845 Fax: (012) 326 5584 Email: chris@hac.org.za</p> <p style="text-align: right;">15 November 2010 Our ref: LP012 Your ref: Employee 148/10</p> <p>The Manager Group Stores (Pty) Ltd Private Bag X5531 Hatfield 0115</p> <p>By fax: (012) 325 8845</p> <p>Dear Sir/Madam</p> <p><b>MR PETER BOTHA: LEAVE PAY</b></p> <p>We are acting on behalf of Mr Peter Botha. Mr Botha was employed by your company as a store manager at the Hatfield branch of your company from 1 January 2009 until 30 November 2010 with employee number 148/10 and identity number 740425 5498 082. Mr Botha left your company's employ after giving the necessary notice as required in terms of his employment contract.</p> <p><b>[Confirm that you act on behalf of client and give information to identify matter]</b></p> <p>Mr Botha instructed us that when he received his final salary, he was not paid out for leave owed to him. Mr Botha had 15 days leave remaining when he left your company, which would amount to R1 500.00 in total.</p> <p><b>[Set out the problem or issue]</b></p> <p>In terms of Mr Botha's employment contract he is entitled to be paid out leave not taken by him as at the date of his resignation, limited to 10 days leave in total.</p> <p><b>[Set out the legal principle or rule]</b></p> <p>Therefore, Mr Botha is entitled to the R1 000.00 for the 10 days of leave remaining at the date of his resignation.</p> <p><b>[Apply the legal rule to the facts]</b></p> <p>We request that you forward the outstanding leave pay due to Mr Botha to the above address within 14 days of the date of this letter.</p> <p><b>[Set out request]</b></p> <p>We look forward to hearing from you.</p> <p>Yours sincerely</p> <p><b>[insert signature]</b></p> <p>Mrs C Mlangu Paralegal Advisor</p>	<p><b>Sender's name</b> <b>Sender's address</b></p> <p><b>Sender's tel number</b> <b>Sender's fax number</b> <b>Sender's email address</b></p> <p><b>Date of letter</b></p> <p><b>Sender's file reference</b> <b>Receiver's file reference</b></p> <p><b>Title/name of person who should read letter</b> <b>Receiver's name</b> <b>Receiver's address</b></p> <p><b>How letter will be delivered</b></p> <p><b>Subject line</b></p> <p><b>Body of letter</b></p> <p><b>Name of writer</b> <b>Position of writer</b></p>
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colleagues, donors and members of the community. You will learn everything about memorandum, report and proposal writing in study units 2, 4 and 5 of **ENN1504: Practising Workplace English** and we will therefore not deal with report writing in this module.

#### **4.12 Media communication**

Media is used as a way to communicate with the public. The following are examples of media: pamphlets, badges, newsletters, posters, banners, newspaper articles and radio and television announcements.

Media can be used for different things:

- To **inform people** of an event or situation, or even about an organisation. For example, you can inform people that they have a legal right to a state pension.
- To **educate people** about things. For example, you can teach people when they will qualify for a state pension and how they can apply for it.
- To **mobilise people** and get them to do something. For example, you can ask people to report any corruption in respect of state pensions and provide people with details where they can report such corruption.
- To **advertise an event**. For example, you can advertise a public workshop on state pensions for the community.

As you can see from above, paralegals can use media to communicate with people in a larger group and therefore reach more people.

Before deciding to use a pamphlet or poster to reach a large group of people, you should think about the following:

- the goal of the pamphlet or poster (what you want to achieve)
- the target group (who you want to reach)
- the contents of the pamphlet or poster (what will be said)

When you have decided on the above factors, you must take account of the following:

- use easily understandable language
- use an attractive format (colours, format, typing, lay-out etc)
- use pictures to illustrate things
- use a simple and uncluttered lay out

You must also remember that the name and address of the organisation that printed the pamphlet or poster should appear on it. Furthermore, you need permission from the local council if you want to put up posters and, in many cases, you will need to pay a deposit to the local council before you may put them up.

Newsletters are a good way of publicising an organisation to other people. They can be printed and distributed at regular intervals (e.g. monthly or twice a year). Newsletters take a lot of time to produce and before deciding to distribute a newsletter you should make sure there are enough people (with the necessary experience and skills) to work on the newsletter and enough money to pay for it.



## 5. PARALEGAL ADMINISTRATIVE SKILLS

Paralegals need very good administrative skills. Good administrative skills will ensure that you provide quality, effective and time-efficient services to your clients. This means that if you practise good administrative skills, you will help your clients to resolve their problems in the best way and the quickest possible time.

We will look at the following administrative skills:

- filing
- case recording and record keeping
- case management
- finding details of government departments and other organisations
- follow-up and closing cases
- time management

### 5.1 Filing

You will be working with **many** different files for different clients in respect of various matters. If a client comes to see you, you should be able to find his or her file quickly and the file should contain all the necessary information. If not, you will not know what the matter is about, what progress has been made and whether you still need more information from the client. This can only lead to chaos and unhappy clients!

Filing means keeping the information in a safe and orderly fashion so that you can find it quickly and it does not disappear or get damaged. Filing helps you to decide where to put information so that you can find it again when needed. Filing is important because it ensures that documents do not get lost, that documents remain clean and tidy and that you can find documents quickly and easily. Even if you are not at work, filing helps your colleagues to locate files.

#### 5.1.1 File management system

Any office requires a good file management system. A file management system creates procedures for opening, storing and closing files. A good filing system means that

- files are stored in a safe place where they remain free of dust and moisture
- files are easily accessible but only by the people working on the files. Strangers or unauthorised persons should not have access to the files.
- files are not removed from the office
- files are filed in a filing cabinet in a neat and orderly fashion

Files can be stored in various ways. You can file the files in alphabetical order (using the client's surname), according to file numbers (each file is given a number) or according to specific issues (such as grants, labour or housing developments).

#### 5.1.2 Opening of files

Each organisation should have a standard procedure for opening a file. This procedure may differ depending on the requirements of the organisation and the people working there. For example, the directors of a law firm may require that an attorney must approve the opening of a file before such a file may be opened. Whatever the procedure, it is very important that files should be opened as soon as possible after the first consultation with the client. As long as a file is not opened and not recorded on the filing register, no documents or correspondence can be filed in the file. Therefore, no filing system will work if the files are not opened as soon as possible.

**5.1.3 Instruction sheets**

When a new file is opened it is very important to obtain and record all the relevant details of the client, the legal problem, advice given and the client's instructions. This record is usually called the instruction sheet or case sheet.

The instruction sheet should contain the following information about the client:

- full names and identity number (it is a good idea to also make a copy of the client's identity document)
- residential and work address
- home, work and cell phone numbers
- fax number and email address (if possible)
- occupation
- addresses of family members and friends
- type of case
- description of the legal problem
- advice and suggestions given to the client
- actions to be taken on behalf of the client

Each organisation will have its own instruction sheet and certain organisations may have a different instruction sheet for different matters. Here is an example of what an instruction sheet can look like:

<b>HATFIELD ADVICE CENTRE: CLIENT CASE SHEET</b>	
File reference:	[insert file reference]
Name:	[Insert client's full names]
Matter:	[insert type of case (e.g. labour dispute)]
Date of instructions:	[insert date of instructions]
Occupation:	[insert client's occupation]
Telephone numbers:	[insert client's home, work and cell phone number]
Fax number:	[insert client's fax number]
Email address:	[insert client's email address]
Addresses:	[insert client's home, work, postal address as well as family addresses]
Legal problem:	[insert details of client's problems]
Advice given:	[insert what advice was given to the client]
Action to be taken:	[insert what actions need to be taken on behalf of the client]

#### **5.1.4 Front cover of the file**

Usually a file cover is made from a sheet of A3-size coloured cardboard folded in half. All the documents relating to the case will be kept between the folded halves, while one of the outer sides of one half will form the front cover of the file. The following important information should be written on the file cover in large, bold, neat handwriting:

- surname and name of the client
- type of matter
- person responsible for the file
- file number

The front cover can also be used to record the main actions taken in the case and to mark diarised dates which will be discussed below.

#### **5.1.5 Keeping a file register**

Each new matter should be recorded in a file register and be given a file number. The file number is also called the reference number or the file reference. This is the number that should be recorded on the front cover of the file and it should also be used in any correspondence and documents pertaining to the case.

File registers may be in an electronic form or in a book form. Either way, it is important to make backups for both. The file register should contain an alphabetical list of all client surnames and initials with the file number written next to them. It should also contain a numbered list of all the matters in numerical order with the client's surname and initials written next to the file number. For example, Mr PN Ndume's file has been given the file number 145/09. Accordingly, PN Ndume's file was the 145th file to be opened in 2009. In the alphabetical register this file will be listed under N as follows: Ndume PN – 145/09. In the numerical list this file will be the 145th entry under the year 2009 and listed as follows: 145/09 – Ndume PN.

This ensures that any matter can be easily traced either by the name of the client or the reference number. This is why it is a good idea to file the files either in alphabetical or numerical order in the filing cabinets. If Mr Ndume comes to your office you will be able to find his file easily and quickly.

#### **5.1.6 Documents to be filed**

The documents inside the file will be all the documents related to the case and will include the following:

- instruction sheet
- copy of the client's identity document
- all documents received from the client in respect of the case
- all letters written on behalf of the client
- all letters received in respect of the case
- all telephone notes made in respect of the case
- all memorandums, reports or minutes of meetings pertaining to the case
- all notes made by anyone in respect of the case (e.g. notes taken during an interview)
- all other documents drafted in respect of the case (e.g. the client statement)

It is also a good idea to keep an activity sheet in the file. An activity sheet is a summary of all the main actions taken in respect of the case together with the date of each action. The date of instructions will be the first entry on the activity sheet. The activity sheet provides a

quick overview of how far a case has progressed without having to work through the entire file.

## **5.2 Case management**

Not all cases can be solved in a day or week. Therefore, it is very important to have a management system that ensures that the necessary actions happen within the required time and that cases are followed up regularly. A diary system is very helpful to ensure that cases are followed up and dealt with when necessary. Case management also means that any incoming documents should be dealt with as soon as possible. We will look at both of these matters below.

### **5.2.1 Diary system**

A diary system ensures that files that need attention are brought to your notice. Files that do not require your immediate attention are stored until they are needed. This not only ensures that your office remains neat and tidy, but that files are dealt with effectively and efficiently.

Every year you should buy a normal diary which is intended only for the diary system. The diary system works as follows:

- Once a task has been completed on a case and the matter does not require any further immediate action, the file should be diarised for a date when the matter should be followed up or when the next action should be taken in respect of the case.
- Firstly, write the date for follow-up (the “diarised date”) on the front cover of the file.
- Secondly, write the file number in the diary on the diarised date.
- Finally, file the file in the filing cabinet in its normal place.
- The diary should be consulted every day and all the files diarised for that day should be removed from the filing cabinet and dealt with accordingly.
- Once the action has been completed the file should be diarised again until the matter is resolved and the file is closed.

If a specific task has to be finished by a specific date, diarise the file for a day or more before this date to ensure that there is enough time to finalise the task before the specific date.

### **5.2.2 Incoming documents**

If any incoming documents or enquiries are received pertaining to the matter, the file should be taken out of the filing cabinet and the diarised date on the file cover and in the diary cancelled. Once the incoming documents or enquiries have been dealt with, the file should be diarised again according to the above procedure. If the file is not in the cabinet because it is under the files that should receive attention, the relevant document should be placed in the file immediately to ensure that when the file consulted, all documents to date are on the file and can be dealt with.

## **5.3 Case recording and record keeping**

It is very important for a paralegal to keep accurate and complete records of everything relevant to a case. This will include the following:

- **All documents and notes (related to the case) should be stored in the file.** This includes official documents, letters received, a copy of any letters sent including proof of dispatch (fax or email confirmation), telephone notes, internal notes, reports and interview notes. Do not throw away or destroy any documents pertaining to the case (even if you think they are no longer relevant).

- All documents faxed should have the **fax confirmation stapled to the document** and filed in the file.
- All documents emailed should have the **email printout stapled to the document** and filed in the file.
- Never give anyone any document without keeping **the original or a copy on the file**. Only give the original if required and make a certified copy of the original to be kept in the file.
- **Never write on an original document.**
- The file should be **organised and neat**.
- All documents should be bound in **date order** with the most recent document on top. Bind the documents with specially designed pins that permit the easy removal of a document if a copy needs to be made.
- Sometimes it may **be necessary to keep certain documents separate in the file and to make sub-folders**. This is especially true in law firms where correspondence (letters, telephone notes and other filing notes) is bundled together and the court documents kept in a separate sub-folder for ease of reference. The documents in the sub-folder should also be filed in date order with the most recent document on top.
- Notes should be written in **a neat and legible handwriting**.
- **Notes should be made about every action taken** in respect of the case. This will include telephone calls received and made. The attendance of meetings and notes of what was discussed at the meetings must also be noted.
- Record keeping and the filing of documents should be **kept up to date**. In other words, if anyone else picks up the file and goes through all the documents they should know exactly what is going on in the case and what further action should be taken without talking to the paralegal responsible for the file.

### **5.3.1 Client statement**

A client statement is a recording of the client's story in his or her own words and can form an important part of case recording. A client statement needs to contain the following information:

- client's personal details
- a record of the facts (in date order) that have led to the legal problem
- date on which the statement was taken
- particulars of the person who took the statement

Here is an example of a client statement:

<p><b>STATEMENT</b></p> <p>My name is Freddie Justice Makwazi with identity number 731120 0485 083. I live at 32 Skipper Road, Hatfield, Pretoria. I work at the Pick n Pay in the Hatfield Centre, Burnett Street as a bag packer. I am unmarried.</p> <p>On 13 November 2010 at 22:00 I was walking home from my job in Burnett Street. I was alone.</p> <p>A group of five young men approached me. I recognised one of the men, namely David Khumalo, who asked me where I was going while grabbing me by the arm, but did not recognise the others.</p> <p>I tried to explain that I was on my way home from work. Suddenly, David punched me in the face and I fell down. Then all of the men kicked me until I lost consciousness. I do not know why the men assaulted me.</p> <p>When I woke up, one of my colleagues, Themba Ntuli, was beside me. I tried to sit up but he told me to lie down and told me that he had asked one of the people in the Wimpy across the street to call an ambulance.</p> <p>After a while, the ambulance picked me up and I was taken to hospital.</p> <p>I suffered three broken ribs, a broken nose and a concussion and there were various bruises over my entire body. I stayed in the hospital for four days. I was treated by Dr Mangweni and my hospital card number is HJG1245.</p> <p>I do not know if anyone saw when I was assaulted by David Khumalo and his four companions.</p> <p>I have no idea why I was assaulted by them, but I feel it was wrong and I want to claim damages against them.</p> <p>Date of statement: 30 November 2010 Statement taken by: Gina Lutuli C/O Hatfield Advice Office Tel: (012) 326 5548</p>
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### 5.3.2 Affidavits (sworn statements)

Some statements are called sworn statements or affidavits. A sworn statement or affidavit is a document in which the person making the statement swears that the facts contained in the statement are the truth.

When you have to prove certain facts (e.g. your age in order to qualify for a state pension) and you have no documents proving your age (e.g. you have no identity document), you can prove your age by making a sworn statement in respect of your age.

A sworn statement must be signed by you (either with your name or a cross if you cannot write) **before a Commissioner of Oaths**. Therefore, the person signing the statement must be in the presence of the Commissioner of Oaths when he or she signs the statement. The following persons can be a Commissioner of Oaths:



- postmaster
- magistrate
- bank manager
- lawyer (advocate or attorney)
- certain members of the South African Police Service
- certain priests and social workers

A sworn statement will look as follows:

**AFFIDAVIT**

I [insert full names] do hereby make oath and say:

I am an adult [male/female] living at [insert home address].

I am [unemployed/state position, employer name and physical address of employer].

I am [married/not married].

[Insert statement in numbered paragraphs starting at paragraph 4.]

[This is where the person who has made the statement signs.]

.....

DEPONENT

I certify that the deponent has acknowledged that he/she knows and understands the contents of this affidavit which was signed and sworn before me on this \_\_\_\_ day of \_\_\_\_\_ 2010 and that the provisions of the regulations contained in government notice R1258 of 21 July 1972, have been complied with.

[The Commissioner of Oaths must sign and complete the details below]

.....

COMMISSIONER OF OATHS

Full names: .....

Office held: .....

Address: .....

.....

.....

.....

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**ACTIVITY 11(a)**

Mr Bernard Letsoale is a 72-year-old widower living at 35 Redding Street, Hatfield, Pretoria. He is unemployed and wants to apply for a state pension. He does not have an identity document and therefore cannot prove his age. He wants to know if this will now mean that he cannot apply for a state pension. You inform him that there is another way that he can prove his age and that you will help him with this. Draft the document that could be used by Mr Letsoale to prove his age.





## FEEDBACK ON ACTIVITY 11

When answering this question, did you use the prescribed format for an affidavit? Did you ensure that all the necessary information was included in your document? Formal feedback will be provided in a further Tutorial Letter 201.

### 5.4 Finding details of government departments and other organisations

In the legal sphere, you will work with various government departments and other organisations. It is important that you know where to obtain the contact details and relevant information about government departments or organisations.

We will set out a few guidelines below that you can use when looking for the contact details of a specific government department:

- All government departments and metropolitan councils are listed at the back of any telephone directory (in alphabetical order).
- If you cannot find the specific department or office at the back of the telephone directory, try looking in the telephone directory under the specific name. (Remember that there are different telephone directories for different areas. Make sure you have the correct telephone directory for the specific number you are looking for.)
- Hospitals are listed under “H” in the telephone directory.
- Emergency service numbers can be found at the front of the telephone directory.
- You can phone 1023 and request the number for the specific department or office.
- Most government departments and organisations have their own websites which contain their details, and the prescribed forms and manuals for specific procedures.

Most government departments generally have various brochures and pamphlets containing their contact details and other important information. These can be obtained from their offices or from the internet. It is a good idea to always take a copy of these documents with you when you go to see them and keep them all in a general file for future use and enquiries.

It is also important to start keeping a directory of contact details, as you will probably work with the same department or organisation more than once. A good idea is to buy a black A4 alphabetically marked book and use this to record the contact details and other relevant information of any department or organisation as you acquire such details. Make notes of the relevant people and departments who deal with specific queries. This will save you a lot of time when you have to contact the specific department or organisation with a similar enquiry or request.

### 5.5 Follow-up and closing of cases

This is probably one of the most important aspects of a paralegal's work and it is important to note the following in this regard:

- You must make appointments and telephone enquiries when required.
- You must address all correspondence and enquiries received in respect of a case and do so expeditiously.
- You must record everything that has been achieved on behalf of the client (e.g. financial amounts won on behalf of the client and positive outcomes in favour of the client).
- Before closing the file, you must check with the client whether the matter has been resolved and ask whether you may close the file.
- Once a file has been closed, it should be recorded as a closed file in the file register and stored separately from the open files.

If you are a paralegal in a law firm you should remember the following when closing files:

- Files can only be closed on the instructions of the attorney and after all the fees and expenses accrued in respect of the file have been paid.
- In a law firm, files must be kept for a period of five years after they have been closed and such files may not be destroyed or thrown away before the end of the five-year period.

## 5.6 Time management

In study unit 1 of module **SCL1014: Skills for law students** you learnt how to prioritise your studies and manage your study time. The skills you will learn in that module will be equally applicable in your working environment one day. As a paralegal you also need to know how to prioritise your tasks and complete these tasks within the required time.



## 6. PARALEGAL BOOKKEEPING SKILLS

Every organisation will have its own bookkeeping system and method. Many organisations employ professional bookkeepers for this purpose. You may need to be closely involved in the bookkeeping of your organisation or you may not work with it at all. However, as a paralegal it is important that you understand basic bookkeeping procedures, especially if you have to assist with or manage the bookkeeping of the organisation you are working for. This is especially true for community-based paralegals. Law firm paralegals will find these basic guidelines helpful, but will need to know about the specific bookkeeping rules and procedures applicable to law firms. We will deal with these specific bookkeeping procedures in the module **BWE1501: Business Practice and Workplace Ethics** when we deal with law firms in general.

### 6.1 Basic concepts and terminology

Bookkeeping entails keeping records of all monies received and paid. This is necessary to ensure that all monies received are accounted for and that all fees and expenses are charged appropriately.

Before you can learn the basic principles of bookkeeping you need to understand the following general bookkeeping terms:

- “Income” refers to all monies received (e.g. from fundraising or donations).
- “Expenses” refers to all monies paid out (e.g. for postage or stationery).
- “Balance” refers to income minus expenses (the money left over at the end of the month).

### 6.2 Opening and managing a bank account

When you deposit money in a bank, the bank opens an account for you into which you deposit the money. You need to consider the following factors before opening an account:

- type of account to be opened (savings, cheque or current account)
- name of the account
- the person(s) who will have signing authority on the account (the signatories)

Organisations or businesses generally use a cheque or current account. The account will be in the name of the organisation and the management committee of your organisation will decide who will have the signing authority in respect of the account.

There are usually two signatories, which means that both these people have to sign before money can be withdrawn from the account. These signatories will usually be members of

the management or executive committee who are readily available to sign. As a general rule it is not a good idea to authorise a paid employee as a signatory.

### **6.3 Withdrawals**

A withdrawal entails taking money out of an account. Money can be withdrawn from the account by using a cheque or making an electronic transfer or payment. A cheque is a form that can be used in the place of actual money. Cheques must be signed by the authorised signatories before the bank will pay out the money. The cheque stub on the left-hand side of the chequebook must also be completed and serves as a record of all cheques issued. Electronic transfers or payments are made by using the internet and logging into your bank account online. Strict internal guidelines and restrictions have to be implemented when you want to make use of electronic transfers for making payments.

### **6.4 Deposits**

A deposit entails putting money into an account. Money can be paid into the account by making a deposit at the bank. A deposit slip must be filled in at the bank so that the bank pays the money into the correct account. You will receive a copy of the deposit slip that has been stamped by the bank to indicate that the money was received. The deposit slip must be kept safe and filed with all other deposit slips.

### **6.5 Bank statements**

At the end of each month you receive a bank statement from the bank reflecting all deposits and withdrawals for that month. This bank statement should be filed together with all the deposit slips, printouts of electronic transfers and used chequebooks with the completed stubs.

### **6.6 Receipts**

Whenever you receive money from someone you must issue that person with a receipt. A receipt is a document that proves that the person has given you money. You use a receipt book to issue receipts. In the receipt book the original receipt can be torn out and handed to the person and a copy remains in the book. All money received should be deposited into the bank account as soon as possible and should never be used for any other purpose.

### **6.7 Petty cash**

It is not always practical to write a cheque for each payment, especially when you are paying small amounts (e.g. milk for the tearoom). It is more practical to make such payments with cash. Petty cash is used for such purposes and can be compared to a small separate bank account.

Petty cash works as follows:

- An amount of money is drawn out of the bank account. This amount will depend on how many small expenses are made by your office in a month.
- This cash is placed in a lockable metal box which is called the petty cash box (in other words the money is deposited into the petty cash box).
- When a small payment has to be made, the *treasurer* will give the person the money for the purchase out of the petty cash box (in other words, the money is withdrawn from the petty cash box).
- All petty cash spent must be recorded on a petty cash voucher and a copy of the cash slip or invoice must be stapled to the petty cash voucher after the purchase has been made. For example, Charlene has to buy milk for the tearoom and she asks the treasurer

for the money. The milk costs R10,50 in total. The petty cash voucher will look as follows:

<b>PETTY CASH VOUCHER NO</b>		
<b>Date</b>	<b>Description</b>	<b>Amount</b>
11/11/2010	Milk	R 10,50
Authorised by Mr Bongani		
Received by Ms C Mokoatla		

The cash slip from the grocery store must be stapled to the petty cash voucher when Charlene returns from the shop with the milk.

- At the end of the month, the treasurer must record all the money paid into the petty cash box, as well as all the petty cash vouchers for payments made from petty cash. The difference between the amount paid into and all the money paid out of the petty cash box should be exactly the same as the amount of cash left over in the actual petty cash box. Thus:

All deposits into petty cash	
Minus: All payments out of petty cash	
Equals: Actual amount of cash in petty cash (balance)	

Let us look at the following example of how the petty cash will be dealt with each month:

There is R60,00 in the petty cash box at the end of December 2009. The organisation always ensures that there is R300,00 in the petty cash box at the beginning of the month to cover all the petty cash payments for the month. Therefore, Susan (the treasurer) draws R240,00 on 2 January 2010 out of the organisation's bank account and places the money in the petty cash box. During the month of January the following petty cash purchases are made:

- 02 January 2010 – Milk for R20,50
- 05 January 2010 – Tea for R44,50
- 09 January 2010 – Milk for R20,50
- 10 January 2010 – Postage stamps and envelopes for R80,55
- 21 January 2010 – Milk for R20,50
- 29 January 2010 – Milk for R20,50

At the end of January 2010, Susan has to record all the income and expenditure for petty cash for the month of January 2010. The petty cash book will look as follows:

<b>Petty Cash Book: January 2010</b>			
<b>Date</b>	<b>Description</b>	<b>Payments</b>	<b>Deposits</b>
01/01/2010	Balance brought over from Dec 2009		60,00
02/01/2010	Deposit into petty cash box		240,00
02/01/2010	Milk	20,50	
05/01/2010	Tea	44,50	
09/01/2010	Milk	20,50	
10/01/2010	Postage stamps and envelopes	80,55	
21/01/2010	Milk	20,50	
29/01/2010	Milk	20,50	
	<b>Totals</b>	207,05	300,00
31/01/2010	Balance on 31 Jan 2010	92,95	

Can you see that R300,00 in total was paid into the petty cash box and a total of R207,05 was paid out for petty cash purchases. Thus:

	R300,00 (All deposits into petty cash)
Minus	R207,05 (All payments out of petty cash)
<hr/>	
Equals	R92,95 (Actual amount of cash in petty cash) (balance)

Therefore, there should be exactly R92,95 left in the petty cash box on 31 January 2010. The treasurer should count the money in the box at the end of the month to ensure that the right amount of money is left, as reflected in the records.

## ACTIVITY 12

There is R80,50 in the petty cash box at the end of January 2010. The organisation always ensures that there is R400,00 in the box at the beginning of the month to cover all the petty cash payments for the month. During the month of February 2010 the following petty cash purchases are made:



- 03 February 2010 – Milk for R25,50
- 07 February 2010 – Coffee for R56,25
- 10 February 2010 – Stationery for R45,10
- 23 February 2010 – Milk for R25,50
- 28 February 2010 – Milk for R25,50

At the end of February 2010, you have to record all the income and expenditure for petty cash for the month of February 2010. Please draft the extract of the petty cash book for February 2010 recording all the transactions above.





At the end of the month when you receive the bank statement you must ensure that the amounts in the cash book are the same as the amounts reflected on the bank statement. In this respect, you must remember to check for any income and withdrawals on the bank statements that are not reflected in the cash book. Normally, withdrawals on the bank statements that should be included in the cash book will be bank fees subtracted from the account by the bank or any other *debit orders* against the account. Income not reflected in the cash book will be direct deposits made by third parties into the bank account that you have not been notified about.

After you have recorded all the income and expenditure you have to balance the cash book. This means that you have to subtract all the expenditure from the income. The amount you are left with should be the same as the balance on the bank statement. Thus:

	All income deposited into the bank account	
Minus:	All expenses paid out of the bank account	
Equals:	Actual amount of money in the bank account (balance)	

### 6.9 Monthly reports

The treasurer must ensure that a monthly report of the organisation’s monthly income and expenditure is presented to the management or executive committee.

In order to prepare the monthly report, the treasurer must ensure that all the transactions have been recorded up to date in both the cashbook and the petty cash book. The treasurer should also ensure that he or she has filed all bank statements, deposit slips, chequebook stubs, invoices, petty cash vouchers, receipts and other documents and that any such document can be easily found and perused if required. The treasurer should also make sure that he or she can answer any questions or queries the committee may have in respect of any income or expenditure.



## 7. NEGOTIATION, MEDIATION AND ARBITRATION

As a paralegal you will have to deal with conflict between people. There are many ways to deal with conflict. In this section we will be looking at three different ways to resolve a conflict, namely, negotiation, mediation and arbitration.

### 7.1 Negotiation

Negotiation is when two or more people or groups who are in conflict meet with each other in order to try and agree on the best way to resolve the conflict. Negotiation is based on the principle of compromise which means that one or more of the parties must compromise in order to resolve the dispute. Usually, both parties compromise to some extent so that both parties gain something (the so-called “win–win” situation).

Every day we negotiate in some form or another in our daily lives; usually in our own interests. As a paralegal, you will also need to negotiate on behalf of someone else, namely your client. When you are negotiating on behalf of a person you should keep the following guidelines in mind:

#### 7.1.1 Preparation

The negotiator must attempt to get the best possible settlement for the person he or she is representing. It is very important to prepare for the negotiation before the time. The following steps should be followed:

- **Identify the issues**

Identify the facts, background and context of the dispute. Each dispute has its own history and background that needs to be understood and acknowledged in the negotiation process. It is also important to weigh up the power and position of the different parties.

- **Define the objectives**

List the main issues in dispute and what you want to achieve in the negotiation in respect of these issues.

- **Determine your mandate**

In section 4.5 above you learnt how important it is to take instructions from your client and to follow those instructions. The same principles apply here and you may not negotiate a settlement with the other party that your client has not already approved. Therefore, make sure that you know what your client wants and what they are prepared to compromise before you start the negotiations. If an offer is made which was not foreseen by you or the client, obtain instructions from your client before proceeding, even if it means you cannot finalise the negotiations and have to meet again. Never ever agree to something without your client's approval.

- **Select a negotiation team**

Sometimes it may be better to have more than one person in a negotiating team. Some people may also be better suited to negotiate than others or the circumstances may require the attendance of certain persons. This will depend on the specific dispute and circumstances and needs to be considered before the negotiations.

- **Research the other side**

Do thorough research in respect of the other side. You have to try and establish their needs, interests, strengths, weaknesses, problems and pressures.

- **Plan your presentation**

Once you have obtained all the above information, you need to organise the information in a logical manner so that it can be used in the negotiation. Make a list of all the questions you would like to ask. You must know what information may be divulged and what information should not be shared with the other side. You should also consider when to put your proposals to the other side. Your attitude in the negotiations is of paramount importance. You should not be too aggressive or too meek. You should also be conscious about the different cultures, values, morals, emotions and prejudices that may be present at the negotiations.

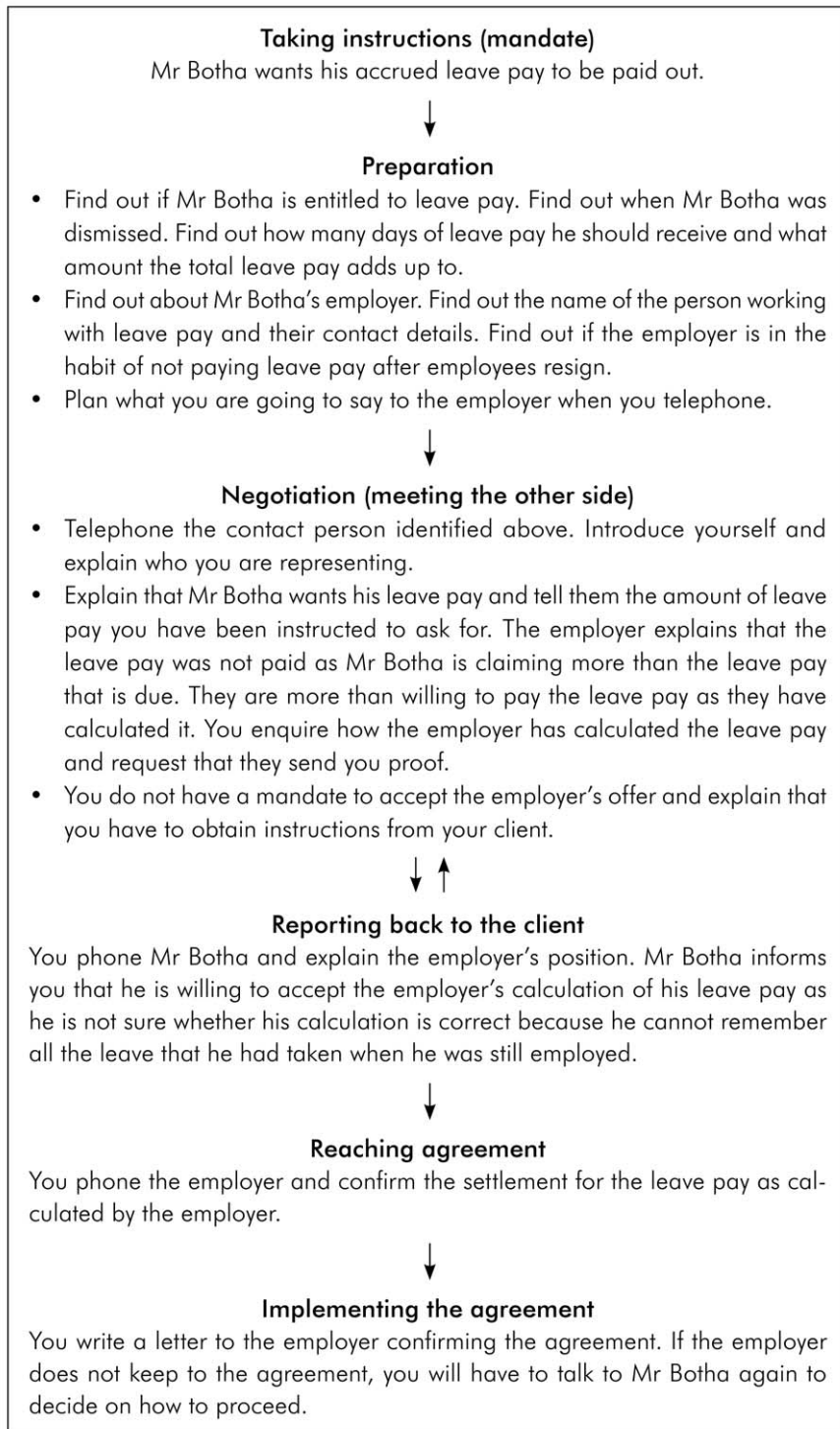
### **7.1.2 Negotiation process**

The negotiation process can be explained as follows:

- First, the parties meet and acknowledge that a dispute exists. Each party states its view on why the negotiation is necessary.
- The next step is identifying the issues. Each party states its position (its needs and interests). The parties may ask each other questions and acknowledge any common interests or points that are not in dispute.
- The next step is the bargaining phase. The parties should consider possible solutions. This need not be an aggressive process and the parties may work together to solve the dispute. As mentioned previously, one side must indicate that it will compromise before any agreement will be reached.

- The parties should then reach an agreement. You have to ensure that the agreement falls within your mandate. If it does not, you will first have to take the agreement to your client for approval. It is a very good idea to write down the terms of the agreement so that there are no misunderstandings between the parties about what was agreed on.
- After the agreement has been reached, you must report back to the client and advise him or her of the outcome. Often your client will be present at the negotiations so that they will know exactly what has happened.
- If the agreement is not implemented, it is in effect useless. Therefore, you need to ensure that the agreement is implemented after the negotiations.

Imagine you are acting on behalf of Mr Botha who has resigned from his previous job. You have to negotiate with Mr Botha's previous employer for his unpaid accrued leave pay. The entire negotiation process can be summarised as follows:



## 7.2 Mediation

Mediation is when two disputing parties agree to ask a third person (a mediator) to help them to resolve the dispute between them. The mediator acts as a facilitator between the two disputing parties and does not make a final decision on the matter. The mediator does not act as a judge, but tries to assist the parties to resolve the dispute. The mediator must be objective. This means that he or she may not take sides and must remain neutral. The

mediator must encourage both parties to be realistic about their claims and to be prepared to compromise.

The mediator aims to keep the parties communicating with each other and must establish the issues in the dispute. To do this, it is important that the mediator gains the trust of both of the parties and keeps this trust. This is only possible where the mediator remains objective throughout the mediation.

If, during the mediation, the mediator realises that the parties will not reach an agreement, he or she must withdraw from the mediation and suggest that the parties use another dispute resolution method.

### **7.2.1 Types of dispute**

Mediation is not suited to all disputes and must be used with caution. It is used in the following types of dispute:

- consumer complaints (e.g. between a consumer and a company)
- community or neighbourhood disputes (e.g. between neighbours)
- labour disputes (e.g. between an employee and an employer)
- education disputes (e.g. between students and teachers)
- environmental disputes (e.g. between communities and local authorities)
- family or divorce disputes (e.g. between two spouses getting a divorce)

### **7.2.2 Preparation**

You must prepare for mediation in the same way as for negotiation. Please refer to section 7.1.1 above. However, you must remember that you do not represent any of the parties and must remain objective and neutral when preparing for the mediation.

### **7.2.3 Mediation process**

Before the mediation can begin the parties have to agree on the following issues:

- respect and trust for the mediator
- agreement that no physical or verbal intimidation or abuse will be allowed (including that no weapons will be allowed)
- agreement to behave in a polite and disciplined fashion (including no interrupting of speakers or distracting behaviour while the other side is speaking)
- equal opportunity for each side to speak
- equal opportunity for each party to consult internally and in private
- agreement on what parts of the discussion will be confidential
- the duration of the session (how long the session will last)
- the venue for the mediation
- the seating of the parties
- size and leadership of delegations
- whether observers will be allowed to attend the mediation
- whether there should be an interpreter and who the interpreter will be
- drinking, smoking and eating requirements
- record keeping of the mediation (minutes of meeting)
- publicising the outcome of the mediation and reporting the agreement to other members

During the mediation process you should do the following:

- Inform the parties that the purpose of the mediation is to facilitate communication between the parties in order for them to reach a voluntary agreement.

- Apply the rules agreed between the parties consistently and objectively.
- Remain objective and neutral (in other words do not share your personal opinions and address people with respect and politeness).
- Be aware of any prejudices, emotional tensions and conflicts between the parties. It is a good idea to remind people that they should not make personal attacks or remarks to each other.
- Provide each party with an opportunity to state their case before starting with the mediation and tell them how long they may speak. Remind them when they are reaching the end of the time allowed for speaking.
- Encourage the parties to listen to each other.
- Take notes of questions, comments and possible solutions mentioned by the parties and ensure that each party is given an opportunity to address any questions, comments and possible solutions offered by the other party.
- Summarise the main points and ensure that the parties agree on what you have identified as the main points of discussion.
- When a party makes vague comments or accusations, request that party to be more specific and give examples.
- Encourage both parties to compromise and aim to reach agreement on the less serious issues first.
- If one of the parties compromises on an issue, encourage the other party to respond to the compromise.
- Take short breaks if the discussion becomes too heated or aggressive or move on to other issues and keep the specific issue for later discussion.
- If the parties are not willing to compromise and a deadlock has been reached, speak to the parties separately to try and move the issue.
- Urge a party to raise important factors or circumstances discussed in the separate discussion.
- Connect different solutions suggested and offer further alternative solutions for the parties to consider, especially solutions where both parties have to compromise or do something.
- Reduce any agreements to writing and state in this written agreement what actions can be taken if the parties do not adhere to the agreement.

Mediation can be approached as an informal process (e.g. between two neighbours) or as a formal process (e.g. between communities and local authorities). Both informal and formal mediations will have to take place by following the guidelines given above.

The following is a template for a formal mediation process:

<b>Formal mediation process</b>	
<b>1. Introduction</b>	
Inform the parties of the purpose of the mediation	(5 min)
<b>2. Opening</b>	
- Welcome	
- Introductions of attendees	
- Agreeing on the rules of the mediation	(10 min)
<b>3. Case statements</b>	
- Each party must present its case	
- Mediator summarises main issues	
- Clarifying questions	
- Responses to questions	(30 min)
<b>4. Identifying issues not in dispute</b>	
- Each party must indicate what it is prepared to do	
- Responses to these suggestions	
- Mediator summarises issues not in dispute and suggests alternative solutions	(30 min)
<b>5. Consideration of possible solutions</b>	
- Each party is given opportunity to discuss solutions privately	(10 min)
<b>6. Reaching an agreement</b>	
- Each party to repeat position and give feedback on possible solutions	
- Mediator covers issues not in dispute and summarises any issues agreed upon	
- Mediator urges agreement on remaining issues	
- Document the agreement and read it back to parties	(30 min)
<b>7. Close mediation</b>	
- Discuss how parties are to proceed (including enforcement, reporting and publicising of agreement)	
- Appreciation of thanks	(10 min)
<b>8. Evaluation</b>	
- Discuss value of mediation – participants to respond first and then observers	
- Enquire whether mediation practice or training is required	(10 min)

### 7.3 Arbitration

Arbitration takes place when two or more disputing parties request a third person (arbitrator) to resolve the dispute for them. The arbitrator acts like a judge. He or she listens to each party's case and looks at any documents relevant to the dispute. Thereafter, the arbitrator decides which party is correct and gives reasons for his or her decision. The parties are bound by the arbitrator's decision.





- You must evaluate the training once completed.
- You must report back on the training to the relevant members of your organisation.

In this module we will look at workshops, as this is the preferred method for community education.

Workshops for community education are interactive sessions during which a facilitating method is used rather than a formal training method. This means that the person running the workshop will act more like a facilitator than a lecturer, and that the participants will be more actively involved and will not merely sit and listen as in a lecture.

The way the material is presented is as important as the subject matter of the workshop. Even if you have prepared extensively in respect of the content, the workshop will be unsuccessful if the content is not accessible to the participants. We will look at how you can ensure that the information presented in the workshop is accessible to the participants. When we talk about accessible in this context, we refer to the fact that the participants must understand the information and be able to put the information to use after the workshop.

### **8.1 General guidelines for workshops**

The following guidelines should be considered when running a workshop:

- **All the participants must understand the aim of the workshop**

If the participants know what the workshop is about and what the purpose of the workshop is, they will be better able to participate in the workshop and understand the information presented.

- **Build on the participants' experience and understanding**

You must start with the participants' own experience and understanding and from there introduce new information. This can be done by linking what you are trying to teach with some part of their lives. For example, give examples that they can relate to.

- **Formal training (lecturing) should be kept to a minimum**

Formal lectures tend to be boring and sometimes they are even difficult to understand. Rather use interesting methods of training like role playing and demonstrations. These methods are also more informal which will make the participants more comfortable with the information. They also make the content more accessible and easier to understand. We will discuss these methods in more detail below.

- **All the participants should understand the language used**

This refers to both the language used and the level of language used. We will discuss this aspect in more detail below.

- **All the participants should participate**

The more people participate in the workshop the more likely it is that they will understand and remember the principles taught.

- **Participants should give feedback**

All the participants should be given an opportunity to give feedback on the workshop and this feedback should be used to decide whether a follow-up workshop is necessary.

## 8.2 Preparation

When preparing for the workshop you should consider the following:

- **Aim of the workshop**

What are you trying to achieve with the workshop? Why are you running this workshop? What are the various objectives of the workshop?

- **Participants**

Who are you targeting with this workshop? How many people will attend the workshop? Should the workshop be divided into smaller groups for discussion to ensure that everyone participates? What are the participants' background, experiences and level of understanding?

- **Venue and time**

Where will the workshop be held? Is the venue big enough to cater for all the participants? Does the venue contain the necessary equipment, for example chairs, tables, projectors and so on? When should the workshop be held? What is the best time to hold the workshop so that the participants will be able to attend? What booking and deposit arrangements must be made to book the venue? What catering and transport arrangements are necessary?

- **Content**

What will be covered in the workshop? In how much detail will the subject be covered? Consider this while keeping the aim of the workshop and the participants in mind. Divide the workshop into different sections and consider how each section should be handled.

**For example**

You can divide the workshop into the following parts:

**1. Introductions**

Welcome, introductions to all attendees, aim of the workshop, expectations of the participants

**2. Content**

Dealing with the subject matter. Demonstrations, role-playing and group discussions

**3. Conclusion**

Summary of what has been learnt, evaluation by participants, concluding remarks and thanks to all involved.

- **Facilitators**

Do you need more than one facilitator? Which facilitator will run a certain part of the workshop? What knowledge and skills must the facilitator possess?

- **Language used**

What is the participants' home language? What level of language will need to be used? Will you need an interpreter? Who will interpret if necessary? This is dealt with in more detail below.

- **Training material**

What training material is required to make the workshop successful? Prepare the training material before the workshop; for example, the questions that may be asked, handouts and images that can be used in demonstrations. This is dealt with in more detail below.

- **Training methods**

What is the best way to share the knowledge with the participants? What workshop methods should be used? How much time should be spent on each method? This is dealt with in more detail below.

### **8.3 Language used**

As discussed above in section 4.3 under paralegal communication skills, the choice of language and the level of language are very important when communicating with other people. This is especially important when running a workshop as there is no point in presenting one if you are going to use a language and level of language that the participants will not be able to understand. In addition to the principles mentioned in section 4.3 above, you should take note of the following guidelines which are specifically applicable to workshops:

- Organise what you are going to say. In other words, structure your words into a clear introduction, main points and a conclusion. Use short and simple sentences.
- Remain patient with all the participants and try to understand what each participant is saying no matter how ineloquently or illogical their use of language may be. Give each participant time to think and explain their views before coming to any conclusions.
- Do not use a condescending or patronising tone with any of the participants.
- Check regularly if the participants understand what you are saying.

### **8.4 Training material**

Training material can include the following:

- pamphlets, booklets and handouts
- images, diagrams, charts, newspaper and magazine clippings, quotes and maps
- videos, photographs and slides
- textbooks, notes and training manuals

When you are planning to use written training materials it is important that the participants can read and understand them. The following guidelines should be followed when using written training material:

- Use short and simple sentences in plain language.
- Use bullets, numbering and headings – avoid long, tedious paragraphs and discussions.
- Include images, diagrams, graphs and charts where possible.
- Include various questions and answers in the notes.
- Use a simple, easy-to-read format, style, font and print.

## **8.5 Training methods**

There are various training methods that can be used in workshops. We will discuss each of these separately.

### **8.5.1 Introductions**

The following methods can be used when introducing participants to each other at the workshop:

- **Go-arounds**

This is where everyone in the group is given an opportunity to introduce themselves. Usually, they have to say their name, what they do and where they come from.

- **Wheels**

This is where the group is divided into two groups and each group, after each person in the group has introduced himself/herself, forms a circle with one group encircling the other group. The people from one group should face the people of the other group. Where two people face each other, they should introduce themselves to each other. Thereafter, everyone in the outer circle should move one place to the right and introduce themselves to the next person. This continues until everyone has introduced themselves to everyone else.

- **Icebreakers**

Icebreakers are used so that people can introduce themselves to one another in an unusual way. For example, playing games or sharing your favourite food when introducing yourself to the group.

- **Expectation-sharing**

You can also ask everyone to introduce themselves to the rest of the group and to share what they expect to learn from the workshop. This can be done by using the go-around method or the wheel method.

After the introductions have been finalised, you should quickly run through the programme of the workshop so that the participants know what to expect.

### **8.5.2 Large group methods**

The following training methods can be used when working with a large group of participants:

- **Lectures**

Lectures should be practical, simple and be kept as short as possible (between 10 and 20 minutes). It is a good idea to use handouts, pictures, diagrams and any other methods that make the lecture more interesting.

- **Large group discussions**

Large group discussions can be used for various purposes and at different times in a workshop. A large group discussion which is done after a small group discussion can be used or when the group as a whole must decide on an issue. Large group discussions work better when combined with small group discussions.

- **Sharing experiences**

Participants can be asked to share their experiences in respect of a certain issue that you are dealing with in the workshop.

- **Case studies**

Case studies are a very effective method for explaining the application of the principles being taught. The group is given a particular issue or problem and told about the way it was handled. Then the group examines how it should have been dealt with based on the principles being taught. They should also examine what can be learnt from that specific case. Photos, newspaper clippings and videos work especially well when used as case studies.

- **Plays**

Plays or dramas (if well prepared) can be used to highlight particular issues or points. For example, people acting out a mediation process between two spouses who are getting divorced can be used to illustrate certain principles that the mediator can apply to resolve a specific dispute between the parties.

- **Role-playing**

Role-playing is used for the same purpose as a play. However, in role-playing the workshop participants must act a certain role without any prior practice. Thereafter, the participants' reactions can be assessed to see how they applied the principles being taught.

- **Debates**

Debates are initiated by making different participants argue the different sides to an issue. A discussion after the debate can ensure other members of the group also participate in the debate.

- **Buzz groups**

Buzz group discussions take place when each person in the group is asked to turn to their two neighbours and to discuss a certain issue for a short time (between 5 and 10 minutes). This is followed up by asking one person from each buzz group to share what they have discussed and then giving the other groups an opportunity to add anything else they might have discussed.

- **Wheels**

Wheels can also be used to discuss a certain issue within a big group.

### **8.5.3 Small group methods**

The following methods can be used for small group workshops:

- **Small group discussions**

These can be used in any workshop. They are especially useful when combined with lectures, large group discussions, plays and role-playing. Small groups should not contain more than eight people and should be given enough time for discussion (between 15 and 30 minutes). Limit the number of issues for discussion to ensure that the group covers all the topics. The following methods can be used to enhance small group discussions:

- **Facilitation**

A facilitator is assigned to each group. He or she should have been part of the planning of the workshop and should understand the topics to be discussed. He or she should

ensure that each group member has an opportunity to air their views and participate in the discussion. The facilitator should also ensure that the discussion does not stray from the chosen topic.

– ***Floating***

Workshop facilitators walk around while the participants are having small group discussions. These facilitators move from group to group to ensure that everyone understands the questions and to remind them of how much time is left for the discussion.

– ***Reporting***

One person from each group must report back to the whole workshop and summarise the conclusions of the group. The workshop organiser must write down the main points reported so that everyone can see them.

• **Go-arounds**

Go-arounds work very well in small groups and ensure participation by each and every participant. You must ensure that no one is interrupted while they are speaking. Once everyone has shared their views, the discussion can be opened up for further comments.

• **Problem solving**

Each group is given a problem to solve and then the groups have to note the steps they took to solve the problem. It is a good idea for each group to be given a board or large sheet of newsprint on which to make their notes so that they can be shared with the entire group afterwards. Groups can be asked to prepare a short play or draw a map or a diagram when solving the problem.

It is important to keep the following principles in mind when working with and facilitating small groups:

- Explain your role to the group and keep to your role.
- Seat the group in a circle or in any other way that ensures that a good discussion can take place.
- Let the group members introduce themselves to each other (if this has not already been done).
- Ask whether any interpreting is necessary and get an interpreter if necessary.
- Let one group member take notes of the main points to be reported back to the main group.
- Explain the time constraints and how much time each group member has in which to share their views.
- Do not enforce your own views and ideas; rather ask questions in order to get the group to share their views and ideas.
- Make eye contact with a group member when he or she is speaking and show that you are listening to what he or she is saying.
- Do not use a patronising, aggressive or intimidating tone with any of the group members.
- Encourage different opinions and ideas.
- Ensure that each group member has an opportunity to participate and that other group members do not interrupt them.
- Answer any questions and explain any difficult terms or concepts.
- Ensure that everyone understand one topic before moving on to the next.
- Ask the group member taking notes to check whether everyone agrees with what she or he will be reporting to the main group.

## 8.6 Evaluation

At the end of the workshop it is important that the participants give feedback on their experience of the workshop. This feedback can be given orally or in writing. After you have considered the participants' feedback, an internal assessment should be done to determine whether or not the objectives of the workshop have been achieved.

## 9. CONCLUSION

In this study unit you learnt about various skills a paralegal needs in paralegal practice. We looked at the following skills:

- paralegal communication skills
- paralegal administrative skills
- paralegal bookkeeping skills
- negotiation, mediation and arbitration skills
- community education skills

It is important to have acquired these skills before you embark on your career as a paralegal. It is therefore of the utmost importance that you ensure that you are comfortable with all the work covered in this study unit.

## 10. SELF-ASSESSMENT



Please answer the following questions on your own to ensure that you know and understand the work covered in this study unit:

- 10.1 What general attributes should a good paralegal have?
- 10.2 What details will you typically need to include on a client's file?
- 10.3 As a paralegal, may you act outside your mandate? Give reasons for your answer.
- 10.4 List the important guidelines that you must follow in respect of meetings.
- 10.5 List the details that must be recorded in the file when making a telephone note.
- 10.6 What details must you remember to include in a letter drafted on behalf of a client?
- 10.7 What documents should you keep in the file?
- 10.8 Differentiate between a statement and an affidavit.
- 10.9 Define the following bookkeeping terms: "income", "expenses" and "balance".
- 10.10 Differentiate between a withdrawal and a deposit.
- 10.11 What is the difference between a petty cash book and a cash book?
- 10.12 Provide definitions for the terms "negotiation", "mediation" and "arbitration".

This is the end of this module, Introduction to Paralegal Studies. We hope you have enjoyed working through this module and wish you success with your studies in the future.

## 11. SOURCES REFERRED TO IN THIS STUDY UNIT

De Klerk W et al *Clinical law in South Africa* 2nd edition (2006) LexisNexis Butterworths Durban

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## ABBREVIATIONS AND ACRONYMS

As a paralegal you will be working closely with legal professionals in the field of law. In the legal sphere, many abbreviations and acronyms are used to describe certain legal terms and institutions.

### What is an acronym?

An acronym is “a word formed from the initial letters of a name”. [www.thefreedictionary.com](http://www.thefreedictionary.com)

You will be expected to understand what these abbreviations and acronyms stand for and what they mean. In fact, you will definitely use them yourself when communicating with other people in the legal sphere. Therefore, it is important that you become familiar with them as soon as possible. For this reason we have made a list of all the abbreviations and acronyms used in this study guide which you can refer to when studying this module.

CBO	Community-based organisation
CCMA	Commission for Conciliation, Mediation and Arbitration
CIPC	Companies and Intellectual Property Commission
CDW	Community development worker
LRC	Legal Resource Centre
NCBPA	National Community Based Paralegal Association
NGO	Non-governmental organisation
NPI	National Paralegal Institute
SASSA	South African Social Security Agency





## GLOSSARY

<b>Administration of estates:</b>	That part of the law that deals with how someone's assets and liabilities must be dealt with after their death.
<b>Advocate:</b>	A person with a law degree and who specialises in court work.
<b>Affidavit:</b>	A statement made by a person in writing which they swear is the truth before a Commissioner of Oaths.
<b>Apartheid era:</b>	The period between 1948 and 1991 when a system of discrimination on the grounds of race was in place in South Africa.
<b>Attorney:</b>	A person with a law degree who does legal work and usually works at a law firm.
<b>Bill of Rights:</b>	The list of all the human rights that people in South Africa enjoy. The Bill of Rights is contained in the Constitution.
<b>Business card:</b>	A small card printed with a person's details, which is given to another person to enable contact between them in the future.
<b>Commissioner of Oaths:</b>	A person who can confirm that the person making a statement before him or her has sworn that such statement is the truth. Commissioners of Oaths can be lawyers, postmasters, magistrates, bank managers and certain police officers, priests and social workers.
<b>Companies and Intellectual Property Commission:</b>	Government office where a record is kept of all the registered companies and close corporations in South Africa.
<b>Conflict resolution methods:</b>	Methods used to resolve or end disputes between conflicting parties.
<b>Constitution:</b>	The Constitution of the Republic of South Africa, 1996. This Act is the supreme law in South Africa.
<b>Consultation:</b>	A meeting between two people where the one party is seeking the advice from the other party. For example, where a client is seeking advice from an attorney.
<b>Conveyancing:</b>	Legal work related to the transfer of property from one person's name to another person's name.
<b>Corporate institutions:</b>	Institutions that deal in goods and/or services in order to make a profit and that do not form part of government in any way. For example, insurance companies and fast food companies.
<b>Counselling:</b>	Giving professional advice to a person to resolve personal, emotional or psychological issues.

<b>Debit order:</b>	Authorisation by someone that a certain amount of money may be paid out of his or her bank account to another person automatically (usually on a monthly basis).
<b>Debt collection:</b>	Legal work carried out in order to collect debts.
<b>Deeds Office:</b>	Government office where a record is kept of all the land in South Africa and the owners thereof.
<b>Department of Justice and Constitutional Development:</b>	The government department working with any legal matters of the country. For example, this is the department responsible for drafting new legislation.
<b>Ethical codes:</b>	Rules that govern moral behaviour.
<b>Independent:</b>	Acting objectively and not being influenced by others.
<b>International:</b>	Places and things outside South Africa.
<b>Jargon:</b>	Words or terms that are used by a specific group of people. Usually only this group is familiar with the specific meaning of these words. In your case it would be words used by people working in the legal sphere and would include legal terms.
<b>Law firms:</b>	A company or partnership managed by attorneys and providing legal services to the public.
<b>Lawyer:</b>	A person who has a law degree. This term can refer to both an attorney and an advocate.
<b>Legislation:</b>	Legal rules prescribed and enforced by government.
<b>Letterhead:</b>	Contact details of an organisation or person printed at the top of letters and other documents.
<b>Mediation:</b>	Takes place when two disputing parties agree to ask a third person (a mediator) to help them to resolve the dispute between them.
<b>National:</b>	Places and things inside South Africa.
<b>Notary:</b>	An attorney who has a further qualification that enables him or her to draft certain legal contracts.
<b>Paralegal:</b>	A person without a law degree, but who has certain knowledge of and skills to do with the law.
<b>Right of appearance:</b>	The right to appear on someone else's behalf and argue their case before a court or tribunal.
<b>Social grants:</b>	Money given by the government to persons in the community to enhance their welfare.
<b>Social services:</b>	Government services aimed at protecting and enhancing the welfare of the community.
<b>Social welfare:</b>	System created to promote and enhance the welfare of the community.
<b>Stakeholder:</b>	Any party who has an interest in a specific issue. A party can be an individual, a group of people, a company, an organisation, an association, a government department or government organisation and many more.
<b>"The law":</b>	Rules recognised and enforced in society by the state.
<b>Titles:</b>	A person's position indicated before his or her name, for example professor (prof), doctor (Dr), mister (Mr), reverend (Rev).

**Trade unions:** An organisation representing and protecting the interests of workers in a specific trade. For example, the South African Police Union which protects the rights and interests of police officers employed by the South African Police Service.

**Treasurer:** A person appointed to manage the financial affairs of an institution.

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